

An International Trust Fund for victim assistance and environmental remediation: Briefing note and recommendations from ICAN

16 February 2023

Introduction

At the first Meeting of States Parties of the Treaty on the Prohibition of Nuclear Weapons (TPNW), states agreed a series of actions to advance the implementation of articles 6 and 7 of the TPNW on victim assistance, environmental remediation and international cooperation and assistance (see actions 19–32 and 49–50 of the [Vienna Action Plan](#)).

One of these commitments is to discuss the “feasibility of, and propose possible guidelines for” establishing an international trust fund that could provide financial support to victim assistance and environmental remediation activities (action 29). Kiribati and Kazakhstan, the co-facilitators of the TPNW’s informal intersessional working group on victim assistance, environmental remediation and international cooperation and assistance, have set the international trust fund as the first topic for the group to address. The group will also discuss voluntary reporting and national implementation of articles 6 and 7 in its work towards achieving concrete outcomes on this part of TPNW implementation by the second Meeting of States Parties.

Establishing a voluntary international trust fund would further the TPNW’s practical and normative impact, through providing a tool to help finance work to implement articles 6 and 7 and address nuclear legacies. It could provide an effective way to help mobilize financial resources for some of the measures that affected communities are seeking to address ongoing harm from nuclear weapons. It could help TPNW states parties to seek and receive a degree of financial assistance through providing a mechanism to facilitate this. Through the decisions it makes in grant-making, and the structures it adopts for doing so, a trust fund could also provide one site for discussing, developing and advancing humanitarian and rights-based norms that center affected communities in the implementation of victim assistance and environmental remediation. Lastly, a trust fund could provide a point of focus for engaging states not party with the TPNW’s humanitarian work, and encouraging universalisation through this engagement.

This briefing note provides ICAN’s views on the questions Kiribati and Kazakhstan circulated for the informal working group to consider in relation to establishing an international trust fund.

In general, ICAN’s view is that a voluntary international trust fund should be established by TPNW states parties with the purpose and mandate of advancing the humanitarian goals and purpose of the treaty and its positive obligations. The trust fund should focus on making a

practical, humanitarian impact with and for affected communities through victim assistance and environmental remediation.

In establishing a trust fund, states should recall the principles of transparency, inclusivity, accessibility and non-discrimination that they committed to in the Vienna Action Plan (action 25), and ensure affected communities are at the center of the work. Through Action 19 of the Action Plan states resolved to engage with stakeholders including “international organizations, civil society, affected communities, indigenous peoples, and youth” in their work and committed to “closely consult with, actively involve, and disseminate information to, affected communities at all stages.” In line with their Action Plan commitments on gender, states should also ensure to meaningfully consult with women, LGBTQ+ people and other marginalized people in undertaking their work.

1) Who should be allowed to contribute to the trust fund?

Recommendation: Contributions should be allowed and encouraged from the widest range of donors, including states party and not party to the TPNW, international organizations, NGOs and others

Seeking donations from the widest range of actors could increase the trust fund’s resources and so its humanitarian impact. Furthermore, encouraging contributions from states not party would provide an important point of engagement with countries that have humanitarian, human rights and sustainable development priorities, and provide a focus for encouraging such states to join the TPNW. Some states not party to the TPNW have already expressed an interest in the treaty’s positive obligations and the ongoing impacts of past nuclear weapons use and testing, and in exploring opportunities for engagement and cooperation around victim assistance and environmental remediation work.¹ States parties should welcome constructive engagement by states not party with work on victim assistance and environmental remediation for the humanitarian benefits this would bring – as well as for the opportunity this would present for dialogue on the TPNW’s broader humanitarian goals and norms, and for encouraging universalisation of the treaty. Allowing and encouraging donations to a trust fund would be a concrete way to develop this engagement.

2) What should be eligible to receive grants from the trust fund?

Recommendation: In principle, the trust fund should be open to the widest range of recipient organizations, in any state, for work that furthers the humanitarian goals and purpose of the TPNW and its positive obligations

Grants from any trust fund should not be limited to states, but be available to others such as affected community groups, affected Indigenous Peoples and NGOs as well. Because the resources of any international trust fund established by TPNW states parties may initially be

¹ See for example the statement of [Germany](#) to the TPNW 1MSP (22 June 2022)

limited, in practice a trust fund might prioritize grants to states parties or organizations working within those states: given states parties' legal obligations to implement victim assistance and environmental remediation, they will have made the strongest commitments to undertaking or encouraging others' projects to further the humanitarian goals and purpose of the TPNW and its positive obligations. Nevertheless, states parties should consider allowing a wider range of recipients to benefit if and when resources allow this, in order to maximize the humanitarian and normative impact of the trust fund. This could contribute towards addressing some of the humanitarian priorities and unmet needs communities have identified – as well as offering the opportunity to highlight the benefits that membership of the TPNW and the full implementation of its rights-based and humanitarian obligations would bring to affected communities.

3) What kinds of projects should be funded?

Recommendation: The trust fund should fund projects that address the wide range of ongoing harm caused to people and the environment caused by nuclear weapons use and testing. Affected communities should be centered and included in setting the objectives and criteria for funding, with other stakeholders and experts consulted.

The ongoing harms to people and their environment caused by the use and testing of nuclear weapons range from medical and psychological impacts, to socio-economic and cultural harm, to the degradation of the environment and loss of access to natural resources, among other impacts. These harms affect individuals, their families and communities and can affect multiple generations, due to the longevity of the harm that nuclear weapons cause. In its grant-making, a trust fund should be responsive to this broad range of impacts and be open to funding a similarly wide scope of projects – from medical care to memorialisation. Article 6.1 of the TPNW already recognises that a range of responses is required for victim assistance: these should address both immediate needs and work towards the full realization of the human rights of affected individuals. Environmental remediation projects might range from assessments to measures to prevent exposure to radiation.

The projects funded by a trust fund must be responsive to and grounded in the priorities and needs of affected communities, humanitarian imperatives and human rights. The trust fund should avoid endorsing approaches that have restricted access to assistance in certain national compensation programmes, such as requiring certain types of proof of radiation exposure,² and instead be based on need. As the work and resources of the trust fund develops, the fund could consider expanding grant-making to projects that address the impacts of nuclear weapons activities beyond use and testing. Some of these impacts are recognised in the TPNW's preamble, and are not necessarily distinct for many affected communities.

² For a discussion of the problems with such approaches, see Matthew Bolton (2022) '[Human Rights Fallout of Nuclear Detonations: Reevaluating 'Threshold Thinking' in Assisting Victims of Nuclear Testing](#)', Global Policy

The national assessments of impacts and needs that affected states parties to the TPNW will undertake,³ which should center and be conducted in partnership with affected communities, will be a useful tool for building understandings of what some types of projects would be. Apart from these assessments, however, there is a growing body of information on the types of impacts affected communities are looking for responses to, and so the types of victim assistance and environmental remediation projects that might usefully be funded.⁴ States' and others' deliberations on the scope and types of projects that could be funded by the trust fund give one opportunity to discuss and develop humanitarian and rights-based approaches that center affected communities in the implementation of victim assistance and environmental remediation. The trust fund would not be the only site for the discussion of these implementation issues, many of which may be broader than its mandate – but it would nevertheless provide a useful forum that would support building these norms.

4) Who should make decisions about the disbursement of grants, and on what basis should they make their decisions?

Recommendation: A committee or board should be created to make disbursement decisions. It could also set the objectives and criteria for funding, following consultation with a wide range of stakeholders (including affected communities). The board should include representatives of states, affected communities and other experts. This body should be geographically and gender diverse.

TPNW states parties should lead the establishment and work of the trust fund, with support from a wide range of stakeholders. In line with action 19 of the Vienna Action Plan, states parties should ensure the active involvement of affected communities in any decision-making board. To do this, the remuneration of participation and other steps to facilitate inclusion must be taken. States parties may choose to include relevant experts including affected communities, Indigenous Peoples (who the TPNW recognises have been disproportionately affected by nuclear weapons activities), and humanitarian, technical and legal professionals from both states party and not party on the board. Including some experts from states not party may be useful to establish structures and policies that will remain relevant as TPNW membership expands and the range of recipients of the trust fund grows. States parties may consider giving a role to states not party that donate to the trust fund, but these countries should not ultimately control its policymaking. In its decision-making, the trust fund's board should ensure that its grant-making is coordinated with other victim assistance and environmental remediation efforts.

³ As per action 30 of the Vienna Action Plan

⁴ For a discussion of scope see International Human Rights Clinic (IHRC) and Conflict and Environment Observatory (CEOBS), *Confronting Conflict Pollution: Principles for Assisting Victims of Toxic Remnants of War* (2020), <http://hrp.law.harvard.edu/wp-content/uploads/2020/09/Confronting-Conflict-Pollution.pdf> and IHRC and CEOBS, *Facing Fallout: Principles for Environmental Remediation of Nuclear Weapons Contamination* (2022), <https://hrp.law.harvard.edu/wp-content/uploads/2022/06/Facing-Fallout-2022.pdf>

5) Should there be restrictions on the length and size of grants?

Recommendation: To promote inclusivity and accessibility, different sizes and lengths of grants should be permitted. This could help facilitate the applications from small civil society and affected community organizations, for example.

In considering the length of grants or the possibilities for continuing the funding of projects, a trust fund should also take into account the long-term extent of harm caused by radiation to people and the environment.

6) What measures should exist for reporting and accountability?

Recommendation: The fund should pursue transparency and accountability in the use of funds through reporting by both grantees and the decision-making board. This should not be burdensome, given that the capacities available to both the trust fund itself and grantees (such as small community organizations) may be limited.

7) What administrative structures are necessary?

Recommendation: The decision-making board and the administration of grants (disbursement, receipt of reports etc) will require administrative support. States parties should consider the scale of budget that will be needed for this support, whether ad hoc support or a standing capacity will be required to fulfill it, and how this could be funded. A cap on administrative costs as a proportion of the trust fund's resources could also be set. States should also consider the anti-corruption policies and procedures needed to ensure the integrity of the trust fund, and what other policies and procedures might be necessary, including for example to deal with queries about decisions made.

Recommended resources:

International Human Rights Clinic at Harvard Law School (IHRC) (January 2023), '[Designing a Trust Fund for the Treaty on the Prohibition of Nuclear Weapons: Precedents and Proposals](#)

IHRC and Conflict and Environment Observatory (CEOBS) (2020), [Confronting Conflict Pollution: Principles for Assisting Victims of Toxic Remnants of War](#)

IHRC and CEOBS (2022), [Facing Fallout: Principles for Environmental Remediation of Nuclear Weapons Contamination](#)

For further recommendations on how states not party might be encouraged to engage with the renewed efforts to address nuclear harm that TPNW states parties are driving, see [ICAN's briefing paper](#) released before the 1MSP, and analysis released for the 2022 NPT Review Conference by [Friedrich Ebert Stiftung](#).

Relevant points of the Vienna Action Plan:

Action 23: To coordinate and develop mechanisms, where needed, to facilitate the provision, by States parties in a position to do so, of the international cooperation and technical, material and financial assistance that affected States parties may require to implement the Treaty's victim assistance and environmental remediation provisions. Mechanisms should match needs, which may arise at any stage of implementing article 6, with offers of assistance.

Action 29: To discuss the feasibility of, and propose possible guidelines for, establishing an international trust fund for States that have been affected by the use or testing of nuclear weapons, taking into account relevant precedents for such a trust fund. The purpose of such a fund would be, inter alia, to provide aid to assist survivors and to support measures toward environmental remediation.

The full Vienna Action Plan is available in [this document](#).