

Recommendations on national implementation measures and voluntary reporting on victim assistance, environmental remediation and international cooperation and assistance

September 2023

In the [Vienna Action Plan](#), adopted at the first Meeting of States Parties (1MSP) of the Treaty on the Prohibition of Nuclear Weapons (TPNW), states parties made commitments to:

- **Commence their national implementation of articles 6 and 7** of the TPNW on victim assistance, environmental remediation, and international cooperation and assistance, including through starting work on needs assessments and national plans.
- **Develop guidelines for reporting voluntarily on their national progress** to implement these articles, in order to exchange information and highlight affected states' needs.

This briefing note reviews these commitments, and gives ICAN's recommendations to states as intersessional work continues on them. Alongside a voluntary international trust fund, national implementation and voluntary reporting are areas the co-chairs of the [articles 6 and 7 working group](#) proposed to address this year.

Summary of key recommendations

- **All states parties with known affected communities** should share initial assessments and information about national plans at 2MSP, for transparency and humanitarian purposes
- **Affected states should also indicate their next steps** on needs assessment and national planning. This could be presented as an initial national strategy document, which could be fully developed for 3MSP, where progress on implementing it could be shared
- **In gathering existing knowledge on impacts and responses**, and looking ahead to the further assessment and planning that is needed, affected states parties should:
 - take the holistic and human rights-based approach in article 6, and a broad understanding of 'victims', as a starting point;
 - examine how age- and gender-sensitivity and other factors relevant to non-discrimination and marginalization have been approached;
 - review how the knowledge and priorities of affected communities and other stakeholders (particularly Indigenous Peoples) have been included; and
 - share challenges and their needs for international cooperation and assistance.
- **All states parties** should provide the international cooperation and assistance they can, including through releasing information and sharing expertise on assessments/planning
- **States parties' assessments, plans and voluntary reporting should be made publicly available**, and be made accessible to all relevant stakeholders
- **States parties should conduct all this work inclusively**, in close consultation with affected communities and the engagement of other stakeholders

Introduction: TPNW articles 6 and 7

Articles 6 and 7 of the TPNW create a [framework of shared responsibility](#) amongst states parties to address the ongoing impacts of the past use and testing of nuclear weapons. States parties with affected populations commit to provide holistic, non-discriminatory, age- and gender-sensitive victim assistance. Those with contaminated areas commit to take steps towards environmental remediation. All states parties commit to cooperate to support affected states to do this, with those in a position to do so providing technical, material or financial assistance. States parties resolved at the 1MSP to implement this framework by the principles of accessibility, inclusivity, non-discrimination and transparency, and to work closely with affected communities and other stakeholders (see [Vienna Action Plan](#) actions 19, 25).

Articles 6 and 7 establish a humanitarian and human rights-based framework to respond to the immediate impacts of prohibited weapons and the needs of communities. It is similar to frameworks developed under the Anti-Personnel Mine Ban Convention and the Convention on Cluster Munitions. The TPNW's obligations do not themselves address - but are complementary to - measures for justice, reparation, or assistance that affected states or communities may seek from nuclear-armed states that used or tested nuclear weapons and are not party to the TPNW.

Whether or not the nuclear-armed states are ready to fulfill their responsibilities in this area, the suffering of affected communities deserves a response from all those concerned with the humanitarian impacts of nuclear weapons. Articles 6 and 7 serve this goal: TPNW states parties and their partners have established an unprecedented, inclusive framework to help address nuclear legacies. It has already [renewed international focus](#) on communities' unmet needs.

National implementation measures

In actions 22, 30, 31, 32 of the [Vienna Action Plan](#):

- **All states parties** committed to ensure national laws and policies on victim assistance, environmental remediation and international cooperation and assistance are in place where appropriate (22)
- **States parties affected by nuclear weapons use or testing** committed to conduct assessments of current needs regarding victim assistance and environmental remediation, as well as national capacities to address them. These states parties also committed to develop national plans for the implementation of victim assistance and environmental remediation, including budgets and time frames (30, 31)
- **States parties in a position to do so** committed to act on their obligations to provide international cooperation and assistance to affected states (32). Supporting affected states to develop national plans was highlighted as one area in which to do this (31)
- **For the 2MSP specifically, affected states parties committed to share:**
 - Completed “initial assessments,” which “could focus on gathering existing knowledge about ongoing and expected effects, and current and planned responses to date, and determining what additional information is needed” (30)
 - Their progress in developing national plans (31)

Background:

Needs assessment and drafting national plans on victim assistance and environmental remediation are crucial activities. They are important for states and other stakeholders to understand and prioritize the work that needs to take place – and in order for affected states to seek specific and relevant international cooperation and assistance.

Information on national situations and needs is also important to other discussions between states parties. For example, it can help inform discussions on how a trust fund should be best structured to assist affected states in their implementation of article 6 and serve communities.

Conducting assessments and developing plans should also be seen as a tool for revisiting and applying the humanitarian and human rights-based lens of the TPNW to national situations. Through doing this, states parties can identify the steps forward they need to take to effectively meet their obligations.

States parties made commitments at the 1MSP that they considered to be manageable, and the proposal to take steps on assessments and plans was led by affected states. For 2MSP, affected states have not committed to bring a full assessment or a complete plan. Rather, they have committed to bring a situation analysis of what is known and planned so far when it comes to addressing nuclear harm in their countries, and to report their progress on planning next steps.

Understanding and addressing harm will be a long-term and complex task. The knowledge and responses available to different countries may vary considerably – including because of secrecy¹ and other policies of nuclear-armed states, and the need for information sharing and other responses – including acknowledgement and international assistance – from these countries.

In the longer term, all states parties should assess whether populations or areas under their jurisdiction or control are suffering ongoing impacts from nuclear weapons use or testing that require a response under article 6. However, states parties may not currently have the information or means to do this. Steps that would be valuable in this regard include information sharing by all states, declassification of relevant documents such as fallout monitoring, and global studies to apply the latest methodologies to issues such as the extent and implications of radioactive fallout from nuclear tests.

The knowledge, expertise and requirements of affected communities must be centered in efforts to understand and respond to ongoing harm – including when it comes to information release and studies.

So far, the states parties that have made clear they consider themselves affected by nuclear weapons use or testing include the co-chairs of the intersessional working group on articles 6 and 7, Kazakhstan and Kiribati.

¹ For a discussion of nuclear secrecy and access to information see Nuclear Truth Project, ‘Challenging nuclear secrecy,’ <https://nucleartruthproject.org/resources/>

Recommendations:

1. **Affected states parties' initial assessments and progress on national plans shared with 2MSP should be documents and statements that, at a minimum:**
 - Are produced as a result of a process of close consultation and active involvement of affected communities, and the engagement of other relevant stakeholders (recalling action 19 of the Vienna Action Plan). We recommend states parties consult the [draft protocols](#) prepared by the Nuclear Truth Project, and ICAN's [initial recommendations on inclusion](#) in international discussions. Communication should take place in all necessary languages and formats
 - Indicate what states know so far about the impacts of nuclear use or testing in their countries, as well as responses to these impacts, and plans made to date
 - Indicate what states parties' next steps for further needs assessment and national planning will be to address known gaps, as well as challenges and areas for international cooperation and assistance they have already identified
 - In laying out next steps, highlight how states parties will actively include and consult affected communities - including those that are disproportionately affected or particularly marginalized, such as Indigenous Peoples and women - as well as other stakeholders (recalling commitments in action 19 of the Vienna Action Plan, and article 6 and the preamble of the TPNW)

2. **In terms of the documents shared, affected states parties should:**
 - Consider presenting an initial national strategy document in order to indicate what their next steps will be. This could be fully developed for 3MSP, where progress on implementing it could be shared
 - Consider using the draft reporting guidelines and format proposed by the co-chairs to share information
 - Consider where they are able to signpost to existing documents, to reduce burden
 - Towards transparency, inclusivity and the consultation, involvement and dissemination of information to affected communities (recalling commitments in actions 19 and 25 of the Vienna Action Plan), ensure initial assessments and plans are shared for consultation with relevant stakeholders before the 2MSP, and when finalized, are made publicly available and accessible (using the languages and formats that are needed for different stakeholders)

3. **All states parties with individuals or areas known to be, or that have identified themselves to be, affected by nuclear weapons use or testing should share initial assessments and plans with the 2MSP.** Some states parties may have very small known affected populations, or consider current national programmes to fully implement article 6. Therefore, they may not yet have identified themselves as states affected by nuclear legacies. Nevertheless, they should share information on their national situations with 2MSP. This could have humanitarian benefits. It would also demonstrate states parties' commitment to all aspects of the TPNW, strengthen the treaty and uphold transparency.

4. When “gathering existing knowledge about ongoing and expected effects” and “determining what additional information is needed,” as a basis for identifying next steps ICAN encourages affected states parties to:
- Look at existing knowledge and its limitations in the context of the TPNW’s humanitarian and human rights based approach. This should mean taking the holistic and human-rights based approach to victim assistance contained in TPNW article 6 (which includes medical and psychological support and socio-economic inclusion), and a broad understanding of who could be considered a victim of nuclear weapons use or testing,² to consider what harms to communities states parties currently have information on, and which might be under-studied
 - Share the basis or methodology for studies or data that they have on individuals affected or contaminated environments and their needs. This is important for transparency, and to enable scrutiny of the limitations of existing information
 - Consider what information may currently be inaccessible to them that others could or should share
 - Review how age and gender and other factors of marginalization and discrimination (recalling TPNW article 6), as well as the disproportionate impact on certain communities (such as Indigenous Peoples, recalling the TPNW’s preamble), has been treated in existing knowledge, and what more needs to be studied or done
 - Consider, in general, what expertise may be underrepresented in their existing information, and how the expertise of affected communities and other forms of knowledge can be included and valued alongside academic scientific studies (recalling commitments made in the Vienna Action Plan to inclusivity)
 - Closely consult with and actively involve affected communities, and engage other stakeholders (particularly Indigenous Peoples) mentioned in the Vienna Action Plan (action 19) in gathering existing knowledge about impacts and needs and determining what additional information is needed
 - Consider what international cooperation and assistance is needed for next steps
5. When gathering existing knowledge about “current and planned responses to date”, as a basis for identifying next steps ICAN encourages affected states parties to:
- Taking the humanitarian and human-right based approach enshrined in the TPNW, consider to what extent these responses address the full range of impacts of nuclear weapons testing on people and their environments
 - Consider how current/planned responses compare to the holistic and human-rights based approach to victim assistance contained in TPNW article 6, which includes medical and psychological support and socio-economic inclusion

² The [ICRC’s view](#) is that it is appropriate to consider the definition victims to “include all persons – whether civilians or combatants – who have been killed or who have suffered physical or psychological injury, economic loss, social marginalization or substantial impairment of the realization of their rights caused in whole or in part, directly or indirectly, by the detonation of nuclear weapons, as well as their families and communities, provided they were so affected.”

- Share the basis for any criteria they have set to determine eligibility for assistance or responses taken, for transparency and to enable scrutiny
- Review how age- and gender-sensitivity and non-discrimination (recalling TPNW article 6) are treated in current and planned responses, and how this could be improved
- Closely consult with and actively involve affected communities and engage other stakeholders in gathering this information. Examine how their knowledge and priorities are included, and how they are consulted, in current and planned victim assistance and environmental remediation activities, and how this could be improved
- Consider what international cooperation and assistance is needed for next steps

6. All states parties should:

- Work with affected states parties, with the consultation and involvement of their affected communities and other stakeholders, to identify the international cooperation and assistance that they can offer for implementation. This includes cooperation and assistance between affected states
- Share any expertise or technical assistance they may be able to offer affected states for developing national plans. Experiences under other treaty frameworks may be relevant (including highlighting the technical assistance that was useful or made available in those contexts), as may other national experiences
- Share any information they hold that could assist affected states with their assessment and planning activities. This might include, for example, declassifying and making accessible records in national archives on the impacts of nuclear testing. More broadly, such information should be made accessible for the benefit of affected communities
- Consider using the co-chairs' draft reporting guidelines and format to report international cooperation and assistance activities

Beyond 2MSP states parties should continue to consider the substance of these recommendations as their work on assessment, planning and other aspects of implementation continues.

Developing guidelines for voluntary reporting

Actions 27 and 28 of the [Vienna Action Plan](#) commit states:

- **To develop** “guidelines for voluntary reporting on national measures related to victim assistance, environmental remediation and international cooperation and assistance, including deadlines, as appropriate”
- **To do this in consultation** with affected states, drawing input from other stakeholders including affected communities
- **Before the 2MSP specifically**, to consider developing “a voluntary and non-burdensome format for reporting...in close cooperation with states concerned” and taking practice in other treaties into account

Background

Voluntary reporting from states parties who have information to share about their national work to implement articles 6 and 7 can show and encourage progress, as well as being a tool to help mobilize international cooperation and assistance through highlighting affected states' needs. It can also help show the humanitarian issues and challenges of addressing nuclear legacies, focusing attention on the humanitarian impact of nuclear weapons.

Though reporting on articles 6 and 7 is not an obligation under the TPNW, developing guidelines for the voluntary sharing of information on progress, as well as a format for doing this in a standardized, regular way, would be beneficial to strengthening the TPNW's humanitarian norms, and should be useful to affected states.

Guidelines and formats for reporting should be designed to facilitate implementation and assistance rather than create unnecessary burden: their drafting should be led and piloted by affected states parties, in consultation and with the involvement of affected communities, and with input from other stakeholders.

At the time of writing, the co-chairs of the informal working group on articles 6 and 7 have proposed voluntary reporting guidelines and a voluntary reporting format for agreement at the 2MSP, which ICAN has circulated comments on and recommends states parties look to adopt.

Recommendations:

1. **Building on precedent, the guidelines and templates developed by states parties should encourage voluntary reporting, from those with information to share, on:**
 - The known impacts of nuclear weapons use and testing in communities on people and their environment, and assessment work done or that is needed
 - Current and planned victim assistance and environmental remediation response activities, and national policies and plans
 - Affected states' challenges and needs for international cooperation and assistance
 - International cooperation and assistance activities. (Among other activities, this could also include reporting on information exchange with states not party recalling action 20 of the Vienna Action Plan, and national and regional initiatives relevant to the implementation of articles 6 and 7)
 - How states parties have included and consulted with affected communities and other stakeholders in their work
 - How age and gender sensitivity and non-discrimination have been addressed in their work
2. **Towards accessibility, inclusivity, non-discrimination and transparency (recalling action 25 of the Vienna Action Plan), voluntary reports should:**
 - Be made publicly available

- Be made accessible and communicated back to affected communities and other stakeholders (particularly Indigenous Peoples), for example through ensuring translation into the appropriate languages and the presentation of information in appropriate formats
 - Be shared for consultation with affected communities and input from other stakeholders before their submission or presentation to MSPs
 - Be encouraged from all states parties with information to share, with informal reporting also encouraged from others such as international, regional, and non-governmental organizations on activities that further the goals of articles 6 and 7 or on their delivery of international cooperation and assistance. These other actors should be encouraged to use the reporting guidelines and templates states adopt where relevant
3. **In order to strengthen the structures for the implementation of articles 6 and 7, states parties should adopt voluntary guidelines and a template for reporting at the 2MSP**
- The draft guidelines and template format should be developed in consultation and with the involvement of affected communities and the engagement of other stakeholders
 - Before the 2MSP, one or more states parties should commit to piloting the draft guidelines and format proposed, to demonstrate their feasibility and facilitate their further review
 - All states parties sharing information under actions 30-32 of the Vienna Action Plan with the 2MSP should consider already using the draft guidelines and formats to facilitate this. Future information sharing could then be provided as updates on these baselines. This would be beneficial to consistently measuring progress based on good quality data

Further reading

[Briefing note: The obligation to assist victims and remediate the environment within a framework of shared responsibility under the Treaty on the Prohibition of Nuclear Weapons](#), International Committee of the Red Cross, 2023

[Reporting guidelines for articles 6 and 7 of the Treaty on the Prohibition of Nuclear Weapons: Precedent and recommendations](#), Harvard Law School International Human Rights Clinic, May 2023

[Protocols for Seeking Nuclear Truth with Integrity](#), Nuclear Truth Project

[Initial Recommendations on Inclusion in TPNW Intersessional Process](#), ICAN, November 2022