Implementation of the Treaty on the Prohibition of Nuclear Weapons: Hopes and Expectations for the Future

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ABSTRACT
The Treaty on the Prohibition of Nuclear Weapons entered into force on 22 January 2021. What can be expected in the years following (TPNW)? In the first few years, we can expect that states parties will start to implement the treaty’s positive obligations, and that entities within states outside the treaty will begin to adhere to the new norm set by the treaty. Within the next decade, we can anticipate additional engagement with the treaty from outside states, including weapons possessors, and changes in their weapon policies to more closely adhere to the treaty. Over time, states outside the treaty are expected to sign and ratify the TPNW as the treaty grows and the treaty approaches universalisation.

Introduction
The Treaty on the Prohibition of Nuclear Weapons (TPNW) made history upon its adoption in July 2017 as the first treaty to ban nuclear weapons. Its negotiation, against the will of the nuclear-armed states, but with the support and advocacy of the survivors of nuclear weapon use and testing, was historic. That the treaty reached 50 states parties in October 2020, kickstarting its entry into force on 22 January 2021, in the middle of a global pandemic was also remarkable. But the biggest achievements of the treaty are yet to come. Within one year of the treaty’s entry into force, states parties will convene for their first meeting to discuss implementing the treaty’s obligations and complying with its prohibitions.

The International Campaign to Abolish Nuclear Weapons (ICAN) was awarded the Nobel Peace Prize for its work to achieve this landmark treaty. This coalition of more than 600 partner organisations in over 100 countries will continue to advocate for the full implementation and universalization of the treaty and to stigmatize and eliminate nuclear weapons. Civil society in countries that have joined the treaty will encourage their governments to implement it fully and organisations in states not party will urge them to join this new important instrument of international law. They will continue to build support for the treaty, including by working with local governments to pass resolutions endorsing the treaty, and mounting pressure by calling on financial...
institutions, universities and other institutions to adhere to the new standard of international law established by the treaty.

What can be expected in the years following? No one can predict the future, but we can look to the impact of past treaties to better understand what could be next for the TPNW regime (International Campaign to Abolish Nuclear Weapons 2020). In the first few years, we can expect that states parties will start to implement the treaty’s positive obligations, and that entities within states outside the treaty will begin to adhere to the new norm set by the treaty, as evidenced by previous weapons prohibition treaties (Sanders-Zakre 2020b). Within the next decade, we can anticipate additional engagement with the treaty from outside states, including weapons possessors, and changes in their weapon policies to more closely adhere to the treaty. Over time, states outside the treaty are expected to sign and ratify the TPNW as the norm grows and the treaty approaches universalisation.

**Implementation**

The first meeting of states parties to the TPNW provides an opportunity for states to discuss implementation of the treaty in more detail and commit to specific actions in line with their obligations. States may implement some obligations before the meeting. For example, if any states do not have a comprehensive safeguards agreement in force, they have 18 months after the entry into force of the TPNW to bring one into force (Article 3). They also must adopt national legislation to encode their treaty obligations into domestic law, if such legislation does not already exist.

The obligation to assist victims of nuclear weapon use and testing and begin to remediate contaminated areas is likely to be a major topic of discussion at the first meeting of states parties. States can adopt an action plan, as previous weapons prohibitions have done, to explain in more incremental and time-bound terms how states will implement the obligations. Implementation of these obligations will be ongoing and will take much longer than a few years, but states can start implementation and make some progress in the short term.

For example, the Vientiane Action Plan adopted at the first meeting of states parties of the Cluster Munitions Convention included steps for states parties to take including identifying contaminated areas and developing a national plan for cluster munitions clearance. A TPNW action plan adopted at the first meeting of states parties could call on affected states to develop national victim assistance plans, appoint a government focal point for victim assistance and environmental remediation and create a budget for this work by the next meeting of states parties (Docherty 2020). Affected states parties can also begin to determine how to monitor nuclear weapon contamination and evaluate remediation success. States parties can establish working groups to assist with the complex task of implementation to meet in between meetings of states parties (Norwegian People’s Aid 2019). The treaty’s established schedule of meetings will help to ensure that there are regular opportunities for states to evaluate progress on treaty implementation and compliance and share best practices.

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1 Vientiane Action Plan, 12 November 2010. https://www.clusterconvention.org/the-convention/action-plan/...
Although several national programs exist, there is no one international standard for adequate, age- and gender-sensitive assistance for nuclear weapons victims or to remediate nuclear weapon contaminated environments (International Campaign to Abolish Nuclear Weapons 2019). State party and international expert work together with survivors and representative organisations to implement these provisions will not only expand on this important work but could also make important contributions to this field of expertise in the years to come.

**Universalisation**

Additional countries that support the treaty are expected to sign and ratify it in the next few years. One hundred and eighteen countries voted in favour of the resolution welcoming the TPNW the First Committee of the UN General Assembly in 2020 (UN General Assembly 2020). A number of these countries are in the midst of their internal process to sign and ratify the treaty, which varies by country. Indeed, at the 2020 UN General Assembly, over a dozen countries explained that they were in the process of ratifying the treaty (Reaching Critical Will 2020). All countries that do join the treaty are then obligated under Article 12 to urge others, in bilateral meetings or in public statements to international fora, to join as well.

Even countries that decided not to join the treaty after its adoption are expected to participate in the treaty regime and join over time. Some states not party have already committed to attend the first meeting of states parties as observer states and in the coming years these states could also decide to sign the agreement. Already, Switzerland stated it would re-evaluate its decision on joining the TPNW by 2020 and Swiss legislation called for the government to join the treaty (Swiss Federal Council 2019). The Netherlands, which participated in the negotiations due to pressure from the population, and Sweden, which also participated in the negotiations and will observe the first meeting of states parties, could also be expected to join in the short term (Government offices of Sweden 2019).

In the long term, states that rely on nuclear weapons in their security doctrines and even nuclear-armed states can be expected to join this treaty and take the necessary steps to be in full compliance. Polls show that majorities of the populations in Australia, Norway, Japan, Finland, Italy, Germany, France, Belgium and the United States of America support their government joining the treaty (International Campaign to Abolish Nuclear Weapons 2020). Political party leaders in Australia and the United Kingdom support the treaty; the Australian Labor Party has formally committed to join the treaty (Australia Labor Party 2018). The former leader of the UK opposition Labour Party, Jeremy Corbyn welcomed the treaty in August 2017 (Labour Campaign for Nuclear Disarmament 2017).

Contrary to what some have claimed, the treaty does not prohibit states parties from participating in military alliances with nuclear-armed states (Sanders-Zakre 2020a). A NATO state could very well join the TPNW, and make a few adjustments in policy and behavior to be in compliance (Casley-Maslen 2018). NATO states would need to renounce its participation in the nuclear weapon dimension of the alliance and indicate

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2Sweden and Switzerland have both committed to observe the first meeting of states parties.
that it does not support activities prohibited by the treaty. As more and more countries join the treaty and its normative power grows, it will become harder for states not party to justify their position to remain outside of international legal standards on nuclear weapons to its own population and to other states.

**Impact on States Not Party**

Within states that have not joined the treaty, public pressure for cities, elected representatives, banks and universities, to behave in accordance with international law will grow. When norms are encoded into international law, they become more influential, even for countries that have not joined (Bower 2015). As the treaty becomes increasingly established as an institutional structure, the impact of the norm against nuclear weapons will continue to grow.

Financial institutions and pension funds have already started to divest from companies producing nuclear weapons after the adoption of TPNW, including one of the largest pension funds in the world, and can be expected to continue to do so once the treaty enters into force and approaches universalisation (Don’t Bank on the Bomb 2017). Many financial institutions choose not to invest in “controversial weapons,” generally accepted as weapons prohibited under international law (Cristian and Schoemaker 2019). Some companies will eventually find it in their interest to stop nuclear weapons production, as companies producing cluster munitions in the United States stopped after that prohibition treaty entered into force (PAX 2018). Cities and parliamentarians are steadily joining ICAN’s Cities Appeal and Parliamentary Pledge to encourage their governments to join the treaty – this too can be expected to continue.

Before they join the TPNW, nuclear-armed states and states that rely on nuclear weapons in their security doctrines may change their behavior to be more in line with the treaty and the new international norm it sets. Years after the entry into force of the Mine Ban Treaty and Cluster Munitions Convention, some weapons possessors changed their behavior and policy on use and transfer of the weapon (International Campaign to Abolish Nuclear Weapons 2020). There are already active debates within nuclear-armed states and their allies about nuclear weapon use and transfer policies. When he was Vice-President, US President Joseph Biden voiced his support for a no first use policy in January 2017 remarks to the Carnegie Endowment for International Peace. There is also strong local opposition to the hosting of US nuclear weapons on NATO countries’ soil. In May 2020, Rolf Mützenich, the leader of the German Social Democratic party in Parliament said in an interview that “nuclear weapons on German territory do not heighten our security, just the opposite” (Karnitschnig 2020).

**Conclusion**

The entry into force of the TPNW on 22 January 2021, and its first meeting of states parties within one year, is just the start of the treaty’s impact. In the years to come, states parties will take forward their obligations, additional states will join and the treaty’s normative impact will influence private and public actors within states not party. ICAN will continue to play an important role to support the treaty’s implementation and universalisation, but pressure to join the treaty will not be limited to civil society efforts.
The powerful few cannot ignore the will of the many in a multilateral society forever. For too long, a handful of states have clung to weapons of mass destruction to the peril of the rest of the world community. But with the Treaty on the Prohibition of Nuclear Weapons gaining strength and influence in the years to come, those days are numbered.

Disclosure Statement

No potential conflict of interest was reported by the author(s).

Notes on Contributors

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