

First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons

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Complementarity beyond Disarmament and Non-Proliferation

Working paper submitted by Mines Action Canada

1. The 2017 Treaty on the Prohibition of Nuclear Weapons (TPNW), is frequently referred to as ground-breaking because it is the first international treaty to prohibit nuclear weapons, it has strong references to the rights of Indigenous peoples, it requires the participation of women and it has provisions on victim assistance and environmental remediation. All of these components are unique or at least uncommon in the field of nuclear disarmament and non-proliferation. The 1st Meeting of States Parties will be discussing the TPNW's complementarity with the existing nuclear disarmament and non-proliferation regime, however, there are also numerous areas of overlap between the TPNW and existing international agreements in a variety of other fields. These synergies between other international agreements and the TPNW are a reminder of the impact of nuclear weapons and the immense benefits for the global community of their elimination. Joining and fully implementing the TPNW can help the States Parties meet their obligations under a number of agreements on human rights and sustainable development; and similarly implementing those agreements can help the State Parties to meet their obligations under the TPNW. This working paper will look at synergies between a variety of international agreements and the TPNW to demonstrate that TPNW is a useful tool for meeting existing obligations. The working paper is not, however, an exhaustive list of all existing agreements that have overlapping obligations with the TPNW; it is merely a demonstration that the TPNW is tool for meeting many international obligations and not a burden.

Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

2. CEDAW condemns all forms of discrimination against women and as the TPNW recognises, women and girls have frequently experienced different impacts of nuclear weapons use and testing than men and boys. The TPNW provisions related to provide age- and gender-sensitive assistance to victims closely align with Article 12 of CEDAW that ensures access to health care for women. Considering how nuclear weapons disproportionately affect women and girls reproductive health, there is no doubt that implementing Articles 6 and 7 of the TPNW would help States to fulfil such health care obligations under CEDAW. The TPNW recognizes that women's participation is necessary to promote peace and security. By implementing CEDAW's

provisions to support women's participation in government policy-making, non-governmental and international organizations, and rural development, State Parties will meet their obligation to promote women's participation under the TPNW and vice versa. Article 14 of CEDAW regarding the rights of rural women are especially relevant to the implementation of Articles 6 and 7 of the TPNW because most nuclear weapons testing has taken place in rural areas. The CEDAW's requirements to guarantee the rights and well-being of women and girls compliments the TPNW's requirements for victim assistance.

Convention on the Rights of the Child (CRC)

3. The CRC aims to ensure rights to children and to protect them against all forms of discrimination. Numerous articles of the CRC speak to the rights of children to life, to a healthy environment, to a family and to care. These rights are all imperilled by nuclear weapons use and testing and by the diversion of resources to nuclear weapons development, modernization and maintenance. Under Article 6, states must recognize a child's right to life and "ensure to the maximum extent possible the survival and development of the child." Nuclear weapons are a threat to the survival and development of the child. Similarly, Article 3 calls on States to ensure that all decisions regarding children are made with the child's best interest in mind and the 2013 and 2014 Humanitarian Impact meetings showed that banning nuclear weapons is in the best interests of children. Implementing the TPNW's approach of age-sensitive assistance to victims, State Parties can meet their obligation to provide assistance to child victims of armed conflict under Article 39. That article also indicates that State Parties must ensure a healthy environment for child victims of any form of abuse. The rights of children with disabilities recognized in the CRC will be instrumental in shaping age-sensitive victim assistance. Both agreements contain language on Indigenous rights creating even more overlap between their implementation. Implementing CRC's provision to educate children about their human rights is closely linked to the TPNW's recognition of the importance of peace and disarmament education. Girls' participation is another shared concern for these agreements. By joining and fully implementing the TPNW, State Parties can contribute to meeting these obligations and others falling under CRC. States that want to meet their obligations under the CRC should join the TPNW and work to fully implement its provisions.

Convention on the Rights of Persons with Disabilities (CRPD)

4. The use and testing of nuclear weapons has led to survivors acquiring disabilities and having children with birth defects resulting in impairments thus the CRPD is of crucial importance to the implementation of the TPNW. Implementing CRPD's Article 4 on measures to eliminate all forms of discrimination against persons with disabilities, Article 6 on the rights of women with disabilities, and the various articles which ensure the participation of all persons with disabilities in political and cultural life will contribute to the TPNW's obligation to provide victim assistance without discrimination. Implementing effective victim assistance under the TPNW will remove barriers to participation in society for survivors of nuclear weapons use and testing who have impairments due to their experiences or the experiences of their parents and grandparents. The links between the CRPD and the TPNW go beyond victim assistance. The prohibition on nuclear weapons in the TPNW is a tool towards implementing Article 11 of the CRPD on situations of risk. Any future accidental or intentional nuclear detonations would pose a severe risk to persons with disabilities who are often left behind in situations of displacement and not considered in emergency planning thus to ensure their "protection and safety" nuclear weapons must be prohibited. The CRPD offers guidance on how to implement the TPNW's victim assistance provisions effectively while the TPNW will support implementation of the CRPD's provisions about protection and safety.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

5. The TPNW recognizes the disproportionate impact of nuclear-weapon activities on Indigenous peoples and UNDRIP establishes a human rights framework which ensures basic living, well-being and dignity standards to Indigenous peoples. Many of the overlapping human rights principles outlined under other human rights agreements apply to synergies between UNDRIP and the TPNW. One unique area of overlap is Article 29 of UNDRIP and the TPNW's language on environmental remediation and international cooperation. Article 29 of UNDRIP creates an obligation for State Parties multiple measures for monitoring, maintaining and restoring the health of Indigenous peoples and of their lands, territories and resources. This article explicitly requires States Parties to protect the environment of Indigenous peoples from the contamination of hazardous materials - like the aftermath of nuclear weapons use or testing. For communities affected by nuclear weapons activities, Article 6 of the TPNW and Article 29 of UNDRIP are mutually reinforcing. It is important to note that Article 30 of UNDRIP prohibits military activities on Indigenous lands "unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned" another clear overlap with the TPNW's recognition of the disproportionate impact of nuclear weapons activities on Indigenous peoples.

Sustainable Development Goals

6. The Sustainable Development Goals (SDGs) overlap with the TPNW on multiple grounds, which is why implementing the TPNW can help State Parties to meet SDGs, and vice versa. There has been significant writing on the links between the SDGs and the TPNW dating back to the negotiation process. By banning the production, transfer, stockpiling, testing and use of nuclear weapons, State Parties can meet their obligations to ensure good health and well-being (SDG 3) and clean water and sanitation (SDG 6), to protect life below water (SDG 14) and life on land (SDG 15), and to promote peace, justice and strong institutions (SDG 16). Banning the development, production, and manufacture of nuclear weapons will likely reduce spending on nuclear weapons, allowing for more funding for sustainable development. Therefore, State Parties can meet their obligations to end poverty (SDG 1) and hunger (SDG 2), to reduce inequalities (SDG 10) and to strengthen global partnerships (SDG 17). Implementing the TPNW's provisions on international cooperation will also help State Parties to achieve SDG 17. Implementing the TPNW's provisions on gender- and age-sensitive assistance can help State Parties to achieve SDG 3, SDG 16 and gender equality (SDG 5). Implementing the environment remediation provisions of TPNW can help State Parties to meet SDG 2, 3, 6, 14, 15. This paragraph is a mere overview of the links between the SDGs and the TPNW.

Small Island Developing States Accelerated Modalities of Action Pathway

7. The Small Island Developing States Accelerated Modalities of Action Pathway (SAMOA Pathway) establishes a framework of partnership to support the sustainable development of Small Island Developing States (SIDS). The SAMOA Pathway recognizes that the sustainable development of SIDS is highly vulnerable to changes in climate or the global political economy. The legacy of testing of nuclear weapons on in the South Pacific is one of the greatest threats to the development progress of these States and therefore the TPNW is particularly relevant to many SIDS. The SAMOA Pathway contains obligations for State Parties to provide assistance to SIDS in regards to disaster risk reduction, health and prevention of communicable diseases, finance, capacity building and institutional support. By implementing the SAMOA Pathway's assistance measures to states that were subjected to nuclear testing, State Parties contribute their victim assistance and international cooperation obligations under the TPNW. As well, the SAMOA Pathway's efforts to enhance the resilience of

SIDS to climate change, to monitor their climate model projections and to address climate change risks and issues through effective partnerships complement the TPNW's environment remediation efforts. Furthermore, implementing the TPNW's environment remediation provisions can help State Parties to meet their obligations to protect oceans, biodiversity, forests, and to adopt good practices in development under the SAMOA Pathway. While the overlap between the SAMOA Pathway and TPNW is most relevant for SIDS that experienced nuclear weapons testing, the importance of these synergies for affected states cannot be understated.

Paris Agreement

8. The Paris Agreement aims to enhance the global response to climate change from a sustainable development and poverty eradication perspective. Implementing the TPNW would help State Parties to meet their positive obligations under the Paris Agreement in some interesting ways. Eliminating the threat from nuclear weapons and providing appropriate assistance can also strengthen the climate resilience of vulnerable people, as required under the Paris Agreement, because it decreases the risks of a nuclear war leading to climate disruption. In addition, banning the use and production of nuclear weapons can help States Parties meet their long-term temperature goal of 1.5 degrees Celsius because it encourages nuclear-weapon producers, users and funders to stop contributing to such highly polluting activities. Considering the major threat nuclear weapons pose to human health, prosperity and well-being, environmental sustainability mainstreamed into victim assistance and international cooperation under the TPNW can help State Parties to meet their Paris Agreement obligations to provide financial, technological and capacity building assistance to developing countries, and to cooperate with other nations. Implementing the positive obligations of the Paris Agreement can help State Parties to meet the positive obligations under Article 6 and 7 of the TPNW.

Conclusion

9. The TPNW's obligations overlap with various agreements on human rights, and sustainable development. Complementarity is not limited to the existing nuclear disarmament and non-proliferation regime. By joining and fully implementing the TPNW, States Parties face an unmatched opportunity to meet their obligations under numerous other agreements. Work being done to advance human rights, victim assistance and sustainable development under other treaties and international frameworks such as the Mine Ban Treaty and Convention on Cluster Munitions include such positive obligations and also contributes to the implementation of the TPNW. The First Meeting of State Parties will provide a forum for State Parties to begin working towards its effective implementation. The work started in Vienna will have ripple effects across the rules based international order strengthening policy and practice related to human rights, sustainable development and the environment. Now, it is time for all states to join and fully implement the TPNW.
