

Viewpoint by Ambassador A.L.A. Azeez

At the panel discussion on nuclear disarmament at the plenary meeting of the Conference on Disarmament held on 30 July 2019

In the post-World War II international order, no other security related subject has remained as complex and sensitive as the issue of nuclear disarmament. That it has managed, for decades, to course through the vortex of international public concern with little changes in its tide, is striking.

It is a telling lesson that humanity has painfully learned over the centuries that, while arming is a trait that manifests itself when human beings face real or perceived threat, disarming, nonetheless, is a complicated and protracted exercise. Once armaments are in place, it is part of human tendency to seek to use arms, not just to ensure safety alone, which in the first place provided the immediate rationale for their acquisition or production, but, often, to seek to achieve an advantage over others perceived as rivals or competitors.

In the present world, which in many ways is intelligence-driven, with several other forces too getting into the act, it could hardly be argued that all threats on the horizon are always real, or perceived 'ordinarily'. Using a different terminology, it could be said that some among them may even be a product of 'induced perception', or 'enhanced perception'.

The call for nuclear disarmament or for elimination of nuclear weapons, as is well known, has been out there since the Hiroshima Nagasaki attacks in 1945. The years that followed brought out, through an evolutionary dialectic, a few concepts and doctrines relating to the use of, or the threat of use of, nuclear weapons, as well as the use of nuclear energy and technology.

The concepts and doctrines diversified over the years, depending on the specific set of strategic interests that individual nuclear armed states pursued, as well as on the relative strength and geo-political space of other states that they sought to nullify.

As students of international relations, we are well aware of occasions during the Cold War period, when nuclear armed states threatened to use nuclear weapons against one another. Nevertheless, the Cold War, while indirectly contributing to a strategic balancing of power on the global scene, created the reality – that is, nuclear armed states generally refrained from using nuclear weapons against one another.

At particular times during the Cold War where a nuclear confrontation became almost a possibility, diplomacy, in the varied persuasions in which it is practised, played a critical role in helping to defuse tensions, thus making the states realise the futility of a war triggered or determined by the use of nuclear weapons.

With the establishment of the International Atomic Energy Agency (IAEA) as an autonomous entity in 1957, the emphasis and focus, however, shifted to the peaceful uses of nuclear energy. There was recognition of the increasing need for nuclear energy and technology for non-military purposes.

Unfortunately, as was witnessed later, the concept carried with it a part of the polemics usually associated with the use of nuclear weapons. Yet, peaceful uses of nuclear energy

remained a path that needed great understanding and trust among states to move along, so that the same sources, material or technology that are designated for peaceful uses are not diverted for weaponisation.

NPT

It was against this backdrop that by 1965, negotiations began on arriving at a treaty addressing different aspects relating to the control of nuclear arms – the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). However, negotiations for that treaty took place in a strategic security landscape where the interests of some states determined the way in which the treaty evolved.

Coming into effect in 1970, the issue of the treaty's renewal came up in 1995, when a distinguished Sri Lankan diplomat, Ambassador Jayantha Dhanapala, chaired the Treaty Review and Extension Conference.

In the meantime, between 1965 and 1990, the world had witnessed the signing of arms control treaties between the major powers. The Anti-Ballistic Missiles Treaty (ABM), the Strategic Arms Reduction Treaty (START I) and the Intermediate Range Nuclear Forces Treaty (INF) remained among the key agreements which by and large operated to control the number of nuclear weapons, thereby providing some impetus to nuclear arms control initiatives.

As we know well, peaceful uses of nuclear energy, nuclear non-proliferation, and nuclear disarmament constitute the three pillars of the NPT that are integral to global efforts at strengthening international peace and security. The treaty, nonetheless, had been negotiated in a particular strategic power context, and its implementation led to varied compliance by state parties, while a few states decided to stay outside the treaty regime.

Like all states that are members of the United Nations, the latter were conscious of other imperatives as concerns international peace and security, even as they remain outside it, as part of their general obligations arising from the specific provisions of the Charter of the United Nations.

It is common knowledge that the treaty, as negotiated and concluded, has allowed nuclear weapon states to retain their nuclear arsenals while making nuclear non-proliferation imperative. It has also provided a path for eventual nuclear disarmament in its Article VI. Nevertheless, the uneven playing field that emerged from the implementation of the treaty, partly from its own structure, and its use or abuse by parties as well as approaches of states that have chosen to stay outside the NPT framework, has led to many a question.

An important concern arising from the uneven nature of the treaty's provisions pertains as well to the peaceful use of nuclear energy, which most states, specially the developing states, consider as a matter of their sovereign right. Practical constraints placed in the path of peaceful uses still deny developing states the opportunities to effectively realise this right.

Nonetheless, peaceful use was sought to be assured through the introduction of a series of measures, especially relating to safeguards, safety and security. It should be conceded, however, that the path to peaceful exploration has never been smooth, and is a matter for comprehensive discussion. The relevance of it in this discussion today is because of the

bearing that the subject has on the discussion of the other 2 pillars, especially non-proliferation and disarmament.

Nuclear non-proliferation was in itself a clear concept as it was reflected upon at the time of negotiation of the NPT. However, treaties, like constitutions, are implemented by countries and peoples, and, more often than not, there are tendencies and impulses to gain strategic space and advantage by using tools that they consider are most vital for survival and advancement.

Strategic power rivalry

Accordingly, non-proliferation also fell prey to the reality of strategic power rivalry from the outset. This notwithstanding, the realisation that in the event of countries possessing nuclear weapons choosing to use them against one another, the resulting scenario will be catastrophic consequences, both humanitarian and ecological, through what is known as 'Mutually Assured Destruction' – has militated against the use of nuclear weapons between nuclear armed states.

The concept of 'No First Use', with all the circumscriptions enshrined into the military doctrines of nuclear armed states, is essentially a product of this cautious realisation.

Discussing humanitarian consequences, it is logical that the focus will have to turn to the Advisory Opinion of the International Court of Justice (ICJ) in 1996, where the renowned Sri Lankan jurist, C.J. Weeramantry, a judge and Vice President of the ICJ, opined that the use or threat of use of nuclear weapons is incompatible with international law and with the very foundations on which that system rests. This opinion provided impetus for the emergence of civil society alliances dedicated to advocacy for nuclear disarmament.

The relevance of the concept of 'No First Use', the realisation of the futility of the use of nuclear weapons between nuclear armed states, or the overriding importance of avoiding a nuclear arms race, has, over the years, led to intra-regional arrangements and understandings in some parts of the world, of course with a few conspicuous exceptions. Several 'zones free of nuclear weapons' ensued.

Welcome as this development may be, it is pertinent to note that subsequent to the end of the Cold War, new forces that emerged on the international security landscape took what existed essentially as a strategic balance between major powers during the Cold War period, to a new plateau of power competition within specific regional and sub-regional contexts. This, in part, explains the conspicuous exceptions to the concept of 'zones free of nuclear weapons' referred to above.

It is pertinent to mention that the decision on working towards establishing a zone free of nuclear weapons in the Middle East is an integral part of the consensus package adopted by the NPT Review and Extension Conference of 1995.

While both peaceful uses and non-proliferation have seen varying degrees of progress, thus ensuring, till today, the absence of nuclear warfare since 1945, an important call of humanity, nuclear disarmament, however, remains fully unrealised as yet. The intensity of the call continues to grow, despite some progress achieved in mid-1990's, and then in 2017, when the Treaty on Prohibition of Nuclear Weapons (TPNW) was adopted.

The importance of conclusion of a universal, unconditional and legally binding instrument to effectively assure non-nuclear weapons states against use or threat of use of nuclear weapons cannot be over-emphasised.

The background and the development that followed, resulting in the establishment of the Conference on Disarmament (CD) as the single multilateral negotiating forum for disarmament, are very well known. Adopted at the Special Session on Disarmament I (SSOD I) in 1978, the CD worked through a long and protracted process to make progress in negotiating disarmament-related treaties.

Nevertheless, successes have been noted mostly in disarmament-related areas concerning conventional weapons including the Chemical Weapons Convention (CWC). A significant breakthrough, in the past, towards nuclear disarmament, was the Comprehensive Nuclear Test Ban Treaty (CTBT) which was negotiated at the CD, and adopted by the UNGA through finalisation of the text in 1996.

That was the period following the end of the Cold War, and in the 1990s, with internal conflicts increasingly replacing international conflicts, the prevalent international atmosphere favoured a movement towards the introduction of initiatives addressing different aspects of the disarmament discourse.

Disarmament agenda

The earliest example of the manifestation of the commitment and the urge for progress came in the form of 'Disarmament Agenda of the International Community in 1994 and beyond', made out in the statements of the then UN Secretary General (SG), Mr. Boutros Boutros-Ghali.

It contained 2 components – (i) the address of the SG to the Advisory Board on Disarmament Matters on 12 January 1994; and (ii) the message of the SG to the Conference on Disarmament on 25 January 1994.

In fact, the Disarmament Agenda spoke of the security challenges that prevailed in the international peace and security landscape immediately following the end of the Cold War and as the UN had begun to initiate a series of new international conferences adopting outcomes on broad themes such as women, populations, human rights, environment, social development, etc.

It is relevant to note that these processes invariably referred to peace and security as an essential condition and priority that humanity sought, in order to achieve progress. It is ironical, though, that this aspect of the nexus between peace and security on the one hand, and human development and progress on the other -- that a decade later emerged as 'human security', has not gone so far to connect the dots to complete an essential part of the international security picture: disarmament.

When comparing the Disarmament Agenda of the then SG in 1994 with the Agenda for Disarmament launched by Secretary-General Mr. António Guterres in May 2018, one can discern the difference, in terms of both scope and intensity of the challenges that have marked the peace and security trajectory from 1994 to 2018, a journey of nearly a quarter century.

The momentum achieved in negotiations within the CD, and finalisation thereafter of the CTBT, unfortunately did not reflect itself in other initiatives during the almost 25 years' interregnum, even as the CD went through an expansion of membership in 1995, making it more representative than it was before.

With the loss of that momentum and the emergence of new strategic parameters globally, especially with the realignment of forces since then, it is all but apparent that the international security landscape has become 'progressively' constrained, despite some successes at the regional levels especially through the establishment of a few zones free of nuclear weapons, and to offer an out-of-CD example - the TPNW, at the international level.

There are several concerns which emerged with regard to the prospect of achieving sustained nuclear non-proliferation and balanced, comprehensive and progressive nuclear disarmament.

These range from vertical and horizontal proliferation of nuclear weapons; 'no first use' concept; confidence building measures; verification; transparency in armaments; addressing the legal gap arising from Article VI of the NPT; effective realisation of peaceful uses of nuclear energy and technology; effectiveness of nuclear safeguards and the question of development of further safeguards as technology advances; implementation of the negotiated outcomes of the NPT Review Conferences, specially of 1995, 2000 and 2010; nuclear weapons free zones or zones free of weapons of mass destruction; to the need for nuclear risk reduction.

Outer space

Other areas of equal or more importance involve Negative Security Assurances (NSA), Prevention of an Arms Race in Outer Space (PAROS), banning of production of Fissile Material for use in nuclear weapons, and new and emerging challenges. The Fissile Material issue, it should be stated, appears to lie at the intersection between nuclear non-proliferation and nuclear disarmament, or at the core of either, depending on how the details or specificities of that issue are sought to be unravelled.

It is relevant to highlight, at this point, the need for early negotiation and conclusion of a non-discriminatory and internationally and effectively verifiable treaty banning the production of Fissile Material.

An integral part of the nuclear disarmament discourse, that should be flagged as an important priority for the larger humanity today, extends to the question of implementation of the '13 practical steps for the systematic and progressive efforts to implement Article VI of NPT' as agreed in the Final Document of the 2000 Review Conference and the '64-point Action Plan' as agreed in the Final Document of the 2010 Review Conference; 'nuclear weapons free zones as a way to achieve effective measures in nuclear weapons prohibition'; and achieving a comprehensive and balanced outcome through an effective and meaningful process of consultations at the 2020 NPT Review Conference, in the year which marks the 50th anniversary of the NPT coming into effect.

Challenges

Three salient points need to be highlighted as essential to advancing the goal of maintenance of stability while making determined efforts to achieve concrete progress in nuclear disarmament.

First, it is important to emphasise the need for preservation of the existing disarmament architecture that had been developed over decades. This is the call of the UN Secretary General in his Agenda for Disarmament. Establishing this architecture took painful efforts and vast amount of resources by way of negotiation, institutionalisation and implementation, and they should under no circumstances be left to disintegrate.

Second, serious measures have to be taken within the CD, as the single multilateral negotiating forum for disarmament, to first arrive at a balanced and comprehensive Programme of Work and move on to substantively addressing other areas of its agenda. The inter-connected and inter-related nature of each theme in the agenda should be appreciated, but the pursuit of nuclear disarmament should remain the eventual goal, which should be achieved through negotiation and finalisation by adopting progressive, comprehensive and transparent efforts.

Third, a fresh thinking needs to be given to examining how best the CTBT could complete the universalisation triangle connecting ratification, Annex II and the provisional secretariat, noting specially that more than 90 percent of the international monitoring system is already in place.

Despite varied views that are shaped more by strategic considerations or relativity of regional/global security parameters, the fact remains that, for most countries, the CTBT provides an essential link between non-proliferation and disarmament. The Preparatory Commission of CTBT and its Executive Secretary deserve appreciation for the innovative ways in which the treaty provisions are used, in the meantime, to benefit humanity, in vital areas of its mandate.

The question of Article VI of NPT not providing a sound legal norm for state parties to move towards nuclear disarmament, is a critical concern for many. Article VI is no doubt a broader avenue for reaching the disarmament goal. The concern that there is a nexus between the pursuit of nuclear disarmament and the international security environment, is understandable.

However, the pursuit of nuclear disarmament cannot be linked on a one-way traffic mode, to the argument that it cannot be achieved as fast as expected, because of the security environment that prevails at a given time. It is important to build confidence, not necessarily to ensure peaceful environment, but through that, to seek to ensure that there is complete and comprehensive disarmament, realised through a step by step approach.

In this context, even as Article VI is taken to signify a legal gap, it is evident that, in as much as the legal gap is sought to be addressed, other elements of Article VI that fall in the moral domain should continue to guide states towards achieving the consolidation of political will and commitment through sustained and constructive engagement.

Moral domain

Apart from the above, it is noted that there are two other important points that are often not given a pronounced thrust during deliberations on disarmament-related concerns. Sri Lanka, for example, has highlighted these two points consistently with a view to bringing focused attention on them, noting they are critical to defining the trajectory towards global efforts at disarmament in general and nuclear disarmament in particular.

First, the need for education and training in the disarmament and non-proliferation is more acute today, to help address substantive aspects including new and emerging issues. Lack of opportunity in the form of training or other forms of exposure may only contribute to the perpetuation of the current impasse, even as it is not to be the primary cause.

Second, ensuring the full integration of a gender perspective into disarmament and non-proliferation discourses is imperative. Even going by the logic advanced by some states that there is a correlation between nuclear disarmament and the international security environment, still the role of gender is critical for both contributing to that environment, and defining it in terms of the all-inclusive concept of human security.

With regard to training, the initiative taken by UNIDIR and UNODA to commence an induction programme for young and newly arrived diplomats in Geneva on key areas of disarmament is noted with appreciation. The challenge remains urgent that all stakeholders, including Member States, strive to enhance their work in both these areas, which are crucial to empowering the younger generation on disarmament, particularly in the developing world and help advance a fully informed, well-represented, result-oriented negotiation on most critical issues when occasion arises or demands.

As discussed, it is apparent that the security landscape in most regions, as well as globally in general, is becoming increasingly constrained today. It is ever more crucial and urgent that all feasible measures should be taken to resume discussions on substantive matters in the CD, and in particular in the context of the NPT Review Conference processes and of other regional and international initiatives, nuclear disarmament and non-proliferation being the foremost among them.