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BOOK REVIEW OF “NUCLEAR WEAPONS AND
INTERNATIONAL LAW: EXISTENTIAL RISKS OF NUCLEAR
WAR AND DETERRENCE THROUGH A LEGAL LENS”, BY
PROFESSOR CHARLES J. MOXLEY JR.¹

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Professor Charles Moxley has written a significant and comprehensive study on nuclear weapons and international law, examining both the existential dangers of nuclear war and the policies underpinning U.S. nuclear use and deterrence through a legal lens.

Moxley’s work, published in two volumes totaling 1080 pages, is the second edition of his earlier book “Nuclear Weapons and International Law in the Post Cold War World” (2000)². The new edition substantially expands the original text and includes forewords by, among others, former Secretary of Defense William J. Perry and former Secretary of State Robert S. McNamara (the latter reproduced from the first edition).

Although the language can be at times dense for non-lawyers, this reflects the inherent complexity of the nature of the nuclear weapons. While certain themes recur across chapters, the repetitions allow readers to consult individual sections without losing context.

The new addresses the full spectrum of legal issues surrounding nuclear weapons, with a particular emphasis on U.S. policy and doctrine regarding their threat and use.

¹ Charles J. Moxley, Jr., *Nuclear Weapons and International Law: Existential Risks of Nuclear War and Deterrence through a Legal Lens* (2d ed. 2024, vols. 1–2) (Hamilton Books, BLOOMSBURY PUBL’G).

² Charles J. Moxley, Jr., *Nuclear Weapons and International Law in the Post-Cold War World* (2d ed. 2023) (Hamilton Books, BLOOMSBURY PUBL’G).

In his preface, Moxley states that, after the Cold War, it once seemed realistic to imagine a world moving beyond nuclear confrontation. Today, however, he argues that we have returned to a climate of heightened risk, fueled in part by new technological developments that increase the likelihood of nuclear use. Perhaps most troubling, in his view, is the decline of public alarm about nuclear weapons – an alarm that once drove arms control efforts. He also warns that the threshold for triggering a “nuclear winter,” in which smoke and debris from a ground-level nuclear explosion could block sunlight, devastate agriculture, and cause widespread famine, is lower than many appreciated during the Cold War.

Drawing on his close professional relationships with senior U.S. military officers who work on U.S. and international law concerning nuclear weapons, Professor Moxley provides unique insight into the U.S. military establishment and its viewpoints on the legal aspects of threatening or using nuclear weapons. His connections were also evident in the panels at the virtual Conference on nuclear weapons and International Law 2025, which was held in January 2025 with the participation of military officers within the nuclear weapons establishment. Moxley’s inside knowledge is further reflected in numerous references to and quotations from armed forces manuals and Department of Defense sources.

Professor Moxley’s findings of the facts and conclusions rest on impressive and comprehensive research, with frequent quotations both in the main text and in the footnotes. As an experienced teacher in nuclear weapons law at Fordham Law School, and as a practitioner in arbitration and mediation, he offers a systematic and logical analysis. He first presents the law as understood and applied by the United States, and as reflected in the Advisory Opinion of the International Court of Justice of 1996 on the Legality of the Threat or Use of Nuclear Weapons. He then applies the law to the facts, while also discussing additional principles of law and the risk factors of the nuclear weapons regime.

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The book also contains a particularly thorough treatment of the Advisory Opinion of 1996 by the International Court of Justice (ICJ) on the Legality of the Threat or Use of Nuclear Weapons, along with the memoranda and oral presentations by the United States to the ICJ. Moxley further engages with the dissenting opinions of ICJ judges, integrating them into his broader argument.

Moxley's conclusions, presented in the final two chapters, are powerfully argued and grounded in extensive evidence. They are difficult to contest without disregarding the well-documented effects and existential risks of nuclear weapons use. Under the title "Unlawfulness under the rules recognized by the US" Moxley concludes that:

"It seems evident that the use of nuclear weapons, including low-yield nuclear weapons, would violate the law of armed conflict, including the rules of distinction, proportionality, and necessity. The effects of nuclear weapons are uncontrollable, rendering their use in essentially any circumstance unable to comply with such rules, as articulated by the United States. Such nuclear weapons effects as radioactive fallout, electromagnetic pulses, and nuclear winter, along with likely nuclear responses and escalation by the target, are uncontrollable and hence preclude the lawfulness of the use of nuclear weapons under the law of armed conflict."

According to Moxley "the conclusion further seems compelling that, if my conclusion as to the unlawfulness of the United States' potential use of nuclear weapons under international law is correct, that the United States' policy of nuclear deterrence is itself unlawful." The ICJ, in its 1996 Advisory Opinion, similarly stated that it is unlawful for a state to threaten the use of a weapon that it would be unlawful for the state to use.

In the final chapter, the analysis is broadened to consider whether the

threat and use of nuclear weapons are also unlawful under additional rules and principles of the law of armed conflict, including international law governing the risks of nuclear counter-strikes and escalation by nuclear-armed targets. The discussion also examines whether contemporary conventional weapons can achieve military objectives for which nuclear weapons might have previously been considered. In Moxley's view, the capabilities of modern conventional weapons, including hypersonic weapons, make nuclear weapons unnecessary for many – if not most – purposes for which they were previously considered, thereby rendering their use unlawful under the rule of necessity.

Moxley is candidly pessimistic about the likelihood that the nuclear-armed states will step back from the existing nuclear regime. As he observes, this “simply doesn't seem realistic anymore” and “it seems unrealistic that the situation is going to change ... absent some new, and potentially transformative approach.” This premise frames his central argument: that the law itself can provide the transformative pathway for addressing nuclear risks. The challenge, he argues, is to acknowledge that a legal framework governing the threat and use of nuclear weapons already exists, and to integrate that framework into defense policies and planning.

He ultimately expresses the hope that his book will encourage the United States take reassess the requirements of international law and bring its nuclear weapons policies into conformity with that law. In doing so, he urges the United States to recognize unlawfulness of nuclear threat and use, and to lead the international community to a nuclear-free world.

Professor Moxley's work is both impressive and timely. It deserves careful study by military officers, civilian personnel, and policymakers responsible for U.S. nuclear weapons strategy and planning.

POSTSCRIPT

It has been a privilege to write this book review of Professor Charles Moxley's impressive and unprecedented masterpiece on Nuclear Weapons and International Law.

My background for the review is my experience as a former disarmament and arms control negotiator with the Danish Ministry of Foreign Affairs. In that capacity I represented Denmark in multilateral negotiations within the United Nations and the Conference on Security and Cooperation in Europe on treaties and conventions concerning conventional weapons and weapons of mass destruction – including the Comprehensive Nuclear-Test-Ban Treaty and the Treaty on the Non-Proliferation of Nuclear Weapons. As a disarmament practitioner, I took part in lengthy discussions and negotiations on the drafting and implementation of these treaties. Reaching agreement among all participating states on the treaty text and its application was a difficult, long-term task.

It is therefore particularly concerning for me to witness how many of the most important disarmament and arms control treaties have been terminated, neglected, or fallen apart during the last few years. International disarmament and arms control law is of crucial importance for the maintenance of international peace and security in the interest of all states. Even in a more conducive security climate, political declarations on restricting nuclear weapons do not have the same binding force as treaty commitments.

Professor Moxley's book is a timely reminder that states should anchor their security in legally binding treaty commitments. To reestablish an international legal order concerning the most dangerous weapons, which pose an existential threat to humanity, the United States and Russia should extend the New START Treaty beyond February 2026 and adopt legally binding no-first-use commitments. Additional steps to lower tensions and the risk of nuclear use include de-alerting and de-targeting their nuclear forces. As a first step, the United States and Russia should engage in direct talks to develop confidence- and security-building measures between the two countries.