

The University of Chicago

Dreaming of Global Zero: Establishing The Role of Utopian Treaties in International Politics

By Alec Pelton

June 2021

A paper submitted in partial fulfillment of the requirements for the Master of Arts degree
in the Master of Arts program in the Committee on International Relations

Faculty Advisor: Austin Carson
Preceptor: Yubing Sheng

Introduction

Nuclear weapons are the most terrible tool of destruction in mankind's arsenal. Activists have decried not only their spread, but their very existence, since the US used them to raze Hiroshima and Nagasaki. Nuclear weapons states have replied that complete abolition would be disastrous: the means and the knowledge to make atomic weapons would endure, and would create dangerous pressures to develop and use a nuclear arsenal before your opponent if war broke out.¹ Moreover, conventional wisdom holds that a secure nuclear arsenal guarantees a nation's survival, as it makes traditional wars of conquest unwinnable.² Once a country has nuclear weapons, it is exceedingly unlikely to give them up.

Despite this deep entrenchment, state and non-state actors continue to campaign for the total elimination of nuclear weapons. In January 2021, the UN Treaty on the Prohibition of Nuclear Weapons (TPNW) went into effect. Parties to the treaty agree not only to never develop or control nuclear weapons in any way, but to eliminate any they may have, and to refuse nuclear protection of the sort offered by the US to its European and Asian allies.³ None of the nuclear weapons states, nor any of their close allies, signed on to the treaty. So: what is the point of a nuclear abolition treaty which is entirely ignored by the relevant parties – states possessing nuclear weapons?

The stated goals of the treaty and its supporters are moral and normative. These ethical motivations are complimented by security concerns, providing clear incentive to pursue the goal of nuclear abolition. The moral horror of nuclear weapons and their immense destructive power is widespread and deeply felt.⁴ For many leaders, fighting for nuclear abolition is both a personally

¹ Schelling, *Arms and Influence*

² Lieber & Press, *Myth of the Nuclear Revolution*

³ Treaty on the Prohibition of Nuclear Weapons

⁴ Reichberg, Syse, & Begby, *The ethics of war: classic and contemporary readings*; Carpenter & Montgomery, "The Stopping Power of Norms;" Tannenwald, "The Nuclear Taboo"

important goal, and a politically expedient one. Nuclear abolition also offers strategic rewards: in addition to leveling the playing field between nuclear haves and have nots, it reduces the threat of future arms races, and would end the era of existential terror created by the ubiquity of mutually assured destruction deterrence strategies. However, while these normative and rational interests explain why states might pursue nuclear abolition, they offer little insight into why states would advance these efforts without the involvement of any actual possessors of nuclear weapons.

I argue that, unlike most international treaties, the TPNW draws little, if any, power from the legal obligations it imposes, since the only states whose behavior would be altered by these terms studiously avoid joining it. Instead, it is an exercise in social and normative power. The TPNW establishes nuclear weapons as illegitimate while formalizing the community of states which endorse this normative assertion; with time, these combined pressures may cause possession of nuclear weapons to become sufficiently stigmatized to lead nuclear weapons states to seriously engage in disarmament.⁵ This normative rather than legalistic character distinguishes the TPNW from the bulk of international treaties, and necessitates the creation of an analytically distinct category within which to work: the utopian treaty. Unlike regular treaties, utopian treaties are not legal instruments so much as normative ones. Moreover, rather than being defined by political bargaining and what is “possible,” utopian treaties are visionary tools for establishing new realities over time. The TPNW is not the first treaty to fall into this category: the Kellogg-Briand Pact, which attempted to outlaw war in 1929, represents a similarly ambitious effort. The Pact’s disastrous failure has earned the scorn of scholars of history and international relations alike, and suggests that utopian treatymaking is a fool’s game; however, TPNW states clearly see potential

⁵ Gibbons, “Addressing the Nuclear Ban Treaty;” Sauer & Reveraert, “The potential stigmatizing effect of the treaty on the prohibition of nuclear weapons;” Considine, “Contests of legitimacy and value;” Bowers, *Norms without the Great Powers*

in such treaties. Studying the variation between the Kellogg-Briand Pact and the TPNW highlights how states have refined the utopian treaty, offering a lens for understanding what TPNW states hope to achieve, how they have set about making it happen, and their chances for success.

This project creates a deeper understanding of one of the most ambitious, puzzling treaties in recent history. I offer a theory of how and why utopian treaties like the TPNW are developed, providing insight into how and why the TPNW exists independent of the nuclear powers. Unlike pessimistic realists, I argue that the TPNW is an instrument of great potential, though it will take time (and is not guaranteed) to realize that promise. While stopping well short of exuberant liberal internationalist theories, which see enormous immediate power in treaties, I provide a new argument for the power of ideas and social groups in international politics. It is a bounded constructivist theory which rejects overly cynical views of utopian treaties while nonetheless acknowledging their limitations.

The utopian treaty framework allows for a more nuanced view of the TPNW than existing theories offer. It also broadens the significance of my work, by highlighting the power of utopian politics and the ways in which states – in particular, smaller states – seek to harness them. This has implications for state and nonstate actors seeking fundamental changes in the international community's actions. There are numerous issues facing the world which could plausibly be addressed via utopian treaty: enduring concerns about war and peace include not only the anti-nuclear campaign which produced the TPNW, but novel concerns about weaponized AI and robotic warfare, while humanitarian concerns increasingly define the environmental movement's efforts. This thesis provides a means of understanding how groups might coalesce around utopian treaties, and what that might mean for their ability to achieve their goals.

This paper proceeds as follows. First, I review the literature on the role of treaties in the international system, exploring theories which are confident in the importance of treaties, and then theories which are more skeptical. Then, I review prior work on utopianism, before establishing what I mean when I refer to utopian treaties – what they are and why they matter. Building on these ideas, I argue that two types of states sign on to utopian treaties: early adapting normative entrepreneurs and latecomers motivated by social strategic considerations. I apply this thinking to the Kellogg-Briand Pact to test its validity. Finally, I examine the TPNW to see how well it fits this framework, concluding by considering what this theory means for the TPNW's prospects for success, and the role of utopian treaties in international politics more generally.

Literature Review

Traditional Theories of Treaties & Relevance for their Utopian Counterparts

Treaties are international law: states which choose to ratify them become legally obligated to follow their provisions, with few exceptions.⁶ This makes commitments to a shared behavior or goal more credible, and allows states to pursue cooperative policies more vigorously than they could without the treaty mechanism. Thus treaties help bridge the trust gap between nations to make mutually beneficial policies possible. How reliably they do so, however, remains debated. International legal scholars and international relations (IR) theorists in particular tend to disagree on this question, with legal works generally showing confidence that the normative and legal obligations of treaties meaningfully bind nations. While some IR scholars agree, others argue that treaty membership and compliance is a matter of strategic self-interest. The conversation between these fields has yielded helpful nuance in both positions, but has failed to fully resolve the debate.

⁶ Cole, "Hard and Soft Commitments to Human Rights Treaties" p. 567 – states can choose to water down their commitments even while ratifying in the treaty equivalent of line item vetoes.

Understanding the status of “conventional” treaties reveals how and why utopian treaties differ in key ways. In particular, utopian treaties privilege their normative components above their legal ones; as I will argue below, this is driven in part by a recognition that some realist critiques are not only valid, but useful starting points for constructing treaties which leverage utopian politics to, at least partially, resolve the problems realists identify.

Liberal Institutional Optimism

Treaties vary in strength, as do state commitments to them; nonetheless, they are generally a crucial instrument of statecraft.⁷ The post-WWII international system is deeply legalized, with states frequently interacting via global and regional multilateral organizations and bilateral agreements.⁸ This long track record is the basis for the position that “almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time.”⁹ This is a remarkably confident view; it suggests that, as long as you can get nations into a treaty, you can expect them to comply. The implications are major: treaties are highly reliable tools of cooperation and coordination, and nations can both pursue their development and implementation secure in the knowledge that they will bind members to the desired outcome.

This view suggests that treaties can be effective tools of change. According to Abbott & Snidal, treaties “requir[e] commitment to a background set of legal norms – including engagement in established legal processes and discourse – [so] legalization provides actors with a means to instantiate normative values.”¹⁰ This process – shared legal norms to treaty formation to legal

⁷ See Ikenberry, “The Future of the Liberal World Order;” Ikenberry, “Institutions, Strategic Restraint, and the Persistence of American Postwar Order;” Keohane, “Institutional Theory and the Realist Challenge After the Cold War;” Delors, “European Unification and European Security”

⁸ Abbott & Snidal, “Hard and soft law in international governance” p. 421

⁹ Louis Henkin, *How Nations Behave* 47 (2d ed. 1979), as cited in Hathaway, “Do human rights treaties make a difference?” p. 1937

¹⁰ Abbott & Snidal, “Hard and soft law in international governance” p. 422

obligation – has been extensively deployed to establish human rights protections, demonstrating the transformative power of treaties.¹¹ Some scholars have argued for an expansive reading of the power granted by the most widespread of these treaties (the UN Declaration of Human Rights), arguing that it gives states the legal right to protect citizens in other nations, essentially granting members jurisdiction in each other's territory.¹² Such conditional undermining of the ultimate international norm – sovereignty – demonstrates the enormous transformative potential of treaties.

Realist Pessimism

There are two main objections to such optimistic arguments about treaties. The first is that not all treaties are created equal: the UNDHR is an outlier, with unusually widespread membership and ability to surveil compliance.¹³ Moreover, states can choose how deeply they want to enmesh themselves within a treaty, and choose based solely off of their national interests.¹⁴ Once again, the UNDHR is unusual; many countries have not only ratified it, but written it into their constitutions.¹⁵ States joining other treaties, however, may choose only to sign; or to ratify, but with reservations which limit the country's commitment to the treaty; or, of course, not to sign at all.¹⁶ Further, escape clauses are written into treaties, giving states the right to leave at any time.¹⁷ Finally, states' willingness to enter a treaty, and their decisions about how deeply enmeshed to become, are highly dependent on strategic calculations informed by how many other states have joined, and how powerful the treaty's enforcement mechanisms are.¹⁸

¹¹ Tomuschat, *Human Rights*

¹² Blau & Moncada, "It ought to be a crime" p. 367

¹³ Cole "Hard and Soft Commitments to Human Rights Treaties" p. 567

¹⁴ Mearsheimer, "The False Promise of International Institutions" p7

¹⁵ Blau & Moncada, "It ought to be a crime" p. 367-8

¹⁶ Cole "Hard and Soft Commitments to Human Rights Treaties" p. 567

¹⁷ Helfer, "Exiting Treaties;" for a particularly vivid illustration of this, see the US's infamous Hague Invasion Act

¹⁸ Cole "Hard and Soft Commitments to Human Rights Treaties" p. 583

Taken together, these facts point toward a more realist theory of treaties in IR: while treaties may play an important role in international politics, states' commitment to them is not guaranteed, and moreover, subject more to shifting strategic interests than shared normative ideals.¹⁹ Once again, human rights law is relevant; this time, however, it provides evidence for the limited power of treaties. Hathaway argues that while human rights treaty ratification is widespread, noncompliance is also common, and, more vexingly, that ratification can be "associated with worse human rights ratings than otherwise expected."²⁰ This finding challenges the optimists: neither the legal nor normative obligations of these treaties appear to be working. Worse, they seem to be vulnerable to being coopted; human rights abusing regimes may opt in to these treaties to gain rhetorical cover for their actions. Treaties may not be as capable of achieving their goals as the optimists would argue. Not only do they lose popularity as their coercive power increases, but treaties with weak enforcement mechanisms are vulnerable to defections and irrelevance.

Utopianism and the International Realm

Utopianism is characterized above all by vision: the ability to conceive of alternative modes of being which solve problems and uplift mankind.²¹ But vision alone strays into wishful thinking. Utopian politics become meaningful when they marry novel ideas with the means by which they might become familiar.²² They are the processes by which the impractical becomes, if not immediately practical, at least more plausible. Finnemore and Jurkovich explicate the role of utopianism in politics, though they use the term aspiration, arguing that it is characterized by high

¹⁹ Helfer, "Exiting Treaties" p. 1581; Cole "Hard and Soft Commitments to Human Rights Treaties" p. 583; Mearsheimer, "The False Promise of International Institutions"

²⁰ Hathaway, "Do human rights treaties make a difference?" p. 1940

²¹ Brincat, "Reclaiming the Utopian Imaginary in IR Theory" p. 582; Berenskoetter, "Reclaiming the Vision Thing" p. 654

²² See Getachew, *Worldmaking after Empire*; Thaler, "Hope Abjuring Hope"

ambition, commitment to a long-term process of change, and transformative implications.²³ In particular, they claim that aspiration plays a critical role in revising what appears possible, driving progress by introducing ambitious new norms or ideas into the international system.²⁴ Finally, they say that aspiration is a social process which affirms shared identities and values.²⁵ These claims track closely with my understanding of utopianism, and my arguments about how utopian treaties are formed and exert influence. My concept of utopian treaties expands on Finnemore and Jurkovich's work by applying it to a novel theoretical construct, channeling additional scholarship to reinforce the ideas they introduce while broadening the relevance of their work.

Argument

The Politics of Utopia & Utopian Treaties

Utopianism often gets a bad rap as naïve, wishful thinking; critics have gone so far as to attack the basic premise that there might be social solutions to social problems. In the 1980s, Margaret Thatcher and Ronald Reagan launched the neoliberal attack on utopianism, saying “there is no such thing as society” and “government is not the solution to our problem; government is the problem” respectively.²⁶ David Bell captures the success of this campaign, writing in 2001 that “we may not be at the ‘end of history,’ but we do seem to be at the end of a period in which reshaping human society into some sort of ideally harmonious order was seen as the central task for human beings to accomplish.”²⁷ While these claims may continue to resonate in the US and UK, the development and implementation of the TPNW gives lie to claims of their universality.

²³ Finnemore & Jurkovich, “The Politics of Aspiration” p. 760

²⁴ *Ibid.*, p. 761

²⁵ *Ibid.*

²⁶ Robinson, “The Coronavirus is rewriting our imaginations”

²⁷ Bell, *The Cult of the Nation in France* p. 216

Utopianism is alive and well in international politics, and is a critical component of the TPNW; understanding the treaty, and others like it, requires developing the concept of a utopian treaty, distinct from “conventional” treaties, based on the unique nature and power of utopian politics.

Utopian treaties must strike a balance between setting out a novel vision of the world and a framework by which that future might be made real. All treaties contain a proposition about how the world should change; utopian treaties differ in the novelty or radicalness of this vision. Rather than offering marginal tweaks to the conduct of states, utopian treaties call for a fundamental change in how states (inter)act. Such radicalism, however, limits these treaties’ legal options.

Focusing on this duality of utopian treaties yields a few analytical advantages. It hews closely to the most sophisticated understandings of utopianism, which reject the commonly applied pejorative “starry eyed dreamer” label in favor recognizing the interplay between vision and realism in utopianism.²⁸ It provides a clear conceptual parallel to the legal and normative aspects of international treaties and an accordingly straightforward distinction between utopian and conventional treaties.²⁹ This approach acknowledges that the utopian treaty is not a perfectly constant form: important differences in the balance between vision and practice can, and do, exist among these treaties. It also allows utopian treaty status to be located in multiple places, as some treaties will reveal their utopian nature in their contents, while others will be more opaque and require an understanding of the political context in which they are created.

What, then, is a utopian treaty? Utopian treaties are distinguished above all by their promotion of a radical vision at the expense of their legal implications and ambitions. In Martti Koskenniemi’s words, “[a] law which would base itself on principles which are unrelated to State

²⁸ Berenskoetter, “Reclaiming the Vision Thing;” Ashenden & Hess *Between Utopia and Realism*; Brincat, “Reclaiming the Utopian Imaginary in IR Theory”

²⁹ Koskenniemi *From Apology to Utopia*; Hathaway, “Do human rights treaties make a difference?” p. 1940-1

behaviour, will or interest would seem utopian, incapable of demonstrating its own content in any reliable way.”³⁰ All treaties have a legal component; but in utopian treaties this aspect is underdeveloped. Kellogg-Briand’s lack of meaningful enforcement mechanisms reflects this; in the TPNW, the conscious decision not to worry about including or appealing to states which are directly impacted by the treaty’s legal requirements reveals it. Koskenniemi’s formulation, like most treatments of utopianism, suggests that this leads to impotence. Counter this view, I argue that utopian treaties are primarily a tool of incremental change and draw strength from focusing on their normative aspirations, rather than their legal contents.³¹ This formulation resolves the problem observed by realists that overly demanding legal terms often limit participation, and instead opens the way for wider adoption of utopian treaties than would otherwise be possible.³² Broad adoption of the treaty both establishes the utopian vision in the international system, and creates pressure on noncompliant states to join up, giving utopian treaties meaningful nonmaterial power.³³ This position falls well short of the optimists’ view of powerful treaties, and does not deny that realist power considerations also remain important for determining membership and coercive power.³⁴ Utopian treaties are ultimately characterized by incrementalism: while promising revolution, they deliver instead normative and social foundations upon which to build.

³⁰ Koskenniemi *From Apology to Utopia* p17

³¹ This definition is admittedly quite subjective, and leaves room for debate over which treaties can be considered utopian. The two paradigmatic utopian treaties I engage with seem to me to clearly fit this definition, but others which are more briefly considered, such as the Ottawa treaty banning landmines and the Paris climate accords, may be more contested. I do not think this is necessarily a weakness of this definition or concept, since it accurately reflects the diverse range of treaties which could be considered utopian and the remarkable variation between them. A less subjective, more tightly constrained definition would struggle to incorporate this important fact.

³² To be sure, utopian treaties are demanding, and their demands may very well drive away some states; the TPNW is proof of this. However, the nature of these demands, which are primarily normative, rather than legal, opens the door for participation among many other nations – see again the TPNW.

³³ For non-material power, see Bachrach & Baratz, “Two faces of power,” Lukes, *Power: A Radical View*, Long, “Small States, Great Power?” and Barnett & Duvall, “Power in international relations”

³⁴ I am following Tannenwald’s lead (“The Nuclear Taboo” p. 439-440) in recognizing the relevance of realist strategic considerations, while nonetheless insisting on the necessity of an ideational component to tell the whole story.

In addition to the TPNW and Kellogg-Briand, the League of Nations' charter and the Paris Accords are examples of utopian treaties. The League, like Kellogg-Briand, was frequently ridiculed for its weakness. This weakness arose from its overwhelming focus on establishing a novel vision of multilateralism and international institutionalism which simply did not exist, and accordingly constrained its legal ambitions.³⁵ Likewise, the Paris Accords have frequently been pilloried for lacking serious enforcement mechanisms binding its members; instead, they appear more a proof of concept of the idea that the world's nations could transcend strategic rivalries and disincentives to tackle climate change. These examples highlight the vision component of utopian treaties – both propose a fundamental reordering of interstate relationships and obligations – and the practical sacrifices necessary to create such treaties at all. They also reveal an important facet of utopian treaties: while they are the product of intense negotiation, they are not grand bargains or the product of horse trading.³⁶ The concessions necessary for utopian treaties lie not in their normative demands, but in how strongly those claims are translated into law.

If utopian treaties are characterized by their preference for normative innovation over legal commitment, how does this differ from conventional treaties? The TPNW is essentially an arms control treaty; examples of non-utopian arms control treaties abound. New START, a bilateral nuclear arms control treaty between the US and Russia, is a critical, but not utopian, treaty. It is centered on legal obligations; and, those obligations are relatively unambitious – the treaty seeks to moderate, rather than fundamentally change, existing patterns of behavior – making it a conventional treaty. Kellogg-Briand proposes a multilateral solution to conflict; non-utopian

³⁵ The subsequent formation of the UN represents a continuation of this utopian vision, which has proven more (though still not fully) successful. Still, the ongoing development of humanitarian, multilateral, and pacifist norms through the UN all point to the long-run power of such efforts.

³⁶ Utopian treaties are subject to intense negotiation. The Paris Accords, for example, are the result of contentious jockeying over what constituted acceptable emissions standards. These negotiations, however, were not a quid pro quo or bargain, but rather a contestation of how ambitious a treaty was feasible.

equivalents include alliance structures like NATO, which place high value on international cooperation to prevent war, but propose no novel vision about the nature of international politics.³⁷

Finally, a brief note on the moral implications and claims of utopianism. As a political phenomenon which claims a vision for a better future, utopianism can easily appear to be an inherently good pursuit. Definitions of what makes a better future, however, are potentially deeply contested, and utopianism can serve to whitewash truly awful ideas. As easily as utopian visions can promote independence and anticolonial movements,³⁸ they can conjure and motivate imperial and white supremacist fantasies of global domination.³⁹ Studies of utopian treaties, and utopian politics more generally, should be sensitive to these disparate possibilities and comfortable evaluating greyer areas than the liberation/oppression examples highlighted here. The TPNW is one such case: against the abolition movement, numerous strategists believe nuclear weapons make the world a safer place.⁴⁰ The nature of the utopian treaty denies validity to opposing views; this casual foreshortening of debate should provoke wariness.

Utopian Treaties In Action: Development and Implications

Utopian treaties propose novel visions of the future, and enshrine them in agreements which focus far more on their normative contentions than their legal contents; but how do they work? I argue that there are two distinct steps, and two distinct types of actors at each step, which characterize utopian treaty development and implementation. First, there are normative innovators – state or nonstate actors who drive states to propose and develop a treaty which formally

³⁷ NATO proponents may argue that it promotes peace, and this may certainly be true. Nonetheless, alliances are an enduring feature of international politics, all of which at least nominally promote peace and security.

³⁸ Getachow, *Worldmaking After Empire*; Rajagopal, “From Resistance to Renewal: The Third World, Social Movements, and the Expansion of International Institutions;” Rajagopal *Counter-hegemonic international law*

³⁹ Bell, *Dreamworlds of Race*; Anghie *Imperialism, sovereignty and the making of international law*

⁴⁰ See Jervis, *The Meaning of the Nuclear revolution*; Sagan & Waltz, *The Spread of Nuclear Weapons*; Lieber & Press, *The myth of the nuclear revolution*

establishes their vision in the international system. Second, there are followers, who join this effort as a result of growing status pressures related to the acceptance of the proposed norm and development of a formalized community around it. Ultimately, these dynamics can substantively alter the international political environment in which states operate. This argument focuses on how utopian treaties work in order to answer why states pursue them.⁴¹

Normative and utopian commitment

Understanding why states pursue utopian treaties requires answering two related questions: what motivates states to propose them, and what keeps them committed to the effort even as inherent challenges and limitations come into focus? The first component of this question speaks to the normative underpinnings of utopian treaties. Utopian treaties are, by definition, normatively motivated: they reflect an idea of how the world should be, and seek to make it thus. While this is true for all treaties, utopian ones are particularly focused on perceived injustices or unacceptable practices, and make strongly normative and moral arguments in favor of fundamentally changing states' behavior. This distinction can be seen in the stated purpose of the two utopian treaties I consider here (the TPNW and the Kellogg-Briand Pact). Both treaties begin with a series of normative declarations stating the urgency of their mission, before turning to the clauses by which they seek to realize their goal.⁴² Utopianism is about a vision for the better future; states pursue utopian treaties in part because of the normative commitments this entails.⁴³

Normative innovations in the international system can arise from multiple sources. Whether the normative entrepreneur is an individual, nongovernmental organization, or state,

⁴¹ My argument parallels Finnemore & Jurkovich's in "The Politics of Aspiration," while expanding past their focus.

⁴² Treaty on the Prohibition of Nuclear Weapons; Kellogg-Briand Pact in Hunter Miller *The Peace Pact of Paris* p. 246-251

⁴³ This fact is also reflected in the formation of numerous human rights treaties; see Tomuschat, *Human Rights*

however, these innovations are informed by a desire to positively change the world: actors observe behavior they find unconscionable, and set out to recruit wider support for this position.⁴⁴ As noted previously, such motives can give rise to deeply objectionable positions like the Anglo-American white supremacist vision of world domination; nonetheless, even such problematic visions are built on a belief that they would improve the world.⁴⁵ The fundamental source of the normative innovations which motivate utopian treaties is therefore, in its most basic (and diffuse) form, actors who are dissatisfied with the status quo. Utopian treaties reflect this dissatisfaction, and are an attempt to revise the status quo in a more desirable (according to the normative innovators) direction. These innovators may be members of state decision-making apparatuses, or non-governmental actors who succeed in bringing state actors in line with their vision. In either case, the impetus for utopian treaties is the same. Ultimately, utopian treaties are motivated by a belief in a vision for a better future.⁴⁶

Strategic Power of Status Concerns

While utopian treaties are conceived of and championed by idealists, not all subsequent members will share these normative motives. Instead, later joiners are motivated more by strategic considerations than utopian ones. Crucially, however, those strategic interests are the result of ideational factors and social phenomena. As participation in a utopian treaty grows, members can leverage this growing community and their original normative claims to reward joining the treaty,

⁴⁴ Finnemore & Sikkink, "International norm dynamics and political change" p. 898; this is arguably *the* classic treatment of norms in international politics.

⁴⁵ Bell, *Dreamworlds of Race*

⁴⁶ It is possible that states might introduce new norms and seek to formalize them in treaty form for purely self-interested reasons, and indeed classic treatments of the Kellogg-Briand Pact in particular advance this position. As we will see, however, such arguments are incomplete; while there may be strategic incentives for states to pursue utopian treaties, these incentives alone are not enough. The incremental nature of utopian treaties limits their strategic virtue, meaning that while early adapters may have a strategic interest in the treaty, they must also have an ideational commitment to it as well.

and punish states which refuse to join.⁴⁷ Together, these dynamics show how membership in utopian treaties can become widespread, and subsequently begin to suggest how that broad community might exert influence even on states who are not bound by the treaty's terms.

Status remains a contested concept in international relations; nonetheless, recent work suggests that not only is it a meaningful one, but one that is closely related to the normative dynamics explored thus far. Duque explains how a growing community can create a virtuous status feedback loop by creating club dynamics between states.⁴⁸ For her, "status depends on recognition: it concerns identification processes in which an actor receives admission into a club once they are considered to follow the rules of membership."⁴⁹ The connection to utopian treaties is clear; join, and become a member of a social club whose members hold each other in esteem. Cole offers a similar idea – membership in some normative institutions may become so widespread that it becomes "constitutive of statehood."⁵⁰ This idea refers specifically to the human rights regime, and represents a high bar for utopian treaties to clear; it is important, however, because it reinforces the idea that status and identity within the international system are relational and socially constructed. Decisions to join utopian treaties are not based only on strategic analyses of what the treaty's provisions would mean for a prospective member, but also strategic status considerations.

These social dynamics also inform the normative influence utopian treaties wield. Members of utopian treaties can leverage rhetoric surrounding their proposed normative change to create powerful status pressures on nonmembers. This is not a matter of persuading states to change their mind so much as one of framing the issue in such a way that there is no reasonable

⁴⁷ Renshon *Fighting for Status*; Duque, "Recognizing International Status;" this mirrors a process which is present even in conventional treaty formation, identified by Cole, "Hard and Soft Commitments to Human Rights Treaties"

⁴⁸ Duque, "Recognizing International Status"

⁴⁹ Duque, "Recognizing International Status" p. 3

⁵⁰ Cole, "Hard and Soft Commitments to Human Rights Treaties" p. 572

argument against the change – no “socially acceptable rebuttal.”⁵¹ Even a more limited success – in which the terms of debate of the issue at hand are reframed – can be impactful.⁵² Such reframing creates novel status problems for nations who find themselves outside the utopian treaty community’s consensus; these concerns are one of the main ways in which status is converted into action.⁵³ Just as membership in a utopian treaty can increase states’ status, refusal to join can decrease it.⁵⁴

Status concerns motivate states to join utopian treaties in both a positive and negative sense. On the positive side, membership grants access into a club which increases members’ mutual self-regard, providing states with the status security they crave. On the negative side, refusal to join leads to exclusion from these communities, and potentially ostracization if the normative innovation they represent becomes widely enough held. Taken together, when faced with a movement for a utopian treaty, states who are concerned about their status are presented with potentially severe pressures to join. These pressures may not be enough to overcome other considerations counselling against membership for all states in the international community, but they do have two important roles. First, they represent a meaningful addition to the calculus states must perform when weighing their choices, potentially swaying some. Second, they demonstrate the non-material power of these treaties, by influencing states who are not legally bound by

⁵¹ Krebs & Jackson, “Twisting tongues and twisting arms” p. 36

⁵² Mintz & Redd, “Framing effects in international relations;” Barnett & Duvall, “Power in international politics”

⁵³ Renshon *Fighting for Status* p. 4

⁵⁴ This effect is present even in conventional treaties. For one example, consider North Korea and its refusal to join the NPT. As Sagan (“Why do states build nuclear weapons?”) argues, nuclear weapons were once viewed as a status enhancer (p74), but have come to be far less important than membership in the NPT (p76). In the context of my theory, nonproliferation rhetoric and widespread membership in (and therefore adoption of the norms contained within) the NPT makes non-membership a highly disadvantageous position. As the North Korea case highlights, this is not necessarily enough to overcome all the other factors which may lead states to hold out against a treaty; nonetheless, it is a clear example of the significant non-material power wielded by such treaties, and strongly suggests that other states are likely influenced by it when considering whether to join.

membership; this power helps explain why states pursue treaties, like the TPNW, which do not include the states whose behavior they seek to change.

Implications of broad membership & status

My theory of utopian treaties can be summarized in two points. First, states seek utopian treaties out of a genuine desire to change the world for the better. These treaties are an attempt to formally establish a novel vision of how the international system should be, as a first step towards making it reality. Second, growing membership in a utopian treaty generates positive and negative status concerns for states which remain outside of the treaty. Widespread support for the proposed norm-based change influences the international system as a whole, including states which remain outside of the treaty. This influence is not necessarily strong; indeed, utopian treaties are exceedingly unlikely to directly realize the goals enshrined in them. Nonetheless, these utopian treaties possess power, and reshape the international system in meaningful, if subtle, ways.

Though this impact may seem implausible, it is the logical extension of the social and normative pressures exerted by utopian treaties. Realists in particular might question how treaties which states avoid specifically because of their overbearing nature might nonetheless ensnare these states in any meaningful way.⁵⁵ This is precisely the intuition which motivates this thesis: the TPNW includes no nuclear weapons states, so what can its members hope to accomplish? My argument identifies dynamics which offer an explanation that escapes narrowly realist frameworks. Social dynamics – club membership and concern about status – lead more states to sign on to utopian treaties than realists might expect. This enlargement of support beyond the true believers legitimizes the norm enshrined in the treaty, creating an increasingly high status cost to

⁵⁵ While utopian treaties avoid overbearing legal terms, their normative contents can easily appear overbearing; since they are necessarily revisionist, status quo powers in particular are likely to object to them.

staying out of the treaty.⁵⁶ This creates a virtuous cycle for further membership. It also amplifies the non-material power of the treaty, even among states for whom no amount of social or status pressure will be enough to override the strategic sources of their refusal to join. This magnified normative power may not lead to direct behavior change, but can help shift the international community's baseline position on the issue addressed in a treaty, creating the conditions for longer-run change.⁵⁷ In addition to the process by which states form utopian treaties and support for them, this process of long-term normative pressure and change is a key angle from which to test my theory. Without it, my theory essentially holds that states pursue utopian treaties simply out of wishful thinking; I have established that this is an inadequate understanding of utopianism, making it unlikely that states would pursue utopian treaties if they do not have the ability to initiate incremental change. If utopian treaties have this potential, states' motivation to create them becomes not only normative but also strategic, making the entire theory stronger.⁵⁸

Alternative Explanations: Revised realism and domestic politics

There are two alternative explanations to my theory which are particularly challenging. These are a slightly revised realist perspective, which argues that states pursue utopian treaties purely out of strategic concerns (rather than normative commitment), and a domestic politics argument, which reframes support for utopian treaties in domestic political terms.

⁵⁶ Finnemore & Sikkink, "International norm dynamics and political change" p. 900-904

⁵⁷ This long-run change is in many ways a distinguishing feature of utopian treaties from other treaties. The nonproliferation treaty, for example, had similarly transformative goals, but enjoyed such widespread support that it was never truly an utopian treaty. This difference is reflected in the sharp normative discontinuity it introduced: before, nuclear weapons were a status symbol, but after ratification rapidly became a sign of shame, especially among states which did not already possess them (Sagan, "Why do states build nuclear weapons?").

⁵⁸ This places intentionality at the center of my story, by suggesting that states intend to build such novel, system altering normative institutions; as we will see, establishing this intentionality in the Kellogg-Briand Pact may be challenging. The TPNW, however, very explicitly builds on the legacy of the Pact and other such utopian treaties with precisely this aim, revealing the limits of the Pact as a test case, rather than the limits of the theory on the whole. In particular, it suggests that states are refining utopian treaties as a tool of statecraft across time.

The revised realist perspective engages my argument at its base, arguing that utopian treaties are not normatively informed, but are simply an extension of classic power politics. In this case, states would wield utopian goals as simply means to an end, rather than from any genuine commitment to them. However, while states appreciate and take advantage of the strategic benefits of utopian treaties, the historical record shows that ideological commitment to the treaty's normative propositions are also critical. The closest evidence realists could marshal against this contention are human rights treaties, where authoritarian human rights abusing states sign on to treaties in a hypocritical but successful legitimation strategy.⁵⁹ Human rights treaties are not strictly utopian treaties, however, and these states are joining existing treaties rather than initiating them.⁶⁰ As both the Kellogg-Briand Pact and the TPNW cases show, states which initiate utopian treaties strongly profess the value of the normative innovations contained within them. While those normative changes may also have strategic value to these states, it is hard to argue that they are not also motivated by commitment to their intrinsic values as well. This is in some ways hard to test, as it is possible that all professions of normative values are purely strategic, with no genuine commitment behind them. This seems unlikely, however, and the sheer number and intensity of normative statements from the states leading the charge for both the KBP and TPNW provides compelling evidence that states are at least partially motivated by normative commitments.

The domestic politics explanation reframes my argument in terms of the internal considerations which might lead states to support utopian treaties and the normative ideas they represent. These arguments highlight the possible internal political incentives for initiating or

⁵⁹ Hathaway, "Do human rights treaties make a difference?"

⁶⁰ Instead, human rights treaties are the middle step of a process initiated by a utopian vision. Modern human rights treaties are efforts to establish legal protections rather than the normative idea of human rights itself.

joining the potentially costly process of utopian treaty formation.⁶¹ For normative innovators, this argument places domestic incentives in a more central position than my theory. For follower states, rather than focusing on the importance of international politics, the domestic explanation considers how national identity is constructed by citizens, with the implication that behavior is shaped by the degree to which the populace identifies with the normative proposals of a treaty. Status concerns could be flipped from international to domestic – perhaps politicians are incentivized to bring states into treaties (or keep them out) because doing so provides them with prestige among their electorate. The domestic politics explanation therefore focuses on the degree to which the proposed normative innovation enjoys support within a given country, and the political pressures this (and other factors) create for leaders to join or remain apart from an utopian treaty. This argument has been made particularly explicitly for the Kellogg-Briand Pact.⁶² Examining the role of domestic politics in utopian treaty formation is therefore a critical component of my case studies. The degree to which states explicitly or implicitly orient their membership or refusal to join towards domestic audiences provides insight into how central a role this argument deserves. Ultimately, I find that while domestic politics can play an important role in utopian treaties, they are less important than the international and ideational mechanisms I identify; indeed, domestic politics often respond to those very pressures.

Research Design

To test my argument, I will perform case studies of the Kellogg-Briand Pact and the TPNW. These cases allow me to trace the dynamics which I identify in my argument to determine

⁶¹ For example, Kauffman & Pape, “Explaining costly international moral action;” Finnemore & Sikkink, “International norm dynamics and political change”

⁶² In particular, DeBenedetti, “Borah and the Kellogg-Briand Pact”

whether they are meaningful, and how differences in them subsequently impact the formation and legacy of utopian treaties. The TPNW serves as one case because of its role in motivating this project; the puzzles it poses to conventional wisdom drove my inquiry process, so it is a key test case for the argument which I have constructed. The Kellogg-Briand Pact was chosen for the second case because it is an intuitively utopian treaty: it is easy to look at its terms and view it as a utopian project. Furthermore, while it fits naturally into my utopian treaty framework, it differs from the TPNW in a few key ways, providing helpful contrasts which illuminate how utopian treaties can vary and how those differences inform these treaties.

Two major differences between the TPNW and Kellogg-Briand Pact stand out. First, Kellogg-Briand was the product of two leading states – the US and France – and its initial membership was dominated by the other great powers. The TPNW, in contrast, was developed despite the great (nuclear) powers' objections, and contains no great power members. The end result of these rather different processes was the same: a utopian treaty. The variation in the paths toward this result helps tease out more nuanced analyses of the merits of my argument, and serves as a feature of the case selection rather than a bug. The second difference is in the type of treaty each case represents: the TPNW is, ultimately, an arms control agreement, while Kellogg-Briand is a sort of preemptive perpetual peace treaty. Part of the utopian treaty framework's usefulness is that it creates a third category which is common to both treaties. While the Kellogg-Briand Pact and the TPNW have different focuses and occupy different niches in international law, they share a common utopian nature. These treaties' shared status as utopian treaties is more analytically important here than the treaties' secondary type (i.e., arms control versus peace treaty).

For each case, I will briefly discuss why I consider it an instance of a utopian treaty, referring specifically to the qualifications laid out above. I will then delve into their history,

drawing data from previous scholarly accounts and focusing especially on the treaties' beginnings and the process of expanding their membership. Tracing these histories will clearly demonstrate the empirical strengths and weaknesses of my argument. It will also provide the necessary background knowledge to evaluate the competing explanations I have identified. How well I succeed in proving my own argument over these alternatives is ultimately for the reader to decide.

The Kellogg-Briand Pact

Few treaties are as overtly utopian as the Kellogg-Briand Pact. Created in the aftermath of WWI, the treaty had a truly revolutionary goal: the “renunciation of war,” making it “devoid of legitimacy.”⁶³ Success in this mission would fundamentally change the world and, in the wake of the “war to end all wars,” that change could only be seen as a good one. Still, actually realizing that goal was a true long shot; not only would it require convincing states to sign a treaty remaking international politics, but it would require finding a way to hold them to it. Ultimately, the Pact could only be signed in a form which proved spectacularly incapable of this second demand, and worldwide conflagration erupted a mere decade after its signing. This focus on a transformative vision for the future, culminating in a treaty which formalized that vision among the world’s great powers at the cost of meaningful legal provisions to enforce the vision make the Kellogg-Briand Pact a utopian treaty, and a good case on which to test my theory. As an early example of a fully-fledged utopian treaty, it offers a good opportunity to test the mechanisms which I propose drive utopian treaty creation and adoption. And because it differs significantly from the TPNW in some key ways – in particular, the identities of involved states and the preexistence of a common status

⁶³ Hunter Miller *The Peace Pact of Paris* p. 4

community – it offers a good study of how utopian treaties can arise from diverse circumstances, and of how those varying origins can impact the subsequent treaties.

Origins of the Pact: Utopian, Realist, or Both?

The groundwork for the Pact was laid in the flourishing interwar peace movement, with philosophically and religiously inspired American civil leaders calling for the outlawry of war in speeches, writings, and, crucially, private entreaties to national leaders.⁶⁴ The first government official to actually take up their proposal was the French Foreign Minister Aristide Briand. The Americans were “transparently sincere, eager to promote the cause of international peace;” Briand shared some of this idealism,⁶⁵ but was also interested for more strategic reasons.⁶⁶ In particular, French security remained uncertain, and Briand was on the hunt for reliable allies; the strategic value of a renunciation of war between France and America was clear. Still, while the French might be persuaded to pursue a Pact outlawing war for its benefits to French security, such an angle was unlikely to convince Americans. Instead, Briand’s opening pitch, while “written distinctly from the point of view of French interests” focused in particular on “serv[ing] as an interpretation of French liberal ideals.”⁶⁷ Thus the proposal emphasized how a French-American Pact would contribute to the broader goal of world peace:

“Any engagement subscribed to in the same spirit by the United States toward another nation, such as France, should greatly contribute in the eyes of the world to enlarge and fortify the foundation on which the international policy of peace is being erected. Thus the two great friendly nations, equally devoted to the cause of peace, would furnish the world the best illustration of the truth that the condition immediately to be obtained is not disarmament but the practice of peace.”⁶⁸

⁶⁴ Ferrell *Peace in their Time* p. 31-2, 42; Chamberlain, “Origins of the Kellogg-Briand Pact” p. 80; Bunck & Fowler, “The Kellogg-Briand Pact” p. 245

⁶⁵ Chamberlain, “Origins of the Kellogg-Briand Pact” p. 80; Ferrell *Peace in their Time* p. 66

⁶⁶ Ferrell *Peace in their Time* p. 68; Bunck & Fowler, “The Kellogg-Briand Pact” p. 244, 246

⁶⁷ Chamberlain, “Origins of the Kellogg-Briand Pact” p. 81; The statement was in fact prepared by Prof. James Shotwell, one of the main American peace activists responsible for bringing Briand on board with the idea.

⁶⁸ Briand Address to the American people, cited in Hunter Miller *The Peace Pact of Paris* p. 7

Briand's opening pitch embodies the key dynamics underlying utopian treaties: it stresses the utopian goal of world peace, seeks to take advantage of the social dynamics the treaty would produce, and emphasizes that such a treaty would be only a first step, establishing world peace as a serious normative (if not legal) topic in international affairs. Briand was undoubtedly motivated by power considerations and the desire to enlist the US as an ally, but his proposal was also the result of the Outlawry movement's normative innovations, and emphasized the benefits of codifying those innovations in a utopian treaty.

The American government, however, was not as enthusiastic about the proposal as its many anti-war citizens were. This recalcitrance was based primarily on uncertainty about the US-French relationship, and in particular about what agreeing to the proposed treaty would entail; the US was deeply committed to isolationism, and feared being dragged into European affairs.⁶⁹ Moreover, the proposed treaty "renounced what no one feared and offered what everyone took for granted;"⁷⁰ in its first formation, the Pact offered a revolutionary principle which led to a quotidian outcome. It was at once too demanding, and not demanding enough, to earn the US government's full attention.

Developing the Treaty: Driven by Utopian, Realist, or Domestic Politics?

This situation was transformed by the end of 1927, when the US government not only seriously engaged with Briand's proposal, but countered with a draft of its own which expanded membership beyond France and the US to include "the principle powers of the world."⁷¹ This is the stage of the treaty's development at which my main competing explanations become most insistent. We have already seen how realists might, somewhat unexpectedly, claim the Kellogg-

⁶⁹ DeBenedetti, "Borah and the Kellogg-Briand Pact" p. 22; Bunck & Fowler, "The Kellogg-Briand Pact" p. 247

⁷⁰ Bunck & Fowler, "The Kellogg-Briand Pact" p. 247

⁷¹ Hunter Miller *The Peace Pact of Paris* p. 16

Briand Pact for their own: Briand's strategic calculus when considering whether to become involved echoes the realist claim that states wield norms and utopian visions purely to advance their material interests. That claim is weakened by the critical role played by American anti-war activists not only in bringing Briand on board, but in shaping his overture to the US (and of course, Briand's own commitment to the idea of ending war).

The American about-face represents the domestic politics argument's strongest point of access. Charles DeBenedetti most forcefully promotes this position, claiming that "[w]hat rather seems to have determined the formative origins of the Kellogg Pact was the combination in Washington during the winter of 1927-28 of several personal and political pressures."⁷² DeBenedetti focuses in particular on the role of Senator William Borah, a prominent leader in the peace movement who nonetheless initially resisted Briand's opening proposal. For DeBenedetti, this reluctance was driven by Borah's interest in running for president in 1928, and was only reversed when internal Republican party politics threatened to cut him out of both the presidential race and the peace treaty process.⁷³ Moreover, Borah would go on to play a crucial role in shaping the American proposals for the treaty, and would do so out of cold political calculus and by careful politicking.⁷⁴ Here, the American decision to get involved in the Pact, and the subsequent decisions about that involvement, were driven exclusively by domestic political factors.

While compelling, this argument fails to consider international factors, overemphasizes the role played by one senator, and underemphasizes that man's principled commitment to his ideals. DeBenedetti emphasizes, to the exclusion of all else, Borah's political motives for supporting the

⁷² DeBenedetti, "Borah and the Kellogg-Briand Pact" p. 22; his theory not based on public opinion, as one might expect a domestic politics explanation to be – indeed, the "rather" in the quote here reflects the fact that he is primarily engaging with and arguing against theories which claim a major role for public opinion in the Pact's changing fortunes in Washington.

⁷³ DeBenedetti, "Borah and the Kellogg-Briand Pact" p. 23-4

⁷⁴ Ibid. p. 24, 27, 28

treaty, leaving unacknowledged his long commitment to outlawing war.⁷⁵ This is not to argue that Borah's actions were not shaped by domestic political concerns, but rather that they were shaped by both such concerns and his belief in the normative project underway.⁷⁶ DeBenedetti's story is also overwhelmingly focused on Borah; while other politicians act as foils, the action revolves around Borah. This rather overstates Borah's importance, however; Hunter Miller's classic account of the Pact does not mention him once, while Farrell's seminal contribution gives him an important, but hardly dominant, role. Finally, to focus only on the domestic factors informing the American government is to ignore the rather crucial of role international considerations when setting foreign policy. Indeed, those external elements are necessary for properly understanding the environment in which the US government was operating, and its subsequent decisions.

Status concerns: The Complicating Role of the Club of Great Powers

America was at a crossroads in the 1920s. The nation had emerged from the First World War as one of the world's preeminent powers, and yet stubbornly clung to its historical isolationism, and in particular was more determined than ever to remain apart from European affairs.⁷⁷ This tension manifested in the rather remarkable fact that "for seven years after 1920 no constructive proposal had been made by the United States regarding world politics generally."⁷⁸ Such disengagement from the international system is unusual for a great power, a role which Americans very much believed their country to have attained in the aftermath of their decisive role

⁷⁵ Ferrell *Peace in their Time* p. 33; Bunck & Fowler, "The Kellogg-Briand Pact" p. 235, 249

⁷⁶ For example, Ferrell (*Peace in their Time* p. 102), emphasizes that Borah's opposition to the initial Briand proposal was due to his concern that it would actually undermine the cause of outlawing war: "The more I [Borah] study the Briand proposal, the more I think it a piece of dynamite for outlawry."

⁷⁷ Ferrell *Peace in their Time* p. 40, 43, 128-9; DeBenedetti, "Borah and the Kellogg-Briand Pact" p. 22

⁷⁸ Hunter Miller *The Peace Pact of Paris* p. 15

in WWI.⁷⁹ There were therefore two competing strands of American politics: isolationism and the internationalist commitments of a great power.

The shape of American involvement was influenced by the nation's desire to establish itself as a great power on its own terms. Extending the treaty's membership was an obvious act of asserting US power in international politics in a way which had been conspicuously absent, but it did so in a manner which furthered both the anti-war agenda, and the broader American interest in remaining aloof. A bilateral US-French treaty would leave the US vulnerable to similar proposals from other countries; such bilateral treaties would likely be more binding, and more likely to entangle the US directly in continental politics.⁸⁰ Expanding the treaty to include all the great powers, however, served to make the commitment to outlaw war more credible, since the major players were all equally involved, to preserve America's independent status by avoiding bilateral entanglements, and yet also advance its claim to international leadership.

Once the US came fully on board, the course of the treaty negotiations were fundamentally altered. No longer were two nations seeking an agreement between themselves; now, they were proposing a radical change to international statecraft which relied upon the other great nations' participation. Concurrently, the utopian nature of the treaty came into focus; it would be primarily focused on establishing the pacifist norm, without imposing any legal restrictions on nations forcibly defending themselves if attacked.⁸¹ As the normative project of peace became ever more embedded in the discourse of great nations, membership in the treaty and therefore in the club of "civilized" nations seeking to end the horrors of war became an end unto itself. The resulting great power jockeying pushed the treaty forward rapidly. The English were eager to accept the American

⁷⁹ Ferrell *Peace in their Time* p. 40

⁸⁰ Hunter Miller *The Peace Pact of Paris* p.16; Bunck & Fowler, "The Kellogg-Briand Pact" p. 252

⁸¹ Ferrell *Peace in their Time* p. 177-183

draft treaty, because they believed it would significantly enhance Anglo-American relations.⁸² The Germans, however, were the first to agree to the American draft, so long as it included three reservations: “self-defense, release after violation, [and] universality as the ultimate goal.”⁸³ Indeed, Germany’s rapid acceptance helped form some of the status or club-based pressures, as it appeared that it was Germany and the US – not France – who were “marching forward...in a great and noble adventure in the cause of human civilization.”⁸⁴ This perception was uncomfortable for Germany’s rivals, particularly France, spurring them into closer alignment with the American plan, at a greater speed, than would otherwise have been possible. The consequences of this rapidly forming association of nations “advancing human civilization” and, by implication, the creation of a group which was not, were felt far beyond traditional European rivalries. Japan, like the United States, was rising rapidly and believed it should be considered a member of the great powers. Also like the US, Japan cherished and protected its independence in international affairs; nonetheless, it too assented to the American draft, though only after the other major powers had done so.⁸⁵ Moreover, the letters indicating Japanese approval emphasize the collective nature of the proposed treaty; Japanese involvement was predicated on “unanimous agreement...between the six great powers”⁸⁶ and stressed its vision of Japanese leadership in the process, and hopes for extending it around the world:

“The Imperial Government are proud to be among the first to be associated with a movement so plainly in unison with the hopes everywhere entertained, and confidently concur in the high probability of the acceptance of this simple and magnanimous treaty by the whole civilized world.”⁸⁷

⁸² Ferrell *Peace in their Time* p. 179

⁸³ Ferrell *Peace in their Time* p. 175

⁸⁴ Ferrell *Peace in their Time* p. 189

⁸⁵ Hunter Miller *The Peace Pact of Paris* p. 70

⁸⁶ “Japanese Note, May 26 1928” cited in Hunter Miller *The Peace Pact of Paris* p. 70, 203

⁸⁷ “Japanese Note, July 20 1928” cited in Hunter Miller *The Peace Pact of Paris* p.110, 243

While the great powers – including France and the US themselves – had reservations about a treaty outlawing war, these concerns were overcome with the carrot and the stick. The treaty was formulated such that states had little to fear from it, either in terms of lost sovereignty or punitive power. And membership in it became closely associated with nations' status as both great and civilized powers; the potential status losses which would result from remaining apart from this community pushed holdouts, not so subtly, to get on board.

The Legacy of Kellogg-Briand: Hopeless Utopianism?

The Kellogg-Briand Pact was conceived by idealists, pushed forward by a combination of rational self-interest and commitment to its pacifist norms, and sealed by status dynamics between nations. Still, it utterly failed to end war; less than a decade after its signing, Europe was in the opening stages of a conflict which would engulf the world in greater destruction than it had ever known. This simple observation has led the treaty to be generally scorned as little more than interwar idealism in action: naïve and doomed from the off. I argue that one of the key markers of utopianism is practical concern for how the goal is realized, and that the Kellogg-Briand Pact shows this hallmark particularly in trading away strong legal mechanisms in return for establishing the pacifist norm between all the great powers. If the prevailing wisdom claims that this trade was what made the Pact so flimsy, I argue that it was also necessary for establishing it at all.

The Pact's legacy is better addressed by answering two questions. First, how is the Pact's failure related to the utopian treaty processes I have identified, and what does this mean for other utopian treaties? The Pact's membership was one source of the problem. While Kellogg-Briand is certainly a utopian treaty, relatively few of its members were true believers; targeting the preexisting community of great members helped expand membership, but also resulted in a group

which was strongly skewed towards practical status concerns rather than commitment to the utopian vision. In concrete terms, this meant the Pact was treated not as the first step upon which to build (as utopian treaties must be to be successful) but instead as the end product: join, relieve the status pressure exerted by it, and move on. This lack of progress meant that the Pact minimally impacted interwar leaders' normative or strategic considerations, while its pitiful legal clauses left it incapable of constraining Germany.⁸⁸ The Pact's legal weakness was a result of the utopian treaty process, posing a serious challenge to subsequent utopian treaties. Specifically, its inability to provide meaningful checks against defection was exacerbated by the way in which its American and French framers compromised on their normative commitment to peace by allowing the exemptions necessary to generate support among the other great powers. The Pact was therefore doubly vulnerable – normatively and legally – to German aggression. After the invasion of Poland, the other European powers had little choice but to follow suit. By design, utopian treaties cannot compel compliance. Instead, they rely upon the restraining effects of the status community between their members and the development over time of their normative claims into ideational forces capable of shaping state behavior. Kellogg-Briand failed because its status community overlapped with the European great powers, a group with a decidedly bellicose history, and because that group made little effort after signing it to reinforce and refine the normative instrument they had created. All this means that Kellogg-Briand provides several warnings for other utopian treaties, but is not necessarily indicative of the hopelessness of utopianism.

Second, would the movement for outlawing war have been better served in an alternative world without the Pact? While I do not have space to probe this counterfactual in depth, it seems

⁸⁸ The Pact was not completely ignored; the German invasion was framed in terms of self-defense – terms under which the Pact specifically allowed nations to resort to force. While disingenuous, this ploy nonetheless reflects some awareness of, and concern about, the norm against wars of aggression established by Kellogg-Briand.

clear that the campaign for perpetual peace would not have been served better in it, and indeed would likely have suffered. Kellogg-Briand certainly did not cause WWII. Furthermore, critical elements of the “long peace” since that war are built upon foundations partially laid by the Pact’s pacific principles.⁸⁹ The Pact’s fundamental claims are deeply baked into the modern international system, and their effects show; wars of conquest have become virtually unheard of.⁹⁰ Utopian treaties like the Kellogg-Briand Pact are tools of incremental change; the Pact could not stop WWII, but it could play a small part in shifting the world in a more peaceful direction.

The Treaty to Prohibit Nuclear Weapons

The Treaty to Prohibit Nuclear Weapons (TPNW) is a successor to the utopian treaty tradition begun by Kellogg-Briand. The TPNW seeks to eliminate nuclear weapons from the world, based on an overriding preoccupation with the immense vulnerability of humans and human rights in a world with nuclear weapons. Like Kellogg-Briand, it strives to achieve this goal without any ability to legally compel the change it desires – while many states agree in principle that nuclear weapons pose a terrible threat, no nuclear weapons states nor their close allies support the ban on nuclear weapons. This lack of support suggests the potential limits of the utopian treaty mechanisms proposed here, especially when facing a dominant strategic consideration (in this case, the protection provided by nuclear weapons).⁹¹ To some extent, this is certainly the case;

⁸⁹ Hathaway & Shapiro *The Internationalists* p. 247

⁹⁰ Hathaway & Shapiro *The Internationalists* p. 311, 313-314

⁹¹ The nature of this protection is of course contested; advocates of abolition have often argued that nuclear weapons are in fact security threats, since their use – intentional or accidental – would have catastrophic consequences for mankind. Nonetheless, for nuclear weapons states, their arsenals guarantee that neither their territorial nor political sovereignty can be breached by outside powers; North Korea provides an extreme example of the value of nuclear arsenals to states. Moreover, states and scholars have raised concerns about the safety of a post-nuclear world, since the knowledge and materials to build nuclear weapons would remain, while the elimination of arsenals would create powerful arms-racing incentives, since the first nation to rearm would be free of the threat of nuclear retaliation which currently underpins deterrence and, according to realists, nuclear nonuse.

however, I will temper this pessimism by emphasizing two countervailing factors. First, the decision to develop the TPNW without catering to nuclear weapons states was a strategic one; its framers were well aware of, and comfortable with, the probability that the TPNW would enter force without these critical actors. Second, it is still early; the treaty has been in force since January of this year, and was signed a mere four years ago. Only time will tell what the TPNW's final membership, and its ultimate impact on the nuclear abolition movement, will be; still, theory and evidence from past treaties allow for some informed speculation.

Developing a Utopian Nuclear Ban Treaty

The Non-proliferation treaty (NPT) contains a clause stating that nuclear weapons states will work towards disarmament, a necessary part of the bargaining which brought nonnuclear states into the agreement. Once signed, however, the NPT proved remarkably ineffective at advancing abolition; indeed, while it provides stringent measures for countering proliferation, the abolition clause is, at least in framing and enforcement mechanisms, more of a promise than an obligation.⁹² This failure is not surprising; the NPT is not a normatively driven utopian treaty, but rather a purely strategic instrument which relies on nuclear and nonnuclear states' mutual interest in preventing proliferation. This leaves abolition an afterthought, with nuclear weapons states not only having minimal legal obligations to disarm under the treaty, but also minimal normative and social obligations as well.

Frustrated by the lack of progress under the NPT framework, activists led by the International Campaign to Abolish Nuclear Weapons (ICAN) along with state allies began considering alternative, more aggressive, strategies for realizing their vision of a world without

⁹² Acheson, Nash & Moyes, "A Treaty Banning nuclear weapons" p. 7

nuclear weapons.⁹³ Toward this end, a series of treaties were proposed by nonstate and state proponents of nuclear abolition between 2005 and 2017, culminating in the TPNW. Early proposals followed the more conventional approach, concerned primarily with developing legal commitments and enforcement mechanisms; over time, however, the focus shifted to making an explicitly utopian statement of normative vision and values, and leaving many of the material details of disarmament – quotas, inspection regimes, deadlines, etc. – for the future.⁹⁴

Two elements of this process stand out. First, as in Kellogg-Briand, the initial push for what would turn into a utopian treaty came from outside government; specifically, from normatively motivated activists. Second, the TPNW is the result of a process which self-consciously looked to previous utopian treaties for inspiration. One proposal called for the creation of “a nuclear Kellogg-Briand Pact,” arguing that the original was a “political, social, and legal inflection point” and that a similarly unapologetically revolutionary, norms-based treaty outlawing nuclear weapons could prove successful.⁹⁵ Moreover, the basic movement and framework upon which the TPNW is built are modeled on the Ottawa treaty banning landmines; like the TPNW, the movement to ban landmines faced stiff resistance, but overcame it by focusing on developing a normative consensus around the humanitarian impacts of landmine use, and building a legal architecture from there.⁹⁶ Both Ottawa and the TPNW balance normative and legal commitments differently than the Kellogg-Briand Pact did. The Pact compromised on its values by weakening

⁹³ Chappell, “UN Treaty Banning Nuclear Weapons Takes Effect”

⁹⁴ Gibbons “The humanitarian turn in nuclear disarmament” p. 4, 6; Acheson, Nash & Moyes, “A Treaty Banning nuclear weapons” p. 11, 13; see p.s 14-16 for a discussion of potential alternative approaches.

⁹⁵ Koplow “Nuclear Kellogg-Briand Pact” p. 125

⁹⁶ Gibbons “The humanitarian turn in nuclear disarmament” p. 5-8; Gibbons “Addressing the nuclear ban treaty” p. 29. The Landmine Ban Treaty occupies a tricky position in the utopian treaty framework. It is rather strongly legalized, and proposes a relatively modest utopian vision. Nonetheless, it is at bare minimum utopian enough to be relevant to the TPNW. The decision to develop it independently of the great powers’ approval would be hugely informative for the TPNW, and reflects a fundamentally utopian approach to treaty making. Refusal to compromise on the values animating the treaty strengthened its normative impact, but is also prevented the US, Russia, and China (among others) from joining, limiting its legal impact.

its legal claims in order to gain support of the nations who would be most directly impacted by it; the TPNW is unequivocal in its demands for nuclear abolition, with its legal claims undermined only by the nuclear weapons states' unwavering unwillingness to submit to them. The nuclear abolition movement therefore planned to make a strategic virtue out of its normative commitments; while this necessarily led to an uncompromising position – total nuclear elimination – which inevitably excluded nuclear weapons states and their allies, it also allowed the movement to make full use of already powerfully established humanitarian norms and commitments within the international system while formalizing a new norm against nuclear weapon possession.

Expanding Support Among States: Diverse Status Dynamics

The movement which resulted in the TPNW took off in earnest once it reframed nuclear abolition in strictly humanitarian terms. Early support came from Norway, a nation with deep and long-standing commitments to the humanitarian agenda. In response to the increasingly humanitarian focus in the nuclear abolition movement, Norway took a series of steps in the early 2010s which legitimated and supported the abolition movement. These actions included calling for decisive action from nuclear weapons states towards eliminating their arsenals in accordance with the NPT, organizing a conference to highlight the humanitarian dimension of nuclear disarmament, and providing financial support to various abolitionist groups.⁹⁷ Without the pivot to a humanitarian emphasis, Norwegian support could well have been more muted; as a NATO country, Norway benefits from the protective American nuclear umbrella, and faces significant political pressures in return. Despite its early support for developing a treaty prohibiting nuclear weapons, Norway, like all other NATO countries, is not a signatory of the TPNW. This shows

⁹⁷ Pedrazzi, “The Treaty on the Prohibition of Nuclear Weapons” p. 218-219; Gibbons “The humanitarian turn in nuclear disarmament” p. 5

both the power of utopian visions – transcending Norway’s strategic interests for a time – and the resilience of realist concerns, which ultimately overrode Norwegian utopianism. In the end, Norway adopted the humanitarian rhetoric of the abolitionist campaign, but not its political goals. Thus the Norwegian government would emphasize “the humanitarian consequences of nuclear weapons, including the incompatibility of their use under international humanitarian law”⁹⁸ while disavowing the political implications of these statements and the proposed ban treaty.⁹⁹

The states which would become the core group pushing for the TPNW – Mexico, Austria, and South Africa – likewise demonstrated normative commitment to the abolition movement, while also introducing status concerns into their policymaking processes.¹⁰⁰ Mexico and Austria were critical early actors, hosting the first two major conferences on nuclear abolition after Norway; at each, the host country expressed its political and normative commitment to the project.¹⁰¹ Mexico in particular had a long track record opposing nuclear weapons; as a member of the Latin American nuclear weapon free zone (NWFZ), it had previously pushed for a regional rejection of nuclear weapons.¹⁰² South Africa had arguably even stronger ties to nuclear abolition, as the only state to have ever developed, and then given up, a nuclear weapons program. Its leaders made this connection clear in their support of the TPNW, urging all states to join their vision of a nuclear weapon free world.¹⁰³ Beyond these affirmations of the normative purpose of the TPNW, however, all three states were also motivated by status concerns. All three states fall into Cooper’s middle power taxonomy, and accordingly seek to expand their prestige and influence abroad through active roles in international organizations and agreements.¹⁰⁴ The TPNW was a perfect

⁹⁸ Pedrazzi, “The Treaty on the Prohibition of Nuclear Weapons” p. 219

⁹⁹ Gibbons “The humanitarian turn in nuclear disarmament” p. 10-11

¹⁰⁰ Mukhatzhanova, “The nuclear weapons prohibition treaty” p. 13

¹⁰¹ Gibbons “The humanitarian turn in nuclear disarmament” p. 11-12

¹⁰² Musto, “A Desire so Close to the Hearts of all Latin Americans”

¹⁰³ Tutu, “Imagine world without nuclear weapons”

¹⁰⁴ Cooper, “Beyond the middle power model” p.188

vehicle for this sort of status seeking, since the great powers and their middle power allies were fundamentally opposed to involvement; this created an unusually clear opportunity for other middle powers to claim a leadership role on the international stage. Unsurprisingly, Mexico, Austria, and South Africa leapt at the chance, with many peer nations not far behind them.

Subsequent members of the TPNW community were overwhelmingly spurred by these status enhancing dynamics, and later, by the increasingly steep status price extracted by noninvolvement. There are two primary locations in which these concerns played out: already existing nuclear weapons free zones (NWFZ) and the UN General Assembly. The TPNW's membership is overwhelmingly concentrated in South America, Africa, Southeast Asia, and Oceania; all four regions have preexisting agreements establishing them as NWFZs. This widespread membership in NWFZs was one of the major factors working in the TPNW's favor: it is difficult for states belonging to regional agreements which ban nuclear weapons to argue against a treaty which formalizes that ban across regions. Indeed, to do so would do greater harm to a NWFZ state's reputation than a non-NWFZ state's decision to remain apart from the TPNW: membership in one nuclear weapons ban but not another suggests hypocrisy, and represents a sort of rhetorical trap for such states.¹⁰⁵ Beyond the negative incentive for NWFZ states to engage with the TPNW is a powerful positive incentive: membership in a global, rather than regional, club of likeminded states. This incentive ties closely in with the role of the UN in advancing the treaty.

The UN's central role in the TPNW's drafting process and eventual ratification amplified the status costs and benefits tied to the treaty. While the three middle powers plus Norway discussed above played a major role in establishing the abolition movement's international standing, the UN's entry cemented it. The humanitarian discourse on nuclear weapons was

¹⁰⁵ Krebs & Jackson "Twisting Tongues and twisting arms" p. 42; Lebow & Frost, "Ethical traps in international relations"

formalized in a General Assembly resolution in 2015 which gained the support of 139 countries, with subsequent efforts to develop a humanitarian treaty to address nuclear weapons under UN auspices generating similarly widespread international engagement.¹⁰⁶ The move to the UN not only expanded awareness of, and access to, the TPNW process; it also created major status pressures on states. Once the issue was introduced at the UN, decisions to ignore it became difficult to defend. Nuclear weapons states and their allies largely took this path, though the normative terms of the treaty meant that they were put at a status disadvantage whether they engaged or not; for nonnuclear states, however, there was little incentive to invite this pressure. Negotiating the TPNW at the UN therefore ensured widespread engagement with the process and, because it worked through the General Assembly, denied nuclear weapons states the veto power they hold not only in the security council, but in NPT and UN Conference on Disarmament processes.¹⁰⁷ Finally, the TPNW took advantage of the groundwork laid by the NPT, by crafting a newly demanding call for nuclear disarmament and creating a status community organized around this mission. Membership in the NPT, though not framed in humanitarian terms, first reflected the shifting status incentives of nuclear weapons: the NPT “appears to have shifted the norm concerning what acts grant prestige and legitimacy from the 1960s notion of joining ‘the nuclear club’ to the 1990s concept of joining ‘the club of the nations adhering to the NPT.’”¹⁰⁸ The TPNW takes advantage of a similar club logic, while adding the normative and constitutive pressure exerted by the humanitarian discourse. Like Kellogg-Briand, this club predates the treaty in some ways, since the vast majority of TPNW states are also members of regional NWFZs and the NPT itself. Unlike Kellogg-Briand, however, these preexisting communities perfectly align with the

¹⁰⁶ Pedrazzi “The Treaty on the Prohibition of Nuclear Weapons” p. 219

¹⁰⁷ Ruff, “Negotiating the UN treaty on the prohibition of nuclear weapons and the role of ICAN” p. 3

¹⁰⁸ Sagan “Why do states build nuclear weapons?” p. 76; this pressure was cited by the states which gave up their nuclear weapons in the 1990s – South Africa, and the former soviet republics of Ukraine, Kazakhstan, and Belarus.

goals of the TPNW, and the status community created by the treaty is being actively cultivated through follow up conferences (the first of which is scheduled for early 2022).¹⁰⁹ Taken together, these factors produce powerful status incentives for states to join the treaty, and imposes potentially steep status costs on states which refuse to do so. The structure of the resulting status community suggests that it should be both sturdy, and capable of reinforcing and enhancing the vision of the TPNW in the future.

Counterarguments & Alternative Explanations

As with the Kellogg-Briand Pact, the TPNW is an explicitly normative vision which seems to reject realist strategic considerations. Nonetheless, it is possible its ideational statements are more the strategic tools of states than reflections of their values. My argument acknowledges that strategic status considerations inform state decisions to join the TPNW, but a realist argument could go further, arguing that even the normative vision around which those status decisions are based is in fact a cynical strategic ploy. However, while there is evidence supporting that argument for Kellogg-Briand, there is simply a dearth of such evidence for the TPNW. A stronger realist objection to my argument about the utopian nature of the TPNW is to highlight the treaty's inability to overcome entrenched nuclear strategic concerns. This argument would essentially wave away the importance of this thesis by arguing that the TPNW, whatever its nature, is ultimately ineffective and meaningless. This critique reflects the classic derogatory understanding of utopianism, focusing on the vision side and challenges it faces while ignoring the practical side devoted to confronting these obstacles. The utopian treaty framework I have developed demonstrates that states are not necessarily simple dreamers; while Kellogg-Briand did not bode

¹⁰⁹ ICAN, "TPNW: First Meeting of States Parties to take place in Vienna, January 2022"

well for the practicality of utopian treaties, the TPNW avoids many of its mistakes. In particular, while it is not capable of immediately reversing 75 years of strategic nuclear calculus, it is clearly and consciously formulated to maximize its ability to bring a competing normative logic to bear over the coming years. I will attempt to offer a preliminary discussion of the TPNW's chances of succeeding in this endeavor below, but the broader point is that a realist critique dismissing the treaty and others like it out of hand would be unreasonable. A more restrained realist argument might claim that the TPNW is primarily a self-interested tool of nonnuclear states to limit the power of nuclear weapons states, walking the line between the two arguments I have identified. This idea suffers two weaknesses, however. First, it implicitly acknowledges the normative power of the TPNW, despite its complete lack of material power over nuclear weapons states, an uncomfortable position for a realist argument. Second, it ignores the very real costs associated with joining the treaty; these costs are most clearly highlighted in Africa, with the US in particular pressuring African states to avoid the treaty by threatening to cut off aid and other forms of support.¹¹⁰ The TPNW was not a simple expansion from regional NWFZs to global rejection of nuclear weapons; states advanced it and joined it not only out of self-interest, but also out of a commitment to the more ambitious normative principles it proposed and promoted.

Finally, how might the domestic politics argument view the TPNW's journey from normative innovation to signed treaty? One author identifies domestic public sentiment in favor of nuclear disarmament as a difficult consideration for states like Norway which are torn by competing humanitarian and NATO commitments.¹¹¹ Gibbons makes an even more explicitly domestic-oriented argument, claiming that the withdrawal of Norwegian support for the abolition

¹¹⁰ Ruff "Negotiating the UN treaty on the prohibition of nuclear weapons and the role of ICAN" p3; as Ruff notes, this sort of pressure was exerted by all the nuclear weapons states all over the world, but was perhaps most pronounced in America's efforts in Africa.

¹¹¹ Sauer & Reveraert, "The potential stigmatizing effect of the treaty on the prohibition of nuclear weapons" p. 15

movement was due not to NATO commitments, but rather the change from a Labour to conservative government in 2013.¹¹² This case clearly demonstrates how internal political environments can change state foreign policies, with potentially drastic implications, but does not directly bear on the TPNW itself. Alternatively, these domestic factors might have pushed states to support the TPNW because their leaders felt it would be politically expedient. This argument is not particularly moving for two reasons. First, the statements and actions of Mexican, Austrian, and South African diplomats emphasize their normative commitment to the project.¹¹³ Second, grant that political expediency shaped these states' actions; the source of the support these leaders seek to exploit becomes critical. I would argue that it is very likely to come from the sorts of normative and status concerns I have developed so far; that is, that citizens support the ban because of its humanitarian claims, and the implications of a state failing to live up to them.

The Future of TPNW

The TPNW will live or die by the extent to which these status and normative pressures are successful over the long run. Far from being misty-eyed idealists, its framers understood this fact, and sought to build the treaty around it;¹¹⁴ nonetheless, there is a lively debate about the prospects for the treaty to realize its aims. There is broad consensus that the treaty is fundamentally a normative instrument, intended to change the conversation around nuclear weapons and put pressure on nuclear weapons states via the treaty's broad support in the international system, international civil society, and even the nuclear weapons states' own populaces.¹¹⁵ Critics,

¹¹² Gibbons "The humanitarian turn in nuclear disarmament" p. 19

¹¹³ Gibbons "The humanitarian turn in nuclear disarmament" p. 10, 19

¹¹⁴ Mukhatzhanova, "The nuclear weapons prohibition treaty" p. 12

¹¹⁵ Considine, "Contests of legitimacy and value" p. 1076; Sauer & Reveraert, "The potential stigmatizing effect of the treaty on the prohibition of nuclear weapons" p. 1

however, charge that the treaty's exclusive focus on establishing a new normative environment is self-defeating: because the treaty offers few concrete verifications measures and allows members to back out, it is easy for nuclear weapons states to argue it is an impractical instrument and avoid engaging its stronger normative claims.¹¹⁶ This argument attacks the very basis of the utopian treaty strategy of long-term normative influence adopted by the TPNW, claiming that nuclear weapons states can dodge the normative implications of the treaty by focusing exclusively on technical and legal challenges it faces. This is similar to the fate that befell the NPT's (non-utopian) disarmament clause, so it bears serious consideration.

The TPNW faces a difficult situation. On one hand, nuclear weapons are already the subject of widespread normative disapproval, reflected both in the taboo on their use and the widespread support for their abolition dating back to the NPT.¹¹⁷ On the other, this normative environment has done nothing to change nuclear weapons states' claims that nuclear weapons are a necessary, and potentially positive, tool of national security.¹¹⁸ The TPNW seeks to translate stigmatization and de-legitimation of nuclear weapons into global disarmament, but, as thoroughly demonstrated by the past 75 years of nuclear international politics, states value the strategic benefits of nuclear weapons so highly that they are willing to accept some status costs. Further complicating the picture, American leaders have recently decried their country's reliance on nuclear weapons, while nonetheless feeling compelled to maintain the arsenal.¹¹⁹ This dependence is driven not only by other countries' continued possession of nuclear weapons, but by the fact that the genie is out of the bottle: even if all countries agreed to disarm, the knowledge and ability to rebuild nuclear

¹¹⁶ Highsmith & Stewart, "The nuclear ban treaty" p. 132; for a general discussion of the challenges to arms control regimes posed by verification and compliance measures, see Coe & Vaynman, "Why is Arms Control so Hard?"

¹¹⁷ Tannenwald, "The Nuclear Taboo"

¹¹⁸ Sagan & Waltz *The Spread of Nuclear Weapons*, p. 3-45; Jervis, *The meaning of the Nuclear Revolution*

¹¹⁹ Shultz, Perry, Kissinger & Nunn "Toward a world;" Gibbons, "The humanitarian turn in nuclear disarmament" p. 4; Highsmith & Stewart "The nuclear ban treaty" p. 129

arsenals would persist, creating powerful incentives to arms race in a crisis and undermining the stability of a nuclear weapons free world.¹²⁰

For the TPNW to succeed, possessing nuclear weapons must become so undesirable that not only do states want to get rid of them, but that states would be reliably unwilling to reacquire them regardless of the strategic pressures to do so. This is an enormously high bar to clear; it is impossible to predict with any confidence (especially this early in its life) that the TPNW could realize such an ambitious goal. It is also, however, far too soon to write off the TPNW: even partial success in further stigmatizing nuclear weapons and their use would be a major positive contribution.¹²¹ This in fact seems to be the TPNW's floor, since its membership is already broad and diverse, and represents a clear and powerful repudiation of nuclear weapons. A similarly plausible, though less certain, form of partial success could come in subsequent treaties on nuclear abolition, where the TPNW might serve as the inspiration for more highly legalized treaties addressing nuclear weapons possession and disarmament. Such treaties would help resolve the TPNW's technical challenges, further chipping away at nuclear weapons states' grounds to oppose the disarmament movement. As with all utopian treaties, the TPNW is much more a tool of long-term normative and consensus development than of immediate impact. The strength of the anti-nuclear norm contained in the TPNW, and the broad community of states and nonstate actors already supporting it, suggest that the partial successes laid out here are well within its reach. And each partial success builds upon those before it to bring the world closer to the nuclear-free future envisioned by the TPNW.

¹²⁰ Shelling, *Arms & Influence*, chapter 6

¹²¹ See Tannenwald, "The Nuclear Taboo;" the nuclear taboo is not a constant, unchanging presence, but a normative institution which can be strengthened or undermined. Strengthening it, as the TPNW promises to do, is an obvious good for all of humanity except perhaps nuclear strategists who believe limited nuclear use is possible.

Conclusion

I have argued that utopian treaties are envisioned as normative innovations, draw support from states who share this vision, and then expand throughout the international system as a club of likeminded actors forms and bestows status benefits upon its members. I further suggest that this snowballing effect helps establish utopian treaties' normative innovations in the international system, allowing even wildly ambitious treaties to realize at least some of their goals over long time frames. This framework offers a novel understanding of how the Kellogg-Briand Pact formed which gives proper prominence to its status as a normative project, and helps situate its role in promoting the decline of interstate violence since WWII. My framework also explains how and why states decided to pursue a treaty prohibiting nuclear weapons despite the vehement opposition of the nuclear weapons states, and offers reason to be cautiously optimistic about that treaty's ability to advance the prospects for a nuclear-free world.

This argument also offers insights into the vexed international politics of climate protection. Like nuclear abolition, climate policy requires global cooperation, and is frequently held hostage by the world's most powerful states.¹²² Also like nuclear abolition, climate issues have increasingly been framed in humanitarian terms, with special emphasis on the human toll of the resulting natural disasters and on the disproportionate impact these events will have upon marginalized populations both internationally and within wealthy states. And, an arguably utopian climate treaty – the Paris Accords – are contemporaneous to the TPNW. Paris's utopianism comes not from the desire to deal with climate change, which is well established, but because it represents the first comprehensive vision for how the entire international community can work together to realize that goal. Moreover, it is weakly legalized: while states made commitments to lower

¹²² Moreover, the racial, post-colonial, and redistributive issues which have increasingly been highlighted by the nuclear abolition movement are even more clearly defined in the environmental case.

emissions, those promises have no legal backing. As with both Kellogg-Briand and the TPNW, this focus on vision over binding enforcement mechanisms has led the Paris Accords to be widely derided as ineffective and unimportant.¹²³ On the upside, this seems to place it squarely within the utopian treaty framework. So, what can we learn about Paris and the future of climate protections more generally from this theory? Most importantly, it refocuses Paris: not as an endpoint, but a first step. The Accords' worth comes not from their nonbinding (and, according to many climate scientists, insufficiently unambitious) emissions targets, but rather from the precedent they set. Unfortunately, climate change compounds daily, leaving little time for the incremental change utopian treaties are designed to produce. If Paris is to become a successful utopian treaty, the nations of the world will have to aggressively press the advantage, rapidly developing more ambitious treaties building on the platform provided by Paris. Whether this will happen remains unclear, though encouraging unilateral and bilateral signs are emerging.¹²⁴ If it does, the world will owe a debt of gratitude to the utopianism of the Paris Accords.

¹²³ Cass, "Why the Paris climate deal is meaningless;" Leahy, "Most countries aren't hitting 2030 climate goals;" Maizland, "Global Climate Agreements"

¹²⁴ In particular, recent American and Chinese commitments to more ambitious national emissions standards, and the recent US-China joint statement stressing the urgency of cooperatively addressing climate change offer hope.

References

- Abbott, Kenneth W., and Duncan Snidal. "Hard and soft law in international governance." *International organization*(2000): 421-456.
- Acheson, Ray, Thomas Nash, and Richard Moyes. *A treaty banning nuclear weapons: developing a legal framework for the prohibition and elimination of nuclear weapons*. Reaching Critical Will, 2014.
- Anghie, Antony. *Imperialism, sovereignty and the making of international law*. Vol. 37. Cambridge University Press, 2007.
- Ashenden, Samantha, and Andreas Hess, eds. *Between utopia and realism: the political thought of Judith N. Shklar*. University of Pennsylvania Press, 2020.
- Bachrach, Peter, and Morton S. Baratz. "Two faces of power." *The American political science review* 56, no. 4 (1962): 947-952.
- Barnett, Michael, and Raymond Duvall. "Power in international politics." *International organization* 59, no. 1 (2005): 39-75.
- Baxter, Laurence, and J-A. Bishop. "Uncharted Ground: Canada, Middle Power Leadership, and Public Diplomacy." *Journal of Public and International Affairs* (1998): 84-101.
- Bell, Duncan. *Dreamworlds of Race: Empire and the utopian destiny of Anglo-America*. Princeton University Press, 2020.
- Bell, David Avrom. *The cult of the nation in France: Inventing nationalism, 1680-1800*. Harvard University Press, 2009.
- Berenskoetter, Felix. "Reclaiming the vision thing: Constructivists as students of the future." *International Studies Quarterly* 55, no. 3 (2011): 647-668.
- Betzold, Carola. "'Borrowing' power to influence international negotiations: AOSIS in the climate change regime, 1990–1997." *Politics* 30, no. 3 (2010): 131-148.
- Blau, Judith, and Alberto Moncada. "It ought to be a crime: Criminalizing human rights violations." In *Sociological Forum*, vol. 22, no. 3, pp. 364-371. Oxford, UK: Blackwell Publishing Ltd, 2007.
- Brincat, Shannon. "Reclaiming the Utopian imaginary in IR theory." *Review of International Studies* (2009): 581-609.
- Bunck, Julie M., and Michael R. Fowler. "The Kellogg-Briand Pact: A Reappraisal." *Tul. J. Int'l & Comp. L.* 27 (2018): 229.
- Carpenter, Charli, and Alexander H. Montgomery. "The Stopping Power of Norms: Saturation Bombing, Civilian Immunity, and US Attitudes toward the Laws of War." *International Security* 45, no. 2 (2020): 140-169.
- Carr, Edward Hallett, Michael Cox, and Michael Cox. *The twenty years' crisis, 1919-1939: an introduction to the study of international relations*. London: Macmillan, 1946.
- Cass, Oren. "Why the Paris climate deal is meaningless." Politico. 29 Nov 2015. <https://www.politico.eu/article/paris-climate-deal-is-meaningless-cop21-emissions-china-obama/>
- Chamberlin, Waldo. "Origins of the Kellogg-Briand Pact." *The Historian* 15, no. 1 (1952): 77-93.
- Chappell, Bill. "U.N. Treaty Banning Nuclear Weapons Takes Effect, Without The U.S. And Other Powers." National Public Radio, 22 Jan. 2021. <https://www.npr.org/2021/01/22/959583731/u-n-treaty-banning-nuclear-weapons-takes-effect-without-the-u-s-and-others>

- Coe, Andrew J., and Jane Vaynman. "Why arms control is so rare." *American Political Science Review* 114, no. 2 (2020): 342-355.
- Cole, Wade M. "Hard and Soft Commitments to Human Rights Treaties, 1966–2000 1." In *Sociological Forum*, vol. 24, no. 3, pp. 563-588. Oxford, UK: Blackwell Publishing Ltd, 2009.
- Considine, Laura. "Contests of legitimacy and value: the Treaty on the Prohibition of Nuclear Weapons and the logic of prohibition." *International Affairs* 95, no. 5 (2019): 1075-1092.
- Cooper, Andrew F. "Beyond the middle power model: Canada in a reshaping global order." *South African Journal of International Affairs* 22, no. 2 (2015): 185-201.
- DeBenedetti, Charles. "Borah and the Kellogg-Briand Pact." *The Pacific Northwest Quarterly* 63, no. 1 (1972): 22-29.
- Delors, Jacques. "European unification and European security." *Adelphi Papers* 34, no. 284 (1994): 3-14.
- Duque, Marina. "Recognizing International Status: A Relational Approach." *International Studies Quarterly* 62.3 (2018): 577–92.
- Ferrell, Robert H. *Peace in their time: The origins of the Kellogg-Briand Pact*. Vol. 55. Shoe String Press Inc, 1952.
- Finnemore, Martha, and Michelle Jurkovich. "The Politics of Aspiration." *International Studies Quarterly* 64, no. 4 (2020): 759-769.
- Finnemore, Martha, and Kathryn Sikkink. "International norm dynamics and political change." *International organization*(1998): 887-917.
- Freedman, Lawrence D. "The special relationship, then and now." *Foreign Aff.* 85 (2006): 61.
- Getachew, Adom. *Worldmaking after empire: The rise and fall of self-determination*. Princeton University Press, 2019.
- Gibbons, Rebecca Davis. "Addressing the nuclear ban treaty." *The Washington Quarterly* 42, no. 1 (2019): 27-40.
- Gibbons, Rebecca Davis. "The humanitarian turn in nuclear disarmament and the treaty on the prohibition of nuclear weapons." *The Nonproliferation Review* 25, no. 1-2 (2018): 11-36.
- Gibbons, Rebecca, and Keir Lieber. "How durable is the nuclear weapons taboo?" *Journal of Strategic Studies* 42, no. 1 (2019): 29-54.
- Grant, Thomas D. "States newly admitted to the United Nations: some implications." *Colum. J. Transnat'l L.* 39 (2000): 177.
- Grigoryan, Arman. "Selective Wilsonianism: Material Interests and the West's Support for Democracy." *International Security* 44, no. 4 (2020): 158-200.
- Hathaway, Oona A. "Do human rights treaties make a difference?." *The Yale Law Journal* 111, no. 8 (2002): 1935-2042.
- Hathaway, Oona A., and Scott J. Shapiro. *The internationalists: How a radical plan to outlaw war remade the world*. Simon and Schuster, 2017.
- Helfer, Laurence R. "Exiting treaties." *Virginia Law Review.* 91 (2005): 1579-1648
- Henry, Iain D. "What Allies Want: Reconsidering Loyalty, Reliability, and Alliance Interdependence." *International Security* 44, no. 4 (2020): 45-83.
- Highsmith, Newell, and Mallory Stewart. "The nuclear ban treaty: A legal analysis." *Survival* 60, no. 1 (2018): 129-152.
- Hunter Miller, David. *The Peace Pact of Paris: A Study of the Briand-Kellogg Treaty*. GP Putnam's sons, 1928.

- ICAN. "European Parliament votes in favour of a ban" The International Campaign to Abolish Nuclear Weapons. https://www.icanw.org/european_parliament_votes_in_favour_of_a_ban
- ICAN. "TPNW: First Meeting of States Parties to take place in Vienna, January 2022." The International Campaign to Abolish Nuclear Weapons. 16 April 2021. https://www.icanw.org/tpnw_first_meeting_of_states_parties_vienna_january_2022
- Ikenberry, G. John. "The future of the liberal world order: Internationalism after America." *Foreign affairs* (2011): 56-68.
- Ikenberry, G. John. "Institutions, strategic restraint, and the persistence of American postwar order." *International Security* 23, no. 3 (1999): 43-78.
- Immerwahr, Daniel. "Should America Still Police the World?" *The New Yorker*, 18 Nov. 2020, www.newyorker.com/books/under-review/should-america-still-police-the-world.
- Intondi, Vincent. "The Dream of Bandung and the UN Treaty on the Prohibition of Nuclear Weapons." *Critical Studies on Security* 7, no. 1 (2019): 83-86.
- Isik & Zheng, "Ratification of International Human Rights Treaties." University of Minnesota Human Rights Library (2008).
- Jervis, Robert. *The meaning of the nuclear revolution: Statecraft and the prospect of Armageddon*. Cornell University Press, 1989.
- Josephson, Harold. "Outlawing war: Internationalism and the Pact of Paris." *Diplomatic History* 3, no. 4 (1979): 377-390.
- Kaufmann, Chaim D., and Robert A. Pape. "Explaining costly international moral action: Britain's sixty-year campaign against the Atlantic slave trade." *International Organization*(1999): 631-668.
- Keohane, Robert O. "Institutional Theory and the Realist Challenge After the Cold War," in David A. Baldwin, ed., *Neorealism and Neoliberalism: The Contemporary Debate*. Columbia University Press, 1993.
- Koplow, David A. "Nuclear Kellogg-Briand Pact: Proposing a Treaty for the Renunciation of Nuclear Wars as an Instrument of National Policy." *Syracuse J. Int'l L. & Com.* 42 (2014): 123.
- Koremos, Charles Lipson, and Duncan Snidal. "The Rational Design of International Institutions." *International Organization* 55, no. 4 (July 9, 2003): 761-99.
- Koskenniemi, Martti. *From apology to utopia: the structure of international legal argument*. Cambridge University Press, 2006.
- Krebs, Ronald R., and Patrick Thaddeus Jackson. "Twisting tongues and twisting arms: The power of political rhetoric." *European Journal of International Relations* 13, no. 1 (2007): 35-66.
- Leahy, Stephen. "Most countries aren't hitting 2030 climate goals, and everyone will pay the price." *National Geographic*. 5 Nov 2019. <https://www.nationalgeographic.com/science/article/nations-miss-paris-targets-climate-driven-weather-events-cost-billions>
- Lebow, Richard Ned, and Mervyn Frost. "Ethical traps in international relations." *International Relations* 33, no. 1 (2019): 3-22.
- Lieber, Kier, and Daryl Press. *The Myth of the Nuclear Revolution: Power Politics in the Atomic Age*. Cornell University Press, 2020.
- Limberg, Michael. "'In Relation to the Pact': Radical Pacifists and the Kellogg-Briand Pact, 1928-1939." *Peace & Change* 39, no. 3 (2014): 395-420.
- Long, Tom. "Small states, great power? Gaining influence through intrinsic, derivative, and collective power." *International Studies Review* 19, no. 2 (2017): 185-205.

- Lukes, Steven. *Power: A radical view*. Macmillan International Higher Education, 2004.
- Mearsheimer, John J. "Bound to fail: The rise and fall of the liberal international order." *International Security* 43, no. 4 (2019): 7-50.
- Maizland, Lindsay. "Global Climate Agreements: Successes and Failures." Council on Foreign Relations. 29 April 2021. <https://www.cfr.org/background/paris-global-climate-change-agreements>
- McKercher, BJ C. *Britain, America, and the Special Relationship since 1941*. Taylor & Francis, 2017.
- Mearsheimer, John J. "1995 "The False Promise of International Institutions." *International Security* 19 (1994): 5-49.
- Mintz, Alex, and Steven B. Redd. "Framing effects in international relations." *Synthese* 135, no. 2 (2003): 193-213.
- Mitzen, Jennifer. "Ontological security in world politics: State identity and the security dilemma." *European journal of international relations* 12, no. 3 (2006): 341-370.
- Mukhatzhanova, Gaukhar. "The nuclear weapons prohibition treaty: negotiations and beyond." *Arms Control Today* 47, no. 7 (2017): 12-19.
- Musto, Ryan A. "A Desire so Close to the Hearts of all Latin Americans?: Utopian Ideals and Imperfections Behind Latin America's Nuclear Weapon Free Zone." *Bulletin of Latin American Research* 37, no. 2 (2018): 160-174.
- Nasra, Skander. "Governance in EU foreign policy: exploring small state influence." *Journal of European Public Policy* 18, no. 2 (2011): 164-180.
- Pedrazzi, Marco. "The Treaty on the Prohibition of Nuclear Weapons: a Promise, a Threat or a Flop?." *The Italian Yearbook of International Law Online* 27, no. 1 (2018): 215-234.
- Rajagopal, Balakrishnan. "From Resistance to Renewal: The Third World, Social Movements, and the Expansion of International Institutions." *Harv. Int'l. LJ* 41 (2000): 529;
- Rajagopal, Balakrishnan. *Counter-hegemonic international law: rethinking human rights and development as a Third World strategy*. Routledge-Cavendish, 2008.
- Reichberg, Gregory M., Henrik Syse, and Endre Begby. 2006. *The ethics of war: classic and contemporary readings*. Malden, MA: Blackwell Pub.
- Renshon, Jonathan. *Fighting for status: Hierarchy and conflict in world politics*. Princeton University Press, 2017.
- Robinson, Kim Stanley "The Coronavirus is rewriting our imaginations." *The New Yorker*. 1 May 2020. <https://www.newyorker.com/culture/annals-of-inquiry/the-coronavirus-and-our-future/amp>
- Ruff, Tilman. "Negotiating the UN treaty on the prohibition of nuclear weapons and the role of ICAN." *Global Change, Peace & Security* 30, no. 2 (2018): 233-241.
- Sagan, Scott D. "Why do states build nuclear weapons? Three models in search of a bomb." *International security* 21, no. 3 (1996): 54-86.
- Sagan, Scott Douglas, and Kenneth Neal Waltz. *The spread of nuclear weapons: a debate renewed: with new sections on India and Pakistan, terrorism, and missile defense*. WW Norton & Company, 2003.
- Sauer, Tom, and Mathias Reveraert. "The potential stigmatizing effect of the treaty on the prohibition of nuclear weapons." *The nonproliferation review* 25, no. 5-6 (2018): 437-455.
- Schelling, Thomas. *Arms and Influence*. Yale University Press, 1966.

- Shultz, George, William Perry, Henry Kissinger, and Sam Nunn. "A World Free of Nuclear Weapons." *The Wall Street Journal*. January 4, 2007.
<https://www.wsj.com/articles/SB116787515251566636>.
- Tannenwald, Nina. "The Nuclear Taboo: The United States and the Normative Basis of Nuclear Non-Use." *International Organization* 53.3 (1999): 433–68.
- Thaler, Mathias. "Hope abjuring hope: On the place of utopia in realist political theory." *Political Theory* 46, no. 5 (2018): 671-697.
- Tomuschat, Christian. *Human rights: between idealism and realism*. OUP Oxford, 2014.
- Tutu, Desmond. "Imagine world without nuclear weapons." CNN. 13 Feb 2014.
<https://www.cnn.com/2014/02/13/opinion/nuclear-weapons-desmond-tutu/index.html>
- UN General Assembly, "List of Participants" (2017).
<https://www.un.org/disarmament/tpnw/documents.html>
- UN General Assembly, "Treaty on the Prohibition of Nuclear Weapons (2017).
<https://www.un.org/disarmament/wmd/nuclear/tpnw/>
- UN General Assembly, "UN Charter." (1945). <https://www.un.org/en/sections/un-charter/un-charter-full-text/>
- Walt, Stephen M. *The origins of alliance*. Cornell University Press, 1990.
- Wendt, Alexander. "Anarchy is what states make of it: the social construction of power politics." *International organization* 46, no. 2 (1992): 391-425.
- Wohlforth, William C., Benjamin de Carvalho, Halvard Leira, and Iver B. Neumann. "Moral Authority and Status in International Relations: Good States and the Social Dimension of Status Seeking." *Review of International Studies* 44, no. 3 (July 2018): 526–46.
<https://doi.org/10.1017/S0260210517000560>.