



BEYOND THE GRAND BARGAIN: THE ROLE AND RELEVANCE OF THE NPT

PONI Summer Conference
Los Alamos, June 23 2015

Tom Coppen, LLM

Ph.D. Candidate, Centre of Conflict and Security Law, Utrecht
t.coppen@uu.nl

Universiteit Utrecht



The 2015 NPT Review Conference

- No consensus on Final Document
- The draft document: a good compromise leaves everybody disappointed?
- What is the continued relevance of the NPT?
- What is the role of its Review Conferences?



The NPT and the non-proliferation regime

- Treaty types
 - Contract treaties (*traité-contrat*)
 - Law-making treaties (*traité-loi*)/Constitutional treaties
- What is the NPT?
 - Text and preamble
 - Grand Bargain
 - Subsequent interpretations
- Relevance?



The NPT as a constitution

- Common, shared goals and obligations
- Creates basic norms and structures
- Indeterminacy of provisions
- Relies on creation of additional legal instruments
- Evolution through interpretation



Evolution through interpretation

- Articles I and II: non-proliferation obligations
 - Scope
- Article III: safeguards
 - Safeguards standards
- Article IV.1: peaceful uses of nuclear energy
 - Relation to Article III
- Article V: peaceful nuclear explosions
 - V. CTBT
- Article VI: nuclear disarmament
 - Obligation of result



The role of Review Conferences

- Final Documents: not legally binding
 - Possible indirect legal effect
- Teleological interpretation of treaties
 - Vienna Convention on the Law of Treaties
- Subsequent agreement and practice
 - Can emanate from Review Conferences
 - Common and consistent practice
 - Manifest intention that this is basis for interpretation
- Review Conferences
 - Forum for creation *opinio juris*
 - Forum for creating or harmonizing practice



Perspectives and observations

- NPT has remained relevant by combining law and practice to develop its regime
- Review Conferences focus too much on “Grand Bargain” and “pillar-balancing”
- Legal and political aspects often get mixed up
- Impact of Review Conferences should be understood and debates restructured accordingly
- In difficult times, focus on smaller steps may be more productive

