

LIVING 'ONE TANTRUM AWAY' FROM A NUCLEAR STRIKE

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The Treaty on the Prohibition of Nuclear Weapons is of historic importance since its obligations are much more comprehensive than those of any previous disarmament agreement. In the midst of a raging COVID-19 pandemic and a growing economic and political crisis in the United States, the entry into force of the Treaty is likely to be overshadowed by other events. But the uncertainty originated by former President Trump's access to nuclear codes shows the need to raise awareness about nuclear threats.

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January 22, 2021, is the date of the historic entering into force of the Treaty on the Prohibition of Nuclear Weapons. The treaty will be legally binding only to signatory state parties. Despite the fact that this group does not include any nuclear armed states, the treaty is nevertheless of historic importance since its obligations are much more comprehensive than those of any previous disarmament agreement. The treaty prohibits signatory states to develop; manufacture, produce, or otherwise acquire; possess or stockpile; transfer; test, use; or threaten to use nuclear weapons or other nuclear explosive devices. Each state party must also not allow stationing, installation, or deployment of any such weapons or devices within its territory. The adoption of the so-called Ban Treaty on July 7, 2017 by 122 states in total, as well as its quick signature by 86 and ratification by 51 states, reflect a strong commitment to the elimination of nuclear weapons by the majority of the non-nuclear-weapon states.

The International Campaign to Abolish Nuclear Weapons (ICAN), which has played an important role in the campaign leading to the adoption of the treaty and its entry into force, organized a number of **events to mark the day when nuclear weapons become illegal under international law**. Despite normative significance of this day, the addition of a new pillar to the nuclear non-proliferation regime might remain relatively unnoticed. In the midst of a raging COVID-19 pandemic and a growing economic and political crisis in the United States, the entry into force of the Treaty is likely to be overshadowed by other events. The United States and other allied countries that decided to boycott the UN-mandated negotiations of the ban treaty in 2017 are not going to pay much attention to its entry into force. Ironically, growing concerns about President Trump's mental instability and his access to US nuclear codes in the waning days of his administration have brought a new urgency to the need of stigmatization, prohibition and elimination of nuclear weapons.

Following the riots at the Capitol Hill and among the calls for President Trump's resignation or removal from the Office after the speech he delivered at the "March to Save America" on January 6 directly preceding the assault, the US House Speaker Nancy Pelosi asked the Pentagon's leadership to limit President's ability to use nuclear weapons during his final days in office. She spoke with the chairman of the Joint Chiefs of Staff, Gen. Mark Milley about "available precautions" to prevent president from initiating military hostilities or using his sole authority to launch codes and order a nuclear strike. Ms. Pelosi's action, essentially asking the Pentagon leadership to limit Donald Trump's authority as the commander in chief by ignoring the president's orders or slowing them by questioning their legality, is unprecedented in US history. Separately, several senators and members of Congress wrote to Gen. Milley and acting Defense Secretary, Christopher Miller, requesting that checks be put in place on the president's ability to launch nuclear weapons.

Under current rules, the president has sole authority to order the use of nuclear weapons at any time. Experts have expressed concerns about this rule for a long time and have proposed to modify this crucial decision-making procedure so as to require one or more officials to concur with a presidential order. An article published in the *Bulletin of the Atomic Scientists* in 2018 and **republished on January 8 this year**, recalls that during the Watergate scandal, President Nixon was drinking heavily and many advisers considered him unstable. James Schlesinger, Defense Secretary in the Nixon's administration, reportedly instructed the Joint Chiefs of Staff that "any emergency order coming from the President" such as a nuclear launch order – should go through him or Secretary of State Henry Kissinger first. Therefore, while an official attempt by the House Speaker to prevent "an unhinged president" from initiating military action abroad or using his sole authority to launch nuclear strike might be unprecedented, a risk of an unstable president using his powers to start a nuclear war is not hypothetical.

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Beatrice Fihn, the executive director of ICAN, warned about the risk of an unstable president launching an attack in her **acceptance speech** at the Nobel Peace Prize ceremony in 2017: "The story of nuclear weapons will have an ending, and it is up to us what that ending will be. Will it be the end of nuclear weapons, or will it be the end of us? One of these things will happen. The only rational course of action is to cease living under the conditions where our mutual destruction is only one impulsive tantrum away". Hopefully, avoiding the worst-case scenario is still possible and the uncertainty originated by President Trump's access to nuclear codes can be used by ICAN and other supporters of the ban treaty to raise awareness about nuclear threats.

While the anxiety around nuclear war has receded with the end of the Cold War, the risk of a nuclear confrontation is currently considered by experts in the field more likely than at the height of the Cold War. An estimated 13,400 of nuclear warheads exist worldwide. According to ICAN report on global nuclear spending 2019, the nuclear armed states spent a total of \$72.9 billion for the maintenance and modernization of their nuclear arsenals, with the US spending of \$35.4 billion. Experts estimate that the US keeps about 900 nuclear warheads on high alert, but the exact number is classified. The Nuclear Non-Proliferation Treaty (NPT) regime is widely perceived to be in jeopardy due to lack of progress in nuclear disarmament, deterioration of the arm control agreements between the US and Russia, unresolved issues of the North Korean nuclear program and a potential collapse of the Iran nuclear deal after the US withdrawal. In December 2020, President Trump asked for military options that might be taken in response to Iran's escalating production of nuclear fuel. In late-2019 the US deployed for the first time a new low-yield W76-2 warhead on the USS Tennessee. They justified this deployment as a response to Russia allegedly lowering their threshold for first use of its tactical nuclear weapons in a limited regional conflict.

All these developments are extremely worrisome. The efforts to abolish nuclear weapons, that started in 1945 soon after their invention by the US and their first use against Japan, have been unsuccessful for decades. A fundamental change of discourse about nuclear weapons in 2010 - focusing on the catastrophic humanitarian consequences of any use of nuclear weapons - as opposed to national security, deterrence and strategic stability, and the 'humanitarian initiative' that followed, made the adoption of the Ban Treaty possible. The five nuclear powers, all permanent members of the UN Security Council, boycotted the process to make nuclear weapons illegal under international law. Despite enormous pressure from the nuclear powers, the non-nuclear-weapon states rejected the existing *status quo*. The entry of the TPNW into force will not eliminate any weapons immediately, but it will require the elaboration of a new *modus vivendi* between supporters and opponents of the treaty. The ban treaty not only asserted illegitimacy of continued possession, deployment and the doctrine of deterrence, but also serves as an alternative framework for mobilizing states to the cause of nuclear disarmament. While the practical consequences so far appear small, the ban treaty ensures that there will be continued diplomatic and civil society pressure on the nuclear-weapon states to disarm.