

PROHIBITION OF NUCLEAR WEAPONS: KEEPING
THE COLD WAR ON PERMAFROST

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I. INTRODUCTION

The hope of civilization lies in international arrangements looking, if possible, to the renunciation of the use and development of the atomic bomb, and directing and encouraging the use of atomic energy and all future scientific information toward peaceful and humanitarian ends. The difficulties in working out such arrangements are great. The alternative to overcoming these difficulties, however, may be a desperate armament race which might well end in disaster.¹

U.S. President Truman made the above remarks to Congress two months after the atomic bombing of Hiroshima and Nagasaki during World War II. Seventy-two years later, the

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1. Harry S. Truman, U.S. President, Special Message to the Congress on Atomic Energy (Oct. 3, 1945).

Treaty on the Prohibition of Nuclear Weapons² (TPNW)—the first such international arrangement renouncing the use and development of nuclear weapons—was finally concluded and opened for signature on September 20, 2017. Within a relatively short period thereafter, the TPNW entered into force on January 22, 2021.

Since then, the urgency of nuclear disarmament has once again arisen amidst repeated Russian threats to resort to its nuclear arsenal in its war with Ukraine.³ This Commentary briefly discusses the follow-up action adopted at the first meeting of the States parties to increase membership of the TPNW and suggests other strategies in which the present momentum of the TPNW could be further leveraged to establish a norm of absolute prohibition against nuclear weapons.

II. BACKGROUND

The current nuclear disarmament regime comprises a patchwork of international agreements, regional nuclear weapon free zones (NWFZs), bilateral treaties, International Court of Justice (ICJ) jurisprudence, and Security Council Resolutions, with each building on the other. The TPNW is the latest instrument in this series and seeks to push the boundaries of international law by absolutely prohibiting the use of nuclear weapons or threat thereof “under any circumstances.”⁴ Prior to the TPNW, the ICJ concluded in 1996 that international law at that time did not categorically prohibit nuclear weapons, at least in the “extreme circumstance of self-defence, in which [a State’s] very survival would be at stake.”⁵ However, the court stressed that Article VI of the Treaty on the Non-

2. Treaty on the Prohibition of Nuclear Weapons, July 7, 2017, UN Doc. A/CONF.229/2017/8, (entered into force Jan. 22, 2021) [hereinafter TPNW].

3. David E. Sanger, Anton Troianovski & Julian E. Barnes, *In Washington, Putin’s Nuclear Threats Stir Growing Alarm*, N.Y. TIMES (Oct. 1, 2022), <https://www.nytimes.com/2022/10/01/world/europe/washington-putin-nuclear-threats.html>.

4. TPNW, *supra* note 2, art. 1(1)(d).

5. Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 226, 227, ¶ 97 (July 8) [hereinafter Nuclear Weapons Advisory Opinion].

Proliferation of Nuclear Weapons (NPT),⁶ to which “the vast majority of the international community” was party,⁷ imposed an “obligation to achieve a precise result—nuclear disarmament in all its aspects—. . . [through] the pursuit of negotiations on the matter in good faith.”⁸

Needless to say, the nine nuclear-weapon States (NWS)⁹ are not parties to the TPNW,¹⁰ with the United States and its allies even protesting the TPNW negotiation in the first place.¹¹ The five permanent members of the U.N. Security Council (P5), all of which are NWS, reject the TPNW on the basis that it “fails to address the key issues that must be overcome to achieve lasting global nuclear disarmament” and “ignores the international security context and regional challenges.”¹² The U.S. Ambassador to the United Nations Nikki R. Haley summed up their opposition bluntly: “Is there anyone who thinks that North Korea would ban nuclear weapons?”¹³ At the same time, they reiterate their commitment to the NPT and, in particular, Article VI.¹⁴ In other words, they do not

6. Treaty on the Non-Proliferation of Nuclear Weapons, Art. VI, *opened for signature* July 1, 1968, 21 U.S.T. 483, 729 U.N.T.S. 161, [hereinafter NPT].

7. At the time of the I.C.J.’s Advisory Opinion, 182 States were party to the NPT. At the time of writing, this number has increased to 191 States: India, Israel, Pakistan, and South Sudan are not parties to the NPT. The Democratic Republic of Korea withdrew from the NPT in 2003. *Treaty on the Non-Proliferation of Nuclear Weapons*, U.N. OFF. FOR DISARMAMENT AFFAIRS, <https://treaties.unoda.org/t/npt> (last visited Sept. 18, 2022).

8. Nuclear Weapons Advisory Opinion, *supra* note 5, ¶ 99.

9. These are (in descending order of estimated number of nuclear warheads): Russia, United States, China, France, United Kingdom, Pakistan, India, Israel, and North Korea. *The World’s Nuclear Weapons*, INT’L CAMPAIGN TO ABOLISH NUCLEAR WEAPONS, https://www.icanw.org/nuclear_arsenals (last visited Sept. 18, 2022).

10. *Treaty on the Prohibition of Nuclear Weapons*, U.N. OFF. FOR DISARMAMENT AFFAIRS, <https://treaties.unoda.org/t/tpnw> [hereinafter UNODA].

11. Somini Sengupta and Rick Gladstone, *United States and Allies Protest U.N. Talks to Ban Nuclear Weapons*, N.Y. TIMES (Mar. 27, 2017), <https://www.nytimes.com/2017/03/27/world/americas/un-nuclear-weapons-talks.html>.

12. *P5 Joint Statement on the Treaty on the Non-Proliferation of Nuclear Weapons*, U.K. MISSION TO U.N. IN N.Y. (Oct. 24, 2018), <https://www.gov.uk/government/news/p5-joint-statement-on-the-treaty-on-the-non-proliferation-of-nuclear-weapons>.

13. Sengupta and Gladstone, *supra* note 11.

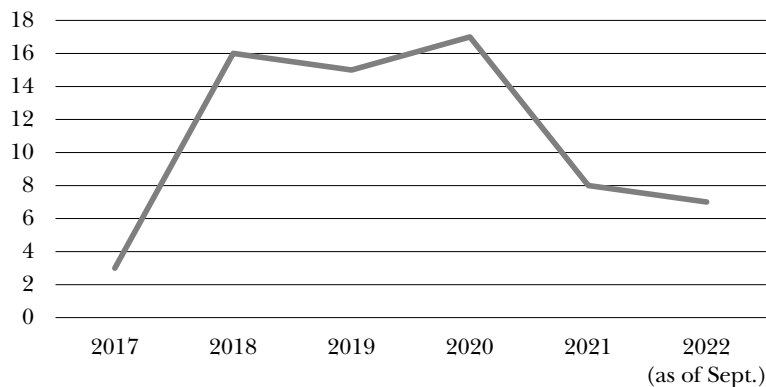
14. *Joint Statement of the Leaders of the Five Nuclear-Weapon States on Preventing Nuclear War and Avoiding Arms Races*, THE WHITE HOUSE (Jan. 3, 2022),

recognize the TPNW as “a treaty on general and complete disarmament under strict and effective international control”¹⁵ satisfying the requirements of the NPT.

III. FIRST MEETING OF TPNW STATES PARTIES

Amidst the above backdrop, the TPNW State parties convened for the first time from June 21-23, 2022 in Vienna, Austria. This First Meeting adopted a report¹⁶ (First Meeting Report), which also contained a Declaration¹⁷ and a fifty-point Vienna Action Plan.¹⁸ Forty-nine State parties and thirty-four observer states were in attendance—comprising about 42% of the U.N. membership—in addition to representatives from other international organizations and NGOs.¹⁹

Insofar as the TPNW purports to fill the “gap in the international legal regime against weapons of mass destruction” by “explicitly and comprehensively” prohibiting nuclear weapons,²⁰ it is off to a good start, but the road to disarmament is yet long. The following chart illustrates the declining number of new ratifications of the TPNW from a peak in 2020:²¹



<https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/03/p5-statement-on-preventing-nuclear-war-and-avoiding-arms-races>.

15. NPT, *supra* note 6, art. VI.

16. Rep. of the First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons (1st. Mtg. Rep.), U.N. Doc. TPNW/MSP/2022/6 (Jul. 21, 2022).

17. *Id.* Annex I [hereinafter Declaration].

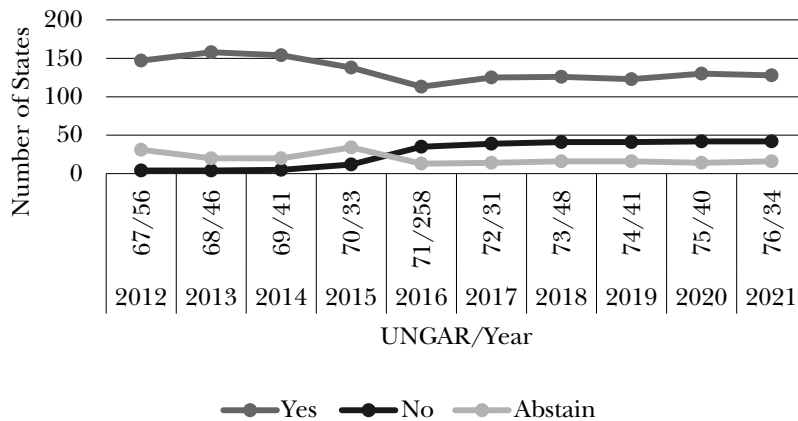
18. *Id.* Annex II [hereinafter Vienna Action Plan].

19. *Id.* ¶¶ 17-21.

20. Declaration, *supra* note 17, ¶ 2.

21. UNODA, *supra* note 10.

A pessimistic way to interpret the data is that the low-hanging fruits have mostly been plucked—States most likely to become party to the TPNW would have done so by now and the rate of new parties would be increasingly muted going forward.



On the other hand, an optimist might point to the above voting records of U.N. General Assembly Resolutions (UNGAR) on the TPNW to show that there is on average between 120-130 States who consistently vote in support of the TPNW in its present form, in addition to about another twenty States who abstain.²² The current sixty-six States parties to the TPNW,²³ therefore, make up only about half of the potential²⁴ total number of States that might join the TPNW.

Irrespective of whether one views the proverbial glass as half empty or half full, there can be no denying that the current membership of the TPNW is insufficient to establish any international norm absolutely prohibiting nuclear weapons, not least because no NWS is a party. Critical mass is especially important for an ambitious treaty like the TPNW because of

22. UNITED NATIONS DIGITAL LIBRARY, <https://digitallibrary.un.org/?ln=EN> (search for “Treaty on the Prohibition of Nuclear Weapons” to find the voting records on the respective UNGARs).

23. UNODA, *supra* note 10.

24. Of course, it does not follow that a State will join the TPNW just because it voted favorably, and vice versa. This number is merely an estimated projection based on general prevailing attitudes towards the TPNW.

the “political and moral pressure” it brings to bear on those outside the treaty, including the NWS.²⁵

The drafters of the TPNW must have recognized this and included an explicit obligation for State parties to “encourage” other States to become parties, “with the goal of universal adherence of all States to the [TPNW].”²⁶ Accordingly, the First Meeting prioritized the universalization of the TPNW, devoting fourteen out of fifty actions in the Vienna Action Plan to it—the most of any category.²⁷ The next section of this Commentary analyzes some of the universalization strategies identified in the Vienna Action Plan, and suggests ways in which they can be achieved.

A. *Political Outreach*

Actions 1-3 of the Vienna Action Plan call for bilateral and regional diplomatic action *vis-à-vis* non-parties,²⁸ generally targeted at the 120-130 States consistently voting in favor of the relevant U.N. General Assembly Resolutions.

Action 4 provides for State parties to “explore potential areas in which further information to facilitate accession to the [TPNW] might be necessary, and potentially explore options to fill these gaps.”²⁹ Efforts should be focused on the approximately twenty States abstaining on the vote.³⁰ These States are generally not ideologically opposed to prohibiting nuclear weapons—in fact, some of them are part of NWFZs; their hesitation must stem from concerns not directly related to nuclear weapons *per se*. For instance, Singapore, one of the abstaining States, is concerned that the TPNW would “affect the rights and obligations of States Parties under other treaties and

25. Sengupta and Gladstone, *supra* note 11.

26. TPNW, *supra* note 2, art. 12.

27. See Vienna Action Plan, *supra* note 18, ¶¶ 5-6.

28. *Id.* ¶ 6.

29. *Id.*

30. The sixteen States which abstained on the latest G.A. Res. 76/34 (Dec. 6, 2021) are: Argentina, Armenia, Belarus, Djibouti, Finland, Georgia, Kyrgyzstan, Marshall Islands, Saudi Arabia, Serbia, Singapore, Sweden Switzerland, Tajikistan, Tonga, and Ukraine. *Treaty on the Prohibition of Nuclear Weapons: resolution/adopted by the General Assembly*, U.N. DIGITAL LIBRARY, <https://digitallibrary.un.org/record/3950567?ln=N>.

agreements.”³¹ Article 18 of the TPNW could be read to grant it primacy over other inconsistent “existing international agreements.”³² One such potential inconsistency is whether the TPNW prohibits States from permitting nuclear weapons to transit their territory,³³ which may conflict with the right of transit passage under the U.N. Convention on the Law of the Sea.³⁴ To address these concerns, the TPNW States parties could adopt a resolution or interpretative guidance to clarify the scope of Article 18 and its relationship with existing international agreements, to “fill [the] gap” created by this legal uncertainty.

B. *Forum of choice*

Action 8 calls for “every effort to increase the number of States voting in favor of the relevant resolutions before the [U.N.] General Assembly.”³⁵ The specific reference to the General Assembly should be understood in contrast to the U.N. Security Council (Security Council). The General Assembly has acknowledged “the ethical imperatives for nuclear disarmament,” stating, “[g]iven their indiscriminate nature and potential to annihilate humanity, nuclear weapons are inherently immoral.”³⁶ It has also explicitly stressed that “it is in the interest of the very survival of humanity that nuclear weapons never be used again, under any circumstances” and that “the only way to guarantee [that] is their *total elimination*.”³⁷ Conversely, the Security Council has merely reaffirmed that only the *proliferation* of nuclear weapons and their means of delivery, i.e. not the weapons *per se*, constitute a threat to interna-

31. *Singapore’s Explanation Of Vote On The “Treaty On The Prohibition Of Nuclear Weapons” At The First Committee, 74th UNGA*, MINISTRY OF FOREIGN AFFAIRS SINGAPORE (2019), https://www.mfa.gov.sg/Overseas-Mission/New-York/Mission-Updates/First_committee/2019/12/PRess_20191104.

32. TPNW, *supra* note 2, art. 18.

33. Gaukhar Mukhantzhanova, *The Nuclear Weapons Prohibition Treaty: Negotiations and Beyond*, ARMS CONTROL ASS’N (Sept. 2017), <https://www.armscontrol.org/act/2017-09/features/nuclear-weapons-prohibition-treaty-negotiations-beyond>.

34. U.N. Convention on the Law of the Sea, art.38(2), *opened for signature* Dec. 10, 1982, 1833 U.N.T.S. 397 (entered into force Nov. 16, 1994).

35. Vienna Action Plan, *supra* note 18, ¶ 6.

36. G.A. Res. 76/25, ¶ ¶ 2, 3(i) (Dec. 8, 2021).

37. G.A. Res. 76/30, ¶ ¶ 1–2 (Dec. 6, 2021) (emphasis added).

tional peace and security³⁸ and its engagement on this issue has been waning.³⁹ Given this difference in attitudes (and vested interests), the General Assembly is the obvious forum of choice.

Furthermore, it is procedurally easier for the General Assembly to act on matters involving the maintenance of international peace and security, as it only requires a two-third majority of members present and voting.⁴⁰ The Security Council's actions are subject to the veto of the nuclear-armed P5. In fact, the General Assembly has previously resolved that if the Security Council, because of disagreement among the P5, fails to "exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace or act of aggression, the [General Assembly] shall consider the matter immediately with a view to making appropriate recommendations . . . for collective measures."⁴¹ If the above General Assembly voting pattern on the TPNW holds, the two-third majority is likely to be secured.

C. *Morality*

Action 10 highlights the "humanitarian consequences of nuclear weapons . . . and the legal and ethical questions regarding [its] use and the threat of use."⁴² Nuclear weapons today are comparable to colonies of the past—possessed only by a handful of States, they bring strategic and military advantages to the NWS and their allies, to the detriment of all others. The most important similarity between the two is the moral opprobrium. In 1960, the General Assembly declared

38. S.C. Res. 2310, preambular ¶ 4 (Sept. 23, 2016).

39. See Karin Landgren, *The United Nations in Hindsight: The Security Council and Weapons of Mass Destruction*, JUST SECURITY (Aug. 31, 2022), <https://www.justsecurity.org/82887/the-united-nations-in-hindsight-the-security-council-and-weapons-of-mass-destruction>.

40. Rules of Procedure of the General Assembly, Rule 83, U.N. Doc. A/520/Rev.19 (2021).

41. G.A. Res. 377 (V) A, ¶ 1, Uniting for Peace (Nov. 3 1950). See also G.A. Res. 76/262, ¶ 1 (Apr. 28, 2022) (deciding that a formal meeting of the General Assembly be convened "within 10 working days of the casting of a veto by one or more permanent members of the Security Council, to hold a debate on the situation as to which the vote was cast").

42. Vienna Action Plan, *supra* note 18, ¶ 6.

“[t]he subjection of peoples to alien subjugation, domination and exploitation constitutes a *denial of fundamental human rights* [and] is *contrary to the Charter of the United Nations*.”⁴³ In the same vein, the General Assembly has also repeatedly affirmed that “*any use of nuclear weapons would be a violation of the Charter of the United Nations and a crime against humanity*.”⁴⁴

Since the founding of the U.N., some eighty former colonies have gained independence with only seventeen non-self-governing territories remaining.⁴⁵ The U.S. Department of State described decolonization as:

often affected by superpower competition, and had a definite impact on the evolution of that competition. . . . [Decolonized] countries also became vocal advocates of continuing decolonization, with the result that the UN Assembly was often ahead of the Security Council on issues of self-governance and decolonization. The new nations pushed the UN toward accepting resolutions for independence for colonial states and creating a special committee on colonialism, demonstrating that even though some nations continued to struggle for independence, in the eyes of the international community, the colonial era was ending.⁴⁶

The decolonization movement therefore serves as a promising model for a human rights and/or humanitarian approach toward nuclear disarmament, a process which the TPNW has begun.

IV. OTHER STRATEGIES

In addition to the strategies identified above, this next section proposes other avenues that could be pursued in tandem with the Vienna Action Plan.

43. G.A. Res. 1514(XV), ¶ 1 (Dec. 14, 1960) (emphasis added).

44. G.A. Res 76/56, preambular ¶ 6 (Dec. 6, 2021) (emphasis added).

45. *Decolonization*, U.N., www.un.org/en/global-issues/decolonization (last visited Sept. 18, 2022).

46. *Decolonization of Asia and Africa, 1945-1960*, OFFICE OF THE HISTORIAN U.S. DEPARTMENT OF STATE, <https://history.state.gov/milestones/1945-1952/asia-and-africa> (last visited Sept. 18, 2022).

A. *International Litigation*

In 2014, the Marshall Islands attempted to bring all nine NWS before the ICJ, alleging that they failed to meet their obligation under Article VI of the NPT. Of these nine, only India, Pakistan, and the United Kingdom recognized the compulsory jurisdiction of the ICJ,⁴⁷ which allowed the applications against them to proceed. However, the three NWS filed preliminary objections on the grounds that a “dispute” did not exist, which the ICJ agreed with and consequently declined jurisdiction.⁴⁸ Since then, these NWS have effectively excluded disputes relating to nuclear disarmament from the ICJ’s compulsory jurisdiction.⁴⁹

Nevertheless, even if the NWS are now beyond the ICJ’s jurisdiction, their allies are not: seventeen North Atlantic Treaty Organization (NATO) members and two non-NATO allies also recognize the compulsory jurisdiction of the ICJ.⁵⁰ Article VI of the NPT applies to these allies equally, even if they themselves do not possess nuclear weapons. Although the ICJ declined jurisdiction in the cases brought by the Marshall Islands, the court set out the requirements of what it would take to precisely establish a “dispute” between the parties to found its jurisdiction, *viz.* an explicit allegation (as opposed to hortatory statements) that NWS and their allies are failing to meet their obligations under Article VI of the NPT, specifying the conduct or omission that gives rise to this alleged failure.⁵¹ The groundwork could be laid by making such allegations in multilateral fora, perhaps in conjunction with diplomatic efforts in the U.N. General Assembly.

47. *See* Statute of the International Court of Justice, art. 36, ¶ 2, June 26, 1945, 59 Stat. 1055.

48. Obligations Concerning Negotiations Relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marsh. Is. v. U.K.) (*Nuclear Disarmament case*), Preliminary Objections, Judgment, 2016 I.C.J. 833 (Oct. 5).

49. *See* Declarations recognizing the jurisdiction of the Court as compulsory, I.C.J., <https://www.icj-cij.org/en/declarations>.

50. These are: Belgium, Canada, Denmark, Estonia, Germany, Greece, Hungary, Italy, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, and Spain, and Australia, Canada, and Japan respectively. *Id.*

51. *Nuclear Disarmament case*, *supra* note 48, at 853, 855, ¶¶ 49-50, 57.

B. *Domestic Litigation*

There is a growing trend of domestic climate change litigation against governments to force them to undertake particular policies.⁵² In a particularly celebrated case, the Dutch Supreme Court upheld an order directing the Dutch government to reduce greenhouse gas emissions by at least 25% by the end of 2020.⁵³ In doing so, the Supreme Court cited the Netherlands' obligations under the U.N. Framework Convention on Climate Change⁵⁴ and the Paris Agreement,⁵⁵ which informed its conclusion that certain rights under the European Convention on Human Rights⁵⁶ (ECHR) require the Netherlands to do its part to combat climate change, even if it is a global problem.⁵⁷ This reasoning could apply equally to the question of nuclear disarmament—if the use of nuclear weapons contravenes any of the rights in the ECHR, these rights could be the basis on which the Dutch government may be compelled to fulfill the obligation under Article VI of the NPT. In fact, the Netherlands might just be the weakest link in the NATO chain—it was the only NATO member to participate in the TPNW negotiations due to pressure from the Dutch parliament and the public.⁵⁸ If civil society is able to force the Dutch Government's TPNW ratification through domestic litigation, NATO unity on nuclear deterrence might crumble, leaving the NWS without an influential group of allies.

52. Joana Setzer and Catherine Higham, *Global trends in climate litigation: 2021 snapshot*, THE LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE (Jul. 2, 2021), www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-litigation-2021-snapshot.

53. Case C-19/0015, *State of the Neth. v. Urgenda Found.*, ECLI:NL:HR:2019:2007, ¶¶ 4.5, 4.8 (Dec. 20, 2019) [hereinafter *Urgenda case*].

54. United Nations Framework Convention on Climate Change, May 9, 1992, S. Treaty Doc. 102-38, 1771 U.N.T.S. 165.

55. Paris Agreement to the United Nations Framework Convention on Climate Change, Dec. 12, 2015, T.I.A.S. No. 16-1104, 3156 U.N.T.S.

56. Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), Nov. 4, 1950, Europ. T.S. No. 5, 213 U.N.T.S. 221.

57. *Urgenda case*, *supra* note 53, ¶¶ 5.7.2-5.8.

58. *Netherlands*, ICAN, <https://www.icanw.org/netherlands> (last visited Oct. 2, 2022).

C. *International Human Rights*

Action 45 identifies the “synergies” with “other relevant instruments of . . . international human rights law” as “additional aspects of support” for the implementation of the TPNW.⁵⁹ The following section highlights three of these rights that are good candidates for such synergy: 1) the right to a clean, healthy, and sustainable environment; 2) the right to live; and 3) prohibition of discrimination against women.

The General Assembly recently recognized the right to a clean, healthy and sustainable environment as a human right.⁶⁰ Although ostensibly in the context of climate change, the Resolution connects the right “to other rights and existing international law.”⁶¹ In fact, the General Assembly, “[m]indful of the detrimental environmental effects of the use of nuclear weapons,” has also reaffirmed that “all States, through their actions, should contribute fully to ensuring compliance with the [relevant environmental] norms in the implementation of [disarmament] treaties and conventions to which they are parties.”⁶²

The Human Rights Committee (HRC) has also concluded that under the International Covenant on Civil and Political Rights⁶³ (ICCPR), environmental degradation is one of the “most pressing and serious threats to the ability of present and future generations to enjoy the right to life.”⁶⁴ This potentially allows a communication to be submitted to the HRC pursuant to the ICCPR Optional Protocol⁶⁵ on the grounds that the possession, and therefore potential use, of nuclear weapons violate the right to life on account of their environmental impacts. At the time of writing, France, Russia, and the other NATO member states (with the exception of the United King-

59. Vienna Action Plan, *supra* note 18, ¶ 12.

60. G.A. Res 76/300 (Aug. 1, 2022).

61. *Id.* ¶ 2.

62. G.A. Res 76/39, ¶ 1 (Dec. 6, 2021).

63. International Covenant on Civil and Political Right, Dec. 16, 1966, 999 U.N.T.S. 171.

64. Human Rights Committee, *General Comment No. 36*, ¶ 62, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019).

65. Optional Protocol to the International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

dom and the United States) are parties to the Optional Protocol.⁶⁶

Given that the TPNW recognizes that nuclear weapons have a “disproportionate impact on women and girls, including as a result of ionizing radiation,”⁶⁷ another potential avenue for synergy is women’s rights. Article 3 of Convention on the Elimination of All Forms of Discrimination against Women⁶⁸ (CEDAW) requires that state parties “take in all fields . . . all appropriate measures . . . to ensure the full development and advancement of women.” This obligation is broad enough to argue that “all appropriate measures” includes nuclear disarmament. France, Russia, U.K., and the NATO member states (with the exception of Estonia and Latvia) are parties to CEDAW’s Optional Protocol,⁶⁹ which is similar to the ICCPR’s.⁷⁰

V. CONCLUSION

With the spectre of a Cold War-era nuclear war once again upon us, the universalization of the TPNW and its absolute prohibition of nuclear weapons has become all the more urgent. In order to achieve that, a multi-pronged approach should be adopted: addressing the concerns of “neutral” states; focusing diplomatic efforts in the General Assembly; adopting a rhetoric based on morality and ethics; as well as international and domestic litigation and the creative use of existing international human rights instruments.

The race to nuclear disarmament is a marathon and not a sprint. It took the world almost eighty years to get to the point where the TPNW entered into force; complete disarmament is unlikely to happen in the near future. However, as with any race, the key is to keep going. Much hangs on the line during

66. *Status of Ratifications*, U.N. OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, <https://indicators.ohchr.org> (last visited Oct. 2, 2022).

67. TPNW, *supra* note 2, preambular ¶ 4. *See also* Res 76/300, *supra* note 60, at preambular ¶ 11.

68. Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

69. *Status of Ratifications*, *supra* note 66.

70. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, Oct. 6, 1999, 2131 U.N.T.S. 83.

the second meeting of the TPNW States parties scheduled for 2023.⁷¹

71. First Meeting Report, *supra* note 16, art. VII, ¶ 27.