

perspectives. Therefore, I would say that it is about more than gender: It comes back to this importance of striving for diversity within all levels of discussion (both higher and lower).

IX. THE ROLE FOR EXPERTS AND LAWYERS IN PEACE MOVEMENTS

I think what Jody said about activist-diplomats is encouraging. It is absolutely true that there are activists amongst diplomats. It comes back to the earlier discussion regarding individuals. There was also mention of Bertha von Suttner and she is a great example of this. We have learned that individuals can make a difference, even during difficult times or tense geopolitical situations. I think that people should still speak up and try their best to make a change. Civil society, governments, and parliaments are the three elements that can come together in order to bring change. However, it is not easy and there are a lot of challenges, not only when it comes to peace but also climate change as well as new and emerging technologies. There is a broad field of issues that we have to deal with and to find progress within that benefits us all. This world is not an easy one and it is filled within different views, for example, there are very different reasons why countries decide to expend their military. Thus, to summarize, we are in very challenging times.

REMARKS BY JEFFREY PRYCE*

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I. RUSSIA'S INVASION OF UKRAINE: THE RELEVANCE OF THE BUDAPEST MEMORANDUM IN NUCLEAR ARMS CONTROL

On the Budapest Memorandum on Security Assurances (Budapest Memorandum), we face a game-changing, challenging moment right now with Russia's invasion of Ukraine, which extends beyond the nuclear area. The invasion is, in my view, a challenge to the UN Charter and the entire post-World War system of international law. With respect to the Budapest Memorandum, that is obviously a very topical issue at the moment. I would like to first emphasize the context. The Memorandum was first negotiated in 1994, three years after the dissolution of the Soviet Union, during a period that was not quite as settled as we have now. The Memorandum was part of the context in which Ukraine became a non-nuclear party to the Non-Proliferation Treaty (NPT) and the undertakings there are serious. The undertakings in the Budapest Memorandum are reaffirmations of the still binding commitments to international law under the UN Charter. Therefore, the non-use of force—the prohibition on the threat or use of force against the territorial integrity or independence of Ukraine—is reaffirmed in the Budapest Memorandum, but that is contingent on the UN Charter. The Memorandum consequently remains binding on Russia. Similarly, principles in the Helsinki Final Accords are reaffirmed in the Budapest Memorandum and Russia is violating those, including Ukraine's right to choose its own destiny and choose its own alliances. So, yes, Russia's aggression against Ukraine is a blow against the structure of international security that was created in the wake of the Cold War.

I would say that the Budapest Memorandum indicates Russia's lack of credibility because it is Russia's obligations that are being violated. It is important to remember that this is a Memorandum and not a treaty—it contains assurances, not guarantees. The Memorandum contains assurances

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from the United States, the United Kingdom, and Russia that they will not violate Ukraine's territorial integrity or sovereignty. It does not contain assurances against a third party. So, it is not like NATO Article V, which obliges us to come to the defense of another country under attack. I would start off by saying that the Budapest Memorandum is a further indication of the shock of Russia's violation of its most fundamental obligations, not just in general, but specifically with respect to Ukraine. I hope that the system which is convening to respond to Russia's aggression, this system of international law, will wind up in a place that reaffirms the fundamental principles in the Memorandum.

II. INTERNATIONAL FORMATS FOR ARMS CONTROL: THE POTENTIAL OF THE UNGA, THE NPT AND CHALLENGES OF IRANIAN AND CHINESE ENGAGEMENT

As Emma said, here—with Russia's invasion of Ukraine—we have a permanent member of the Security Council (UNSC) violating the UN Charter and that is obviously having an effect on both the operation and credibility of the UNSC. The UNSC has faced criticism for a long time. I think what we are going to see, with respect to Russia's invasion, is an increased role for the General Assembly (UNGA) in a lot of areas that have traditionally been the province of the UNSC. By example, we saw 141 members vote to condemn the aggression of Russia, which is usually the province of the UNSC. So, I do think that the UNGA is going to play a bigger role. There are a lot of mechanisms that the UNSC has been involved in, in the past, that might now be referred to the UNGA. Even though the war crimes tribunals that were set up after Rwanda and Bosnia were set up by the UNSC, it's not inconceivable that the UNGA could play a greater role here.

As for other formats for arms control, I think many will continue on. I hope the Non-Proliferation Treaty (NPT) will continue on its agenda. I believe two particular areas will be affected: strategic nuclear arms control and specific non-proliferation negotiations. The strategic stability dialogue between the United States and Russia is obviously deeply affected by Russia's invasion in Ukraine. The political situation is a game-changer. That said, one of the first things that President Biden did when he took office was to extend, by five years, the last remaining piece of the architecture of strategic arms control, the START treaty. That treaty remains in effect and—up until the last time I checked—Russia remains in compliance with its obligations under that treaty. So, parts of the arms control architecture still remain, if that is a ray of hope.

There is a lot more work that needs to be done, and that is going to be challenging. What is also going to be challenging is bringing in China into this architecture. If you look at our Article VI obligations for disarmament under the NPT, it is fair to expect criticism of the superpowers for their lack of progress in disarmament. That said, we have reduced the strategic arsenals that existed during the Cold War by 90 percent. We, the United States, came down to 1,500 strategic warheads and were prepared to go down to 1,000 strategic warheads. The Russians were not prepared to go there and, in the meantime, the Chinese have been increasing, rather than decreasing, their strategic arsenal. I would question whether that is in compliance with China's Article VI obligations. Certainly, the obligation is to be going down, not up.

China has a nuclear arsenal, which is obviously much smaller than the traditional Russia and U.S. arsenals, but unfortunately China is going in the wrong direction. It is building up, diversifying, and modernizing its arsenal. We have tried to engage China, though it has been a long and painful process. From views outside of the government, there have been efforts to try and get a dialogue going on a glossary of terms in order to have some form of understanding with each other about terms they are involved in. I think this will mostly depend on the political will of China. In my view, China has taken a view that, "You guys are up here and we are down here. If you want to include us in the START treaty, are we going up or are you going down?" China

has taken a stand-off approach and I do not think that that is a responsible way to continue. China's arsenal is increasing concerns about counter-force capability and other issues of concern to the strategic community. I am hopeful that China, as part of its overall engagement, will see its way clear to engage in constructive approaches in the kind of architecture that we, and Moscow, have developed over decades. That, however, remains to be seen.

Specific situations, like North Korea, are going to continue being difficult. The one nuclear power that's most on the agenda right now is Iran. Those talks—between the United States and Iran—have been continuing and we have been on a cusp of a decision point in public reports for a while now. Russia has tried to complicate that process by making demands that will probably not derail the process in the long-run. I think the ultimate decision there will be one that will involve Iran and other partners: Russia is a player, but not the critical player. So, those non-proliferation discussions in arms control will continue.

III. THE ROLE OF INDIVIDUALS IN SUCCESSFUL DISARMAMENT NEGOTIATIONS

I agree with Emma's views on the role of individuals in bringing negotiations to a successful conclusion. My experience is that nuclear arms control, in its inception, was conceived between potential adversaries. And yet, you had to have lawyers and people who were both able and willing to resolve differences. In that process, you develop personal relations and trust across the table. That trust is very important. You have to understand the person across the table and understand where they are coming from. One thing that came to mind when Thilo asked the question on the role of individuals in bringing about change was a personal experience. I had the privilege of working with former U.S. Secretary of Defense William Perry when he was negotiating a lot of these disarmament agreements with the former Soviet states possessing nuclear weapons. He developed a degree of trust and rapport with his Russian counterparts that allowed him to persuade the Russians to join the peacekeeping force in Bosnia under an American general. This was, in my mind, inconceivable at the time. Nevertheless, he built that level of trust on the Russian side to the point that they participated in the peacekeeping force that helped end the Bosnian Civil War. Therefore, I think the professionalism and personal relations developed in diplomacy are very important.

IV. THE HUMANITARIAN DIMENSION OF NUCLEAR DISARMAMENT

Obviously, World War II was a horrific experience on many levels. One of the things it created, before the United States even entered, was a commitment to disarmament. In the Atlantic Charter, signed in August 1941 before the bombing of Pearl Harbor, there was a commitment to disarmament that was continued in the UN Charter and the NPT going forward. That initial commitment to disarmament was on its effect on humanity. There was this sense that expenditure on defense is a diversion from other priorities. Another thought that came up regarding the humanitarian aspect is the environmental aspect of the need for disarmament. Part of the rationale of the Treaty on the Prohibition of Nuclear Weapons was that non-nuclear weapon states would be affected by environmental consequences of nuclear exchange. In fact, during the first nuclear arms negotiations, John F. Kennedy and Nikita Khrushchev drew, in significant part, on the environmental effects of atmospheric testing and its broader ramifications. The difficulty here, when dealing with nuclear weapons, is that there has not been employment of nuclear weapons since World War II. That is a great thing. The cataclysmic consequences of this are obvious to everyone. The real objective for us as lawyers and citizens of civil society becomes how to effectively advance that cause of stability and control of nuclear weapons. That is the goal we all share.

V. THE POTENTIAL OF LAWYERS IN THE PATH TO DISARMAMENT

The skill of a good lawyer—and I say that as a practicing lawyer—is to fit the principles and the facts together. As a practicing lawyer, you are not doing your job well if you win a point and your client is executed or does not recover. So, getting the facts right within the legal framework is critical. As a lawyer, you are an essential part of the negotiating team because you need to make sure that the framework that emerges is one that accomplishes the goals of the objective of your country. It is an essential set of tools. Any good lawyer working on a case is going to need to know the objectives of their client. This is a set of skills that is transferable. One of the benefits of a legal education is that you learn to conduct analysis, break down a problem into its constitutive elements, identify the principles at stake, and apply them in a logical and organized way. This is not unique to lawyers, but it is a skill you do learn in the practice of law.

VI. THE OPTIMISTIC PERSPECTIVE ON THE POWER OF INTERNATIONAL LAW

This organization, the American Society for International Law, was founded in a movement of largely American lawyers who had the vision that international law could help resolve international conflicts peacefully. It was incredibly strong in the first half of the twentieth century, and I believe it has become institutionalized. This organization itself is a reflection of that faith that international law can create very constructive effects—not just in the peaceful resolution of disputes, which I think we take for granted, but also through the provision of a common language. There are a number of ways in which diplomacy and international law provide a common language that allows potential adversaries to communicate and cooperate. If you look at what's going on in NATO and Europe, the unity with which the international community is responding to a blatant violation of international law, that cooperation gives us hope. I also see a lot of friends and colleagues who are very active in the human rights movement. Here, international law gives us—not just a language—but a tool to advance human rights in ways that might not otherwise be advanced. So conclusively, I think international lawyers have a huge role to play and a very constructive one.

CLOSING REMARKS BY THILO MARAUHN

Coming to a close, I want to return to the Treaty on the Prohibition of Nuclear Weapons. Does this make a difference? If so, why? Does it go beyond symbolic lawmaking? Will it help to contribute to a nuclear weapons-free world, even by making use of international law? And to what extent will the particular combination of civil society and a group of small and middle powers continue to contribute to a meaningful implementation of the treaty?

Let me conclude this panel by thanking our panelists, the convener, the organizers, and everyone present. My apologies for not being with you in person. I hope that next year will be better, and allow more international exchange—again in person.