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GAME OF BOMBS: PRESIDENT BARACK OBAMA'S NUCLEAR NONPROLIFERATION REGIME*

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GAME OF BOMBS: PRESIDENT BARACK OBAMA'S NUCLEAR NONPROLIFERATION REGIME

Lt. Col. Jeffrey F. Addicott

I. INTRODUCTION

*"We [the United States] will reduce the role of nuclear weapons in our national security strategy, and urge others to do the same."*¹

Barack H. Obama

One of President Barack Obama's favorite solutions to reducing or halting armed conflict in the world centers around his often-stated desire to rid the world of nuclear weapons.² While this simplistic formula for a more peaceful world has certainly been voiced by other occupants of the oval office,³ the world is, and always has been, an extremely dangerous place, and the machinations of competing spheres of power in a "Game of Thrones"⁴ will always exist in human

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1. Barack Obama, U.S. President, Remarks by President Obama at Hradcany Square in Prague, Czech Republic (Apr. 5, 2009), *available at* http://www.whitehouse.gov/the_press_office/Remarks-By-President-Barack-Obama-In-Prague-As-Delivered [hereinafter Remarks at Hradcany Square]. Prior to pledging a unilateral reduction of America's reliance on nuclear weapons, President Obama stated: "So today, I state clearly and with conviction America's commitment to seek the peace and security of a world without nuclear weapons." *Id.*
 2. *See id.*
 3. *See* Barack Obama, U.S. President, Remarks by the President at the United Nations Security Council Summit on Nuclear Non-Proliferation and Nuclear Disarmament at United Nations Headquarters in New York, New York (Sept. 24, 2009), *available at* http://www.whitehouse.gov/the_press_office/Remarks-By-The-President-At-the-UN-Security-Council-Summit-On-Nuclear-Non-Proliferation-And-Nuclear-Disarmament/. To bolster his own credibility in his desire to eliminate nuclear weapons, liberal minded President Obama quoted former conservative minded President Ronald Reagan who once stated: "A nuclear war cannot be won and must never be fought. And no matter how great the obstacles may seem, we must never stop our efforts to reduce the weapons of war. . . [W]e must never stop at all until we see the day when nuclear arms have been banished from the face of the Earth." *See id.*
 4. *Game of Thrones* (HBO television broadcast 2010-2014) (concerning power struggles of seven kingdoms set in a fictional story).

history. Coupled with an aggressive Russia⁵ and China,⁶ the dangers associated with the new era of radical Islamic extremism⁷ rubricate the need to view the naiveté of President Obama's vision of a planet without nuclear weapons with great caution, particularly when a large part of the so-called Obama solution calls for the unilateral weakening of America's nuclear arsenal.⁸

To the serious student of history, the maintenance of a well-trained military—armed to the teeth with the best weapons available—is far more than a political or philosophical issue; it is an absolutely vital component to the national well-being of any freedom-loving nation, including the United States of America. Simplistic epigrams about “peace and brotherhood” achieved through unilateral reductions of America's nuclear arsenal only encourage the probability of war by non-democratic entities.⁹ In the modern era, a well-provisioned

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5. Airbrushing the rising threat of radical Islamic extremism is extremely dangerous; particularly should nuclear weapons fall into their hands. Within the past few years, Libya, Syria, and Iraq have become overrun with Islamic extremists. See Peter Baker, *Crises Cascade and Converge, Testing Obama*, N.Y. TIMES, (July 22, 2014), http://www.nytimes.com/2014/07/23/world/crises-cascade-and-converge-testing-obama.html?_r=0 (discussing how President Obama seems overwhelmed by the threats from Russia, Ukraine, Syria, Iraq, Afghanistan, Gaza, and the Middle East).
 6. Simon Denyer & Chico Harlan, *China Sends Warplanes to New Air Defense Zone After U.S., Japan, S. Korea Incursions*, WASH. POST (Nov. 28, 2013), http://www.washingtonpost.com/world/japan-south-korea-military-jets-cross-through-china-air-defense-id-zone/2013/11/28/6285d350-5816-11e3-bdbf-097ab2a3dc2b_story.html.
 7. Kevin Johnson, *9/11 Panel: Terrorism Fight is in 'New and Dangerous Phase'*, USA TODAY, (July 22, 2014), <http://www.usatoday.com/story/news/nation/2014/07/22/911-commission-10-year-report/12984959/> (marking the tenth anniversary of the 9/11 Commission Report, the 9/11 Commission reconvened and issued a warning that the “War on Terror” was entering a more dangerous phase due to the increased number of Islamic fighters from the Middle East and self-radicalized jihadists here in the United States).
 8. *FACT SHEET: Nuclear Weapons Employment Strategy of the United States*, WHITE HOUSE (June 19, 2013), <http://www.whitehouse.gov/the-press-office/2013/06/19/fact-sheet-nuclear-weapons-employment-strategy-united-states> [hereinafter *Nuclear Weapons Employment Strategy*]. The Obama Administration “has determined that we can ensure the security of the United States and our allies and partners and maintain a strong and credible strategic deterrent while safely pursuing up to a one-third reduction in deployed strategic nuclear weapons from the level established in the New START Treaty.” *Id.*
 9. *Democracy's Decline: Crying for Freedom*, ECONOMIST (Jan. 14, 2010), <http://www.economist.com/node/15270960> (According to the lobby group Freedom House, the number of electoral democracies in the world stands at 116 out of the 192 [there are now 193 members] nations in the United Nations).

nuclear arsenal serves as a significant deterrent to aggressive behavior by those rogue nations who possess nuclear weapons.

In addition, reckless reductions of America's nuclear arsenal will certainly mean that the number of nuclear-armed nations will increase, not decrease. Those States friendly to American interests that rely on the umbrella of America's nuclear protection, such as South Korea, Japan, Saudi Arabia, or many of the new European nations, may now be compelled to develop their own nuclear arsenals in order to counter the threats of aggressive totalitarian regimes now armed with nuclear weapons.¹⁰

Considering the vast amount of misinformation about the development, legality, and utility of nuclear weapons, the purpose of this paper is to provide a brief summary of the history of nuclear weapons as an element of modern warfare and then to discuss the matter of nonproliferation under the Obama Administration. The paper will examine the flawed premise of the Obama policy of nuclear disarmament and explore the negative ramifications to American national security.

II. THE HISTORY OF NUCLEAR WEAPONS

*The fact is that nuclear weapons exist and the knowledge of how to make them cannot be erased. . . . A world without nuclear weapons may be a dream but you cannot base a sure defense on dreams. . . . [A] world without nuclear weapons would be less stable and more dangerous for all of us.*¹¹

Margaret Thatcher

While most people trace the origin of nuclear weapons to the United States at the end of World War II, the development of nuclear technology actually began in Germany in the years just after the end of World War I.¹² The genesis occurred with the groundbreaking research

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10. See Gerard Baker & Alastair Gale, *South Korea Warns of Nuclear Arms Race*, WALL ST. J., (May 30, 2014), <http://online.wsj.com/news/articles/SB20001424052702304363404579591973924771420> (discussing the reality of South Korea developing nuclear weapons to counter an aggressive North Korea).
 11. Margaret Thatcher, *Speech at Soviet Official Banquet*, MARGARET THATCHER FOUND (Mar. 30 1987), <http://www.margaretthatcher.org/document/106776>.
 12. RICHARD RHODES, *THE MAKING OF THE ATOMIC BOMB* (1986).

of German chemist Otto Hahn.¹³ A pioneer in the fields of radioactivity and radiochemistry, Hahn concentrated his studies on radiochemical research, and in 1921 he published a detailed academic paper outlining the discovery of Uranium Z. Then, in 1934, Hahn's experiments led him to successfully bombard uranium atoms with neutrons. Shortly thereafter, two other German scientists, Lise Meitner and her cousin Otto Frisch, expanded on Hahn's research, and on December 17, 1938, the group discovered what would be later coined by Frisch as "Nuclear Fission."¹⁴

Realizing that nuclear fission might be used to construct a new weapon more powerful than the world had ever seen, the German government, now under control of the Nazi regime, founded the "German Nuclear Energy Project" in 1939.¹⁵ Focused on developing and producing atomic weapons for the German military, the effort was dubbed the "Uranverein" (Uranium Society).¹⁶ Fortunately for the United States and its allies, the project was not given the resources and attention needed and quickly lost support once Germany began World War II by invading Poland in August of 1939.¹⁷ Although the Germans started a second Uranverein project later in the War, it was only staffed with seventy scientists and the Nazi regime never developed an atomic bomb.¹⁸ It was the United States that developed the first atomic bomb.

America's effort to develop an atomic bomb can be traced back to a Hungarian-American physicist name Leo Szilard.¹⁹ Before fleeing Nazi persecution in his native Hungary, Szilard had also contemplated

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13. Hahn helped produce poison gas during World War I for use by the German military. See O. Hahn & F. Strassmann, *Über den Nachweis und das Verhalten der bei der Bestrahlung des Urans mittels Neutronen entstehenden Erdalkalimetalle* [On the detection and characteristics of the alkaline earth metals formed by irradiation of uranium with neutrons], 27 *NATURWISSENSCHAFTEN* 11–15 (1939). The authors were identified at the Kaiser-Wilhelm-Institut für Chemie, Berlin-Dahlem. *Id.*
 14. See William Lanouette & Bela Silard, *Genius in the Shadows: A Biography of Leo Szilard: The Man Behind the Bomb* 132–36 (Charles Scribner's Sons, 1st ed. 1992). In short, nuclear fission is a nuclear reaction process in which the nucleus of a particle splits into smaller parts. This leads to a self-sustaining nuclear chain reaction that can release energy at a very rapid and uncontrolled rate. *Id.*
 15. *Id.* at 192.
 16. See generally RHODES, *supra* note 12.
 17. See generally RHODES, *supra* note 12.
 18. LANQUETTE & SILARD, *supra* note 14 at 275-76.
 19. William Lanquette, *Ideas by Szilard, Physics by Fermi*, *BULLETIN OF ATOMIC SCIENTISTS* 19 (Dec. 1992); Rhodes, *supra* note 12, at 306, 314.

the idea of a nuclear chain reaction in 1933.²⁰ In 1938 Szilard moved to Manhattan and continued his research at Columbia University where he learned of the successful nuclear fission experiment conducted by Germany's Hahn.²¹ Like Hahn, Szilard realized that uranium would be a suitable fissile material for creating a nuclear chain reaction, which could be harnessed and weaponized.²² Along with other scientists such as Albert Einstein, Szilard understood the implications of such a weapon. The fear was that once atomic bombs were developed, they could fall into the hands of totalitarian regimes like Nazi Germany.²³ On August 2, 1939, Szilard delivered a letter, signed by Albert Einstein, to President Franklin D. Roosevelt.²⁴ The Szilard-Einstein letter informed the president about the development of atomic weapons and the fear that the Nazi's might soon develop the technology to manufacture an atomic bomb.²⁵

Roosevelt quickly responded and created the Advisory Committee on Uranium.²⁶ This was followed in 1941 by the creation of the "Manhattan Project."²⁷ When physicist Enrico Fermi's team conducted a controlled chain reaction in December of 1941, the project was given massive support in both personnel – the project employed about 200,000 – and funding – over \$2 billion dollars. German scientist Robert Oppenheimer was tasked with putting the actual atomic bomb together.²⁸

On July 16, 1945, at the Trinity Test Site, America detonated the first atomic bomb.²⁹ The explosion left a crater half a mile wide and

20. RHODES, *supra* note 12, at 28.

21. LANQUETTE, *supra* note 19.

22. RHODES, *supra* note 12, at 303-09.

23. LANQUETTE, *supra* note 19, at 17-23.

24. Letter from Albert Einstein to Franklin D. Roosevelt, President of the United States (Aug. 2, 1939), available at <http://www.fdrlibrary.marist.edu/archives/pdfs/docs/worldwar.pdf>.

25. *Id.*

26. Letter from Franklin D. Roosevelt, President of the United States, to Albert Einstein (Oct. 19, 1939), available at <http://www.atomicarchive.com/Docs/Begin/Roosevelt.shtml>.

27. RHODES, *supra* note 12, at 448-49. Nuclear facilities were built in Oak Ridge, Tennessee and Hanford, Washington with the main assembly plant for the weapon located at Los Alamos, New Mexico. *Id.*

28. RHODES, *supra* note 12, at 448.

29. *The First Atomic Bomb is Detonated: 1945*, PBS (July 16, 1945), <http://www.pbs.org/wgbh/aso/databank/entries/dp45at.html>.

was so powerful that windows in civilian homes more than 100 miles away were blown out.³⁰ A huge mushroom cloud reached a height of 40,000 feet.³¹ Although Germany had unconditionally surrendered to the allies in May of 1945, Japan refused to stop fighting and rejected all calls for surrender. In late July 1945, President Harry Truman threatened Japan with “prompt and utter destruction” if Japan did not unconditionally surrender.³² Japan refused. President Truman ordered an American Boeing B-29 Superfortress to drop an atomic bomb on Japan. In the early morning of August 6, 1945, a single atomic bomb was dropped over the military supply and support city of Hiroshima, Japan.³³ Dubbed “Little Boy,” the bomb created a blast equivalent to sixteen kilotons of TNT.³⁴ The radius of complete destruction was about one mile and resultant fires spread for over four square miles.³⁵ People on the ground reported seeing a bright flash followed by a loud booming sound.³⁶ The death toll was somewhere between 70,000 to

30. *Id.*

31. *Id.*

32. *Potsdam Declaration: Proclamation Defining Terms for Japanese Surrender*, NAT’L SCI. DIGITAL LIBRARY (July 26, 1945), <http://www.ndl.go.jp/constitution/e/etc/c06.html>.

33. Stephen Sherman, *Paul Tibbets and the Enola Gay Led Mission That Dropped First Atomic Bomb on Hiroshima*, ACE PILOTS (Nov. 2002, updated June 29, 2011), http://acepilots.com/usaaf_tibbets.html. The bomb was dropped by the 393rd Bombardment Squadron B-29, dubbed the “Enola Gay.” *Id.* The pilot was Colonel Paul Tibbets. *Id.* The plane took off from an American airbase and flew for six hours to Japan. *Id.* The mission had a primary target of Hiroshima and alternate targets of Kokura and Nagasaki. *Id.* The bomb utilized uranium as the fissile material. *Id.* It was dropped at 08:15 and free fell for 44 seconds before exploding at a height of 1900 feet. See also, C. Peter Chen, *Atomic Bombing of Hiroshima and Nagasaki: 6 Aug 1945 – 9 Aug 1945*, World War II Database, http://ww2db.com/battle_spec.php?battle_id=49 (last visited Nov. 19, 2014).

34. John Malik, *The Yields of the Hiroshima and Nagasaki Explosions*, LOS ALAMOS NAT’L LAB. (Sept. 1985), <http://www.hiroshima-remembered.com/documents/00313791.pdf>; see also George D. Kerr et al., *Reassessment of the Atomic Bomb Radiation Dosimetry for Hiroshima and Nagasaki*, RADIATION EFFECTS RESEARCH FOUNDATION 42–43 (George D. Kerr & Robert W. Young eds., 2005)

35. W. McRaney & J. McGahan, *Radiation Dose Reconstruction U.S. Occupation Forces in Hiroshima and Nagasaki, Japan, 1945–1946*, DEF. NUCLEAR AGENCY (Aug. 6, 1980), <http://www.dtra.mil/documents/ntrp/relatedpub/DNATR805512F.pdf>.

36. Richard B. Frank, *Downfall: The End of the Imperial Japanese Empire* 264–65 (Penguin Books, Inc. 1999).

80,000 people, 20,000 of whom were Japanese military personnel.³⁷ Almost 70% of the city's buildings were destroyed.³⁸

When Japan still refused to surrender, President Truman ordered a second atomic attack by air. Just three days after the Hiroshima bombing, an American B-29 dropped a fourteen-pound plutonium core bomb nicknamed "Fat Man."³⁹ Fat Man exploded at 1650 feet over the city of Nagasaki, Japan.⁴⁰ This bomb had a force equivalent to twenty-one kilotons of TNT.⁴¹ Immediate casualties totaled somewhere between 40,000 to 75,000.⁴² Total deaths in Nagasaki neared 80,000 by the end of 1945.⁴³ As a direct consequence of the twin nuclear attacks, on August 14, 1945, Emperor Hirohito of Japan released a formal capitulation announcement, which ended World War II.⁴⁴ Almost seventy years later, Little Boy and Fat Man are the only two nuclear bombs that have ever been used in an attack by any country.

The next nation to acquire nuclear weapons was the totalitarian Soviet Union under the Dictator Joseph Stalin. By means of espionage, the Soviet Union was able to obtain a large quantity of useful information about the Manhattan Project, which included a copy of the secret "Smyth Report" detailing the official technical history of

37. C. Peter Chen, *Atomic Bombing of Hiroshima and Nagasaki*, HIROSHIMA DAY COMMITTEE, http://www.hiroshimacommittee.org/Facts_NagasakiAndHiroshimaBombing.htm (last visited July 12, 2014).
38. U.S. Strategic Bombing Survey: *The Effects of the Atomic Bombings of Hiroshima and Nagasaki, June 19, 1946. President's Secretary's File*, TRUMAN PAPERS, HARRY S. TRUMAN LIBRARY & MUSEUM (June 19, 1946), http://www.trumanlibrary.org/whistlestop/study_collections/bomb/large/documents/index.php?documentdate=1946-06-19&documentid=65&pagenumber=1.
39. CHARLES SWEENEY ET AL., *WAR'S END: AN EYEWITNESS ACCOUNT OF AMERICA'S LAST ATOMIC MISSION* 179, 213–15 (Avon Books, 1st ed. 1997).
40. George D. Kerr et al., *Bomb Parameters*, in REASSESSMENT OF THE ATOMIC BOMB RADIATION DOSIMETRY FOR HIROSHIMA AND NAGASAKI 42, 47, THE RADIATION EFFECTS RESEARCH FOUNDATION (George D. Kerr & Robert W. Young eds., 2005).
41. PAUL HAM, *HIROSHIMA NAGASAKI: THE REAL STORY OF THE ATOMIC BOMBINGS AND THEIR AFTERMATH* 367 (Thomas Dunne Books 2014) (stating that although the bomb was more powerful than the Hiroshima bomb, the effect was contained by the surrounding hillsides of the city).
42. *Id.*
43. *Nagasaki Marks Tragic Anniversary*, *People's Daily* (Aug. 10, 2005), http://english.people.com.cn/200508/10/eng20050810_201424.html (the radius of total destruction was one mile with resultant fires reaching two miles).
44. RICHARD B. FRANK, *DOWNFALL: THE END OF THE IMPERIAL JAPANESE EMPIRE* 318–19 (Penguin Books, Inc. 2001).

the Manhattan Project.⁴⁵ On August 29, 1949, the Soviets tested their first fission bomb, the “Joe-1,” ending America’s monopoly and sparking the start of the nuclear arms race.⁴⁶ In response to the Soviets, President Truman quickly ordered the creation of the far more powerful hydrogen bomb, and in 1952, the U.S. tested its first thermonuclear/hydrogen bomb in the Marshall Islands.⁴⁷ In 1953, the Soviets tested their first thermonuclear bomb, and in 1954, the U.S. detonated their first practical thermonuclear weapon at Bikini Atoll in the Marshall Islands.

With the coming of the Cold War era, the United States and the Soviet Union continued nuclear tests, ever improving the weapons in size and efficiency. Along with nuclear tipped missiles, nuclear bombs were developed in sizes that would allow a single plane to carry multiple units. From a strategic perspective, the acquisition of nuclear weapons by the two super powers led to the imminently pragmatic doctrine of Mutually Assured Destruction (MAD).⁴⁸ Under MAD there are three simple components, or stages, that ensure nuclear weapons will never be used. Stage 1 of MAD envisions one of the super powers launching a first strike against the other with their nuclear arsenal. Stage 2 of MAD envisions a massive nuclear retaliation by the attacked nation. Stage 3 of MAD results in the total annihilation of both nations. In short, no nation would start a nuclear war unless,

45. Henry DeWolf Smyth, *Atomic Energy for Military Purposes: The Official Report on the Development of the Atomic Bomb under the Auspices of the United States Government*, NUCLEAR WEAPON ARCHIVE (July 1, 1945), available at <http://nuclearweaponarchive.org/Smyth/>.

46. Michael D. Gordin & Joanne J. Myers, *Red Cloud at Dawn: Truman, Stalin, and the End of the Atomic Monopoly*, CARNEGIE COUNCIL FOR ETHICS IN INT’L AFFAIRS, http://www.carnegiecouncil.org/studio/multimedia/20100125/index.html#:pf_printable (last visited July 9, 2014). Along with captured German scientists, Russian physicist Yuli Khariton spearheaded a program to make an atomic weapon. *Id.*

47. SINDHU VIJAYA KUMAR, LEGAL REGIME ON THE USE OF NUCLEAR WEAPON AND ITS IMPACT ON HUMANITY: PROBLEMS AND PERSPECTIVES 177 (2012), available at <http://shodhganga.inflibnet.ac.in:8080/jspui/handle/10603/15952>. The blast was 450 times the power of the bomb in Nagasaki and left a crater that was 6240 feet wide and 164 feet deep. *Id.*

48. Alexander Yereskovsky, *The Global Security Environment and U.S.-Russian Strategic Relations in the 21st Century: Partners or Rivals?*, BELFER CTR. FOR SCI. AND INT’L AFFAIRS (Aug. 2000), http://belfercenter.ksg.harvard.edu/publication/2956/global_security_environment_and_usussian_strategic_relations_in_the_21st_century.html.

of course, it could conduct a first strike that would completely disable the opponent's ability to respond.

As might be predicted, under the MAD scenario, each nation seeks to build better nuclear delivery systems in order to deny its opponent the ability to conduct a first strike that would overwhelm the attacked nation's ability to launch a retaliation strike. Winston Churchill summed up the simplicity of MAD by stating: "The greater the threat of mutual destruction, the safer the world would be."⁴⁹

The only real test of MAD occurred during the 1962 Cuban Missile Crisis between the United States and the Soviet Union.⁵⁰ The first major step in reducing the impact of nuclear weapons became a side issue in light of the stark realization of what could have occurred in a true exchange of nuclear weapons. The first effort to deal with a world where nuclear weapons exist was aimed at protecting the natural environment from the effects of nuclear testing, and not limiting the production or spread of nuclear weapons. The 1963 Limited Test Ban Treaty (hereinafter, LTBT)⁵¹ prohibited nuclear weapon testing in the atmosphere, under water, and in outer space. Only underground testing was allowed.⁵² While many nations have formally adopted the Treaty, Communist China, North Korea, France, and others have not signed the Treaty.⁵³

With the LTBT passed, the United States and the Soviet Union pursued a second international agreement known as the Treaty on the

49. KUMAR, *supra* note 47, at 6.

50. Tom de Castella, *How Did We Forget About Mutually Assured Destruction*, BBC NEWS MAG. (Feb. 15, 2012), <http://www.bbc.com/news/magazine-17026538>. When the Soviet Union under Nikita Khrushchev attempted to station nuclear weapons on Cuba, President Kennedy ordered a U.S. naval blockade around the island of Cuba with orders to turn back any Soviet ships with nuclear missiles. *Id.* On October 28, 1962, Soviet ships approached the U.S. blockade and then turned around and headed back to the Soviet Union. *Id.* Shortly after, Khrushchev announced that he had ordered the removal of all weapons from Cuba. *Id.*

51. Dennis Hevesi, *Dr. Louise Reiss, Who Helped Ban Atomic Testing, Dies at 90*, N.Y. TIMES, (Jan. 10, 2011), http://www.nytimes.com/2011/01/10/science/10reiss.html?_r=0.

52. *Id.*

53. Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, U.S. DEP'T OF STATE, <http://www.state.gov/t/isn/4797.htm#signatory>.

Non Proliferation of Nuclear Weapons (hereinafter, NPT).⁵⁴ Widely considered the most successful of all treaties addressing nuclear weapons, the NPT is focused on halting the spread of nuclear weapons to non-nuclear countries, while preserving the option for current nuclear nations to use nuclear power for peaceful purposes.⁵⁵ Opened by the United Nations for signature on July 1, 1968, a total of 190 countries have signed the treaty, although North Korea withdrew its signature in 2003.⁵⁶ The four United Nations member states that have declined to sign the treaty are India, Pakistan, Israel, and South Sudan.⁵⁷ The objecting states point out the unfair advantage enjoyed by the current nuclear-armed states.⁵⁸ Indeed, the NPT demands that all nuclear-armed nations agree that they will not help other non-nuclear nations acquire or build nuclear weapons and that the non-nuclear nations agree not to acquire or develop nuclear weapons or any other nuclear explosive devices.⁵⁹

Working off of the LTBT, the Comprehensive Nuclear-Test Ban Treaty (CTBT) was adopted by the United Nations General Assembly in 1996.⁶⁰ The CTBT seeks to stop the testing of nuclear weapons. Despite the fact that the United States, China, Iran, Egypt, Israel, India, North Korea, and Pakistan have either failed to ratify or failed to sign the treaty, only India (in 1998), Pakistan (in 1998), and North Korea (in 2006, 2009, and 2013) have tested a nuclear weapon since the CTBT was adopted by the United Nations.⁶¹

54. United Nations Office for Disarmament Affairs, *Treaty on the Non-Proliferation of Nuclear Weapons (NPT)*, UNITED NATIONS (July 15, 2014), available at <http://www.un.org/disarmament/WMD/Nuclear/NPTtext.shtml> (last visited July 15, 2014).

55. *Id.*

56. *North Korea Leaves Nuclear Pact*, CNN (Jan. 10, 2003), http://www.cnn.com/2003/WORLD/asiapcf/east/01/10/nkorea.treaty/index.html?_s=PM:asiapcf.

57. Thomas Graham, Jr., *Avoiding the Tipping Point*, ARMS CONTROL ASS'N (Nov. 2004).

58. *Id.*

59. *Id.*

60. G.A. Res. 50/245, U.N. GAOR, 50th Sess. Supp. No. 49 (Vol. II), U.N. Doc. A50/1027 (Vol II.), at 14 (Sept. 10, 1996).

61. *History of Nuclear Testing: World Overview*, CTBTO PREPARATORY COMMISSION (2012), <http://www.ctbto.org/nuclear-testing/history-of-nuclear-testing/world-overview/>. A Preparatory Commission was established for the CTBTO to monitor compliance with the treaty. The commission created a monitoring system that consists of 337 functional facilities across the globe. These stations transmit geophysical data to a single international data center in Vienna, Austria. This informational only data is then made available to the signatories of the treaty. *Id.*

As of this writing, with 193 nations in the United Nations, there are only nine states known to possess nuclear weapons – the United States, Russia, Britain, France, China, India, Pakistan, Israel, and North Korea.⁶² South Africa disassembled all its nuclear weapons in the 1990s, following the end of Apartheid,⁶³ and the Soviet Union’s client states quickly returned their nuclear weapons to Russia with the collapse of Soviet Union in 1991.⁶⁴ Today, the United States and Russia continue to lead the world in the volume of nuclear weapons. The United States has an estimated 2,150 active warheads with a total stockpile of 7,700.⁶⁵ Russia has an estimated 1,600 active warheads with a total stockpile of 8,000.⁶⁶ Britain has an estimated 160 active warheads with a total stockpile of 225.⁶⁷ France has an estimated active arsenal of 290 warheads with a total stockpile of 300.⁶⁸ Communist China tested their first atomic bomb in October of 1964.⁶⁹ Although the number of active warheads in their arsenal is unknown, their total stockpile is believed to be near 250.⁷⁰

In 1974, India tested their first nuclear weapon, “Smiling Buddha.”⁷¹ India is thought to have a nuclear weapons stockpile of 90-110 warheads.⁷² Pakistan tested its first nuclear weapon in May of 1998, and is thought to have between 100 and 120 nuclear warheads.⁷³

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62. Status of World Nuclear Forces, Fed’n of Am. Scientists (Apr. 30, 2014), <http://fas.org/issues/nuclear-weapons/status-world-nuclear-forces/>.
63. Nuclear Weapons Program (South Africa), Fed’n of Am. Scientists, <http://fas.org/nuke/guide/rsa/nuke/> (last visited July 15, 2014).
64. *Id.*
65. FED’N OF AM. SCIENTISTS, *supra* note 62.
66. FED’N OF AM. SCIENTISTS, *supra* note 62.
67. FED’N OF AM. SCIENTISTS, *supra* note 62.
68. FED’N OF AM. SCIENTISTS, *supra* note 62.
69. Preparatory Comm’n for the Comprehensive Nuclear-Test-Ban Treaty Org., 16 October 1964 – First Chinese Nuclear Test, Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Org., <http://www.ctbto.org/specials/testing-times/16-october-1964-first-chinese-nuclear-test/> (last visited Oct. 3, 2014).
70. Hans M. Kristensen, *STRATCOM Commander Rejects High Estimates for Chinese Nuclear Arsenal*, FED’N OF AMERICAN SCIENTISTS (Aug. 22, 2012), <http://fas.org/blogs/security/2012/08/china-nukes/>.
71. Preparatory Comm’n for the Comprehensive Nuclear-Test-Ban Treaty Org., 18 May 1974 – *Smiling Buddha*, PREPARATORY COMMISSION FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORG., <http://www.ctbto.org/specials/testing-times/18-may-1974-smiling-buddha/> (last visited Oct. 3, 2014).
72. *See* FED’N OF AMERICAN SCIENTISTS, *supra* note 62.
73. *See* FED’N OF AMERICAN SCIENTISTS, *supra* note 62.

While it is unknown whether North Korea has developed a warhead that is small enough to be carried on a missile, their current stockpile of nuclear warheads is ten.⁷⁴ Israel keeps its nuclear capabilities confidential, but is thought to have produced a nuclear weapon as early as 1967.⁷⁵ The actual active arsenal of Israeli nuclear warheads is unknown, but estimates range between 60 and 200 warheads.⁷⁶

III. THE OBAMA DOCTRINE

“We may no longer live in the fear of global annihilation, but so long as nuclear weapons exist, we are not truly safe.”⁷⁷

Barack H. Obama

In the first year of his presidency, President Obama delivered a number of broad policy speeches, both internationally and nationally, on a variety of lofty aspirations ranging from how to end the War on

74. See FED’N OF AMERICAN SCIENTISTS, *supra* note 62.

75. Avner Cohen, *Crossing the Threshold: The Unknown Nuclear Dimension of the 1967 Arab-Israeli War and Its Contemporary Lessons*, ARMS CONTROL ASSOCIATION (June 2007), http://www.armscontrol.org/act/2007_06/Cohen.

76. PHILLIP SCHELL & HANS KRISTENSEN, ISRAELI NUCLEAR FORCES: SIPRI YEARBOOK 2013 321–23 (2013).

77. Barack Obama, U.S. President, Remarks by President Obama at the Brandenburg Gate in Berlin, Ger. (June 19, 2013), <http://www.whitehouse.gov/the-press-office/2013/06/19/remarks-president-obama-brandenburg-gate-berlin-germany>; see Kingston Reif, *Fact Sheet: President Obama’s Berlin Speech and New Nuclear Weapons Policy Guidance*, CTR. FOR ARMS CONTROL AND NON-PROLIFERATION (Aug. 19, 2013), http://armscontrolcenter.org/issues/nuclearweapons/articles/fact_sheet_the_nuclear_posture_revised_implementation_study/.

Terror⁷⁸ – by means of simply changing the narrative⁷⁹ – to ridding the world of nuclear weapons. In espousing his goal of nuclear disarmament and leading the world toward this goal, Obama chose an international setting in Prague, the capital of the Czech Republic.⁸⁰ Echoing his political campaign slogan of “Hope and Change,”⁸¹ President Obama blissfully promised that America would maintain an arsenal capable of deterring any potential nuclear attack, but nevertheless simultaneously “reduce the role of nuclear weapons in our national security strategy.”⁸²

Since Prague, President Obama has taken specific steps to implement his utopian vision of a nuclear weapon-free world. First, in 2010 the Obama Administration released its official guidelines for a nuclear free world in its Nuclear Posture Review (NPR).⁸³ The Obama NPR listed five key objectives: (1) prevent nuclear proliferation and

78. The phrase “War on Terror” has been used both as a metaphor to describe a general conflict against all radical Islamic international terrorist groups, and to describe the combat operations against the Taliban in 2001 and Saddam Hussein in 2003. The more precise use of the term is to describe the ongoing international armed conflict between the United States of America and the “Taliban, al-Qa’eda, or associated forces.” See Military Comms Act of 2006, Pub. L. No. 109-366, 120 Stat. 2600, 10 U.S.C. § 948 (2006) [hereinafter MCA]. One of the clearest indications of the Congressional authorization for war and for the use of the law of war, the MCA lists “unlawful enemy combatants” as

- (i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda [sic], or associated forces); or
- (ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

Id. at §948(a).

79. See Jeffrey F. Addicott, *Efficacy of the Obama Policies to Combat Al-Qa’eda, the Taliban, and Associated Forces – The First Year*, 30 PACE L. REV. 340, 362–63 (2010) (discussing the confusion associated with the term War on Terror and supporting an Obama term “War Against Al-Qa’eda” as better suited to describe the conflict).

80. Remarks at Hradcany Square, *supra* note 1.

81. Two of Obama’s campaign slogans were: “Change We Can Believe In” and “Change We Need.” *Presidential Campaign Slogans*, PRESIDENTS USA, <http://www.presidentsusa.net/campaignslogans.html> (last visited July 15, 2014).

82. Remarks at Hradcany Square, *supra* note 1.

83. *Nuclear Posture Review Report*, U.S. DEP’T OF DEF., at iii (Apr. 2010), <http://www.defense.gov/npr/docs/2010%20nuclear%20posture%20review%20report.pdf>.

terrorism; (2) reduce the role of nuclear weapons in America's national security strategy; (3) maintain strategic deterrence and stability at lower nuclear force levels; (4) strengthen regional deterrence and reassure American allies and partners; and (5) sustain a safe, secure, and effective nuclear arsenal.⁸⁴

Second, rubricated by the premise that the two super powers much abolish their arsenals of nuclear weapons, the United States signed the New Strategic Arms Reduction Treaty (New START) with Russia in 2011.⁸⁵ On paper, the New START is designed to reduce the active nuclear weapons arsenals of both nations. If successful, the treaty will reduce each nation's number of strategic nuclear missile launchers by half.⁸⁶ In addition, the treaty limits the number of deployed nuclear warheads for each to 1550.⁸⁷ The treaty also limits the number of deployed Intercontinental Ballistic Missiles (ICBM) launchers, Submarine-Launched Ballistic Missile Launchers (SLBM), and heavy bombers capable of delivering nuclear weapons to 700.⁸⁸ Most importantly, New START does create a new inspection and verification system that allows for 18 onsite inspections per year to verify compliance with the reduction requirements.⁸⁹ In turn, the requirements of the treaty must be met within seven years and the treaty is set to expire after ten years with an option to renew.⁹⁰

Third, in the wake of the NPR, President Obama directed his administration to conduct a detailed review of the United States' nuclear deterrence requirements for his new employment strategy. Interestingly, the results of the review were released by the White House in tandem with another Obama speech in another foreign nation.⁹¹ On July 19, 2013, in Berlin, Germany, Obama

84. *Id.*

85. *U.S.-Russia Nuclear Arms Treaty Finalized*, USA TODAY (Feb. 5, 2011), http://usatoday30.usatoday.com/news/world/2011-02-05-start-treaty_N.htm.

86. Peter Baker, *Twists and Turns on Way to Arms Pact With Russia*, N.Y. TIMES (Mar. 26, 2010), <http://www.nytimes.com/2010/03/27/world/europe/27start.html?pagewanted=all>.

87. *Id.*

88. *Key Facts About the new START Treaty*, WHITE HOUSE (Mar. 26, 2010), <http://www.whitehouse.gov/the-press-office/key-facts-about-new-start-treaty>.

89. Michael E. O'Hanlon, *New START Shouldn't Be Stopped*, POLITICO, (Nov. 18 2010), <http://www.politico.com/news/stories/1110/45292.html>.

90. *See Key Facts About the new START Treaty*, *supra* note 88.

91. *Nuclear Weapons Employment Strategy*, *supra* note 8.

enthusiastically discussed the results of the nuclear weapons employment strategy of the United States. The White House “Fact Sheet” was headlined as “the latest in a series of concrete steps the President has made to advance his Prague agenda and the long-term goal of achieving the peace and security of a world without nuclear weapons.”⁹² Incredibly, echoing back to his unilateral decision to dismantle President George Bush’s missile defense plan for Europe,⁹³ President Obama unilaterally announced that the United States would pursue further nuclear arsenal reductions by reducing nuclear weapons stores to one third below what was called for in the New START!

After comprehensive review of our nuclear forces, the President has determined that we can ensure the security of the United States and our allies and partners and maintain a strong and credible strategic deterrent while safely pursuing up to a one-third reduction in deployed strategic nuclear weapons from the level established by the New START Treaty. The U.S. intent is to seek negotiated cuts with Russia so that we can continue to move beyond Cold War nuclear postures.⁹⁴

Stressing that he would prefer to achieve these reductions through an agreement with Russia,⁹⁵ if Russia is unwilling to cooperate, there is nothing to suggest that the Obama Administration will not pursue the one-third reduction unilaterally. Even with the dawn of what the cover of *Time* magazine calls a Second Cold War between Russia and America, there is no indication that President Obama will halt his plan to reduce.⁹⁶ The official statement concludes with the President’s

92. *Nuclear Weapons Employment Strategy*, *supra* note 8 (noting the treaty does not call for a reduction for the non-deployed nuclear warheads).

93. Jack David & Melanie Kirkpatrick, *A New Nuclear-Arms Race*, WALL ST. J., (Sept. 17, 2009), <http://online.wsj.com/news/articles/SB10001424052970204518504574419173653298610> (discussing how Obama’s unilateral actions in reducing American force projection by dismantle the Bush-era missile defense system in Europe would actually spark nuclear proliferation).

94. *Id.*

95. Reif, *supra* note 77.

96. Simon Shuster, *Cold War II: The West is Losing Putin’s Dangerous Game*, TIME, (Aug. 4, 2014) (the article was featured on the cover of the magazine and discussed the new frictions between Russia and the United States).

direction to the Department of Defense (DOD) to “use the new guidance to begin the process of updating and aligning its directives and contingency plans in order for this policy to be implemented over the course of the next year.”⁹⁷

IV. THE FLAWED OBAMA APPROACH

*“As President, I changed our nuclear posture to reduce the number and role of nuclear weapons in our national security strategy. I made it clear that the United States will not develop new nuclear warheads. And we will not pursue new military missions for nuclear weapons. We’ve narrowed the range of contingencies under which we would ever use or threaten to use nuclear weapons.”*⁹⁸

Barack H. Obama

The above quote was taken from a 2012 speech given in Seoul, South Korea, by President Obama. In short, his vision of “reducing the number and role”⁹⁹ for the future use of nuclear weapons in the American defense posture places the United States behind the vision of Russia and China.¹⁰⁰ Given the fact the people of South Korea rely heavily on the United States as their nuclear guarantor against the nuclear-armed and overtly aggressive North Korea, the Obama speech must have seemed quite strange.¹⁰¹

Paradoxically, from a global perspective, the Obama approach to nuclear non-proliferation will have the exact opposite effect. More nations, like South Korea, will surely be forced to acquire nuclear weapons, not less. It is illogical to assume that America’s friends and allies will continue to forswear the development of nuclear weapons if they lose confidence in America’s commitment to protect them from nuclear-armed enemies. When the Obama Administration unilaterally

97. *Nuclear Weapons Employment Strategy*, *supra* note 8.

98. Barack Obama, U.S. President, *Remarks by President Obama at Hankuk University in Seoul, Republic of Korea*, OFFICE OF THE PRESS SEC’Y (Mar. 26, 2012), <http://www.whitehouse.gov/the-press-office/2012/03/26/remarks-president-obama-hankuk-university>.

99. *Id.*

100. See JONATHAN MEDALIA ET AL., CONG. RESEARCH SERV., R40439, NUCLEAR WEAPONS R&D ORGANIZATIONS IN NINE NATIONS 3–4 (May 1, 2013) (Communist China has a massive nuclear research and development system to advance its nuclear capabilities).

101. See Baker & Gale, *supra* note 10.

abandoned the Bush-era plan for a European missile defense system in 2009, this act signaled to the “30 countries that the U.S. has encouraged to forego the development of nuclear weapons by promising protection under the U.S. nuclear umbrella,” that President Obama was not a trustworthy ally.¹⁰² All his subsequent actions vis a vis nuclear weapons have followed suit.

The New START treaty with Russia, the 2010 NPR, and the 2013 White House Nuclear Weapons Employment Strategy are all evidence of a policy that is directly aimed at reducing the U.S. nuclear arsenal, whether as a member of a worldwide initiative, or as a singular effort. Indeed, as one critic observed, the Obama Administration simply chose the one-third reduction first and then attempted to justify the figure after the fact.¹⁰³ Clearly, the driving force behind Obama’s nuclear weapons policy is a unilateral reduction of America’s nuclear arsenal, not the achievement of proper levels to meet the country’s strategic deterrence needs. Such behavior smacks of appeasement.

In this context, a significant concern centers on the NPR’s moratorium on the development of new nuclear warheads. Since NPR, no new nuclear weapons have been produced by the United States.¹⁰⁴ This moratorium has forced the development of various life extension programs (LEP) for American nuclear warheads.¹⁰⁵ The greatest challenge in this regard is finding ways to replace the aging core or pit of a nuclear warhead made from plutonium-238.¹⁰⁶ Cannibalizing and reusing parts from decommissioned nuclear missiles should be done only as a last resort, not as a first choice. In addition, the NPR greatly harms the delivery systems used for nuclear weapons by simply eliminating such tactical weapons as the tomahawk sea-launched cruise missile (SLCM).¹⁰⁷ One nuclear weapons policy expert assessed

102. David & Kirkpatrick, *supra* note 93.

103. Baker Spring, *Disarm Now, Ask Questions Later: Obama’s Nuclear Weapons Policy*, HERITAGE FOUND I (July 12, 2013), <http://www.heritage.org/research/reports/2013/07/disarm-now-ask-questions-later-obamas-nuclear-weapons-policy>.

104. Barack Obama, *supra* note 98.

105. MEDALIA, *supra* note 100, at 1-2.

106. MEDALIA, *supra* note 100, at 1-2 (noting the pit is the fuel for the primary nuclear explosion produced by the detonation of high explosives, which in turn provides the energy for the detonation of the main stage).

107. AMY F. WOOLF, CONG. RESEARCH SERV., RL32572, NONSTRATEGIC NUCLEAR WEAPONS 15 (Jan. 3, 2014).

this as meaning that the Obama Administration has improperly “concluded that the United States could reassure U.S. allies in Asia, and deter threats to their security, without deploying sea-based cruise missiles to the region in a crisis.”¹⁰⁸ Furthermore, the promise from the Obama Administration to develop new delivery technology for U.S. nuclear weapons is rather impractical considering the current budget situation in the United States. It is imperative that any further reduction in the U.S. nuclear arsenal not affect the ICBM system of the nation’s homeland. Under MAD, the lack of missile silos in the U.S. would cripple its counterstrike capability and make America vulnerable to an effective first strike that could eliminate any viable option of response.

Again, if the primary goal of the 2010 NPR is to prevent the proliferation of nuclear weapons, it is not producing this result. North Korea is continuing to pursue the development of more and stronger nuclear weapons.¹⁰⁹ Iran is also continuing its quest for nuclear weapons, despite international pressure for the Iranians to halt development and testing.¹¹⁰ Communist China is also extremely guarded about its expansion of nuclear weapons and newer delivery systems.¹¹¹ Apparently, only the Obama Administration seems to be committed to the unilateral halting and slowing of nuclear weapons.

The real effect of America’s unilateral reductions is that U.S. allies will lose the assurance of protection given through nuclear weapons. While it is true that many economically powerful nations have signed the various nonproliferation and weapons testing treaties it was certainly based upon the assumption of assured protection from the United States. Apart from the trust factor, whether the U.S. would actually honor its treaty agreements with allies, if the U.S. continues to unilaterally reduce its nuclear arsenal, many nations may elect to develop their own nuclear weapons, viewing America as unable to

108. *Id.*

109. Choe Sang-Hun, *North Korea Vows to Use ‘New Form’ of Nuclear Test*, N.Y. TIMES (Mar. 30, 2014), http://www.nytimes.com/2014/03/31/world/asia/north-korea-promises-new-form-of-nuclear-test.html?_r=0.

110. Oren Dorell, *Iran Advancing its Nuclear Program Despite Pact With West*, USA TODAY (Feb. 28, 2014), <http://www.usatoday.com/story/news/world/2014/02/28/iran-nuclear-economic-advance/5835935/>.

111. Hans M. Kristensen & Robert S. Norris, *Chinese Nuclear Forces, 2013*, 69 BULLETIN OF THE ATOMIC SCIENTISTS 80 (Nov. 1, 2013), <http://bos.sagepub.com/content/69/6/79.full.pdf+html>.

respond in the event an ally needs assistance. Whether it would be Canada to the immediate north, or South Korea, these nations are dependent on the U.S. nuclear arsenal for their own protection. Reduction in the U.S. nuclear arsenal will not only fail to reduce proliferation – current non-nuclear weapons States will begin developing their own nuclear weapons out of necessity – but will undoubtedly lead other nuclear powers like China to increase their nuclear arsenals.

On the other hand, smaller nuclear nations such as Israel will never agree to nuclear disarmament no matter the incentivizing, economically or otherwise. Even the most cursory view of the geopolitical environment surrounding the tiny nation of Israel would conclude that it would be irrational for Israel not to possess a nuclear force. Without the aid of the United States or other significant allies, the massive conventional forces of their enemies would overwhelm them in battle. Prudent smaller nations understand the realities of the world.

The Obama Administration has cited reduced fiscal costs as a benefit of the reduction of America's nuclear arms.¹¹² Of course, the focus should be on the cost effectiveness of the reduction. True, the reduction will lower the overall costs of America's nuclear weapons program, but these savings come at the price of reduced security. The deterrent capabilities of the United States are undoubtedly lessened as a result of Obama's policy. This is a cost that cannot be justified by dollars. Fiscal responsibility is not the key goal of the defense budget.

Under MAD, deterrence is achieved through the practical realization that no nuclear state will attack another nuclear state, as the nuclear response would be unbearable.¹¹³ The Obama policy of unilateral reductions sends the wrong message, particularly considering where those cuts would occur. The United States maintains a triad of deployment options for nuclear weapons to include submarine launched missiles, heavy bomber deployed weapons, and ICBMs. All of the U.S. nuclear submarines are located at two ports – although not all are stationed in port at the same time – and all of the U.S. nuclear bombers are located at two air bases – although not all are

112. *Nuclear Weapons Employment Strategy*, *supra* note 8.

113. Yereskovsky, *supra* note 48.

grounded at the same time.¹¹⁴ This represents only four primary targets areas for an enemy attack. This would leave the ICBM arsenal in underground silos as the largest deterrent. Should the Obama Administration choose to eliminate missile silos in the U.S. to achieve the one-third cuts, the number of targets for an enemy aimed at a disabling first strike will be dramatically reduced.⁷⁸

The problem is that current and potential nuclear powers see this as a golden opportunity to close the gap between themselves and the United States, the formerly untouchable giant. The Obama policy is based on unilateral concessions, signaling weakness to nuclear and non-nuclear powers alike. In a world where nuclear weapons exist, the only realistic standard of behavior calls for the United States to maintain a robust nuclear capability, second to none, so that no nation would ever consider using a nuclear weapon. Unfortunately, this simple truism is lost on Obama.

V. WAR

*"In God's mercy we outran Germany."*¹¹⁵

Winston S. Churchill

Of course, the premise that underscores the Obama Doctrine rests upon a total misunderstanding of the root causes of war. Nuclear weapons do not cause war. Even the most elementary understanding of the history of mankind reveals that the world will never be at peace.¹¹⁶ Like crime, war will always exist as a component of the real world.¹¹⁷ As demonstrated by the massive disarmament movement following World War I, a unilateral reduction in weapons to achieve peace is a recipe for disaster, and only encourages aggressive behavior

114. Yereskovsky, *supra* note 48.

115. Winston S. Churchill, *In God's Mercy we Outran Germany*, DAILY EXPRESS (Aug. 7, 1945), <http://www.ukpressonline.co.uk/ukpressonline/open/simpleSearch.jsp?is=1> (expressing how the United States developed atomic weapons before Germany as an expression of the belief that God controls history with His overruling will).

116. *But see* KATHERINE STARK TAPPING & CATHERINE BRADEN YEAMMANS, *THE LEGACY OF THE DOCTRINAL TEACHINGS OF ROBERT B. THIEME, JR.* 53-55 (2014) (discussing the Christian belief in a future Millennium period on the earth where Jesus Christ will rule a world at peace for 1,000 years from Jerusalem).

117. Chris Hedges, *What Every Person Should Know About War*, N.Y. TIMES (July 6, 2003), <http://www.nytimes.com/2003/07/06/books/chapters/0713-1st-hedges.html>.

in totalitarian regimes. A better use of resources would concentrate on addressing some of the root causes for aggression and war. In this context, what has been well established are the characteristics of those nations that have a high propensity for engaging in aggressive war, terrorism, and human rights abuses. National Security Law expert and Director of the Center for National Security Law at the University of Virginia School of Law, Professor John Norton Moore, argues that totalitarian regimes are considerably more likely to resort to aggressive violence than democracies.¹¹⁸ Professor Moore terms this phenomenon the “radical regime” syndrome:

A radical totalitarian regime. . . seems to blend together a mixture of a failing centrally planned economy, severe limitations on economic freedom, a one-party political system, an absence of an independent judiciary, a police state with minimal human rights and political freedoms at home, a denial of the right to emigrate, heavy involvement of the military in political leadership, a large percentage of the GNP devoted to the military sector, a high percentage of the population in the military, leaders strongly motivated by an ideology of true beliefs including willingness to use force, aggressively anti-Western and antidemocratic in behavior, and selective support for wars of national liberation, terrorism, and disinformation against Western or democratic interests.¹¹⁹

Understanding Moore’s framework would lead to policies that would confront the totalitarian regime, not appease it.

As to the issue of the legality of nuclear weapons on the battlefield, United States’ domestic law does not outlaw nuclear weapons.¹²⁰ Similarly, international law does not outlaw the use of nuclear weapons in war. This is well established under the law of

118. JOHN NORTON MOORE, NATIONAL SECURITY LAW 61 (John Norton Moore & Robert F. Turner eds., Carolina Academic Press, 2d ed. 2005).

119. *Id.*

120. See DEPARTMENT OF ARMY, FIELD MANUAL 27-10, THE LAW OF LAND WARFARE, para. 2 (July 1956). *available at* http://www.loc.gov/r1/frd/Military_Law/pdf/law_warfare-1956.pdf. (a compilation of all relevant treaties and customary international law dealing with the law of war. The Army has prepotency for the law of war.)

war¹²¹ and customary international law.¹²² Nuclear weapons can be used in self-defense. Article 51 of the United Nations Charter sets out the general framework for determining the right of self-defense in the context of an act of aggression by another State, or when force may be lawfully employed by a nation acting on its own behalf on for another.¹²³

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121. The primary international treaty dealing with the law of war is the 1949 Geneva Conventions. The Geneva Conventions are set out in four categories:
- (1) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field August 12, 1949, , 6 U.S.T. 3114, T.I.A.S. No. 3362, 75 U.N.T.S. 31;
 - (2) Geneva Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, August 12, 1949, 6 U.S.T. 3217, T.I.A.S. No. 3363, 75 U.N.T.S. 85;
 - (3) Geneva Convention Relative to the Treatment of Prisoners of War, August 12, 1949, 6 U.S.T. 3316, T.I.A.S. No. 3364, 75 U.N.T.S. 135;
 - (4) Geneva Convention Relative to the Protections of Civilian Persons in Time of War, August 12, 1949, , 6 U.S.T. 3316, T.I.A.S. No. 3365, 75 U.N.T.S. 287.
122. RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 102 (1987) (customary international law consists of all those binding norms recognized and practiced by nations).
123. See U.N. Charter art. 51, para 1. The analytical framework for the use of force is found in Article 51 of the U.N. Charter, which codifies the “inherent right of self-defense.” *Id.* The inherent right of self-defense refers to the right of a country to unilaterally engage in acts of self-defense; regardless of what any other nation or organization, to include the United Nations, may or may not do. This is a well-known and ancient component of international law, which predates any international treaty. *Id.* Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures to maintain international peace and security. Measures taken by Members in the exercise of the right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Id.

VI. UNITED STATES' MILITARY POWER

*"When America steps back. . .trouble will fill that vacuum."*¹²⁴
Condoleezza Rice

The view that America is so powerful that it can afford to cut nuclear weapons as part of its military arsenal is incorrect. The international threats facing the United States are varied. Apart from the rising threat of radical Islam in the Middle East and North Africa, other regional conflict zones are currently in play to include the East and South China Seas and Eastern Europe. To confront the challenges – current and emerging – the United States maintains a standing active duty military, and has wisely entered into a series of defense agreements with various allies around the world.

The presence of American military “boots on the ground” overseas is best reflected by the 2013 Base Structure Report (BSR).¹²⁵ The Department of Defense specifies in the BSR that 598 known military sites are located overseas and ninety-seven military sites are located in territories of the United States.¹²⁶ The vast majority of the foreign sites are located in Germany (179 sites), Japan (109 sites), and South Korea (83 sites).¹²⁷ Approximately 125,000 American active duty military personnel man these sites located outside of the United

124. Mike Miller, Condi Rice Talks About Rising Threats in the World: ‘When America, Steps Back, Trouble Will Fill That Vacuum’, INDEP. J. REV. (Apr. 2014), <http://www.ijreview.com/2014/03/124654-condi-rice-obamas/>.

125. DEP’T OF DEF., BASE STRUCTURE REPORT, FISCAL YEAR 2013 BASELINE: A SUMMARY OF THE DEPARTMENT OF DEFENSE’S REAL PROPERTY INVENTORY 2–5 (June, 24, 2013), available at www.acq.osd.mil/ie/download/bsr/Base%20Structure%20Report%202013_06242013.pdf [hereinafter BSR 2013] (defining “site” as any “Physical (geographic) location that is or was owned by, leased to, or otherwise possessed by a DoD Component). Each site is assigned to a single installation. *Id.* A site may exist in one of three forms: *land only* – where no facilities are present; *facility or facilities only* – where there the underlying land is neither owned nor controlled by the government, and *land with facilities* – where both are present; defining “facilities” as “buildings, structures, and linear structures”; defining “buildings” as “[a] roofed and floored facility enclosed by exterior walls and consisting of one or more levels that is suitable for single or multiple functions”; defining “structures” as “[a] facility other than a building or linear structure constructed on or in the land (e.g., tower, storage tank, wharf, pier); defining “linear structures” as “A facility whose function requires that it traverse land (e.g., runway, road, rail line, pipeline, fence, pavement, electrical distribution line) and is reported by a linear unit of measure.” *Id.*

126. *Id.* at 7.

127. *Id.*

States (as of March 2014 there were roughly 1.3 million active duty members in the U.S. armed forces).¹²⁸

In addition to stationing military forces overseas, the United States has entered into numerous bilateral and multilateral collective defense treaties with other friendly nations.¹²⁹ These range from agreements establishing U.S. military bases for American military forces in a particular host nation, to providing actual military assistance to another nation in time of war.¹³⁰ The use of these mutual defense agreements has enabled the United States to maintain a substantial military footprint across the globe and to signal a strong message of deterrence to aggressive powers. The U.S. Department of State lists seven collective defense agreements to which United States is a party: (1) the Inter-American Treaty of Reciprocal Assistance (Rio Treaty); (2) the North Atlantic Treaty Organization (NATO); (3) the Australia, New Zealand, and United States Security Treaty (ANZUS); (4) the Southeast Asian Treaty Organization (SEATO); and bilateral defense treaties with (5) Japan; (6) the Philippines, and (7) South Korea.¹³¹ All seven of these collective defense agreements are Article 2 treaties under the U.S. Constitution and were ratified by the Senate from 1940 to 1960.¹³² Interestingly, the defense treaty with Japan, which has the

128. DEF. MANPOWER DATA CTR., ACTIVE DUTY MILITARY PERSONNEL BY SERVICE BY REGION/COUNTRY (Mar. 31, 2014), https://www.dmdc.osd.mil/appj/dwp/dwp_reports.jsp. Notable foreign countries where U.S. active armed forces are stationed include 40,000 in Germany; 11,000 in Italy; 9,500 in the United Kingdom; and 50,000 in Japan. *Id.* An additional 40,000 are listed as “undistributed” and make up the total number of U.S. active military located in such places as Afghanistan, Kuwait, Korea, and any unknown or classified locations. *Id.*

129. U.S. DEP’T OF STATE, U.S. COLLECTIVE DEFENSE ARRANGEMENTS, <http://www.state.gov/s/l/treaty/collectivedefense/> (last visited Nov. 18, 2014).

130. *Id.*

131. *Id.*

132. Inter-American Treaty of Reciprocal Assistance, 62 Stat. 1681, 21 U.N.T.S. 77 (entered into force Dec. 3, 1948); North Atlantic Treaty, Apr. 4, 1949, 63 Stat. 2241, 34 U.N.T.S. 243 (entered into force Aug. 24, 1949); Security Treaty Between Australia, New Zealand and the United States of America, Sept. 1, 1951, 3.3 U.S.T. 3420, 131 U.N.T.S. (entered into force Apr. 29, 1952); Mutual Defense Treaty Between the United States of America and the Republic of the Philippines, Aug. 30, 1951, 3.3 U.S.T. 3947, 177 U.N.T.S. 133 (entered into force Aug. 27, 1952); Mutual Defense Treaty Between the United States of America and the Republic of Korea, Oct. 1, 1953, 5.3 U.S.T. 2368, 238 U.N.T.S. 199 (entered into force Nov. 17, 1954); Southeast Asia Collective Defense Treaty, Sept. 8, 1954, 6.1 U.S.T. 81, 209 U.N.T.S. 28 (entered into force Feb. 19, 1955); Treaty of Mutual Cooperation and Security Between the United States of America and Japan, Jan. 19, 1960, 11.2 U.S.T. 1632, 373

ability to easily develop its own atomic weapons, only requires the United States to protect Japan's sovereignty and security in time of war – Japan is not obligated to come to the aid of the United States.¹³³ Based in part on the post-World War II Japanese Constitution, which expressly renounced war, Chapter II, Article 9 reads:

Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes . . . In order to accomplish [these aims], land, sea, and air forces, as well as other war potential, will never be maintained.¹³⁴

While America's military force is formidable, it is America's arsenal of nuclear weapons that keeps the aggressive nuclear nations from using nuclear weapons. If the primary purpose of a large military is deterrence, then nuclear weapons are critical to that purpose. Indeed, nuclear weapons have only one main purpose and that is deterrence.¹³⁵ Accordingly, if Iran obtains nuclear weapons, it will most likely use them for defense, as using them in an unprovoked attack would result in annihilation for Iran.¹³⁶ Stressing that he would prefer to achieve these reductions through an agreement with Russia,¹³⁷ if Russia is

U.N.T.S. 186 (entered into force June 23, 1960) (replacing Security Treaty Between the United States of America and Japan, Sept. 8, 1951, 3.3 U.S.T. 3329, 136 U.N.T.S. 1834 (entered into force Apr. 28, 1952)). In 1954, the United States entered a mutual defense treaty with the Republic of China (Taiwan), Dec. 2, 1954, 6.1 U.S.T. 433, 248 U.N.T.S. 3496, but this agreement was terminated by President Carter in 1979.

133. Treaty of Mutual Cooperation and Security, U.S.-Japan, art. V & art. VI, Jan. 19, 1960, 11 U.S.T. 1632.

134. Sayuri Umeda, *Japan: Article 9 of the Constitution*, LIBRARY OF CONGRESS, <http://www.loc.gov/law/help/japan-constitution/article9.php> (last visited July 28, 2014).

135. See Sagan, Scott, Kenneth Waltz, and Richard K. Betts, *A Nuclear Iran: Promoting Stability Or Courting Disaster?*, 60 J. OF INT'L AFFAIRS 135 (2007) (arguing that Iran would still not be able to act in a conventional war but could only use nuclear weapons on the defense).

136. See John J. Xenakis, *World View: Iran's Supreme Leader Claims to Seek Annihilation of Israel, Not Jews*, BREITBART (July 27, 2014), <http://www.breitbart.com/Big-Peace/2014/07/26/27-Jul-14-World-View-Iran-s-Supreme-Leader-wants-to-annihilate-Israel-but-not-Jews> ("[M]y conclusion is that Iran will develop nuclear weapons as a defensive measure but has no plans at all to use them on Israel, which is what is widely believed.").

137. Reif, *supra* note 77.

unwilling to cooperate, there is nothing to suggest that the Obama Administration will not pursue the one-third reduction unilaterally.

VII. CONCLUSION

*“Christian doctrine to one side, the world is a fallen place – a roiling, corrupt, unstable, vicious, and unpredictable place – at least in many places.”*¹³⁸

Mona Charen

When President Obama delivered his 2013 Berlin speech on disarmament, he remarked that “so long as nuclear weapons exist, we are not truly safe.”¹³⁹ While the masses may enjoy such epigrams, this belief is absolutely false. A world in which the United States and other free nations do not possess nuclear weapons is both unrealistic and undesirable. It is precisely because of nuclear weapons that we are safe. In the nearly seventy years that modernized nations have been armed with nuclear weapons, not once have they been used by the nations that possess them.¹⁴⁰ Wars have been fought between proxies of nuclear nations, but no nuclear-armed nation has attacked another nuclear-armed nation. Is this because the nature of man has changed? Or does it have more to do with the rational conclusion by even the most totalitarian regime, that the cost of using a nuclear weapon is simply unacceptable under MAD?

President Obama is simply the world’s icon for those unaccustomed to the reality of war and the necessity of nuclear weapons in the hands of countries that value freedom. Indeed, this sophomoric thinking led the international community to award the Nobel Peace Prize to the world’s foremost nuclear alarmist, Barack Obama, even before completing the first year of his presidency.¹⁴¹ The Nobel Peace Prize was primarily given for Obama’s “emphasis – in

138. MONA CHAREN, *USEFUL IDIOTS* 257 (2003).

139. *See* Reif, *supra* note 77.

140. *See* Jonathan Tepperman, *How Nuclear Weapons Can Keep You Safe*, Newsweek, <http://www.newsweek.com/how-nuclear-weapons-can-keep-you-safe-78907> (last visited Mar. 2013) (acknowledging that the only use of atomic weapons occurred in 1945, during the final phases of World War II when atomic weapons were used by the U.S. against Japan).

141. *Barack H. Obama – Facts*, NOBELPRIZE.ORG, http://www.nobelprize.org/nobel_prizes/peace/laureates/2009/obama-facts.html (last visited Apr. 3, 2014).

word and deed – for a world free from nuclear weapons.”¹⁴² In reality, if one is really concerned with keeping the peace, the real recipient of the Nobel Peace Prize should have been the atomic bomb. Shortly after Obama’s acceptance of the Nobel Peace Prize an article in *Time* magazine by David Von Drehle noted the absurdity of the award being given to Obama:

As bad as they are, nukes have been instrumental in reversing the long, seemingly inexorable trend in modernity toward deadlier and deadlier conflicts. If the Nobel Committee ever wants to honor the force that has done the most over the past 60 years to end industrial-scale war, its members will award a Peace Prize to the bomb.¹⁴³

In addition, America has no special burden of guilt because it is the only nation to have used nuclear weapons. Not only was the use of the atomic bomb legal under the law of war, many more lives were saved by the use of the two atomic bombs during World War II than were destroyed. It is estimated that approximately one million more American soldiers and perhaps three million Japanese would have been killed had the United States actually carried out its plan to physically invade mainland Japan.¹⁴⁴ President Truman understood the real world. The concept of nuclear deterrence was immediately established in 1945, the year the bombs were dropped on Hiroshima and Nagasaki.

The Obama Doctrine, which seems intent on employing scare tactics and demonizing the possession of nuclear weapons, imperils both the world and America. Unilateral reductions of America’s nuclear forces create a vulnerable and weakened nation that can be “intimidated into conforming to the will of less-benignly inspired actors on the international stage.”¹⁴⁵ Furthermore, such a course increases the actual promotion of the development of nuclear weapons in other nations. In short, a shrinking U.S. nuclear arsenal will certainly prod other nations to strengthen their own nuclear arsenals.

142. *Id.*

143. David Von Drehle, *Want Peace? Give a Nuke the Nobel*, *TIME*, (Oct. 11, 2009), <http://content.time.com/time/nation/article/0,8599,1929553,00.html#ixzz2wMFuxHdo>.

144. Victor Davis, *How the Atomic Bomb Saved 4,000,000 Lives*, *OMAHA WORLD HERALD*, <http://www.freerepublic.com/focus/news/1708051/posts> (last updated Sept. 25, 2006).

145. David & Kirkpatrick, *supra* note 93.

One thing is certain; Obama's misguided policies of unilateral reductions in America's nuclear arsenal have not achieved his desire for worldwide nuclear disarmament. Instead of inventing mythologies about how nuclear weapons cause a more dangerous world, strong American leadership requires assessing the world as it really is and not how one wishes it to be. Statesmen accept the nature of man as it is and keep clear of the siren song of appeasement and crusader arrogance. As Professor Moore suggests, a better long-term strategy for greater world stability and "peace" would be to make the United States energy independent.¹⁴⁶ Such a policy would do more to help drain the totalitarian swamps that breed violence and instability in the world.

The NPT has been extremely effective in reducing the spread of nuclear weapons. In exchange for a nation's direct commitment to the treaty not to acquire nuclear weapons (they may develop nuclear technology for peaceful purposes associated with energy production), many of these nations look to the United States for their security because they know that the United States of America has the nuclear muscle to ward off totalitarian nuclear-armed nations. The treaty has worked so well that, as of this writing, there are only nine nations with nuclear weapons, down from twelve.¹⁴⁷ If America weakens its nuclear posture, the number will surely increase.¹⁴⁸

Obama's pacifist desire to rid the world of nuclear weapons cannot be achieved. Unfortunately, however, its ability to hamstring America's nuclear capabilities is all too real. Instead of pursuing the panacea of a world without war and nuclear weapons, President Obama must be made to wake from his millennial dream and institutionalize comprehensive arrangements that only provide for American reductions if our adversaries do the same, a process that must be verified through the International Atomic Energy Agency

146. See Nicolas Casey & Joshua Mitnick, *Israel Bombs Hamas Symbols, Power Plant in Gaza*, WALL ST. J. (July 29, 2014), <http://online.wsj.com/articles/israel-pounds-hamas-infrastructure-in-gaza-1406625853>.

147. Kenneth Waltz, *Structural Realism after the Cold War*, INTERNATIONAL SECURITY, http://www.columbia.edu/itc/sipa/U6800/readings-sm/Waltz_Structural%20Realism.pdf (last visited Apr. 3, 2014) (Brazil and Argentina dropped their nascent nuclear programs, and South Africa, Ukraine, Belarus, and Kazakhstan voluntarily gave up their nuclear weapons in the early 1990's).

148. Michael Crowley, *The King And O*, TIME 32 (Mar. 27, 2014).

(IAEA).¹⁴⁹ When it comes to nuclear weapons our policies must be fully rooted in the context of common sense. Unilateral reductions in America's nuclear arsenal are disastrous when confronting totalitarian fanatics. The world remains a dangerous place and Russia, the other major nuclear power, is once again making noises of expansion by force.¹⁵⁰ How will they be deterred from using nuclear weapons?

What is the only provocation that could bring about the use of nuclear weapons? Nuclear weapons. What is the priority target for nuclear weapons? Nuclear weapons. What is the only established defense against nuclear weapons? Nuclear weapons. How do we prevent the use of nuclear weapons? By threatening the use of nuclear weapons. And we can't get rid of nuclear weapons, because of nuclear weapons.¹⁵¹

In a nutshell: The only established defense against nuclear weapons are nuclear weapons, and nuclear weapons cannot be abandoned because of nuclear weapons.

149. Dr. Jeffrey Addicott, Mr. Frederick Hitz, Mr. Orde Kittrie, Mr. John Norton Moore, Mr. Steven Perles, Exploring Alternative Legal Approaches to Counter-proliferation Efforts, Program on Nonproliferation Policy and Law, James Martin Center for Nonproliferation Studies and Georgetown University Institute for Law, Science and Global Security (Oct. 29, 2010). (Professor Moore and distinguished subject matter experts discuss alternative approaches to nuclear proliferation challenges).

150. David Von Drehle & Simon Shuster, *What Putin Wants*, TIME 24 (Mar. 6, 2014). Putin blames America for the problems in Ukraine: "They sit there across the pond [Atlantic Ocean] as if in a lab running all kinds of experiments on the rats. Why would they do it? No one can explain it." *Id.*

151. MARTIN AMIS, *EINSTEIN'S MONSTERS I* (1987).