
A Non-Conventional Approach to Disarmament

Lessons from the BTWC and CWC

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The Road to Zero: Arms Control

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Chemical and biological weapons (CBW)

- Disarmament treaties
 - 1972 Biological and Toxin Weapons Convention
 - 1993 Chemical Weapons Convention

- Treaties cover
 - All preparations for CB warfare, i.e., as good as all steps of the armament dynamic
 - Delivery systems + payload (CB agents); support systems

Nuclear weapons

- Arms control treaties
 - Bilateral: SALT, START, SORT
 - Multilateral: PTBT, CTBT
 - Non-Proliferation Treaty
- Disarmament treaties
 - INF, Nuclear Weapon Free Zones, Moon and Other Celestial Bodies Agreement, Seabed Treaty, Antarctica Treaty
- Treaties cover
 - Discrete and isolated aspects of armament dynamic
 - Mostly delivery systems (missile + warhead), not payload (fissile & fission materials)
 - Well-defined terrestrial and spatial locations (prevention of armament)

Armament versus arms control / disarmament

■ **Armament:**

- Process of increasing weapon holdings (quantitative armament), replacing existing holdings with new ones (qualitative armament) or maintaining existing stockpiles (replenishment)
- Assimilation of weaponry in a state's military doctrine

■ **Arms control (inc. arms reductions):**

- Management of agreed quantitative or qualitative levels of weaponry → residual (or increased!) capacity
- **Weaponry remains part of military doctrine**

■ **Disarmament:**

- Total elimination of a discrete category of weaponry → no residual capacity
- **Elimination of weaponry from military doctrine**
 - Loss of skills on how to use the weaponry over time
 - May be most important impediment to future armament
- Backward and forward-looking dimensions

Core components of a disarmament treaty viewed as a security regime (*CWC / BTWC model*)

- **Prohibitions on**
 - Possession and acquisition
 - Use (directly or indirectly)
 - Proliferation (= technology transfers for illicit purposes)
 - Based on 'General Purpose Criterion' to deal with dual-use technology
- **Verification tools**
 - (National technical means)
 - Confidence-building measures
 - International organisation / National authorities
 - Reporting
 - On-site inspections and monitoring
 - *Their development is a core instrument to engage stakeholders in the treaty*
- **Conflict resolution mechanisms**
- **Emergency assistance**
- **'Non-security' clauses (cooperation for peaceful purposes)**

Individual treaty commitment

- Early international agreements limiting the use of weapons were void as soon as one party broke the *contract*
- In modern *disarmament* treaties, parties must abide by the obligations ‘*always, under any circumstances*’
 - Obligations stand even if another party breaks its commitments
 - No (re-)armament in case of threat or use of the prohibited weapon
 - No symmetrical deterrence
 - Valid in peace and war

Security alternatives through non-prohibited means – 1

- Replace the prohibited weapon category by a non-prohibited one
 - Armament dynamic in another domain
 - Adaptation of military doctrine
- Negative security guarantees (reinforced through verification)
 - Prohibition to possess (and use) the weapon
 - Obligation to eliminate weapons capability
 - Non-proliferation obligation

Security alternatives through non-prohibited means – 2

- Positive security guarantees
 - Emergency assistance in case of attack or threat
 - Defensive preparations (inc. international collaboration)
 - Technology exchanges

- Universality

- Diplomacy

Impact of the perception of technology on policy choices – 1

- *Value neutral*
- → ‘use’ of technology needs to be controlled
 - Possessor of weapon technology is problem (‘rogue state’ syndrome)
 - Cf. debate in the USA on gun ownership: ‘guns don’t kill; people do’
 - Lays foundation for non-proliferation paradigm
 - Laws of war: only restrict if use *has been proven* to be inhumane

Impact of the perception of technology on policy choices – 2

- *Having impact on society*
- → technology itself is viewed as problematic
 - ‘Weapon’ is the problem and needs to be controlled and eliminated
 - Gives preference to arms control and disarmament
 - Laws of war: restrict use *if potential exists* that this may be inhumane (≈ precautionary principle)

Core questions

- Why do we have primarily ***disarmament*** for chemical and biological weapons?
- Why do we have primarily ***arms control*** and ***non-proliferation*** for nuclear weapons?

My answer:

The 1925 Geneva Protocol – 1

- Prohibits the use of CBW in armed conflict
 - Limited to contracting parties
 - Void as soon as breach → right of retaliation (made explicit by some states in reservations)
 - Part of the Laws of War / Humanitarian Law
 - No restriction on CBW acquisition / possession

My answer:

The 1925 Geneva Protocol – 2

- Suffered several major violations (*but not in BW area*)
- **Nevertheless, it established a strong moral norm**
 - Proponents always had to go the extra mile to justify CBW
 - Prevented far-reaching *assimilation into military doctrines*
 - Prevented further ‘*conventionalisation*’ of use after World War 1 → special authority for use always required
 - Laid the foundation for comprehensive disarmament

Was the Geneva Protocol relevant when it mattered? – 1

- Colonial wars after World War 1
- Italy–Abyssinia (1935–36)
- Eve of World War II
 - Balance of terror between British and Germany → threat of strategic bombing with CW
 - Churchill & Roosevelt warning against Germany and Japan based on norm in Geneva Protocol
- No major CW attacks during World War II (causes are diverse), but option other than retaliation was actively considered by UK and US leaders
- Egyptian CW use in Yemen (1960s)
- 1980-88 Iran–Iraq war
 - Major violation of the Geneva Protocol; limited response from the international community
 - 1989 Paris Conference to restore the authority of the Geneva Protocol
 - Added urgency to the CWC negotiations

Was the Geneva Protocol relevant when it mattered? – 2

- **Impact:** Violations of the Geneva Protocol *demand* international response and continued to remind the world of unfinished business
- *Intriguing question: Was the Geneva Protocol saved by the atomic bombs?*
 - US preparations for 1946 invasion of Japan envisaged massive use of CW to avoid losses as suffered on Okinawa and Iwo Jima (*Project Sphinx*)
 - US & Japan not party to the Geneva Protocol until 1970s

Quid nuclear weapons?

- No equivalent to Geneva Protocol
- Closest: 1996 Advisory opinion by the International Court of Justice
 - Use of nuclear weapons in general against humanitarian law
 - However: could not exclude the '*extreme circumstance of self-defence, in which the very survival of a State would be at stake*'
 - Introduced notion of 'state survival' in international law
 - **Residual legitimising factor for use**, which is absent from Geneva Protocol → also helps to justify armament

The first step to global zero?

The Andalo Protocol on the prohibition of the use of nuclear weapons in armed conflict

- Formalised declaration of intent not to use nuclear weapons
 - Simple text → contract type?
- Limited formal and no complex technical negotiation
 - Initiative by small group of states inviting other states to sign up
 - Potential for a large number of contracting parties:
 - Parties to Nuclear Weapon Free Zones
 - Most EU members
- Would start having customary law benefits similar to those of Geneva Protocol
 - Annual resolution submitted to UN General Assembly
 - No initial requirement to disarm or change force posture, but would put absence of nuclear disarmament in sharp relief
 - Cf. impact of UNGA resolutions on Geneva Protocol from mid-1960s onwards in connection to Viet-Nam war, which led to launch of negotiation of BTWC and CWC
 - Would close the rationale of 'existential survival' to legitimise NW
 - Strong moral statement, which will reinforce other arguments against retention of NW

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