

Implementing Victim Assistance under the Treaty on the Prohibition of Nuclear Weapons

The First Meeting of States Parties (1MSP) to the Treaty on the Prohibition of Nuclear Weapons (TPNW) provides an important opportunity for countries to establish victim assistance as a core priority of this humanitarian disarmament treaty and to begin the process of meeting their obligations under Articles 6(1) and 7. This fact sheet aims to help states parties prepare for the 1MSP by identifying immediate and long-term steps they should take to implement the treaty's victim assistance provisions (excerpted below). The fact sheet:

- Recommends measures states parties should commit to at the 1MSP,
- Lays out a framework to guide victim assistance over time, and
- Provides information on nuclear weapons use and testing and their humanitarian consequences as well as a list of resources.

Harvard Law School's International Human Rights Clinic has also produced a parallel factsheet entitled "Implementing Environmental Remediation under the Treaty on the Prohibition of Nuclear Weapons."

Relevant Treaty Provisions

Article 6(1): Victim Assistance

Each State Party shall, with respect to individuals under its jurisdiction who are affected by the use or testing of nuclear weapons, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, without discrimination, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion.

Article 7: International Cooperation and Assistance

1. Each State Party shall cooperate with other States Parties to facilitate the implementation of this Treaty.
2. In fulfilling its obligations under this Treaty, each State Party shall have the right to seek and receive assistance, where feasible, from other States Parties.
3. Each State Party in a position to do so shall provide technical, material and financial assistance to States Parties affected by nuclear-weapons use or testing, to further the implementation of this Treaty.
4. Each State Party in a position to do so shall provide assistance for the victims of the use or testing of nuclear weapons or other nuclear explosive devices....
6. Without prejudice to any other duty or obligation that it may have under international law, a State Party that has used or tested nuclear weapons or any other nuclear explosive devices shall have a responsibility to provide adequate assistance to affected States Parties, for the purpose of victim assistance and environmental remediation.

Recommendations for the First Meeting of States Parties

The TPNW's 1MSP should stress the importance of victim assistance in its discussions and outcome documents. It should also adopt a final report, a declaration, and an action plan, in which states parties agree to initiate implementation of their Article 6(1) and Article 7 obligations. In particular, states parties at the 1MSP should commit to the following measures.¹

1. Assessing Victims' Needs and State Capacity

Each state party should assess the needs of individuals affected by nuclear weapons use or testing in areas under its jurisdiction and evaluate its national capacity to meet those needs. In so doing, the state party should consult with victims, their representative organizations, and other experts. The affected state party should use this information to prioritize its response, identify challenges, and request support from donor states parties.

2. Creating a National Victim Assistance Infrastructure

Each affected state party should adopt a comprehensive national victim assistance plan, designate a government focal point to ensure coordination and accountability, pass relevant laws and policies, and approve a budget with funds earmarked for victim assistance. Other states parties should develop frameworks to provide international cooperation and assistance that will help affected states parties meet their Article 6(1) obligations. The 1MSP should set a deadline, ideally by the 2MSP, for completing this step and the previous one.

3. Establishing an Intersessional Victim Assistance Committee

States parties at the 1MSP should establish an intersessional standing committee, or possibly an informal working group, to examine the challenges of victim assistance in more depth. The body could also provide a forum for reporting on victims' needs and progress in the provision of assistance, exchanging best practices, facilitating international cooperation and assistance, and developing relevant international standards.

4. Including Survivors and Civil Society

States parties should actively involve survivors and civil society organizations at all stages of the victim assistance process. They should also ensure the 1MSP and all future formal and informal TPNW meetings are fully inclusive. Survivors and civil society organizations can provide information about, inter alia, the impacts of nuclear weapons use and testing, the needs of victims, and the ways in which victim assistance programs can meet these needs.

5. Upholding Guiding Principles of Implementation

States parties should commit to upholding the principles of accessibility, non-discrimination, and transparency, in addition to inclusivity, as they implement their victim assistance obligations.

² Bonnie Docherty, "From Obligation to Action: Advancing Victim Assistance and Environmental Remediation at the First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons," *Journal for Peace and Nuclear Disarmament*, vol. 3(2) (2020).

Framework for Future Implementation

While TPNW states parties should commit to initiating implementation of Articles 6(1) and 7 at the 1MSP, assisting victims of nuclear weapons use and testing is a long-term process. The below framework for victim assistance, drawn from the TPNW's provisions and humanitarian disarmament precedent, can help states parties fulfill their obligations over time. It can also serve as a guide for states not party that seek to reduce the human suffering inflicted by nuclear weapons.²

Purpose

Victim assistance should address victims' immediate and ongoing needs and promote the full realization of their human rights.

Problem and Response

Types of Harm

Victim assistance should address harm caused or aggravated by nuclear weapons, including but not limited to: physical injuries and death; psychological injuries; social marginalization; economic loss; obstacles to participation in cultural life; and infringement of human rights.

Types of Assistance

Victim assistance should include but is not limited to: medical care, rehabilitation, and psychological support; provision for social and economic inclusion; acknowledgment of harm; measures to facilitate cultural practices; access to information; and other measures to promote victims' human rights.

Shared Responsibility

Affected State Responsibility

Affected states parties should assist individuals affected by nuclear weapons use and testing in areas under their jurisdiction or control.

International Cooperation and Assistance

Other states parties, including states parties that have used or tested nuclear weapons, should provide financial, material, technical, and/or other assistance to affected states parties.

Exchange of Scientific and Technical Information

States parties and other actors should share information with affected states parties regarding the potential effects of nuclear contamination and types of responses.

Implementation Measures

Collection and Dissemination of Information

Affected states parties should collect and ensure the dissemination of information regarding the presence of nuclear weapons contamination and the harm it has caused or may cause.

National Strategy

Each affected state party should develop and implement a national victim assistance strategy that plans for victims' short- and long-term needs.

Capacity Building

States parties and other actors should promote capacity building to ensure long-term and effective implementation of victim assistance.

Guiding Principles

Accessibility

Affected states parties should mitigate or eliminate informational, physical, and other barriers to access to assistance.

Inclusivity

Affected states parties should meaningfully consult with and actively involve victims at all stages of the victim assistance process.

Non-Discrimination

Assistance programs should not discriminate against or among victims or on the basis of race, sex, age, religion, disability, or other status.

Transparency

Affected states parties should ensure transparency at all stages of the victim assistance process.

² This framework is based on that presented in Harvard Law School International Human Rights Clinic and Conflict and Environment Observatory, *Confronting Conflict Pollution: Principles for Assisting Victims of Toxic Remnants of War* (September 2020).

Humanitarian Consequences of Nuclear Weapons Use and Testing

Physical Harm	Psychological Harm	Other Impacts
<ul style="list-style-type: none"> • Death • Horrific burns • Blast and fragmentation injuries • Lung damage • Blindness or cataracts • Radiation sickness • Internal bleeding • Cancer • Blood diseases • Impaired fertility or infertility • Birth defects 	<ul style="list-style-type: none"> • Post-traumatic stress disorder and other forms of trauma • Stress • Anxiety • Depression • Suicide 	<ul style="list-style-type: none"> • Socioeconomic marginalization • Discrimination and stigmatization • Loss of livelihoods • Destruction of homes, infrastructure (e.g., healthcare facilities), and other property • Food insecurity • Disruption of cultural practices • Environmental damage • Displacement

Use and Testing by the Numbers²

Use	Testing
<p>2 attacks on Hiroshima and Nagasaki in 1945</p> <ul style="list-style-type: none"> • Killed 213,000 people in the first five months • Left more than 210,000 survivors who continue to experience effects 	<p>At least 2,050 tests in 15 countries and numerous bodies of water from 1945 to 2017</p> <ul style="list-style-type: none"> • Caused excess cancer deaths estimated to reach 2.4 million

Resources

Article 36, *Banning Nuclear Weapons* (February 2013), https://article36.org/wp-content/uploads/2013/02/Report_web_23.02.13.pdf

Bonnie Docherty, “From Obligation to Action: Advancing Victim Assistance and Environmental Remediation at the First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons,” *Journal for Peace and Nuclear Disarmament*, vol. 3(2) (2020), pp. 253–64, <https://doi.org/10.1080/25751654.2020.1842657>

Matthew B. Bolton and Elizabeth Minor, eds., Special Section on Humanitarian and Environmental Consequences of Nuclear Weapons Testing, *Global Policy*, vol. 12(1)(February 2021), <https://onlinelibrary.wiley.com/toc/17585899/2021/12/1>

Harvard Law School International Human Rights Clinic, *Victim Assistance and Environmental Remediation in the Treaty on the Prohibition of Nuclear Weapons: Myths and Realities* (April 2019), https://hrp.law.harvard.edu/wp-content/uploads/2019/05/TPNW_Myths_Realities_April2019.pdf

Harvard Law School International Human Rights Clinic and Conflict and Environment Observatory, *Confronting Conflict Pollution: Principles for Assisting Victims of Toxic Remnants of War* (September 2020), https://ceobs.org/wp-content/uploads/2020/09/Harvard_CEOBS_Confronting_Conflict_Pollution_2020.pdf

Nuclear Weapons Ban Monitor, “The Obligation to Assist Victims,” <https://banmonitor.org/positive-obligations-1/the-obligation-to-assist-victims>, and “The Obligation to Cooperate with and Assist Other States Parties,” <https://banmonitor.org/positive-obligations-1/the-obligation-to-cooperate-with-and-assist-other-states-parties>

² The data in this chart is from Nuclear Weapons Ban Monitor, “The Obligation to Assist Victims,” <https://banmonitor.org/positive-obligations-1/the-obligation-to-assist-victims>.