

Remarks of John Burroughs
Nuclear Abolition or Extinction? The Choice is Yours
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August 6, 2026

Let's suppose for a moment that reliance on nuclear arms by the US and other nuclear powers will produce so-called "strategic stability" for the rest of this century. That is, that there will be no nuclear war or war on a major scale between the nuclear powers.

Is that a world we want to live in, a world where security depends on the potential for the devastation of entire societies, a world where we are supposed to live moral lives in the context of an immoral system of global security? My answer is no, and I'm sure it's your answer too.

But it is a fantasy that reliance on nuclear arms can be counted upon to produce stability indefinitely. That can be demonstrated just by looking at today's conflicts. The Russian invasion of Ukraine in violation of the UN Charter was preceded by Putin's threat to resort to nuclear weapons should Western states intervene in support of Ukraine. Then in the fall of 2022, it was credibly reported that the Biden administration believed that the Russian government was operationally moving toward the use of nuclear weapons.

It is also true that the US attack on Iran, also in violation of the UN Charter, has been accompanied by Trump's bluster about wreaking society-ending devastation on Iran, evoking the possibility of use of nuclear weapons. Whether or not his nuclear bluster was specific and credible enough to be considered a "threat" as a matter of international law, it certainly runs counter to the notion that use of nuclear weapons is out of the question.

Nuclear deterrence involves the readiness to inflict massive devastation on other societies, even if targets are said to be military. It is planning and preparation for the commission of war crimes and crimes against humanity and in some cases crimes against peace. Crimes against peace concern aggressive war. The use of nuclear weapons to initiate an aggressive war would certainly be a crime against peace. But there is a good case that the first use of nuclear weapons by a state

defending itself would be so escalatory and disproportionate as to be a crime against peace.

Nazi officials were convicted of war crimes and crimes against humanity. They were also convicted of the crime against peace of waging aggressive war, including planning for the war that was carried out.

This was done in accordance with the Nuremberg principle of individual responsibility. Individuals, not only states, can be held accountable for the commission of international crimes.

A broader view of the Nuremberg principle of individual responsibility is that citizens are acting in accordance with that principle when they take responsibility for preventing nuclear war. That can be done in many ways; one is today's protest.

So reliance on nuclear arms by the United States and other states means that the world is in a state of risk, immorality, and illegality. The imperative is to end that state of affairs.

30 years ago, on July 8, 1996, the International Court of Justice released its advisory opinion on the legality of threat or use of nuclear weapons. The Court found nuclear threat or use to be generally illegal, especially because such use cannot be reconciled with core principles of international humanitarian law forbidding the infliction of indiscriminate harm and unnecessary suffering. The Court was clear that if a use of weapons is illegal, the threat of such use is illegal.

However, the Court did not address all circumstances of nuclear use, and did not assess nuclear deterrence. But the Court unquestionably recognized the state of at least potential illegality involved in reliance on nuclear arms.

So the Court concluded its opinion with an analysis of something it was not asked, the nature of the nuclear disarmament obligation rooted in Article VI of the Nuclear Non-Proliferation Treaty and in UN General Assembly resolutions going back to the 1950s. And the Court gave a very strong interpretation of the obligation, finding that the obligation is to pursue in good faith and conclude negotiations on nuclear disarmament.

There have been other important efforts to move the world out of the state of risk, immorality, and illegality. In NPT review conferences beginning in 1995, non-

nuclear weapon states extracted commitments from the nuclear weapon states such as reducing the role of nuclear weapons and engaging in verified reductions leading to elimination. If they had been implemented, by now the commitments would have brought the world much closer to the elimination of nuclear weapons, if not all the way there.

In 2017, non-nuclear weapon states negotiated the Treaty on the Prohibition of Nuclear Weapons. 100 states are now signatories, not including, however, any nuclear-armed states. Whether the TPNW will serve as a vehicle for the nuclear-armed states to accomplish the elimination of nuclear weapons is open to doubt; they probably would create their own vehicle. Without question, though, the TPNW is a marvelous statement of the principles that should motivate and guide the achievement of a world free of nuclear weapons. If you have not already, read it; it's only about 10 pages. The first review conference of the TPNW will be held late this year.

We are currently living in a world of conflict, and especially under Trump, the US has turned away from the multilateralism that reached its peak in the 1990s with the Chemical Weapons Convention and the Comprehensive Nuclear Test Ban Treaty. But the reality is that nuclear abolition, probably in conjunction with other arms control and with changes in global governance, is by far the best way to address the risks, immorality, and illegality of reliance on nuclear arms. That's why it is important that we are here!