The new nuclear diplomacy

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At the conclusion of the second session of the UN open-ended working group on taking forward multilateral disarmament negotiations (OEWG) in Geneva in May, it was clear that there was majority support for the start of negotiations in 2017, with or without the participation of the nuclear-armed states, on a new legal instrument that will prohibit nuclear weapons.

The OEWG is yet to consider its report to the General Assembly (this will be done at the third and final session in August), and many uncertainties remain, including the precise form and scope of the legal instrument (will it be a “stand alone” ban treaty, or a framework convention? What exactly will it prohibit? What other provisions will it include?). Nevertheless, with at least 126 states committed in some form, and clear support from influential regional players such as Brazil, Egypt, South Africa and Indonesia, it appears almost certain that - regardless of the actual contents of the OEWG report - supporters of a new treaty will be able to pass a resolution at the First Committee this October, establishing a UN negotiating conference in 2017.

This is a profound shift in a moribund diplomatic landscape that has changed little since the indefinite extension of the NPT in 1995. Whatever you might think of the wisdom of pursuing a treaty banning nuclear weapons without the involvement of the nuclear-armed states, now it is likely to happen. What does this mean? What are the implications? And how should the various actors respond?

Uncomfortable under the umbrella

The most immediate effects will be felt by those NPT non-nuclear-weapon states that are members of a nuclear alliance. These “nuclear weasel states” have been at the forefront of efforts to resist a ban treaty, as they are well aware that it will put them in an impossible position. As non-nuclear-weapon states parties to the NPT, for whom nuclear weapons are already prohibited, there is no prima facie legal reason they could not join a ban treaty, however awkward their alliance commitments might make this. Certainly, it will be extremely difficult for many of them to justify domestically a decision not to at least participate in the negotiations. Any pressure from their nuclear-weapon state alliance partners is likely to be exposed and exploited domestically, and thus be counter-productive (although political contexts vary widely - Eastern European countries, for example, are likely to be steadfast in their rejection of a ban).

As the ban treaty takes shape, outright obstruction and resistance will become increasingly untenable for many weasel states. And once one of them joins the negotiations, it will become next to impossible for others in analogous circumstances to justify staying away (NATO solidarity may hold for a while, but once it cracks, it is gone).

Inside the nuclear-armed states

The nuclear-armed states, and in particular the five NPT nuclear-weapon states, have occasionally disparaged but mostly just ignored the ban treaty
proposal and the humanitarian consequences initiative that spawned it - no doubt hoping that the whole thing would run out of steam if they stayed away. Now the ban treaty is likely to become reality, however, they will be confronted with some interesting choices.

We can expect some opportunistic attempts to delay and hamper the process, at the General Assembly for example, but outright opposition to negotiations in good faith to outlaw nuclear weapons will soon run afoul of NPT Article VI obligations. There will doubtless be pressure on allies to resist - but this also carries risks, as mentioned above. So after dabbling with opposition, the nuclear-armed states will probably try to ignore the new treaty and carry on as usual, emphasising the role of the NPT as the “cornerstone”. This may work for a while, but once the ban treaty is well established with a significant membership (say, around 130 states parties), global non-proliferation efforts are likely to shift to being based on the new treaty rather than the NPT. The nuclear-armed states would then be obliged to engage with the new treaty in order to effectively pursue their non-proliferation policy objectives.

Perhaps more interesting is the renewed opportunity the reality of the ban will provide for civil society, academia and pro-disarmament political forces within nuclear-armed states. The highly unusual - possibly unprecedented - circumstance of none of the P5 being involved in a major international security agreement will in itself provide a rich focus for media, academic and think-tank engagement, and likely provoke fresh thinking and new political approaches - perhaps including a push towards more constructive engagement with the new treaty. Similarly, the plight of the weasel states in the face of the ban will force some re-evaluations in Washington, London and Paris, with follow-on effects in other nuclear-armed states.

Wider implications

Beyond the sphere of nuclear non-proliferation and arms control, the prospect of a large number of smaller states, mostly from the global South, pursuing a major multilateral security initiative without most of the Western states, Russia, China or India, represents something of a bold new experiment in democratization of the international system. It is impossible to predict what the repercussions may be, but they may well be significant, including in fields far removed from arms control and international security. Countries now leading the ban initiative, such as Brazil, Egypt and Mexico, will be acutely aware of the ground-breaking nature of the enterprise, and if it shows promise will no doubt be looking for opportunities to leverage the new approach.

But there are serious challenges too. The countries supporting the ban treaty are large in number, but small in financial resources and diplomatic capacity. The countries currently standing outside the initiative - or indeed actively resisting it - are those that traditionally support, drive and bankroll innovative and progressive multilateral diplomacy: Australia, Canada, Netherlands, Norway, Sweden, etc. Filling this role will not be easy, but again offers intriguing new opportunities for civil society and academia.

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