

# After the nuclear weapons ban treaty: A new disarmament politics

Zia Mian

**Bulletin of the Atomic Scientists**  
**July 7, 2017**

<https://thebulletin.org/2017/07/after-the-nuclear-weapons-ban-treaty-a-new-disarmament-politics/>

---

A treaty on the prohibition of nuclear weapons was adopted by an overwhelming vote and met with loud cheers this week at the United Nations. More than 70 years in the making, the treaty offers widely agreed principles, commitments, and mechanisms for ending the nuclear weapons age. Getting here was not easy, and achieving nuclear disarmament will still be a long struggle. But the new treaty creates space and means for a creative new disarmament politics based on law and ethics and democracy that go beyond well-trodden debates on the dangers and costs of nuclear weapons and traditional practices of arms control based on step-by-step reductions that limit only the size of arsenals.

Having achieved their goal of negotiating a treaty prohibiting nuclear weapons and aiming explicitly at their elimination, officials from more than 120 countries and countless peace activists who have been engaged in the talks now need to take up the political challenge of having the treaty quickly and widely adopted and owned by publics and governments around the world. The treaty will open for signature on September 20. The treaty adopted this week requires 50 states to formally join before it enters into force. This should occur soon. In the vote at the United Nations, 122 states voted in favor, and only the Netherlands, which hosts nuclear weapons belonging to the United States, voted against.

The treaty is in many ways an attempt to reaffirm—and hold humanity to—the highest universal ideals of a world of peace and justice based on law. It exposes the fundamental contradiction between nuclear weapons and the existing international

system. The treaty opens with the simple declaration that the countries adopting it are “[d]etermined to contribute to the realization of the purposes and principles of the Charter of the United Nations.”

Signed on June 26, 1945 in San Francisco, the charter says, in Article 1.1 that “[t]he purposes of the United Nations are: To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.”

Given this purpose, it should be no surprise that the United Nations has always struggled with the question of nuclear weapons and has been the primary forum for international demands to eliminate these weapons, which more than any other human instrument constitute a threat to international peace and security. This struggle began in the very first meeting of the United Nations, on January 24, 1946, when the newly formed General Assembly took up as its first order of business the need for specific proposals “for the elimination from national armaments of atomic weapons.” This historic demand is recalled in the preamble to the new nuclear weapons ban treaty.

In framing the obligations of states under the treaty, and by implication the conduct of all states, the preamble makes a case that nuclear weapons are in fundamental conflict with basic humanitarian sensibilities and international law. If the treaty is to ultimately be successful, this view will have to become the common sense of the world.

The treaty’s foundational claims are that “any use of nuclear weapons would be contrary to the rules of international law applicable in armed conflict, in particular the principles and rules of international humanitarian law,” and that “any use of

nuclear weapons would also be abhorrent to the principles of humanity and the dictates of public conscience.” Put simply, any use of nuclear weapons would by any reasonable measure be illegal and immoral, and so they should have no place in national policies or human affairs.

On this foundation are built the core obligations of the treaty—which must now become common knowledge. Article I of the treaty states that each state party undertakes never under any circumstances to:

- Develop, test, produce, manufacture, otherwise acquire, possess, or stockpile nuclear weapons or other nuclear explosive devices.
- Transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices, directly or indirectly.
- Receive the transfer of or control over nuclear weapons or other nuclear explosive devices directly or indirectly.
- Use or threaten to use nuclear weapons or other nuclear explosive devices.
- Assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a state party.
- Seek or receive any assistance, in any way, from anyone to engage in any activity prohibited to a state party.
- Allow any stationing, installation or deployment of any nuclear weapons or other nuclear explosive devices in its territory or at any place under its jurisdiction or control.

These obligations break new ground. The prohibition on threatening to use nuclear weapons, for example, sets up a fundamental challenge to all policies based on nuclear deterrence. From now on, deterrence advocates are on the wrong side of the law, as understood and accepted by the majority of countries in the world.

The treaty also requires that nuclear weapons, weapon programs, and weapon facilities be eliminated, in agreed verifiable, irreversible, time-bound plans. It requires

any treaty signatory that has nuclear weapons to “immediately remove them from operational status and destroy them, as soon as possible but not later than a deadline to be determined by the first meeting of states parties, in accordance with a legally binding, time-bound plan for the verified and irreversible elimination of that State Party’s nuclear-weapon programme, including the elimination or irreversible conversion of all nuclear-weapons-related facilities.”

There are no such disarmament plans, but ban treaty states can now begin to outline them together in their regular conference of parties. And, as George Perkovich has argued, “nuclear-armed states will not credibly meet their disarmament obligations unless and until they seriously define what a feasible, comprehensive, verifiable, and enforceable nuclear disarmament regime would entail.” The goal must be for these processes to converge.

The challenge of nuclear disarmament politics going forward will be getting publics and policy makers in nuclear weapon states (and their allies) to set aside their long held, deeply institutionalized sense of nuclear superiority and moral exceptionalism and accept the treaty’s humanitarian imperative, its lawfulness, and the obligations that follow. The nine countries with nuclear weapons all stayed away from the talks, and some of them will work hard to prevent the treaty gaining ground. The key to long-term progress will be the United States, which more than any other country has set the global nuclear agenda since it made the first nuclear weapons and remains the only country ever to have used them in war. It is also the country most responsible for the existing international system.

In a potentially powerful obligation, the ban requires the states that sign up to make membership of the treaty part of their political engagement with the nuclear weapon states. Article 12 of the treaty mandates that states practice disarmament diplomacy and more. It declares that “[e]ach State Party shall encourage States not party to this Treaty to ratify, accept, approve or accede to the Treaty, with the goal of universal adherence of all States to the Treaty.” This will require new kinds of

official and public engagement with weapons states and opens the door for new kinds of transnational citizen diplomacy on disarmament. A key step in the new disarmament politics must be discussion of the forms that this encouragement can take, and what role citizens of ban treaty states and of nuclear weapon states can and should play in this effort.

But persuading nuclear weapons countries to join the treaty will not be easy. It will require that governments and citizens use new forms of international politics that the treaty empowers.

For example, politically charged demands for nuclear disarmament—perhaps avoided as too sensitive a topic in the past—can now be brought up as a matter of course when presidents and prime ministers from ban treaty states meet with their counterparts in nuclear weapon states. Along with trade and investment and tourism and sports delegations, ban treaty countries can now sponsor disarmament delegations, to explain why they signed the treaty—and why weapon states should do the same. Along with these types of engagement, of course, there can also be sanctions and boycotts. The ban treaty permits a politics of nuclear naming and shaming, shunning and divestment. These tools are well established when it comes to human rights and war crimes; they can be applied with new force to nuclear weapon sites, institutions, officials, and employees.

Peace activists must prepare for ban treaty states to triangulate, to balance interests in their relations with the weapon states. Most of the countries that sign up for the ban will see nuclear weapons issues as only one item on a larger agenda. The diplomats who negotiated the treaty work within national political systems, in which disarmament demands will have to compete with urgent needs for aid and trade and good political relations with nuclear weapon states, who are among the richest and most powerful countries in the world.

If they are to prevail, the ban treaty states will need to hold together and expand their coalition and keep working with civil society groups. Together they will need to

present unified demands—at the General Assembly and in other international forums—that weapon states join the treaty. They can hold joint Article 12 summits and support campaigns in the weapon states to focus attention and build support for the treaty.

Ban treaty states could seek to further embed the treaty's prohibitions into international law by seeking an amendment to the statute of the International Criminal Court to make the use of nuclear weapons a war crime. The court's statute permits such an amendment if it relates to “weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition.” The ban treaty is a comprehensive prohibition, and many ban states are signatories of the International Criminal Court statute and could build a majority in support of such an amendment.

Above all, to be taken seriously by the nuclear-weapon states, the growing community of ban treaty states and peace activists worldwide must be willing to continue to be bold and take political risks, as they did in getting the treaty. They must put at the heart of their relationship with the weapon states the treaty's acknowledgment of “the ethical imperatives for nuclear disarmament and the urgency of achieving and maintaining a nuclear-weapon-free world, which is a global public good of the highest order, serving both national and collective security interests.” Having prohibited nuclear weapons as an ethical imperative, there is now no way back.

---