

- 22 “Part Four: Achieving Nuclear Disarmament,” Report of the Tokyo Forum for Nuclear Non-Proliferation and Disarmament, July 25, 1999. Online at <http://www.mofa.go.jp/policy/un/disarmament/forum/tokyo9907/report-4.html>.
- 23 *Weapons of Terror*, p. 160.
- 24 *Id.*, p. 22.
- 25 *Id.*, p. 23.
- 26 *Id.*
- 27 M.V. Ramana, “Bombing Bombay? Effects of Nuclear Weapons and a Case Study of a Hypothetical Explosion,” International Physicians for the Prevention of Nuclear War, 1999.
- 28 *Nuclear Weapons Opinion*, para. 36.

Section 1.1: Treaty Regimes and International Law

- 1 *Weapons of Terror*, p. 94.
- 2 *Id.*, pp. 167-168. See also Randy Rydell, “Disarmament without Agreements?” *International Negotiation*, Vol. 10, No. 3, 2005, pp. 363-380.
- 3 Nicole Deller, Arjun Makhijani, and John Burroughs, eds., *Rule of Power or Rule of Law? An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties*, The Apex Press, New York, 2003 (“*Rule of Power or Rule of Law?*”).
- 4 *Rule of Power or Rule of Law?* preface, p. xiii.
- 5 *The Paquete Habana*, 175 U.S. 677, 700 (1900). Online at <http://supreme.justia.com/us/175/677/case.html>.
- 6 The fact that U.S. international legal obligations have the status of law binding on the U.S. government does not mean that they are readily enforceable in U.S. courts. Citizens are not granted standing by courts to challenge alleged U.S. violations of international obligations unless they can demonstrate a harm personal to themselves as opposed to one generally suffered by the public. Courts have also developed what is known as the “last-in-time” rule, under which when there is a conflict between a treaty and a federal statute, the most recently adopted prevails. Additionally, a “non-self-executing” treaty will not be applied absent implementing legislation. Courts do recognize, however, that regardless of its enforceability in U.S. courts, a treaty obligation remains a legal obligation of the United States on the international plane. See *Rule of Power or Rule of Law?*, p. 2.
- 7 In remarks at Simon Fraser University in Vancouver, Canada on June 28, 2006, about a month after the WMD Commission Report was released, Hans Blix made similar observations:

[A]fter the end of the Cold War, at the beginning of the ‘90s, there was a feeling of sort of relief that we no longer risked the sort of MAD Mutually Assured Destruction of the U.S. and Russia in which the rest of us might be wiped off as collateral damage. That concern, that anguish, was over and we all expected a sort of harvest for disarmament. Well there was some harvest. There was the Chemical Weapons Convention, which had been negotiated for decades. There was also the Comprehensive Test Ban Treaty, which had also been negotiated.... We also got something that was very important during the ‘90s and that was the decision of the Security

Council under the inspiration and proposal from the President of the United States, from Bush Senior, to intervene in Iraq to stop the Iraqi aggression against Kuwait and the Security Council was standing wholeheartedly behind it. And it was stated that for the first time the UN security system really functioned. And President Bush talked about the new international order and they were all very hopeful. Regrettably, it didn't last very long and in the '90s we began to see a stagnation also with disarmament and arms control and since then we have seen much worse. We have seen arms races appearing and we have seen also the stagnation in the organs established for arms control.

Online at http://globalactionpw.org/meetings/WMDC_GAPWsession.htm.

- 8 This paragraph and parts of the rest of this section and of section 1.2, draw upon John Burroughs, Nicole Deller, and Arjun Makhijani, "Global Security Treaties Under Siege: U.S. Rejection of Agreements on Nuclear Weapons," in Michael Flynn, ed., *The Second Nuclear Age: Political and Psychocultural Perspectives*, forthcoming from University Press of Kentucky.
- 9 *Weapons of Terror*, pp. 129-130, 132-133. See also remarks of Jonathan Tucker, "Hans Blix Reports on WMD Dangers and Solutions," Arms Control Association press briefing, June 7, 2006. Online at http://armscontrol.org/events/20060607_Blix_WMDC_Transcript.asp.
- 10 See Nicole Deller and John Burroughs, "Arms Control Abandoned: The Case of Biological Weapons," *World Policy Journal*, Vol. 20, No. 2, Summer 2003, pp. 37-42. Online at <http://worldpolicy.org/journal/articles/wpj03-2/deller.html>.
- 11 See Mark Wheelis and Malcolm Dando, "Back to Bio-weapons?" *Bulletin of the Atomic Scientists*, January/February 2003, pp. 40-46.
- 12 Judith Miller, Stephen Engelberg, and William Broad, "U.S. Germ Warfare Research Pushes Treaty Limits," *New York Times*, September 4, 2001. Online at <http://commondreams.org/headlines01/0904-02.htm>; Scott Shane, "Army confirms making anthrax in recent years," *Baltimore Sun*, December 13, 2001. Online at <http://www.baltimoresun.com/news/custom/attack/bal-te.anthrax13dec13,0,4104922.story?coll=bal-attack-utility>.
- 13 *Weapons of Terror*, p. 116.
- 14 *Id.*, p. 25.
- 15 "Just What is a War Criminal?," *Insight on the News*, August 2, 1999, responding to moves by a lawyer seeking to indict the then President Clinton and Secretary of Defense William Sebastian Cohen for war crimes and crimes against humanity in Yugoslavia. Online at http://www.findarticles.com/p/articles/mi_m1571/is_28_15/ai_55410553.
- 16 See John Bolton, "Is There Really 'Law' in International Affairs," *Transnational Law and Contemporary Problem*, Vol. 10, No. 1, 2000, p. 10.
- 17 *Weapons of Terror*, p. 168.
- 18 *Id.*, p. 176.
- 19 "Notes For An Address By The Honourable Bill Graham, Minister of Foreign Affairs, To The Conference On Disarmament, Geneva, Switzerland," March 19, 2002, cited in *Rule of Power or Rule of Law?* p. 131. Online at <http://www.reachingcriticalwill.org/political/cd/speeches02/can190302cd.pdf>.
- 20 On issues of compliance and enforcement, see *Rule of Power or Rule of Law?* pp. 131-137. See also Peter Weiss, "The Future of Universal Jurisdiction," in

Wolfgang Kaleck, Michael Ratner, Tobias Singelstein and Peter Weiss, eds., *International Prosecution of Human Rights Crimes*, Springer, Berlin, 2006.

Section 1.2: The Nuclear Non-Proliferation Treaty

- 1 Natural Resources Defense Council, "Table of Global Nuclear Weapons Stockpiles, 1945-2002," Archive of Nuclear Data. Online at <http://nrdc.org/nuclear/nudb/datab19.asp>; Hans Kristensen, "Status of World Nuclear Forces," The Nuclear Information Project, updated February 17, 2007. Online at <http://www.nukestrat.com/nukestatus.htm>.
- 2 *Weapons of Terror*, p. 63.
- 3 *Id.*
- 4 *Id.*
- 5 *Id.*
- 6 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Decision 2, "Principles and Objectives for Nuclear Non-Proliferation and Disarmament," *Final Document*, Part I, NPT/CONF.1995/32, Annex, p. 10 ("1995 Final Document"). Online at <http://disarmament2.un.org/wmd/npt/1995nptrevconfdocs.html>.
- 7 "Middle East Resolution," *1995 Final Document*, pp. 13-14.
- 8 International Court of Justice, "Legality of the Threat or Use of Nuclear Weapons," Advisory Opinion of 8 July 1996, *ICJ Reports* (1996), p. 226 (hereafter "*Nuclear Weapons Opinion*"). Online at <http://www.icj-cij.org/icjwww/icas/iunan/iunanframe.htm>.
- 9 *Id.*, para. 105(2)(E). See also paras. 33, 78-79, 89.
- 10 *Id.*, para. 42.
- 11 Committee on International Security and Arms Control, National Academy of Sciences, *The Future of U.S. Nuclear Weapons Policy*, National Academy Press, Washington, 1997, p. 87. Online at <http://books.nap.edu/html/fun>.
- 12 *Nuclear Weapons Opinion*, para. 105(2)(F) (emphasis supplied). In reaching this conclusion, the Court drew on both Article VI and other international law sources. See paras. 99, 100, 103. Thus while not stated explicitly, the Court's analysis makes it reasonably clear that the disarmament obligation applies to states outside the NPT, including India, Pakistan, and Israel.
- 13 *Weapons of Terror*, p. 109.
- 14 A/RES/61/83 (2006).
- 15 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Final Document*, Vol. I, NPT/CONF.2000/28, Part I, pp. 14-15. Online at <http://disarmament.un.org/wmd/npt/finaldoc.html>.
- 16 John Burroughs and William Epstein, "Hopes for Revival of Nuclear Disarmament Efforts?" *Nuclear Disarmament Commentary* (December 2000). Online at <http://www.lcnp.org/disarmament/Commentary/Commentary10.htm>.
- 17 See Peter Weiss, John Burroughs, and Michael Spies, "The Thirteen Practical Steps: Legal or Political?" Lawyers' Committee on Nuclear Policy, May 2005. Online at <http://www.lcnp.org/disarmament/npt/13stepspaper.htm>.
- 18 A/RES/61/74 (2006).
- 19 A/RES/61/65 (2006).
- 20 Members of the New Agenda Coalition are Brazil, Egypt, Ireland, Mexico, New Zealand, Sweden, and South Africa.