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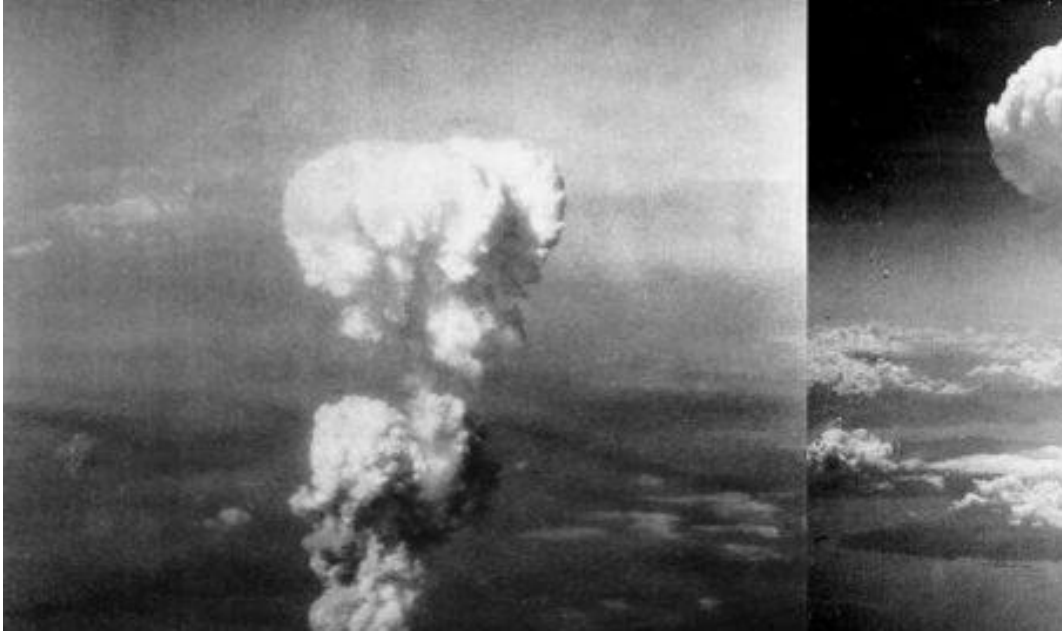
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Connecting Toxic Memories: Hiroshima and Nuremberg



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77 Years After Hiroshima and Nagasaki

Peace activists around the world often choose August 6th and 9th each year to grieve anew the human suffering and devastation caused by dropping atomic bombs on the undefended Japanese cities of Hiroshima and Nagasaki, which lacked military significance. Among other things these atomic attacks were ‘geopolitical crimes’ of ultimate terror, with scant combat justification, and intended mainly as a warning to Soviet leaders not to defy the West in the peace diplomacy at the end of World War II.

These August dates marking the utter destruction of these two cities are treated as events giving rise to what has been widely known as the nuclear age. This awful beginning can

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never be forgotten or redeemed, although ever since the explosions in 1945 the solemnity of these occasions has been overshadowed outside of Japan by widespread fears that a nuclear war might occur at some point and a quiet rage continues to build around the world that the nuclear weapons states, above all the U.S., have stubbornly defiantly refused to take steps to fulfill pledges to seek a reliable path to nuclear disarmament in good faith.

This moral and political pledge became legally obligatory in Article VI of the Nuclear Nonproliferation Treaty (1970), a commitment affirmed unanimously in an Advisory Opinion of the International Court of Justice in 1996. It has become clear that for the security establishments of the 'NATO Three' (U.S. France, UK) this disarmament commitment was never more than 'a useful fiction' that conveyed the sense that the non-nuclear states were being given something valuable and commensurate to the willingness to give up their conditional option to underpin national security by acquiring nuclear weapons (as Russia and China, as well as Israel, India, Pakistan, and North Korea have done over the decades). The non-nuclear Parties to the NPT are not formally obliged to give up their option of acquiring nuclear weapons unconditionally. Article 10 confers on all Parties to the NPT a right of withdrawal if "extraordinary events..have jeopardized the supreme interests of its country." In practice, as Iran is finding out, this right of withdrawal gives way to the geopolitical priorities of an enforcement regime presided over by the United States. The so-called Jerusalem Declaration signed in July by U.S. and Israel leaders commits to using whatever military force is necessary to prevent Iran from acquiring nuclear weaponry.

NPT Review Conference at the UN

Currently the NPT Review Conference, postponed since 2020 because of COVID, at UN Headquarters in New York City, two significant contradictory developments dominated the scene. It was the first such meeting of NPT Parties since the Treaty of Prohibition of Nuclear Weapons (TPNW) came into force in early 2021. This treaty, a project of governments from the Global South in active coalition with Global Civil Society has drawn a bright line between the majority views of the peoples of the world and the security elites of these nine nuclear weapons states. Indeed, the NATO Three had the temerity to issue a joint statement expressing their total opposition to the approach taken by the so-called Ban Treaty (TPNW), declared it was their intention to continue to rely on nuclear weapons to meet their far-flung security needs broadly specified to include geopolitical deterrence, that is, not only is this weaponry not being limited to the defense

of homelands but vital strategic concerns that could potentially arise anywhere on the planet. At present, this commitment to nuclearism is illustrated by the U.S. posture in response to the Ukraine War and the future of Taiwan, as well as by revealing refusal even to accept a No First Use framework of restraint. This impasse between the nuclear haves and have-nots amounts to an existential confirmation of 'nuclear apartheid' as the precarious and self-serving underpinning of global security unless and until the advocates TPNW muster enough strength and will to mount a real challenge to such a hegemonic and menacing concentration of unaccountable power and discretionary authority.

New Patterns of Geopolitical Rivalry Increase Risks of Nuclear War

The second notable development at the NPT Review Conference lent a sense of immediacy and urgency to what had become 77 years after Hiroshima a somewhat abstract concern is the Ukraine War, and its geopolitical spillover effect of heightening the perceived risks of the use of nuclear weaponry and even the danger of nuclear war. The U.S. has decided it is worth challenging Russia's attack on Ukraine sufficiently to uphold its strategic logic that since the end of the Cold War the world has political space for *one* extraterritorial state, which became the sole supplier of *global* governance when it comes to the international security agenda. Among other things, unipolarity meant that Cold War Era mutual respect for territorial spheres of influence on the borders of Great Powers no longer are pillars of stable geopolitical coexistence. After the Soviet collapse in 1992 the U.S. has acted as if entitled to implement a Monroe Doctrine for the world. To make such a grandiose hegemonic political destiny credible it has shouldered the immense economic and strategic burdens that accompany the role, maintaining hundreds of foreign military bases and naval fleets in every ocean.

NATO's insistence early in the Ukraine War on making Russia pay for its invasion by being again reduced to the normalcies of territorial sovereignty was undoubtedly intended to be a master class for the benefit of Russia, and especially China, in the geopolitics of the post-Cold War world. It also provided an occasion to send China, currently the more formidable adversary of the West, a message written with the blood of Ukrainian lives, that any show of force to regain control over Taiwan will be met an even more punitive response, including thinly veiled threats that pointedly refuse to rule out uses of nuclear weapons. Pentagon war games some months ago ominously showed that China would prevail in any military encounter in the South China Seas unless the U.S. was prepared to cross the nuclear threshold. This assessment should be affirming the renewed strategic

relevance of nuclear weaponry. It has proven helpful in making the case for even larger military appropriations from Congress.

American diplomacy toward China has aggravated an already inflammatory context by some inexplicably provocative behavior in recent months. First came a gratuitous public pronouncement by Biden last May while in Asia to provide whatever military assistance was deemed necessary to protect Taiwan if under attack by China. And secondly, a totally destabilizing August visit to Taiwan by Nancy Pelosi at a time of already high tensions. These provocations violated the spirit of the Shanghai Communique that was issued by China and the U.S. in 1972. This document the outcome of a diplomatic breakthrough a half century ago has kept a reasonably stable status quo between these major geopolitical adversaries based on what Henry Kissinger praised as ‘strategic ambiguity.’ These Biden/Pelosi ploys seem yet another expression of American amateurism when it comes to foreign policy during the Biden presidency, or worse, are deliberate efforts to provoke Xi Jinping to take action justifying an American punitive response. This supposedly nationally ambitious autocrat is already being accused in China of being weak, being portrayed in his own country as backing down on the key policy goal of achieving the reunification of China and Taiwan. Whether this crisis reflect incompetence or malice is a matter of judgment. Either is unacceptably imprudent when it comes to nuclear dangers coming again to the surface, the very opposite of what is expected of the *responsible statecraft* expected of Great Power given the risks of the Nuclear Age. .

In effect, remembering Hiroshima and Nagasaki in 2022 is overshadowed by this dual reality of ongoing ‘geopolitical wars.’ It is also a reminder that nuclear war was narrowly averted in the Cuban Missile Crisis of 1962 by what Martin Sherwin, an authoritative interpreter of nuclear risk called, ‘dumb luck.’ [*Gambling with Armageddon* (2020); Also relevant Daniel Ellsberg, *The Doomsday Machine* (2017)]. It may also be the moment when a nascent peace movement in the Global North wakes up and pushes for adoption of the TPNW approach as if a critical political goal of the Global South.

Geopolitical Moral Numbness in 1945

“If certain acts in violation of treaties are crimes, they are crimes whether the United States does them or whether Germany does them, and we are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us.”

– Robert H. Jackson, Chief U.S. Prosecutor at Nuremberg.

I was recently shocked to realize that the 1945 signing of the London Agreement by the U.S., Soviet Union, France, and the UK arranging the establishment of a tribunal in Nuremberg charged with prosecuting major Nazi war criminals occurred on August 8, 1945, wedged in between the days when the atomic bombs were dropped. A parallel tribunal in Tokyo was set up to try Japanese war crimes some months later. It has been often observed by independent commentators, especially in recent years, that these initiatives were so one-sided as to stretch the meaning of criminal law beyond recognition. The most telling sign of a legitimate legal process is the equal treatment of equals. Yet inequality pervaded the work of these self-righteous tribunals, from the selection of the judges to impunity for those guilty of war crimes on the winning side. Despite such fundamental inequalities it is true that the evidence presented at Nuremberg and Tokyo clearly documented that despicable forms of criminality were carefully shown to be work of the indicted Germans and Japanese defendants. What was most controversial about the trials was the failure to inquire into the violations of international criminal law by the winning side, which is why these tribunals, however conscientious their work, have been derided over the years as glaring instances of ‘victors’ justice.’

My interest in the connections between Hiroshima and Nuremberg is somewhat different. The insensitivity of such a high profile signing of this agreement on August 8th establishing the Nuremberg Tribunal is appalling. It occurred during the very days of the atomic bombings, arguably the worst crime of World War II at least on a par with the Holocaust. It is more than insensitivity, it is moral numbness, which prepares political actors, whether states, empire, or leaders, to embrace past crimes and commit future crimes. It leads directly to such features of world order as a geopolitical right of exception at the UN by way of the veto and impunity with respect to accountability procedures. In effect, the UN is designed quite literally to give assurances that the most dangerous states, as of 1945, are jurisprudentially protected forever from any adverse Security Council decision as to criminal acts, at least within the UN System.

What is this slightly disguised feature of legality and legitimacy conveying to a curious observer? That law and accountability are relevant for propaganda and punishment against Great Power adversaries, and that the wrongs of victors in major wars are beyond scrutiny but those of the vanquished and weak are to be judged in what amounts to ‘show trials’ because of this core failure to treat equals equally.

There is yet something else to reflect upon. If August 8th had been a different day that of infamy because an English or American city had been targeted by a German atomic bomb

and yet Germany still lost the war, the act and the weapon would have been criminalized at Nuremberg and by subsequent international action. We might not be still living with this weaponry if the perpetrators of those dreadful events of August 6th and 9th had been the losers in World War II, which makes the rightly celebrated defeat of fascism on balance a somewhat questionable long-term victory for humanity.

77 years later it seems worth pondering allow this long repressed relationship between Hiroshima and Nuremberg in the context of the recent irresponsible heightening of geopolitical tensions with Russia and China.

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