

Treaty on the Prohibition of Nuclear Weapons

April 25, 2019

Manifest Pedagogy

Issue of nuclear weapons has come to the fore again owing to withdrawal of US from INF treaty and the threat of nuclear weapons in South Asia owing to the Pulwama attack. Hence nuclear governance as an issue becomes important

In news

The Preparatory Committee for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) is scheduled to hold its third session from 29 April to 10 May 2019 at UN Headquarters in New York

Placing it in the syllabus

Global groupings and agreements involving India and/or affecting India's interests

Static dimensions

- History and provisions

Current dimensions

- Comparison with NPT and CTBT

Content

History of Treaty on the prohibition of Nuclear weapons

- Attempts to outlaw nuclear weapons date back to the early atomic age. However, the Nuclear Weapons

Prohibition Treaty originates from the Humanitarian Initiative (first attempt in 2010), a group of non-nuclear weapons states that have sought to push forward nuclear disarmament by focusing on the severe humanitarian consequences of the nuclear war. One of such Humanitarian initiatives was taken at NPT Review conference in 2015, but the conference failed to adopt a consensus final document.

- Many countries were dissatisfied with this outcome and sought to shift efforts to advance the disarmament agenda within the **United Nations General Assembly to an open-ended working group (OEWG)** on nuclear disarmament.
- In 2016 at the three open-ended working group meetings in Geneva in 2016, participating states discussed strategies for moving the nuclear disarmament agenda forward. Some states such as Algeria, Brazil, Indonesia, and South Africa, spoke in favor of opening negotiations for a ban treaty.
- But the Nuclear-reliant states present opposed this fast-tracked approach to disarmament, speaking in favor of the “building blocks,” or “progressive,” approach.
- The proponents of a ban were successful, and at the OEWG’s third session, states voted to adopt the final report recommending the UN General Assembly convene a conference in 2017 to prohibit nuclear weapons.
- But all 9 states possessing nuclear weapons boycotted the OEWG.
- **Role of Non-governmental organization:** The International Campaign to Abolish Nuclear Weapons (**ICAN**) is a coalition of non-governmental organizations in one hundred countries promoting adherence to and implementation of the United Nations nuclear weapon ban treaty.
- The treaty was negotiated at the United Nations headquarters in New York in March, June and July 2017, with the participation of more than 135 nations, as well as members of civil society. It opened for signature on

20 September 2017. It is permanent in nature, and will be legally binding on those nations that join it.

Provisions of the Treaty on the prohibition of nuclear weapons

- **The treaty recognizes “the disproportionate impact of nuclear-weapon activities on indigenous peoples”.**
- This treaty also expresses compliance with existing law: the UN Charter, international humanitarian law, international human rights law, the very first UN resolution adopted on January 24, 1946, the NPT, the Comprehensive Nuclear-Test-Ban Treaty, and its verification regime, as well as nuclear-weapon-free zones.
- It emphasized the “inalienable right” of **peaceful use of nuclear energy**.
- The treaty mentions prohibitions against the development, testing, production, stockpiling, stationing, transfer, use, and threat of use of nuclear weapons, as well as against assistance and encouragement to the prohibited activities.
- It mentions that any direct or indirect “control over nuclear weapons or other nuclear explosive devices” is forbidden.
- The treaty under article 2 requires each party to declare whether it had nuclear weapons of their own or deployed on its territory, including the elimination or conversion of related facilities.
- The treaty even requires parties that do not possess nuclear weapons to maintain their existing IAEA safeguards and, if they have not already done so, to accept safeguards based on the model for non-nuclear-weapon states under the NPT.
- It sets out general procedures for negotiations with an individual nuclear-armed state becoming a party to the treaty, including time limits and responsibilities.
- Under the treaty if that state has eliminated its

nuclear weapons before becoming a party to the treaty, an unspecified “competent international authority” will verify that elimination, and the state must also conclude a safeguards agreement with the IAEA to provide credible assurance that it has not diverted nuclear material and has no undeclared nuclear material or activities.

- Under the treaty, it obliges to environmental remediation and to assistance for the victims of the use and testing of nuclear weapons

NPT, TPNW, and CTBT

There are some similarities as well as differences among the NPT, TPNW and CTBT treaties, they are;

- TPNW prohibits the development, production, manufacture, acquisition, possession, stockpiling, transfer, stationing, installation, and threat of use of nuclear weapons. In so doing, **it reinforces states' commitments to the nuclear Nonproliferation Treaty (NPT) and the Comprehensive Test Ban Treaty (CTBT).**
- The TPNW preamble explicitly mentions the NPT, which **reaffirms that the full and effective implementation of the NPT**, which serves as the cornerstone of the nuclear disarmament and non-proliferation regime, has a vital role to play in promoting international peace and security.
- Another, more **implicit reference to the NPT is Article 18**, which states that ‘ the implementation of this Treaty shall not prejudice the obligations undertaken by States Parties with regard to existing international agreements to which they are party, where those obligations are in accordance with the Treaty. ‘
- Some argue that the latter part of the above formulation subordinates the NPT to the treaty of prohibition.” This concern, however, is based on the premise that the obligations of the two treaties are inconsistent.

- The preamble to the TPNW pays tribute to the **continued role of the NPT**, reaffirming its vital role in promoting international peace and security
- Article 18 of the treaty further notes that the TPNW shall not prejudice obligations undertaken by States Parties with regard to existing international agreements, but adds that such obligations have to be “consistent” with the TPNW. Yet, **some of the provisions of the TPNW are not consistent with NPT.**
- The new Treaty on the Prohibition of Nuclear Weapons’ (TPNW) includes a provision prohibiting nuclear testing but some questions have emerged about the relationship of the new treaty to the CTBT.
- While some claim that prohibiting nuclear testing in the TPNW would strengthen the Comprehensive Test Ban Treaty (CTBT) by further reinforcing the global moratorium on nuclear testing, others argue that it could undermine the CTBT by creating inconsistencies in between the two treaties.
- **The TPNW includes several references to nuclear testing and the CTBT.** Its preamble **recognizes the “vital importance” of the CTBT** “as a core element of the nuclear disarmament and non-proliferation regime.” Its first operative article prohibits the testing of “nuclear weapons or other nuclear explosive devices.”
- **The TPNW goes beyond the CTBT in recognizing the suffering of those impacted by nuclear testing.** The TPNW’s preamble acknowledges the “unacceptable harm” caused to victims of nuclear testing. Article 6 requires that states-parties provide humanitarian assistance to those affected by nuclear weapons testing and take steps toward environmental remediation of areas contaminated by nuclear testing.
- Some states participating in the TPNW negotiations claimed that the new treaty’s testing prohibition also bans subcritical tests and computer simulations that are related to nuclear weapons research and development,

which are not covered by the CTBT because subcritical tests are not nuclear explosions.