



**UGANDA HUMAN RIGHTS COMMISSION**

**UHRC POSITION ON THE  
SIGNING AND RATIFICATION OF THE  
TREATY ON THE PROHIBITION OF NUCLEAR WEAPONS**

**SUBMITTED TO PARLIAMENT**

**16<sup>TH</sup> NOVEMBER, 2021**

## **1.1 INTRODUCTION**

Uganda Human Rights Commission (UHRC) is a National Human Rights Institution established under Article 51 of the Constitution of the Republic of Uganda. One of its core functions as provided for in Article 52(1) is to monitor Government's compliance with International Treaty and convention obligations ratified by Uganda and make appropriate recommendations to Parliament on effective measures for the promotion of human rights. This write up is therefore aimed at providing a human rights assessment of the Treaty on the Prohibition of Nuclear Weapons (TPNW), which was adopted by the United Nations General Assembly on 7<sup>th</sup> July 2017.

In 2017, the General Assembly by resolution 71/258, convened a United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination. The Treaty on the Prohibition of nuclear weapons provides a comprehensive set of prohibitions on participating in any nuclear weapon activities. The treaty prohibits State Parties from developing, testing, producing, manufacturing, acquiring, possessing, or stockpiling, using or threatening to use nuclear weapons. The Treaty also prohibits the deployment of nuclear weapons on national territory and the provision of assistance to any State in the conduct of prohibited activities. States parties will be obliged to prevent and suppress any activity prohibited under the TPNW undertaken by persons or on territory under its jurisdiction or control. The Treaty also obliges States parties to provide adequate assistance to individuals affected by the use or testing of nuclear weapons, as well as to take necessary and appropriate measure of environmental remediation in areas under its jurisdiction or control contaminated as a result of activities related to the testing or use of nuclear weapons.

Uganda participated in the negotiations leading to the formulation of the Treaty on the prohibition of nuclear weapons but has not ratified it. On 7 July 2017, the Treaty was adopted by the Conference, with a vote of 122 States in favour, one vote against and

one abstention. The Treaty was opened up for signature by the Secretary-General of the United Nations on 20 September 2017. Following the deposit with the Secretary-General as the 50<sup>th</sup> instrument of ratification or accession of the Treaty on 24 October 2020, it entered into force on 22 January 2021 in accordance with its article 15 (1).

## **2.0 HUMAN RIGHTS CONCERNS REGARDING NUCLEAR WEAPONS**

A nuclear weapon is an explosive device whose destructive force results from either nuclear fission chain reactions or combined nuclear fission and fusion reactions. Nuclear weapons whose explosive force results exclusively from fission reactions are commonly referred to as atomic bombs, while those that derive much or most of their energy in nuclear fusion reactions are termed thermonuclear weapons.

A nuclear weapon detonation in or near a populated area would as a result of the blast wave, intense heat, and radiation and radioactive fallout –cause massive death and destruction, trigger large-scale displacement and cause long-term harm to human health and well-being, as well as long-term damage to the environment, infrastructure, socioeconomic development and social order. The massive destructive effect of a nuclear explosion, as well as the long-term dangerous effects, is likely to result into a violation of some or of a range of human rights. In this regard, the rights to life, to humane treatment, to a healthy and clean environment and to the highest attainable standard of health are likely to be violated when the nuclear weapons are used as discussed below;

### **a) Security concern**

According to the Union of concerned scientists, roughly 9,000 nuclear weapons are hidden away in bunkers and missile siloes, stored in warehouses, at airfields and naval bases, and carried by dozens of submarines across the world. A single warhead can demolish a city center and fully-fledged nuclear war would threaten life as we know it. Currently, a total of nine countries possess nuclear weapons including, USA, Britain, Russia, China, Pakistan, India, Israel among others. There is however fear that the number of countries proliferated or possessing nuclear weapons may grow. The

chances that nuclear weapons may be fired in anger or accidentally exploded in a way that prompts a nuclear exchange are high, even though unknown. Those chances increase as the number of nuclear states increase.

Nations want nuclear weapons for great powers, or because their adversaries have them and the fear of the adversaries' present or future conventional strength. However, chances that nuclear weapons will be used also varies with the character of the nuclear states, their sense of responsibility, inclination toward devotion to the *status quo*, political and administrative competence. If nuclear weapons are acquired by countries whose governments totter and frequently fall, should we not worry more about the world's destruction then we do now? And if nuclear weapons are acquired by two states that are traditional and bitter rivals, should that not also foster our concern? The world has enjoyed more years of peace since 1945 than had been known in this century. In the past third of a century, conflict has generated hostility among states and has at times issued in violence among the weaker and smaller ones. Even though the more powerful states of the world have occasionally been direct participants, war has been confined geographically and limited militarily. Remarkably, general war has been avoided with focus on the development of new technologies and the emergence of new strategies for fighting guerrilla wars and deterring nuclear ones. It is therefore to prevent any eminent danger that could arise out of nuclear weapons.

### **b) Right to health**

The right to the highest attainable standard of health is a human right recognized in international human rights law. The International Covenant on Economic, Social and Cultural Rights (ICESCR), recognizes "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." The right to the highest attainable standard of health therefor implies a clear set of legal obligations on states to ensure appropriate conditions for the enjoyment of health for all people without discrimination. It is important to note that radiations from nuclear weapons have congenital effects on the human body which affect the health of those directly

impacted, as well as children born to them. People may also suffer deep tissue skin burns and eye injuries. Nuclear weapons are therefore a major threat to the enjoyment of the right to health even for generations to come.

Evidence of the immediate and longer-term impacts of the use and testing of nuclear weapons has been the subject of scientific investigation ever since. In a major 1987 report, the World Health Organization (WHO) summarized existing research into the impacts on health and health services of nuclear detonations. The World Health Organization has indicated that the blast wave, thermal wave, radiation and radioactive fallout generated by nuclear explosions have devastating short- and long-term effects on the human body, and that existing health services are not equipped to alleviate these effects in any significant way. Other evidence of the immediate and longer-term humanitarian impacts of nuclear weapons use and testing, and of the preparedness and capacity of national and international organizations and health systems to provide assistance to the victims of such events, has been growing steadily.

The right to health is one of a set of internationally agreed human rights standards, and is inseparable or 'indivisible' from these other rights. This means achieving the right to health is both central to, and dependent upon, the realization of other human rights, to food, housing, work, education, information, and participation.

### **c) Right to life**

The right to life is recognized as fundamental human right both internationally and nationally as provided for in the Universal Declaration of Human Rights<sup>1</sup>, the International Convention on Civil and Political Rights<sup>2</sup> and under Article 22(1) of the Constitution that protects the right to life. The right to life has also been interpreted to encompass not only situations where victims are killed but also serious injuries resulting

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<sup>1</sup> Article 3 everyone has the right to life, liberty and security of person.

<sup>2</sup> General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life

from use of lethal force.<sup>3</sup> This broad interpretation of the right to life is relevant for nuclear weapons. A nuclear weapon is indiscriminate in its effects and affects both military and civilian populations with adverse effects. The effects of nuclear weapons on human life are well documented particularly following the Hiroshima and Nagasaki bombings of 1945. The two bombings were estimated to have killed 140,000 people in Hiroshima, and a further 74,000 in Nagasaki respectively. In the years that followed, many of the survivors suffered from leukemia, cancer, or other terrible side effects from the radiation. It is imperative to note that nuclear powered weapons can indiscriminately kill millions of people at once and are therefore a serious threat to the right to life for people even beyond the territorial jurisdiction of individual states.

It is very important for Uganda as a Country to understand her obligation to respect, protect, and fulfil enjoyment of human rights for her citizens of which the right to life is part of. With that therefore, the UHRC in agreement with the Human Rights Committee affirms that the threat to the right to life stemming from nuclear weapons is however not limited to the time of an armed conflict. This threat is compounded by the danger that the actual use of such weapons may be brought about, not only in the event of war, but even through human or mechanical error or failure<sup>4</sup>.

#### **d) Right to a clean and healthy environment**

The right to a clean and healthy environment is recognized in both international and regional conventions as well as at a national level. Article 12(2) (b) ICESCR requires states parties to improve 'all aspects of environmental and industrial hygiene'<sup>5</sup>. Beyond

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<sup>3</sup> In *Benzer v Turkey* App. No. 23502/06, the European Court of Human Rights found that an attack which caused the Applicants injuries was so violent and caused the indiscriminate death of so many people that their survival did not mean that their lives had not been put at risk.

<sup>4</sup> HRC, *General Comment No. 14*

<sup>5</sup> "The improvement of all aspects of environmental and industrial hygiene" (art. 12.2 (b)) comprises, *inter alia*, preventive measures in respect of occupational accidents and diseases; the requirement to ensure an adequate supply of safe and potable water and basic sanitation; the prevention and reduction of the population's exposure to harmful substances such as radiation and harmful chemicals or other detrimental environmental conditions that directly or indirectly impact upon human health. Furthermore, industrial hygiene refers to the minimization, so far as is reasonably practicable, of the causes of health hazards inherent in the working environment. Article 12.2 (b)

the direct harm caused to individuals by nuclear weapon detonation, the environment in which they live may be seriously and permanently affected. Nuclear weapons have the potential to destroy the entire ecosystem of the planet-agriculture, natural resources, food and marine ecosystems as well. States have an obligation to take reasonable measures to prevent pollution and ecological degradation which cannot be achieved where nuclear weapons are used.

The radiation released by a nuclear explosion would affect health, agriculture, natural resources over a very wide area. Modern environmental modelling techniques demonstrates that even a "small-scale" use of some 100 nuclear weapons would, in addition to spreading radiation around the world, lead to a cooling of the atmosphere, shorter growing seasons, food shortages and a global famine. More so radiation has the potential to damage the future environment, food and marine ecosystem, and to cause genetic defects and illness in future generations. Therefore, nuclear weapons pose a threat to humanity. Uganda as a nation is not prepared to deal with the humanitarian catastrophe generated by a nuclear detonation. The effects of such massive destructions cannot be contained within national borders but rather spill over to other territories. Therefore, the UHRC, strongly recommends Uganda to join other states that are for the prohibition of nuclear weapons and work urgently to reduce the risks that nuclear weapons may cause by ratifying the treaty.

#### **e) Right to freedom from torture**

Article 7 of the ICCPR provides for the protection of every person from any form of torture or cruel, inhumane or degrading treatment. Uganda provides for the same in Article 24 of the Constitution and has also enacted the Prevention and Prohibition of Torture Act 2012. All these guarantee the right to freedom from torture. The effects suffered as a result particularly of the burns that arise from nuclear weapons are certainly an infringement on the right to freedom from torture. Burns caused by nuclear

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also embraces adequate housing and safe and hygienic working conditions, an adequate supply of food and proper nutrition, and discourages the abuse of alcohol, and the use of tobacco, drugs and other harmful substances.

weapons may go beyond third degree burns in which all layers of the skin are destroyed, to fourth degree burns in which injury extends to both muscle and bone. Such burns not only disfigure the victim but are also agonizingly painful. The use of nuclear weapons therefore negatively impacts on the right to freedom from torture.

#### **f) Other human rights concerns**

The effects of a nuclear weapon detonation, notably the radioactive fallout carried downwind, cannot be contained within national borders. The scale of destruction and contamination after a nuclear detonation in or near a populated area could cause profound social and political disruption as it would take several decades to reconstruct infrastructure and regenerate economic activities, trade, communications, health-care facilities and schools.

No state or international body can address, in an appropriate manner, the immediate humanitarian emergency nor the long-term consequences of a nuclear weapon detonation in a populated area, nor provide appropriate assistance to those affected. Owing to the massive suffering and destruction caused by a nuclear detonation, it would probably not be possible to establish such capacities, even if attempted. The long-lasting effects of exposure to ionizing radiation, the use or testing of nuclear weapons has, in several parts of the world, left a legacy of serious health and environmental consequences that disproportionately affect women and children.

### **3.0 IMPORTANCE OF RATIFICATION FOR UGANDA**

International treaties and customary law form the backbone of international human rights law. International human rights law lays down obligations which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights. Through ratification of international human rights treaties, Governments undertake to put into place domestic measures and legislation compatible with their treaty obligations and duties. Where domestic legal proceedings fail to address human



rights abuses, mechanisms and procedures for individual complaints or communications are available at regional and international levels, to ensure that international human rights standards are indeed respected, implemented and enforced at the local level.

A series of international human rights treaties and other instruments adopted since 1945 have conferred legal form on inherent human rights and developed the body of international human rights. Other instruments have been adopted at the regional level reflecting the particular human rights concerns of the region and providing for specific mechanisms of protection. Uganda signed the African Nuclear-Weapon-Free Zone treaty (Pelindaba treaty) on 11<sup>th</sup> April 1996 but is also yet to ratify it. At the national level, Uganda has committed to promote and implement energy policies that will ensure that people's basic needs and those of environmental preservation are met under objective XXVII of the Constitution. Objective XXVIII also provides for foreign policy objectives which promote peaceful coexistence. Uganda passed the Atomic Energy Act No. 24 of 2008 which provides for protection and security of radioactive sources to ensure safety as well as peaceful use of radioactive materials among other. In domesticating these instruments, most States have adopted constitutions and other national laws which formally protect basic human rights.

Uganda has made efforts to domesticate most international provisions which provide for protection of the right to life, the right to a clean and healthy environment, the right to peaceful existence and the right to freedom from torture through the Articles 22, 24 and 39. In addition Uganda has enacted the Prevention and Prohibition of Torture Act 2012 which protects people from torture, as well as the Atomic Energy Act 2008 which ensures that harmful and radioactive materials are handled safely and in accordance with the standards of the International Atomic Energy Agency (IAEA), the National Environment Act 2019 among others.

Uganda has also demonstrated its commitment to domesticating the principles enshrined in the Treaty on Prohibition of Nuclear Weapons. The treaty is relevant to

Uganda in attainment of its goals as enshrined in NDP III in relation to the governance and security programme which intends to address the need to build peaceful, just and inclusive societies. Environmental stress and threats to security are a major concern for Uganda. The treaty on prohibition of nuclear weapons provides a building block in addressing these issues of which the Commission greatly commends the Government. Important to note is that the development of nuclear weapons stands strongly against the principles to national and international peace and security and principles of friendly relations and solidarity shall amongst states hence rendering the Treaty on Prohibition of Nuclear Weapons very relevant to Uganda as a Country.

## **5.0 RECOMMENDATIONS**

- a) The Uganda Human Rights Commission (UHRC) recommends for Government to ratify and becomes as State Party to the Treaty on the Prohibition of Nuclear Weapons (TPNW).
- b) Government should ensure continued international commitment to the non-proliferation treaty which prohibits the use of materials and technology that are a threat to international and national security.
- c) Ministry of Internal Affairs should strengthen cross boarder cooperation and coordination to ensure adequate boarder control measures so as to avoid infiltration of illegal firearms.
- d) Government should also ratify the UN Arms Trade Treaty which came into force in December 2014.

## **CONCLUSION**

The UHRC commends Government's efforts in considering the ratification of the Treaty on Prohibition of Nuclear Weapons. We therefore strongly urge Government to ratify this treaty as a mechanism for prevent any eminent danger that could arise out of nuclear weapons.