



**Center for Global Governance and Emerging Law**  
**New Neutrality: Emerging Laws in Nuclear Weapons, Outer-Space, and Cyberspace**  
**Conference Report**

On Saturday, December 12, 2020, the Center for Global Governance and Emerging Law (CGGEL) convened the “New Neutrality: Emerging Laws in Nuclear Weapons, Outer-Space, and Cyberspace” conference. Hosted online due to Covid-19 pandemic-related restrictions, the two-panel conference was attended by those from North America, South America, Africa and throughout Europe.

With the 50<sup>th</sup> State’s ratification in October 2020, the Treaty on the Prohibition of Nuclear Weapons (TPNW) achieved the final step needed to allow for it to go into effect in January 2021. Once arguably encapsulated by passive norms such as non-proliferation, nuclear neutrality is now evolving into a proactive concept that includes destruction of stockpiles and exhortations for non-State Parties to join the Treaty regime and end nuclear weapons use. Set against this backdrop, the conference examined the meaning of neutrality across several emerging fields of law and practice. While the post-World War II concept of neutrality was rooted in the idea of refraining from taking sides in a conflict, the conference explored how the 21<sup>st</sup> century understanding is shifting to focus on promoting equality of access and responsibility between States in times of peace as well as conflict. The conference addressed rapidly evolving sectors in which neutrality is critical, namely nuclear weapons and nuclearization, space and cyberspace.

The conference began with an official welcome from Ms. Viktoria Yudchits, a founding CGGEL Research Fellow and student at Albany Law School, who provided participants and attendees with a greeting on behalf of the CGGEL’s research team. Prof. Dr. Alexandra R. Harrington, CGGEL Executive Director, opened the conference with an overview of the day and provided a short lecture on the TPNW to serve as background. She stressed that the TPNW has been ratified largely by non-nuclear States across a wide range of development statuses and geography, but that the language of the TPNW places new requirements on these States in their interactions with nuclear States. These include restrictions on the ability of TPNW State Parties to allow nuclear weapons and component materials into and through their territories, as well as on the ability of nuclear States to place nuclear materials within their territories. Prof. Dr. Harrington emphasized the importance of TPNW article 11 on universality and the call for TPNW State Parties to actively encourage non-State Parties to join the treaty regime.

The first panel, “New Neutrality in Nuclear Policy,” discussed neutrality as an active stance, not just a passive stance, and looked to the recent treaty to form an understanding of how nuclear weapons have shifted since the 1960s from a simple standpoint of weaponry to various notions of humanitarianism, environmentalism, and sustainable development. As such, universality and the goal of universal adherence to the newly ratified treaty was at the center of the discussion, as

its ratification exemplifies a global initiative and a progressive expansion of how the international community has grown to define neutrality.

Dr. Richard Weitz, Senior Fellow and Director of the Center for Political-Military Analysis at Hudson Institute, discussed how the governments of Russia, China, and the United States view neutrality, broadly defined, in their official nuclear discourse. He noted the philosophical and operational similarities and disagreements among these States regarding nuclear alliances (Russia and China have become more critical of U.S. nuclear alliances), the TPNW (which they all oppose), 'Nuclear Free Zones' (which enjoy the greatest support in China), and the so-called P-5 process of informal but structured nuclear dialogue among the five NPT-recognized Nuclear Weapons States. He speculated on the potential impacts of the change in administration in the US on the TPNW and the law and politics of nuclear weapons at the national and global levels.

Dr. Alexia Solomou, Law Tutor, UNICAF & President, ILA Cyprus, discussed voting patterns and the ICJ's *Nuclear Weapons Advisory Opinion* from 1996. Her presentation centered on trends and statistics regarding the voting patterns of both nuclear and non-nuclear weapons States and she analyzed whether and how particular votes made in line with these patterns for the *Nuclear Weapons Advisory Opinion*. Dr. Solomou focused specifically on English arguments in this case and how the ICJ responded to them, as well as detailing those nuclear States as defined by the NPT and how they voted on requirements to negotiate on nuclear weapons, mentioning North Korea, China, the U.S., the U.K., and the Russian Federation.

Dr. Olamide Samuel, Coordinator, SCRAPweapons & Senior Teaching Fellow, SOAS University of London, discussed the historical evolution of nuclear neutrality from a passive understanding to an active requirement. He focused on the issue within the historical context, detailing the transition from Austria's declaration of neutrality in the 1950s to the TPNW. Dr. Samuel reviewed the justifications and rationales for neutrality, such as the idea that States declare neutrality to prevent becoming targets in nuclear war. He then discussed the intersection of neutrality and the financial sector, using as an example the Norwegian investment fund and the U.K. corporate banking sectors, and spoke further of the potential consequences of the new ban from a corporate compliance and corporate social responsibility perspective.

Dr. Justin Anderson, Senior Policy Fellow, NDU Center for the Study of WMD, discussed the law of war and the right to self-defense from the U.S. standpoint, and how the U.S. nuclear deterrent complies with both. He then discussed how the traditional view of neutral states as impartial actors in armed conflicts allow them to claim remediation if they suffer damages in wartime. In his assessment, the new "active" interpretation of neutrality is problematic; attempting to pressure states to disarm (based on concerns of potential future damages for wars not yet fought) necessarily drops any status or authority accrued from being impartial or apart from other states' decisions on self-defense. States have a right to advocacy, but in his view this right is separate from rights and privileges associated with neutral states. Rather than attempting to reduce nuclear risk through efforts to reinterpret or reinvent neutrality, he advocated for collective action through treaties and agreements that include collaborative mechanisms for implementation and verification.

The second panel, “New Neutrality in Emerging Fields (Cyberspace and Space),” built from the lessons and discussions in the first panel to address the legal and scientific ways in which neutrality exists as a concept and goal across cyberspace and outer space. This included a review of pressing technological threats to data privacy and security at the individual and national levels, implying the potential for undermining a neutral State through accessing the most vital data on the State apparatus and its citizens. It also examined the ways in which neutrality can be seen as a legal and scientific aide or hinderance to the progress of developing States in the outer space sphere.

Prof. David Allen Larson, Professor of Law, Mitchell Hamline School of Law, discussed the challenges of contemporary utilization of cyberspace regarding neutrality, dispute resolution, and mediation, and how such issues are dealt with online. He emphasized accessibility as a human right and used persons with disabilities as an example of the importance of creating efficient and accessible means by which people should have access to cyberspace. Prof. Larson discussed how international legal attempts have fallen short of creating a real, pervasive change, detailing the inadequate and/or outdated standards existing in accessibility acts in Europe and the US.

Mr. Mikołaj Stryja, co-founder, ArtNovation and mechatronic engineer, discussed the widespread use of sensors in electronic devices and the use of data interpretation to exemplify the varying methods by which technological devices can scan and sensor humanity. He then discussed what data is stored and processed and how that date could be used, in both positive and negative ways. Mr. Stryja detailed data’s many applications and potential uses, and the algorithms used to aid people, mentioning personalized medicine, predictive measures, defense, health, and other forms of medical response as positive effects of technological sensors. As negative effects, he discussed the process by which stored data is sold, used to manipulate, or utilized as part of aggressive marketing campaigns.

Ms. Ruvimbo Samanga, Research Fellow, Open Lunar Foundation, discussed neutrality from the perspective of cyberspace and cosmic space, detailing 5G cell phone technology as an example by which heightened protections against attacks are needed in the internet-age. She posed the need for improved infrastructure such as satellites due to satellites being highly vulnerable and their security being inadequate and low as a critical legal and technology consideration. Ms. Samanga discussed NATO’s developed resiliency in cyber architecture, including hardware, cloud, software and other forms of continuous and pervasive sense of protections and processes, but stated that there is still a need for new norms and responses on an international level in the field. Cyberspace, she stated, lacks the implementation of norms, but she noted how privatized companies such as SpaceX have sought to establish normative rules in the field.

Prof. Chris Borgen, Professor of Law, St. John’s University School of Law, discussed neutrality and military activity in relation to space law by addressing the purpose of the law of neutrality and the substance of it viz-a-viz rights and obligations of States in certain situations. For instance, he spoke of how neutral States possess the obligations of: 1) impartiality, 2) abstention, 3) prevention. He challenged attendees with the question “is neutrality law applicable?” and sought to respond by discussing domain specificity of treaties, customary international law in relation to space, territoriality, and nationality.

Prof. Michelle Hanlon, Co-Director of the Air and Space Law Program at the University of Mississippi School of Law and its Center for Air and Space Law, discussed the shifting paradigm of space activity from sovereign nations to the private sector through the lens of human space activity from a historical perspective. Her discussion stressed the importance of protecting historical heritage sites in space, though technically a territory over which States have agreed not to assert sovereignty. However, NASA has created voluntary guidelines, and with other examples such as the Artemis Accords, Russian laws, and the precedent from the UNESCO World Heritage Convention, Prof. Hanlon noted that humanity has long shown a common interest in the preservation of important historical locations. Therefore, she concluded, humanity must continue to aim to preserve our collective heritage in space.

Dr. Namrata Goswami, Independent Scholar on Space Policy, discussed how the notion of space has long since changed from that of the Cold War, in that space is no longer seen as a place to get to as part of a ‘race’, but one which must be held with a more permanent presence. She detailed how outdated and inadequate space agreements from the Cold War era are, as they often fail to consider the private sector or are focused more on nuclear power in space. Additionally, Dr. Goswami discussed how the discourse around space has changed, and the prioritization of utilization and peace has replaced the overwhelming sense of competition seen from the 1960s. Additionally, she posed a philosophical line of questioning regarding the ethics and logistics about nuclear weapons in space, primarily as a defense against potential celestial threats.

Mr. Charles-Aime Nzeussi Mbouendeu, NPoC Cameroon & AF-SGW Deputy Manager, Space Generation Advisory Council (SGAC), discussed the current efforts by various African States and the African Union to enter into space as equal sovereigns and participants. He spoke of the overall notion of neutrality, tying in the Sustainable Development Goals of the UN to our current needs in space, particularly in the context of developing States. Mr. Nzeussi further detailed space risks, such as the widespread presence of space debris, and left listeners with a final challenge to define ‘what is the true nature of neutrality?’ in the context of space.

After these scintillating panels, the participants engaged in a brief question and answer session during which the importance of understanding the new trajectory of neutrality across spheres was highlighted by the speakers. The conference was brought to a close by Prof. Dr. Harrington, who thanked everyone in attendance and invited the audience to join the CGGEL’s next event, focusing on health issues and technological advancements that have arisen as a result of the pandemic in February 2021. She also noted that the CGGEL will be forming interdisciplinary research groups in 2021, including for neutrality, space and cyberspace, and warmly encouraged those who might be interested to contact the CGGEL.