

Bulletin of the Atomic Scientists

Strengthening nuclear security: The legal agenda

BY FISSILE MATERIALS WORKING GROUP | 8 APRIL 2010

President Barack Obama's upcoming Nuclear Security Summit has the potential to become a defining moment for international security in the twenty-first century, especially after the recent release of the U.S. [Nuclear Posture Review](#). When he introduced this document, Obama said, "For the first time, preventing nuclear proliferation and nuclear terrorism is at the top of America's nuclear agenda."

"The top priority for Nuclear Summit Security delegates should be to coordinate among the relevant national, regional, and multilateral bodies, forging a common vision of how to rationalize the existing international legal framework."

However, a major challenge confronting the 40 or so countries attending the summit is how to adapt international law to the transformed threat environment of the twenty-first century. The biggest problem with international law is that a lot of it has been crafted during times of extreme stress--a la throughout the Cold War. As such, the current legal patchwork makes it difficult to meet threats posed by "non-state actors" such as individual terrorists--especially suicidal fanatics--and terrorist networks. Without a systematic effort to remedy these deficiencies, key policy initiatives agreed to at the Nuclear Security Summit are unlikely to be sustainable over time.

An additional hurdle is that amending international law is agonizingly slow. Individual legislatures must approve key legal instruments--subjecting even the most uncontroversial improvements to the vagaries of domestic politics. One striking example is the 2005 amendment to the 1980 Convention on the Physical Protection of Nuclear Material--paramount to strengthening nuclear security globally--which has been ratified by just 34 states, about one-third the number of countries necessary for it to enter into force.

Accordingly, we believe further security-related laws, initiatives, and institutions will only complicate and frustrate a targeted legal response to nuclear terrorism. Instead,

we think governments should rededicate themselves to nuclear security by acting upon, and strengthening, the measures already in place.

Thus, the top priority for summit delegates should be to coordinate among the relevant national, regional, and multilateral bodies, forging a common vision of how to rationalize the existing legal framework. Here, it would be helpful to pursue practical measures such as harmonizing national laws and seeing that law enforcement, intelligence agencies, emergency responders, the nuclear industry, and civil-society organizations implement the laws stringently. To speed up the process, the summit should designate the International Atomic Energy Agency (IAEA) as the coordinator for the organizations, programs, and initiatives that seek to strengthen nuclear security and combat nuclear terrorism.

Obviously, executing this ambitious task likely will require certain organizational adjustments within the IAEA. For example, the IAEA was founded to advance the peaceful uses of nuclear energy and to conduct inspections of nuclear installations operated by its members. Detecting and thwarting weapons proliferation by non-state actors--groups without fixed addresses--involves a host of new challenges.

Whatever policy commitments and signs of political resolve come out of the Nuclear Security Summit will certainly be helpful. But the real task is to translate laudable ideas into real, on-the-ground security against WMD terrorism. Unfortunately, many states whose help is needed to combat nuclear terrorism simply aren't in position to take concrete actions. Consequently, the long-term challenge is to provide both political and material incentives for these countries to become active participants in implementing the evolving global legal framework for nuclear security.

Of course, governments will need help. The globalization of the nuclear energy industry--the so-called "nuclear renaissance" in which nations turn to nuclear power as an alternative to fossil fuels--makes it imperative for all stakeholders to get involved, including ordinary citizens. Likewise, civil society comprises countless interests, perspectives, talents, and institutions, varying in formality, autonomy, and influence. The same goes for academic communities. They boast the brainpower and expertise to innovate, raise public awareness, and convince important stakeholders to tighten nuclear security. Grassroots movements can also lobby their countries to play an effective part in relevant international agreements and arrangements, ratify pending international instruments, and develop proactive approaches for putting government policies into action.

After all, if Obama's summit is to refortify the edifice of nuclear security, it must start by fixing the legal substructure. And to do so, it must have a truly representative and diverse team.

Editor's note: The coauthors of this column are [Igor Khripunov](#), the interim director of the Center for International Trade and Security at the University of Georgia, and [Carlton Stoiber](#), the chair of the Working Group on Nuclear Security

at the International Nuclear Law Association.

Copyright © 2010 Bulletin of the Atomic Scientists. All Rights Reserved.

Source URL (retrieved on 08/18/2010 - 02:28):

<http://www.thebulletin.org/node/8399>

IT IS 6 MINUTES TO MIDNIGHT

www.thebulletin.org

