

Principles of a treaty banning nuclear weapons

The humanitarian initiative on nuclear weapons has provided stark and irrefutable evidence that nuclear weapons cause death and displacement on a catastrophic scale, with profound and potentially irreversible damage to health and the environment, to socioeconomic development, and to the social order. No state or international body could adequately address the immediate humanitarian emergency or long-term consequences caused by nuclear weapon detonations.

Nuclear testing in several parts of the world has left a legacy of serious and persisting health and environmental impacts that cannot be undone and have yet to be adequately addressed. Regular activities around the command and control of nuclear weapons, such as transport of warheads and materials, military exercises, maintenance and upgrades pose a continued risk of accidents, miscalculations or errors. The risks of nuclear weapon use are real and increasing.

In this context, the International Campaign to Abolish Nuclear Weapons (ICAN) believes that a treaty banning nuclear weapons is the best step that can now be taken to prevent their use and progress their elimination. The renewed attention to the humanitarian impact of nuclear weapons since 2010 has reinvigorated global determination to prohibit and eliminate these weapons once and for all. In 2016, the UN General Assembly decided by overwhelming majority to negotiate a treaty prohibiting

nuclear weapons, with negotiations commencing in March 2017.

A legally-binding international instrument that comprehensively and explicitly prohibits nuclear weapons based on their unacceptable consequences would put nuclear weapons on the same footing as the other weapons of mass destruction, which are subject to prohibition through specific treaties. This treaty has the transformative potential to codify the illegality of nuclear weapons, stigmatise their possession, and facilitate nuclear disarmament.

A treaty banning nuclear weapons would build on existing norms and reinforce existing legal instruments, notably obligations under Article VI of the NPT. It would also strengthen the existing nuclear weapons regime and clearly codify the illegitimacy of possession. In line with other international legal instruments addressing unacceptable weapons, it should also reaffirm the rights of people who have been victimized by nuclear weapons.

A treaty banning nuclear weapons should:

- Establish a non-discriminatory international legal instrument that will prohibit its parties, their nationals, and any other individual subject to its jurisdiction from engaging in activities such as development, production, testing, acquisition, stockpiling, transfer, deployment and use and threat of use of nuclear weapons. The treaty should also prohibit its parties from assisting, financing, encouraging, and inducing prohibited acts.
- Provide an obligation for the complete elimination of nuclear weapons and a framework to achieve it. The ban treaty would not need to establish specific provisions for elimination, but states parties to the treaty could agree to relevant measures and timelines as part of the implementation process, through protocols or other appropriate legal instruments.
- Include positive obligations for states parties, such as ensuring the rights of victims and survivors of nuclear weapons activities; requiring actions to address damage to affected environments; and providing for international cooperation and assistance to meet the obligations of the instrument.

The process for banning nuclear weapons should:

- Be open to all states and inclusive of civil society and international organisations;
- Be initiated, conducted, concluded, and adopted by governments who share the objective of banning and eliminating nuclear weapons, even, if necessary, without the participation of the nuclear-armed states; and
- Not rely on rules of consensus and thus be blockable by none.