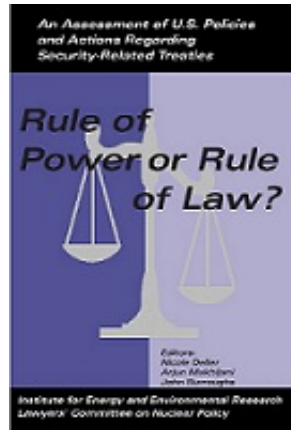




Rule of Power or Rule of Law?



Produced by the [Institute for Energy and Environmental Research](#) and the [Lawyers' Committee on Nuclear Policy](#)

Published by Apex Press, 2003, 263 pages

Editors: Nicole Deller, Arjun Makhijani, and John Burroughs

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“A brilliantly conceived and executed study that documents unflinchingly the dangerous descent of the U.S. government into the bottomless pit of global lawlessness. It also illuminates the benefits for citizens and the world of an alternate law-guided approach based on negotiated treaty regimes.”

— *Richard Falk, Professor of International Law and Practice, Princeton University*

“This thoughtful book carefully examines the current disturbing U.S. approach to many multilateral treaties. It is essential reading for diplomats, policymakers and everyone else who is interested in global security as it relates to nuclear, chemical, and biological weapons, landmines, global warming, and international justice.”

— *Pierre Schori, Swedish Ambassador to the UN*



“This book provides a comprehensive overview of how, at a time when Americans are keenly aware of international threats to peace and security, the United States is systematically undermining the International Criminal Court and other mechanisms that would reduce those threats.”

— *Jayne Stoyles, former Program Director, NGO Coalition for the International Criminal Court*

“This study shows that the United States is obligated to reduce greenhouse gas emissions even in the absence of the Kyoto Protocol because of prior treaty commitments made by the first President Bush in 1992. It is a wake up call that unless the United States takes urgent steps to meet its key treaty obligations, the environment and security of its people and the world are in peril. Read this book and act to realize its recommendations.”

— *Brent Blackwelder, President, Friends of the Earth, USA*

PRESS RELEASE

For release after 10 a.m., Thursday, April 4, 2002, National Press Club news conference

SYSTEMATIC UNITED STATES DISREGARD OF ITS TREATY OBLIGATIONS JEOPARDIZES NUCLEAR NONPROLIFERATION AND GLOBAL SECURITY

New Report Concludes Five Countries – United States, France, Britain, Japan, Germany – Appear to Violate Nuclear Test Ban Treaty Terms

Washington, D.C., April 4: The United States is disregarding crucial treaty obligations and creating a dangerous slide away from the rule of law into a power-based world that is likely to be far more insecure, according to a detailed analysis of U.S. policies and actions in relation to major security-related treaties released today. The new study, *Rule of Power or Rule of Law? An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties*, was prepared jointly by two non-profit groups, the Institute for Energy and Environmental Research (IEER) and the [Lawyers' Committee on Nuclear Policy](#) (LCNP).

“The United States has violated, compromised, or acted to undermine in some crucial way every treaty that we have studied in detail,” said Nicole Deller, principal editor and co-author of the report. “Recent shifts of U.S. policy toward greater reliance on military force, including nuclear weapons, as the main component for securing the people of the United States from a variety of threats sets a dangerous course and a poor example.” Ms. Deller, a lawyer, was a consultant to IEER and LCNP during the preparation of the report.

The study concludes that five of the signatories to the Comprehensive Test Ban Treaty (CTBT) – the United States, France, Britain, Japan, and Germany – appear to be violating it already, though they claim to be in compliance. The apparent violation involves the planned laboratory thermonuclear explosions in



huge new laser devices being built in the United States (the National Ignition Facility) and in France (Laser Megajoule). The devices would be used for experiments aimed at producing thermonuclear explosions of as much as ten pounds of TNT equivalent.

“The CTBT bans all nuclear explosions, even if the devices in which they are carried out cannot be weaponized,” said Dr. Arjun Makhijani, president of IEER and a co-author of the study. “It also bans all activities that are designed to encourage or cause nuclear explosions. The explanations that the United States Department of Energy has offered to suggest that the planned explosions in NIF comply with the CTBT simply do not stand up to scrutiny. There is some evidence of an agreement between a few states, not known to all the parties, to brush this issue under the rug.” Britain is helping fund the U.S. laser project. Subsidiaries of a Japanese company Hoya, and a German company, Schott, are supplying the highly specialized glass that would be used to make the lasers.

Rule of Power or Rule of Law? concludes that the United States is also flouting its obligations under the Nuclear Nonproliferation Treaty (NPT).

“The January 2002 Nuclear Posture Review makes a mockery of U.S. commitments under the NPT,” said Dr. John Burroughs, executive director of LCNP and a co-author of the study, and an expert in international law as it relates to nuclear weapons. “The disclosure of a variety of options for use of nuclear weapons, including by preemptive attack, against non-nuclear weapon states, are contrary to a commitment to a ‘diminishing role for nuclear weapons in security policy’ made less than two years ago.”

An advisory opinion of the International Court of Justice in 1996 unanimously concluded that the NPT requires nuclear weapons states not only to negotiate but also to actually achieve nuclear disarmament “in all its aspects.” The study argues that a failure to fulfill treaty commitments when it involves some constraints on the part of the United States will undermine the security of the people of the United States. Global cooperation is needed, the authors say, to detect materials that may be used in dirty bombs, to ensure that international cargo does not contain hidden nuclear weapons, and to create comprehensive accounts of nuclear materials to reduce the risk of proliferation.

“The September 2001 attacks on the United States point to the urgent need to marginalize nuclear weapons and intensify global cooperation on nuclear weapons and nuclear materials,” said Dr. Burroughs. “Instead, the United States has adopted an irrational policy of elevating the role of nuclear weapons in its overall military strategy. This will reduce U.S. and global security, not increase it.”

The report makes an important connection between the build up of greenhouse gases and security and concludes that the United States is violating the United Nations Convention on Global Climate Change. Ratified by the United States in 1992, it obligates wealthy countries to take the lead in reducing greenhouse gas emissions.

“If food production conditions changes and vast areas of the world are flooded, climate change could create millions or tens of millions of refugees,” said Dr. Makhijani. “This would pose serious economic and security concerns, in addition to environmental ones. The Bush Administration’s plan to reduce greenhouse gas ‘intensity’ does not come close to complying with the Convention on Climate Change by a long shot.”

The report details evidence that U.S. policy is drifting away from regarding treaties as an essential



element in global security to a more opportunistic stand of abiding by treaties only when it is convenient. “The United States is setting itself above the rules and rejecting the notion that treaties are instruments among equals, in which all parties give up something and get something,” said Ms. Deller. “This is a perilous direction for the United States, which gave the world the very concept of the rule of law. If the United States sets itself up above the law, and bases itself on the rule of power instead, what’s to stop other countries from doing the same?”

The report recommends that the United States:

- Unconditionally ratify the CTBT and abandon plans for laboratory thermonuclear explosions.
- Commit itself to irreversible nuclear arms reductions and help set in motion a process leading to a global agreement to eliminate nuclear weapons in fulfillment of its NPT commitments.
- Reassess its unilateral withdrawal from the ABM treaty and commit itself to negotiated changes only.
- Re-engage in the process to create a verification regime under the Biological Weapons Convention.
- Set itself long-term goals for large reductions in greenhouse gas emissions to comply with its climate change obligations and re-engage in the Kyoto Protocol process on that basis.

The other treaties that the report examines are: the Chemical Weapons Convention, the Treaty Banning Anti-Personnel Mines, and the Rome Statute of the International Criminal Court. It contains recommendations for action on each.