



Interpretation of ICJ in Nuclear Weapon Disarmament: Marshall Island v. the United Kingdom

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Abstract

In 2014, the Republic of the Marshall Islands (RMI) filed lawsuits against several major Nuclear Weapons States (NWS) to the International Court of Justice (ICJ). In connection with the conclusion of the nuclear arms race and disarmament, RMI filed a lawsuit alleging a breach of negotiating duties. However, the ICJ concluded that such a complaint should be dismissed since there was no urgency in the case. There is a concern that this judgment does not follow the pattern and practice of the ICJ's rulings. Some scholars conclude that there is a potential of power or political link in the ICJ judgment that cannot be explained by law. The United Kingdom has nuclear weapons and dominates the nuclear arms race. The purpose of this study is to examine the hegemony NWS, which leads the ICJ to reject the Marshall Islands case in the context of negotiating duties related to the cessation of the race and nuclear disarmament. The research method applied in this study is a normative legal research method. Secondary data derived from the statutory approach, analytical approach, legal conceptual approach, and factual approach were used in the study. The result of the study showed that the ICJ has jurisdiction over the case to give advisory opinions and to settle this case in order to give additional provision in Article VI of The Non-Proliferation Treaty of 1968 (NPT).

Keywords: nuclear weapons, republic marshall island; united kingdom

INTRODUCTION

The Republic of the Marshall Islands (RMI) is an archipelago in the western Pacific Ocean, bordered to the south by Nauru and Kiribati, to the west by Micronesia, and the north by Wake Island. During the Cold War, this region was utilized as a pacific proving site for the US military to test nuclear weapons. This country gained independence after the prohibition on nuclear testing was enacted. RMI, being a country with a history of engagement in nuclear concerns, is frequently worried about the growth of worldwide nuclear challenges. Even the Marshall Islands have a day set aside to mourn the devastation wrought by nuclear weapons tests (Suaidah, 2016).

In 2014, the RMI filed claims against several major nuclear-weapons states with the ICJ. The United Kingdom is one of these countries. The RMI filed a lawsuit with the ICJ alleging a breach of negotiating duties in connection to the cessation of the race and nuclear disarmament. The ICJ considered this complaint and decided that it should be dismissed since there was no disagreement in this case (ICJ, 2016). The RMI claims that each of the respondent nations has failed to fulfill its duties to seek and finish negotiations leading to nuclear disarmament in all its elements under tight and effective international control. The RMI also claimed that the three respondent states' efforts to modernize and maintain their nuclear weapons systems violated their obligations to pursue and achieve nuclear disarmament in good faith and that each respondent state effectively prevented

most Non-Nuclear Weapons States from complying.

India, Pakistan, and the UK each filed initial objections challenging the Court's jurisdiction and admissibility of the claim. Although the exact formulation varies, the initial objections of each respondent country referred to the absence of a legal dispute or, in the United Kingdom filing, a justifiable dispute between the Marshall Islands and the respondent State. The United Kingdom, as the country with the most nuclear weapons, has an impact on the outcome of the ICJ ruling.

Research regarding ICJ has been conducted previously by [Ramkumar & Singh \(2017\)](#) and [Nugraha \(2021\)](#). [Ramkumar & Singh \(2017\)](#) in their study examined the awareness test and its politico-legal effects in the development of international law. The results showed that the awareness test has increased the evidentiary burden on the applicant and has done so without any jurisprudential or statutory basis. [Nugraha \(2021\)](#) in his study revealed that the content of Article VI of the NPT gives rise to a double interpretation of the words "an early date". This understanding creates confusion when actually the participating countries of the NPT must completely eliminate their nuclear weapons. The practice that has been carried out by NWS does not show that direction. For example, England and the United States. This condition is exacerbated by the development of nuclear weapons carried out by India, Pakistan, Israel, Iran, and North Korea, so that it can affect the global security situation in the future. Based on the background and the previous studies above, the purpose of this study is to examine the hegemony NWS, which leads the ICJ to reject the Marshall Islands case in the context of negotiating duties related to the cessation of the race and nuclear disarmament.

METHOD

The research was a normative legal study. It contained comments, summaries, and thoughts from a variety of library sources, such as analysis of literature, articles, books, and journals related to the theme, and discussion of problem formulations, all of which were written based on existing data and explained in words or statements rather than numbers. This article took a legal perspective as well as a case approach because it employed normative legal research techniques. A legal method that relates to the law is one in which many laws and regulations are used as guides for settling a dispute. In comparison, the case method is a strategy that involves analyzing situations that have occurred in the past that are comparable to the difficulties being addressed and studying the case in greater depth ([Nasution, 2002](#)). The data in this document was examined methodically and legally. The study in this article was a systematic and legal analysis and assessed under current international law. Consequently, the data had been methodically analyzed using a qualitative legal methodology. It was conducted systematically via assessments and collecting relevant data ([Ibrahim, 2005](#)).

DISCUSSION

The Emergence of Dispute

Recognizing the RMI nuclear weapons experience is essential to understanding the driving forces behind its proceedings. Following World War II, the United States oversaw governing and looking after the Marshall Islands' welfare. Nonetheless, the United States tested 67 nuclear bombs in the Marshall Islands in 1946 and 1958. Parts of the RMI are still uninhabitable because of the impacts of these detonations ([Amwee, 2018](#)). The Marshallese people also continue to have one of the world's highest rates of thyroid cancer and birth abnormalities caused by radiation. Despite these tragedies, there appears to be no indication that the RMI ever explicitly expressed their concerns about nuclear weapons with any of the NWS prior to initiating actions before the ICJ.

The RMI claimed that the three respondent nations failed to fulfill their commitments to negotiate the cessation of the nuclear arms race and nuclear disarmament in good faith. This obligation was believed to be based on Article VI of the NPT and customary international law. It was further argued that the three respondent nations' efforts to develop and sustain their nuclear warheads were in contradiction of Article VI of the NPT and

customary international law. The Marshall Islands and the UK have both joined the NPT, although Pakistan and India have yet to do so. Due to the constraints of this article, only the processes against the United Kingdom will be discussed. The RMI asked the Court to declare the United Kingdom in violation of its duties and to force the United Kingdom to take all necessary actions to comply with its responsibilities under Article VI of the NPT and customary international law.

Non-Proliferation Treaty 1968

The Non-Proliferation Treaty of 1968 (NPT) is an international treaty that deals with nuclear disarmament efforts in the event of a nuclear conflict in the future. The NPT is built on three primary pillars. Such as Article II of the NPT, Article IV of the NPT, and Article VI in the NPT (Nugraha, 2021a). The fundamental goal of the 1968 NPT is a nuclear deterrent as a weapon. Thus every nation that possesses nuclear weapons or wishes to develop nuclear weapons must agree to cooperate with the IAEA in the scope of nuclear safety. Commitment to Non-NWS has an apolitical commitment to not develop nuclear weapons. In this case, it is not about security standards but rather a foundation of confidence built into the IAEA's nuclear verification process (Charlson, 2019). Furthermore, the NPT is crucial in preventing nuclear weapons catastrophes, although this is debatable because the NWS countries still have nuclear weapons. It is obvious from the advisory opinion that the ICJ did not clarify how nuclear disarmament activities should be carried out as part of a responsibility stipulated by Article VI of the NPT, leaving a hole in the framework of interpretation. Furthermore, Advisory Opinions are not legally binding on governments (Ford, 2007). Even though there is no restriction on the use of nuclear weapons, nations are not permitted to employ weapons that cause undue suffering, long-term harm, or environmental damage under NPT standards. However, it is prohibited in Additional Protocol 1. The ICJ noted in its judgment that Article VI is legally enforceable on the NPT Agreement's member States. Article VI is more than just a future agreement that can be discussed; it is also an agreement that must be read (*Pactum den Contrahendo*) (Simon, 2005). In addition, to fully comprehend the implications of Article VI, the International Court of Justice's advisory opinion on the Legality of the Threat or Use of Nuclear Weapons from 1996 must be consulted. With Resolution 49/75 K, the United Nations requested the ICJs judgment on whether the threat or use of nuclear weapons is permissible under international law. The Court believed that the use of nuclear weapons posed a continuing threat to international order and that in order to maintain peace, the purpose of Article VI, nuclear disarmament, must be preserved. This, in essence, imposes on the signature countries the obligation to achieve the aim of nuclear disarmament rather than simply engage in nuclear disarmament discussions. This decision gives an important option in interpretation since the phrasing of Article VI may otherwise be regarded as establishing a duty to negotiate, weakening the article's enforcement.

At the same time, publicly available prepared literature continually refers to the risks of nuclear weapons and a society in which they are freely available. All parties participating in the planning process recognize that the ultimate aim is a world free of nuclear weapons and the hazards they entail. Although it entered into effect ten years after the NPT, the Vienna Convention on the Law of Treaties is widely regarded as a codification of customary law and, as such, can be used as a preliminary guide for interpreting the NPT and its Article VI. Article 32 of the VCLT elaborates on what supplemental documents can be utilized for further interpretation of a treaty in cases where the text of the treaty leaves the meaning uncertain or confusing, and both the treaty's preparatory work and the circumstances of its completion are deemed useful.

Given the need for clarification by the ICJ, it is safe to say that the phrasing of Article VI did indeed leave the meaning uncertain. At this point, the ICJ's advisory opinion can be reiterated. The Treaty's preparatory work showed time and again that United Nations member nations recognized the risks of nuclear weapons. Nuclear-weapons nations were typically more concerned with nonproliferation than disarmament.

The dual character of nuclear weapons having a deterrent quality while also being extremely hazardous is still there now as much as it was at the time of the treaty's

conclusion. As a result, while the VCLT provides for the use of preparatory works and historical circumstances to interpret loosely worded paragraphs, the fact is that the states were not entirely in accord with Article VI. Only one of Article VI's three goals—stopping the arms race, nuclear disarmament, and general and total disarmament—has been met. The end of the armaments race between the US and the USSR was reached, and it was also the one aim on which all states could fully agree. Nuclear disarmament, as previously noted, has been questioned or avoided by nuclear-weapons states. Even today, general and full disarmament appears to be an unattainable objective, one that appears to be even more ambitious than merely nuclear disarmament.

The ICJ advisory judgment presented a view that not only does Article VI require governments to have discussions, but it also requires them to be concluded. The Treaty does not include explicit enough wording for Article VI to have a single reading, and the supplemental interpretation procedures offered by the VCLT do not reveal a single interpretation. This is one of the NPT's flaws, implying that at its core, it is an unequal pact due to confusing provisions dealing with nuclear weapon nations' commitments.

In spirit, governments agree on the hazards of nuclear weapons and the future necessity of nuclear disarmament; nevertheless, as the Marshall Islands examples demonstrate, taking action to progress toward nuclear disarmament is a different matter. However, when the same subject is asked about, say, human rights, a distinct argument might be seen. According to Brian D. Lepard:

“Human rights are unquestionably customary international law, and despite governments' frequent violations of human life and inviolability, they are seen as a breach of human rights rather than an accepted state practice.”

However, it is unclear if this strategy can be used for nuclear disarmament. Yet, the previous ICJ rulings indicate that even though state activities, nuclear disarmament remains a priority.

After determining the most often used technique by the ICJ, analyzing the reasons presented by the RMI in their application, and bearing in mind the ICJ's 1996 advisory judgment, it appears that Article VI of the NPT might be deemed customary international law. Governments have continuously agreed on the importance of nuclear disarmament, ICJ decisions suggest the customary character of Article VI, and while states have acted contrary to the concept of nuclear disarmament, it may be conceivable to address this matter from the same perspective as human rights rules. The ICJ has yet to deliver a definitive answer.

The Marshall Islands cases would have offered a response, but in the absence of a definitive solution, only conjecture and speculating are available. Despite this, the case for tentatively treating Article VI of the NPT to be customary international law is compelling.

NWS Practice in Nuclear Weapon Maintenance

UK Practice

Nuclear-weapons-wielding superpower Countries are still stockpiling and developing nuclear weapons. Currently, the UK has 225 nuclear warheads, with a maximum of 40 nuclear warheads per ballistic missile submarine. The cost of the UK government renewing the tridentate program for the next 30 years based on preventing future threats to the United Kingdom reached \$38.5 billion ([NTI.org, 2021a](#)).

The use of nuclear weapons by the UK is a concrete kind of protection for member countries of the North Atlantic Treaty Organization (NATO) ([Ministry of Defence, 2015](#)). However, there is ambiguity in the application of nuclear weapons as a deterrent against nuclear attack, as well as when and under what conditions nuclear weapons can be used ([Dummond, 2019](#)). This is an effort to guarantee that nuclear weapons are only used in the appropriate situations and conditions.

In direct contrast to Article VI of the NPT, it specifies that member nations should be successful in stopping the development of nuclear weapons and must implicitly exclude nuclear weapons from their defense programs ([Harrald Muller & Carmen Wunderlich,](#)

2020). However, the UK government continues to retain and develop nuclear weapons, despite claims that they have decreased the number of their warheads from year to year in a good faith attempt. Not only does the UK retain nuclear weapons, but numerous other States that have signed the NPT have also ignored the term “An Early Date,” leaving the question of “when shall participating countries retaining nuclear weapons fulfill the requirements of the NPT?”

There is no reason for nuclear weapon states to postpone the removal of their nuclear programs, especially if the primary motive is to safeguard the country's sovereignty from threats, as the UK government has done. Should be able to relate to other international norms that prohibit the use of weapons that inflict excessive harm and protracted suffering, as specified in Additional Protocol 1 of 1977, Article 35 paragraphs (2) and (3). In combat, care will be required to safeguard the natural environment from significant, long-term harm. The employment of tactics or means of warfare that are intended or may be expected to inflict such harm to the natural environment, so jeopardizing the health or existence of the population, is prohibited ([International Committee of Red Cross, 1977](#)).

US Practice

The United States, as the first country to employ nuclear weapons at the end of World War II, is continuously maintaining and expanding nuclear weapons programs. The United States, as the NPT's initiator, considers that a nuclear conflict in the future should be avoided. US nuclear warheads this year it has 3,750 warheads ([NTI.org, 2021b](#)). The United States has conducted 1,045 nuclear weapons tests since 1945, including one at Bikini Atoll in RMI. According to the Department of Defense (DoD) graph, the number of warheads in the United States has risen dramatically, reaching 31,255 in 1967. Carefully, the number of warheads controlled by America declined considerably after the cold war ended, with just around 10,000 remainings, but the number of exposed warheads climbed substantially to 30,000. The US, as the initiating country, should have carried out the disarmament and end of the nuclear weapons program since the NPT was established. However, if all the NWS continue to preserve and develop nuclear weapons as part of a military policy, America will face issues ([Rabinowitz, 2019](#)). However, in the previous decade, there has been improvement between the US and Russia, notably in devising a program to reduce strategic weapons, known as the New Strategic Arms Reduction Treaty (START). According to the bilateral agreement, the number of strategic weapons is limited to 700 intercontinental ballistic missiles (ICBMs) and submarine-launched ballistic missiles (SLBMs), with 1,550 ICBMs and SLBMs and 800 weapons in the weapons category (reserve). The agreement stresses not just restrictions on strategic weapons, like nuclear weapons, but also transparency on each party's capabilities; so far, 19,852 exchanges have taken place.

Lawsuit of the RMI to ICJ Regarding the Obligation to Fulfill the Contents of the Non-Proliferation Treaty 1968

Before 2014, the RMI launched a case against NWS, including NPT and non-NPT parties, in the ICJ. Keep in mind that the United States and Britain frequently utilize the RMI as a nuclear weapons test site. Until now, the experiment's residual effects have left radioactive waste that is still felt today. In 2010, a Japanese fishing boat entered the Marshall Islands' territorial waters. After returning to Japan, some crew members became ill, were diagnosed with cancer, and finally died ([Suaidah, 2016](#)). The elimination of nuclear weapons should become a requirement because of this case.

The RMI has filed a lawsuit against the UK and many other countries with operational nuclear weapons. The RMI claimed in its complaint that the Nuclear Weapon States had breached Article VI of the NPT and customary international law by maintaining and developing nuclear weapons. However, only the lawsuits against the United Kingdom, India, and Pakistan were continued since those three nations provided optimum declarations in line with Article 36 Paragraph 2 of the ICJ Statute.

The ICJ sees no problem or dispute in the RMI's lawsuit against the UK, India, and

Pakistan. According to the ICJ, the RMI lawsuit was dropped due to a lack of jurisdiction. However, the ICJ continues to acknowledge that nuclear weapons are weapons that may create harm that threatens future generations, and the impacts of nuclear weapons do not distinguish between civilian and military items. As a result, nuclear weapons might create other violations, such as unnecessary suffering and the proportionality principle, which is the primary concept in humanitarian law (Ford, 2007).

The Argument of the Parties

United Kingdom

The claim that the Court lacked jurisdiction to try the case because the RMI failed to prove that the parties were in disagreement over an alleged failure to participate in good faith negotiations on nuclear disarmament and nuclear weapons elimination. The UK stated that in order to initiate a dispute, an applicant must notify the respondent of its allegations in advance (Amwee, 2018). The United Kingdom also filed four preliminary objections. Unfortunately, the Court failed to address these objections. One of these justifications, as mentioned by a few of the justices, was that the Court should not have used its jurisdiction because the judgement would have affected the legal rights of other NWS who were not part of the proceedings. It's known as the Monetary Gold Principle.

The NPT is a multilateral agreement that mandates all parties to cooperate in good faith to discuss the abolition of nuclear weapons and eventual disarmament. The Court would be unable to rule on the United Kingdom's actions without first examining the conduct and legality of other NPT member countries. Because the UK is required to negotiate with other NPT parties in order to achieve the NPT's goals, the behavior of other NPT parties would be a factor. As a result, the decision would be dependent on the legal interests of other NWS that aren't part of the case.

Republic Marshall Island

The case was still at the preliminary objections stage, and the Court was only concerned with whether a disagreement existed, not with the case's content. As a result, the RMI has avoided discussing their fears regarding nuclear weapons. (Amwee, 2018). The RMI insisted on the existence of a dispute, claiming that remarks made in multilateral contexts previous to the submission of the application demonstrated the existence of a dispute with the United Kingdom. During a General Assembly meeting in September 2013, the RMI, for example, asked that all NWS increase their efforts to address their roles in supporting successful and safe disarmament. The RMI made a declaration at an international conference in Nayarit in February 2014, arguing that nations with nuclear arsenals are not fulfilling their legal duties under customary international law and Article VI of the NPT.

The RMI further claimed that vote records at global fora on nuclear weapons proved the existence of a legal challenge. It relied heavily on the General Assembly Resolution, in which the General Assembly urged rapid compliance with legal duties and the fulfillment of nuclear disarmament pledges. The RMI supported the resolution, but the UK opposed it. Alternatively, the RMI argued that just submitting the claim, as well as the UK opposing views expressed during the ICJ proceedings, was enough to confirm the existence of a dispute.

Jurisdiction and Competence of the ICJ

Determining the existence of conflicts between countries is a crucial factor that must be considered since the ICJ will decide whether the ICJ can exercise its Jurisdiction. As previously stated, the Court has the authority to decline jurisdiction in three cases: In the absence of a dispute between the parties, an examination of the ICJ notion of "dispute" will be presented to provide a complete understanding of the situation (Gauffin. Maria Velentina. Y, 2019). The Statute does not define the term "legal dispute." The PCIJ defined controversy in the Mavromattes case as a disagreement on a matter of law or fact, a conflict of legal ideas or interests between two people. The ICJ has affirmed this concept without considerable alteration, save that it has now been stated that a dispute might occur

between more than two states. It has been emphasized that the existence of a disagreement is a subject for objective judgment, and that one party's assertion that there is a dispute is insufficient. A disagreement based on political considerations would be insufficient. This, however, does not deprive the Court of its jurisdiction to consider a matter involving a legal issue with political overtones. Furthermore, the fact that a state appears to be contesting the Court's jurisdiction does not imply a disagreement.

According to Article 38 of the ICJ Statute, "a court whose mission is to settle disputes presented before it in line with international law will prevail." According to this statement, there is an "international dispute," which is a circumstance that affects the main core of its juridical function ([Statute of the International Court of Justice, 1946](#)). Although the RMI position on nuclear disarmament and the cessation of the nuclear race is widely known on the international stage, the Marshall Islands does not have particular bilateral diplomatic relations with the NWS before reporting it to the Court. According to the ICJ, there is no controversy in compliance with the standards of "Awareness." Because Disputes can only be filed if the respondent is aware of the applicant's claim, or the responder must be unaware of the applicant's claim. If there is no such dispute, the ICJ declares that it lacks jurisdiction to hear the Republic of the Marshall Islands' lawsuit ([Burroughs, 2014](#)).

In evaluating the RMI's arguments, the Court ruled that the lack of clarity in the UK's past remarks on the cessation of nuclear weaponry and nuclear disarmament meant that the UK could not be deemed to have been aware that its views were affirmatively opposed by the RMI. As a result, the Court had no basis for concluding that a disagreement existed. As a result, the Court lacked the authority to decide the merits of the matter under Article 36(2) of the Statute. As a result, the parties were never able to discuss the fundamental concerns. Another requirement imposed by the court is that the dispute must exist at the time the application is filed, which is an absolute necessity. When the application is submitted, the dispute may be in the process of taking shape or maybe in its early stages. Due to these two requirements, showing the existence of a dispute between the parties will be incredibly difficult for a country that does not have bilateral diplomatic relations when filing a complaint with the ICJ. As a result, the Court must decline jurisdiction in most cases since it will be based on subjective consciousness ([Bonafe, 2017](#)).

The ICJ's jurisdiction in inter-state issues is adversarial in character. It only applies to legal conflicts between nations, making the presence of one a prerequisite. The disagreement test is modest and does not allow for a demanding level. The Court will have jurisdiction over any legal dispute involving the interpretation of a treaty, a question of international law, the existence of any fact that would constitute a breach of an international obligation or the nature or extent of the reparation to be paid for a breach of an international obligation, according to the Statute.

The ICJ's Capability to Handle Nuclear Weapons Issues

Nuclear weapons are primarily a political instrument. This appears to be replicated in this case since all eight judges who found no dispute were from NWS or nations that benefit from nuclear deterrence supplied by allies. Judges appear to vote in favor of their own country's national interests rather than what is best for the international community, based on this voting pattern. The ICJ's reputation might be harmed as a result of this, as judges must be objective and unbiased. It also endangers the Court's ability to operate as a true International Court on issues when states' viewpoints diverge significantly. As a result, state talks and treaty implementation are likely the best ways to resolve the issue of nuclear weapons.

On the other hand, the ICJ's activities do not appear to be interfering with the democratic process. Typically, the Court would be asked to rule on the obligations contained in nuclear weapons treaties, which are international legal agreements. The Court is responsible for upholding and interpreting these agreements. By doing so, the ICJ may put pressure on countries and make clear what their responsibilities are when it comes to nuclear weapons, thereby assisting the political process.

Nuclear disarmament is also a community issue, as it necessitates the involvement of all NWS. All NWS must be included in the proceedings for the Court to thoroughly handle

nuclear weapons issues. This is quite unlikely to happen. Furthermore, a bilateral role in resolving a dispute between two countries would have little practical influence on nuclear weapons-related concerns. This is because, even if the ICJ went to the merits and ordered the state to negotiate and carry out a specific nuclear disarmament agreement, it is unlikely that anything significant would happen without the cooperation of the other NWS.

NPT's Relevance in Present Day

The NPT is difficult to enforce. The ICJ advisory judgment in 1996 may have concluded that the NPT requires parties to finish nuclear disarmament discussions, but the enforcement of this commitment is a separate question. Only the application against the United Kingdom fell under the jurisdiction of the ICJ among RMI applications against nuclear weapon nations that had ratified the NPT. Only petitions against Pakistan and India were eligible from nuclear-armed nations that had not signed the NPT.

The idea of equality has been referred to as the treaty's balance, inequity between signatories, and other phrases. The basic concept of these variants, however, remains the same. Non-nuclear weapon states agree not to accept or develop nuclear weapons, while nuclear weapon states agree not to transfer nuclear weapons to non-nuclear-weapon states and to negotiate nuclear disarmament. Furthermore, the Nuclear Non-Proliferation Treaty specifies that peaceful nuclear technology should be available to all, and governments are required to support the interchange of peaceful nuclear technology research. The equity of sacrifice refers to the balance between commitments and promises.

The NPT may have been imbalanced in a variety of ways, and quite a number of these have occurred. Concerns that nuclear disarmament would not occur or would not be finished, or that new nuclear weapon nations might emerge and refuse to ratify the Treaty, have been realized. Furthermore, the RMI petitions and subsequent dismissal demonstrate both this imbalance in the balance of sacrifice as well as the ICJ's refusal to accept the inequity.

The NPT requires good faith negotiations to terminate the nuclear arms race and reach nuclear disarmament. However, it is disappointing that the NWS has for over 50 years neglected their commitments under the NPT's objective. By refusing to implement all practical steps to reduce the risk of nuclear war, the NWS country acts irresponsibly toward its local people and the rest of the world.

Negotiation processes, comprising a framework of activities to support negotiations, such as bilateral dialogue and confidence-building measures for verification and other specifics, are necessary. As did in 2018, the US delivered a working paper on "Creating the Conditions for Nuclear Disarmament," establishing a dialogue on the topic of disarmament, particularly how to address the security concerns that have prompted many countries to build and retain nuclear weapons. If it is not exploited as an excuse to avoid negotiating obligations, this type of discourse can be effective as a beginning point for the negotiation process ([Charlson, 2019](#)).

Multilateral negotiations are not required under the NPT. However, because all NWS must be involved sooner, it is preferable to build multilateral from the outset. Non-Nuclear Weapon States must be included in the negotiation process to sustain pressure on the Nuclear Weapon States and ensure transparency of the negotiation process ([Palestini. L, 2017](#)).

There are complications in article VI requirements that do not apply to countries that are not members of the NPT. Nuclear-weapon states will not agree to significant weapons reductions until non-NPT states do the same. As a result, the procedure must be expanded. Removing a nuclear weapon is the same as launching an alert state. Today the major powers still retain many nuclear weapons. Even keeping the force of vigilance high is a real resource, as the likelihood of a weapon-equipped nation being able to launch a launch with minimal warning. However, a country that has safe capabilities and has effective deterrence does not need to keep forces on high alert.

Following the rise of frustration as a result of the lack of action on nuclear disarmament, discussions on the creation of a new accord emerge through the Treaty on

the Prohibition of Nuclear Weapons (TPNW). Article 1 paragraph 1 of the TPNW prohibits all countries from developing, manufacturing, owning, testing, deploying, putting, or using nuclear weapons. Nuclear states that join the pact must promptly deactivate their nuclear weapons and destroy them within a time limit set by the First Meeting of States Parties (Tom Sauer & Mathias Reveraert, 2018).

Concerning safeguards, non-nuclear-weapon nations that do not have an extra protocol in place when the TPNW goes into force are not compelled to complete one. This contradicts the consensus judgment of the 2010 NPT review conference that the IAEA's supplementary procedures should apply to all governments in a nuclear-free world. Universal acceptance of the highest protection standards is critical since nuclear-armed nations will not disarm if they fear new NWS might arise, and greater, not weaker, safeguards will be required to preserve a nuclear-weapon-free world. TPNW advocates claim that the agreement does not exclude a party from implementing new instruments in the future.

The TPNW challenges the conventional wisdom that the approach to nuclear disarmament must be gradual and respect the country's reliance on nuclear deterrent strategies. For decades, the assumption that nuclear weapons promote peace and security by making armed conflict too dangerous influenced nuclear weapons legislation. As previously stated, the NPT enables NWS to keep their nuclear arms for an unlimited amount of time. The TPNW, on the other hand, realizes that the humanitarian hazard presented by nuclear weapons surpasses any deterrent advantages. It makes it illegal for a State party to base its national security strategy on nuclear weapons through the prohibition of use and the threat of use. The TPNW also makes it unlawful for states parties to encourage others to possess, threaten to use, or use nuclear weapons, making it illegal for states parties to stay under the nuclear umbrella. TPNW removes a significant impediment to nuclear disarmament by delegitimizing nuclear deterrence strategies.

TPNW also opposes the assumption that progress toward a nuclear-free world must be made in phases. Article VI of the NPT compels states parties to strive in good faith toward universal and complete disarmament, but as previously mentioned, their meetings have adopted a slow, 'step-by-step' approach that has yet to yield results. The countries negotiating the TPNW adopted a faster pace, demonstrating that nuclear disarmament could be scaled up in months rather than decades, influenced by the intensity of previous humanitarian disarmament procedures. Furthermore, unlike the NPT, the wording of the TPNW demands states parties to fulfill their responsibilities as soon as possible. After signing the pact, they must halt the production, transfer, use, and testing of nuclear weapons. NWS shall promptly remove their nuclear weapons from the operational condition and destroy them as soon as practicable, while states parties sheltering other countries' nuclear weapons must assure their removal as soon as possible (Docherty. B, 2018). This TPNW illustrates the viability of an accelerated negotiating process and time-bound nuclear disarmament responsibilities.

CONCLUSION

In 2014, RMI filed a lawsuit against the NWS in the ICJ because the NWS failed to fulfill its commitment to negotiate the cessation of the nuclear arms race and nuclear disarmament in good faith. In such a case, the ICJ only received cases against three nations, such as the UK, Pakistan, and India. However, the discussion of the RMI case with the UK was ultimately rejected because one of the reasons is ICJ's lack of jurisdiction. Furthermore, the lack of jurisdiction, which is the reason for rejection in this issue, is regarded because there is no element of urgency from an "international dispute". Therefore, the ICJ has no jurisdiction over the case and has set Article 38 of the ICJ Statute as the basis for fulfilling the claims made by RMI. However, NPT is a product from ICJ. So, ICJ should be able to resolve the case between RMI and UK in another method by proposing amendments to re-discuss Article VI of the NPT so there will be no ambiguity in the future.

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