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HOW CANADA CAN REGAIN LEADERSHIP IN NUCLEAR DISARMAMENT

*Examining the “Complementarity” of the TPNW
and the NPT Could Revive Nuclear Diplomacy*

By Douglas Roche and Tariq Rauf

EXECUTIVE SUMMARY

- * A new nuclear arms race has broken out and the nuclear disarmament architecture has collapsed with no prospects of early recovery.**
- * Misrepresentation of the International Court of Justice’s Advisory Opinion and disregard of nuclear disarmament obligations have led to heightened nuclear risks exacerbated by nuclear weapon modernization programmes.**
- * A movement on catastrophic humanitarian consequences of nuclear weapons produced the Treaty on the Prohibition of Nuclear Weapons, which complements the Non-Proliferation Treaty.**
- * In examining the “complementarity” of the TPNW and NPT, Canada could restore its leadership in nuclear disarmament diplomacy.**
- * A Canadian diplomatic initiative such as convening a high-level international meeting on reinvigorating nuclear disarmament could be a substantive contribution to the forthcoming U.N. Summit of the Future.**

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When the Irish actor Cillian Murphy accepted the 2024 Academy Awards Oscar for best performance for playing the role of the nuclear physicist J. Robert Oppenheimer, considered the “father” of the atomic bomb, in the film *Oppenheimer*, he dedicated his award to “peacemakers everywhere.” Murphy said, “For better or for worse, we're all living in Oppenheimer's world.”

Indeed, Oppenheimer in his farewell address to the Association of Los Alamos Scientists in November 1945, presciently told them that “atomic weapons are a peril which affects everyone in the world... I think that in order to handle this common problem there must be a complete sense of community responsibility.”

Now it is surely a worse world, and three-quarters of a century after the fateful atomic blasts over Hiroshima and Nagasaki, the risk of catastrophic humanitarian consequences of the use of nuclear weapons is greater than at any moment since the depths of the Cold War. U.N. Secretary-General Antonio Guterres has warned world leaders: “Humanity cannot survive a sequel to Oppenheimer. Voice after voice, alarm after alarm, survivor after survivor, are calling the world back from the brink.” Peacemakers do, indeed, need a lot of encouragement and foresight today.

The Oppenheimer film, delving into the anguish Oppenheimer felt over pioneering scientific work that, as he told U.S. President Harry Truman in the film,

left “blood on my hands,” justified the use of the bomb by claiming it would avert the need of U.S. troops invading Japan to close out World War II. As many historians have shown, the atomic bomb was not needed in 1945 because Japan was ready to surrender. Nor are nuclear weapons needed today for security. In fact, it is the reverse: nuclear weapons are the biggest impediment to security.

Nuclear scientist Leó Szilárd’s observation that President Truman did not understand at all what was involved regarding nuclear weapons unfortunately still rings true when it comes to the leaders of today’s nuclear-weapon States and those of 30-plus countries in military defence arrangements underpinned by nuclear weapons; they continue to reject the TPNW, question the humanitarian consequences of nuclear weapons, reject the International Court of Justice Advisory Opinion, their senior military command keeps nuclear forces on high alert despite risks and even envisage first use of nuclear weapons.

The global nuclear arms control and disarmament machinery is in a grave crisis. This crisis far predates the Ukraine war and must be understood in the broader context of the breakdown and abandonment of nuclear arms reduction treaties alongside the advent of new destabilizing weapons technologies and modernization of existing nuclear arsenals. Both the U.S. and Russia are developing new versions of land-based intercontinental ballistic missiles, submarine-launched ballistic missiles, long-range bombers, and cruise missiles. The U.S. intends to spend \$756 billion over the next decade on nuclear weapons upgrades. Russia is close to completing its nuclear weapons modernization. Estimates project a tripling of nuclear warheads by China over the next decade. India, Israel, North Korea and Pakistan all maintain nuclear weapons in their respective regions of conflict. U.S. withdrawal from the 2015 Joint Comprehensive Plan of Action (JCPOA) has led to Iran, in response, increasing its enrichment of uranium near weapons-grade.

Russia's threat to use nuclear weapons in the Ukraine war has exacerbated the existential risk of nuclear conflict and underscores the basic destabilizing rationale behind nuclear deterrence, which is based on the readiness to use nuclear weapons.

The ongoing Ukraine war and the violent hostilities in the Middle East ought not to be used as excuses for the failure to advance a workable plan for comprehensive negotiations for the elimination of nuclear weapons, but rather as catalysts to accelerate progress on this urgent objective. During the Cold War, States were able to "compartmentalize" their work for nuclear disarmament in the midst of the exigencies of the East-West divide. Now, in the new multi-polar world, which is fraught with elevated risks of nuclear war, States have no option but to engage in negotiations on further reducing nuclear weapons and establishing trust-building communications to advance mutual and global security interests.

But instead of returning to nuclear arms reduction negotiations and trust-building, rancour has broken out. The vision of ridding the world of nuclear weapons is receding as the nuclear arms control architecture patiently built up over the past 50 years collapses before our eyes.

For the first time, two successive nuclear Non-Proliferation Treaty (NPT) review conferences, respectively in 2015 and 2022, descended into chaos and failed to agree on an outcome document. The 2023 NPT Preparatory Committee session could not even agree on a Chair's "factual summary." The NPT, globally recognized as the cornerstone of nuclear disarmament and non-proliferation, clearly needs to be reinvigorated through rediscovering 'habits of dialogue' and finding common ground. The Preamble to the NPT reflects the desire "to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the

liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons....”

In the absence of progress on nuclear disarmament either bilaterally between Russia and the U.S. or at U.N. and NPT fora, a widely supported movement led by States and civil society leaders arose to highlight the catastrophic consequences of the testing, use and modernization of nuclear weapons, and to push back against the powerful States’ determination to maintain their nuclear arsenals. This movement produced, in 2017, the Treaty on the Prohibition of Nuclear Weapons (TPNW), which Guterres hailed as “historic.” For the first time nuclear weapons have been unconditionally stigmatized as standing outside international humanitarian law, in a multilaterally negotiated treaty endorsed by the U.N. General Assembly. The TPNW has entered into force; it has so far been ratified by 70 states but not yet by Canada and other nuclear-dependent States.

Examining “Complementarity”

The TPNW continues to be opposed by the nuclear-weapon possessor States and their allies, who mistakenly claim that it undermines the NPT. Clearly, nothing could be farther from the truth. The TPNW reaffirms the full and effective implementation of the NPT, which serves as the “cornerstone” of the nuclear disarmament and non-proliferation regime. It also recalls the first resolution of the U.N. General Assembly, adopted on 24 January 1946, and subsequent resolutions, which call for the elimination of nuclear weapons.

With two nuclear disarmament treaties — the NPT and the TPNW — now in the spotlight, the question of their relationship arises. Are they compatible or are they contradictory? We believe the wide gulf between nuclear and non-nuclear-armed States must be, at least somewhat, narrowed by examining this relationship. This examination could lead to greater cooperation between adherents of the two

treaties and act as a conduit to better public understanding and stronger, more unified policies among all governments that profess to aspire to a nuclear weapons-free world.

It is sometimes not understood that the NPT is not self-implementing; in fact, it is a framework treaty. Article III of the NPT on safeguards, i.e. nuclear verification, requires the conclusion and implementation by each non-nuclear-weapon State party of an agreement with the International Atomic Energy Agency (IAEA) in accordance with its safeguards system; Article IV on cooperation on peaceful uses of nuclear energy, requires nuclear cooperation agreements between States and the IAEA; Article VII on nuclear-weapon-free zones (NWFZs) requires regional States to negotiate regional NWFZ treaties; hence, basic logic would suggest that article VI on nuclear disarmament would require agreements such as a nuclear-test-ban treaty, a treaty prohibiting production of fissile material for nuclear weapons, and a treaty on the prohibition and elimination of nuclear weapons, i.e. a TPNW.

Both the NPT and the TPNW, in their respective preambular paragraphs, recognize the inherent danger posed to humanity by a nuclear war and the consequent need to make every effort to avert such a war. In 2010, NPT States expressed “deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons and reaffirm[ed] the need for all States at all times to comply with applicable international law, including international humanitarian law.”

The strength of the TPNW is that it goes beyond the NPT in establishing a global norm for prohibition of nuclear weapons, and thus establishes an institutional path toward their elimination. It complements the NPT, along with the Comprehensive Nuclear Test-Ban Treaty (CTBT) and nuclear-weapon-free zone treaties, and opens the door to negotiations — eventually — between Russia, the U.S., the U.K., France and China and the remaining nuclear-armed States for

complete nuclear disarmament. The TPNW thus helps to make possible a future Nuclear Weapons Convention. The goal of such a Convention — the elimination of nuclear weapons through comprehensive negotiations under article VI of the Non-Proliferation Treaty — must be brought back into government and public discourse.

In their Declaration adopted in June 2022, TPNW States parties declared that they were “pleased to have advanced the implementation of article VI of the Non-Proliferation Treaty by bringing into force a comprehensive legal prohibition of nuclear weapons, as a necessary and effective measure related to the cessation of the nuclear arms race and to nuclear disarmament.”

At the 2023 meeting of the States parties to the TPNW, the Final Declaration affirmed the “complementarity” of the TPNW to not only the NPT, but also the CTBT and treaties establishing nuclear-weapon-free zones.

It is incontrovertible that there exists considerable “overlap” between the NPT and the TPNW in the scientific and technical issues of verification and irreversibility of nuclear disarmament. Both treaties recognize and rely on the safeguards system of the IAEA. The TPNW, along with the NWFZ treaties and the CTBT, completes the framework for nuclear disarmament envisaged in NPT article VI.

The Legal Requirement of Nuclear Disarmament

Some of the five permanent members of the U.N. Security Council claim their possession of nuclear weapons is related to their responsibilities under the U.N. Charter for the maintenance of international peace and security, though there is no such reference in the Charter, and hence by extension their doctrine of nuclear deterrence. The TPNW is clearly establishing a norm that nuclear weapons

now are prohibited under applicable international law. This is a step up from the 1996 opinion of the International Court of Justice (ICJ).

The 1996 Advisory Opinion of the ICJ said, in a split vote, “The threat or use of nuclear weapons would generally be contrary to the rules of international laws applicable to armed conflict, and in particular the principles and rules of humanitarian law.” But it also said, “The Court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of the State would be at stake.”

In effect, the Court de-legitimized nuclear weapons for war-fighting but left open the question of their use in “an extreme circumstance of self-defence.” This escape hatch was just what the nuclear-weapon States needed to bolster their claims that nuclear weapons are just for defence and, accordingly, that the Court’s Advisory Opinion would not alter their nuclear deterrence policies. Mistakenly, the nuclear-weapon States refuse to recognize that even in “extreme circumstances of self-defence,” the use of nuclear weapons must comply with law protecting civilians, combatants, neutral states, and the environment from indiscriminate, unnecessary and disproportionate effects of warfare. The nuclear-weapon States have paid scant attention to the Court’s further, unanimous, finding: “There exists an obligation to pursue in good faith and bring to a conclusion negotiation leading to nuclear disarmament...” and to related commitments consensually agreed at the 2000 and 2010 NPT review conferences pursuant to implementation of article VI of the NPT.

Despite differing interpretations of the ICJ ruling, all NPT States parties agreed by consensus at the 2000 review conference to the “unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of

their nuclear arsenals leading to nuclear disarmament, to which all States parties are committed”.

The misrepresentation of the ICJ’s Advisory Opinion and disregard of NPT obligations by the nuclear-weapon States tragically have led to today’s continued nuclear weapon modernization programmes and heightened nuclear risks. And the failure of the nuclear-armed States and their allies to fully honour their article VI commitments directly led to the rise of the global movement to highlight the humanitarian and catastrophic consequences of nuclear weapons and the negotiation and entry-into-force of the TPNW. U.N. Secretary-General Guterres has passionately called for all States to “strengthen the global security architecture,” and he has included in this architecture both the NPT and the TPNW.

The challenge persists to find and build common ground between the expectations of most of the non-nuclear-weapon States and the nuclear-weapon States for the latter to fully implement their NPT article VI obligations for nuclear disarmament. Nuclear disarmament logically has to be carried out by the nuclear-armed States; and the concomitant role of non-nuclear-weapon states is to uphold the non-proliferation commitments of the NPT.

Regaining Canadian Leadership

To its credit, in the past, Canada has been in the forefront of NPT diplomacy. In 1995, Canada exerted its leadership in promoting and achieving the indefinite extension of the NPT based on strengthening the Treaty’s review process and on advancing principles and objectives for nuclear non-proliferation and nuclear disarmament. Five years later, in 2000, even though not being a member of the New Agenda Coalition, Canada supported the practical steps for the systematic and progressive efforts to implement article VI, including the unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of

their nuclear arsenals leading to nuclear disarmament, to which all States parties are committed under article VI.

This Canadian leadership on nuclear disarmament essentially was a top-down process led by prime ministers and foreign ministers that enabled and empowered Canadian diplomats to stand up to the pressure from allies. But then, Canada lost its way and has not yet recovered its true calling for relentlessly pursuing nuclear disarmament. At the 2010 NPT review conference, Canada was largely absent from the key negotiations in a focus group that drafted the conclusions and recommendations for the 64 follow-on actions. In 2015, Canada needlessly supported the U.S. and the U.K. in rejecting the draft final report of the review conference.

After their success at the 2000 NPT review conference, the New Agenda Coalition was weakened by defections under external pressure. The Non-Proliferation and Disarmament Initiative (NPDI), launched in 2010, and the Stockholm Initiative for Nuclear Disarmament, begun in 2019, both were joined by Canada. The NPDI never fully achieved the bridge-building role that it sought; and the Stockholm Initiative may have been weakened when its principal proponent, Sweden, reversed two centuries of neutrality and joined the nuclear alliance of NATO.

With the frailty of the NPDI and the Stockholm Initiative now unfortunately becoming evident, Canadian leadership in highlighting, in some detail, the complementarity of the NPT and the TPNW could be a step forward in moving, in the short term, to a less dangerous world and, in the long term, to reaching a higher level of applied morality to the question of the continued existence of nuclear weapons. The long-range goal is undoubtedly a long way off, but the short-range goal may be productive and worthy of our pursuit. This is what multilateral

diplomacy is all about: opponents working together on what they can agree on within a wider context of vigorous (and even violent) disagreements.

Canada should continue to work in concert with others that share our outlook on the need to strengthen the global nuclear non-proliferation and disarmament regime. In discussing “complementarity,” we urge Canada to support in principle the TPNW and work to effect change in NATO’s policies. Surely, the credibility of our country in pursuing nuclear disarmament is at stake. This opportunity should be debated in both the House of Commons and the Senate. At this extremely dangerous moment, Canada should step up and restore its leadership in promoting nuclear disarmament and an international system based on the U.N. Charter and the rule of international law, i.e., a security without nuclear weapons. This could start by publicly supporting the Secretary-General’s call for more dialogue, an end to nuclear sabre-rattling, and nuclear reductions. This is the time for Canada to rediscover and reassert a leading role, as a middle power, to promote the cause of human security.

In the past, Canada played a leadership role, notably in the diplomacy it exercised at the 1995 and 2000 NPT Review Conferences when the indefinite extension of the treaty and the “unequivocal undertaking” were achieved by consensus. It would make eminent sense for Canada to seek to bring to the table both those who support and those who oppose the TPNW, much as it did for the treaties on the prohibition of land mines, chemical weapons, and Open Skies.

We recommend that Canada convene a high-level international meeting, including inputs from civil society, to examine and promote the “complementarity” of the TPNW and NPT. Such an initiative could be a contribution to the U.N. Summit of the Future, to be convened later this year on September 22-23. We endorse the Secretary-General’s view that “September’s Summit of the Future — and the pact that will emerge — will be an important moment for the world to

gather around concrete reforms to the global disarmament architecture and the bodies and institutions that uphold it.”

The summit could also help lay the basis for an agreement for a universal policy of non-use of nuclear weapons to underpin the reaffirmed understanding that “a nuclear war cannot be won and never be fought,” pursuant to the January 2022 “Joint Statement of the Leaders of the Five Nuclear-Weapon States on Preventing Nuclear War and Avoiding Arms Races” and G7 and G20 leaders’ declarations.

In addition, as a preliminary measure, Canada could promote agreement among the major nuclear-armed States to take their nuclear weapons off alert status. The New START treaty is set to expire on 5 February 2026, and both parties have “suspended” its implementation; no dialogue now exists between the two parties. Thus, Canada could encourage compartmentalization of nuclear risks and push for the U.S. and Russia to resume bilateral negotiations for further reductions in their strategic weapons, current tensions notwithstanding.

Highlighting the “complementarity” of the TPNW and the NPT could help to revive diplomatic work in implementing nuclear disarmament to achieve the elimination of all nuclear weapons ideally by 2045, the 100th anniversary of the Hiroshima and Nagasaki bombings and the founding of the U.N.

Perhaps the Oppenheimer film can animate anew peacemakers in Canada and around the world to press governments toward ridding the world at last of a weapon that should never have been created or used.

Hon. Douglas Roche, O.C. was a Senator, Member of Parliament, Canadian Ambassador for Disarmament, and Visiting Professor at the University of Alberta. In 1988, he chaired the U.N. Disarmament Committee. Among his books are The Human Right to Peace (Novalis, 2003) and How We Stopped Loving the Bomb (Lorimer, 2011). His latest is Keep Hope Alive: Essays for a War-free World (Amazon, 2023).

Tariq Rauf is the former Head of Verification and Security Policy at the International Atomic Energy Agency, and former Director of the Disarmament, Arms Control and Non-Proliferation Programme at the Stockholm International Peace Research Institute (SIPRI). He is currently a Vienna-based member of the Board of Directors of Atomic Reporters and was a member of the Group of Eminent Persons to advance nuclear disarmament set up by the foreign minister of Japan. He mentors young diplomats in nuclear disarmament topics.

