

First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons

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Implementing Articles 6 and 7 on victim assistance, environmental remediation, and international cooperation and assistance

Working paper submitted by Article 36

1. Articles 6 and 7 of the Treaty on the Prohibition of Nuclear Weapons (TPNW) – on victim assistance, environmental remediation, and international cooperation and assistance – provide the first international framework for addressing the ongoing humanitarian, human rights, and environmental consequences of the past use and testing of nuclear weapons. Article 6.1 requires a holistic response to the broad range of harms caused to people by these activities. In its reference to implementation in accordance with human rights law, it follows the rights-based approach to victim assistance established under the Convention on Cluster Munitions: that is, it is grounded in a requirement to work towards the full realisation of individuals' rights where these are affected by the past use and testing of nuclear weapons. As the first framework of this kind in a nuclear weapons treaty, Articles 6 and 7 are an area where the TPNW can make a unique contribution in the international nuclear non-proliferation and disarmament architecture as implementation develops.
2. These articles are a crucial part of the TPNW's normative and practical response to the humanitarian and environmental consequences of nuclear weapons. Most importantly, through implementing Articles 6 and 7, states parties have an opportunity to better address and respond to affected communities' rights and needs as well as to ongoing environmental contamination. Implementation of these articles can also serve to build international understandings of the ongoing harms and consequences from past use and testing.
3. Articles 6 and 7 together establish a framework of shared responsibility for implementation amongst states parties, which can provide solidarity and support to affected states parties undertaking victim assistance and environmental remediation for their affected populations and areas. Implementing victim assistance, environmental remediation, and international cooperation and assistance is an area where states parties can develop and undertake meaningful and substantive work together and in collaboration with their partners to make a practical difference in the near term – without needing to wait for others to respond. The framework can be seen as a taking on of collective responsibility – and empowerment – towards tackling challenging humanitarian, human rights and environmental issues. These obligations

do not preclude the seeking of other responses and redress, including from states outside the treaty, nor do they affect any existing arrangements outside of the TPNW framework – all of which are important to addressing nuclear legacies holistically. These obligations should not place a burden on affected states. Rather, as implementation develops, they should provide a means for improved support, focus and the raising of standards in victim assistance and environmental remediation.

4. The implementation of Articles 6 and 7 should be considered a long-term commitment, to be done in phases and progressively realised. The TPNW currently has limited membership and resources. States parties will need to prioritise and sequence their work in this area, to develop effective implementation over time. Because of the nature of nuclear weapons and their effects, and the deficits in and suppression of information surrounding how they have been tested and used, it may take time for states parties to fully understand the ongoing harm caused by past nuclear weapons use and testing and to come to collective understandings on the range of responses required. Nevertheless, states parties can take steps towards implementation with the knowledge and tools they have now: initial actions can focus on action by and to support states parties with populations identifying themselves as affected, and areas known to be contaminated, for example. Various issues of substance can be identified by states parties and set aside for future discussion.

5. From the start, implementation should aim to be inclusive and equitable and should centre affected communities, their knowledge, rights and needs, closely involving them at all stages (including regarding the modalities for their participation). This is essential for approaching both victim and assistance and environmental remediation, which are not purely technical matters but should seek to serve the requirements of individuals and communities. With the history of nuclear use and testing involving discrimination, colonialism, a disproportionate impact on Indigenous peoples and the denial of individual and collective rights this is especially crucial.

6. At the first Meeting of States Parties, the priorities should be to put in place the foundations for implementation going forward, including: structures for ongoing work and discussion; initial practical and time-bound activities; and establishing a positive, inclusive and collaborative culture of work. In this regard, the recommendations contained in Kazakhstan and Kiribati's working paper would provide a strong basis for states' commencement of their implementation work. These focus on putting in place: an implementation framework with action points for affected and other states parties, including to begin information gathering and planning (that can also form the basis for requests for international cooperation and assistance); principles for implementation including accessibility, inclusivity, non-discrimination, and transparency; an informal intersessional working group in this area (with possible areas for discussion including substantive issues, informal reporting formats, and an international trust fund for affected states); and commitments to inclusivity covering a range of stakeholders including international organisations, civil society, affected communities, Indigenous peoples, and youth.

7. Developing the implementation of a rights-based understanding of nuclear harm, as a matter to be addressed through collective action, and a holistic concept of assistance, offers the opportunity to address the impacts of nuclear weapons on people and places more effectively: existing models and policies have often left shortcomings for affected communities. Globally, there are around 16 present-day states or territories that were subject to previous nuclear weapons use or testing. There is also a range of other countries whose nationals were present in the vicinity of use or testing.¹ Most of these are not yet party to the TPNW. Work to implement Articles 6

¹ For an overview, see Matthew Bolton and Elizabeth Minor (2021), 'Addressing the Ongoing Humanitarian and Environmental

and 7 has the potential to build and strengthen norms and practice on addressing the human and environmental effects of nuclear weapons that could be relevant and influential more widely. Including the perspectives of affected communities and other experts from states not party in developing broad approaches to implementation will be important.

8. All those that share the humanitarian and development goals that can be realised through the implementation of Articles 6 and 7 should be encouraged to contribute to this work. This new international framework serves to place responding to nuclear legacies on the agenda of the international community: states not party to the TPNW that nevertheless share human rights, environmental and sustainable development objectives can both contribute to important humanitarian responses and constructively engage to build bridges with parties to the TPNW through engagement with work to address nuclear legacies. States not party that previously used or tested nuclear weapons, who hold information or expertise relevant to affected states, should also be encouraged to engage.

9. The TPNW should aim to build a community of practice that seeks to promote the highest standards of victim assistance and environmental remediation. This should be a community that supports affected states to serve affected communities through strong international cooperation and assistance, and which centres affected people. The implementation of Articles 6 and 7 of the TPNW provides an opportunity to improve global responses to ongoing harm from past nuclear weapons use and testing – but this will be a complex and long-term task. Making a positive start at the TPNW’s first Meeting of States Parties through focusing on steps that states can take now with the resources they have available, and developing a positive and inclusive culture of work, will be crucial.

10. At the first Meeting of States Parties, states should: express their concern at the ongoing humanitarian and environmental impacts of past use and testing, and that the rights and needs of many individuals have not been adequately addressed and often marginalised; emphasise their commitment to implementation that centres affected communities; call on all those who share the humanitarian, environmental and human rights goals of Articles 6 and 7 to engage with work to address nuclear legacies; and adopt an action plan that contains a structure of commitments based on Kazakhstan and Kiribati’s working paper on Articles 6 and 7.
