



Human Rights Now

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June 14, 2017

Human Rights Now Calls for the Total Elimination of Nuclear Weapons

I. Introduction

Since the first use of nuclear weapons in Hiroshima and Nagasaki in August 1945, the world has witnessed their catastrophic humanitarian consequences through the experiences of hibakusha, the Hiroshima and Nagasaki survivors, and of victims of nuclear testing in other countries. Although the elimination of weapons “adaptable to mass destruction” was the UN General Assembly’s first resolution¹ and indiscriminate weapons such as biological and chemical weapons, landmines, and cluster munitions have been banned by treaty, no treaty bans nuclear weapons.² Thus, the UN Conference to Negotiate a Legally Binding Instrument to Prohibit Nuclear Weapons Leading to Their Elimination (the PTNW Conference) marks the first major global step towards a world free of nuclear weapons.³

Human Rights Now (HRN), an international human rights NGO based in Tokyo, firmly believes that any use of nuclear weapons is a grave and unacceptable violation of human rights. We welcome the widespread participation in the PTNW Conference and call on nuclear-armed states to join the negotiations to protect all humans from the continuing threat nuclear weapons pose. HRN also welcomes the Draft Convention as a forceful means to eliminating nuclear weapons and requests that delegates maintain its most critical features, including:

- The categorical and unambiguous prohibition of all activities involving nuclear weapons;
- Explicit recognition of the suffering of hibakusha and victims of nuclear weapon testing;
- Explicit recognition of the vulnerability of pregnant women and girls;
- Age- and gender-sensitive assistance for victims of nuclear weapon use and testing.

HRN calls on delegates to address remaining issues of verification, implementation, and enforcement in the same forceful and effective manner to ensuring the convention achieves its ultimate goal of eliminating nuclear weapons. The convention and existing treaties on nuclear

¹ UN General Assembly Resolution 1, A/RES/1(I), 24 Jan. 1946, <http://www.un.org/documents/ga/res/1/ares1.htm>.

² UN Office Disarmament Affairs (UNODA), “Nuclear Weapons”, <https://www.un.org/disarmament/wmd/nuclear/>.

³ United Nations Conference to Negotiate a Legally Binding Instrument to Prohibit Nuclear Weapons, Leading Towards their Total Elimination, 16 Feb, 27-31 Mar, 15 June 7 July 2017, <https://www.un.org/disarmament/ptnw/>.

weapons should also be mutually reinforcing. HRN also calls on all states, both nuclear- and non-nuclear armed, to ratify the convention on completion and participate in good faith.

II. Catastrophic Humanitarian Consequences of Nuclear Weapons

Nuclear weapons are the most destructive, inhumane, and indiscriminate of weapons ever invented. A single nuclear bomb can erase an entire city, kill millions of civilians, and cause enduring harms to future generations and the environment.⁴ Their catastrophic humanitarian consequences have been indisputably established and recounted by hibakusha, scientists, physicians and nuclear experts around the world.⁵ Particularly negative effects are borne by pregnant women and girls.⁶ Even aside from the risk of intentional state use, there are risks of accidental detonations and acts of terrorism which could trigger a nuclear exchange. With the number of nuclear weapons currently existing, more people could be killed in a single day than during the entirety of World War II.⁷

III. The Duty for States to Participate in the Elimination of Nuclear Weapons

Nuclear-armed states thus have a clear moral obligation to eliminate their nuclear stockpiles. They also have a compelling strategic interest as the most likely targets of nuclear weapons are other nuclear armed states.⁸ Additionally they have made a political commitment to taking measures to achieve Sustainable Development Goal 16 on global peace, a commitment that is incompatible with maintaining nuclear weapons.⁹

Nuclear-armed states also have international legal duties to eliminate nuclear weapons. It is undeniable that the use or threat of use of nuclear weapons violates states' international human rights duties, including the right to life.¹⁰ The UN Committee on Civil and Political Rights

⁴ International Campaign to Abolish Nuclear Weapons, "Catastrophic Harm", <http://www.icanw.org/the-facts/catastrophic-harm/>.

⁵ Chair's Summary of the Vienna Convention, 9 Dec. 2014, available at: <http://www.mofa.go.jp/mofaj/files/000062699.pdf>. Evan Douple, et al, "Long-term Radiation-Related Health Effects in a Unique Human Population: Lessons Learned from Atomic Bomb Survivors of Hiroshima and Nagasaki".

⁶ Disaster Med Public Health Prep. 2011 Mar; 5(0 1): S122-S133, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3907953/>; ICANW, "Catastrophic Harm", <http://www.icanw.org/the-facts/catastrophic-harm/>.

⁷ Project for Study of the 21st Century (PS21), "PS21 Survey: Experts see increased risk of nuclear war", <https://projects21.org/2015/11/12/ps21-survey-experts-see-increased-risk-of-nuclear-war/>. IPPNW, "Banning Nuclear Weapons: The Humanitarian Facts", <https://hinwcampaignkit.org/section-1/section-1/>.

⁸ PS21, Id.

⁹ UNDP, "Sustainable Development Goals", <http://www.undp.org/content/undp/en/home/sustainable-development-goals.html>.

¹⁰ In particular, UN General Assembly, Universal Declaration of Human Rights (UDHR), 10 Dec. 1948, Article 3, <http://www.un.org/en/universal-declaration-human-rights/>; UN General Assembly, International Covenant on Civil and Political Rights (ICCPR), 16 Dec. 1966, 999 UNTS 171, Article 6, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>. The right to life is also recognized in the European Convention on Human Rights, Article 2; the American Convention on Human Rights, Article 4; and the African Charter on Human and People's Rights, Article 4. In international humanitarian law, the Geneva Conventions, Common Article 3 (particular they Fourth Geneva Convention on protection of civilians), prohibits the

commented that activities involving nuclear weapons from their design, testing, production, possession, and use, are “among the greatest threats to the right to life which confront mankind today” and “should be prohibited and recognized as crimes against humanity.”¹¹ The International Court of Justice (ICJ) found that the right to life applies even during armed conflict to restrict nuclear weapon use,¹² and that humanitarian law duties such as protecting civilians¹³ and not causing unnecessary suffering¹⁴ are “scarcely reconcilable” with their use.¹⁵ By their nature, nuclear weapons indiscriminately target mass numbers of civilians and cause cruel and inhumane suffering to all humans through physical trauma, burns, permanent disfigurement, cancer, and other severe illnesses. The ICJ also reaffirmed that nuclear-armed states under the Non-Proliferation Treaty (NPT) already have a legal duty to achieve nuclear disarmament.¹⁶

Nuclear-armed states must thus participate in efforts to eliminate nuclear weapons by their own duties, commitments, and interests; and they have no credible justification to abandon these duties and responsibilities.

IV. The Draft Convention on the Prohibition of Nuclear Weapons

The Draft Convention is forceful in its categorical prohibitions and humanitarian stance. Its preamble explicitly recognizes the “catastrophic humanitarian consequences” of the use of nuclear weapons, a ban on their use “under any circumstances” (even necessity), their disproportionate impacts on pregnant women and girls, and the suffering of hibakusha and nuclear testing victims.¹⁷ It also reaffirms the roles of the NPT, Comprehensive Nuclear Test Ban Treaty, and nuclear weapon free zone treaties. Consistent with delegates’ near universal support for bans on all activities associated with use or potential use of nuclear weapons,¹⁸ the

taking of life of persons not involved in the conflict, International Committee of the Red Cross (ICRC), Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 Aug. 1949, 75 UNTS 287, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>.

¹¹ “CCPR General Comment No. 14: Article 6 (Right to Life): Nuclear Weapons and the Right to Life”, adopted at the Human Rights Committee, 23rd Sess., 9 Nov. 1984, <http://www.refworld.org/docid/453883f911.html>, paras. 4, 6.

¹² Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, p. 226, International Court of Justice (ICJ), 8 July 1996.

¹³ The principle of discrimination between military and civilian targets is part of customary IHL, and codified in Articles 48, 51(2) and 52(2) of Additional Protocol I, “Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)”, 1125 UNTS 3, 8 June 1977. See https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter1_rule1.

¹⁴ The principle is codified by Article 35(2) of Additional Protocol I, *id.* For the principle’s grounds as customary IHL, see, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule70.

¹⁵ ICJ, *supra*, note 12.

¹⁶ *Id.*, paras. 102-103.

¹⁷ Draft Convention on the Prohibition of Nuclear Weapons, A/CONF.229/2017/CRP.1, 22 May 2017, <https://s3.amazonaws.com/unoda-web/wp-content/uploads/2017/05/A-CONF.229-CRP.1.pdf>.

¹⁸ Kate Hudson, “Nuclear ban treaty negotiations”, Mar 28 – Apr. 1, 2017, <http://www.cnduk.org/cnd-media/item/2706-nuclear-ban-treaty-negotiations-day-two>; <http://www.cnduk.org/cnd-media/item/2707-nuclear-ban-treaty-negotiations-day-three>. Ray Acheson, “What will be in the ban?”, 3 Apr. 2017, <http://thebulletin.org/what-will-be-ban>.

Draft Convention unequivocally and categorically bans the development, acquisition, stockpiling, deployment, transfer, use, and testing of nuclear weapons.¹⁹ It also bans nuclear weapon transfers and assisting or encouraging other states to conduct prohibited activities, which can cover collective defense arrangements.²⁰ Safeguards are required to prevent nuclear material being used for weapons,²¹ and restrictions are verified with an independent body²² to ensure nuclear weapons do not even have a potential to be developed. It also requires that victims of nuclear weapon use or testing are given age- and gender-sensitive assistance.²³

The details of verification, implementation, and enforcement remain to be finalized during the next conference session.²⁴ Delegates must also make these provisions forceful and effective to ensure that nuclear weapons are absolutely prohibited not only in law, but also in reality.

V. Recommendations

To protect future generations and our planet from the catastrophic humanitarian consequences of nuclear weapons, HRN calls on PTNW Conference delegates to:

- Maintain the categorical and unambiguous prohibitions of the Draft Convention on all activities involving nuclear weapons, which are essential to their complete elimination;
- Continue to explicitly recognize the suffering and rights of victims of the use and testing of nuclear weapons, including hibakusha;
- Continue to explicitly recognize the disproportionate impact of nuclear weapons on women and children, in particular pregnant women and girls;
- Continue to ensure that member states have a duty to provide age- and gender-sensitive assistance to victims of the use and testing of nuclear weapons;
- Add strong and effective measures to verify, implement, and enforce duties;
- Ensure the Draft Convention and existing treaties on nuclear weapons are mutually reinforcing towards the final goal of eliminating nuclear weapons;
- Ratify the Draft Convention upon its completion.

HRN calls on nuclear-armed states in particular to:

- Join the PTNW Conference negotiations in good faith;
- Ratify the Draft Convention upon its completion and participate in it in good faith consistent with their existing duties to eliminate their nuclear weapons.

¹⁹ Draft Convention, *supra*, note 17, Arts. 1(1)(a), (d), (e), 2.

²⁰ *Id.*, Art. 1(1)(b), (c), (f), (g).

²¹ *Id.* Art. 3, Annex. This is consistent with the approach of the NPT.

²² *Id.* Art. 4. The Draft Convention delegates this to the International Atomic Energy Agency.

²³ *Id.* Art. 6. This includes medical, rehabilitation, and other assistance.

²⁴ John Laforge, "Draft Treaty Banning Nuclear Weapons Unveiled", 25 May 2017, <http://www.counterpunch.org/2017/05/25/draft-treaty-banning-nuclear-weapons-unveiled/>