

How the US is Failing the Security Treaty System

by Nicole Deller

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The list of security treaties the United States has rejected in recent years is well known: the Comprehensive Test Ban Treaty (CTBT), which the Senate failed to ratify; the Anti-Ballistic Missile Treaty; the Mine Ban Treaty; the Rome Statute of the International Criminal Court (ICC); the Kyoto Protocol; and the proposed protocol to the Biological Weapons Convention (BWC).

In the policies toward these treaties and in the policies toward treaties that it professes to support, US policymakers appear to have rejected the possibility that international affairs may be governed by global norms applicable to all players. Instead, due to its superpower status, the United States demands unique treatment under treaties and other forms of international law.

For example, the United States has called for strict compliance by all states with their international legal obligations not to acquire weapons of mass destruction (WMD). For its part, however, the United States has resisted submitting its facilities and programs to the scrutiny of several WMD-related treaties. The United States failed to ratify the CTBT, refused to agree to a binding protocol that would have added a transparency regime to the BWC, and restricted inspections conducted pursuant to the Chemical Weapons Convention. The double-standards in enforcing the Nuclear Nonproliferation Treaty are discussed in the facing article.

Regarding the rejection of the Statute of the ICC and the Mine Ban Treaty, it was only after the United States had pushed for provisions that would have disproportionately favored its interests and lost that it opposed these treaties.

Exceptionalist treatment is demanded because the United States has more global responsibilities than other states. Deputy Secretary of Defense Paul Wolfowitz said: "There are some pretty bad agreements that we went along with in the decade of the '90s where a whole lot of countries who don't have our kinds of responsibilities in the world were happy to sign treaties that gave up, for example, their rights to test nuclear weapons."

John Bolton, Under Secretary of State for Arms Control and International Security, has argued that the United States is not legally obligated to abide by its treaty commitments. Paradoxically, he has also called for strengthening WMD-related treaties and, with respect to the administration's position on discussions with North Korea, he was quoted as saying that it is "hard to see how we can have conversations with a government that has blatantly violated its agreements." His view of treaties may be summed up (in his words) as follows: "The US shall meet its commitments when it is in its interests to do so and when others are meeting their obligations as well." This ideology rejects the notion that the United States has a duty to comply with global norms.

The treaties that embody these global norms are criticized as unwelcome restraints. They are unnecessary because the United States is an honorable country that does not need external rules to behave as a responsible member of the international community. Restraints should be reserved for those states with a record of noncompliance.

Yet, if the United States intends to enforce international legal obligations on other states, a strengthened treaty system is required. The United States could best strengthen the system by submitting itself to the same standards and endorsing rigorous monitoring to ensure greater compliance by all parties. If the United States believes treaties are unnecessary for it to behave responsibly, other countries may view themselves as similarly honorable and therefore also exempt from these constraints.

At heart, this philosophy rests on the belief that, even if the United States does not play by the same rules, it will be able to demand compliance of other states through its overpowering military force. Military solutions, however, will not be available to meet all threats. Ending the financing of terrorism, addressing climate change, securing nuclear materials are three pressing examples. Strengthened international legal regimes are needed to address these and other growing security threats.

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