



THE NECESSITY OF NUCLEAR DISARMAMENT: TRENDS AND INSTRUMENTS IN INTERNATIONAL LAW

First of all this article points out that, according to the Charter of the United Nations, Member States have no obligation to eliminate either to reduce their armaments, including the nuclear ones, and that the International Court of Justice has declared that in international law it is necessary an agreement to limit the level of armaments. Then it examines the different categories of multilateral agreements for the disarmament or limitation of the nuclear weapons. After an account of the treaties of denuclearization, a particular attention is devoted to the Treaty on Non-proliferation of nuclear Weapons of 1968. However, this Treaty is not a disarmament treaty, but only prohibits the “horizontal” proliferation. On the contrary the Treaty on the Prohibition of Nuclear Weapons of 2017 in the true sense is a treaty of nuclear disarmament; but its efficacy is reduced because of the absence of all nuclear States, as well as the Western States, particularly the Members of NATO. With regard to general international law the Author reminds the problematic advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons. Unlike such opinion, the present article comes to the conclusion that the use of nuclear weapons is unlawful, because it is contrary to some basic principles of international humanitarian law, especially the principle of distinction between combatants and civilian population, and the principle according to which it is prohibited to cause unnecessary suffering.