

Nuclear Non-Proliferation in International
Law - Volume V

Jonathan L. Black-Branch · Dieter Fleck
Editors

Nuclear Non-Proliferation in International Law - Volume V

Legal Challenges for Nuclear Security
and Deterrence



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Preface

This volume focuses on various legal aspects regarding nuclear security assurances and nuclear deterrence. It is part of an in-depth longitudinal study of the Nuclear Non-Proliferation Treaty (NPT),¹ a treaty that despite its large number of State Parties and indefinite extension in 1995 is the object of continuing concern requiring monitoring and further study to assist in moving its objectives forward.

In order to fully address this concern and work towards realistic solutions, independent experts are cooperating in conjunction with ISLAND (International Society of Law and Nuclear Disarmament) and the International Law Association's Committee on Nuclear Weapons, Non-Proliferation and Contemporary International Law, which has reported at the biennial ILA Conferences in Sofia (2012), Washington (2014), Johannesburg (2016), and most recently in Sydney (2018), and will submit a draft Declaration on Legal Issues of Nuclear Weapons, Nuclear Non-Proliferation and Peaceful Uses of Nuclear Energy in due course.²

Volume I of the book series started with an exposé of relevant legal issues and international concerns, identifying and addressing a variety of critical questions that require strict and full application of rules emanating from various fields of international law and practice.³ Volume II provided an in-depth critical review of aspects of verification and compliance, assisting to develop international consensus on disputed issues regarding the legal application, which remains essential both from a theoretical perspective and from the practice of States and international organizations.⁴ Volume III focused on legal aspects of the use of nuclear energy for

¹ Treaty on the Non-Proliferation of Nuclear Weapons (1 July 1968), 729 UNTS 161.

² See Committee on Nuclear Weapons, Non-Proliferation and Contemporary International Law, <http://www.ila-hq.org/index.php/committees>.

³ Black-Branch J/Fleck D (eds) (2014) *Nuclear Non-Proliferation in International Law*, Vol I with a Foreword by Mohamed ElBaradei, T.M.C. Asser Press.

⁴ Black-Branch J/Fleck D (eds) (2015) *Nuclear Non-Proliferation in International Law*, Vol II *Verification and Compliance*, T.M.C. Asser Press.

peaceful purposes, considering the role of States and international organizations, and presenting a number of suggestions for international cooperation.⁵ Volume IV emphasized different human perspectives on the use of nuclear energy, examining the need for regional solutions, and the revived interest on a global scale in prohibiting and fully abolishing nuclear weapons.⁶ Taken together, these contributions provide a comprehensive assessment of the three central pillars of the NPT-non-proliferation, nuclear energy for peaceful uses and disarmament, following contemporary developments including the adoption of the Treaty on the Prohibition of Nuclear Weapons in 2017.⁷

This present volume comes at an important juncture, just prior to the 10th NPT Review Conference (2020). Its main body of contributions is the result of a research conference on *Regional Nuclear Non-Proliferation and Disarmament: Controls, Defence and Diplomacy*, held at the Canadian Museum for Human Rights in Winnipeg from September 20–21, 2018, followed by a Round Table on *Legal Challenges for Nuclear Deterrence and Nuclear Security* (London, March 25–26, 2019).

We would like to express our sincere gratitude to David G. Newman Q. C. and Brenda Newman for generously supporting our meetings and personally supporting our work with critical comments, questions and encouragement. A special thanks is extended to Marcia Kort, Executive Assistant to the Dean; Christine Mazur, Marketing and Communications Officer; and Jason Poettcker, the Dean's Research Assistant, for their work in assisting to organize the Winnipeg conference. Special acknowledgement is also extended to our peer reviewers who have offered their critical advice, encouragement and invaluable suggestions in a double anonymous review process. T.M.C. Asser Press/Springer has helped to secure the publication of this book series in a very professional and effective manner: we thank Frank Bakker and his team for their outstanding interest, professional diligence and encouragement.

Winnipeg, Canada
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⁵ Black-Branch J/Fleck D (eds) (2016) *Nuclear Non-Proliferation in International Law, Vol III Legal Aspects of the Use of Nuclear Energy for Peaceful Purposes*, T.M.C. Asser Press.

⁶ Black-Branch J/Fleck D (eds) (2018) *Nuclear Non-Proliferation in International Law, Vol IV Human Perspectives on the Development and Use of Nuclear Energy*, T.M.C. Asser Press.

⁷ Treaty on the Prohibition of Nuclear Weapons, UN Doc A/CONF.229/2017/8 (7 July 2017).

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Abbreviations

ABACC	Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials
AP I	Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (1977)
BWC	Biological Weapons Convention (1972)
CTBT	Comprehensive Nuclear Test-Ban Treaty (1996)
CTBTO	Preparatory Commission for the Comprehensive Nuclear Test-Ban Organization
CWC	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (1993)
EU	European Union
HEU	Highly Enriched Uranium
IAEA	International Agency for Atomic Energy
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
IHL	International Humanitarian Law
ILA	International Law Association
ILC	International Law Commission
MAD	Mutually Assured Destruction
NNWS	Non-nuclear-weapon States
NPT	Treaty on the Non-Proliferation of Nuclear Weapons (1968)
NWFZ	Nuclear-Weapon-Free Zone
OST	Outer Space Treaty (1967)
PTBT	Partial Test Ban Treaty (1963)
SALT	Strategic Arms Limitation Talks
SC	Security Council
SORT	Strategic Offensive Reductions Treaty
START	Strategic Arms Reduction Treaty

TPNW	Treaty on the Prohibition of Nuclear Weapons (2017)
UN	United Nations
UNIDIR	United Nations Institute for Disarmament Research
UNTS	United Nations Treaty Series
US	United States
WHO	World Health Organization