

Nuclear No-First-Use Revisited

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The year 1950 witnessed the first popular outcry against the use of nuclear weapons with the meeting of the World Council of Peace in Stockholm. The famous Stockholm Appeal proclaimed that any government which was the first to use atomic weapons against any other country would be committing a crime against humanity and should be regarded as a war criminal.¹ Over 500 million signatures were eventually gathered in support of the appeal.² Since then, demand for criminalization of the use of nuclear weapons has been repeatedly voiced in various forms by world peace movements and anti-nuclear campaigns alike. A declaratory no-first-use (NFU) of nuclear weapons policy has been considered to be an important first step towards a comprehensive ban and complete elimination of nuclear weapons.³

To date, China alone of the five declared nuclear powers holds to an unconditional NFU policy. The former Soviet Union declared such a policy in 1982, but its successor, the Russian Federation, rescinded it in 1995. India has also committed to NFU. However, it is not recognized as a legitimate nuclear weapons state. The Democratic People's Republic of Korea (DPRK) also announced an unconditional NFU policy immediately after their alleged nuclear test, despite the fact that the success of the test remains in question.

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China has actively pushed for a multilateral NFU treaty among all nuclear weapons states. In 1994, at the 49th General Assembly of the United Nations, China officially briefed the United States, Russia, the United Kingdom and France on the draft “Mutual No-First-Use of Nuclear Weapons Treaty,” while strongly urging the five states to negotiate this issue.⁴ China’s diplomatic efforts have proven to be futile, however, with the only tangible fruit being a joint Russia-China pledge not to target or use nuclear weapons first against each other.⁵

After almost 60 years since the first call for NFU, little progress has been made. A universal international regime remains elusive. Why is a simple pledge so hard to realize even when the whole world wishes it? Where do the impediments lie? Is there any hope at all of overcoming these problems? Historical factors as well as current obstacles shed light on the failures to date and the prospects ahead.

Barriers to Change

First, some nuclear weapons states with relatively weaker conventional power are unwilling to adopt the NFU policy. For nuclear states that are at a disadvantage in traditional warfare, adopting an NFU policy means accepting certain security risks. There is the possibility that the adversary may eliminate the weaker state’s nuclear arsenal with a disarming first strike. Moreover, in the case of conflict, the weaker side would be forfeiting the use of nuclear weapons as a “force multiplier” to make up for its deficiency in conventional forces. Thus, an NFU pledge could make a country look more vulnerable to adversaries.

During the Cold War, both sides rejected adopting an NFU policy based upon the above rationale. At the onset of the Cold War, when the Soviet bloc and Western countries faced each other in Europe, Soviet conventional power far exceeded that of NATO. Therefore, in MC 14/2, the strategic concept approved by the North Atlantic Council in 1957, the NATO allies explicitly promoted taking “the initiative” in employing nuclear arms in case of a Soviet invasion:

Since NATO would be unable to prevent the rapid overrunning of Europe unless NATO immediately employed nuclear weapons both strategically and tactically, we must be prepared to take the initiative in their use... In case of general war, therefore, NATO defense depends upon an immediate exploitation of our nuclear capability, whether or not the Soviets employ nuclear weapons.⁶

In the early 1980s, the Soviet Union not only kept its conventional superiority in Europe, but also gained the advantage with its nuclear arsenal. As a result, the Soviets made a dramatic about-face in policy and proclaimed an NFU pledge in 1982.⁷ The pledge was never taken seriously by the West. However, Russia took the promise seriously enough to formally revoke it in 1995. By that time, after the collapse of the Soviet Union and the end of the Cold War, Russia was mired in economic, political and social turmoil. The Western world was not as economically generous as the Russians expected, nor did they count Russia as a geopolitical equal anymore. In the meantime, Russia’s political transformation resulted in

the drastic decline of its military power in terms of equipment, morale, discipline and management. Its conventional force declined to such an extent that it was no longer superior to that of NATO. Its nuclear force, though also suffering from underfunding, mismanagement and high personnel turnover, was the only reliable pillar for its major power status. The expansion of NATO squeezed Russia's strategic buffer zone and its national interests. To alleviate the growing pressure on its military, Russia declared in 1995 that it would revoke its NFU pledge and rely more heavily on its nuclear forces for its security imperatives and major power status.⁸ This was a savage blow to the nuclear disarmament movement. But, despite thinking to the contrary, it was also a setback to some of the Western countries who stress their unilateral absolute security.

Other countries have refused to curb their threatening nuclear dominance out of arrogance and self-centeredness. By the early 1990s, the United States had won the Cold War and become the only remaining superpower by all measurements: economy, ideology and military power. No other country could pose a major threat to its security and interests any longer. At the same time, the arms control and disarmament movement saw major breakthroughs with the signing of a series of nuclear arms control accords, including the Strategic Arms Reduction Treaty (START I). For the first time, the dawn of a nuclear-free world seemed within reach, and voices for an NFU treaty increased. However, the United States refused to put any limit on its military capability. Not only did it adamantly refuse to adopt NFU, it expanded the role of nuclear weapons in its defense policy. In addition to their traditional roles, Washington now employs nuclear weapons to deter attacks from other weapons of mass destruction, as well as terrorist attacks and threats from the so-called "rogue states."⁹ This has, in effect, lowered the threshold for the use of nuclear weapons and dealt a blow to the international nuclear arms disarmament movement. NATO's disposition towards an NFU policy followed closely to that of the United States. Though Germany raised the idea of altering nuclear policy, it was rejected repeatedly by the other NATO countries.¹⁰ Thus, the window of opportunity was missed. This attitude prompted many countries at odds with American hegemony to seek weapons of mass destruction out of fear of US intentions, as seen in the cases of North Korea and Iran.

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Another challenge to the NFU movement is that some nuclear powers have invested so heavily in the first-use option that the sunk cost has become a barrier to changing course. In fact, instead of diminishing the role of nuclear weapons, some nuclear countries have sought to increase their role in conflicts. The United States, for instance, added the role of deterring terrorist attacks and other weapons of mass destruction for its nuclear weapons.¹¹ For these purposes, it is conceivable that tactical nuclear weapons would be the nuclear weapons of choice. Tactical nuclear weap-

ons are usually of shorter range and smaller tonnage, deployed as artillery, landmines, short-range nuclear and penetration nuclear bombs. These weapons are closely related to first-use policy, as they are designed for field use, and would be deployed close to front lines of conflict. Due to the uncertainty and risks facing the forward-deployed nuclear weapons, the authority to employ nuclear weapons will be commissioned to lower-level field commanders instead of being centrally controlled. Even if the authority still rests with high-level leaders, in time of crisis, the risk of error launch or unauthorized launch cannot be ruled out.¹²

In addition, the US Ballistic Missile Defense (BMD) system also makes it easier for the United States to use nuclear weapons first. In 2001, as a prelude to deploying the BMD system, Washington backed out of the Anti-Ballistic Missile (ABM) Treaty. This ironically reminded us of President Richard Nixon's words in 1972. When justifying the need to sign the ABM treaty, Nixon said that "If you have a shield, it is easier to use the sword."¹³ Back then, in order to secure "mutually assured destruction" and establish a "balance of terror," the Soviet Union and the United States agreed to refrain from building a "shield" so that neither side could easily "use the sword." Today, with the gradual shaping of the American shield, offensive action is far easier. The rationale is simple. If the United States does not have foolproof confidence to erase the adversary's nuclear arsenal in a first strike, it will have to deliberate on the possibility of a counterattack. However, should the United States possess the strategic defense capabilities, its first strike would leave only a few nuclear weapons available for the adversary to launch a retaliatory counterattack, which would be within the capacity of its missile defense system to intercept; a second strike would then eliminate the remainder of the adversary's nuclear force. It is apparent that, with the BMD system, US decision-makers would be greatly emboldened when facing the choice of launching a pre-emptive or even preventative nuclear attack.

Therefore, for states that possess large numbers of tactical nuclear weapons and have established nuclear doctrines and postures tailored for first use of nuclear weapons, the cost invested may be highly prohibitive to considering alternative policies. A credible NFU pledge would require such states to make substantial changes to their first-use oriented arsenals, delegation of authority and force deployment. As a domestic player, the military-industrial complex involved in the development and production of nuclear weapons would be opposed to any decline in the role of nuclear weapons in national security strategy and would form an obstacle to NFU policy.

Although an NFU treaty is the hope of peace-loving people worldwide, no country would be willing to sacrifice its core security interests for moral high ground. At a time when most of the nuclear weapons states are pursuing first-use nuclear policies, the effectiveness of a unilateral NFU policy in safeguarding the state security is under increasing doubt. The gap between the need of safeguarding a credible level of state security and the reliable retaliatory capability of NFU policy is growing. For an NFU policy to take effect, a credible second-strike capability is a key condition. This means a state must have enough nuclear assets left to stage an effective retaliation

after an adversary's first-use attack, discouraging impulsive, pre-emptive acts by its enemies.

For the nuclear force to survive an enemy's first strike, it must have a certain scale in quantity. However, in the contemporary nuclear situation, the states pledging NFU have very limited nuclear capability, while those retaining the first-use option enjoy indisputable nuclear superiority. In March 2006, a Foreign Affairs article, titled "The Rise of American Nuclear Supremacy," claimed that the nuclear impasse which lasted through the Cold War is now completely broken by American nuclear supremacy. The authors argued that the era of mutually assured destruction is coming to an end and the United States has the ability to eliminate the Russian nuclear arsenal in a single surprise first strike.¹⁴ Although the argument in the article has been heavily disputed, especially by Chinese and Russian scholars, it nonetheless sounded the alarm for the other nuclear weapons states.

Difficult Choices

There are also uncertainties that plague states pledging NFU. Modern warfare is conducted amid an increasingly complicated environment, and definitively establishing whether the adversary has broken the nuclear threshold is not necessarily a straightforward issue. For instance, if the nuclear weapons of one warring party are attacked by the adversary's conventional weapons, resulting in nuclear radiation, nuclear contamination or even a nuclear explosion, could this be viewed as a nuclear first use? On the surface, this is merely a conventional attack, but in effect, its impact is little different than suffering a nuclear strike and incurring similarly heavy losses. In this case, conventional attack might also be seen as breaking the nuclear threshold, and the attacked party will find it difficult to refrain from a nuclear counterattack, which, in turn, will greatly increase the risks that either side launches a nuclear attack first.

NFU policy may conform to the rule of morality, but it does not necessarily conform to the law of survival.

Alternatively, what if one state uses conventional weapons to attack the civilian nuclear facilities, also resulting in nuclear contamination, nuclear leakage, etc.? Though similar to the case discussed above, this issue is another step removed from the traditional concept of a nuclear attack. Due to the dual-use nature of nuclear technologies, nuclear safety is becoming more complicated. The world is increasingly faced with questions of whether to interpret the nuclear attack in a broader sense, perhaps expanding its hitherto narrower definition of nuclear attack to a more inclusive definition, including attack resulting in nuclear pollution or contamination.

Yet another ambiguous situation arises if an NFU state has reason to fear that an invading enemy will seize its nuclear arsenal. Under these circumstances, should a state adhere to its NFU pledge? Although not likely for big powers, this is not an implausible scenario for less powerful states. In modern local warfare and limited warfare, there are cases in which one state is invaded or occupied by another. In

these situations, what is the wisest choice for the invaded party? Should it abandon its nuclear weapons to its adversary or abandon NFU?

What if there is an unintentional nuclear launch due to technical error? Should this also be considered a nuclear attack despite its inadvertent nature? This could arise from technical accidents, mistakes by personnel and misinformation. Although in terms of criminal law, there is a clear distinction in the penalties between intentional and unintentional acts, it is likely impossible to discern which type of act is the cause for nuclear attack. Rather, the logical reaction would be to assume intentional attack and respond accordingly. While this would trigger an escalation of crisis, even nuclear war, indecision in the face of impending nuclear attack would mean heavy losses. It could also be used as a stratagem by the adversary that uses “accidental launch” as a pretext to launch an intentional nuclear attack. Deciphering adversary intention would be fraught with difficulty and risk.

In case of a nuclear attack by new generation nuclear or conventional weapons, is it justified to stage a nuclear counterattack? This is an issue that has become urgent with the advent of new technologies such as neutron bombs, along with the miniaturization of strategic nuclear weapons, which are more accurate and easier to use in battlefield and thereby lower the nuclear threshold.

Conversely, in recent years, with the wider application of high-technology weaponry in the military sphere, the modern battlefield is undergoing an important and profound transformation. Some high-tech conventional weapons, when employed in the battlefield, will achieve a destructive power comparable to that of nuclear weapons, while avoiding the nuclear taboo and associated political risks of using nuclear weapons. There is a visible and growing asymmetry between a party armed with high-tech conventional weapons and the one who has a small number of nuclear weapons but suffers from an overall military inferiority. If the latter state abjures from using its limited nuclear force and its conventional force is not strong enough to deny the devastating attack, the only outcome is defeat and annihilation. If, on the other hand, the state uses its limited nuclear weapons as the last resort, there might be a chance for the state to survive. Although either path could lead to the annihilation of the state, at least theoretically, a first-use policy gives the state more choice in the outcome. NFU policy may conform to the rule of morality, but it does not necessarily conform to the law of survival. This is perhaps the most serious paradox facing an NFU policy.

Even after the above questions are answered satisfactorily, a state pursuing a unilateral NFU policy still needs to answer the following question. Having suffered a first strike from an adversary's nuclear weapons, what is the appropriate time, method and scale of a nuclear counterattack? In selecting the timing for nuclear retaliation, is it better to launch on warning (LOW) or to launch under attack (LUA)? In general, the LOW option would be faster and more assured of a successful attack, but also more prone to launch errors caused by false alarms. In addition, as LOW requires the

nuclear weapons to be on alert, the safety of nuclear weapons themselves would also be adversely affected. However, the LUA option would increase the risk of a devastating first strike by the adversary, in which the attacked party might lose all of its nuclear weapons, denying it the capacity to strike back. Currently, the United States and Russia both have a LOW policy. With the development of modern technology, an advanced, reliable and precise long-range strategic warning system might be within reach for all nuclear weapons states. In that case, the choice between LOW and LUA will also be a dilemma facing NFU policy.

Whether the decision to launch is made on warning or on evidence of attack, the final factor that NFU states must calculate is the appropriate scale of counterattack. Is the objective to stage an equally damaging attack, a scaled escalation or jump right to maximum, indiscriminate vengeance? Which is more credible? This also presents a problem that is hard to resolve, the answer to which, however, would determine the size of the nuclear arsenal, nuclear doctrine and the nuclear posture, and hence, the credibility of the NFU policy.

First-use is no easier

The questions facing a unilateral NFU policy are tough ones and are hard to resolve satisfactorily, at least for the time being. First-use policy, however, is also at least equally, if not more unrealistic. For a nuclear state that also enjoys a clear conventional superiority over a non-nuclear state, using nuclear weapons on the latter in a time of a conflict would incur a formidable political toll. Indeed, after the first nuclear bombardment over Japan, nuclear weapons have never actually been put to use. It is conceivable that when a nuclear weapons state suffers unacceptable losses, it can draw on Article 51 of the UN Charter and opt to use nuclear weapons on a non-nuclear weapons state as an act of self-defense. However, it is hardly conceivable that a non-nuclear weapons state, even when enjoying a conventional superiority, will boldly challenge a nuclear weapons state to the extent that the latter has to use nuclear weapons in self-defense. The deterrent power of nuclear weapons will enable the involved parties to moderate their decisions and pause before the possibility of a nuclear attack.

Nuclear weapons cannot address nontraditional security threats like terrorism.

Similarly, in the case of two nuclear weapons states, the weight of grave consequences will be on the shoulders of the one who made the decision to escalate the conflict from conventional war to nuclear war, or even from small-scale conventional war to large-scale conventional war. When the two nuclear weapons states possess comparable nuclear capabilities, each side will refrain from escalation, as they both fear the other side might be irrational enough to be the first to resort to nuclear weapons. Even when one side is more risk prone, or has more confidence in its strategic defense capability and second strike capability, crossing the nuclear threshold

will still pose a formidable challenge. For one thing, the first use of nuclear weapons will be universally lamented and denounced. For another, one can never tell if the other party's revenge will be completely neutralized, and whatever the scale of the retaliation, the damage to life, property and collective psychology will be immense. Therefore, to any political leader, the decision to use nuclear weapons first will require great resolution, only imaginable if core national interests are in peril, such as the survival of the state or nation. The fact that the United States and the Soviet Union engaged in highly intensive competition while refraining from initiating a nuclear war proves the strength of the nuclear taboo.¹⁵

It would be suicidal for an inferior nuclear weapons state to first use nuclear weapons on the superior. As for the superior state, the first use of nuclear weapons would also pose a profound dilemma: that is, no matter how weak a nuclear weapons state is in comparison to another, the latter can never be certain the weaker state does not retain even a minimum counterattack capability.

Furthermore, nuclear weapons cannot address nontraditional security threats like terrorism. Terrorists are not state actors, and cannot be dealt with like a state. A group of terrorists may obtain weapons of mass destruction and stage a terrorist attack, subsequently disappearing into the crowd. It would be irrational for any state leader to consider using nuclear weapons on them, as there is virtually no target to strike at.

Any use of nuclear weapons will have consequences beyond the borders of one region, much less one state. Nuclear war will sabotage the environment and endanger the existence of human beings. In the age of economic globalization when the interdependence of states is increasing, collective security is more important than individual security. Even if a nuclear power can win a nuclear war by using nuclear weapons, this irresponsible behavior will not only cause irretrievable damage to the environment, but also endanger the survival of human beings, including its own people.

The world today is a much different place than that of World War II. The binding forces of ethical norms, human rights and humanitarianism are much stronger. It is eminently foreseeable that using nuclear weapons first will have grave consequences, whose cost will far outweigh its benefits.

The Way Forward

In crisis situations, both first-use and NFU policies are highly problematic. However, NFU policy is more responsible, as it is conducive to escalation control. When both sides suffer from imbalance of information and mutual distrust, the natural tendency would be to assume the worst—the first use of nuclear weapons. In this case, when one side has a declared first-use policy, the other side would be more prone to launch pre-emptive attacks in an effort to destroy or at least alleviate the former's destructive power. If one party has an NFU policy, to which the other party

does not give credit, the situation is not much improved. However, if one side believes that the NFU-pledging party would be more moderate for the sake of its own pledge, a pre-emptive nuclear attack launched out of panic would be less likely. Thus, the risk of conflict escalation is much smaller and the destructive power of wars will be under control.

In addition, at least for now, the declaratory NFU policy, even a unilateral one, is proven to have immense binding power on the states pursuing it. Although some people believe China's NFU policy is not credible, China has never wavered from its promise during the past 40 years. China had an inferior nuclear arsenal and conventional force when it was on poor terms with the Soviet Union and the United States during the Cold War. Today, China's international environment has greatly improved, its economy has strengthened, and its technology capabilities have grown. Yet, China has not moved toward a change in its nuclear policy. Even today, when a possible cross-strait crisis initiated by Taiwanese secessionist activists might involve the nuclear superior United States, China still exerts great restraint in its response and has not wavered in its unilateral NFU policy.

This clearly illustrates that the NFU policy is more of a choice than a logical necessity. The issue at hand is whether or not leaders of a state are willing to shoulder the moral obligations of world peace and curb their own narrow national interests for collective security. However, a unilateral pledge of NFU puts a state's own national security at a certain degree of risk and requires a high degree of courage by a nation's leaders. It is not a commitment every state can enter into. As such, a multilateral agreement would provide far greater confidence and much stronger binding power than a unilateral pledge. As the 1995 Nobel Peace Laureate, Sir Joseph Rotblat, has argued, a treaty committing nuclear weapons states to no-first-use "would open the way to the gradual, mutual reductions of nuclear arsenals, down to zero."¹⁶

Notes

¹ Goldsmith, Maurice. *Frédéric Joliot-Curie: A Biography*. London: Lawrence and Wishart, 1976, pp. 189-90.

² Ibid.

³ For example, the Pugwash Movement, which was initiated in 1955 by a group of leading scientists and scholars including Albert Einstein and Bertrand Russell, held a special conference on NFU of nuclear weapons in 2002.

⁴ "China's Endeavors for Arms Control, Disarmament and Non-Proliferation," Information Office of the State Council of the People's Republic of China, Sep. 2005, <http://www.china.org.cn/english/features/book/140320.htm>.

⁵ Due to diplomatic efforts, China and the United States declared they would not target nuclear weapons at each other in June 1998; In April 2000, the five nuclear weapons states issued a joint statement that they would not target any country with their nuclear weapons. These gestures, however, are only symbolic and hardly have any realistic significance.

⁶ MC 14/2 (revised final decision), "Overall strategic concept for the defense of the North Atlantic Treaty Organization area," approved by the North Atlantic Council on May 9, 1957. NATO

Strategy Documents 1949–1969, pp. 277-313 (paragraphs 13c, 14) in David S. Yost, “NATO and the Anticipatory Use of Force,” *International Affairs*, 83, no. 1 (2007), p. 45.

⁷ Steven E. Miller, “No First Use of Nuclear Weapons”, Pugwash Meeting No. 279, Nov. 15-17, 2002, <http://www.pugwash.org/reports/nw/miller.htm>.

⁸ Sverre Lodgaard, “Obstacles to No-First-Use,” Pugwash Meeting No. 279 and “No First Use of Nuclear Weapons,” Nov. 15-17, 2002, <http://www.pugwash.org/reports/nw/lodgaard.htm>.

⁹ “Nuclear Posture Review Report,” United States Department of Defense, Jan. 9, 2002, <http://www.fas.org/sgp/news/2002/01/npr-foreword.html>.

¹⁰ Wolfgang Liebert, Jürgen Scheffran, and Martin Kalinowski, “Scientists Demand NATO: No First Use of Nuclear Weapons as an Essential First Step Towards a Nuclear-Weapon-Free World,” The Nuclear Age Peace Foundation, Nov. 27, 1998, http://www.wagingpeace.org/articles/1998/11/27_scientists-demand.htm.

¹¹ “Nuclear Posture Review Report,” United States Department of Defense.

¹² Lodgaard, “Obstacles to No-First-Use” and “No First Use of Nuclear Weapons.”

¹³ Ibid.

¹⁴ Keir A. Lieber and Daryl G. Press, “The Rise of US Nuclear Primacy” *Foreign Affairs*, March-April 2006, <http://foreignaffairs.org/20060301faessay85204-p10/keir-a-lieber-daryl-g-press/the-rise-of-u-s-nuclear-primacy.html>

¹⁵ The Cuban missile crisis in 1962 was the closest the United States and the Soviet Union ever came to nuclear war. The Kennedy administration was prepared to stage a nuclear war, but the Soviet leaders backed away at the critical moment. Although this crisis has been cited as the most dangerous moment in the Cold War, the fact that it did not end in a nuclear war illustrated the prohibitive force of the nuclear weapons on the decision-makers.

¹⁶ David Krieger and Carah Ong, “No First Use,” Nuclear Age Peace Foundation, Apr. 2002, http://www.wagingpeace.org/articles/2002/04/00_krieger_no-first-use.htm.