

## Conclusion

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This study addressed the dual research question of ***what role resistance to nuclear rule and an anti-colonial impetus played for the supporters of the Humanitarian Initiative and the Treaty on the Prohibition of Nuclear Weapons (TPN) and how they were able to realize their project of international legal reform against the will of the nuclear weapon states and their allies.***

The first part of the research question revolves around the perceptions and motivations of the TPN movement. To answer to what extent resistance and an anti-colonial impetus were involved, this study firstly drew on a concept of rule derived from Max Weber, which focuses on resistance (Daase and Deitelhoff 2015, Daase *et al.* 2017b, Daase *et al.* 2023a), and developed this further. It defines rule as *a constant form of exercising power within institutionalized relationships of super- and subordination, which systematically expands or restricts the actors' options for action and influence on control*. Resistance, in turn, means the *withdrawal of recognition and thus the questioning and challenging of institutionalized relationships of super- and subordination that shape the actors' scope for action and steering*. In addition, critical and post-colonial approaches were used to trace a possible anti-colonial sentiment. To this end, this study pursued the idea of post-colonial continuity in the nuclear order and developed six components of potential colonial imprints: *excessive violence, eurocentrism, primacy of the state, racism, economic exploitation and patriarchal domination*.

The second part of the research question exposes the puzzle of how such manifest resistance and the negotiation of a treaty that contradicts essential elements of the nuclear order could succeed against the will and power of the nuclear rulers. Since decades-long contestations within the Nuclear Non-Proliferation Treaty (NPT) have never led to such a counter-draft under international law, we are particularly interested in the specific strategies, procedures and means used by the Humanitarian Initiative and in the TPN process to achieve precisely this.

The research project explored these two focal points of interest (the perceptions and motivations of the TPN movement on the one hand and its actions and means on the other), taking into account comprehensive empirical data. Its findings are based, firstly, on an analysis of the norm genesis and substance of the TPN which was structured along the terminological-conceptual framework and drew on numer-

ous primary sources. Secondly, the evaluation of qualitative interviews with sympathizers and supporters of the resistance movement provided further insights. It is therefore mainly first-hand information that forms the basis for our conclusions.

A summary of the results: Resistance against nuclear rule enshrined in the NPT was, alongside humanitarian concerns, a decisive driving force for the actors united in the Humanitarian Initiative and the TPN process. An anti-colonial impetus also played a substantial role, especially when it came to the issue of nuclear weapons testing. However, the critique of colonialism vis-à-vis the nuclear order is selective, concentrating on certain facets while others appear multi-layered or differ by region. Focal points of the anti-colonial agenda include the rejection of the (threat of) excessive nuclear violence and the reinforcement of the subaltern perspective.

The recipe for success of the anti-nuclear, partly anti-colonial resistance relied primarily on *subversive opposition activities*. These took place in accordance with the rules and did not violate any provisions of international law. However, they drew on existing discursive and procedural principles that were previously not applied with regard to nuclear weapons and the nuclear order. In doing so, resisters subversively changed the rules of the game.

On the one hand, they used *subversive discursive means* to undermine the hegemony of the nuclear weapon states in the nuclear weapons discourse: With deliberate calculation, they resorted to the humanitarian framing of other prohibition processes to work towards a shift in the nuclear weapons debate. This led away from the prevailing deterrence paradigm founded on state security and strategic balance. In this way, the resisters wanted to divide the group of rulers and, in particular, put the umbrella states in a quandary. They also used the humanitarian code to open up new spaces for action (Conferences on the Humanitarian Impact of Nuclear Weapons) and options to take initiative (Humanitarian Statements, Humanitarian Pledge).

On the other hand, they circumvented the nuclear weapon states' and umbrella states' control by denial (based on the consensus principle in the nuclear disarmament machinery) with *subversive procedural means*: Using the majority principle in the modus operandi of the United Nations General Assembly, they exploited their numerical superiority within the institutional framework of the United Nations to establish an Open-Ended Working Group on nuclear disarmament and the Negotiating Conference for the TPN that both operated according to the same rules of procedure. They embedded this entire process into the political monitoring mechanism of the nuclear rule itself by declaring all these measures, including the treaty text itself, as an implementation of the decisions agreed upon within the framework of the NPT review process.

The recourse to subversive discursive and procedural means as well as the slimmed-down anti-colonial agenda were decisive prerequisites for the success of the resistance. At the same time, they diminished its potential for transformation.

In the following, further interesting findings of the comprehensive resistance analysis undertaken by this study will be discussed in more detail. Particular attention will be paid to the limits of the impact it has revealed, the implications of the empirically tight interweaving of rule and resistance for the dynamics in the nuclear order and what we have been able to learn about nuclear rule and its stability. This final section also summarizes which questions remain unanswered and give rise to further research.

## Role of rule & resistance in the Humanitarian Initiative & TPN process

The study has shown that the Humanitarian Initiative and the TPN process fulfill all criteria of the chosen definition of resistance. The movement can be understood as a revolt that withdraws recognition from institutionalized relationships of super-and subordination that shape the actors' scope for action and control in the nuclear order and thus questions and challenges them. The *spectrum of actors* is exceptionally broad and *includes a wide variety of state and non-state protagonists* who have joined forces in a transnational multi-stakeholder network to pool their resources and skills. The process could only be initiated and maintained through the interlocking of state and non-state actors. This is evidenced not least by the Amersham and Berkshire meetings, from which the core group emerged, which gradually took over the steering of the resistance in various constellations. Although the format of these meetings and the composition of the core or extended core group were fluid, they constituted the command center of the movement. Consequently, the resistance did not happen spontaneously or by chance, but was carefully prepared over the long term and built from the outset on numerous conscious decisions and fine-tuned coordination.

Cooperation between various players was central not only for the constitution of the leading group, but also for the broader reach and expansion of the resistance. This applies in particular to the unusually close cooperation between a relatively small group of players from the Global North and the much larger group from the Global South, without which the daring venture would probably not have been able to succeed. Non-state actors played an important advisory and lobbying role. They also helped with the organization of the resistance, the multiplication of its circle of supporters and the public outreach of its agenda. With their campaigning activities, they also ensured that the resistant spirit was fueled and maintained. One could say that they acted as think tanks, logistics centers and cheerleaders of the resistance.

However, the heterogeneity and division of labor within the Humanitarian Initiative should not obscure the fact that it was ultimately the diplomats who bore the risk of the resistance enterprise. After all, states are first and foremost the subjects over which nuclear rule and its rulers have direct influence and on which they can

exert pressure. While civil society actors cannot be held accountable in this context, the diplomats involved must take responsibility to their respective capitals and governments for potential political costs. Consequently, they also had the lead, in other words they took the strategic decisions and had the mandate as TPN negotiators.

The resistance analysis has also clearly highlighted that its *object of contestation* and its main point of reference is the NPT, or more precisely the components of the NPT that establish a nuclear hierarchy. Throughout the process, the NPT remained the point of departure and return for the resistance. Its 2010 Review Conference served as an opportunity to connect its key actors for the first time. During the review cycle between 2010 and 2015, they concretized their concerns and demands for “effective legal measures” (NAC 2014, 2015). In the context of the 2015 Review Conference, the movement reached its political momentum (Kmentt 2021, pp. 62–85), confronted the NPT nuclear weapon states with numerous joint statements and working papers and took the helm of the diplomatic debate. At the same time, the Outcome Documents repeatedly served as the basis for justifying taking action. The NPT thus represents the main object of resistance.

The evaluation of the interviews confirms this observation. Across the board, the hierarchy and double standards in the NPT were discussed and criticized. The criticism of rule emerged clearly regarding all relevant elements (objecting hierarchy and discrimination, denouncing nuclear weapon states’ steering and non-nuclear weapon states’ limited influence, questioning institutionalization). The central motivating factor behind the Humanitarian Initiative was precisely to break up this structure and to withdraw the faith of recognition (Max Weber’s *Legitimitätsglaube*) from the nuclear rule (i.e. the distinction between nuclear weapon states and non-nuclear weapon states enshrined in the NPT). It therefore constitutes a radical contestation, as *polity* itself was the bone of contention.

Furthermore, both the evaluation of the conversations with the resisters and the analysis of the norm genesis (and the reactions of the nuclear weapon states and umbrella states to it) revealed that the relations of superordination and subordination in the nuclear order display a *three-tier structure*. The latter arises from the practice of nuclear deterrence and entails a juxtaposition of *nuclear weapon states and umbrella states* on the one hand and *non-nuclear weapon states without deterrence arrangements* on the other. This meta-structure of the nuclear order apparently overlays all other group constellations in the NPT and TPN process.

According to the interviews analyzed, no significant differences can be identified between the different country groups involved in the Humanitarian Initiative (Africa, Asia-Pacific, Latin America & the Caribbean, Western Europe & others) when it comes to the perception and motivating effects of all relevant elements in the NPT regarding the definition of rule. The perception of two main legitimacy deficits fueled the withdrawal of the faith of recognition. Firstly, the output legitimacy of the NPT increasingly evaporated with respect to its disarmament pillar. Secondly,

the power-political design of the NPT and its interpretation as a founding treaty of nuclear rule were rejected. In this double sense, the Humanitarian Initiative and the TPN process are an expression of a profound crisis of legitimacy (Egeland 2017, p. 210). The latter stems not only from dissatisfaction with the lack of fulfillment of the disarmament commitment, but above all from the indignation about the resulting persistence of relations of super- and subordination and the different influence on control.

The interviewees not only expressed criticism, but repeatedly emphasized *positive resistant motivations*, confirming the terminological and conceptual framework of this study. They justified their participation in the Humanitarian Initiative and the TPN process not only with the humanitarian agenda, but above all with the pursuit of equality and participation, empowerment and the desire to get things moving and change. Most supporters of the resistance are convinced that their sphere of action has expanded and that the Humanitarian Initiative and the TPN will remain important platforms for them to coordinate their efforts, maintain pressure on the nuclear weapon states and influence the NPT. The shared experience of solidarity and self-enhancement within the movement encouraged a great majority to become more engaged in the nuclear field and keep going.

A further (although perhaps not surprising) finding from the interviews and the analysis of the actors' behavior in the course of the norm genesis of the TPN is that the special position of the umbrella states among the non-nuclear weapon states and their political complicity with the nuclear weapon states is primarily associated with the United States. This is, of course, because other nuclear weapon states, especially Russia, did not have comparable extended deterrence arrangements in place during the period under study. However, it reveals an important internal differentiation among the nuclear rulers, with the *United States playing a prominent role*. Consequently, the influence on control within the nuclear rule is less determined by how large the nuclear arsenals of the individual nuclear weapon states are (in which Russia has an advantage) than by how strongly they can activate a critical mass of followers within the group of non-nuclear weapons states to avert their isolation and to weaken the resistance.

The reactions of the "empire" and its attempts to contain the resistance made little impression on the rebels themselves or in fact spurred them on. The impact on the umbrella states, by contrast, was all the greater. And this is almost exclusively owed to the United States. In the course of the entire process, Washington managed to prevent the umbrella states from switching to the humanitarian track and maintained its control over this group. Both at the votes in the United Nations General Assembly and at the 2016 Open-Ended Working Group, they repeatedly demonstrated their loyalty to the regime. After a blunt warning from Washington towards its NATO partners that any support for a ban on nuclear weapons would shake the foundations

and preconditions for military cooperation within the alliance (US 2016b), they also voted against the TPN negotiations and boycotted them in 2017.

Despite all hostilities, even Moscow relied on Western cohesion and referred to the size of this group when it came to depicting the TPN process as illegitimate (Russia 2016b). Even though Russia, together with France, were the harshest and most fundamental critics of the Humanitarian Initiative and pushed for the greatest possible solidarity among the five permanent members of the United Nations Security Council, it was ultimately the United States that were able to mobilize political support for the nuclear rule via NATO and its allies in the Asia-Pacific.

At the same time, the reconstruction of the TPN negotiations and internal analysis of the resistance during the conference shows that *the “nuclear club” of nuclear weapon states was able to exert a limiting influence on the further course of events*. They put pressure on the International Atomic Energy Agency and prevented the multilateral monitoring and verification organization from actively participating in the genesis of the TPN. In addition, the A-Team always hovered like a phantom in the negotiating rooms, albeit only as a projection of possible future treaty parties, and thereby molded the wording of the individual provisions. This applies in particular to formulations in the prohibitions of assistance, the conditions for joining the treaty and the associated disarmament and verification requirements.

Last but not least, a pronounced awareness among negotiators of existing economic and technological dependencies ensured that more fundamental reform proposals were repeatedly thwarted and that the doors for dialog with the “nuclear club” remained open in the treaty text. The argument of keeping options for cooperation prevailed in many controversial points at the expense of more far-reaching changes to the *status quo*. The conservative forces generally included negotiators from the group of Western European & other states, states with close economic ties to the United States and middle powers. Non-state actors, smaller states and regional powers (Brazil, South Africa) often advocated for more fundamental or more comprehensive prohibitions, usually in vain. The interviews also proved that most TPN supporters are aware of the given balance of power and resources and know that they will ultimately not be able to achieve nuclear disarmament and other goals without the nuclear weapons states and umbrella states.

The *non-official and non-NPT nuclear weapon states* India, Pakistan, North Korea and Israel were also criticized by the resisters on the grounds of the humanitarian consequences and risks of nuclear weapons. In the context of the prevailing conflict of rule, however, they fade into the background and are not identified as the main opponents. This underpins the preliminary conceptual considerations of this study that resistance arises within the frame of reference of a system of rule (in this case the NPT) and is intimately intertwined with it. The symbiotic and unintended side-effect of this is that the Humanitarian Initiative and the TPN process reproduce cer-

tain principles of the nuclear rule, for instance that the ascribed main responsibility for the performance of the nuclear order remains in the hands of the NPT nuclear weapon states and permanent members of the United Nations Security Council.

Even though **China** takes a special position with its no-first use policy and has tried to get itself out of the line of fire by abstaining from numerous votes during the TPN process, it is still regarded by the resisters as a member of the inner circle of the nuclear rulers. The analysis of the reactions of the nuclear weapon states confirmed this perception. Though China, unlike its fellow NPT nuclear weapon states, did not attempt to contain the resistance and took a much softer stance, no Chinese representative appeared at one of the three Conferences on the Humanitarian Impact of Nuclear Weapons in 2013 and 2014 or one of the two Open-Ended Working Groups in 2013 and 2016. When the resistance took action and changed the procedures, Beijing aligned itself with the other NPT nuclear weapon states, supporting and announcing their joint statements (China *et al.* 2015). The cohesion of the blockade and partly disconcerting solidarity among the five permanent members of the United Nations Security Council reflects their prime interest in preserving the nuclear rule, which overrode all other squabbles among them.

### **Complex influence of the anti-colonial impetus**

The group of state sympathizers and supporters of the Humanitarian Initiative and the TPN process consists almost exclusively of countries from the Global South. However, a closer analysis of the actors and their historical composition revealed that the *initial conceptual and diplomatic impetus for the resistance came primarily from governments of European countries*, especially Switzerland and Norway. The non-governmental strand of the movement was also activated primarily from Oslo and Geneva after the International Campaign to Abolish Nuclear Weapons (ICAN) had relocated its coordination center there from Melbourne. The headquarters of the International Committee of the Red Cross has always been in Geneva. Furthermore, the resistance's networking, campaigning and lobbying activities were largely financed with Western funds (mainly from Norway and to a lesser extent from Austria, but also from the United States, United Kingdom, Australia, Sweden and Germany on the civil society side). This is particularly evident in the Norwegian government's sponsorship of ICAN and other Non-governmental Organizations.

Even though the growing core group in the following years included important countries of the Global South, in particular Mexico and South Africa, European countries (Norway, Austria, Ireland) were disproportionately overrepresented at first. If one adds the relatively substantial contributions of other Western states during the initial phase (Liechtenstein, Sweden, Holy See and New Zealand), one can hardly say that a subaltern uprising was in the pipeline. Two of the three Con-

ferences on the Humanitarian Impact of Nuclear Weapons in 2013 and 2014 took place in Europe (Oslo and Vienna), one in a country closely tied to the United States (Nayarit). The first Humanitarian Statement was initiated by Switzerland. The Austrian government formulated the Humanitarian Pledge, presented it in Vienna and initially named it the Austrian Pledge. Looking at the first years, it seems that the Humanitarian Initiative was rather driven by a competition to set a historic diplomatic milestone in a European capital than by an anti-colonial rebellion. After landmines were banned in Ottawa and cluster bombs in Oslo in the interest of humanitarian and civilizational progress, Oslo (again) and Vienna appeared as possible sites for the conclusion of a humanitarian-inspired nuclear weapons ban.

However, this latent Eurocentrism of the Humanitarian Initiative gave way over time. *With increasing politicization* of the prohibition issue and the growing size and strength of the movement, *countries of the Global South shaped the process*, as the detailed analysis of the norm genesis underlines. In addition to Mexico and South Africa, two important countries of the Global South, Brazil and Nigeria, joined the core group and became central players in the movement, getting increasingly involved until the negotiations of the treaty. Within the extended core group, Thailand, Indonesia, the Philippines, Malaysia, Costa Rica and others exerted increasing influence on tactical and strategic planning and decisions. They were also important connecting points for the mobilization of further supporters.

Groups of states from the Global South also played a key role. This applies both to nuclear-weapon-free zones and to the New Agenda Coalition, which, with the exception of Ireland, is composed almost exclusively of arms control protagonists from the Global South. These states and groups of states served as hubs for outreach and increasingly as agents of steering and implementation. They contributed numerous joint statements, resolutions and working papers to the NPT Review Conference 2015 review cycle, the Open-Ended Working Group 2016 and the TPN negotiations in 2017 and set the course for the diplomatic follow-up. Due to their sheer number and multiple alliance options, they provided the political muscle of the resistance. States affected by nuclear testing also became increasingly vocal. By contrast, the Non-Aligned Movement was unable to become a pivotal platform for the implementation of a nuclear weapons ban owing to its diverse composition and inclusion of non-official nuclear weapon states. But it fortified the movement as a resonance space, recruitment pool and historical ground for the anti-colonial narrative.

Among the non-state members of the Humanitarian Initiative, a similar development could be seen, albeit less pronounced. The voices of affected and indigenous people gained weight, which is particularly evident in the growing number of interventions by victims of nuclear weapons tests in colonized or formerly colonized areas. Interestingly, at the non-state level, the Global South did not gain as much influence on the political steering of the campaign as could be observed at the state level. The development of policy and strategy remained firmly in the hands of West-

ern civil society leaders. However, the overall structured analysis of norm genesis reveals how actors from the Global South were increasingly taking on and appropriating the Humanitarian Initiative and the TPN process. The more the Humanitarian Initiative turned into a manifest resistance movement, the stronger the leading role of the Global South became (and vice versa).

This assessment is bolstered by the fact that many of the *European protagonists gradually withdrew*. While Norway already disembarked at the end of 2013 due to a conservative change of government and subsequently joined the camp of the other NATO fellows and umbrella states, countries such as Switzerland and Sweden gradually disengaged following the political showdown at the 2015 NPT Review Conference. This can be attributed not least to the increased backfire of the "empire" and its attempts to contain the resistance at that time. Although these two European states, which were important for the humanitarian campaign, participated constructively and substantially in the Open-Ended Working Group 2016 and the TPN negotiations in 2017, they no longer fought in the front ranks for the nuclear weapons ban. Instead, they adopted more cautious or conservative positions, which were visibly influenced by the criticism of the nuclear weapon states and umbrella states. Neither of them signed or ratified the TPN. Against this background, the fact that Austria, Ireland and New Zealand remained loyal to the endeavor and retained their leading role is an interesting anomaly that warrants further research. It seems likely that a conjunction of domestic circumstances and a unique self-conception in foreign and disarmament policy could play a role here.

The analysis of the interviews has shown that there is a clear *awareness of post-colonial continuity in the nuclear order* among sympathizers and supporters of the Humanitarian Initiative and the TPN and that this has *contributed substantially to the motivation and successful outreach of the resistance*. Only isolated statements from interviewees denied the significance of the anti-colonial dimension. Even without being explicitly asked, the colonial past was frequently addressed and linked to nuclear issues. It was primarily related to nuclear testing and thus promoted anti-colonial solidarity with the affected states. Although not to the same extent, the extended deterrence arrangement was also repeatedly associated with imperialist practices. The dividing lines between the nuclear weapon states and umbrella states involved in nuclear deterrence on the one hand and the non-nuclear weapon states excluded from it on the other coincide with those between the Global North and the Global South. This was seen by some as an indication of post-colonial continuity.

Regarding the *six components of colonialism* developed in this study, the vast majority considered their relevance to be positive or differentiated. But the degree of anti-colonial impetus varied considerably depending on the component. In fact, we can even speak of a *selective anti-colonial impetus*:

The interviewees unanimously condemned the excessiveness of nuclear violence, albeit only linking it directly to colonialism in relation to nuclear testing. The

subaltern perspective and voice of the Global South were consistently emphasized and linked to the Humanitarian Initiative and the TPN process. Interviewees often contrasted this with the NPT and the discourse of the nuclear weapon states and umbrella states, which were also criticized as Eurocentric. While the primacy of the state and focus on state security was regularly questioned in line with humanitarianism, the advocacy of human security only went as far as it did not affect the interests of the own nation state. Anti-racist motives tended to play a subordinate role and were raised (if at all) primarily in connection with the nuclear weapons tests. As for the economic and financial dimension of the nuclear order, the proponents of the resistance movement complained across the board about a lack of economic fairness, a waste of resources and the resulting imbalance in the allocation of financial assets. They often combined this with a systemic criticism of capitalism. However, if there was a benefit from the economic exploitation within the nuclear economy (i.e. through uranium extraction), this aspect was ignored. This applied in particular to states that cooperate closely with nuclear capable states in the area of civilian use or in which uranium mines and mills are operated. The desire to fight against structures of patriarchal domination varied significantly between the actors. For civil society, Latin American and Western supporters, it was a central concern. In the Asia-Pacific region, differentiated views prevailed, while skepticism was repeatedly encountered in some African states. Only a minority perceived an anti-colonial motivation behind the gender aspect. Most saw the commitment to gender sensitivity and equity as a reflection of a more general political trend and our times.

In other words, anti-colonial resentment certainly played a significant motivating role for participating in the Humanitarian Initiative and the TPN process. However, the ostensibly anti-colonial program was tactically and strategically adjusted according to *Realpolitik* constraints. Essential principles of colonial legacy were thus reproduced, in particular the primacy of the state and structures of economic exploitation.

These findings are largely confirmed by the analysis of the TPN negotiations and the treaty text. While the preamble expresses the commitment of States Parties to strengthen the participation of women in nuclear disarmament and recognizes the disproportionate impact of nuclear weapons on women and the indigenous population (UN 2017i, preamble), these concerns were not shared or prioritized by all parties. It was mainly civil society and a mixed group of state representatives from Western countries and the Global South that advocated these progressive elements. Similarly, the wording on the financial and economic aspects merely mentions the waste of resources and ignores the exploitative structures of uranium mining. Representatives from the Global South were particularly vigilant in ensuring that the “inalienable right” to peaceful use remained untouched or indeed was reinforced.

Apart from the comprehensive prohibition of nuclear violence, its threat and all related activities, other elements that relate to colonial imprints hardly feature in the TPN's provisions. One exception are the positive obligations, which also deal with the legacy of the (colonial) practice of nuclear testing (UN 2017i, Art. 6 & 7). It is the first time that the demands and interests of affected indigenous communities have been taken into account in a multilateral treaty. However, by leaving the main responsibility for victim assistance and environmental remediation with the affected states, the TPN reproduces inherited injustices of the colonial legacy on the basis of the principle of state sovereignty.

Familiar disparities between more powerful and less powerful states continued during the TPN negotiations. Smaller delegations remained at a disadvantage and particularly dependent on logistical technical and content-related support from civil society actors and academia. Mostly, states that held more conservative positions on key issues triumphed over more far-reaching demands from civil society and more radical state negotiators. This was particularly true when members of the core group advocated a more cautious stance.

It is remarkable, however, that a group of state negotiators from the Global South prevailed over the two core group members Austria and Mexico on the issue of an explicit ban on nuclear deterrence, which touches on a central aspect of the functional logic and the three-tier structure of the nuclear rule.

## **The puzzle (and limits) of success: a struggle of subversive opposition**

The answer to the first part of the research question has highlighted the significance of (the United States') extended nuclear deterrence for the structure of nuclear rule and identified it as a decisive mechanism for generating international support for the *ancien régime* and containing resistant efforts politically and diplomatically. The nuclear rulers possess a further lever for maintaining the *status quo*: the consensus principle that applies in the forums of the multilateral nuclear disarmament machinery. This ***control by (procedural) denial is characteristic of the nuclear rule*** and was consolidated with the indefinite extension of the NPT in 1995. In addition, the ***nuclear weapon states steer the debates on nuclear arms control, non-proliferation and disarmament through the discourse of nuclear deterrence***, which is geared towards state security and strategic balance. Against this backdrop, contestations against the various shortcomings and injustices associated with the NPT have repeatedly reached their limits in the past.

In its analysis of the norm genesis of the TPN, this study has worked out how the Humanitarian Initiative and TPN supporters have succeeded in breaking these limits and control mechanisms against the will of the NPT nuclear weapon states and their allies. In doing so, a remarkable "sneakiness" of the supporters of the Hu-

manitarian Initiative can be detected from the very beginning. This became evident in the reference to the humanitarian framing in the final document of the 2010 NPT Review Conference, which expressed “deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons” (UNODA 2010, part I, p. 19). The fact that this formula served as a justification for all further activities of the Humanitarian Initiative and as a hinge for its feedback into the NPT review process illustrates how subtly and subversively *the humanitarian code was used to gradually expand the movement's scope for action.*

In order to move forward unnoticed and undisturbed after the NPT Review Conference 2010, the first protagonists initially networked in *informal formats outside the established forums* where they discussed and planned further action. The Amersham and Berkshire meetings accompanied the entire process between 2011 and 2017 and progressively established themselves as venues for tactical and strategic consultations and preparations for resistance. With diplomatic professionalism and sophistication, core group members drove the daring project forward within these discreet settings. These meetings laid the groundwork for the three Conferences on the Humanitarian Impact of Nuclear Weapons, the Open-Ended Working Group in 2016 and the TPN Negotiating Conferences in 2017. They also dovetailed the resistance with the timing of the UN disarmament machinery to ensure its effectiveness, in particular the sessions of the United Nations General Assembly and its First Committee as well as the NPT review cycle.

The diplomatic operationalization of the humanitarian code in the form of the Humanitarian Statements, the Conferences on the Humanitarian Impact of Nuclear Weapons, the Humanitarian Pledge and the working papers and resolutions developed by the members of the Humanitarian Initiative demonstrates the high degree of sensitivity of the movement regarding the importance of the discursive-epistemic dimension and its subversive potential in the fight against nuclear rule. It provided one of the few available opportunities to increase their influence. The fragility of discursive authority was the weak point of the nuclear weapon states and at the same time the chance for resistance.

Using humanitarian language, they put pressure on numerous Western umbrella states, as this ultimately scratched their own foreign policy self-image as advocates of human rights, international law and nuclear disarmament. While the umbrella states felt compelled to participate in the Conferences on the Humanitarian Impact of Nuclear Weapons and the Open-Ended Working Group 2016, the nuclear weapon states prioritized their power and geopolitical interests, tried to ignore the new wording and kept their distance. However, the Humanitarian Initiative succeeded in using its discursive means to at least influence the political space of Western nuclear weapon states via the umbrella states and domestic civil society. The ideational smoothness of the humanitarian code concealed the rebellious driving force behind it.

The multi-stakeholder network remained true to its overall subversive strategy throughout the entire process. Initially employed to achieve a *shift in the discourse*, it was later used to force a *shift in the procedure*. Once again, standards that were already recognized but uncommon in the nuclear sector were used to impose fundamental changes. With the adoption of the United Nations General Assembly rules of procedure based on the majority principle as the working mode for the Open-Ended Working Group 2016 (UNGA 2015d) and, one year later, the TPN Negotiating Conference 2017 (UNGA 2017), *the resisters overturned the control mechanism of consensus*. The nuclear weapon states and their allies could no longer set the pace of the United Nations disarmament machinery, their control advantage was undermined. The evaluation of the qualitative interviews confirmed that self-empowerment was both the result of an act of resistance and an important motivation for participating in it.

While the discursive departure from the prevailing nuclear weapon states' narrative (strategic security & deterrence) elicited rather restrained reactions (avoidance) on the part of the rulers, this changed with the procedural departure from the established decision-making process. Here, the functional logic of control by denial, which is vital for the survival of the nuclear rule, was attacked. At this point at the very latest, one can speak of a manifest resistance that openly challenged the steering of the nuclear weapon states and umbrella states. The NPT nuclear weapon states saw their regime under threat, put aside their other differences and closed ranks. When the resistant non-nuclear weapon states made use of the majority vote option for the first time in the Open-Ended Working Group 2016, the umbrella states also abandoned their efforts to contain the resistance through mediation and joined the boycott of the nuclear weapon states.

Despite increasing polarization and confrontation between the camps of the "nuclear club" and the states without nuclear deterrent, the conflict between rulers and resisters always took place within the framework of the established rules. Even when the resistance was subversive, almost sneaky, it always remained in the mode of an opposition movement. Indeed, it disguised itself as a promoter of compliance, as an action alliance for the implementation of NPT agreements. It derived its procedures from the *modus operandi* of the United Nations General Assembly and used the United Nations as an institutional framework for the preparation and implementation of a revolt under international law. *The TPN is thus the product of a subversive struggle by an opposition to nuclear rule*. The resistance started within the NPT, returned to it, aligned itself with its cycle and never violated the rules of the game. At the same time, its radical objectives, discursive framing and procedural choices undermined the steering mechanisms of the non-proliferation regime that constitute the nuclear rule.

The *nuclear rulers were ultimately impotent* against this subversive approach. The analysis of the impact of the nuclear weapon states' reactions revealed that boycotts

and confrontation instead contributed to a strengthening of the resistance. They did not achieve their goal of intimidating and weakening the movement. Although the nuclear weapon states and umbrella states found a common wording to counter the subversive attacks against their discourse hegemony, they did not find a common strategy. The NPT nuclear weapon states distanced themselves and blocked, while other nuclear weapon states and umbrella states could not or did not want to completely escape the humanitarian argument. When the resistance moved on to infiltrate the rulers' control of denial, i.e. to take procedurally subversive action, the ranks of the NPT nuclear weapon states and umbrella states closed – which produced astonishing coalitions among the rulers – but they had no chance against the mass of resisters within the framework of the United Nations General Assembly, where the principle of equality under international law is married to the principle of majority voting thereby leveling differences in power.

Although the analysis brought to light various demarches against non-aligned non-nuclear weapon states and individual (but unproven) reports of bilateral blackmailing, this study does not come to the conclusion that significant coercive instruments were at play. Rather, it appears that the “nuclear club” was unable to counter a numerically significant collective uprising on the diplomatic level. Against the group of non-nuclear weapon states, as long as united, nuclear weapons and nuclear deterrence do not appear to be an effective “diplomatic weapon” or booster of bargaining power (Schelling 1966). In the absence of usable and effective repressive means, the ability to cooperate and engage in dialog appear to be more suitable instruments for regaining influence over control. This would mean that the relationship between rule and resistance can be particularly dynamic in the nuclear order.

This predisposition is likely to become all the more pronounced today as both sides, the rulers and the ruled, are now each equipped with their own discursive tools and options for procedural control. The *transformative potential* of the resistance experience and the TPN lies precisely in this *reconfiguration of the respective spheres of action and influence on control*. The treaty proposes a nuclear order stripped of the components of rule and unequivocally rejects the interpretation that the NPT grants permanent members of the United Nations Security Council the right to possess nuclear weapons and that nuclear deterrence is a legitimate practice. It thus represents the biggest challenge to date to the legitimacy of the nuclear *status quo*. With the entry into force of the TPN in January 2021, the non-aligned non-nuclear weapon states have regained a potentially effective political lever to break up the control by denial of the nuclear weapon states, something they had lost in the course of the indefinite extension of the NPT in 1995. If they remain united and are prepared to use the TPN together with the discursive and procedural options available to them, they now have an equivalent threat mechanism at their disposal.

So far, no tendencies towards such a decomposition are discernible. Nevertheless, the supporters of the TPN appear to be prepared to continue to use their treaty and networks in a targeted manner in order to exert further influence on the NPT. At the first TPN Meeting of States Parties in Vienna in June 2022, which was deliberately scheduled before the NPT Review Conference in August of the same year, the compatibility between the two regimes was a major concern (UNODA 2022, annex III, 3). The second TPN Meeting of States Parties in December 2023, by contrast, made clear that the fight against the nuclear rule did not end with the entry into force of the TPN and that they were willing to challenge the continued practice of nuclear deterrence in light of the war in Ukraine (UNODA 2023, annex II, 5).

Just as the success of the resistance is based on its subversive means, the *limits of its potential for change* also result from choosing these means. *Even if the TPN calls into question fundamental elements of nuclear rule, it perpetuates central features of the established nuclear order.* Most importantly, its arms control *acquis* and institutional framework remain intact and are integrated into the ban treaty. The TPN thus becomes a founding treaty of a transformative, yet conservative nuclear order. It is transformative because it tries to reorganize its power structures. It is conservative in that it draws on its arms control governance structures and achievements and the norms on which they are based. The analysis of the interviews and the treaty negotiations confirm such an interpretation of the TPN treaty text. The resistance actors were extremely keen to preserve or strengthen the arms control substance of the NPT and the regime's institutionalized verification and implementation arrangements. The TPN even draws on the International Atomic Energy Agency by enshrining the existing safeguard agreements (UN 2017i, Art. 3). It also defines the framework conditions and verification provisions in such a way that the International Atomic Energy Agency appears to be the most likely candidate for monitoring (UN 2017i, Art. 4).

The supporters of the TPN and the treaty itself therefore very clearly *separate the arms control content from the power politics content of the NPT*. By adopting and partly strengthening the normative framework on non-proliferation, they ensured the compatibility of the NPT and the TPN in this regard. The TPN negotiators also did not want to dilute at any price the NPTs promise of promoting the peaceful use of nuclear technology. Especially states that maintain close cooperative relations with the Nuclear Suppliers Group or other states that have developed nuclear technology in the civilian sector considered this "inalienable right" (UN 2017i, preamble) to be sacred. In contrast, the power-political content of the NPT was filtered out and all elements of nuclear rule were removed when drafting the new treaty. However, major overlaps of interest between the "nuclear club" and the anti-nuclear resistance remain and can be used to maintain the non-proliferation regime in the future.

The subversive use of the humanitarian code as a key to change, in turn, has the flip side that it perpetuates essential parts of the *norm stock of the so-called liberal (or*

**Western) international order.** The recourse to the concept of human security for weakening the epistemic and discursive continuity of the dominant discourse of state security and strategic stability ultimately came at the cost of reproducing ideas that had mainly been developed by Western nuclear weapon states and umbrella states. By drawing on discursive sources that had already been established, the movement set sensitive limits to any radical transformation. This applies no less to using International Humanitarian Law as a medium, as its origins can also be traced back to an international legal system that was largely created by European states. But there is another reason why the discursive shift via humanitarian law and the concept of human security quickly reached its limits. For it was counteracted by the procedural shift that was subsequently chosen. By adopting the United Nations General Assembly's rules of procedure, they maintained the primacy of the state and set strict limits on the inclusion of non-state actors and their interests.

This became most evident during the TPN negotiations, where ICAN and other non-state actors had no negotiating mandate and remained excluded from the closed rounds of the treaty negotiations. Their pioneering role in the movement was reduced to that of a service agency, encouraging smaller delegations to participate and providing logistical support for government decision-making processes. Their substantive positions continued to attract a great deal of attention. However, they ended up being the softest bargaining chip in reaching a compromise. As mentioned above, the situation is similar with the slimmed-down anti-colonial agenda. Its pragmatic selectivity sets narrow limits for structural changes, which particularly affects the primacy of the state.

Ultimately, the subversive struggle and its product, the TPN, reaches its clearest **limit at the rift with the nuclear weapon states and umbrella states.** It is not foreseeable that states from this group will join the treaty. Nevertheless, Australia, Germany, Norway and Switzerland took part in the last TPN Meeting of States Parties 2023 as observer states and thus showed a willingness to engage in dialog. The clarification of fronts could indeed offer an opportunity for productive conflict resolution. The debate item "Taking forward multilateral disarmament negotiations" has been an integral part of the annual agenda of the First Committee of the United Nations General Assembly since 2011 and represents an invitation to address the multilateralization of the nuclear arms control and disarmament architecture. A long-term stabilization of the nuclear order will depend not least on whether the "nuclear club" will be able to accept this offer. To this end, they would have to find convincing answers to the growing criticism of nuclear deterrence and take credible measures for nuclear risk reduction.

The nuclear weapon states and umbrella states could also help to ease tensions if they were to become involved in the increasing efforts to provide victim assistance and environmental remediation (Baldus *et al.* 2021, IHRC 2023) or respond to the growing calls for negative security guarantees. There are also numerous entry points

for a win-win solution regarding the practical implementation of the multilateralization of nuclear disarmament and arms control sought by the TPN supporters (Erästö *et al.* 2019, Hach 2021). So far, TPN proponents have demonstrated patience and goodwill within the forums they share with the nuclear weapon states and umbrella states. It was not them who caused the Review Conferences in 2015 and 2022 to fail, but the nuclear rulers. In 2015, Washington vetoed the wording on the Middle East. In 2022, Moscow vetoed a passage addressing the precarious nuclear safety situation at the Zaporizhzhia nuclear power plant.

A change in behavior seems more likely to be achieved through domestic pressure via civil society. The declarations of support initiated by ICAN from cities (ICAN 2023a) or parliamentarians (ICAN 2023b) for the TPN as well as successful divestment campaigns (Muñoz 2022, Snyder 2022) did have some impact. However, since the outbreak of the war in Ukraine and massive nuclear threats from Moscow, clear limits have become apparent. While TPN sympathizers and supporters hold nuclear deterrence partly responsible for the crisis, a rapid renaissance of nuclear deterrence is taking place in most nuclear weapon states and umbrella states. Even in nuclear-sceptical Germany, a backlash can be observed, which is reflected not only in the prompt and undisputed procurement of new delivery systems for the United States nuclear weapons stationed there, but also in the unprecedented support for nuclear sharing in surveys (NDR 2022).

## Questions arising for further research

This study provided a comprehensive and empirically saturated answer to the research question on the role of rule and resistance in the Humanitarian Initiative and the TPN process, the anti-colonial impetus of the movement and the reasons for its success. Its findings, however, raise new questions for further research on the nuclear order, arms control, disarmament and non-proliferation, as well as for studies on power politics and steering in international relations in general.

Although the non-nuclear weapon states came up with an alternative to the existing nuclear order (TPN), the old order (NPT) is still in place and even persists as part of the new one. This yields interesting questions, both empirically and theoretically. What does the withdrawal of recognition mean for the continued existence of nuclear rule? Can it survive in the long term as a variant of rule without recognition? Will the withdrawal of legitimacy and the resulting tension between the NPT and TPN lead to an erosion of the non-proliferation regime or even to its collapse in the long term? Or, conversely, will the disappointment that nothing fundamental has changed lead to the TPN's appeal waning, nuclear rule becoming more entrenched and resistance gradually fading?

The observation that the prime rulers in the nuclear order are not those who possess most nuclear weapons or threaten the most (Russia), but those who can at least partially contain resistance through their relations with the umbrella states and members of the group of non-nuclear weapon states without deterrence (United States) suggests that nuclear rule is part of the overall Western dominated liberal world order. This would confirm the classic International Relations thesis of a (United States) hegemonic system. Would that mean that the successful anti-nuclear resistance is an expression of the eventual fading or imminent end of this international order lead by the West, as many have been predicting for a long time and with increasing vehemence? Or do the United States, unlike Russia and China, remain fit to rule despite geopolitical turmoil – as its lasting influence on the umbrella states and many TPN supporters suggest? Comparable processes in other policy areas could be examined to get to the bottom of possible patterns.

If the insights from this analysis of the nuclear order can be generalized, the future of the so-called liberal world order, its stock of norms and institutions, might depend not only on the relative gain in influence of other great powers and the further development of their relations with the powers of the West, but also, and in particular, on the behavior of the numerous countries of the Global South. Their continued endorsement of and engagement with the existing normative and institutional framework, in particular the United Nations, proved to be a decisive factor for the further development of international law, according to this study. Ultimately, the preservation of a social order or even rule depends not only on power relations, but above all on its acceptance by the majority of social actors (in the context of international relations, mostly states). This applies equally to the United Nations and other global institutions, regimes and norms. The present study should therefore encourage future research in International Relations and International Public Law to focus more on the supposedly less powerful countries and states of the Global South and to examine their active role in challenging, maintaining, developing or transforming orders or even systems rule in other policy areas as well.

International governance and regime research already offers analytical tools that examine the interplay between specific regulatory structures and forms of contestation. Approaches that work with the notion of authority and observe an increasing politicization resulting from the growing competencies of international organizations and regimes, for example, concentrate on individual sectors of global governance. Consequently, the overall relationships and interplay between different sectors (international trade, security, health etc.) recede into the background. The analytical lens provided by our concept of rule and resistance has shown that this is insufficient. Instead, research on international and transnational contestation must be further developed and embedded in an analysis of broader power politics, paying attention to the interplay of various sectors and dependencies at different levels. The comprehensive analysis of resistance conducted by this study has shown

that inter-state relations in other sectors have a strong influence on the extent to which a state participates in contestation or politicization in a particular sector. In addition, developments in other sectors and regimes can even have a spillover effect and trigger, reinforce or contain contestation in a given sector. These phenomena can be better analyzed if the larger context of (global) rule and resistance and the interplay of different fields of relations and various regimes with different scopes of action and steering options are taken into account.

For research interested in stabilization mechanisms of the nuclear order or other international regimes, it could be useful to pay more attention to (nuclear) resisters than to (nuclear) rulers in the future. Is the resilience of the old order possibly greater among the resisters than among the rulers? Can an order in international relations be maintained without rule (or rulers), without relations of superiority and subordination and different levels of influence on control? What room for maneuver remains for the Western allies of the United States within this new configuration of rule and resistance in the nuclear order and the associated spheres of action? Paradoxically, the greatest opportunities for the continued existence of the nuclear order could be found in resistance to nuclear rule. Can the resisters stabilize the nuclear order at a time when the rulers are dismantling it? These questions are also relevant for other areas and regimes with strong power imbalances and dysfunctionalities or even tendencies towards decomposition. What (dialectical) potential does resistance drawing on existing discursive, normative and procedural sources offer for repairing the international system or the United Nations or help them to meet global challenges? Two possible areas for further investigation should be mentioned in this context:

Further research could examine to what extent resistance movements offer new opportunities for the international community to combat climate change and develop more effective multilateral coping strategies. The potential effects of political resistance for better management, prevention and crisis response in the event of global health hazards in the future also await inquiry. In the fight against climate change, for instance, the rifts between developed industrialized countries and developing countries most affected by the consequences of global warming within the Paris Agreement and the COP process are widening and protests are becoming more and more manifest. Another example is the World Health Organization, which has been shaken by the Covid pandemic and double standards in crisis management. Therefore, the conditions and potential for successful reform and restructuring processes in the context of profound political conflicts would be of great interest. Resistance initiatives such as the diplomatic fight for a Fossil Fuel Non-Proliferation Treaty by island nations that are particularly vulnerable or the struggle of states from the South for a new global health architecture and reform of medical patent protection provide exciting avenues for exploring the productive regulatory impact of counter-movements.

Post-colonial questions about the nuclear order are also far from being fully clarified with this study. The fact that the examined nuclear resistance was only partially motivated by anti-colonialism does not mean that the nuclear order and nuclear rule cannot have a strong colonial imprint. The conceptual reflections and illustrations of the six colonial imprints offer numerous starting points for exploring this question further. Focusing on the perceptions, motivations and actions of the resisters, the methodology of this study is also confronted with the problem of the internalization of post-colonial structures. According to critical and post-colonial approaches, it is difficult or almost impossible to recognize them as such. This is likely to be all the more complicated since diplomats, as representatives of states, can be seen as custodians of the post-colonial order. Given that an anti-colonial impetus has nevertheless (partly) emerged among them, wouldn't this even emphasize a critical awareness? Or is this just an expression of a purely opportunistic or even colonialized mindset? How can the variances and regional differences in the perception of post-colonial continuity and its motivational role be explained in this context?

Probably the most fundamental questions for critical and post-colonial research, however, arise from the conceptually and empirically supported finding of this work that rulers and resisters in nuclear rule are intimately connected: in their reciprocal relations of dependency, in terms of mutual recognition and de-recognition, and in terms of the means available to them for dealing with their political conflicts. In the context of the diplomatic sphere, these connections do not appear to be one-sidedly in favor of the rulers. Instead, numerous ambivalences have emerged that cannot be understood by simply contrasting power holders and the disempowered, hegemonic and anti-hegemonic forces, colonizers and the colonized. Rather, their scopes for action seem to depend on their willingness and ability to act in unity and to draw on the repertoire of existing epistemic beliefs, discursive framings, normative grounds and procedural tools. Even if the origins of this repertoire mostly go back to the rulers, this study has demonstrated that it can be charged with new meaning, endowed with a new function and thus directed against the rule.

At the same time, the findings of our analysis relativize the strict separation between rulers and ruled, or rulers and resisters, as both groups are very heterogeneous in composition and, not least for this reason, can exert an influence far into the political sphere of the other group. In contrast to previous literature examining resistance to hierarchies, hegemonic dominance or colonial power, the sociologically inspired approach of this study offers the advantage that it better captures and explains the multi-layered nuances between rulers and resisters and the permeability of the boundaries between them. Instead of maximum demarcation and polarization, it is the intimate knowledge and appropriation of the instruments, procedures and discourses of rule that enable successful resistance, as this research has shown. Effective international resistance uses the mechanisms of the global appara-

tus of rule and operates within its gears. The findings further indicate that attention should be paid to the behavior of different groups (of states) within the resistance and their specific relationships towards the “rulers” when analyzing them. Middle powers, which predominantly benefit from the *status quo* of international relations, have behaved very differently (more conservative / stabilizing the *status quo*) than larger regional powers (more revolutionary / destabilizing the *status quo*) or small states and civil society, for example.

These interconnections are more reminiscent of Hegel’s dialectical Phenomenology of Spirit and the genuinely inter-subjective constitution of the self-consciousness of *Herr* (master) and *Knecht* (servant) than of the asymmetrical relationships within hierarchies, hegemonic power disparities or between colonial master and slave, as analyzed in traditional critical and post-colonial literature. This insight is highly relevant for other areas of International Relations and International Public Law, as it reveals entirely new possibilities for the articulation and manifestation of (anti-colonial) critique and resistance in general, but consequently also for hybrid and (therefore) more self-aware academic debates about it.

