

Russia's nuclear weapons policies and international law including human rights law

List of Issues Submission to the United Nations Human Rights Council During its Periodic Review of Russia

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1. SUMMARY

The civil society organizations making this submission contend that the policies and actions of the government of Russia with regard to its nuclear weapons, pose serious threats to peace and security and to the human rights of citizens in Russia, neighbouring countries and globally. In addition, the policies and actions are in violation of the obligations of Russia under international human rights law and under international law relating to armed conflict, peace and international security.

We understand that there are security issues that play a role in the nuclear weapons policy and practice of Russia. These security issues are taken into consideration in order to ensure that our recommendations to Russia are realistic, fair and will not undermine the security of Russia and its citizens.

2. INTRODUCTION: THREATS & POTENTIAL IMPACT OF NUCLEAR WEAPONS USE

Following the invasion of Ukraine, Russia has made a number of verbal threats and provocative military actions involving nuclear weapons, which have served as coercive actions in attempts to minimise opposition to the Russian invasion and to indicate an elevated readiness by Russia to launch a nuclear attack.

These have included, amongst others;

- **28 February 2022:** President Putin ordered Russia's nuclear forces to go into a "special mode of combat duty", a state of high alert.¹
- **14 April 2022:** Dmitry Medvedev, deputy chairman of Russia's security council (former President of Russia) **warns that** Russia would deploy nuclear weapons and hypersonic missiles in Kaliningrad (Russian enclave between Poland and Lithuania) if Sweden and Finland join NATO.²
- **20 April 2022:** Russia carried out its first test launch of the RS-28 Sarmat, a new long-range intercontinental ballistic missile. Putin said the new missile could defeat any missile defences, and that it should cause countries threatening Russia to "think twice".³
- **23 April 2022:** Russian foreign minister Sergey Lavrov warns that further support by the West to Ukraine would cause tensions which could lead to a World War III scenario involving Russia's full arsenal of weapons.⁴
- **21 September 2022.** Putin announces that Russia "will use all the means at our disposal" (widely interpreted as a threat to use nuclear weapons) in order to defend the country's territory, and warned that his threat was "not a bluff"⁵
- **30 September 2022.** President Putin, in his speech in the Kremlin announcing the annexation of four Ukrainian regions, claimed that these territories are now part of Russia, that Russia has nuclear weapons to defend its territory, and that the United States created a precedent for others to launch a nuclear attack when they used nuclear weapons against Hiroshima and Nagasaki in World War II.⁶
- **24 October, 2022.** Russian defense minister Sergei Shoigu accuses Ukraine of preparing to use a radioactive dirty bomb on Ukrainian territory, prompting concerns in the West that Russia itself might be planning to use a dirty bomb and blame it on Ukraine.⁷
- **9 December 2022.** President Putin announces that Russia might abandon its policy on no-first-use of nuclear weapons,⁸
- **21 February 2023;** Russia, on the anniversary of its invasion of Ukraine, announces suspension of the New Start Treaty, the last major remaining nuclear arms control treaty with the US.⁹
- **22 February 2023.** Russia announces that that new strategic nuclear systems had been put on combat duty, and threatened to resume nuclear tests.¹⁰

¹ See *Putin signals escalation as he puts Russia's nuclear force on high alert*, The Guardian, Feb 28, 2022.

<https://www.theguardian.com/world/2022/feb/27/vladimir-putin-puts-russia-nuclear-deterrence-forces-on-high-alert-ukraine>

² *Russia warns of nuclear deployment if Sweden, Finland join NATO*, Al-Jazeera, April 14, 2022,

<https://www.aljazeera.com/news/2022/4/14/russia-warns-of-nuclear-deployment-if-sweden-finland-join-nato>

³ *Russia to deploy new intercontinental nuclear missiles by autumn*, Al-Jazeera, April 23, 2022.

<https://www.aljazeera.com/news/2022/4/23/russia-to-deploy-sarmat-missiles-in-major-nuclear-upgrade>

⁴ *Russia's Lavrov Warns of 'Real' Danger of World War III*, The Moscow Times, April 25, 2022.

<https://www.themoscowtimes.com/2022/04/25/russias-lavrov-warns-of-real-danger-of-world-war-iii-a77486>

⁵ *Russia pushes the panic button and raises risk of nuclear war*, The Washington Post, September 21, 2022.

<https://www.washingtonpost.com/world/2022/09/21/russia-referendums-ukraine-occupied-nuclear/>

⁶ See *Dear Putin: Hiroshima & Nagasaki nuclear bombings were illegal – not a precedent for a nuclear attack*. NoFirstUse Global, October 22, 2022. <https://nofirstuse.global/2022/10/20/dear-putin-hiroshima-nagasaki-nuclear-bombings-were-illegal-not-a-precedent-for-a-nuclear-attack/>

⁷ *Russia claims Ukraine 'dirty bomb' in final stages*, France 24, October 24, 2022. <https://www.france24.com/en/live-news/20221024-russia-claims-ukraine-dirty-bomb-in-final-stages>

⁸ Putin floats possibility that Russia may abandon 'no first use' nuclear doctrine, CNN, December 9, 2022.

<https://edition.cnn.com/2022/12/09/europe/russia-putin-nuclear-weapons-intl/index.html>

⁹ *Putin says Russia will halt participation in New Start nuclear arms treaty*, The Guardian, February 21, 2023.

<https://www.theguardian.com/world/2023/feb/21/putin-russia-halt-participation-new-start-nuclear-arms-treaty>

¹⁰ Russia's Putin issues new nuclear warnings to West over Ukraine, Reuters, February 22, 2023.

<https://www.reuters.com/world/putin-update-russias-elite-ukraine-war-major-speech-2023-02-21/> and *Putin Could Escalate with Nuclear Testing*, Rand Corporation. March 6, <https://www.rand.org/blog/2023/03/putin-could-escalate-with-nuclear-testing.html>

- **24 February 2023:** President Putin alleges that the US is leading the military alliance with Ukraine in order to defeat and liquidate Russia. Russian nuclear doctrine holds that nuclear weapons can be used to protect the survival of the state of Russia.¹¹
- **25 March 2023:** Russia announces intention to deploy nuclear weapons in Belarus.¹²

Any use of nuclear weapons by Russia would create catastrophic humanitarian, military, economic and political impacts - possibly initiating a nuclear war - the likes of which would be unprecedented in human history.

3. NUCLEAR WEAPONS AND HUMAN RIGHTS LAW

In paragraph 66 of General Comment No. 36 on the right to life set out in Article 6 of the International Covenant on Civil and Political Rights (ICCPR), the United Nations Human Rights Committee stated:

The threat or use of weapons of mass destruction, in particular nuclear weapons, which are indiscriminate in effect and are of a nature to cause destruction of human life on a catastrophic scale, is incompatible with respect for the right to life and may amount to a crime under international law.

States parties must take all necessary measures to stop the proliferation of weapons of mass destruction, including measures to prevent their acquisition by non-state actors, to refrain from developing, producing, testing, acquiring, stockpiling, selling, transferring and using them, to destroy existing stockpiles, and to take adequate measures of protection against accidental use, all in accordance with their international obligations.

They must also respect their international obligations to pursue in good faith negotiations in order to achieve the aim of nuclear disarmament under strict and effective international control and to afford adequate reparation to victims whose right to life has been or is being adversely affected by the testing or use of weapons of mass destruction, in accordance with principles of international responsibility.

This paragraph complements and updates *CCPR General Comment No. 14: Article 6 (Right to Life) Nuclear Weapons and the Right to Life*, adopted by the Human Rights Committee on 9 November 1984.¹³

Under the ICCPR, Article 4(2), the right to life is non-derogable, to be observed in all circumstances, even in the event of a “*public emergency which threatens the life of the nation.*” Russia is a state party to the ICCPR and as a result is obligated to implement its provisions in good faith according to Article 26 of the 1969 Vienna Convention on the Law of Treaties (*pacta sunt servanda*). Even if the General Comment is not legally binding as such, it is considered the Committee’s authentic interpretation of Article 6 and the relevant practice thereto.

The **Right to Life** is also found in the *Convention on the Rights of the Child* (Article 6).

The **objective of nuclear disarmament** is found in the preamble to the *Convention on the Elimination of All Forms of Discrimination against Women*.¹⁴

¹¹ Vladimir Putin says the US-led military alliance in Ukraine seeks defeat and liquidation of Russia, ABC News, February 26, 2023. <https://www.abc.net.au/news/2023-02-26/vladimir-putin-says-russia-cant-ignore-nato-nuclear-capability/102025604>

¹² Russia plans to station tactical nuclear weapons in Belarus, Putin says, CNN, March 26, 2023.

<https://edition.cnn.com/2023/03/25/world/russia-putin-nuclear-weapons-belarus-intl-hnk/index.html>

¹³ See *CCPR General Comment No. 14: Article 6 (Right to Life) Nuclear Weapons and the Right to Life*. Adopted at the Twenty-third Session of the Human Rights Committee on 9 November 1984. <https://www.refworld.org/docid/453883f911.html>

¹⁴ The Convention affirms that “... *the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control...* will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women.” *Convention on the Elimination of All Forms of Discrimination against Women*, preambular paragraph 11.

The use and testing of nuclear weapons also threaten the **Right to Health** as affirmed in *General Comment No. 14 (2000) The right to the highest attainable standard of health* (Article 12 of the International Covenant on Economic, Social and Cultural Rights), which concludes that:

*'States should also refrain from unlawfully polluting air, water and soil, e.g. through industrial waste from State-owned facilities, from using or testing nuclear, biological or chemical weapons if such testing results in the release of substances harmful to human health.'*¹⁵

4. INTERNATIONAL HUMANITARIAN LAW AND THE LAW OF PEACE AND SECURITY

The obligations under *international human rights law* to not threaten or use nuclear weapons and to pursue comprehensive nuclear disarmament, are reinforced by the *international law applicable to armed conflict*, which includes international humanitarian law (*jus in bello*) and the laws of peace and security (*jus ad bellum*) in particular Article 2 of the UN Charter.

The International Court of Justice in 1996 affirmed that this body of law, and additional elements of customary international law, render the threat or use of nuclear weapons generally illegal and require the pursuit and conclusion of nuclear disarmament in all its aspects under strict and effective international control. Since 1996, the UN General Assembly has called on UN member states to implement these obligations by negotiating a nuclear weapons convention – an international treaty to prohibit and eliminate nuclear weapons.¹⁶

5. RUSSIAN NATIONAL POLICY AND PRACTICE

5.1 Threat or use of nuclear weapons

The official military strategy of the Russian Federation, published in December 2014, states that the Russian Federation “*shall reserve for itself the right to employ nuclear weapons in response to the use against it and/or its allies of nuclear and other kinds of weapons of mass destruction, as well as in the case of aggression against the Russian Federation with use of conventional weapons when the state’s very existence has been threatened.*”¹⁷

However, as demonstrated by statements cited in Section 2 above and other official Russian statements and documents, Russian policy and practice include possibilities for the use of nuclear arms in circumstances going beyond those identified in the military strategy, for example first use of nuclear arms in a regional conflict.

“Russian officials have made many statements about nuclear weapons that appear to go beyond the published doctrine, threatening to potentially use them in situations that do not meet the conditions described. For example, officials explicitly threatened to use nuclear weapons against ballistic missile defense facilities, and in regional scenarios that do not threaten Russia’s survival or involve attacks with weapons of mass destruction. Moreover, the fact that Russian military planners are pursuing a broad range of existing and new versions of nuclear weapons suggests that the real doctrine goes beyond basic deterrence and toward regional war-fighting strategies, or even weapons aimed at

¹⁵ Paragraph 34, General Comment No. 14 (2000) The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)
<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1AVC1NkPsgUedPIF1vfPMJ2c7ey6PAz2qaojTzDjMCOy%2B9t%2BsAtGDNzdEqA6SuP2r0w%2F6sVBGTpvTSCbiOr4XVFTqhQY65auTFbQRPWNdxL>

¹⁶ See, for example, [A/RES/70/56](#), *Follow-up to the advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons*, adopted by the UNGA on Dec 7, 2015.

¹⁷ *Military Doctrine of the Russian Federation*, Russian Presidential website, December 26, 2014, as cited in *Russian nuclear forces, 2020*, Nuclear Notebook, Bulletin of the Atomic Scientists, 2020, <https://thebulletin.org/2020/03/russian-nuclear-forces-2020/>.

causing terror.”¹⁸

The official Russian nuclear doctrine is in violation of international law obligations prohibiting the threat or use of nuclear weapons. The unofficial policies and practices of Russia to threaten and use nuclear weapons in a wider range of circumstances constitute an even more egregious violation of this law.

5.2 Development, production and possession of nuclear weapons

According to available sources, Russia is estimated to possess 5,977 nuclear warheads, of which 1,588 are actively deployed. A majority of these weapons are designated as strategic offensive weapons (deliverable by inter-continental ballistic missiles, long-range bombers or submarine launch ballistic missiles). The others are non-strategic/tactical nuclear weapons deliverable by fighter/bomber planes, cruise missiles and short-range ballistic missiles.¹⁹

Russia continues to design, develop and produce nuclear weapons systems spending approximately \$9 billion per year on its nuclear weapons program.²⁰

These activities are in violation of obligations under human rights law, as affirmed by the UN Human Rights Committee, that States parties to the ICCPR “*must take all necessary measures to stop the proliferation of weapons of mass destruction... to refrain from developing, producing, testing, acquiring, stockpiling, selling, transferring and using them,*” and is in violation of their good faith obligations under the Treaty on the Non-Proliferation of Nuclear Weapons obligating all States Parties to negotiate “*effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament*”.²¹

5.3 Testing of nuclear weapons

Between 1949 and 1990, the Soviet Union conducted over 960 nuclear detonations for testing purposes, over half of which were conducted in Kazakhstan, at that time a republic of the Soviet Union.

The nuclear tests at the Semipalatinsk test site have caused – and continue to cause – widespread and severe health impacts on Kazakh populations in the ‘Polygon’ (East Kazakhstan) and Pavlodar (North-East) regions. Conservative estimates indicate that over 3 million people have been exposed to harmful amounts of radiation, with approximately 200,000 suffering health problems as a result. This includes miscarriages, still-births, congenital birth defects, cancers and other health problems. The trans-generational impact of radiation means that these impacts will continue to hundreds or thousands of years to come.²²

General Comment No. 36, para. 66, states that ICCPR states parties are obligated “*to afford adequate reparation to victims whose right to life has been or is being adversely affected by the testing or use of weapons of mass destruction, in accordance with principles of international responsibility.*”

¹⁸ *Russia’s Nuclear Weapons in a Multipolar World* in Robert Legvold and Christopher F. Chyba, eds., *Meeting the Challenges of a New Nuclear Age*, Daedalus, Journal of the American Academy of Arts & Sciences (Spring 2020). As cited in *Russian Nuclear Weapons Policy, and the Right to Life: List of Issues Submission to the United Nations Human Rights Committee During its Periodic Review of the Russian Federation*, Lawyers Committee on Nuclear Policy, June 1, 2020. <https://static1.squarespace.com/static/603410a4be1db058065ce8d4/t/6066067cfe388c40985b3439/1617299068436/RussiaListIssuesLCPWWSLF.pdf>

¹⁹ See *Russian Nuclear Forces*, Bulletin of Atomic Scientists, February 2022. <https://thebulletin.org/wp-content/uploads/2022/02/nuclearnotebook-March2022-russia-table1.pdf>

²⁰ *Estimated amount spent on nuclear weapons worldwide in 2021 by country*, Statista. <https://www.statista.com/statistics/752531/nuclear-weapons-spending-worldwide-by-country/>

²¹ France Minister for the Armed Forces, Florence Parly, in announcing the submarine plan, noted that “...these will sail until 2090. In other words, the last sailors who will patrol on board the third generation SSBNs are not born yet.” See “[France Launches Third Generation SSBN Program – SNLE 3G](#),” NavalNews, 21 February 2021

²² *The lasting toll of Semipalatinsk’s nuclear testing*, Togzhan Kassenova, Bulletin of Atomic Scientists. September 28, 2009. <https://thebulletin.org/2009/09/the-lasting-toll-of-semipalatinsk-nuclear-testing/> and Soviet-era nuclear testing is still making people sick in Kazakhstan, The World, March 2017. <https://theworld.org/stories/2017-03-13/soviet-era-nuclear-testing-still-making-people-sick-kazakhstan> and The world’s worst radiation hotspot, The Independent, September 2009. <https://www.independent.co.uk/news/world/europe/the-worlds-worst-radiation-hotspot-1784502.html>

Russia, as the internationally recognised successor to the USSR²³ holds the primary responsibility for addressing the impacts of the nuclear tests undertaken by the USSR. Russia is failing to implement these obligations.

Many of Kazakhstan's nuclear-test victims report that they don't receive adequate financial compensation and social benefits. *"The only compensation I received was early retirement, with a minimum pension, and a one-off aid payment of about \$600,"* says 70-year-old Vladimir Sulim, who worked at the Semipalatinsk test site, and who suffers from multiple health problems that his doctors say are related to the radiation he was exposed to for decades at his job.²⁴

5.4 Opposition to nuclear disarmament

Russia is a member of the Nuclear Non-Proliferation Treaty under which it has accepted an obligation to *"pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament..."*²⁵

As indicated above (section 2) this obligation has been re-affirmed and strengthened by the International Court of Justice in 1996 and the UN Human Rights Committee in 2018. Yet, Russia takes little or no action to implement this obligation. Instead, Russia continues to produce and deploy nuclear weapons, and to oppose multilateral initiatives for nuclear disarmament including the *Treaty on the Prohibition of Nuclear Weapons*²⁶ and the proposal for a nuclear weapons convention.²⁷

5.5 Positive measures undertaken by Russia

In 1982, the Soviet Union adopted a policy of no-first-use of nuclear weapons. This policy was not officially repudiated by Russia when the USSR collapsed in 1991 and Russia took on the international responsibilities of USSR. However, subsequent Russian nuclear policy documents and statements appear to be contrary to a no-first-use policy, indicating that it is no longer part of Russian nuclear doctrine.

In November 2022, Russia joined the other G20 countries in affirming, in the Bali G20 Leaders Declaration, that *"the threat or use of nuclear weapons is inadmissible."*²⁸ As the G20 includes five other nuclear-armed states in addition to Russia, the Bali Declaration is a very significant breakthrough that provides a possibility for progress by Russia and other nuclear-armed states to consolidate and implement international law prohibiting the threat or use of nuclear weapons.

6. RECOMMENDATIONS

²³ Russia has assumed the international rights and responsibilities of USSR under international law including as a permanent member of the UN Security Council and as party to the international treaties ratified by the USSR. See https://en.wikipedia.org/wiki/Russia_and_the_United_Nations and *The Treaty Obligations of the Successor States of the Former Soviet Union, Yugoslavia, and Czechoslovakia: Do They Continue in Force?* Pages 18-19. <https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1686&context=djilp>

²⁴ *Victims Of Kazakhstan's Soviet-Era Nuclear Tests Feel 'Abandoned' By Government*, Radio Free Europe, November 23, 2019. <https://www.rferl.org/a/victims-of-kazakhstan-s-soviet-era-nuclear-tests-feel-abandoned-by-government/30288299.html>

²⁵ Nuclear Non-Proliferation Treaty, Article VI, <https://treaties.unoda.org/treaty/npt>

²⁶ See <https://treaties.unoda.org/treaty/98>

²⁷ UN Secretary-General Ban Ki-Moon, in his Five-Point Proposal for Nuclear Disarmament, called for states to negotiate a Nuclear Weapons Convention that would provide for the complete prohibition and elimination of nuclear weapons over a phased period with strict and effective verification and enforcement. He also circulated a Model Nuclear Weapons Convention as a guide to such negotiations. The proposal was supported in principle in the 2010 NPT Final Document and is also supported by successive UN General Assembly Resolutions. See <https://www.unfoldzero.org/unsgs-five-point-plan/>.

²⁸ *G20 Bali Leaders' Declaration*, November 16, 2022. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/11/16/g20-bali-leaders-declaration/>

We recommend that Russia:

1. Initiate a joint review, with Kazakhstan and impacted communities, of the trans-generational health, environmental and economic impacts of the USSR nuclear tests in Kazakhstan, and develop a fair compensation plan for those impacted;
2. Join with other G20 countries in consolidating the G20 Bali Leaders declaration that *'the threat or use of nuclear weapons is inadmissible'* through a joint UN Security Council and/or UN General Assembly resolution;
3. Refrain from any further threats to use nuclear weapons in the armed conflict with Ukraine;
4. Revive and reaffirm the Russian national policy never to be the first to use nuclear weapons (no-first-use), and call on all other nuclear armed states to adopt a similar policy;
5. Initiate a dialogue amongst all nuclear-armed States in the UN Conference on Disarmament on the necessary elements for a nuclear weapons convention or package of agreements for the global prohibition and phased elimination of nuclear weapons, taking into consideration the security requirements of all;
6. Propose a joint commitment by nuclear-armed states to achieve the global prohibition and elimination of nuclear weapons no later than 2045, the 75th anniversary of the NPT and the 100th anniversary of the United Nations.
