Section 1.1: Treaty Regimes and International Law

1. Weapons of Terror, p. 94.
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.


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.


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.


17 Weapons of Terror, p. 168.

18 Id., p. 176.


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
Section 1.2: The Nuclear Non-Proliferation Treaty


2 Weapons of Terror, p. 63.

3 Id.

4 Id.

5 Id.


9 Id., para. 105(2)(E). See also paras. 33, 78-79, 89.

10 Id., para. 42.


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.


20 Members of the New Agenda Coalition are Brazil, Egypt, Ireland, Mexico, New Zealand, Sweden, and South Africa.