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The Security of Nuclear Weapon-Free Zones: The Middle East as a Test Case for Unconditional Security Assurances

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ABSTRACT

A just nuclear order based on voluntary abstinence by states and the promotion of nuclear weapon-free zones would require more credible negative security assurances than provided by the current non-proliferation regime. The question here is: how to create the necessary conditions for such a change? The negative security assurances issued to the non-nuclear states in general and to the existing regional nuclear weapon-free zones in particular are reviewed. These are analysed in relation to their conditionality and ambiguity in order to understand the security provided. On this basis, possible options to achieve unconditional, legally based security assurances collectively for all the zone states are presented. These assurances could potentially be a tool to increase the number of non-nuclear states and nuclear weapon-free zones, especially in cases where there are one or several nuclear weapon states. Currently, the most acute example is the one in the Middle East. The lack of progress in this case will haunt the NPT review conferences and deepen the crisis until some positive steps take place. In case unconditional, legal security assurances are agreed to, these could provide an interim first phase for the WMD-free zone in the Middle East and allow for some of the disagreements among the participants to at least be discussed. The model here would be the transformation of the hostile relations between Brazil and Argentina initiated by the Treaty of Tlatelolco.

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Introduction

The nuclear weapon-free zones¹ cover the majority of states and a third of the world's population. According to the UN, the establishment of Nuclear-Weapon-Free Zones (NWFZ) is a regional approach to strengthen global nuclear non-proliferation and disarmament norms and consolidate international efforts towards peace and security.

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¹General Assembly resolution 3472 B (XXX) defines a Nuclear-Weapon-Free Zone as ... any zone recognized as such by the General Assembly of the United Nations, which any group of States, in the free exercises of their sovereignty, has established by virtue of a treaty or convention whereby:(a) The statute of total absence of nuclear weapons to which the zone shall be subject, including the procedure for the delimitation of the zone, is defined;(b) An international system of verification and control is established to guarantee compliance with the obligations deriving from that statute.

Article VII of the Nuclear Non-Proliferation Treaty (NPT) states: “Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories”.

A number of authors have focused on whether nuclear weapon-free zones could be seen as stepping stones to a nuclear-weapon-free world. An example of this approach is presented by Ambassador Thomas Graham in his book “The Alternate Route”. Here, the long-time US ambassador on nuclear arms control and disarmament looks at each of the nuclear weapon-free zones and explores the possibility of expanding these zones to eventually encompass the entire world, region by region. In his words: “An alternative route to nuclear disarmament is needed. The nuclear weapon-free zone (NWFZ) movement, little heralded in conferences on nuclear policy around the world, might be such an alternative” (Graham 2017, 1).

This article explores two of the structural hindrances to this alternative route. Firstly, the existing zones lack credible assurances against being attacked by nuclear weapons. Not all nuclear weapon states have signed nor ratified the security assurances annexed to the regional zone treaties. Furthermore, general security assurances to non-nuclear states are being watered down as the nuclear weapon states want to keep their options – to threaten to use or to use nuclear weapons – open. The article explores whether legally binding and unconditional negative security assurances could be achieved, given the way calculated ambiguity is built into deterrence. Furthermore, in order to be included in a legally binding treaty, for example, the Nuclear Non-Proliferation Treaty (NPT), each of the nuclear weapon states has a veto to any changes in the NPT according to its article 8.

Secondly, the creation of a nuclear weapon-free zone takes time and is extremely difficult, if not impossible, in cases where there is a nuclear weapon state in the zone not willing to abolish its arsenal. Successful zones have been established in regions with former nuclear states. South Africa in the African zone and Kazakhstan in the Central Asian zone are such examples, although nuclear weapons of the two states existed for different reasons. In the Latin American zone, Argentina and Brazil abolished their nuclear weapon programs after the process of zone creation. Today, they are good neighbours.

This is not the case in the Middle East. A Middle East nuclear weapon-free zone (later expanded to a WMD-free zone) has been 50 years in the making without any real progress. There is not only a lack of trust but also outright hostility among some of the potential members. The second question in the article is about whether unconditional and legal security assurances, if achieved for the zone states collectively, could provide an intermediary solution to the WMD-free zone in the Middle East. Could the example of Argentina and Brazil inspire a more cooperative process five decades later between Israel and Iran?

The article is structured in two parts. The first part concerns negative security assurances to the NWFZ-states. Two kinds of negative security assurances apply to the NWFZ states. First, assurances that are issued to non-nuclear weapon states in general. Second, assurances that apply specifically to a certain zone and are issued as specific protocols to the zone treaty. These assurances are analysed in relation to their conditionality and ambiguity in order to understand the security provided. On this basis, the feasibility to achieve unconditional and legally binding security assurances collectively

for all the zone states will be examined. The second part links the analysis of security assurances to the Middle East. Introducing a thought experiment, this part poses a question: Could security assurances, if legally binding and unconditional, be a way to guarantee the nuclear security of the states in the Middle East during an interim period of trust-building and to provide a path to a full-fledged zone free from nuclear weapons (and other WMD)?

Achieving Unconditional and Legally Binding Security Assurances

During the negotiations of the NPT in the 1960s, security guarantees were debated. To give states abstaining from nuclear deterrence option guarantees of no attack by nuclear weapons was seen as a just bargain. Nevertheless, the treaty does not include the negative security assurances although US President Lyndon Johnson made the pledge on 16 October 1964 that “the nations that do not seek national nuclear weapons can be sure that, if they need our strong support against some threat of nuclear blackmail, then they will have it” (Willrich 1966). Not only did the NPT not confirm that these states would not be attacked by nuclear weapons, but the assurances on the table at the time have also been watered down since then.

Security Assurances to Non-Nuclear States

In 1968, when the NPT was approved, the United States, the USSR and the United Kingdom gave, in the form of a UN resolution, vague positive security assurances to non-nuclear states. They would, if an NPT-state was under nuclear threat or aggression, provide assistance to the nuclear weapon state. The nature of the assistance was not defined; the resolution only talked about “obligations under the UN Charter”. These so-called “positive security assurances” actually implied that non-nuclear states might be targeted or threatened by nuclear weapons²

More serious action followed in 1995, at the time when the extension of the NPT was up for a decision. In 1995, the P5 issued individual statements that they would not use nuclear weapons against states that had agreed to binding international agreements to abstain from possessing nuclear weapons³ Nevertheless, these statements were not unconditional. The United Kingdom, the United States, Russia and France formulated a common exception (here quoted after the UK formulation): “except in the case of an attack on the United Kingdom, its dependent territories, its armed forces or its allies by such a State in association or alliance with a nuclear weapon state” (NPT Review Conference 1995).

²The UN Security Council Resolution 255 in 1968 “recognizes that aggression with nuclear weapons or the threat of such aggression against a non-nuclear-weapon State would create a situation in which the Security Council, and above all its nuclear-weapon State permanent members, would have to act immediately in accordance with their obligations under the United Nations Charter”. Further, it “welcomes the intention expressed by certain States that they will provide or support immediate assistance, in accordance with the Charter, to any non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons that is a victim of an act or an object of a threat of aggression in which nuclear weapons are used” (United Nations Security Council 1968)..

³As a background see United Nations Security Council Resolution 984 from 1995..

Although there is a difference between collectively issued security guarantees and an individual nuclear weapon state's no-first-use policy, the latter may also include both direct and indirect assurances for non-nuclear states. China's statement in 1995 and the 2019 White Paper are the clearest example: "China is always committed to a nuclear policy of no first use of nuclear weapons at any time and under any circumstances, and not using or threatening to use nuclear weapons against non-nuclear-weapon states or nuclear weapon-free zones unconditionally".⁴

The United States has never had a no-first-use policy although this was seriously considered during the Obama administration. The United States had been deliberately vague about whether or not it would use nuclear weapons in response to a chemical or biological attack, regardless of whether the state had nuclear weapons or was in compliance with its NPT obligations. This doctrine implies that the United States does not take for granted that it would not use nuclear weapons in response to a chemical or biological attack; it is not ruled out.

The Obama administration's Nuclear Posture Review in 2010 declares that the "fundamental role" of US nuclear weapons is deterrence. The Strategic Posture Commission, a congressionally mandated committee led by former Defence Secretaries William Perry and James Schlesinger, stated in 2009 that a no-first-use policy would "undermine the potential contributions of nuclear weapons to the deterrence of attack by biological weapons" and would be "unsettling to some U.S. allies" (Perry and Schlesinger James 2009).

The US Nuclear Posture review in 2018 defines the situations of nuclear use and mentions about extreme circumstances:

"The United States would only consider the employment of nuclear weapons in extreme circumstances to defend the vital interests of the United States, its allies, and partners. Extreme circumstances could include significant non-nuclear strategic attacks. Significant non-nuclear strategic attacks include, but are not limited to, attacks on the U.S., allied, or partner civilian population or infrastructure, and attacks on U.S. or allied nuclear forces, their command and control, or warning and attack assessment capabilities" (US Department of Defence 2018, 21).

Furthermore, the United States reserves the right "to make any adjustment in the assurance that may be warranted by the evolution and proliferation of non-nuclear strategic attack technologies and U.S. capabilities to counter that threat" (US Department of Defence 2018, 21). In addition, the United States indicated limiting damage of an attack by using nuclear weapons.

The official Soviet policy⁵, set in the 1970s and confirmed in 1982, allowed for the use of nuclear weapons only in response to a nuclear attack. This was in fact a no-first use policy. The 1993 doctrine paved the way for the first use of nuclear weapons, but only as deterrence of a large-scale attack that threatened the sovereignty and the very survival of the country (Federation 1993). President Putin's doctrine 2000 expands the first use of nuclear weapons to: "other weapons of mass

⁴As China is modernizing its nuclear arsenal, there are doubts whether this policy will hold, see Lowsen (2018); State Council Information Office of the People's Republic of China (2019).

⁵For Russian doctrines, see Sokov (1999); Russian Federation (2015).

destruction against itself or its allies and also in response to large-scale aggression involving conventional weapons in situations that are critical for the national security of the Russian Federation and its allies” (in *Arms Control Today*, 2000).

The current doctrine of 2015 confirms this policy. However, the Russian 2000 military doctrine has been interpreted to assert a first-use policy, which enables even conflict de-escalation with nuclear weapons (Stowell 2008; Sokov 2004).

Security Assurances to NWFZ States

Today there are five regional nuclear weapon-free zones⁶ with 118 member states. In addition, Mongolia is a one-state zone. These zones are comprised of states that have voluntarily committed to abstinence and renounced nuclear deterrence in all forms. They agree not to manufacture, acquire, test or possess nuclear weapons and to prohibit the development, stationing or testing of nuclear weapons in their respective regions. No member state has ever withdrawn from a zone and there are no examples of suspicious nuclear weapon programs by any state party to a zone treaty. All members have signed their IAEA safeguards agreements. Compliance may even be controlled at the regional level, as in the case of Argentina and Brazil⁷ States in the nuclear weapon-free zones seem, at least during the first 50 years of their existence, to be “non-proliferation proof” (for a review, see Lacovsky 2021).

The NWFZ treaties include annexed protocols for the P5 to sign and ratify⁸ According to these protocols, each party undertakes not to use or threaten to use a nuclear weapon or other nuclear devices against any state of the treaty. The Latin American and the Caribbean Treaty is the only one where all the P5 states have ratified the protocol. In the case of the South Pacific, African and Central Asian treaties, all of the P5 states except the United States have ratified the protocol. The Southeast Asia treaty has neither been signed nor ratified by any of the P5. Mongolia’s status as a single-country zone was confirmed by the United Nations in 1998 (United Nations General Assembly 1998). In this case, there is a Joint Declaration of the P5, which only refers to the negative security assurances that P5 gave to non-nuclear NPT members in 1995 (see below).

The legal status of these assurances has not been clarified. In theory, if the zone treaty is in force and a P5-state has ratified it, it is binding for the state in question. Nevertheless, it is claimed that these statements only express an intention and are not legally binding (Bunn 1997, 12). For example, the United States does not consider these guarantees as international agreements. Nor have they been approved domestically according to the procedures of the US Congress. Furthermore, there are domestic disagreements. In the case of the African treaty, the US State Department and the Pentagon disagreed on

⁶The five zones are: Latin America (the 1967 Treaty of Tlatelolco), the South Pacific (the 1985 Treaty of Rarotonga), Southeast Asia (the 1995 Treaty of Bangkok), Africa (the 1996 Treaty of Pelindaba) and Central Asia (the 2006 Treaty of Semipalatinsk), for more see: United Nations Office for Disarmament Affairs (n.d.). Also, Mongolia’s self-declared nuclear-weapon-free status has been recognized internationally through the adoption of a UN General Assembly resolution 55/335 on “Mongolia’s international security and nuclear weapon free status”, for details, see Nuclear Threat Initiative (2020).

⁷The Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials (ABACC) guarantees Argentina, Brazil, and the international community that all the existing nuclear materials and facilities in the two countries are being used exclusively for peaceful purposes (ElBaradei 2005)..

⁸For the content of the annexed protocols of the NWFZ agreements and the dates of ratifications, see Simpson and Elbahtimy (2018)..

whether or not to sign. The Pentagon was reluctant to accept any limitations on its use of nuclear weapons. The United States signed the treaty but accompanied with it a declaration that it would not "limit options available to the US if attacked by an African country with weapons of mass destruction" (in Schell 2007, 99). The United States has so far not ratified this protocol.

Calculated Ambiguity

The security assurances are not only conditional, but they are also ambiguous. A declassified report prepared by the US Strategic Command already reaffirmed in 1995 that ambiguity was a built-in quality of nuclear threats⁹ In 1998, Defence Secretary William Cohen stated: "We think that the ambiguity involved in the issue of nuclear weapons contributes to our own security, keeping any potential adversary who might use either chemical or biological [weapons] unsure of what our response would be. We think it is a sound doctrine".¹⁰

The final decision to use or not use nuclear weapons in any crisis of fundamental national interest will be made on the spot and will not be constrained by published doctrines and public statements. An example of how agreements related to nuclear weapons may be disregarded is the Budapest Memorandum of 1994. In this agreement, the United States, the United Kingdom and Russia guaranteed the borders of former members of the Soviet Union that had agreed to remove their nuclear weapons to Russia after the collapse of the Soviet Union.

The Budapest Memorandum on Ukraine was referred to in the case of Crimea in 2014 (Budjeryn 2014). Having changed Ukrainian borders, Russia was seen to be in breach of the agreement. Russia has claimed that the situation in Ukraine was revolutionary and the country has become a different one, to which Russia had not made any commitments. Accused of breaking the promise given in the Memorandum, the United States and the United Kingdom in turn argued back that the guarantees in the memorandum were not legally binding. For Ukraine, this raises the question of whether security assurances are to be trusted. One of the possible outcomes of the current war is a neutral Ukraine with guarantees from other states for its security.

In summary, during the lifetime of the NPT, the options for using nuclear weapons against non-nuclear states and the NWFZs have expanded from the case of attacks in alliance with a nuclear state to the case of other WMD-attacks, to non-nuclear strategic attacks, and even to limiting damage by a nuclear attack. The latest US conditions are even linked to the evolution of technologies. More and more conditions attached to security assurances increase the risk of abstaining states to be attacked by nuclear weapons in the future.

The NWFZ States: Creating Conditions

A just nuclear order based on voluntary abstinence by states and the promotion of nuclear weapon-free zones would require more credible negative security assurances than provided by the current non-proliferation regime. The question here is: how to

⁹US Strategic Command, "History of the United States Strategic Command, 1 January 1994–31 December 1994," Top Secret, [n.d.] 1995, Partially declassified and released under the Freedom of Information Act.

¹⁰Quoted in Sagan (2000), who refers to Priest and Pincus (1998).

create the necessary conditions for such a change? To achieve these guarantees was on the agenda in the early NPT negotiations but was rejected and replaced by less legally binding statements outside the NPT. Another chance was missed when the NPT was made indefinite in 1995. After this, non-nuclear states lost their leverage, although progress on the zone of WMDF Middle East was – and still is – on the agenda.

Could the non-nuclear states today collectively be able to achieve the necessary guarantees? The non-nuclear states are too diverse to take collective actions in cases where the guarantee is opposed by the P5. The so-called *umbrella* states – states that have abstained but are protected by the nuclear weapons of others – are not in need of additional security guarantees¹¹ States that do not base their security on nuclear weapons can, in turn, be classified as threshold states, exit states, states in nuclear weapon-free zones and states that have ratified the Treaty on the Prohibition of Nuclear Weapons (Cronberg 2021a, 61–66).

The *threshold* states are those that could produce nuclear weapons within a short time. They are diverse, ranging from Brazil to Iran. These states have the technical capacity but have chosen, at least for the time being, to stay non-nuclear. They do not have a common organization or a common “nuclear identity”. Their best security guarantee is to have the capability to access weapons in a short time. Some of them such as Japan are even under the US nuclear umbrella.

The group of *exit* states consists of states that have had nuclear weapons, but for some reason have abolished them. These states do not have any cooperation among themselves as exit states. The identity of some of them, such as South Africa and Kazakhstan, is one of the NWFZ states rather than an exit state. The states that have signed the TPNW are not yet formally organized but will be more organized after the first meeting of the state parties in June 2022.

States in the *nuclear weapon-free zones* are the best organized among non-nuclear states with a common non-nuclear regional identity. Furthermore, given their double commitment to nuclear-free status, both as signatories of the NPT and their regional treaty, no one can claim that they have secret interest in nuclear weapons program. Of the non-nuclear states, the NWFZ-states have potentially the power to change the current nuclear order, as they constitute the majority of states. What is missing is a global organization. These zones are regionally organized, but the states in the zones have no tradition or experiences of collective action within the NPT framework. Many of the states are active and have participated in drafting proposals during the TPNW negotiations or at the NPT Review Conferences but not collectively as NWFZ states.

Nevertheless, attention is being paid to this fact, and there have been efforts to increase global cooperation among the zones. The Vienna Centre for Disarmament and Non-Proliferation organized a Task Force in 2017 to increase cooperation between the existing zones (Vienna Center for Disarmament and Non-Proliferation 2018). The Task Force made recommendations on how to increase cooperation in fields such as information/communication, research and disarmament, and non-proliferation. Notably, the Task Force did not offer recommendations on how these zones could better defend their common security interests and goals in the nuclear order, such as legally binding and unconditional security assurances.

¹¹In (Cronberg 2021a, 71), I have classified these states as belonging to the “system of deterrence” rather than to the “system of abstinence.”

Three Options

The first option is that nuclear weapon states – especially the P5 in the first phase of this process – should approve unconditional security assurances. By accepting unconditional and legally binding security guarantees, nuclear weapon states could show that they are serious about creating conditions for disarmament¹² These would further ensure the nuclear-free security of other states that have agreed to abstain from nuclear weapons. This would also be in line with the early NPT intentions to secure the safety of non-nuclear states against a nuclear attack.

Seen from the P5 perspective, these would, firstly, limit their nuclear options and the geographic space for deterrence (Cronberg 2021b). Secondly, this would imply a departure from the practice of calculated ambiguity. The latter, as indicated, is an organic part of the art of issuing nuclear threats. Furthermore, unambiguous assurances would challenge the logic of deterrence. Consequently, it is highly unlikely that they would voluntarily take action¹³

A second option is a forceful lobby. As I have indicated before, only NWFZ states have a common regional identity and, most importantly, they represent a majority of states in the world. Furthermore, there is even a historical precedent for how a group of NWFZ states changed a superpower's nuclear policy within the context of the NPT.

The “Mexican amendments” during the final negotiations of the NPT are an exceptional case where the states of a newly established nuclear weapon-free zone in Latin America¹⁴ were able to change a superpower's nuclear policy. According to Dean Rusk, the United States accepted, for the first (and so far the only) time, unambiguous limitations on its power to use its nuclear weapons. In the spring of 1968, Mexico, leading the Latin American states, proposed a number of changes to the final NPT text. These “Mexican amendments”, as they came to be known, sought several objectives. Among others, the amendments demanded that disarmament not only be mentioned in the preamble but also be rendered an independent article. Furthermore, the nuclear weapon states (P5) were expected to sign an annexed protocol of the Treaty of Tlatelolco, where they would give a negative security assurance not to attack any state in the zone with nuclear weapons.

All the P5 states except the United States have ratified this protocol. Nevertheless, weary of losing the votes of 24 Latin American states in the approval process for the NPT in the UN, the United States ultimately decided to sign and ratify the protocol (Hunt 2017, 186). Potentially, NWFZ states could use this historical model as inspiration in order to achieve unconditional and legally binding security assurances. United by their interest in legally binding and unconditional assurances, NWFZ states could, as a well-organized lobby, press for the approval of these guarantees. Within the NPT review process or outside it as a separate negotiation.

¹²The United States has initiated a program for Creating an Environment for Disarmament (CEND), which was to coincide with the NPT's 50-year jubilee (Cronberg 2010). It was hosted by the United States, who also invited its participants and thus not formally attached to the NPT. Some 40 countries have joined the process and the work is organized in three working groups. The task is to identify ways to improve the international security environment in order to overcome obstacles to further progress on nuclear disarmament. For more details see Meyer (2019); Ford (2018)..

¹³For the P5 resistance, see also Spector and Ohlde (2005)..

¹⁴UN resolution to denuclearize Latin America was introduced by Brazil, which later led to the Treaty of Tlatelolco presented for signature in 1967 and entered into force in 1969. Brazil ratified the treaty in January, 1968 (Cronberg 2010, 76–78).

Finally, there is a third option of more radical action such as a walkout from the NPT review process. This would threaten the survival of the NPT and possibly the deterrence monopoly of the P5 as well. The P5 deems their right to nuclear deterrence as permanent, although initially agreed to as temporary¹⁵ In the current situation, both due to the crisis of the NPT and the existence of the prohibition norm introduced by the Treaty on the Prohibition of Nuclear Weapons, the P5 fears the future of the NPT. Thus, changes that otherwise might not be feasible might be possible today.

Harries (2015, 5) has rightly pointed out that a walkout from the review process is only a theoretical possibility, as long as “the widespread security benefits of continued non-proliferation” exist. Nevertheless, he asks the question as to “whether dissatisfaction of the slow pace of disarmament will create political momentum that cannot be contained, with detrimental side-effects for the NPT”. The question today is whether the combination of the P5’s aggressive opposition against the TPNW and the current modernization plans of nuclear weapon states have created such a momentum.

A walkout by one or a few states would have very little impact as opposed to that of a majority of the signatories of the NPT. If a state walks out, this would no doubt be criticized in strong words by the international community with the state’s potential interest to access nuclear weapons in sight. This would not be the case for NWFZ states due to their double commitment. They could also argue that negative security assurances were intended to be included in the NPT and would be a compensation for 50 years’ lack of respect for article VI of the NPT.

These assurances would have to be legally stronger than is the case today. In contrast to the statements or protocols quoted above, the assurances would have to be included in an international agreement. The first alternative is to renegotiate the NPT to include these assurances either as a new article or an annex. The second is to separately negotiate a multilateral international agreement assuring, in an unconditional and legal manner, that NWFZ states will not be attacked or threatened by nuclear weapons (see Spector and Ohlde 2005).

The WMD-Free Zone in the Middle East: A Test Case

The creation of a Nuclear Weapon-Free Zone in the Middle East has intimately tied to the negotiations of the NPT. Progress in the zone was one of the preconditions for the indefinite extension of the NPT in 1995. Today, the future of the zone in the Middle East is at crossroads as there is an acute risk of proliferation. The Joint Comprehensive Plan of Action (JCPOA), the deal that restricted Iran’s nuclear program and defined Iran as a non-nuclear state, is being renegotiated after the US exit in 2018. The outcome is uncertain. If there is no US re-entry, Iran may opt for nuclear weapons, which Saudi Arabia is likely to follow.

So far, the establishment of a nuclear-free zone¹⁶ has been prevented by the fact that the zone includes Israel, the only nuclear state in the zone. The question here is more general: could unconditional security assurances, if ever approved, be a tool in cases

¹⁵This monopoly is only defined in the NPT article X, where a nuclear weapon state is defined..

¹⁶I am here only dealing with the nuclear weapon part, although both biological and chemical weapons were later added to the proposal. So far it is the nuclear part that has been critical.

where a proposed NWFZ will include a state that has nuclear weapons but is unwilling to abolish them? The assumption here is that these assurances could provide a tool for a transitional period and an innovative approach to secure trust-building. After this transition, the nuclear state(s) might enter not only a regional treaty of the future zone but also ratify the NPT as a non-nuclear state.

50 Years in the Making

Let us first look at the history of the zone and analyse the hindrances and current potential for change. Discussions on the zone have already taken place, but it was only in 1974 that the issue was formally brought into the UN by a joint declaration of Iran and Egypt. Following this, the United Nations General Assembly (UNGA) endorsed the proposal in a resolution in December of 1974. From 1980 to 2018, similar resolutions were passed annually without a vote by the UNGA. Endorsement has been incorporated in a number of UN Security Council Resolutions. In 1990, the resolution was broadened to include biological and chemical weapons, and the zone was named WMDFZ thereafter.

In 1995, the zone became part of an agreed package intended to transform the NPT, which had initially been approved for a trial period of 25 years and became a permanent treaty in the year. The corresponding resolution on the Middle East calls upon all states in the Middle East to take practical steps towards the establishment of an effectively verifiable Middle East zone free of weapons of mass destruction (WMD) and their delivery systems. It further calls the states to refrain from taking any measures that preclude the achievement of this objective.

The 1995 resolution has been followed by a number of failed efforts to proceed with a regional treaty. A limited proposal was made by the Gulf Research Council, which included the states in the Gulf Cooperation Council and Iran, Iraq and Yemen. In 2010, the NPT Review Conference in its final document called for a conference to be held on the zone:

“The Secretary-General of the United Nations and the co-sponsors of the 1995 Resolution, in consultation with the States of the region, will convene a conference in 2012, to be attended by all States of the Middle East, on the establishment of a Middle East zone free of nuclear weapons and all other weapons of mass destruction, on the basis of arrangements freely arrived at by the States of the region, and with the full support and engagement of the nuclear-weapon States. The 2012 Conference shall take as its terms of reference the 1995 Resolution”.

A facilitator was named to support implementation of the 1995 resolution. Consultations with the states of the region and preparations for the convening of the 2012 Conference were on the agenda. In spite of the fact that a number of consultative meetings took place, plans for the conference were cancelled in November 2012. There was no agreement on the agenda or on the issues to be discussed.

Nevertheless, the promotion activities did not end here. In 2013, the Arab states sent the Secretary-General of UNODA letters supporting the zone. At the 2015 NPT Review Conference Egypt proposed a conference on the WMDFZ in the Middle East, but the proposal was rejected¹⁷ An Egyptian delegation walked out of the meeting stating, “We

¹⁷While the original resolution called for the participation of all states in the region, the Egyptian proposal was more open on this question..

cannot continue to attend meetings and agree on outcomes that do not get implemented, yet to be expected to abide by the concessions we gave for this outcome” (Reaching Critical Will 2014, 7).

In 2018, the UN General Assembly decided to hold yearly conferences to establish a Middle East WMD-free zone until this would become a reality. Although this UN initiative was taken out of the NPT review process, it builds on the NPT, as well as the 1995 Middle East resolution. The first session took place in 2019 and the second, postponed due to the pandemic, in November–December 2021 at the UN in New York. The latter was attended by 19 Middle Eastern states and observed by China, France, Russia and the UK as well as relevant international organizations¹⁸ Israel did not attend nor did the US as a P5 observer.

In the report of the second session, the participating states reaffirmed the importance of Israel’s accession to the NPT. Furthermore, a future treaty on a Middle East WMD-free zone should recognize the catastrophic humanitarian and environmental consequences resulting from any WMD use. On verification, the report noted that the treaty should avoid duplicating other existing international arrangements and should rely on existing instruments, including the comprehensive safeguards of IAEA and the verification regime of the Organisation for the Prohibition of Chemical Weapons. These could be supplemented by a “regional verification mechanism”. The report underlined the responsibility of all nuclear-armed states to provide legally binding negative security assurances to treaty members.

A Thought Experiment

Imagine that the states gathering in the UN for the yearly conference on the WMD-free Middle East would agree to test a solution where unconditional, legal negative security guarantees would assure the security of all non-nuclear states in the zone. They would not be attacked by nuclear weapons by any nuclear state and after a certain number of years the nuclear state in the zone would agree to abolish its nuclear weapons.

This thought experiment would provide a solution to one of the core conflicts in establishing a zone in the Middle East, the issue of sequencing. The lack of progress has been blamed for different approaches taken by Egypt and Israel. Egypt has insisted on the abolition of nuclear weapons as an initial stage of the process. Israel has maintained that this should come only after an agreement on solid arms control and the establishment of a lasting and reliable peace. While Israel has focused on a negotiation mechanism by and meetings of heads of states, Egypt has not proposed discussions by states or defined state obligations. There is also a difference of opinion on verification. Israel wants a region-specific system with national inspectors, if not replacing, at least complementing, international inspections. The Arab states have indicated that the IAEA is the appropriate body. Finally, the question of what to do in cases of non-compliance is still open (Cronberg 2010).

¹⁸United Nations, Report of the Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction on the work of its second session, A/CONF.236/2021/4, 3 December 2021. <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/373/58/PDF/N2137358.pdf?..>>.

By providing a transitional period of trust-building and a negotiating table to all the states of the zone, the problem of what comes first could at least be discussed among the parties. Israel has so far not shared the same table either at the consultations in 2012 or at the UN conferences since 2018. This situation could potentially change. Firstly, the dividing line between Israel and the Arab states has already been broken by the Abraham Accords¹⁹ Even military ties are on the agenda, and Israel has recently participated in naval drills alongside some of the Gulf states. Secondly, in anticipation that the United States will withdraw from the region as a major security guarantor, new communication lines have even been established between Iran and Saudi Arabia. Nevertheless, the signals are contradictory: an emerging strategic alliance between Israel and the Gulf states may potentially lead to further tensions with Iran.

At this time when the relations among the states in the region are being remade, there should be free space for new thinking on the zone, that is, ideas that do not imply immediate action for Israel to abolish its nuclear weapons. A partial model could be found in the treaty of Tlatelolco. Spurred by the Cuban missile crisis in October 1962, the first UN resolution to de-nuclearize Latin America was introduced by Brazil. This resolution was the starting point of a process that eventually led to the Treaty of Tlatelolco in Mexico City in 1967. At that time both Brazil and Argentina had a nuclear program. They were suspected by the international community – as well as by each other – to be pursuing covert nuclear weapon programs. The two countries did not ultimately become nuclear weapon states, but became, in fact, partners in civilian nuclear policy.

When the civilian rule returned in both countries by the late 1980s, one of the priorities for their civilian leaders was to secure only civilian use of nuclear technology. Argentina became a full member of the zone in 1994; Brazil also fully accepted the obligations of the treaty in the same year. Parallel to the dismantling of nuclear and missile programmes, the two former rivals have established not only a free-trade zone but also a common market. At the 25th anniversary of the treaty in 1992, the presidents of the two states issued a declaration on common nuclear policy, and both states signed the NPT confirming their non-nuclear status in 1994.

Israel: A Nuclear State

The idea that Israel should acquire a nuclear-weapon capability is as old as the state itself. After Hiroshima, Ben Gurion believed that Israeli scientists could provide the ultimate answer to Israel's security problem (Cohen 1998). Lessons of the holocaust and the encirclement by a hostile Arab world provided for the justification of the project. Adding to this was a fascination with and faith in science and technology. Nuclear weapons might persuade the Arabs to accept Israel's existence, leading to peace in the region. Today, Israel is the only nuclear weapon state in the region. Its nuclear policy is seen as "opaque", as the state has never declared itself as a nuclear weapon state.

¹⁹The Abraham Accords are a joint statement between the State of Israel, the United Arab Emirates, and the United States, reached on 13 August 2020 and officially titled the *Abraham Accords Peace Agreement: Treaty of Peace, Diplomatic Relations and Full Normalization Between the United Arab Emirates and the State of Israel*. Later a similar statement has been issued between Bahrain and Israel. The accords have meant increased contacts between the states in question, not only in tourism but even in military exercises..

Although the current moment may be historic in relation to the Middle East, a thought experiment raises a number of questions. Suppose that assurances not to attack a non-nuclear state with nuclear weapons are issued by the P5. These would not cover Israel's or for that matter Pakistan's or India's nuclear weapons. This exposes one of the main problems of the current nuclear order. There are four nuclear weapon states outside the NPT. These states have had no obligation to sign the additional protocols of the regional zone treaties. Since these four states have a regional, rather than global reach for their nuclear weapons, the risk of any of them attacking a member of any of the zones may not be great. Nevertheless, ratification by all nine nuclear states would increase the security of the NWFZ states.

To achieve this, the idea would be to include the four nuclear-possessing NPT outliers in the process of adopting a legally binding instrument for the assurances. If the approval was in a separate treaty, all nine could participate. A more problematic alternative would be to renegotiate the NPT or an annex to it on the assurances. The four states are currently outside all NPT processes and are not, at least now, open to joining the NPT as non-nuclear states. An optimistic view would assert that this would be an ideal process to discuss the issue together. So far, universalization of the NPT has only been a demand from the outside, by the P5 or the EU states, not a negotiation involving the four states directly concerned.

In the case of the Middle East NWFZ, Israel would be directly involved in multiple roles. It would be a zone member, a state issuing the security assurances to the other members, and finally, a state abolishing its nuclear arsenal. Israel would even have to openly declare that it had nuclear weapons. While this would seem impossible decades ago, the situation today is different on at least two accounts. First, the TPNW has established the global prohibition norm. Nuclear weapons are to be prohibited. Secondly, Israel is building new relations with the Arab world.

On the other side, it is not immediately likely that all the other potential state parties in a WMD-Free Middle East would welcome the security assurances as a temporary substitution for Israel abolishing its nuclear weapons at the outset of a zone process. Would Saudi Arabia and Iran be satisfied if they were guaranteed that Israel would not attack them, or even threaten to attack them, by nuclear weapons? Would they believe that Israel would abolish its nuclear weapons in the end? Here, the example of Argentina and Brazil should be seen as a starting point. Relations between hostile nations cannot be improved immediately. In the case of Argentina and Brazil, it took more than a decade after the Latin American zone treaty was approved before both states entered the NPT and formally became non-nuclear states. In this process, the ABACC verification mechanism worked as an important tool.

To establish a regional nuclear weapon-free zone is a trust-building process that should be tested in a situation where relations among potential member states are changing not only as a result of the Abraham Accords but also due to the changing role of the United States in the region. A successful zone would also ease the pressures currently plaguing the NPT and its future. Finally, one of the conditions of the 1995 NPT agreement would be met. Furthermore, the state of Israel has military supremacy in the region in conventional weapons and traditional warfare as well, so the military power balance would not necessarily change with the creation of a nuclear weapon-free zone. But a peace treaty could finally be within reach.

Conclusions

According to the United Nations, NWFZs are a regional approach to strengthen global nuclear non-proliferation and disarmament norms and consolidate international efforts towards peace and security. In spite of these positive prospects, there are hindrances on the way to improve the function of these zones and to increase their numbers. Firstly, the security of states in the existing zones has to be improved. States that made a legally enforced double commitment, both to the NPT and the regional treaty, to a nuclear-free status should not fear a nuclear attack by one of the nine nuclear-armed states. Unconditional and legally binding security assurances have never been accepted by these states. Instead, the existing political statements on such assurances have been watered down by excluding certain attacks (conventional, biological and chemical) from the scope of the assurances.

The article proposes that the states in these zones should use their collective power to achieve the binding negative security assurances. As calculated ambiguity is a built-in property of nuclear threats and a pre-condition for deterrence, the nuclear weapon states are not likely to limit their options voluntarily. Pressure has to be exerted to achieve this goal. In the current situation where the NPT is in a crisis, there is a potential for change. Faced with a new prohibition norm, nuclear weapon states, particularly the P5, fear for the loss of their legal deterrence monopoly. They not only oppose the prohibition norm but also defend the NPT in spite of its discriminate nature.

With strong political pressure or threatening to walk out from the NPT review process, the NWFZ states could force a renegotiation of the NPT to include these guarantees and make them legally binding. Alternatively, a new negotiation process could be initiated to achieve a multilateral and international treaty on these security assurances. The advantage of the former is that the P5 might ratify the content to guard the NPT. The advantage of the latter is that it could potentially include all the nine nuclear states.

Currently, the Middle East is a region where a NWFZ is most acutely sought. The lack of progress to achieve this will haunt the NPT review conferences and deepen the crisis, until some positive steps are takenplace. If unconditional and legally binding security assurances are agreed to, this could provide an interim first phase for a WMD-free zone in the Middle East and expedite discussions to resolve some of the disagreements among potential participants of such a zone. The transformation of the hostile relations between Brazil and Argentina into a friendly one could provide a necessary inspiration for the Middle East case.

Unconditional security assurances to NWFZ states would not only be a symbolic goodwill gesture for states with a double commitment to nuclear-free security. They would also improve the security of these states and provide a just security regime for states that abolish nuclear weapons. Furthermore, the assurances would strike a better balance between the obligations of nuclear weapon states and those of non-nuclear states in the nuclear order.

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No potential conflict of interest was reported by the author(s).

Notes on Contributor

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