The Second Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons: A Summary Report

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The Asia-Pacific Leadership Network for Nuclear Non-Proliferation and Disarmament (APLN) is a network of political, military, and diplomatic leaders from countries across the Asia-Pacific tackling security and defence challenges with a particular focus on addressing and eliminating nuclear weapon risks.

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Cover Photo: Second Meeting of States Parties to the TPNW, Trusteeship Council, UN Headquaters in New York (Credit: ICAN, Darren Ornitz)

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Introduction

The Second Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons (TPNW2MSP) took place at the United Nations in New York from 27 November to 1 December. Representatives from 94 states were present, including those of 35 non-States Parties who attended as observers, and over 700 members from civil society organisations. The agenda included a high-level opening session, states' presentations, thematic discussions on aspects of the treaty and areas of work, especially reports from the Working Groups established at the First Meeting of States Parties (1MSP) in June 2022, and a presentation of the first report from the recently established Scientific Advisory Group. These formal activities were augmented by over 60 side-events including panel discussions, a conference of parliamentarians, interfaith, youth, and other specialist events, art exhibitions, film screenings, and performances.



Second Meeting of States Parties to the TPNW, Trusteeship Council, UN Headquaters in New York (Credit: ICAN, Darren Ornitz)

The Meeting's activities were driven by the Vienna Action Plan¹ created at the 1MSP in June of last year. This document outlined 50 separate actions for advancing universalisation of the TPNW, the elimination of nuclear weapons, victim assistance and environmental remediation, institutionalising scientific and technical advice for the effective implementation of the TPNW, strengthening the relations between the TPNW and the non-proliferation and disarmament regime, particularly the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), and other matters, including the gender provisions of the TPNW, cooperation with the United Nations, the International Committee of the Red Cross (ICRC), the International Campaign to Abolish Nuclear Weapons (ICAN), academia, affected communities, and other organisations.

The 2MSP was focused on the activities of the informal Working Groups established last year. These included universalisation (co-chaired by South Africa and Malaysia), victim assistance and environmental remediation (co-chaired by Kazakhstan and Kiribati), and the implementation of Article IV of the TPNW, namely the future designation of a competent international authority to oversee processes of dismantlement (co-chaired by Mexico and New Zealand).

Background

Meetings of States Parties are prescribed gatherings designed to assess the implementation of a particular treaty or convention and discuss ways in which such agreements can be strengthened over the coming years. They are a normal part of modern international law, where regularising such follow-up gatherings is seen as important in sustaining momentum, growing the membership, and keeping alive the moral principles that underpin such legal agreements.

While the two Meetings of States Parties to the TPNW have fulfilled these transactional objectives, the prevailing strategic background has given the MSP process a sense of energy and urgency. This background includes the following: the widely-held view that the 1970 NPT, long seen as the cornerstone of nonproliferation and disarmament efforts, has not been able to achieve its objective of moving the world away from nuclear dangers, and, concomitantly, the calculation that the risk of nuclear weapons use is higher today at any time since the Cold War.²

These circumstances have resulted in a strong sense of grievance among many non-nuclear weapons states. They contend that the nuclear armed states,

¹ The Vienna Action Plan can be accessed at https://documents.unoda.org/wp-content/uploads/2022/06/TPNW.MSP _.2022.CRP _.7-<u>Draft-Action-Plan-new.pdf</u>

^{2 &#}x27;Risk of Nuclear Weapons Use Higher Than at Any Time Since Cold War, Disarmament Affairs Chief Warns Security Council, United Nations Press Release, 31 March 2023, https://press.un.org/en/2023/sc15250.doc.htm

particularly the 'recognised' five nuclear weapon states in the NPT, are not taking seriously their obligations to move towards the complete elimination of nuclear weapons, a commitment enshrined in Article VI of the NPT and one they have repeatedly pledged themselves to uphold. Most non-nuclear states seem to have given up hope that disarmament can be achieved via the NPT, and this explains the seriousness with which they take the TPNW's MSP process. This scepticism is underscored by increasing threats of nuclear use, expressed most overtly by Russia's President Putin³, but also recently by Israeli politicians.⁴

Furthermore, the security doctrines of all nine nuclear weapon states reflect a willingness to use nuclear weapons (although China and India have given nofirst-use promises), and have reinforced rather than reduced the salience of nuclear weapons in their security doctrines. The nuclear armed states have also failed to implement the numerous recommendations urged on them at various NPT Review Conferences and elsewhere to reduce nuclear risks. Instead, they are modernising (and in some cases increasing) their nuclear arsenals. Adding to this bleak picture is the fact that almost every one of the arms control agreements reached during the Cold War and immediate post-Cold War period have been jettisoned, and that previously existing confidence building mechanisms have been wound back or lost altogether.

Significance

Given these circumstances, it is unsurprising that signatories to the TPNW and civil society advocates see the TPNW as the sole glimmer of hope in an otherwise bleak nuclear landscape. They have invested substantial energy in its Meetings of States Parties, coming up with new areas for research and investigation while consolidating the strong sentiment against these highly destructive weapons of mass destruction.

Despite being a relatively new treaty, with less than three years since its entry into force, 2MSP showed a remarkable level of energy in its discussions and activities. Attendees exhibited a renewed commitment to work toward a world free of nuclear weapons and displayed enthusiasm to take forward existing and new initiatives aimed at strengthening the TPNW. The 35 non-States Parties that attended included NATO members Germany, Belgium, and Norway, as well as Australia (which considers itself to be under the protection of the United States' nuclear umbrella, something that has not been openly acknowledged by the

^{3 &#}x27;Russia reasserts right to use nuclear weapons in Ukraine', *The Guardian*, 26 March 2022, https://www.theguardian.com/world/2022/mar/26/russia-reasserts-right-to-use-nuclear-weapons-in-ukraine-putin

⁴ See 'An Israeli lawmaker is urging her government to use everything in its arsenal, including "Doomsday weapons" against Hamas', *Business Insider*, 11 October 2023, https://www.businessinsider.com/israeli-lawmaker-urged-government-to-use-nuclear-weapons-against-hamas-2023-10 and 'Iran nuclear chief: Minister's threat to "nuke Gaza" confirms Israel's capability, *Haaretz*, 8 November 2023, <a href="https://www.haaretz.com/israel-news/2023-11-08/ty-article/iran-nuclear-chief-ministers-threat-to-nuke-gaza-confirms-israels-capability/0000018b-aecb-df42-a78f-afcbcbcd0000

United States itself), demonstrating that interest in the TPNW and its implications is present, even as the nuclear weapon states (and most of their allies) refuse to have anything to do with the treaty and its MSP processes.

Key activities and decisions

During the 2MSP, states and Working Groups reported their findings and proposed new areas of work. These have been documented in the Package of Decisions,⁵ which together with the Joint Declaration,⁶ was released at the end of the 2MSP. Chief among these decisions were the following:

Affected communities

In line with the findings of the Humanitarian Initiative on the impacts of nuclear weapons which had commenced in 2011 and which brought new voices to be heard into the discourse on nuclear issues, there was a significant focus at the 2MSP on affected communities. As with other treaties negotiated within the context of 'disarmament as humanitarian action' (notably the landmines and cluster munitions conventions), the TPNW recognised the trauma and burden placed on affected communities. Articles 6 and 7 of the TPNW require States Parties to provide victim assistance and environmental remediation to individuals and areas under their jurisdiction or control affected by the use or testing of nuclear weapons and require all States Parties able to provide assistance to affected states and victims to do so.

The Affected Communities Statement⁸ presented at the 2MSP reiterated that lives, lands, waters, and communities "were permanently changed by the development, testing and use of nuclear weapons" and that affected communities have "the right and responsibility to speak about what nuclear weapons really do." The statement reiterated that the TPNW is the first instrument of its kind to recognise the impact of nuclear weapons on affected communities, and noted that, "healing comes through action" calling on all states to take action to implement Articles 6 and 7 of the TPNW.⁹

⁵ This is known officially as 'Decisions to be taken by the second Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons', available at https://docs-library.unoda.org/Treaty on the Prohibition of Nuclear Weapons -SecondMeeting of States Parties (2023)/TPNW.MSP .2023.CRP .3.Rev .1 draft decisions.pdf

⁶ The Joint Declaration is known officially as the 'Revised draft declaration of the second Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons: "Our commitment to upholding the prohibition of nuclear weapons and averting their catastrophic consequences", 'available at https://docs-library.unoda.org/Treaty on the Prohibition of Nuclear Weapons -SecondMeeting of States Parties (2023)/TPNW.MSP .2023.CRP .4.Rev .1 revised draft dec.pdf

⁷ See John Borrie and Vanessa Martin Randin (eds), *Disarmament as Humanitarian Action: from perspective to practice*, Geneva: UNIDIR, 2006, https://unidir.org/files/publication/pdfs/disarmament-as-humanitarian-action-from-perspective-to-practice-288.pdf

⁸ Affected Communities Statement to the Second Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons, 2023 https://icanw.org.au/wp-content/uploads/Affected-Communities-Statement-poster-final.pdf

⁹ Affected Communities Statement, ibid.

It is historically evident that the nuclear weapon states have neglected the impact of mining, testing, developing and the use of nuclear weapons on ordinary people. As in Vienna last year, the 2MSP allowed affected communities to voice their anger at the lack of recognition, remediation and recompense, stating that "we feel as though governments are waiting for us to vanish, hoping their responsibilities will die with us. But the effects continue for our children and grandchildren and beyond."¹⁰

At a broader level, the impact of nuclear testing in the Pacific, and how this "long shadow" intersects with the impacts of climate change, was raised by New Zealand. Costa Rica also drew attention to the links between the needs of victims and environmental pollution, while Representatives of the Holy See stated that Articles 6 and 7 serve to heal the scars that nuclear weapons have inflicted on individuals, communities and our common home... We cannot pretend to be healthy in a world that is sick.

A proposal to develop terms of reference, under the stewardship of the Working Group, for the establishment of a trust fund at 3MSP was broadly welcomed, although Fiji warned that any such progress should not be used by those responsible for nuclear testing as a substitute for joining the treaty.¹³ ICAN representative Hinamoeura Cross reiterated that the Pacific had been a French laboratory "for 30 years" and that "we do not have the medical facilities to deal with the consequences" and urged states to be ambitious in their discussions of a trust fund.¹⁴

Scientific Advisory Group

The TPNW2MSP provided the opportunity for the Scientific Advisory Group (SAG) to present its first Report. The work of the Group is designed to strengthen effective implementation of the TPNW by considering the most current scientific and technical knowledge and how it impacts the project of nuclear weapons elimination. This was the first time that an international scientific body has been established expressly to advance this goal; the Group is also important for building and establishing a network with the wider scientific community to reinforce awareness of the TPNW. The Group also liaises with a broad range of stakeholders, including the ICRC and the Red Crescent Movement, ICAN, other relevant nongovernmental organisations, academia, individuals, religious leaders, and affected communities.

¹⁰ Affected Communities Statement, ibid.

¹¹ Cited in ICAN Campaign News 2MSP Summary, 4 December 2023, Available at https://icanw.org.au/2msp-summary/

¹² ICAN Campaign News 2MSP Summary, Ibid.

¹³ ICAN Campaign News 2MSP Summary, Ibid.

¹⁴ Cited in ICAN Campaign News 2MSP Summary, ibid.

¹⁵ Report of the Scientific Advisory Group, 27 October 2023, Available at https://front.un-arm.org/publications/tpnw-sag-report.pdf

The Group's first report focused on the status of nuclear weapons, nuclear weapon risks, the humanitarian consequences of nuclear weapons, nuclear disarmament, and related issues in accordance with the Group's mandate. Its findings were repeated in the Joint Declaration which stated that "nuclear risks are being exacerbated in particular by the continued and increasing salience of and emphasis on nuclear weapons in military postures and doctrines, coupled with the on-going qualitative modernization and quantitative increases in nuclear arsenals, and the heightening of tensions." In one of the thematic discussions, Sébastien Philippe from the Scientific Advisory Group noted that a full-fledged US-Russia nuclear war would result in at least 90 million casualties instantly, and that the catastrophic effects of nuclear weapons extend far beyond their intended targets.

Group members reminded the world that ongoing scientific research has cumulatively strengthened our knowledge of the horrific impacts of nuclear weapons. The crude 'nuclear winter' studies of the 1980s have been eclipsed by our growing knowledge of the impacts of nuclear weapons. The Joint Declaration stressed that the "growing and compelling scientific evidence" produced by the SAG "should be broadened further, including scientific information on those effects that are still not understood in their entirety." Patricia Lewis, co-chair of the Scientific Advisory Group, warned that "depending on where used, hundreds of thousands of people could be killed instantaneously. We also know we could end up with an existential risk to humanity." She called for a United Nationsmandated global study to examine the climate, physical, and importantly, the social effects of nuclear weapons use.

These sobering calculations were repeated in the Joint Declaration of 2MSP which stressed that "the international community must address new and continually evolving developments in science and technology in the nuclear domain, including on the possible implications of some applications of emerging technologies that would inhibit or undermine the object and purpose of the Treaty."²⁰

¹⁶ Joint Declaration, https://docs-library.unoda.org/Treaty on the Prohibition of Nuclear Weapons -SecondMeeting of States Parties (2023)/TPNW.MSP .2023.CRP .4.Rev .1 revised draft dec.pdf

¹⁷ Cited in ICAN Campaign News 2MSP Summary op cit.

¹⁸ Joint Declaration, https://docs-library.unoda.org/Treaty on the Prohibition of Nuclear Weapons -SecondMeeting of States Parties (2023)/TPNW.MSP _.2023.CRP _.4.Rev _.1 revised draft_dec.pdf

¹⁹ Cited in ICAN Campaign News 2MSP Summary op cit.

²⁰ Joint Declaration, https://docs-library.unoda.org/Treaty on the Prohibition of Nuclear Weapons -SecondMeeting of States Parties (2023)/TPNW.MSP .2023.CRP .4.Rev .1 revised draft dec.pdf

Rejecting reliance on nuclear deterrence: a new consultative initiative

Reliance on the theory of nuclear deterrence was identified as an area of work requiring new and urgent attention at 2MSP. This fits well with an identified need for non-nuclear states to liaise more closely with nuclear weapon states who, for obvious reasons, have boycotted the TPNW and associated gatherings for several years.

It is widely recognised that the nuclear weapon states and their allies use the argument of nuclear deterrence as the single greatest reason for their continued possession of nuclear weapons. This is so even as many practitioners – such as William Perry,²¹ Colin Powell²² and others²³ – and several analysts have pointed to the folly and the dangers of such a reliance. Benoit Pelopidas' formulation of nuclear deterrence as "a bet portrayed as a certainty" is perhaps the most engaging piece of scholarship on this issue.²⁴



ICAN Executive Director Melissa Park delivering a statement to the high level opening session of the Second Meeting of State Parties to the TPNW (Credit: ICAN, Darren Ornitz)

²¹ William Perry, My Journey at the Nuclear Brink, Stanford University Press, 2015.

²² Colin Powell, Nuclear Weapons are Useless, 27 January 2010, https://archive.thinkprogress.org/colin-powell-nuclear-weapons-areuseless-4ab6657759c7/

²³ George Schultz and James Goodby (eds), The War that must never be fought: dilemmas of nuclear deterrence, Stanford University Press, 2015.

²⁴ Benoit Pelopidas, 'A bet portrayed as a certainty: reassessing the added deterrent value of nuclear weapons,' in George Schultz and James Goodby (eds), The War that must never be fought, ibid.

During the 2MSP, the reliance on nuclear deterrence was repeatedly viewed as "irresponsible, risky and a key obstruction to progress on disarmament."²⁵ This resulted in a determination to challenge the prevailing paradigm of security based on nuclear deterrence, by working with non-members of the TPNW to identify the legitimate security concerns and fears of non-nuclear states, whose well-being and even existence can be threatened by the use of nuclear weapons. It was determined that under the direction of Austrian Ambassador Alexander Kmentt (who was President of the 1MSP, and before that a champion of the Humanitarian Initiative and its conferences) a new consultative process would be launched encompassing the views of states, civil society, the Scientific Advisory Group and other experts.

Executive Director of ICAN, Melissa Parke observed that the theory of nuclear deterrence

is based on an assumption of 100% rationality and predictability of all actors, including one's enemies, 100% of the time. This theory may provide some psychological comfort but it cannot deter accidents, miscalculations, unhinged leaders, terrorist groups, cyber-attacks or simple mistakes. And as we know there have been many nuclear near-misses over the decades.²⁶

This unease was also picked up in the Joint Declaration of the 2MSP, which reiterated that

Far from preserving peace and security, nuclear weapons are used as instruments of policy, linked to coercion, intimidation and heightening of tensions. The renewed advocacy, insistence on and attempts to justify nuclear deterrence as a legitimate security doctrine gives false credence to the value of nuclear weapons for national security and dangerously increases the risk of horizontal and vertical nuclear proliferation ... There are now more States under extended nuclear security guarantees and nuclear stationing arrangements than when we last met.²⁷

The consultative process will report to the 3MSP – to be held at the UN in New York between 2-7 March 2025 - with a set of recommendations designed to articulate the risks and security concerns felt by TPNW States Parties, and to challenge the nuclear deterrence paradigm by highlighting and promoting new

²⁵ ICAN Campaign News 2MSP Summary op cit.

²⁶ Melissa Parke, ICAN High Level Statement to the Opening of the Second Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons, 27 November 2023, https://www.icanw.org/ican_high_level_statement_tpnw_second_meeting_of_states_parties

²⁷ Joint Declaration, https://docs-library.unoda.org/Treaty on the Prohibition of Nuclear Weapons -SecondMeeting of States

Parties (2023)/TPNW.MSP .2023.CRP .4.Rev .1 revised draft dec.pdf

scientific evidence about the risks of nuclear weapons juxtaposed against the risks and assumptions that are inherent in nuclear deterrence.

Challenges

Clearly, the positive and upbeat environment of the 2MSP needs to be balanced against the raw fact that its statements and declarations may not be heard by those states which need to hear them most: the nuclear weapon states. The absence of all of the nine nuclear-armed countries, and almost all of the United States' nuclear allies (with the above-noted exception of Germany, Norway, Belgium, and Australia) shows that the TPNW is limited in what it can do to force change in nuclear postures and nuclear policy. Ultimately the decision to undertake disarmament will have to be made by the nuclear states themselves. The TPNW provides a strong moral and delegitimising stance against nuclear weapons, but until and unless its message is internalised by the nuclear states themselves, it remains a gathering of the like-minded only.

Even the presence of four US nuclear allies as observers was something of a mixed achievement: Norway used the occasion to validate NATO's nuclear position, its delegate noting that "Norway stands fully behind NATO's nuclear deterrence and posture, including the established nuclear sharing arrangements." The German representative stated that "as non-member to the TPNW we are not bound by its provisions, nor do we accept the claim that its provisions are applicable under customary law – neither now nor in the future." And three states which attended as observers last year were pointedly absent this year. The Netherlands, which had been present at the 1MSP chose not to attend, while Sweden and Finland – probably in light of their new-found ties to NATO – were also absent. The populations of these states have tended to support closer engagement with the TPNW, but their governments for now at least, are determined to keep a firm distance from the TPNW.

There were also points of tension among States Parties as to how strong the wording of statements on various issues should be, with some discord on the wording of condemnation of nuclear sharing arrangements (directed at Russia, but fears were that this would be seen as targeted primarily at the United States) and on the Comprehensive Test Ban Treaty (CTBT) causing disagreement; in the case of the CTBT, the aim was clearly to deplore Russia's recent de-ratification of that Treaty, but concerns were that US non-ratification would be perceived as the main target.³⁰

²⁸ Statement by Tor Henrik Andersen, Permanent Mission of Norway, as Observer, 27 November 2023, https://reachingcriticalwill.org/ https://reachingcriticalwill.org/ https://reachingcriticalwill.org/ https://reachingcriticalwill.org/ https://reachingcriticalwill.org/ images/documents/Disarmament-fora/nuclear-weapon-ban/2msp/statements/29Nov_Norway.pdf

²⁹ Statement by Susanne Riegraf, Deputy Federal Government Commissioner for Disarmament, Nonproliferation and Arms Control, German Observer Delegation, https://reachingcriticalwill.org/images/documents/Disarmament-fora/nuclear-weapon-ban/2msp/statements/29Nov_Germany.pdf

³⁰ Mackenzie Knight, TPNW2MSP Overview and Key Takeaways, *Federation of American Scientists*, 8 December 2023, https://fas.org/publication/tpnw2msp-overview-and-key-takeaways/

Conclusion

For all this, the TPNW and its 2MSP should be given credit for having achieved some gains in advancing the idea of a world free from nuclear weapons. It is important to remember that two consecutive NPT Review Conferences have been unable to agree on a final document; indeed, the NPT has failed to make any credible progress on disarmament and has not even been able to persuade the nuclear weapon states to undertake the risk reduction measures aimed at reducing nuclear dangers, many of which would be relatively easy for the nuclear states to fulfil. These meetings have ended in acrimony and growing despair on the part of TPNW members. Despite this, TPNW members remain keen to stress the complementarity of the TPNW with the NPT.



CSOs rally and march to abolish nuclear weapons, from the UN Headquarters to the US Mission and Russia Mission to the UN (Credit: ICAN, Darren Ornitz)

For all their limitations, the Meetings of States Parties of the TPNW are the only 'game in town' when it comes to addressing nuclear weapons in a productive manner, and these meetings should not be dismissed lightly. Melissa Parke's speech reminded us that the TPNW has "solidified the international consensus that nuclear threats are inadmissible", has brought the idea of nuclear justice to the fore, and "has prompted financial institutions to divest billions of dollars from the companies that manufacture these weapons – because they are now banned." She also reminded us that much more work was needed, "to universalise the treaty and popularise its norms", but it is clear that "with each new ratification or accession, the TPNW grows stronger and more effective. Its norms become more deeply entrenched."³¹

There is a strong argument for saying that the campaign to eliminate nuclear weapons is more important that any of our other collective endeavours. As Melissa Parke reminded us, all other UN activities – whether these be peacekeeping, environmental protection, the Sustainable Development Goals, or upholding human rights – "could all be undone in an afternoon, if the unspeakable were to happen." ³²

APLN hosted a side-event at the TPNW 2MSP on Strengthening a Nuclear-Free Pacific, which was moderated by APLN Senior Research Adviser Frank O'Donnell and APLN Policy Fellow Elaine Natalie. The panellists – Bedi Racule, Dimity Hawkins, Maima Koro, and Tarcisius Kabutaulaka – focused on the roles that civil society and intergovernmental organisations can play in sustaining the ideal of a nuclear-free Pacific, and how the 1985 South Pacific Nuclear Free Zone Treaty (also known as the Rarotonga Treaty) can be used to address ongoing concerns of states in the region including the ongoing impacts of nuclear weapons testing, environmental concerns, and great power rivalry in the region.

³¹ Melissa Parke, ICAN High Level Statement.

³² Melissa Parke, ICAN High Level Statement.

About APLN

The Asia-Pacific Leadership Network for Nuclear Non-Proliferation and Disarmament (APLN) is a Seoul-based organisation and network of political, military, and diplomatic leaders and experts from across the Asia-Pacific region working to address global security challenges, with a particular focus on reducing and eliminating nuclear weapons risks.

The mission of APLN is to inform and stimulate debate, influence action, and propose policy recommendations designed to address regional security threats, with an emphasis on nuclear and other WMD (weapon of mass destruction)threats, and to do everything possible to achieve a world in which nuclear weapons and other WMDs are contained, diminished, and eventually eliminated.









