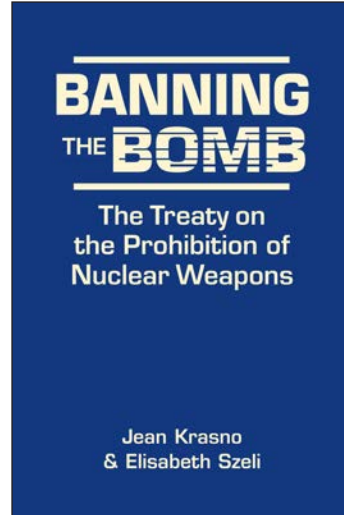


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**Banning the Bomb:  
The Treaty on  
the Prohibition of  
Nuclear Weapons**

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# Contents

<i>Preface</i>	ix
<b>1 The Movement to Ban Nuclear Weapons</b>	<b>1</b>
Constructivism: A Theoretical Framework	2
The Humanitarian Response: Its Achievements and Strategies	7
Why This Book?	9
The Structure of This Volume	10
<b>2 Living on the Edge</b>	<b>15</b>
Accidents and Incidents	18
Thinking the Unthinkable: Erosion of the Nuclear Taboo	25
The Business of Mutually Assured Destruction	28
The NPT Reaches a Midlife Crisis	32
<b>3 The Evolution of the Humanitarian Initiative</b>	<b>41</b>
The Humanitarian Conferences in Norway, Mexico, and Austria	43
The Open-Ended Working Group and the First Committee of the GA	46
Treaty or Convention: The Hard/Soft Law Debate	49
<b>4 Reframing the Nuclear Disarmament Discourse</b>	<b>55</b>
International Humanitarian Law as a Foundation	55
Countering Nuclear Deterrence Theory	58
Building on Experience from the Landmines and Cluster Munition Campaigns	64

Discourse Strategies:	
Stigmatization and Delegitimization	66
<b>5 State and Society in Action</b>	<b>77</b>
The Central Role of Civil Society	77
State Supporters and the United Nations	81
States and Civil Society Join Hands:	
Collaboration as a Key to Success	86
Democratizing Nuclear Disarmament:	
Women Take a Stand	88
<b>6 The Negotiating Conference</b>	<b>95</b>
The March 2017 Negotiations	98
The June/July 2017 Negotiations	99
<b>7 Strong Treaty Obligations, Weak Enforcement Mechanisms</b>	<b>105</b>
Article 1: Prohibitions Under the Treaty	106
Articles 2–4: Leaving the Door Open for Nuclear-Armed States	108
Progressive Ideas and Open Questions	110
<b>8 Working Toward Entry into Force</b>	<b>115</b>
Signatures and Ratifications:	
Gaining State Support	116
Critics of the Treaty	119
Civil Society and State Advocacy	124
Challenges and Ideas for Treaty Implementation	127
<b>9 The Treaty Enters into Force</b>	<b>143</b>
Future Prospects for the Treaty	146
Conclusion	148
<i>Treaty on the Prohibition of Nuclear Weapons</i>	151
<i>List of Acronyms</i>	163
<i>Bibliography</i>	165
<i>Index</i>	179
<i>About the Book</i>	189

# 1

## The Movement to Ban Nuclear Weapons

**NUCLEAR WEAPONS POSE A MASSIVE THREAT TO CIVILIZATION** and to the planet, not simply due to their enormous destructive power, but also because of the poisonous radioactive contamination they perpetrate. It is not widely enough understood that this radioactivity takes millennia to degrade. Even the half-life of the radioisotopes found in nuclear weapons is measured in thousands of years. The 15 kiloton bomb dropped on Hiroshima, Japan, in 1945 flattened a three-mile radius surrounding the city, killing and poisoning people and animals and contaminating water, soil, and air. Today, a nuclear bomb of this yield would be considered a small tactical nuclear weapon.

Some say this catastrophic power means that nuclear weapons can never be used. But deterrence theory would have you believe that leaders could, and even would, decide to use them as a believable threat to prevent an enemy attack. To maintain the credibility of nuclear deterrence, the rhetoric practiced by leaders must convey a willingness to risk the consequences of nuclear weapon use, with Mutually Assured Destruction (MAD) as the underlying argument of deterrence theory.

Due to the East/West rivalry during the Cold War, the maintenance of a nuclear competitive advantage, a necessary condition of deterrence theory, led to the production of more weapons and greater explosive yields. The largest bomb was Tsar Bomba in the 1960s, with a

yield of 57 megatons, 57 million tons of TNT, or approximately 1,500 times the power of the bombs dropped on Hiroshima and Nagasaki. Although neither the United States nor Russia maintains bombs of that magnitude today, megaton bombs still remain in both arsenals.

Currently, nuclear arsenal modernization is well under way in both countries. Modernization may seem reasonable, but the concern is that these upgrades may convince leaders that nuclear weapons are usable. The new B61-12, for example, may be the most dangerous weapon in the US arsenal. Its lower yield, which is limited to 50 kilotons and can be adapted electronically as needed, as well as its greater accuracy—within 30 meters of the target pinpoint—make it a possible field weapon, potentially causing thousands of deaths and lasting radioactive contamination.<sup>1</sup> This type of modernization makes the use of a nuclear weapon more conceivable and, therefore, the world more dangerous, stimulating fears of nuclear war.

With both modernization and the loose rhetoric espoused by today's leaders, the threat posed by these weapons of mass destruction (WMDs) is at its most acute now since the end of the Cold War. Adding to this uncertainty is the deterioration of international regimes to limit nuclear weapons, such as the deadlocked debate at the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) conferences over a WMD-free zone in the Middle East, the breakdown of talks with the Democratic People's Republic of Korea (DPRK) and the termination of the Intermediate-Range Nuclear Forces (INF) Treaty between the United States and Russia. Over the past several years, as the alarm felt by members of civil society mounted, the urgent need for a renewed campaign for nuclear disarmament and abolition became paramount. The threat nuclear weapons pose to humanity and the environment served as the main impetus of this antinuclear movement. Framing the issue of nuclear weapons around their humanitarian impact became the magnetic pull needed to energize those who longed for a world free of nuclear weapons.

## Constructivism: A Theoretical Framework

The grounding theoretical framework for this study is constructivism. International political theory helps us understand the world around us, but it is only as useful as its explanatory power in describing and predicting outcomes. Realism and liberalism have

been the two dominant theories in international relations, occupying opposing ends of the spectrum. Constructivists like Alexander Wendt would place constructivism as a third and more logical theoretical choice between realism and liberalism. Realism, which is fundamentally based on the notion that the political world is anarchic, places the state at the center, where the state is defined as a rational actor seeking power in a self-help, competitive environment. Powerful states dominate while weaker states are left to align with the more powerful or band together to form a balance of power in self-defense. Liberalism, however, recognizes that state leaders can also prefer to cooperate and organize and that human nature enjoys reliable and predictive structures. Cooperation is just as natural a state of affairs as competition, and the world is not anarchic but actually structured into international institutions and organizations that create a systemic regime of the rule of law.

Liberalism is based on the notion that the social-political world is structured around intrinsic interdependence, both economic and political, and rational actors will act within that system under the belief that cooperation on a holistic level is in the state's self-interest. Global problems create challenges that no country acting alone can resolve. Wendt argues that while these two theories seem contradictory, they both see the political world in terms of an intrinsic predetermined structure that cannot be altered, and policymakers as rational beings will react to this structure. He claims that, in fact, these structures should not be unquestioningly reified but are a product of social construction.<sup>2</sup>

State leaders are agents, and through their decisions and actions they can create structure in the image of their psycho-social identity. Wendt argues that "human beings and their organizations are purposeful actors whose actions help reproduce or transform the society in which they live."<sup>3</sup> Constructivists argue that we create our own security dilemmas and competitions through our interactions and signaling with one another in ways that appear inevitable. But if the quality of that interrelationship were to change or the perception of that relationship were altered, international outcomes might be quite different. Our identities, worldviews, interests, and how we see ourselves are socially constructed. Relationships among nations are contingent on how state actors think about one another—friend, foe, or uncertain. If policymakers are individual agents and not pawns in an unchangeable anarchic system, then they can construct systemic

frameworks as they see fit, and therefore, change is possible. By choosing a particular sociopolitical narrative, leaders not only create a theoretical sense of the world but actually make the world, according to that narrative.<sup>4</sup> Supporters of the Treaty on the Prohibition of Nuclear Weapons (TPNW) have created a new narrative for structural change through the humanitarian initiative.

This is not to say that power does not exist. Wendt explains that realists would argue that state leaders “should act on the basis of worst-case assumptions” as prudent. But he goes on to say, “Such a possibility always exists, even in civil society: however, society would be impossible if people made decisions purely on the basis of worst-case possibilities.”<sup>5</sup> People look at probabilities and patterns of behavior and actions. The fact that the world of power politics is socially constructed does not mean that those who believe in this worldview would be easily willing to change their perceptions. “Self-help systems, for example, tend to reward competition and punish altruism.”<sup>6</sup> Challenges to that perceived system “are likely to create cognitive dissonance and even perceptions of threat,” which may in turn lead to resistance to social change as a pushback.<sup>7</sup> We see this demonstrated in the resistance and obstructionist tactics of the nuclear-weapon states and the resistance to change, or uncertainty, demonstrated by NATO allies.

Social constructivism explains the dynamic relationship between agents (state leaders) and social structures and how ideas shape the behavior of these political actors. Ideas and belief systems play important roles. If leaders do not believe a type of state behavior is possible, they will not be able to see any actions or characteristics that do not fit into their preconceived notion of what a state will do. The phrase “I will believe it when I see it” is turned around to mean “I will see it when I believe it.” Norms and normative behavior are shared ideas accepted by a community, and to make a true paradigm shift in a belief system, that community would have to reach a critical mass. Although 122 states approved the TPNW in July 2017, we are still waiting for full ratification to create that critical mass.

A tendency among constructivists is to emphasize morally desirable norms, but there is also the possibility that morally repugnant leaders can create an atmosphere of immoral behavior. Nevertheless, the humanitarian initiative that strengthened the idea to abolish nuclear weapons on moral grounds is the constructivist argument at the foundation of this study. Moral considerations in political exchange are

controversial. Advocates of realism claim that morality cannot play a part in the dynamic global system because it is meaningless in the face of the overwhelming constraints on the struggle for power. Yet the massive movements for democracy, human rights, accountability, and the rule of law following the end of the Cold War bear witness to the power of the moral demand for participation and transparency. Demands to end global warming and climate change are examples of pressure on the international system for change. The creation of the International Criminal Court is another example of like-minded countries coming together to form a means of enforcement and accountability for those who commit heinous crimes against humanity. The Ottawa Convention and the outlawing of cluster munitions are other examples of commonality based on moral considerations.

Moral norms are those that involve a sense of duty and responsibility to humankind, all life, health, and the wellbeing of planet earth. Moral norms include rules of conduct concerning human welfare—welfare in the sense of what is “good.” Goodness might be considered practical in the long run because we are social beings and working together toward a common goal supports survival. Yet, human beings traditionally have accepted that there is a moral compass beyond what is practical. That we cannot be sure there is not a selfish advantage behind behavior that seems moral does not negate that a common sense of morality exists. Immanuel Kant argues that human beings are able to sense the authority of moral compellence and have a duty to act on it.<sup>8</sup> The constructivist argument proposed here, then, emerges from the transactional interaction between the agents, in this case state leaders, through a compelling belief in the moral repugnance of nuclear weapons and their exceptional capacity to destroy and pervert the genome. The theory supports the argument that agents of change can enact a dramatic shift in the paradigm of thought toward the prohibition of nuclear weapons, and that this prohibition enables a more secure world.

To emphasize the importance of the consideration of nuclear weapons as a moral issue, an elite study conducted in Brazil in 1991, just as the Cold War was winding down, demonstrates the pivotal nature of moral concerns. Brazil had been conducting a secret nuclear weapons program since the 1970s.<sup>9</sup> In this study of sixty elites (government officials, high-level military officers, business leaders, and nuclear scientists) in Brazil, when asked, “In pursuing national goals to what extent should leaders be guided by moral considerations?”



57 percent answered “completely guided or nearly completely guided.” In correlation with two other questions that asked, “Can Brazil afford a nuclear weapon?” and “Should Brazil have a nuclear weapon?” those who believed that leaders should be guided by moral considerations did not think Brazil could afford or should have a nuclear weapon. Those who did not believe that leaders should be guided by moral considerations tended to support Brazil having a nuclear weapon.<sup>10</sup> An additional question asked, “Is having nuclear weapons a moral issue or not a moral issue?” Here are a few narrative responses by those who considered nuclear weapons a moral issue:

Nuclear policy is a moral question. We do not need an atomic bomb. We need food on the table. If not, our society will be a bomb.<sup>11</sup>

First, it is very dangerous. It is especially dangerous. It is dangerous in a way that is not just more dangerous than other things. It is dangerous in a way that can reach the very microscopic level of life, the genetic code. Radiation changes life in a way that is different than chemical or physical means. And I think we should be cautious about that.<sup>12</sup>

In conclusion, regarding a constructivist approach to social change, we can see from the 1991 study that shifting the narrative to whether having a nuclear weapon was a moral issue or not had a profound effect on supporting or not supporting nuclear weapons. Therefore, the agent—the policy maker—by promoting an idea—the moral factor—changed the outcome. Conducted near the end of the Cold War, when Brazil was facing decisions on its nuclear weapons program, the study captured a unique moment in time when these decisions were being considered by elite policymakers. By the end of 1991, Brazil had foregone its nuclear weapons program, signed an agreement with Argentina to mutually cooperate on abandoning their nuclear programs and to create an agency for verification,<sup>13</sup> and invited the International Atomic Energy Agency (IAEA) to conduct safeguard inspections at its nuclear enrichment facilities. In 1994, Brazil signed the protocol putting the Treaty of Tlatelolco into effect and by 1998 had joined the Treaty on the Non-Proliferation of Nuclear Weapons.<sup>14</sup> In this case study in Brazil, we see that agents and ideas changed the social structure. And the humanitarian initiative, according to constructivist theory, can also change the structural security system with enough political will in support of the TPNW.

## The Humanitarian Response: Its Achievements and Strategies

The humanitarian impact initiative, which culminated in the adoption of the TPNW (the treaty), directly addresses the catastrophic humanitarian consequences of any nuclear weapons detonation. The Norwegian Nobel Committee confirmed the urgency and significance of the threat posed by nuclear weapons by awarding the International Campaign to Abolish Nuclear Weapons (ICAN) the Nobel Peace Prize in 2017.

Previously, the international community relied on the initiative and cooperation of the nuclear-armed states to tackle nuclear non-proliferation and disarmament. The new treaty, however, was brought about by civil society in collaboration with non-nuclear-armed small and middle powers, without the support of the five permanent members (P5) of the Security Council recognized as nuclear-weapon states (NWS) in the NPT. Moreover, the TPNW prohibits any possession and use of nuclear weapons for all its signatories. On the premise that the devastating consequences of nuclear weapons affect all of humanity, the humanitarian initiative reframed the nuclear weapons discourse, steering it away from military security and toward ethics and human security.

Similarly, supporters of the humanitarian initiative maintain that because nuclear weapons pose a danger to all states, all states should have a say in international norms regarding nuclear weapons. They therefore took their disarmament initiative to the UN General Assembly, where it could not be obstructed by the veto of a small number of states. This novel approach to nuclear disarmament, by defying great power politics and following an independent process outside traditional disarmament structures, marks a new precedent in nuclear security.

Humanitarian disarmament is by no means an invention of the twenty-first century and has been around since long before the campaigns to ban antipersonnel landmines and cluster munitions, which are often cited as precursors of the humanitarian initiative to ban nuclear weapons. Since the late nineteenth century, various actors of civil society have pushed for disarmament on humanitarian grounds. They generally had a broader focus and were not limited to a specific type of weapon causing unacceptable harm. Although disarmament and arms control in the Cold War era were largely driven by concerns

of strategic stability, humanitarian and existential threats became a central pillar of the Helsinki process and the Conference for Security and Cooperation in Europe (the precursor of the Organization for Security and Co-operation in Europe [OSCE]).<sup>15</sup>

Observers have raised questions about current humanitarian disarmament movements' relationship to general and complete disarmament (GCD), a term coined at the first special session of the UN General Assembly to mean the "elimination of all WMDs and reduction and control of conventional weapons to the minimum level for national law enforcement purposes and a UN peace force."<sup>16</sup> The same session also marked the beginning of efforts to rid the world of nuclear weapons. After the end of the Cold War, the focus of humanitarian disarmament advocates shifted from arms reduction in a broader sense to focus more on specific types of weapons, such as cluster munitions and landmines. Nevertheless, UN Secretary-General António Guterres stated in his 2018 disarmament agenda "Securing Our Common Future" that GCD "remains the ultimate objective of the United Nations in the field of disarmament."<sup>17</sup> GCD, with its humanitarian underpinning, remains an overarching goal to which the campaigns to eliminate certain types of particularly devastating weapons seek to contribute. Naturally, it is important that disarmament advocates at the state and civil society levels do not lose sight of the bigger picture while campaigning for the TPNW and nuclear disarmament.

Arguably the most important achievement of the TPNW and the humanitarian initiative to date has been to refocus the attention of the international community on nuclear disarmament, creating a new momentum. The initiative demonstrated an alternative way forward in a previously deadlocked debate and built a campaign to shame nuclear-weapon states by drawing attention to their lack of concern for the dire humanitarian consequences caused by these weapons. This renewed energy led by nongovernmental organizations (NGOs) also brought on board elements of society that had previously been disengaged from the disarmament debate, such as financial institutions, parliamentarians, labor unions, and individual citizens.

Our analysis shows that these strategies were key to the relative success of the humanitarian initiative compared to previous multilateral nuclear disarmament efforts. The humanitarian initiative and the treaty negotiations were successful because of their open, inclusive, and egalitarian nature and because of the close and effective collaboration between state actors and civil society. An egalitarian process

was achieved by overcoming the double standards of the NPT regime (that allows five powerful nations to possess nuclear weapons while requiring everyone else to renounce them) and giving the non-nuclear-weapon states (NNWS) the capacity to act through the majority-based voting system of the UN General Assembly. The openness of the process enabled close collaboration and coordination between civil society and likeminded states. Their initiatives complemented each other and reinforced their joint potential. The treaty's impact on the nuclear regime demonstrates important lessons learned from bottom-up initiatives in international security that seek to confront the unyielding control of great-power politics in a multipolar world.

By taking a closer look at the dynamics of the negotiations, the roles of the various actors, and the evolution of the treaty text, our analysis demonstrates that the effective collaboration and exchange between supportive states and civil society actors were critical to the success of the negotiations and to the initiative as a whole. Framing the issue in humanitarian terms, emphasizing the devastating impact of nuclear weapons and their testing on all forms of life, proved to be a motivating and compelling argument that drew individuals and policymakers into the process.

Our realistic assessment of the future prospects of the treaty takes into consideration that, although its long-term aim is to eliminate nuclear weapons, in the short term its supporters hope to create a normative shift and raise the political and reputational costs for nuclear-armed states by stigmatizing and delegitimizing nuclear weapons. The implementation process is well under way, and ICAN partners and the International Committee of the Red Cross (ICRC) are leading efforts to promote and accelerate ratification. The strategies undertaken by civil society to support the treaty are already impacting private-sector decisionmaking regarding nuclear financing.

## Why This Book?

The impetus for writing this book was to document and analyze the humanitarian impact initiative that culminated in the adoption of the Treaty on the Prohibition of Nuclear Weapons (TPNW) by 122 members of the UN General Assembly in July 2017. The humanitarian initiative is of particular interest to international relations and international security because it constitutes a novel approach to nuclear

disarmament based on the principles of international humanitarian law. It was spearheaded by civil society, small states, and middle powers, with overwhelming support from the Global South and in defiance of nuclear-armed states and major powers. With the help of supportive states and civil society actors such as ICAN, its NGO partners, and the ICRC, the humanitarian initiative succeeded in changing the discourse around nuclear weapons. It pointed out the flaws in nuclear deterrence theory and raised awareness of the unacceptable suffering caused by any use of nuclear weapons. The humanitarian initiative is therefore also a lesson in campaigning and organizing. It established a truly democratic process by adopting majority-based decisionmaking rules and inviting previously disenfranchised groups, such as NGOs, indigenous peoples, and victims of nuclear testing, to take an active part in the process.

## The Structure of This Volume

Here in Chapter 1, we lay out the context of the nuclear security environment, the new humanitarian approach to nuclear disarmament, and why we undertook an analysis of the creation of the TPNW and its impact. Chapter 2, “Living on the Edge,” addresses the alarming number of accidents and incidents that have occurred over time involving nuclear weapons and their delivery systems, and why we should care. The chapter lays out concerns over the recent withdrawals from major nuclear agreements and treaties that put us closer to the edge of miscommunication and miscalculation. It also describes the erosion of the nuclear “taboo” that once gave us the confidence that leaders and the public considered the use of these weapons as unthinkable. Particularly in the United States, the business interests of the armament industry fuel nuclear modernization and the maintenance of high numbers of warheads. The related costs, ranging in the trillions of dollars, have become a particular target for opponents of nuclear weapons and have sparked a divestment campaign. The chapter concludes by arguing that the breakdown of the recent NPT review conferences and the standstill in other established disarmament fora led to frustration among non-nuclear-weapon states and motivated them to seek alternative paths toward a world free of nuclear weapons.

Chapter 3 describes the evolution of the humanitarian initiative, which sped up in 2010 after a speech by the president of the ICRC

about the devastating consequences of nuclear war, building on the momentum created by president Barack Obama's Prague speech, which envisioned a world free of nuclear weapons. Norway hosted the first of the so-called humanitarian conferences, where interested states came together with civil society to discuss the humanitarian consequences of nuclear weapons possession, testing, and use, as well as ways to revive the disarmament component of the NPT. A critical strategy evolved when supporters of the initiative created an Open-Ended Working Group (OEWG) within the UN, applying General Assembly rules based on majority voting and thus overcoming the de facto veto that nuclear-weapon states enjoyed in the Conference on Disarmament (CD), which requires all decisions to be made by consensus.

Chapter 4 defines the strategy used to reframe the nuclear disarmament discourse by moving away from the ideology of national security to the emerging norm of human security. The humanitarian approach considers nuclear weapons from an apolitical perspective, with a focus on their effects on human beings and all life. This argument is grounded in international humanitarian law, claiming that nuclear weapons are illegal and calling for an international agreement banning the use, threat of use, or possession of nuclear weapons. We also describe in this chapter how the humanitarian initiative was built on previous experiences from the landmines and cluster munition campaigns and which arguments are used to counter nuclear deterrence theory.

In Chapter 5 we describe the role of the principal actors, including states, international organizations, experts, NGOs, and other civil society groups. We take a critical look at inclusion and exclusion of actors from multilateral fora and the importance of equal representation and a diversity of ideas. The active participation of women was also key to the success of the humanitarian initiative. As previously mentioned, ICAN won the Nobel Peace Prize in 2017 for its instrumental work in raising awareness of the issue among politicians, business leaders, and citizens, spearheading the call for a nuclear weapons ban. The chapter also emphasizes the role of small and mid-level states and their courageous efforts in the face of fierce opposition by major powers. Collaboration among these actors was key to the success of launching the treaty, in particular the close coordination between state and civil society representatives at the humanitarian conferences as well as the negotiating conference for the TPNW.

Civil society expertise helped smaller states compensate for their limited resources and nuclear know-how.

Chapter 6 concentrates on the processes and strategies of the negotiating conferences, officially set in motion in December 2016 by General Assembly resolution 71/258, which states the intention to convene in 2017 a conference to put in place a binding agreement prohibiting nuclear weapons. Inevitably, the nuclear-weapon states pushed back against this initiative and declined to participate, but the negotiating conference was held regardless in March, June, and July 2017. The president of the conference, Ambassador Elaine Whyte Gómez of Costa Rica, drafted the treaty text from scratch during the negotiation phase, with input from states, civil society, and the UN Office for Disarmament Affairs. Despite major changes and revisions, the treaty could be finalized in less than four weeks of negotiations because the participating states (with perhaps one exception) shared the same intention of prohibiting nuclear weapons.

Chapter 7 focuses on the language in the treaty, which lays out the catastrophic humanitarian effects of nuclear weapons, and states in precise and clear wording the strong obligations required under the treaty. However, many criticize the treaty for its weak language on enforcement, which leaves compliance verification up to a “competent international authority” to be created or designated in the future. Verification and enforcement are particularly relevant because the treaty leaves the door open for nuclear-weapon states to join either before or after eliminating their nuclear weapons.

Chapter 8 addresses the current status of the treaty, the number of states that have signed and ratified, its entry into force, and the advocacy work of civil society and member states to encourage ratification. Criticism of the treaty by nuclear-weapon states and their allies and other challenges the treaty is facing on its path to implementation, such as disarmament verification and its compatibility with the NPT regime, are also discussed in detail.

Finally, Chapter 9 describes the impact and achievements of the treaty. One of the most impactful initiatives has been the financial divestment campaign of ICAN partner organization PAX. They maintain a list of banks that do not include nuclear weapons-associated companies in their investment portfolios and put pressure on other banks to divest from nuclear weapons as well. The International Day for the Total Elimination of Nuclear Weapons, commemorated by the UN each year on September 26, has become a rallying point for state

support of the treaty, with side events on the humanitarian consequences of nuclear weapons and their prohibition as well as a treaty-signing ceremony dedicated to the TPNW. The number of ratifications is expected to continue to increase now that the fifty states parties required for the treaty to enter into force have been reached, and a new norm against nuclear weapons is emerging in international law. The progress is encouraging.

The humanitarian initiative has been pivotal in bringing together civil society, international organizations, and likeminded member states. The level of collaboration and democratic inclusion galvanized the process, which moved at an extraordinary pace compared to other multilateral disarmament negotiations. The challenges are serious, and pushback from the nuclear-armed states presents a huge obstacle, but the treaty welcomes all who seek to eliminate these weapons or renounce their nuclear arsenals. The TPNW is an important step on the path toward a nuclear-free world.

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