

Confronting the Threat and Use of Nuclear Weapons

The UN Treaty on the Prohibition of Nuclear Weapons:
How it Was Achieved and Why it Matters

Alexander Kmentt

with a Foreword by Ray Acheson

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The lecture was given in Amb. Kmentt's personal capacity; the views expressed in the lecture belong solely to him, and not necessarily to the Austrian Foreign Ministry.

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Foreword

The human element of international relations and international law is often not included in textbooks about political science. But it is instrumental. States are not monoliths or bureaucratic machines running on auto-pilot. People make policy. People make change. Collective action of individual human beings makes change possible.

A major change over the past few decades has been the process to develop the Treaty on the Prohibition of Nuclear Weapons (TPNW). A key figure in this effort has been Ambassador Alexander Kmentt, the Director of Disarmament, Arms Control, and Non-Proliferation Department at the Austrian Foreign Ministry.

He was a key actor in the TPNW's creation, and one of the many committed diplomats and government officials that activists in the International Campaign to Abolish Nuclear Weapons (ICAN) worked with to build the Treaty. One measure of his standing is that Ambassador Kmentt was elected to serve as the President of the First Meeting of States Parties to the TPNW in June 2022.

The process to create the TPNW and now the process to implement it is among the most inclusive and intersectional disarmament initiatives. It involved many years of building up community and trust among activists and diplomats, as well as academics and international organizations committed to ending nuclear weapons. While not a perfect process or a perfect treaty, both reflect the intentions of those involved to not just outlaw nuclear weapons, but change the way international law can be made and how international relations can work.

This is why the TPNW includes language on gendered impacts of nuclear weapons and recognises the disproportionate impacts of nuclear weapons on Indigenous communities. It's why the Treaty includes provisions on victim assistance and environmental remediation along with core prohibitions against all nuclear weapon activities. It's why survivors and affected communities, as well as women, LGBTQ folks, and people from the global south led so much of the

work to bring the Treaty to fruition.

This was amplified at the First Meeting of States Parties, over which Ambassador Kmentt presided. Participation of diplomats from the global south was promoted and sponsored, particularly from the Pacific region, which has suffered from extensive nuclear testing. The Action Plan and the Declaration adopted at that meeting contain important mechanisms to advance the implementation of the Treaty with the input and participation of those most affected by these weapons, those that have been deliberately marginalised from participating in nuclear disarmament treaties and discourse in the past.

It's been an honour to work with Ambassador Kmentt over the years, making good trouble together. It's been a privilege to learn from him and work alongside as he helped advance the process for the TPNW and lead it in various stages. He is a person of integrity and dedication, always willing to do whatever it takes to make sure the TPNW is meaningful and impactful in the real world. He consistently goes above and beyond what many others are willing to put into this work. His passion for humanitarian disarmament has been key to changing the nuclear discourse and the legal landscape of nuclear weapons.

Ray Acheson

New York, November 2022

Confronting the Threat and Use of Nuclear Weapons

Many thanks to Princeton University and the Program on Science and Global Security for inviting me to give this lecture today about Confronting the Threat and Use of Nuclear Weapons. This is indeed a great pleasure and honour for me.

I suppose that coming to Princeton University and speaking about nuclear weapons, it is almost impossible not to quote Albert Einstein.

On January 22, 1947, Albert Einstein wrote a letter from the Emergency Committee of Atomic Scientists here in Princeton.¹ In this letter, he asked for funding for, what he saw as the most urgent educational task in human history. He warned—and I quote “Through the release of atomic energy, our generation has brought into the world the most revolutionary force since prehistoric man’s discovery of fire. The basic power of the universe cannot be fitted into the outmoded concept of narrow nationalisms. For there is no secret and there is no defense; there is no possibility of control except through the aroused understanding and insistence of the peoples of the world.”

This was 75 years ago. 15 years later, in October 1962, the world came harrowingly close to a nuclear war between the USSR and the US during the Cuban Missile Crisis.

On October 26, 1962, tomorrow 60 years ago: Cuba’s President Castro sends a letter to President Khrushchev, urging him to launch a nuclear first strike against the United States. Instead, Khrushchev sent a letter to President Kennedy, in which he appealed to the U.S. President to work with him to de-escalate the conflict and ensure that they did not “doom the world to the catastrophe of thermonuclear war.”² This paved the way for the solution of these 13 days of intense nuclear crisis. This is, the closest the world has come to a nuclear war since the dawn of the nuclear age—that is until now.

On the day of Russia’s invasion in Ukraine on 24 February, President Putin issued several thinly veiled nuclear threats—I quote “No matter who tries to stand in our way ...they must know that Russia

¹ Letter of the Emergency Committee of Atomic Scientist, signed by Albert Einstein (Chairman) of 22 January 1947, available at sgp.fas.org/eprint/einstein.html.

² Letter from Premier Khrushchev to President Kennedy of 26 October 1962; available at John F. Kennedy Presidential Library, microsites.jfklibrary.org/cmc/oct26/.

will respond immediately, and the consequences will be such as you have never seen in your entire history.”³ Several other similar implicit but very clear nuclear threats have been made since.

This lead UN Secretary General António Guterres to express his utmost concern in August this year:⁴ “While humanity has so far avoided the suicidal mistake of nuclear conflict, tensions are hitting new highs at a time when many lessons of the past seem forgotten. Today, humanity is just one misunderstanding, one miscalculation away from nuclear annihilation.”

Even before 24 February 2022, the famous “Doomsday Clock” of the Bulletin of the Atomic Scientist and which also goes back to Albert Einstein was set at 100 seconds to midnight. This is the closest to nuclear conflict since 1947, when the Clock was started. Today, we have nine states that possess approximately 13,000 nuclear weapons. These states are entangled in various nuclear deterrence relationships; we see heightened geopolitical competition and several conflicts and hotspots that have the potential of escalating to nuclear conflicts. In addition to the “forgotten lessons of the past” as mentioned by António Guterres, the risks of intentional, unintentional, inadvertent or accidental use of nuclear weapons are rising. New technologies and corresponding vulnerabilities—such as from cyber hacking or AI—are adding further layers of nuclear risk.

This high level of nuclear risk, is dramatically increased by Russia’s nuclear threats and the increasing fighting in Ukraine, which seems to go further and further in an escalatory direction. Many experts are now very concerned about the risk of use of nuclear weapons being very high. In the wake of Putin’s increasingly strident nuclear rhetoric, we also hear much talk elsewhere about the use of tactical nuclear weapons, as if this would somehow be “not so bad” or the feasibility of nuclear versus non-nuclear responses if Russia breaks the taboo against nuclear use. With all of this, the use of nuclear weapons risks being “normalized.” This is indeed a very dangerous situation.

All of us need to realise with utmost urgency that the nuclear weapons issue is back as a central and existential threat to the survival of humanity. It is not an issue of the past or relevant only in regional context far away from us, such as Iran or DPRK. It is a clear and present danger to all our societies and all humanity. It never went away, of course. It just largely disappeared from our public discourse, until the Russian President reminded us so starkly.

Maybe the only good thing that can be said about these deeply troubling developments is that the awareness about the threat of nuclear weapons is coming back.

Sixty years ago, during the Cuban Missile crisis humanity was

³ See for example address by President Putin on 24 February 2022, available at en.kremlin.ru/events/president/news/67843.

⁴ Statement by United Nations Secretary General António Guterres at the Tenth Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) on 1 August 2022; available at news.un.org/en/story/2022/08/1123752.

on the nuclear brink. This shock was the kick-start of international efforts to regulate nuclear weapons, limit nuclear tests and prevent the proliferation of these weapons, which culminated in the Nuclear Nonproliferation Treaty, the NPT, in 1970 and several bilateral treaties between the US and the USSR, later Russia.

Sixty years later, we are again on the nuclear brink. From this, one can conclude that the international community's efforts on nuclear weapons so far have not worked or were not sufficient. Unless we resign ourselves to the fate that sooner or later a nuclear conflict will occur possibly ending human civilisation as we know it, a new effort and new thinking are urgently needed.

With Russia's aggression against Ukraine and the nuclear threats and nuclear blackmail, we are now at a fork in the road on the nuclear weapons issue. Either the conclusions that nuclear weapons possessing states will draw from this crisis is an even stronger emphasis on nuclear weapons and nuclear deterrence. States that today do not have nuclear weapons will watch this very closely any may conclude that they, too, need nuclear weapons or nuclear protection. The logical end point of such a development would be further proliferation of nuclear weapons, more states with these weapons and with exponentially higher global nuclear risks as a consequence. We need to watch carefully the discussions in the Middle East, in Asia, as well as in Europe. There are worrying signs pointing towards such a development. I would contend that such a world would be much more dangerous.

The other conclusion from this crisis and the heightened nuclear dangers that could be drawn is that it has brought into sharp focus the fragility of the approach to international security that is based on nuclear deterrence, that this is not sustainable and that a paradigm shift on nuclear weapons is necessary and urgent. That this crisis is the moment for the "aroused understanding and insistence of the peoples of the world" to demand change.

This paradigm shift to confront the strategies that are based on the threat or use of nuclear weapons, has actually been in the making for the past decade and is what I would like to focus on for the remainder of this lecture. First, I will briefly talk about the nuclear deterrence paradigm—and why it needs to be challenged. Second, I will talk about how a group of non-nuclear weapon states together with civil society organisations developed a normative approach towards nuclear weapons through an evidence-based focus on the humanitarian consequences and risks of nuclear weapons. This is the rationale of the Treaty on the Prohibition of nuclear weapons (TPNW). And finally, I will try to make the case why this is a crucially important contribution to the nuclear weapons discourse—especially right at

this moment—and what the transformational potential of the TPNW is out of a security paradigm that is based on the threat of global mass destruction.

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The international discourse on nuclear weapons is and has traditionally been dominated by the nuclear weapons states, the five states recognised in the NPT. They are also the 5 permanent members of the UN Security Council, even though it is important to be clear that the Security Council membership has nothing to do with the nuclear weapons state status. The role of the vast majority of non-nuclear weapon states, most notably the non-aligned movement, was limited to complaining about the nuclear status quo and appealing to the nuclear weapons states to take their treaty obligations and commitments to nuclear disarmament seriously.

The work in nuclear weapon treaties, such as the NPT, or in UN fora, such as the Conference on Disarmament in Geneva is based on a strict application of the consensus rule. This ensures that no decision can ever be taken that any nuclear weapon state does not support. As such, any steps agreed to in global treaties such as the NPT (and also in bilateral arms control treaties between the US and Russia) are conditioned by the overarching imperative that nothing much should change as far as nuclear deterrence is concerned. There can be agreement that nuclear weapons must not proliferate further and on some steps to limit and reduce the number of nuclear weapons. But in essence: nuclear weapons are seen by nuclear weapon states as a guarantee of stability and this deterrence stability equation must not be challenged. All efforts by the rest of the world to argue for more progress on nuclear disarmament, let alone actual steps away from nuclear weapons reliance have been rebuffed over decades based on this rationale.

The belief in the theory of nuclear deterrence reigns supreme.

Nuclear deterrence theory postulates the requirement of credible nuclear strike and counter-strike capabilities “to impose unacceptable costs on an adversary. It also requires that all actors believe in the resolve that nuclear weapons would be used. Without the double credibility of both capabilities and resolve, nuclear deterrence theory does not work. This leads to what was called “the crazy reality that nuclear deterrence is a scheme for making war less probable by making it more probable.”⁵

Proponents of nuclear deterrence of course assume, believe and hope, that the threat alone will suffice to deter, result in rational behaviour of the actors involved and that these capacities will, thus, never have to be deployed. In short, the more credible the threat of

⁵ Robert Green, *Security Without Nuclear Deterrence*, Astron Media, 2010, p. 40.

nuclear weapons use is, the more nuclear deterrence stability and the non-use of nuclear weapons is assumed. Even the horrendous concept of “mutually assured destruction” (MAD) is used colloquially, and in the abstract. It is constructed as an argument of validation for nuclear deterrence and deterrence stability and its assumed outcome, namely the non-use of nuclear weapons.

The strategic stability that nuclear deterrence is supposed to guarantee is based on this “crazy reality” and on the assumption of rational behaviour of all actors involved, who would step away from the brink in the end and avoid a nuclear conflagration. This is believed to be the ultimate security guarantee, to have prevented nuclear conflict between nuclear powers in the past 70 years, to do so in the current circumstances and in the foreseeable future. It continues to be the overarching calculus with which nuclear weapons states approach this issue. This belief is very deeply entrenched. Nothing must challenge this.

Nuclear deterrence certainly is a compelling concept, if it indeed does work, The “superweapon” that compels humanity to a dangerous, cold, yet stable peace. That thereby overcomes the human propensity for war.

The problem in this is that we simply cannot know for sure. It can neither be proven that nuclear deterrence has worked in the past or will work in the future, just as much as it cannot be proven that it has not prevented large-scale conflict in the past or will not do so in the future. Moreover, how would a deterrence “success” in any particular crisis scenario prove that in the next, different one, it would work again? Ultimately, nuclear deterrence assumes and projects actions, intentions, consequences and expected outcomes. Sceptics have characterised nuclear deterrence theory and deterrence stability as “an article of faith.”

We simply lack the hard empirical evidence. Moreover, given that the stakes are so high, it should be much more acknowledged that, like any human belief system, nuclear deterrence depends on assumptions and carries within it many uncertainties, the risk of overconfidence and a potential confirmation bias.

Rather than postulating the belief in the stability of nuclear deterrence, it is, thus, important to challenge these assumptions and consider the uncertainties of the arguments very carefully. Moreover, rather than assuming the non-use of nuclear weapons based on the belief that “it will not happen,” it is also necessary to consider in comprehensive and concrete terms the full range of implications and consequences of actual nuclear weapons explosions in case this theory proves false. Policy decisions regarding nuclear weapons must be based on the empirical facts of these implications and consequences

and not on the assumed non-use of these weapons based on shaky evidence.

The nuclear weapons possessing States are deeply convinced of the veracity of their arguments that nuclear deterrence equals strategic stability and peace. As a consequence, they appear so far to not have been able or willing to engage in such discourse that critically assesses the uncertainties and assumptions on which the theory of nuclear deterrence is based. Certainly not in the international nuclear weapons discourse or in the treaty or UN frameworks that deal with these issues.

Instead the argument that they frequently used is that “nuclear deterrence works because of the consequences of nuclear weapons,” which is in reality a perfect example for the prevailing assumption of non-use and a demonstration of potential confirmation bias.

Firstly, the stakes are simply too high for the entire International community to continue to deal with nuclear weapons without such a broad critical assessment. All humanity carries the nuclear risks and the whole world would suffer the consequences if nuclear deterrence fails.

Secondly, for progress on nuclear disarmament to actually be possible it almost a precondition that nuclear deterrence proponents are shown and made to understand that the stability and security they postulate be not quite so stable and secure.

In short, if we actually want to see change and a paradigm shift on this issue, the discourse about nuclear weapons needs to change. It needs to move beyond the assumption of stability and non-use of these weapons to a critical challenge of these assumptions and the concrete consideration of nuclear deterrence failing.

About twelve years ago, this recognition of the need for a different discussion about nuclear weapons started to become clearer for a group of diplomats in non-nuclear weapons states and representatives of civil society as well as the Red Cross movement. It also became clear that such a discussion was unlikely to come from the nuclear weapons states and that they would most likely object and resist it.

The result of this was the so-called Humanitarian Initiative, a process that started around 2011–2012 to push for and enable an international discussion of the humanitarian consequences of nuclear weapons explosions; to look in concrete terms and based on scientific evidence what happens when nuclear weapons are used and how high risks are associated with these weapons.

The states that promoted this approach were initially Norway, Switzerland, as well as Ireland, Mexico, South Africa as well as my own country Austria and a few other states. ICAN was the major

driver on the NGO side and the ICRC played a crucial role as well.

Over several years—from 2012–2015 several international conferences took place dedicated to presenting new evidence on the humanitarian impact of nuclear weapons and understanding the risks of these weapons.

Maybe the most consequential new evidence on the humanitarian consequences relates to the fact that even a so-called limited nuclear war—using a small fraction of today’s arsenals—could lead to a nuclear winter. Huge amounts of soot would be transported by firestorms that would result from nuclear explosions into high layers of the atmosphere. This would disperse across the globe leading to a nuclear winter lasting several years with significant temperature drops in most moderate climate areas. Staple food production would be severely impacted globally. This new scientific research—a spin off from the climate change science—had a great impact. If a nuclear war between two states in the northern hemisphere leads to a famine in the southern hemisphere, say sub-Saharan Africa, this raises profound legal and ethical issues and questions about the legitimacy of the nuclear status quo.

Not only, is it impossible to appropriately address the immediate humanitarian emergency and long-term consequences of nuclear weapon detonations, the new science highlighted that these consequences would be truly global. In short, this was new scientific evidence that the practice of nuclear deterrence—if it goes wrong even in a so-called “limited nuclear conflict”—means that all humanity and the world as a whole ends up as collateral damage in much more severe ways than previously understood.

Similarly, understanding the complexities of nuclear risks featured prominently in these conferences. Most states were shocked to learn historical cases that demonstrated how risky and vulnerable nuclear weapons system appeared to be and how often humanity escaped from nuclear disaster or accidents mostly through good fortune.

This new discussion about the humanitarian consequences and risks of nuclear weapons generated enormous momentum among non-nuclear weapon states.

By 2015, 159 States supported a joint statement in the UN expressing their deep concern about the humanitarian consequences of nuclear weapons. 138 States supported a Pledge that Austria had presented—to “fill the legal gap for the prohibition of nuclear weapons . . . due to their unacceptable humanitarian consequences and associated risks. This Pledge was later renamed into “Humanitarian Pledge” and generated the momentum for negotiations in the UN on a ban treaty. By 2016, the Humanitarian Pledge-supporting states had successfully pushed through a resolution in the UN Gen-

eral Assembly by a clear majority and against the strong objections of the five nuclear weapon states that mandated negotiations for such a treaty.⁶

The Treaty on the Prohibition of Nuclear Weapons (TPNW) was negotiated in 2017 and adopted on 7 July by 122 States. The negotiations were boycotted by all nuclear-weapon-possessing States and most NATO states.

The TPNW is the first comprehensive and unequivocal prohibition norm of nuclear weapons.

It prohibits States Parties from developing, testing, producing, manufacturing, acquiring, possessing, or stockpiling nuclear weapons. They are barred from transferring or receiving nuclear weapons and or from any assistance with activities prohibited under the Treaty. States are also prohibited from using or threatening to use nuclear weapons.

Lastly, States Parties cannot allow the stationing, installation, or deployment of nuclear weapons in their territory. In addition to the Treaty's prohibitions, States Parties are obligated to provide victim assistance and help with environmental remediation efforts. These positive obligations are a novelty in the nuclear sphere and an important expression of the humanitarian arguments on which the TPNW is based. There are several states parties in the TPNW who suffer gravely to this day from the consequences of past nuclear weapons testing campaigns by nuclear weapon states on their territories. Such as Kazakhstan, the Pacific Islands states, or Algeria, which is a signatory state.

This clarity about the humanitarian consequences is also the underlying rationale of the treaty. The Preamble of the Treaty lays this out: that the catastrophic consequences of nuclear weapons cannot be adequately addressed, transcend national borders, pose grave implications for human survival, the environment, socioeconomic development, the global economy, food security and the health of current and future generations. And, that, as a consequence, these risks concern the security of all humanity, and that all states share the responsibility to prevent any use of nuclear weapons.

The rationale of the Treaty is not who should and should not have these weapons but that the consequences are so grave and unacceptable that no responsible State should have them.

To date 68 States have ratified the treaty and 91 have signed it, which is a remarkable achievement given the strong opposition and even bullying by nuclear-weapon states against the TPNW.

So why does this matter at all? What is the point of a treaty of nuclear have nots states that want to prohibit nuclear weapons—when the nuclear weapons states obviously don't care? How is this

⁶ For the text of the Austrian/Humanitarian Pledge and the list of supporting states see www.bmeia.gv.at/index.php?id=55297; for the United Nations General Assembly Resolution "Humanitarian Pledge for the Prohibition and Elimination of Nuclear Weapons" (A/RES/71/47) see digitallibrary.un.org/record/855211.

going to have any impact? How is this going to stop any actor from threatening or using nuclear weapons?

Short answer is: I don't know. The treaty in itself cannot prevent this and is no guarantee—as in reality no international treaty ever is or can be. But I think that the TPNW has enormous transformational potential and is of particular importance right now.

Firstly, It depends whether one believes in the power and value of international law and norms as the basis for international relations. We may be moving into a direction where the respect for international law and legitimacy seem to be increasingly eroded, but I am actually not convinced that this is or will be the case.

I think that international law is and will remain crucial as the world gets inevitably ever more interconnected. Despite all geopolitical tensions, it is becoming clearer by the day that the global problems that we face can only be solved cooperatively and on the basis of shared norms. This is the case for issues such as climate change, future pandemics and most other global issues—and it is also the case for the nuclear weapons issue.

If the international community votes with their feet through joining the TPNW and, thus, expresses that the nuclear status quo does no longer have any legitimacy and that the use or threat of use is considered as unacceptable and unlawful, this is a big deal.

The fierce opposition from the nuclear weapon states to the TPNW is actually the best evidence of this transformational potential. These same five are also the permanent members of the UN Security Council—with special responsibility for the maintenance of international peace and security. The power of IL and the verdict on the legitimacy of nuclear weapons and nuclear deterrence by the rest of the UN membership is very important in this context. This is even more the case at a time when the Security Council is mostly dysfunctional due to the paralysing effect of the geopolitical tensions.

A crucial part of the new paradigm that the TPNW represents is the stigmatisation of nuclear weapons—of calling out whose behaviour and which actions are, firstly, considered outside the law and, secondly, outside the limits of international acceptability.

We see the importance of this especially in the current situation with nuclear threats being made and the risks of nuclear weapons use higher than in decades.

Let me quote in this context what TPNW have agreed to in their joint declaration at the 1st Meeting of States Parties in Vienna last June:⁷

We are alarmed and dismayed by threats to use nuclear weapons and increasingly strident nuclear rhetoric. We stress that any use or threat of use of nuclear weapons is a violation of international law, including the Charter of

⁷ Declaration of the 1st Meeting of States Parties of the Treaty on the Prohibition of Nuclear Weapons: “Our Commitment to a World Free of Nuclear Weapons” adopted on 23 June 2022, see documents.unoda.org.

the United Nations. We condemn unequivocally any and all nuclear threats, whether they be explicit or implicit and irrespective of the circumstances.

TPNW States Parties went on to say:

Far from preserving peace and security, nuclear weapons are used as instruments of policy, linked to coercion, intimidation and heightening of tensions. This highlights now more than ever the fallacy of nuclear deterrence doctrines, which are based and rely on the threat of the actual use of nuclear weapons and, hence, the risks of the destruction of countless lives, of societies, of nations, and of inflicting global catastrophic consequences. We thus insist that, pending the total elimination of nuclear weapons, all nuclear-armed states never use or threaten to use these weapons under any circumstances.

This is not only the most unequivocal condemnation of any nuclear threat that you will find in a multilateral forum. It is also the clearest rejection of nuclear deterrence as a basis for preserving peace and security.

This verdict is also the political interpretation that TPNW states parties have given to the prohibitions of use and threat of use of nuclear weapons contained in the Treaty. In short, it clarifies that nuclear threats, the use of nuclear weapons and the practice of nuclear deterrence are unacceptable for TPNW states parties and outside the bounds of what responsible actors should do.

I am convinced that this view is shared and would be supported by a clear majority of States. These states will come increasingly closer to the TPNW and join it, over time. The more do, the more normative power and political weight this interpretation and conclusion will have. This can be the case even if nuclear weapons states do not join the TPNW.

It was interesting to see how France, UK and US were trying to draw a clear line at the recent NPT Review Conference in August between Russia's behavior, which they presented as irresponsible and their own responsible practices.

In a joint working paper,⁸ they rejected "irresponsible rhetoric concerning potential nuclear use intended for military coercion, intimidation or blackmail." For themselves, they recalled that "nuclear weapons should only serve defensive purposes, deter aggression and prevent war. (And that they will) continue to work to preserve an open, inclusive, and rules-based international order, in which international relations continue to be governed by law, including the UN Charter, and with all States complying with their international legal obligations."

From a TPNW perspective, as expressed in the Vienna Declaration, however, this distinction between "responsible" and "irresponsible" is, however, not very convincing. Which nuclear threats can be seen

⁸ Working paper submitted by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America entitled "Principles and responsible practices for Nuclear Weapon States" submitted to the 10th Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons; NPT/CONF.2020/WP.70, available at www.un.org.

as responsible in light of what we know today about the humanitarian consequences and risks of these weapons?

What in terms of humanitarian consequences can be considered as acceptable and, especially, for whom and based on what legitimation? Remember, that for TPNW states these risks and consequences are the direct result of the fallacy of nuclear deterrence doctrines, which are based and necessarily rely on the threat of the actual use of nuclear weapons and, hence, the potential global consequences as collateral. For non-nuclear weapon States, these grave humanitarian consequences are the risks to which they are exposed, against their will and outside their control.

The responsibility—irresponsibility argument is a very tricky one and it is directly linked to the legality, the legitimacy and the ethical issues that arise from the possession of nuclear weapons and the practice of nuclear deterrence.

Yes, we are all dismayed by President Putin's blatant nuclear threats and blackmail—but in the final consequence, all nuclear deterrence doctrines are ultimately based on the readiness to use these weapons and cause catastrophic consequences, mass destruction and commit gravest possible violation of international humanitarian law with much of the rest of humanity as collateral damage.

The TPNW has put these contradictions into a clear focus.

So what are we to do with nuclear threats such as we see currently from Russia? One way is to continue to counter such threatening behaviour with reliance on nuclear deterrence, i.e. on equally explicit or implicit nuclear threats in the hope that this will suffice to avoid conflict and guard some kind of stability, even though we know that this can fail catastrophically.

But right now it is more necessary than ever to carefully think through the degree of actual readiness to use nuclear weapons and inflict unacceptable humanitarian consequences for all humanity to commit gravest violations of international law, even in response to such irresponsible threats by others. We all hope of course that it will not be put to an actual test but is it ultimately really an acceptable and sustainable approach to security?

If nuclear weapons end not up being used in this current crisis, will it be seen as a validation of nuclear deterrence or were we just lucky again? Will we continue to assume that nuclear deterrence will hold in the future and no-use will prevail and until someone else start playing Russian roulette again and puts this to the test?

What is ultimately the more realist and prudent approach? Relying on nuclear weapons or trying to find a way out of this paradigm? Can it be considered as realist to continue to assume and deterrence stability or is it not really a utopian or wishful thinking approach that

is based on flimsy evidence, assumptions, uncertainties and confirmation bias?

Trying to find a normative and political way out of the nuclear deterrence paradigm, strikes me as the much more realist and prudent way to conclude from the scientific evidence on the humanitarian consequences and risks.

The TPNW offers this different answer through the categorical rejection of any threat or use of these weapons as unacceptable and unlawful. The TPNW also does not have a silver bullet for how to handle future security challenges, but neither does nuclear deterrence. It is more prudent to be guided by this evidence than to continue to put the survival of humanity on a high-risk gamble.

The TPNW unequivocally condemns nuclear threats such as President Putin's, it provides a clear distinction between acceptable and unacceptable behaviour and stigmatises actions that threaten mass destruction as clearly outside these bounds by. This clarity can only be achieved on the basis of international law and unequivocal rules. An approach based on my nuclear threat is responsible while yours is irresponsible will not cut it.

The TPNW is still a young treaty—in its legal infancy so to speak—but it has already had a significant impact in the global nuclear discourse. Importantly, it has given voice to the vast majority of states who have been largely disenfranchised in this debate even though this issue is of equal existential relevance to them as it is for the states that have these weapons.

In this sense, the TPNW is a crucial contribution to the democratisation of the nuclear debate through its unequivocal and non-discriminatory normative approach to nuclear weapons. As such, it is a crucial step to take the nuclear weapons issue out of the outmoded concept of narrow nationalisms that Albert Einstein rightly worried about already in 1947. We can see the urgency and the fragility and precariousness of the nuclear weapons status quo and the risks to all humanity right in front of our eyes. Almost all vectors currently point in the wrong direction towards more focus on nuclear weapons and deterrence, a possible new nuclear arms race, more proliferation and, even the use of nuclear weapons with potentially catastrophic global consequences.

The TPNW is the one development that points to an alternative approach to the nuclear weapons issue and to security. One that is not based on the permanence of the threat mass destruction. One that categorically rejects the threat and use of nuclear weapons and that builds on international law and multilateral cooperation.

At this time especially, the TPNW is a precious and indispensable ray of hope for humanity against an otherwise very bleak backdrop.

About the Authors

Ray Acheson is a visiting researcher at the Princeton Program on Science and Global Security and leads the disarmament program Reaching Critical Will for the Women's International League for Peace and Freedom. Ray represents the organization on the International Steering Group of the International Campaign to Abolish Nuclear Weapons (ICAN), which won the 2017 Nobel Peace Prize for highlighting the humanitarian consequences of nuclear weapons and working with governments to negotiate and adopt the Treaty on the Prohibition of Nuclear Weapons. Ray is author of *Banning the Bomb, Smashing the Patriarchy* (2021) and *Abolishing State Violence: A World Beyond Bombs, Borders, and Cages* (2022).

Alexander Kmentt served as President of the 1st Meeting of States Parties of the UN Treaty on the Prohibition of Nuclear Weapons, held in June 2022. He is one of the architects of the Treaty and was responsible for the Vienna Conferences on the Humanitarian Impact of Nuclear Weapons and the 138 country Humanitarian Pledge which led to the treaty. Ambassador Kmentt is Director of the Disarmament, Arms Control and Non-Proliferation Department of the Austrian Foreign Ministry. From 2016–2019, he served as Ambassador and Permanent Representative to the Political and Security Committee of the European Union. He is the author of the book *The Treaty Prohibiting Nuclear Weapons: How it Was Achieved and Why it Matters* (2020).