

NUCLEAR WEAPONS ARE BANNED!

WHAT DOES THIS MEAN FOR BRITAIN?

THE UN TREATY ON THE PROHIBITION OF NUCLEAR WEAPONS

UN Secretary-General António Guterres heralded the 2017 Treaty on the Prohibition of Nuclear Weapons (TPNW), which enters into international legal force on 22 January 2021, as a 'further pillar of the global disarmament regime.'

The TPNW bans the use, production, possession and deployment of nuclear weapons, along with specific activities that could enable or assist anyone to use or threaten to use nuclear weapons. It sets out obligations, principles and pathways leading to the responsible elimination of nuclear arsenals.

Following entry into force, the first Meeting of States Parties will take place this year. It will set the rules and framework for decision-making, and begin to negotiate the longer term requirements of establishing further capacities and institutions to oversee nuclear disarmament compliance, verification and enforcement in the future.

Nuclear weapons do nothing to protect people from the real threats we face to our health and livelihoods, like the Covid pandemic, economic collapse, climate destruction, extreme weather events and nuclear terrorism.

Unfortunately, the UK government chose not to participate in the UN's multilateral negotiations in 2017. Instead they opted to boycott and join Donald Trump's ambassador Nikki Haley and other treaty detractors in an embarrassing protest outside the UN General Assembly Hall.

The TPNW was finalised and adopted in the United Nations on 7 July 2017 by 122 votes, with only the Netherlands voting against. States that did not participate did not cast a vote.

It is widely recognised now as an important step that furthers global efforts to prevent nuclear use and achieve nuclear disarmament, non-proliferation and sustainable security. British governments have previously opposed other important treaties to begin with, and have then come to see sense and accede a few years later. Britain needs to participate in the next steps and focus resources where they are really needed.

This briefing outlines the TPNW's purpose and provisions and proposes ways in which the UK could engage more constructively and become better informed about future developments.

NUCLEAR DISARMAMENT IS A GLOBAL RESPONSIBILITY

As it takes legal effect on 22 January 2021, the TPNW joins the 1968 Non-Proliferation Treaty (NPT) and the comprehensive treaties that have banned and eliminated biological and chemical weapons. This is an important legal turning point on the long road towards attaining the 'peace and security of a world free of nuclear weapons' that US president Barack Obama called for in 2009, endorsed by the 2010 NPT Review Conference.

The TPNW is the outcome of a lengthy process of negotiations and meetings that originated in 1946 and built on the outcomes of NPT Conferences, including this consensus statement from 2010 that expressed *'deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons and reaffirms the need for all States at all times to comply with applicable international law, including international humanitarian law.'*

Supported by the International Committee of the Red Cross (ICRC) and a growing civil society network connected with the International Campaign to Abolish Nuclear Weapons (ICAN), talks were taken forward through international governmental conferences on the 'humanitarian impacts of nuclear weapons' in Oslo, Mexico and Vienna, and preparatory work in two UN 'open-ended working groups' in 2013 and 2016.

Nine nuclear armed states currently hold over 13,000 nuclear weapons. The TPNW's primary objective is enshrined in its preamble as 'the achievement and maintenance of a world free of nuclear weapons, including the irreversible, verifiable and transparent elimination of nuclear weapons.' These fundamental objectives are framed in terms of nuclear risks, humanitarian impacts and the responsibilities of everyone to contribute towards banning and eliminating nuclear weapons and threats from the face of the Earth.

The driving force underpinning this Treaty is human security, as epitomised in paragraph 4: *'that the catastrophic consequences of nuclear weapons cannot be adequately addressed, transcend national borders, pose grave implications for human survival, the environment, socioeconomic development, the global economy, food security and the health of current and future generations, and have a disproportionate impact on women and girls, including as a result of ionizing radiation...'*



Credit: Ministry of Defence/Open Government License

Nuclear disarmament verification exercise

Article 1 explicitly bans the main activities that enable and assist any country or individual to use, make or acquire nuclear weapons. It is prohibited to develop, test, produce, manufacture, otherwise acquire, possess, stockpile, use or threaten to use nuclear weapons and 'nuclear explosive devices.'

Most if not all these activities are already forbidden to states that relinquished nuclear weapon programmes and joined the NPT as 'non-nuclear weapon states.' The difference now is that the TPNW unequivocally applies these prohibitions to all states parties and 'any circumstances.'

Articles 2–5 require the 'total elimination of nuclear weapons,' and provide basic obligations, principles and pathways that build on existing UN and NPT institutions and safeguards. As countries that currently possess or share nuclear weapons decide to accede, the TPNW envisages further negotiations with those governments on specific steps and timelines to disarm and comply.

Currently applicable legal obligations, such as nuclear safeguards required under the NPT, are reinforced as they stand. In keeping with its mandate to fill the legal gaps in the disarmament and non-proliferation regime, the TPNW goes further than existing agreements in order to strengthen, adapt and develop the legal, technical and verification systems that are needed to bring about nuclear disarmament and global security for the future.

POSITIVE OBLIGATIONS

The TPNW recognises the necessity to prevent nuclear weapons being used again. It also recognises that serious environmental harm and suffering were inflicted on indigenous communities because of over 2000 nuclear tests that have been carried out by the nuclear armed states.



Adoption of TPNW text, chaired by H.E. Elayne Whyte Gomez, United Nations, 7 July 2017

Over 75 years, nuclear weapons detonations caused unacceptable harm all around the world: from Japan to Pacific Islanders and Aboriginal communities in Australia; from Western Shoshone people and downwinders of US testing in Nevada to Algerians in the Sahara and Uighurs in China's Xinjiang Province; from Kazakhs near Semipalatinsk to Nenets in the Soviet Union's test sites in Novaya Zemlya. The blasts and radioactive contamination destroyed vulnerable lives and ecologies far from the capital cities of the nine nuclear armed states.

In keeping with humanitarian disarmament principles and practices in other treaties, positive obligations for victim assistance and environmental remediation are enshrined in Article 6 of the TPNW. Article 7 makes it a legal as well as normative and political obligation for all states parties to cooperate with each other in facilitating the universalisation and implementation of the treaty. The preamble and Article 18 underscore the compatibility and relationship between the TPNW and other international agreements, insofar as their obligations are consistent.

MEETINGS OF TPNW STATES PARTIES WILL BEGIN IN 2021

As with all treaties, entry into force is not an endpoint, but the beginning of the all important implementation process. From 2021 onwards, Meetings of States Parties will begin negotiating on how best to set up necessary institutional, technical and verification capacities for the future. The first meeting will set the rules and framework for decision-making. It will review reports and steps that have been taken, and consider how to move forward to fulfil the TPNW's objectives and longer term needs, including environmental remediation,

victim assistance, and the 'competent international authority,' that is envisaged in the TPNW for overseeing compliance, verification and enforcement in the future.

Austria has begun preparations to host the first meeting of TPNW States Parties (1MSP) in Vienna, probably November or December 2021 (Covid permitting). It is hoped that the International Atomic Energy Agency (IAEA) and Comprehensive Test Ban Treaty (CTBT) Organisation will become fully engaged from now on.

As well as being open to all signatories, relevant international organisations and civil society, as specified in the treaty, it is likely that states that have not yet signed the treaty will be invited to attend as observers.

BE PREPARED

Human and technical mistakes and poor leadership are normal parts of life. Cyber capabilities and other technologies open up further risks and vulnerabilities in military and nuclear systems of control, command and delivery. Last century's theories of nuclear deterrence don't deal with today's realities. If we carry on with nuclear weapons it is inevitable that soon or later we will have to deal with their use or a catastrophic accident.

The world is changing and nuclear weapons are on the wrong side of history. Threatening the use of nuclear weapons for projecting 'power' or 'deterrence' undermines global security and has no place in today's world. We live in challenging times and cannot keep squandering resources on pariah weapons that can never be used without causing unacceptable suffering and risks of mass extinction.

British decision-makers need to learn the lessons of the past few years. Ignoring reality and human behaviour won't change the facts, but can leave us dangerously unprepared for real world risks and consequences. That applies to the Covid pandemic and the climate emergency. And it is also true of nuclear weapons.

WHAT CAN THE UK DO TO MOVE FORWARD?

The TPNW is moving ahead in international law. It is widely regarded as a game-changing step that furthers global efforts to achieve nuclear disarmament, non-proliferation and sustainable security. It cannot solve the world's nuclear problems by itself. No treaty can do that. They work by persuasion, not coercion.

Security treaties like the TPNW establish the laws, build international norms, promote national and collective action, and enable further steps to strengthen the 'rules-based international order that has done much to encourage predictable behaviour by states and the nonviolent management of disputes', as recognised by British diplomats as recently as 2016.

Taking these steps to ban and eliminate nuclear weapons and use will make the world safer for everyone, including Britain. Though the Treaty does not legally bind states that have not signed, ignoring it is not a realistic option. As proposed by the House of Lords Report on 'Rising Nuclear Risks' in 2019, the UK government needs to do more to accept this reality and engage constructively with both the TPNW and NPT.

Even if they are never fired, nuclear weapons are a threat to people's security, health and environments in Britain and beyond. From the atomic weapons facilities at Aldermaston and Burghfield in Berkshire, to Scotland, where UK warheads are stored at Coulport and deployed from Faslane on the Clyde, nuclear weapons endanger and divide us.

As we consider the challenges for Global Britain, we all – including the defence services, MPs, governments and local councils – need to face the future and rethink what matters for our real safety and security – and act accordingly.

The disproportionately high fatalities from Covid in Britain reflect misplaced priorities and failures in leadership that are also evident in how UK nuclear policies continue to divert and swallow up resources that are needed for our real safety and security.



Credit: ICAN Aude Catimel

ICAN campaigner with TPNW

RECOMMENDATIONS

- **Attend and engage constructively with the first Meeting of States Parties to the TPNW, especially its efforts to establish effective verification and implementation mechanisms.**
- **Freeze funding earmarked for the replacing and upgrading of UK nuclear weapons, while rethinking what will make Britain and the world safer and more secure in the 21st century, including climate-saving sustainable energy, food, health and transport.**
- **Halt plans to develop new submarines and warheads, and take concrete steps to diversify defence jobs from nuclear weapons towards security and disarmament, augmenting the technologies and skills for safe and secure elimination, disposal and verification, where the UK has the potential to take a positive lead.**
- **Work for the success of the next NPT Review Conference (now scheduled for August 2021) by accepting the TPNW's role in taking states' obligations forward, especially with regard to their Article VI obligations on nuclear disarmament.**

Written by Dr Rebecca Johnson, this briefing is drawn from a more comprehensive report that will be published later. We would like to thank the Nuclear Education Trust and Joseph Rowntree Charitable Trust for their grants to fund this work.

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International Campaign to Abolish Nuclear Weapons

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