The Nuclear Nonproliferation Treaty (NPT), a bedrock of international security, had the 50-year anniversary of its signing in 2018. While the existence of the treaty has not been able to prevent a handful of states from seeking nuclear weapons, for half a century the NPT has promoted norms of nuclear nonproliferation and disarmament. Only nine states possess nuclear weapons today, far below the number predicted early in the nuclear age. Nonetheless, a second nuclear treaty, adopted in 2017, represents a significant and growing crack in the foundation of the NPT and suggests that relations among its members need to change if the treaty is going to survive another 50 years.

Under the NPT, most states in the international system have agreed not to develop nuclear weapons, while five states—those that had tested nuclear weapons at the time of the treaty’s drafting: the United States, Russia, the United Kingdom, France, and China—are permitted to possess them. Per Article VI of the treaty, all treaty parties must pursue “good faith” negotiations toward eventual disarmament. This article is at the heart of one of the treaty’s most pressing challenges today. Many nonnuclear states in the NPT have long been disappointed by what they see as slow progress on nuclear disarmament by the five nuclear weapons possessors. The sense that nuclear weapons are immoral and unacceptable to possess led to the adoption of the Treaty on the Prohibition of Nuclear Weapons (TPNW) by 122 states at the United Nations in July 2017. This Ban Treaty prohibits its signatories from engaging in any and all activities related to nuclear weapons and is meant to establish a global norm of nuclear non-possession.
None of the nuclear weapons states engaged in the Ban Treaty negotiations. The United States and its allies have refused to join the new treaty and claim it “is at odds with the existing non-proliferation and disarmament architecture, risks undermining the NPT, is inconsistent with [NATO’s] nuclear deterrence policy and will not enhance any country’s security.”1 Those who sought the Ban Treaty argue nuclear weapons are inhumane and they criticize the nuclear weapons possessors for their continued reliance on them.2 The TPNW represents the deep divide over nuclear disarmament among members of the NPT. Though the NPT has weathered obstacles before, this division may be its most significant test yet.

To date, the U.S. government has taken a regrettable approach to the ban movement. Other nuclear weapons states have behaved similarly to various degrees, though this article focuses on the role of the United States due to its engagement on the topic and traditional leadership position within the nuclear nonproliferation regime. From boycotting the initial humanitarian consequences conference in 2013, to denigrating the treaty and its backers, to failing to set out a competing narrative about nuclear weapons, the United States has operated as if it hoped that the whole nuclear ban movement “nuisance” would just go away. It has not, and the TPNW appears on pace for entry into force in the next two years. Like it or not, the new treaty will become a permanent feature of the international nonproliferation architecture and a fixture of future NPT meetings. But this treaty does not have to jeopardize future cooperation. The United States can take a new and more constructive approach to the ban movement, an approach that would help improve relations within the NPT and set out a vision for the future of the nuclear order.

This article begins with a brief background on the Ban Treaty, followed by a summary of the U.S. approach to the nuclear ban movement to date. Next, it argues that if this deep divide is not more thoughtfully addressed, the nuclear non-proliferation regime is at risk. The article concludes with suggestions for a new U.S. approach to the nuclear ban movement.

How Did We Get Here?

While nonnuclear weapons states have advocated for disarmament since the advent of nuclear weapons, the history of the Ban Treaty begins more recently.
In 2000, at the meeting of NPT states parties that happens every five years—the NPT Review Conference—all treaty members, including the five nuclear weapons states, agreed by consensus to pursue a wide range of disarmament steps. The “13 Practical Steps” toward disarmament were considered a major achievement, with one arms control organization calling the steps “stronger language on nuclear disarmament … than had ever been agreed to before.”\(^3\) Disappointment soon followed, however, when the George W. Bush administration came into office and rebuked some of these steps.

Further, the 2005 NPT Review Conference failed to issue a consensus-based document in part due to disagreement over disarmament. Many in the nonproliferation and disarmament community, including diplomats and members of advocacy organizations, were extremely discouraged by this outcome. They had worked hard to achieve agreement with the nuclear states on disarmament in 2000 only to have the United States renege on its promises five years later.

The Barack Obama presidency brought about another period of high hopes as Obama set out a vision for a world without nuclear weapons during an April 2009 speech in Prague.\(^4\) But when the Obama administration set out modernization plans for the U.S. nuclear arsenal, it became clear that the United States anticipated having nuclear weapons for decades to come.\(^5\) In addition, most of the other nuclear-armed states were engaged in long-term planning to improve their arsenals in quantity and quality, emphasizing the importance of nuclear weapons to their long-term national security.\(^6\) The NPT was doing little to stop these activities. Disarmament proponents thus began to consider if there were ways outside of the traditional channels to make progress.

By 2010, several diplomats from middle-power states and nongovernmental advocates had begun to pursue a new approach to nuclear disarmament. The framing of anti-personnel landmines and cluster munitions as inhumane had culminated in treaties prohibiting these weapons in 1997 and 2008, respectively. Perhaps framing nuclear weapons in a similar way could lead to progress on their prohibition as well. Working together, several diplomats from nonnuclear states, the International Committee of the Red Cross, UN organizations, and nongovernmental organizations organized under the International Campaign to Abolish Nuclear Weapons (ICAN) umbrella became the movement behind the humanitarian reframing surrounding nuclear weapons.

In the spring of 2012, the Norwegian Foreign Minister announced that his government would be holding a conference the following year on the humanitarian consequences of nuclear weapons. At the March 2013 meeting in Oslo, the official state conference was preceded by a civil society forum led by ICAN. Skeptical of the humanitarian movement’s goals, the five NPT nuclear weapons states boycotted the Oslo conference, declaring in a joint statement that they were concerned the conference would “divert discussion away from practical steps to
create conditions for further nuclear weapons reductions.” The NPT nuclear weapons states also stayed away from the follow-on conference in Nayarit, Mexico in February 2014. By the final humanitarian conference in Vienna in December 2014, the United States decided to participate along with the United Kingdom. The Austrians promised the U.S. delegation a more inclusive conference focused on facts about the effects of nuclear weapons. The conference concluded, however, with the Austrian delegation making a public pledge “to identify and pursue effective measures to fill the legal gap for the prohibition and elimination of nuclear weapons.”

With momentum gained through the three humanitarian conferences and a 2016 UN-sponsored working group on nuclear disarmament, supporters of the humanitarian movement introduced a UN General Assembly resolution in the fall of 2016 that called for commencing multilateral negotiations on a treaty prohibiting nuclear weapons. This resolution passed, with 113 states in favor. Negotiations began the following February, with the U.S. Ambassador to the UN, Nikki Haley, flanked by U.S. allies, leading a protest against the negotiations just outside the doors of the UN General Assembly chamber. Negotiations concluded with the adoption of the TPNW on July 7, 2017. Following the treaty’s adoption, the United States, France, and the United Kingdom issued a joint statement, beginning that they “have not taken part in the negotiation of the treaty on the prohibition of nuclear weapons. We do not intend to sign, ratify or ever become party to it. Therefore, there will be no change in the legal obligations on our countries with respect to nuclear weapons.”

The TPNW opened for signature on September 20, 2017. In November of that year, ICAN won the Nobel Peace Prize for its role in helping to establish the treaty. While a core group of states was integral to the ban movement and the development of the treaty, ICAN played a key role in lobbying states, promoting specific treaty provisions, and working to spread the message about the ban around the world. As of this writing, 70 states have signed the treaty and 22 have ratified. The treaty goes into force following 50 ratifications.

**The U.S. Approach to the Ban Treaty**

The first formal U.S. response to the humanitarian movement was to join with the other nuclear members of the NPT and boycott the 2013 humanitarian conference. Russia, China, France, the United Kingdom, and the United States likely hoped that without nuclear weapons states present, a nuclear weapons-related conference would have little impact. This tactic failed however, and the conference was widely heralded as a success by participants and led to two follow-on conferences with more states participating each time. U.S. rhetoric over the course of
the conference series emphasized that the United States was well aware of the devastating consequences of nuclear weapons, was committed to ensuring they were not used again, and that the traditional step-by-step approach to disarmament was the only way to make real progress on nuclear reductions. When it was clear that disarmament advocates were headed for a UN General Assembly resolution calling for negotiations on a ban treaty, the United States focused its diplomatic efforts on its allies. In a 2016 memo to NATO members, the United States explained how the proposed treaty would undermine U.S. extended deterrence efforts and encouraged allies to vote against the negotiation resolution at the UN. This effort succeeded in that no NATO allies voted in favor of the resolution calling for treaty negotiations. The only ally under the U.S. nuclear umbrella to participate in the subsequent ban treaty negotiations, the Netherlands, was the only state to vote against the adoption of the treaty in July 2017. (Singapore abstained, and all other votes cast—122—were in favor of adopting the new treaty.)

Since the 2013 humanitarian conference in Oslo, in both the Obama and Trump administrations, much of the U.S. language used to describe the ban movement and its mission has been patronizing, and at times insulting. American officials characterize those behind the movement as unrealistic, impractical, and ineffective. For example, according to U.S. Ambassador Robert Wood in 2016, the alternative to the U.S.-favored step-by-step disarmament process is “a radically different path.” UN Ambassador Nikki Hayley argued in March 2017, “we have to be realistic.” The accusation of not operating within reality is best exemplified in President Trump’s 2018 State of Union address in which he stated that “perhaps someday in the future there will be a magical moment when the countries of the world will get together to eliminate their nuclear weapons.” State Department Assistant Secretary Chris Ford has called ban supporters “fundamentally unserious” and more recently said supporting the treaty was “emptily divisive virtue-signaling.” The 2018 Nuclear Posture Review echoes this sentiment, stating that the ban treaty “is fueled by wholly unrealistic expectations of the elimination of nuclear arsenals.” Most recently, Ford called the effort behind the TPNW “obviously a misguided and counterproductive one,” which reflects “magical thinking.” These comments serve to portray the movement’s backers as out of touch with reality and thus undermine their perspectives and arguments.

The U.S. approach to the ban has served to further push the two sides apart. With their dismissive and patronizing tone, U.S. leaders are likely alienating even those allies and partners sympathetic to the U.S. position on disarmament. But the problem is not limited to ill-advised rhetoric. The deep division over
disarmament and the new treaty threatens the sustainability of the broader non-proliferation regime.

What Is at Stake?

The current U.S. strategy for addressing the Ban Treaty is dismissive of those with sincere interest in nuclear disarmament, including many NPT member states. This approach exacerbates the deep divisions over disarmament in the NPT community, and in turn threatens the long-term health of the nuclear nonproliferation regime.

The global nuclear nonproliferation regime—defined as the set of institutions and activities aimed at curtailing the spread of nuclear weapons and dangerous nuclear materials—has been a significant boon for international security. Several academic studies have shown that the regime has constrained the proliferation behaviors of states. Recent statistical research has found that joining the NPT reduces the likelihood that states will proliferate “even when accounting for the possibility that countries may be more likely to join the treaty when they have already decided to remain nonnuclear.”

Beyond constraining states, the regime helps detect proliferation and then provides a means for punishing those states so they come back into compliance.

Consider the case of Iran. It was Iran’s membership in the NPT that eventually led to Tehran’s referral to the UN Security Council for violating its International Atomic Energy Agency safeguards agreement, six rounds of economic sanctions, and negotiations with the United States, Russia, China, France, the United Kingdom, and Germany. Without the web of norms and institutions surrounding the NPT—and Iran’s initial commitment to this regime—the international community as a whole would likely know far less about Iran’s nuclear program and would have to approach its suspected nuclear weapons program with ad hoc measures. It likely would have been significantly more difficult to gain near-global consensus on sanctions without the regime in place.

The nonproliferation regime is not perfect of course. Iran is one of several states that joined the NPT and cheated. But the broader nonproliferation regime has adapted when weaknesses were exposed. For instance, after Iraq’s secret nuclear weapons program was discovered in the aftermath of the 1991 Gulf War, the international community, led by the United States, was able to come together within

The U.S. approach to the ban has served to push the two sides further apart.
the IAEA and develop a more stringent safeguards regime—the Model Additional Protocol. Thus far, no state (that we know of) has cheated on the NPT while under this new safeguards agreement.

The health of the regime matters to the example of the Model Additional Protocol for two important reasons. First, it required cooperation from all NPT and IAEA members to achieve this innovation in safeguards. That type of innovation and cooperation would be all but impossible today with the current level of discord. Second, promoting the universalization of the Model Additional Protocol—a major nonproliferation goal of the United States—is harder to achieve in a context of great division over disarmament with the NPT community. The regime can only be maintained and adapted when states are able to cooperate.

Another example of regime innovation is telling. For the past decade, the United States has sought to alter the regime again, this time seeking changes to the current NPT withdrawal process so states cannot follow in North Korea’s path and secure “peaceful” nuclear technology through the regime, only to withdraw from the NPT and use its technology for nuclear weapons. The United States has not gained traction on this important issue and is unlikely to in the current strained environment.

Moreover, the divide over disarmament will hamper the ability of the international community to address future nonproliferation challenges. President Obama’s commitment to arms control and disarmament contributed to his administration’s ability to gather the widespread political will needed to put economic pressure on Iran over its suspected nuclear weapons program. This pressure worked—Iran came to the negotiating table. In the current climate (even without the Trump administration’s rebuke of the Joint Comprehensive Plan of Action), it is less likely that nuclear weapons possessor states would be able to secure broad cooperation for addressing the most pressing nonproliferation challenges.

Most significantly, it is difficult to imagine how the nonproliferation regime can continue as a robust institution in perpetuity if the majority of participants think the five nuclear-armed members are not complying with the disarmament provision of the NPT. While disarmament tensions have always challenged the NPT, the existence of the TPNW will increase the salience of disarmament in all future NPT discussions. The dismissive responses to the Ban Treaty from the United States and the other NPT nuclear states are consistent reminders of failed disarmament hopes.

Though to the author’s knowledge, no states are discussing withdrawal from the NPT, it is worth considering whether this could happen in the next decade.

Nonnuclear states may find they have little recourse other than threatening to exit the NPT.
if states continue to feel misled over disarmament. These states could leave not out of a desire to develop nuclear weapons but rather over their perceptions of a failed bargain. Regardless of the origins of the NPT, most states seem to perceive that nuclear disarmament (along with peaceful nuclear technology) was promised to them in exchange for their nuclear forbearance. As international relations scholar Ramesh Thakur argues, the existence of the TPNW was in essence “a vote of no confidence in the NPT process.” While there is little indication that states are contemplating leaving the NPT today, if the TPNW enters into force and still has little effect on the behavior of nuclear weapons states, the non-nuclear states may find they have little recourse other than threatening to exit the NPT. This outcome would be detrimental to global security, as it would lead to questions about possible proliferation by withdrawing states. In a period of growing uncertainty in international relations, exits from the NPT would exacerbate security dilemmas around the globe and undermine U.S. strategic interests in curtailing proliferation globally.

What Should the United States Do?

The most important single thing the U.S. government can do to more effectively address the ban movement is to recognize that it is engaged in a contest of ideas over the future of nuclear weapons and nuclear deterrence. Thus far, U.S. leaders have criticized those behind the ban treaty and highlighted the treaty’s weaknesses. The focus on nitpicking the treaty text illustrates how wrongheaded the American approach has been. The goal of the movement was not to draft an airtight disarmament treaty—it was to promote a norm, an idea. The states and advocates behind the ban aim to use the treaty to codify the idea that using nuclear weapons would be so devastating that their possession cannot be allowed. This norm is meant to reinforce the perceived immorality of a national defense strategy that relies on nuclear deterrence. These are simple ideas about right and wrong. Instead of offering up its own ideas about nuclear weapons and the value of deterrence, the United States is disparaging the initiative and pointing out “amusing” aspects of the treaty text in order to undermine their perceived opposition.

In order to more fruitfully engage on this issue, U.S. leaders should be talking to the public about how they see U.S. and international security enhanced by the American possession of nuclear weapons. They should explain to the public about how nuclear deterrence works and reiterate how the goal of deterrence is to never actually detonate a weapon. Many in the U.S. government believe that nuclear weapons have prevented major power war since 1945—that is an ethical issue they could explain. U.S. leaders can also describe measures taken
to ensure that these weapons are safe and secure from accidental use and cyberattacks.

U.S. defense leaders have expressed these ideas about nuclear weapons and nuclear deterrence when talking to others within the nuclear enterprise. For example, in 2016, then Secretary of Defense Ash Carter spoke to members of the nuclear mission at Minot Air Force Base. He spoke in detail about strategic stability, the importance of the deterrence mission in preventing attacks on the United States and its allies, and the unprecedented 75-year history without major power war. But these messages are rarely relayed beyond the foreign policy community, and the contest of ideas over nuclear weapons is occurring among the public. This is especially important given that there is growing civil society interest in nuclear disarmament, as illustrated by ICAN and its hundreds of partner organizations around the world. U.S. leaders may defend their step-by-step disarmament process, but they have not explicitly explained how possessing nuclear weapons is moral or appropriate. In other words, they have failed to address the ban movement’s direct and simple argument: these are inhumane weapons and therefore they are immoral weapons to possess. The public may not agree with all of the ideas presented, but as of now, the United States is not even playing on the same ideational field as those seeking to ban nuclear weapons.

American and NATO leaders have criticized the ban movement for primarily targeting democracies that rely on nuclear deterrence. As societies that are open and responsive to civil society, these states are more vulnerable than non-democracies to the grassroots norm-building campaigns of groups like ICAN. Those against the ban movement argue that its efforts are not going to abolish nuclear weapons but will make it safe for only non-democracies to possess them. That is a fair concern, but why not take advantage of the free exchange of ideas in democracies to debate the points made by those seeking to ban the weapons? It is possible that some officials in the U.S. government are afraid to talk too much about nuclear weapons for fear of bringing attention to them and potentially turning agnostic members antinuclear, but the public deserves to have these weapons and their purpose explained to them. This is particularly true in the United States where nuclear modernization plans will cost taxpayers billions of dollars in the coming decades.

Beyond taking on a more ideational approach to the ban treaty, the United States can take a number of additional steps to improve relations among states within the NPT community. First, U.S. leaders can take the simple step of acknowledging that the humanitarian initiative has accomplished something.
Many nonnuclear NPT states led or participated in this impactful movement. The three humanitarian conferences in 2013-14 educated a new generation of diplomats from nonnuclear weapons states about the effects of nuclear weapons. In their speeches and press conferences, U.S. diplomats repeatedly stated that the United States was well aware of the devastating impact of nuclear weapons. But just because U.S. officials knew, does not mean other nations’ diplomats did as well. At the humanitarian conferences, many younger diplomats expressed that before these conferences they knew little about nuclear weapons. Teaching a new generation of officials about the devastating effects of nuclear weapons serves nuclear nonproliferation efforts by creating nonproliferation stakeholders in governments and is consistent with longstanding U.S. foreign policy goals.

Next, U.S. leaders could explicitly acknowledge that other states have a place at the table when it comes to discussing nuclear weapons. Of course, nonnuclear states will not have the same responsibility as nuclear weapons states in negotiating nuclear reductions, but they deserve to be present at negotiations because nuclear weapons affect nuclear and nonnuclear states alike. Citizens of Japan, Australia, Kazakhstan, Algeria, and the Republic of the Marshall Islands all know this to be true as they live in places where the nuclear weapons states detonated nuclear weapons. At times, U.S. representatives have implied that only some states understand these issues or that only some states deserve to be part of the discussion on nuclear weapons. In one 2016 speech, a U.S. diplomat noted that those seeking the ban had never had nuclear weapons pointed at them, implying that they did not fully understand nuclear weapons issues. This pejorative comment seemed to tell other states to leave the issue alone as they lack the requisite knowledge. But the humanitarian impact conferences taught many diplomats that nuclear detonations do not respect borders. Many nonnuclear states could be affected by nuclear use, accidental or otherwise, and thus they do have a right to be at the table.

Moreover, if there is going to be a way to overcome some of the distrust that exists toward the NPT nuclear weapons states, then those states are going to have to find better ways to credibly communicate that they do in fact intend to honor their NPT Article VI commitment to pursue good faith negotiations toward nuclear disarmament. While the prognosis for further negotiated reductions between the United States and Russia in the near-term is very poor, there are steps the United States can take and publicize to show it remains committed to eventual disarmament. Working actively on considering what a future disarmament treaty protocol could look like or discussing advances in verification are possible ways to do this. The U.S. government working paper, unveiled at the 2018 NPT Preparatory Committee (PrepCom), on the “conditions-based approach” to disarmament set out a lengthy laundry list of the criteria that would have to be met before the United States can achieve nuclear disarmament. As presented at the NPT PrepCom, the document appeared to be
another message telling the nonnuclear weapons states that little progress will occur anytime soon.

In a November 2018 speech, Assistant Secretary Chris Ford teased the “Creating the Conditions for Nuclear Disarmament” initiative stating, “experts from around the world are currently developing plans . . . to identify ways in which states can do more . . . to ease tension and strengthen trust between states in order to facilitate nuclear disarmament.” This plan remains murky to the public, and may be a way for the United States to attempt to appear to be making progress on disarmament, while doing little in practice. But if this plan were taken seriously and U.S. as well as allied leadership invested diplomatically and financially in trying to solve any one of the many problems listed in the document, such as resolving regional conflicts, creating a Middle East WMD-Free Zone, or negotiating a fissile material cut-off treaty, it could have a real effect. For that to happen, however, the initiative would need to be elevated to the highest levels of government.

Another helpful step the nuclear weapons possessor states can take is to share more detailed information about nuclear policy with nonnuclear states. The nonnuclear weapons states have welcomed this type of intervention when it has occurred in the past. For example, at the 2015 NPT Review Conference, representatives from the Department of Defense held a side event on the topic of de-alerting, which is maintaining nuclear weapons in a lower state of readiness so they are unable to be launched within minutes. Disarmament proponents have long called for the United States and Russia to de-alert their Intercontinental Ballistic Missiles (ICBMs). However, U.S. Defense officials explained why they do not agree with this policy change. At the 2018 NPT Preparatory Committee, the U.S. government led an information session on the 2018 Nuclear Posture Review.

Similarly, there is great potential for increased understanding on both sides through the International Partnership for Nuclear Disarmament Verification (IPNDV), the public-private partnership founded by the U.S. State Department and the Nuclear Threat Initiative meant to consider the technical difficulties involved in verifying nuclear disarmament. The IPNDV’s work should be well-funded and widely shared. In any future nuclear disarmament scenario, more states are going to need to understand the ins-and-outs of arms control verification. Solving the many inherent challenges of nuclear disarmament verification will only be aided by having a broader array of participants.

**Conclusion**

The NPT has withstood several challenges in its first 50 years; and yet this time may be different. After decades of exasperation with the nuclear weapons possessor
states, the disarmament community has adopted a treaty banning nuclear weapons. While the NPT calls for all parties to engage in disarmament negotiations, the states with the most nuclear weapons are currently planning to make significant improvements to their arsenals. With these improvements, the United States and Russia telegraph the important role they expect these weapons to play for decades to come.

At the same time, the nuclear weapons possessor states have taken few significant steps in recent years to credibly indicate a commitment to eventual disarmament and have undermined existing arms control agreements. The divide between nuclear weapons possessors and ban-supporting states risks derailing future nonproliferation and disarmament progress in the NPT context. In time, without meaningful nonproliferation and disarmament progress, the NPT could face defections and the regime could unravel. The NPT community must find a way past its current divide—the security of current and future citizens around the world depends on it.

Endnotes:


19. 2018 Nuclear Posture Review, 72


22. Fuhrmann and Lupu, 537.

23. See for example, Matthew Harries, The Role of Article VI in Debates About the Nuclear Non-Proliferation Treaty (Diss., King’s College, 2014), https://kclpure.kcl.ac.uk/portal/en/theses/the-role-of-article-vi-in-debates-about-the-nuclear-nonproliferation-treaty(63e6f120-ce80-40df-a3f0-3ab2e8a8f12c).html.


30. On March 11, 2019, at the Carnegie Endowment for International Peace Nuclear Conference in Washington, DC, U.S. Under Secretary of State for Arms Control and International Security Andrea L. Thompson announced that this effort has undergone a name change following consultations with allies. It is now referred to as Creating the Environment for Nuclear Disarmament (CEND).

31. For more information on the partnership, see https://www.ipndv.org/.