

## Principles of a treaty banning nuclear weapons

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

Nuclear testing in several parts of the world has left a legacy of serious and persisting health and environmental impacts that cannot be undone and have yet to be adequately addressed. The risks of nuclear weapon use are real and increasing. Prevention, therefore, is the only guarantee against the humanitarian consequences of nuclear weapons.

In this context, the International Campaign to Abolish Nuclear Weapons (ICAN) believes that a treaty banning nuclear weapons is the best prevention against their use. There is currently no comprehensive explicit prohibition against the use or possession of nuclear weapons.

Developing a new legal instrument is the most appropriate way to “fill the legal gap for the prohibition and elimination of nuclear weapons” as called for in the Austrian Pledge. It is also the most feasible means by which to help fulfill the nuclear Non-Proliferation Treaty’s article VI obligation to “pursue negotiations in good faith on effective measures

leading to the cessation of the nuclear arms race at an early date and to nuclear disarmament.”

ICAN believes that filling the legal gap requires a legally-binding international instrument that clearly prohibits nuclear weapons based on their unacceptable consequences. This would put nuclear weapons on the same footing as the other weapons of mass destruction, which are subject to prohibition through specific treaties.

A treaty banning nuclear weapons would build on existing norms and reinforce existing legal instruments. It would also close loopholes in the current legal regime that enable some states to engage in nuclear weapon activities while clearly codifying the illegitimacy of possession. In line with other international legal instruments, it would also reaffirm the rights of people who have been victimized by the detonation of nuclear weapons. ■

## **A treaty banning nuclear weapons should:**

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

## **The process for banning nuclear weapons should:**

- Be open to all states and inclusive of civil society and international organisations.
- Be initiated, conducted, concluded, and adopted by governments who share the objective of banning and eliminating nuclear weapons, even without the participation of the nuclear-armed states.
- Be flexible about the forum, taking into consideration which forum best serves the objectives of developing and adopting an effective ban treaty.
- Not rely on rules of consensus and thus be blockable by none.