

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

Distr.: General
[date] 2022

[Language] only

Vienna, 21–23 June 2022

1MSP Policy Recommendations

Working paper submitted by Manhattan Project for a Nuclear-Free World

I. Endorsing civil society groups:

1. These policy recommendations are endorsed by the following civil society groups in the United States: [REDACTED]. As groups that are active in the United States where the original Manhattan Project unleashed the violent atom, we believe that we have a social responsibility to raise our deep concerns and provide recommendations to reduce the extreme dangers associated with the use and testing of nuclear weapons as well as the development, production, and storage of nuclear weapons and radioactive waste.

II. Expected Policy Outcomes

2. We recommend that states parties adopt a declaration and an action plan with specific commitments to implement the articles of the treaty as outcome documents based on the following key messages and policy commitments, with the intention to fulfill their legal obligations under the Treaty:

III. Key Messages

3. We recognize the groundbreaking nature of the Treaty that declares that “any use of nuclear weapons [would be] abhorrent to the principles of humanity and the dictates of public conscience” and “would be contrary to the rules of international law applicable in armed conflict, in particular the principles and rules of international humanitarian law.” We are also immensely grateful for the novel recognition of the disproportionate impact of radioactive violence on Indigenous Peoples, women and girls, for naming and recognizing the suffering of hibakusha and nuclear test survivors, and the Treaty’s fundamental shift from a Cold War narrative of the doctrine of deterrence to humanitarian and environmental consequences of nuclear weapons where the development, testing, production, possession, deployment, use, and threat of use is outlawed for the first time since the dawn of the Atomic Age.

4. As groups that collaborate closely with diverse affected communities impacted by nuclear programs of the United States, we share our deep concerns about the

catastrophic humanitarian consequences of ionizing radiation that would result from not only the use or testing of nuclear weapons but also the development, production, and storage of nuclear weapons and radioactive wastes, including uranium mining and related activities.

5. It is essential for states parties and all relevant parties to put utmost efforts in making the TPNW more inclusive in the context of effectively achieving humanitarian goals under Articles 6 and 7, by prioritizing the needs and best interests of the most vulnerable members of affected communities over the interests and needs of states parties. Relevant parties include non-governmental organizations, religious leaders, parliamentarians, policy makers, and academics.

6. The use and testing of nuclear weapons as well as the development, production, and storage of nuclear weapons and radioactive waste are deeply rooted in systemic racism and nuclear colonialism¹ that resulted in dispossession of lands, territories, resources, languages, and culture of marginalized communities that prevented affected communities from exercising their rights to development in accordance with their own needs and interests.

7. Providing uranium in any form to nuclear-armed states should be interpreted as assisting the development and production of nuclear weapons or other nuclear explosive devices and should be prohibited.

8. We cannot achieve the fundamental goal of the TPNW, the total elimination of nuclear weapons, as long as we allow commercial production of tritium^{2 3} and commercial use of enriched uranium and plutonium.

IV. Recommendations

Preamble

9. We recommend deleting the language in the preamble of the TPNW that upholds nuclear energy, because upholding nuclear energy will prevent us from effectively achieving humanitarian goals under Article 6 and the fundamental goal of the Treaty: the total elimination of nuclear weapons. To restate, we cannot achieve the total elimination of nuclear weapons as long as we allow commercial production of tritium and commercial use of enriched uranium and plutonium. We need to recognize that nuclear energy and nuclear reactors were invented and developed to produce plutonium to build nuclear weapons to kill civilians, and generating electricity was a secondary function.⁴ If deleting or changing certain language in the TPNW is not part of the agenda items during 1MSP, we recommend discussing relevant rules of procedure on when and how such issues should be discussed by states parties at 1MSP.

Article 1 (a) and (e)

10. Protections being afforded uranium enterprises run counter to the fundamental goals of the TPNW, which is to eliminate nuclear weapons, assist victims and remediate environments affected by nuclear weapons use, testing and related

¹ The original definition of radioactive/nuclear colonialism from Churchill and LaDuke, *Native America: The Political Economy of Radioactive Colonialism* (1983). <https://journals.sagepub.com/doi/abs/10.1177/089692058601300306>

² Kenneth D. Bergeron, *Tritium on Ice, The Dangerous New Alliance of Nuclear Weapons and Nuclear Power* (September 2002). <https://mitpress.mit.edu/books/tritium-ice>

³ United States Department of Energy, *Defense Programs*. <https://www.energy.gov/srs/programs/defense-programs>

⁴ Robert A. Jacobs, *Born Violent: The Origins of Nuclear Power* (June 2019).

https://www.researchgate.net/publication/333617931_Born_Violent_The_Origins_of_Nuclear_Power

activities. We recommend that providing uranium in any form to nuclear-armed states should be interpreted as assisting the development and production of nuclear weapons or other nuclear explosive devices that is strictly prohibited under Article 1.

Articles 6 and 7

11. All affected communities impacted by nuclear related activities of nuclear-armed states deserve equal attention from the international community. Emphasis on efforts and approaches to make the TPNW more inclusive is essential in the context of effectively achieving humanitarian goals under Article 6.

12. We recommend establishing a framework to make sure that states parties explicitly interpret the word “use” in “use or testing” under Article 6 as broadly as possible to include the development, production, and storage of nuclear weapons and radioactive wastes from nuclear programs, including those from uranium mining and related activities, so that communities impacted by these activities will receive assistance under the humanitarian goals of the Treaty.

13. Given that the TPNW recognizes the “disproportionate impact of nuclear-weapon activities on Indigenous Peoples,” respecting the rights of Indigenous Peoples, who have an internationally recognized right to free, prior, and informed consent under the United Nations Declaration on the Rights of Indigenous Peoples, are enshrined in the Treaty.⁵ Therefore, the following core principles should be respected: self-determined development; respect for Indigenous Peoples’ knowledge, cultures and traditional practices that contribute to sustainable and equitable development; in addition to free, prior, and informed consent. Approximately 70 percent of the world’s uranium resources are in the lands inhabited by Indigenous Peoples.⁶ Mining uranium contaminates Indigenous lands and severely affects the health of residents. Strong commitments adopting policies against exporting uranium to nuclear-armed states are needed to eliminate nuclear weapons.

14. Special efforts should be made to ensure inclusivity, provide accurate and full material information to, and guarantee the effective community participation of affected communities and their allies – including, but not limited to, Indigenous groups, Downwinders, uranium miners, other nuclear workers, mothers and children, marginalized communities, and all those disproportionately affected by radioactive violence. The full participation of members of affected communities should be guaranteed in all aspects of decision-making processes related to developing policies and national plans under Article 6. Independent journalists and independent third-party experts should also be invited to review reports and provide any feedback to states parties on national and local measures related to humanitarian goals under Articles 6 and 7.

15. We recommend that reports by states parties affected by the use or testing of nuclear weapons should be publicly available in more than the official languages of the United Nations. Special efforts should be made to translate relevant material in the languages of those most impacted by nuclear weapons and radioactive violence so that members of affected communities and their allies can exercise their fundamental rights to information in order to review and provide feedback to official reports.

16. Systemic racism and nuclear colonialism continue to disproportionately impact Black, Indigenous, Communities of Color, and other members of marginalized communities. Policies and national plans should be formulated to achieve

⁵ United Nations Declaration on the rights of Indigenous Peoples.
<https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

⁶ Winona LaDuke, The Militarization of Indian Country (Makwa Enewed).
<https://www.amazon.com/Militarization-Indian-Country-Makwa-Enewed/dp/193806500X>

humanitarian goals under Article 6 with the understanding that the use, threat of use, and testing of nuclear weapons are deeply rooted in systemic racism and nuclear colonialism that resulted in dispossession of lands, territories, resources, languages, and culture, that prevented affected communities from exercising their rights to development in accordance with their own needs and interests.

17. In regard to a possibility of establishing a program of intersessional work to consider creating an international trust fund for affected states, we recommend states parties to establish processes and frameworks with the highest standards of transparency and accountability in managing such funds. Prior to the establishment of an international trust fund for affected states, those states should prove their commitment to achieving humanitarian goals and the total elimination of nuclear weapons under the TPNW.

18. We recommend that members of affected communities who were displaced due to the radiological contamination from the use or testing of nuclear weapons should be designated as Internally Displaced Persons (IDPs) by states parties. Ensure their rights to food, water, shelter, dignity, physical/mental/moral integrity, and safety. Facilitate their access to all other rights under the Guiding Principles on Internal Displacement, including the right to request and to receive protection and humanitarian assistance from national authorities, and not be persecuted or punished for making such a request.⁷ Displaced children, expectant mothers, mothers with young children, female heads of household, persons with disabilities, and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment that takes into account their special needs.⁸ Special efforts should be made to ensure the full participation of IDPs in the planning and managing policies and national plans related to their return or resettlement and reintegration.

19. If the relocation or evacuation of the local people is necessary, provide them with financial and social support for relocation, housing, employment, education, and other social support to protect their fundamental rights. Provide support for evacuees from high-radiation areas with housing, financial, and other life-assisting means as well as with periodic health monitoring of those affected, particularly those who were children at the time of the radiological incident.

20. Guarantee freedom of speech, freedom of assembly, and freedom of information of residents, activists, journalists, civil society groups, and third-party experts independent from the nuclear industry. Protect those who raise concerns regarding the transparency, implementation, and enforcement of humanitarian goals.

21. Ensure any person or group victim of a violation of the right to health has access to effective judicial or other appropriate remedies at both the national and international level.

22. Guarantee the right to access information that enables members of affected communities to make informed decisions regarding their health and other important decisions related to measures and plans under Article 6. Accessibility of information should not impair the right to have personal health data treated with confidentiality.⁹

23. Special efforts and assistance should be provided to relevant UN Special Rapporteurs – such as on the right to health, on hazardous substances and wastes, on right to food, on rights to freedom of peaceful assembly and of association, on rights of Indigenous Peoples, and on rights of Internally Displaced Persons – to effectively

⁷ United Nations, Guiding Principles on Internal Displacement, Introduction, Principles 1, 3, 8, and 11. <https://www.unhcr.org/en-us/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html>

⁸ United Nations, “Guiding Principles on Internal Displacement,” Principle 4.

⁹ Committee on Economic Social and Cultural Rights (CESCR), General Comment 14 (2000), E/C.12/2000/4, para.12.

conduct official country visits of affected communities for fact-finding missions to assess the situation of human rights relevant to positive obligations.

24. We recommend that states parties promptly implement the recommendations of the Universal Periodic Review that are related to positive obligations under Articles 6 and 7.

25. Mindful of the fact that there is no safe dose of ionizing radiation, that all exposures are cumulative,¹⁰ and that some isotopes are extremely long-lived, environmental remediation of contaminated areas should include measures to protect workers and the offsite population from any further radiation exposure. Implement employment and labor policies to prevent the exploitation of vulnerable workers – such as unhoused people, asylum seekers, migrant workers,¹¹ pregnant people – who are employed in radiation-contaminated areas.

V. References

The original definition of radioactive/nuclear colonialism, Ward Churchill and Winona LaDuke, *Native America: The Political Economy of Radioactive Colonialism* (1983). <https://journals.sagepub.com/doi/abs/10.1177/089692058601300306>

Kenneth D. Bergeron, *Tritium on Ice, The Dangerous New Alliance of Nuclear Weapons and Nuclear Power* (2002). <https://mitpress.mit.edu/books/tritium-ice>

United States Department of Energy, Defense Programs. <https://www.energy.gov/srs/programs/defense-programs>

Robert A. Jacobs, *Born Violent: The Origins of Nuclear Power* (2019). https://www.researchgate.net/publication/333617931_Born_Violent_The_Origins_of_Nuclear_Power

United Nations Declaration on the rights of Indigenous Peoples (2007). <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

Winona LaDuke, *The Militarization of Indian Country* (Makwa Enewed). <https://www.amazon.com/Militarization-Indian-Country-Makwa-Enewed/dp/193806500X>

United Nations, *Guiding Principles on Internal Displacement, Introduction, Principles 1, 3, 4, 8, and 11*. <https://www.unhcr.org/en-us/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html>

Committee on Economic Social and Cultural Rights (CESCR), General Comment 14 (2000), E/C.12/2000/4, para.12.

BEIR VII: Health Risks from Exposure to Low Levels of Ionizing Radiation. https://nap.nationalacademies.org/resource/11340/beir_vii_final.pdf

UN OHCHR Press Release, Japan: Fukushima clean-up workers, including homeless, at grave risk of exploitation, say UN experts (16 August 2018). <https://www.ohchr.org/en/press-releases/2018/08/japan-fukushima-clean-workers-including-homeless-grave-risk-exploitation-say?LangID=E&NewsID=23458>

¹⁰ BEIR VII: Health Risks from Exposure to Low Levels of Ionizing Radiation.

https://nap.nationalacademies.org/resource/11340/beir_vii_final.pdf

¹¹ UN OHCHR Press Release, Japan: Fukushima clean-up workers, including homeless, at grave risk of exploitation, say UN experts (16 August 2018).