

# CORRESPONDENCE

## A Closer Look at China's Nuclear Motives

Jeffrey G. Lewis's article, "Chinese Nuclear Posture and Force Modernization" (16.2, July 2009, pp. 197–209), provides a fair assessment of the matters at hand. But there were a few issues that need clarification or amplification.

First, there is some confusion about Lewis's understanding of Taiwan's place in China's military strategy. For instance, it is curious that the author seemingly does not comprehend why the bulk of China's new ballistic missiles are conventionally armed, as opposed to nuclear armed, writing, "The reasons for this are unclear" (p. 198).

Taking the statement at face value, that is not really the case—at least to this reader. The vast majority of China's new ballistic missiles are short-range missiles. These missiles are being produced at a rate of about 100 a year, according to the Pentagon, and are meant for use against Taiwan, if necessary. The 1,000 or so CSS-6/7 missiles already arrayed along the Taiwan Strait in China's Fujian province are meant to deter or, if necessary, deny Taiwanese moves toward independence. In addition, these missiles could serve to prevent the interference of foreign forces, such as the United States, in a military contingency involving Taiwan.

While China's national security horizon is expanding beyond Taiwan in the view of many as its national power grows, its military modernization—strategic and conventional—still focuses on issues surrounding Taiwan and its unification with the mainland.

Indeed, Chinese friends will tell you that there is no more important issue in U.S.–China relations than Taiwan.

Unfortunately, Lewis later seemingly stumbles on this matter again, this time by trying to equate Beijing's continuing embrace of the no-first-use policy—despite the reported dissatisfaction of some Second Artillery commanders with it—with the expansion of the size of the conventionally armed ballistic missile arsenal (p. 205).

The Second Artillery has three main missions: deterrence, nuclear counter-attack—and supporting conventional war, which a Taiwan contingency would likely be, since few expect Beijing to attack Taipei with nuclear weapons.

In his article, Lewis also sees China's nuclear doctrine and policy in a very limited scope, that is, essentially a U.S.–China framework. Fair enough. But while China's nuclear force development was driven by security challenges arising from its early relationship with the United States (and the Soviet Union), it must surely be evolving due to changing strategic considerations since it joined the nuclear club.

While there is no mention of it, its nuclear force structure and policy must have other drivers as well, such as nuclear rival India, a country with whom China has fought a war and also shares a border. India is also a looming Asian giant, whose nuclear arsenal is probably as large—or larger—than China's, although it is focused on Pakistan at the moment.

In addition, how does the current—and potential—proliferation in its own neighborhood affect China's strategic outlook? Any shifts in China's nuclear posture, forces, and policy due to strategic changes in Asia would certainly have an

effect on thinking across the Pacific in the United States.

Lewis may have also wanted to write a word or two about the North Korean proliferation problem as to whether China may have concerns about it, despite a long-standing, but troubled, relationship. And what about the often-cited prospects of a nuclear Japan?

It's also disappointing that Lewis cites information about China's nuclear alert status, using a speech by a National Intelligence Officer given in 1998, now eleven years ago (p. 204). In this regard, some of the other source material seems a bit dated, too.

I also think Lewis understates the value to the Chinese of their development of a nuclear mobile and an at-sea deterrent (as well as possible cruise missiles), which go well beyond the capabilities of their previous silo-based deterrent. In some circles, these developments are alarming to analysts for the obvious reasons, even though warhead levels may remain constant, as Lewis asserts.

Lewis ends his piece with suggestions for dialogue, asserting the possibility that a bilateral forum might help avoid "accidents, miscalculations, and misunderstandings." No question that this is a thoughtful suggestion. But you must also have a willing dialogue partner, interested in openness and transparency on the matter at hand. That has been a challenge in the past with the Chinese, who may have well invented the concept of secrecy.

Pentagon and U.S. military talks with counterparts in China have been an on-again off-again proposition. In fact, China severed military-to-military talks last fall after the announcement of arms sales to Taiwan, though the Obama administration has tried to restart a number of existing dialogues.

Indeed, while President Richard Nixon was able to open China in 1972, opening China on strategic issues in a meaningful way is going to be a challenge. How that might be done in a mutually beneficial manner, perhaps, would be an appropriate subject for Lewis's next article.

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### **Jeffrey Lewis responds**

I don't agree with all of the arguments in Peter Brookes's letter, but I always enjoy a thoughtful argument. In that spirit, he raises one issue that I'd like to focus on in particular.

Brookes says I "stumble" on the issue of why China is building so many conventionally armed ballistic missiles, by which he means we disagree. He says it can be explained in terms of a Taiwan contingency, which I find insufficient as explanations go. The interesting question, to my mind at least, is why China pours *renminbi* into conventionally armed ballistic missiles instead of, say, new combat aircraft, both of which would presumably be useful in a Taiwan scenario. I suspect it has a lot to do with the prerogatives of the Second Artillery, which operates China's missile forces.

The scant evidence, to me, suggests that the Second Artillery has embraced conventionally armed ballistic missiles as a way to expand the organization's relevance and autonomy. Chinese leaders, for the ideological and bureaucratic reasons that I outline in my article, seem to view nuclear weapons as fundamentally political: Chinese nuclear weapons exist to

prevent nuclear coercion. The political nature of China's nuclear posture invites political interference from Chinese leaders, who have imposed the most restrictive posture imaginable by requiring the Second Artillery to ride out a nuclear attack with the warheads apparently in storage. (Brookes and I apparently agree that the intelligence community could usefully affirm whether this remains an accurate description of China's posture since last commenting in the late 1990s.)

The development of conventionally armed missiles offers the Second Artillery a realm of operations largely free of this sort of political interference. The deployment of large numbers of conventionally armed

short- and intermediate-range ballistic missiles, including anti-ship ballistic missiles, provides the Second Artillery relative autonomy over its doctrine, as well as how it trains and deploys its forces. What more would any organization seek?

It is not surprising to me that such organizational prerogatives are rationalized, both by the service as well as the government as a whole, in terms of the central defense planning scenario—attempting to stop a move by Taiwan toward independence. Recall that the U.S. Air Force justifies the procurement of the F-22 in terms of the defense of Taiwan.

We can be skeptical of both explanations.

## Remarks on the Oslo Process and Cluster Munitions Ban

The article "The Prohibition of Cluster Munitions: Setting International Precedents for Defining Inhumanity," by Brian Rappert and Richard Moyes (16.2, November 2009, pp. 237–56), was an interesting read and a useful contribution highlighting an important achievement for humanitarian arms control. Yet it contains three unexpected interpretations: first, the treatment of the reversal of the burden of proof as a specific feature of the Oslo Process; second, the interpretation of the Oslo Process as an "international precedent for defining inhumanity," and thirdly, the positive assessment of the definition of "cluster munition" used in the convention, which is usually regarded as opening loopholes in the ban.

One main argument brought forward concerning what is noteworthy about the Oslo Process is the shifting of the burden of proof: the authors show that prior to the

process, cluster munitions were generally considered permissible; therefore, it was up to the advocates of a prohibition to find reasons to justify a ban. During the process, the belief that these weapons were unacceptable due to humanitarian reasons could be established. Subsequently, opponents of the ban successively came under pressure to explain why cluster munitions in general, or certain types of them specifically, should be allowed. While the argument that a reversal of the burden of proof did indeed occur is plausible and well illustrated by the authors, and its significance for the Oslo Process is uncontroversial, the authors do not point out the analogies to other cases of weapons prohibitions, thereby missing the fact that reversing the burden of proof is a common mechanism at work in such processes. This misleadingly creates the impression that

reversal in the burden of proof is a unique characteristic of the Oslo Process. Although the authors refer to the landmine process in other places in their article, it is striking that they forgo drawing a parallel to this case, in which a similar shifting of the burden of proof occurred.<sup>1</sup> Before the campaign for a prohibition began, landmines were not deemed as especially problematic weapons in humanitarian terms, while their military value was deemed high. The interesting point here is that proponents of the landmine ban strategically targeted both ends of the “swing” of international humanitarian law and reversed the burden of proof both for the military utility and the humanitarian impact of landmines. In the case of cluster munitions, disputing the military effectiveness of the weapons played only a marginal role in the process (although occasionally, pro-ban activists pointed to high failure rates as an indicator for ineffectiveness), and the concentration on the humanitarian aspects alone was sufficient to convince the international community of the need for a ban. So, while the occurrence of a shift of the burden of proof itself is less spectacular, its non-occurrence with regard to military aspects is remarkable indeed.

Second, this reduced need for the burden of proof on the military side and the prohibition of a weapon that is still deemed militarily useful can only be explained when understanding the Oslo Process as part of the broader humanitarian discourse. While the Oslo Process will surely inform other areas of arms control, as the authors

suggest, it also seems necessary to stress that this process itself has benefited tremendously from previous developments that took place in other areas of arms control: not only has the landmine ban served as a direct point of reference for the ban on cluster munitions, but the taboos on nuclear, chemical, and biological weapons also provided normative “docking stations” that enabled settling the new campaign into a humanitarian framework. This framework includes norms like the protection of civilians in armed conflict and was substantially strengthened during the 1990s by the concept of human security. Although the aim of the article is examining the Oslo Process itself “in terms of the precedents it sets for future arguments about weapon technologies and the regulation of armed conflict,” it would have been nevertheless useful to discuss the crucial role of previous prohibitions and to take into account the dense normative network in which the norm emerged. On the basis of a broader comparison with existing humanitarian argumentation, the “precedent” aspect could have been outlined more sharply, and the article’s framing of the ban on cluster munitions as a humanitarian precedent would have been more convincing.

The third surprising aspect of the article concerns Rappert and Moyes’ reading of the definition of cluster munitions that was codified in the Convention on Cluster Munitions. Starting with a general part (“Cluster munition means a conventional munition that is designed to disperse or release explosive submunitions”), several restrictions to the definition are listed, thereby excluding certain munitions from the ban. While exactly these exclusions have invoked criticism, since they are perceived to simply protect some kinds of cluster bombs from the ban, the authors suggest a

<sup>1</sup> See Richard Price, “Reversing the Gun Sights: Transnational Civil Society Targets Land Mines,” *International Organization* 52 (July 1998), pp. 613–44.

different interpretation: in their view, the convention provides a categorical prohibition on cluster munitions, since it clearly states what falls into the category and accordingly is prohibited. This argument implies that something like an objective understanding of what cluster munitions are or are not does exist and what is prohibited or not follows from this definition. Yet, it should be noted that the chain could be just the other way around; namely, that the definition of the category itself might be the result of which weapons the states are willing to prohibit. In this view, the definition would follow from the prohibition, since the weapons the states would prefer to preserve would simply be declared as not being part of the category. Thus, speaking of a categorical prohibition when the definition of the category itself is not independent from and constituted by what is prohibited becomes a circular argument.

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***Brian Rappert and Richard Moyes respond***

We appreciate Elvira Rosert's remarks for providing us the opportunity to clarify and extend the argument in our article. The first remarks center on the novelty of the reversal of the burden of proof in the Convention on Cluster Munitions (CCM). How the burden of proof is handled is a factor in all legal and regulatory activities. As a result, attempts to shift the onus or to claim one side of a debate must make a case for its position are common in arms control and beyond. Our specific interest with the CCM is how it "contrasted with

the manner in which the burden of proof for the permissibility of cluster munitions had been handled in past years under prevailing interpretation of international humanitarian law" (p. 238). Positioning of onus was explicitly discussed by certain states and organizations urging reform, and it became central through the structure adopted for the negotiation of the definition of "cluster munition."

Richard Price's work on the prohibition of antipersonnel landmines, for instance, notes that shifts in the burden of proof were important in that process; however, he argues neither that such shifts were used in the explicit, strategic, and formal manner that was seen in the development of the CCM, nor that they facilitated an escape from the rhetorical weighing of military utility against humanity under the framing of international humanitarian law. In such ways, the CCM sets important precedents. As in law more generally, these precedents do not represent complete breaks with the past, but nevertheless represent developments that could be highly significant for the future if they are built upon.

This leads to the second remark, regarding how the CCM benefited from previous arms developments, including norms and stigmas relating to the legitimate means of war and the protection of civilians. We agreed on the importance of past developments and regard the lessons from previous disarmament initiatives as vital in securing future humanitarian protection from the CCM (p. 250). Of course, it would have been possible to write a different article that set out to consider the indebtedness of the prohibition of cluster munitions to previous activities; we did not seek to deny that history, but rather to focus on a particular set of issues associated with the definition structure for cluster munitions.

Rosert's third set of remarks relates to our positive assessment of the definition of cluster munitions within the convention despite its exclusions. A number of issues are at play here, including the history of humanitarian harm from weapons commonly understood as cluster munitions, the perceived military and economic interests of certain states, the implications of the exclusions as drafted for a wider critique of explosive weapons, and the stigmatizing power of the categorical prohibition. One metric for judging the CCM definition positively is that it bans *all* those weapons commonly identified as cluster munitions that have been documented as causing significant humanitarian harms—indeed (to the best of the authors' knowledge), the CCM bans all that have been documented as causing *any* civilian casualties to date.

It is recognized that the exclusions served the interests of certain states because certain weapons in which they had military and economic interests were not prohibited as a result. This may have been a decisive factor in such states adopting and signing the convention. These same states are also among the major stockpilers of cluster munitions that have signed the treaty; thus, they were generally giving up a significant investment in military equipment, and their support strengthens the normative power of this prohibition instrument.

The exclusion as drafted at 2.c establishes that the prohibitions are based on the "indiscriminate area effects and the risks posed by unexploded submunitions" and delineates technical characteristics that serve to calibrate these unacceptable effects. Taken together, these emphasize that the distribution of explosive force ac-

ross area is fundamental to the prohibition of cluster munitions. The detailed characteristics at 2.c set a demanding benchmark for the assessment of the wider category of explosive weapons (which as a category is notable for its capacity to affect areas around points of detonation and to leave contamination with unexploded ordnance). The UN secretary-general recently expressed increasing concern at the humanitarian impact of explosive weapons, noting that "the use in densely populated environments of explosive weapons that have so-called 'area effect' inevitably has an indiscriminate and severe humanitarian impact."

Rosert suggests that in writing positively about a "categorical" prohibition, we assume that an objective definition of cluster munitions exists and that the prohibition covers the weapons under this heading. Let us clarify our argument. In the case of these weapons (or another grouping one wishes to make for that matter), we take it that no incontrovertible, "just-so" definition exists. Boundaries will always have to be fashioned, and, in principle, these can be contested. Furthermore, as with the Mine Ban Treaty, what is regarded as a wide-ranging categorical prohibition at one level (e.g., in relation to antipersonnel landmines) can be regarded as a mere form of regulation at another level (e.g., in relation to landmines as a whole).

The CCM could have had a wording that prohibited the same technologies on the basis of distinguishing between "acceptable" cluster munitions and those that were judged to be "unacceptable." The *choice* not to make this sort of internal distinction will greatly help the stigmatization of these weapons—which

has implications for the authority of the prohibition beyond its detailed terms and specific signatories. The categorical nature of the CCM is laudable not because the definition reflects an objective, "essential" definition, but because of the choices that underpin it.

The balance of these points supports a positive assessment of the definition of cluster munitions in the CCM.

### Clarification

The article, "The Health of the Nuclear Nonproliferation Regime: Returning to a Multidimensional Evaluation" (16.2, July 2009, pp. 173–96), by Jeffrey Fields and Jason S. Enia, represents the views and opinions of the authors and does not necessarily reflect those of the Defense Threat Reduction Agency or the U.S. government.

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