

## ‘Victim assistance’ in a treaty banning nuclear weapons

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This paper is an extension of the suggestion in the 2014 Article 36/Reaching Critical Will report, “A treaty banning nuclear weapons,” p.13, that a ban treaty could articulate the responsibility of States Parties to ensure fulfillment of the rights of victims of nuclear weapons - whether from use, accidental detonation, or from weapons testing - and provide necessary assistance in this regard.<sup>1</sup>

“Mindful of the unacceptable harm that victims of nuclear weapons explosions and nuclear testing have experienced and recognising that the rights and needs of victims have not yet been adequately addressed ...”

Austrian Pledge, Vienna Conference on the Humanitarian Impact of Nuclear Weapons, 8-9 Dec 2014.<sup>2</sup>

Over the last two decades, the international legal framework has developed to respond to the rights of victims and survivors<sup>3</sup> of weapons and violence. The rights in question are those human rights that we should all enjoy. Victimisation though often serves to prevent the realisation of those rights for certain people in different social contexts. In legal treaties addressing specific weapons, this development has included: specific obligations to provide assistance to victims toward the fulfilment of their rights; obligations to provide support to other countries in such efforts; responsibilities to report on the work being undertaken; regular meetings where a community of practice shares experience and works to strengthen collective action. All of these functions can play an important role in alleviating suffering experienced by people and communities affected by weapons.

There are no such international legal provisions in place to support victims and survivors of nuclear weapon detonations. The experience of nuclear weapon survivors has often been one of negative health effects compounded by social and economic marginalisation. People have received divergent levels of assistance depending on where they live and there have been no regular meetings where the shared perspectives and interests of nuclear weapons survivors could be effectively represented and addressed by governments.

The Austrian Pledge made at the 2014 Vienna Conference on the Humanitarian Impact of Nuclear Weapons calls on states to ‘fill the legal gap’ regarding nuclear weapons. The most glaring gap is that these weapons are not yet subject to explicit treaty prohibition alongside the other weapons of mass destruction (chemical weapons and biological weapons). The process of correcting this legal anomaly should also be used to put in place legal obligations that ensure the rights of nuclear weapons victims are fulfilled now and in the future.

### The human experience

The use of nuclear weapons in Japan and the testing of nuclear weapons at sites in (or near) Algeria, Australia, China, French Polynesia, India, Kazakhstan, Kiribati, the Marshall Islands, North Korea, Pakistan, Russia, Turkmenistan, Ukraine, the USA and Uzbekistan has often had an ongoing impact on local populations. Whilst survivors in Japan include people affected by the diverse mechanisms of injury that nuclear weapons employ (including blast, heat and radiation) the majority of survivors elsewhere have been affected by the residual radiation produced during testing detonations.

Delegates at conferences of the Humanitarian Initiative on Nuclear Weapons have presented substantial evidence of the needs that victims and survivors of nuclear weapons face. Those directly affected by the flash, blast wave and heat from nuclear weapons, if they survive, may well have long term disabilities that could result from blindness, burns and traumatic injury. Survivors of acute radiation exposure may also have long-term medical conditions as a result.

In addition to such immediate effects, radioactive contamination from nuclear weapons can affect a wider population and for a prolonged period after a detonation. Unlike the kinetic effects of weapons, the radiation effects from nuclear weapons can result in additional harms that present only after an extended period, and harm over multiple generations (as a result of the exposure of a foetus to radiation or radiation effects on gene information).<sup>4</sup> As a result, there are people now that will suffer from the effects of nuclear weapons in the future as a result of the detonation of nuclear weapons in the past. The impact of radiation on cells, gene information and the immune systems of survivors results in ongoing medical conditions and elevated risks of cancers and other non-cancer diseases. Such harms have been found to be significantly more prevalent amongst females exposed to the effects of radiation and amongst people who are younger at the time of exposure.<sup>5</sup> According to the accounts of survivors' organisations this vulnerability means people live not only with illness but, "in constant fear of the aftereffects and the possible consequences for their children and grandchildren."<sup>6</sup> Such psychological impacts are in addition to possible traumatic stress and related feelings of survivor guilt.<sup>7</sup>

The testimony of survivors to conferences on the humanitarian impact of nuclear weapons indicates that immediate health impacts and psychological challenges can also be compounded by social and economic exclusion. Survivors of nuclear weapons have been considered "contaminated."<sup>8</sup> As a result, "some survivors were refused employment. Others couldn't get married because of this bias. In order to escape this terrible situation, some survivors hid the fact that they were indeed survivors."<sup>9</sup>

It was also noted at the 2014 Vienna Conference on the Humanitarian Impact of Nuclear Weapons that the pattern of human impact from nuclear weapons testing was overlaid on other patterns relating to racism and colonialism. Whilst some states have tested nuclear weapons within their own borders, many nuclear weapons tests were undertaken overseas - proximate to populations that were ethnically different to the dominant ethnic group of the states undertaking the test and who lacked the political capacity to prevent those tests from being carried out. In some cases this resulted in indigenous populations being forced from their traditional lands.<sup>10</sup> The experience of many affected communities has been further exacerbated by a lack of openness or transparency about what those people have been exposed to.<sup>11</sup> The higher prevalence of harm amongst women and those exposed at an early age, in the context of prevailing structures of discrimination, may also have made it more difficult for some survivor groups to have their voices heard or achieve assistance or redress.

It should be noted that a wider pattern of nuclear weapon use could result in mechanisms of harm that have not been experienced by affected communities to date – for example as a result of the impact of nuclear weapons on climate and agriculture. Such effects could be so far reaching that a vast array of medical, social and economic harms could be related causally to the use of nuclear weapons.<sup>12</sup> The challenges presented by such a scenario, however, should not be used as an excuse or argument for not putting in place provisions that can provide assistance to people already suffering from the effects of nuclear weapons or that may suffer from such effects in the future.

There is currently no international legal instrument that provides a framework for victims and survivors of nuclear weapons to collectively seek assistance towards the full realisation of their rights. At a national level, some of the states that have tested nuclear weapons or have substantial survivor populations have put in place mechanisms for assistance or compensation. However, such programmes are piecemeal and may employ divergent standards to assess who is eligible for support. Such mechanisms may also focus on financial compensation rather than the wider systems needed to ensure the fulfilment of people's rights.

## **Victim assistance: An outline of the approach in humanitarian disarmament**

In the period since the adoption of the Treaty on The Non-Proliferation of Nuclear Weapons (1968) and the Comprehensive Nuclear-Test-Ban Treaty (1996), or the other treaties on weapons of mass destruction - the Biological and Toxin Weapons Convention (1972) and the Chemical Weapons Convention (1993) - there have been significant developments in understanding how the international legal regime can respond to the humanitarian impact of weapons and violence.

In its article 5, the 2008 Convention on Cluster Munitions (CCM) contains what is widely recognised as a ground-breaking set of provisions for 'victim assistance'. These obligations built upon nearly a decade's practical experience under the 1997 antipersonnel Mine Ban Treaty as well as upon subsequent legal developments such as the 2007 Convention on the Rights of Persons with Disabilities. The obligations of the CCM were also echoed, in a non-legally-binding form, in the 2008 Plan of Action on Victim Assistance under Protocol V on Explosive Remnants of War to the Convention on Certain Conventional Weapons.<sup>13</sup>

The broad approach taken by these instruments consists of:

- × Legal obligations to provide necessary assistance;
- × International cooperation and assistance;
- × Reporting, meetings and a community of practice.

In the sections below we briefly consider each of these in turn, based primarily on a summary of the provisions in the CCM. In conjunction with that summary we make some initial comments on issues that might benefit from further consideration in discussions regarding a legal response to the rights of victims and survivors of nuclear weapons. The CCM is used as a particular focus here because it contains the most substantial articulation of victim assistance provisions in a weapons treaty.

### **The legal obligations to provide assistance**

The primary legal obligations of the CCM provide a set of obligations that states have towards victims in areas under their jurisdiction and control – obligations to understand the situation of affected populations and to respond to it in an inclusive and non-discriminatory manner. These obligations derive from the general responsibility of states to support their citizens in the full realisation of their human rights. They do not result from that state being the cause of the harm being experienced and they **do not provide a direct framework for compensation or wider reparations**. Victim assistance obligations

modelled on those found in the CCM should not (and must not) prejudice efforts towards compensation or reparations based on wider human rights law - and victim assistance obligations may well serve to complement such efforts. However, it is important to recognise distinctions in these approaches and we return to this issue below in a section titled “developing a response on nuclear weapons.”

The Preamble of the CCM expresses the determination of States Parties “to ensure the full realisation of the rights of all cluster munition victims.” It recognises the need to coordinate efforts “in various fora to address the rights and needs of victims of various types of weapons” and expresses resolve, “to avoid discrimination among victims of various types of weapons.” As such these provisions express an intent to see equality in the legal provisions provided to the victims of different types of weapons, which in turn **supports a legal response to the victims of nuclear weapons.**

In article 2, the CCM contains a **broad definition** of “cluster munition victims” as meaning “all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their affected families and communities.” Some significant points of this definition are that it includes the dead as well as the living; it relates to a broad range of harms, from the physical to the social; and it includes affected families and communities not just directly affected individuals. The definition is linked to the use of cluster munitions, but it is understood that this would include both use in conflict and use in testing. This could, however, be made explicit in relation to nuclear weapons. The fact that this broad definition encompasses affected families provides a precedent for capturing the potential inter-generational harms that can result from nuclear weapons.

In article 5 (1) of the CCM, States Parties agree to provide victims in areas under their jurisdiction or control with “age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as [to] provide for their social and economic inclusion.” They also agree to “make every effort to collect reliable relevant data with respect to cluster munition victims.”

In article 5 (2) the primary obligation to provide assistance (above) is given some further delineation, whereby States Parties agree to:

- a. Assess the needs of cluster munition victims;
- b. Develop, implement and enforce any necessary national laws and policies;
- c. Develop a national plan and budget, including timeframes to carry out these activities, with a view to incorporating them within the existing national disability, development and human rights frameworks and mechanisms, while respecting the specific role and contribution of relevant actors;
- d. Take steps to mobilise national and international resources;
- e. Not discriminate against or among cluster munition victims, or between cluster munition victims and those who have suffered injuries or disabilities from other causes; differences in treatment should be based only on medical, rehabilitative, psychological or socio-economic needs;
- f. Closely consult with and actively involve cluster munition victims and their representative organisations;

- g. Designate a focal point within the government for coordination of matters relating to the implementation of this Article; and
- h. Strive to incorporate relevant guidelines and good practices including in the areas of medical care, rehabilitation and psychological support, as well as social and economic inclusion.<sup>14</sup>

These obligations provide numerous points of significance. As noted above, the responsibilities bear upon each state towards victims “in areas under its jurisdiction or control”. Thus, for example, States Parties have responsibilities towards victims that have been affected in other countries but that now reside on their territory. However, it can be expected that such responsibilities will bear most heavily on countries where the weapons in question have been used. The fact that the **responsibilities bear primarily on affected states** (rather than on the users of the weapons) was a significant point of concern during the negotiations of the CCM, with some states fearing that these obligations would be a burden that they could not meet. However, it has become accepted that these obligations flow from the responsibilities of statehood towards their populations. The provisions for cooperation and assistance, and ongoing meetings under the treaty frameworks, provide a mechanism by which the differential positions of affected states can be understood and hopefully alleviated. Furthermore, **accepting these provisions does not prejudice efforts to compel those that used the weapons take responsibility for the harms that have been caused.**

The CCM obligations recognise that assistance should be “**age- and gender-sensitive**”, which is a recognition that girls and boys, women and men may experience victimisation differently and may have different needs. The types of assistance to be provided are broad ranging – including medical, psychological and social. This broad range would appear to be appropriate for the types of harm associated with nuclear weapons and that we outlined earlier in this paper. However, it should be noted that, as in all areas of health or social service provision, limitations of national resources and wider health and social demands must necessarily place some limits on the actual assistance that can be provided. This is also reinforced by the recognition in these obligations that assistance should not be preferential based on cause.

The obligation to collect “reliable relevant data with respect to cluster munition victims” requires States Parties to make an active effort to understand the problem that they are presented with. It should also be noted that, given that the definition includes people killed as well as people that survived, this obligation **requires states to seek to record all casualties from any use of the weapons.** Such a responsibility could be extremely significant for the processes of **memorialising and respecting** those people that have already been killed by nuclear weapons, whether from use in conflict or from testing. Given the massive level of harm that would result from any use of nuclear weapons in conflict and the likely destruction of records and data, the process of documenting harm would likely be extremely challenging, but also vital to any subsequent long-term processes of social recovery and healing.

Amongst other things, these obligations work to ensure the **inclusion** of affected populations in the process of developing a response to their needs, they encourage adoption of standards of good practice and they require clarity of planning and coordination which should in turn produce **accountability** from states towards affected populations.

The CCM also contains, in its article 4, obligations to make-safe cluster munition contaminated areas and to provide risk education to relevant populations. Whilst not framed in the CCM as victim assistance provisions, these obligations for public safety and decontamination arguably flow from the same underpinning responsibility of the state to people under its jurisdiction or control. Thus in the context of nuclear weapons, positive obligations to assist victims would need to go alongside positive obligations to decontaminate areas affected by the detonation of nuclear weapons in order to prevent further harm and rehabilitate local communities. In some areas such programmes are already underway. At the Vienna Conference on the Humanitarian Impact of Nuclear Weapons, Kazakhstan reported that it was working with partners to “rehabilitat[e] and reconstruct” affected areas.<sup>15</sup> At the Oslo Meeting on the Humanitarian Impact of Nuclear Weapons, Algeria noted that financial and technical assistance are “particularly needed for countries that are facing decontamination challenges and damages as a result of nuclear tests that took place [in] their respective territories.”<sup>16</sup> It is important to note that adopting such obligations is not to suggest that an adequate humanitarian response can be provided to the detonation of nuclear weapons. It simply recognises that the results of that detonation must at some point be addressed.

### **International cooperation and assistance**

Under the CCM, the obligations on states to provide assistance to victims in territory under their jurisdiction or control are augmented by a wider obligation on the international community to assist them in that task. Article 6 (7) requires that “each State Party in a position to do so shall provide assistance for the implementation of the obligations ... to adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims. Such assistance may be provided, inter alia, through the United Nations system, international, regional or national organisations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent Societies and their International Federation, non-governmental organisations or on a bilateral basis.” Thus the treaty provides a framework by which international assistance can be provided to support affected populations. In addition, under article 6 (11), affected States Parties have the right to request technical assistance fulfil obligations towards planning, coordination and implementation of victim assistance and other requirements.

Provisions such as these serve to make the primary, national-level obligation to provide assistance an international concern.

### **Reporting, meetings and a community of practice**

Legal obligations alone do not mobilise action. But legal instruments such as the CCM can also provide regular meetings between States Parties and other stakeholders, to report on the situations that they face, the work that is being undertaken and the prognosis for the future. If organised in an inclusive way, that **recognises the strength of a working partnership between States, international organisations and civil society**, such meetings also provide a venue for survivor organisations and other practitioners to report on their experience in different contexts.

Such meetings allow all stakeholders to review States Parties formal reports on progress. Under article 7 of the CCM for example, States Parties are required to report annually to the Secretary-General of the

United Nations on the “status and progress” of their implementation of obligations to provide assistance and to collect relevant data with respect to victims. In addition to such formal reporting, however, meetings can provide space for civil society to report on its efforts to assess or monitor implementation.

Meetings of States Parties can also agree **shared action plans** by which states agree plans for implementation that are more detailed than the legal provisions that they are operating under. Whilst the antipersonnel Mine Ban Treaty contained only limited provisions regarding victim assistance<sup>17</sup> it developed a set of more detailed political commitments through the action plans adopted at subsequent Review Conferences.<sup>18</sup> This is very significant because it provides a reminder that not all elements need necessarily be detailed in the legal instrument for that instrument to provide an effective framework for action.

## **Developing a response on nuclear weapons**

The sections above have provided an overview of victim assistance as approached under the CCM and have commented on some points that may be particularly relevant to the organisation of a legal response to the needs of nuclear weapon victims and survivors. These provisions provide an important precedent, but it is not being argued here that they should simply be adopted wholesale into an instrument on nuclear weapons. **Developing an effective response will need to be an inclusive process in which victims and survivors of nuclear weapons, along with other stakeholders, work to frame legal responsibilities that can respond effectively to their diverse experiences.**

There are likely to be specific aspects of the experience of nuclear weapon victims that need detailed examination – both to ensure that the provisions adopted are sufficient and to alleviate concerns from some states that such provisions might go too far or be excessively burdensome. The inter-generational impact of nuclear weapons and the difficulties of establishing direct causality between exposure to the effects of nuclear weapons (which may be persistent in the environment) and specific medical conditions would likely require particular consideration. Such issues have been contentious in arguments around compensation,<sup>19</sup> but might be approached differently in the case of a general obligation to provide assistance.

Furthermore, there may be areas where the particular historical experience of victims and survivors is considered to demand additional provisions. As we have noted already, the approach taken to victim assistance in the CCM and under other weapons treaties has been focused on facilitating assistance, not on ensuring justice. It would, however, be possible for a legal instrument on nuclear weapons to approach some of those questions differently, perhaps creating an explicit general obligation to provide truth and **transparency regarding any past use of nuclear weapons** (and by recognising prohibitions on the use or testing of nuclear weapons as a commitment to non-recurrence). Similarly such an instrument might need to consider the alienation of people from their traditional lands as a form of victimisation beyond that experienced by survivors of other weapons.

Ultimately, the negotiation of such an instrument would be an opportunity for other possible approaches to justice and restitution to be put on the table. States negotiating and agreeing such an instru-

ment would be free to agree any provisions they chose in these areas. Yet there may be tensions in framing provisions towards 'assistance' alongside provisions towards 'justice'. These different approaches are arguably responding to different imperatives (experience of harm vs. violation of rights), and may thus be addressed to different parties (the state with jurisdiction or control vs. the state responsible for the violation). These approaches may also be held to require different thresholds of impact and different degrees of proof for provision to become applicable. Decisions on the approach taken would likely be shaped by the political dynamics of the process in question, with recognition that treaties cannot usually compel action by states that are not States Parties to that treaty. Very importantly, disarmament treaty provisions on victim assistance must never bar access to other means of redress and reparation, including civil law and criminal law procedures, inter-state reparations, and possibly inter-state settlements for individual claims.<sup>20</sup>

In the final section below we briefly comment on some of the political issues that a response to the rights of victims of nuclear weapon might present.

## Political implications

The development of specific legal provisions to respond to the rights and needs of victims and survivors has distinct political implications. Article 36 considers that such legal provisions should be developed as part of a process of negotiating a legal treaty that prohibits nuclear weapons. In such a process, the development of these specific provisions would be a direct response to the appeals that have already been made by survivors including in the context of the 2013 and 2014 conferences on the humanitarian impact of nuclear weapons. The paragraphs below draw out some initial points for consideration in such a process.

### Does victim assistance suggest states can respond effectively to the humanitarian impact of nuclear weapons?

In conferences of the Humanitarian Initiative on Nuclear Weapons it has been widely recognised that no country or organisation has the capacity to mount a sufficient response to the impact of a single nuclear weapon detonation, let alone a wider pattern of use. Whilst the immediate and medium-term response capacity might be inadequate, that does not negate the responsibility that states have to support persons under their jurisdiction or control, either immediately or in the long term. Articulating the legal rights of survivors or the obligations for states to assist victims does not imply that the humanitarian impact can be adequately addressed and the severity of that impact cannot be argued as a reason for not accepting the legal responsibilities to address the implications of that impact. The unacceptable consequences of nuclear weapons are an argument for their prohibition, not for denying the rights of victims.

### Agreeing an instrument without the nuclear-armed states

Article 36 argues that states should develop and agree a treaty prohibition on nuclear weapons even if nuclear-armed states do not participate in that process of negotiations or adopt the treaty at the onset.<sup>21</sup> Obligations to assist the victims of nuclear weapons, and to provide international cooperation to facilitate that assistance, would be an additional concrete impact for such a treaty even if nuclear armed states chose initially to stand outside. However, in framing

such a process Article 36 has also argued that states should be wary of delineating very detailed provisions in areas such as stockpile destruction where the burden of implementation will fall upon nuclear armed states. A particular concern is that any such provisions might be used by such states as a reason for not joining the treaty. Similar concerns may arise from the detailed delineation of victim assistance provisions. Whilst a nuclear-armed state might look callous arguing that it could not join a treaty banning nuclear weapons because the provisions of that treaty for assisting victims are too strong or too burdensome, such a position is not inconceivable. However, there are various mechanisms by which a strong set of victim assistance provisions could be agreed without them providing a rationale for staying outside the agreement.

### Changing political dynamics

As indicated above, provisions to assist the victims of nuclear weapons and to ensure the rights of survivors would be a further concrete impact of a treaty banning nuclear weapons even if the nuclear-armed states were not yet participating. Furthermore, the process of developing those provisions would provide a additional focus for work by the community of nuclear weapon survivors on top of their efforts to ensure that the victimisation they have experienced is never inflicted upon others in the future.

The clear humanitarian value of such provisions would also strengthen the argument for countries to engage in the process of legal development. Furthermore, having supported the articulation of victim assistance obligations regarding one category of weapon, it is morally inconsistent to assert that victims of other weapons should be denied any articulation of their legal rights. During the development of the CCM a number of states called for strong victim assistance provisions, including (at a minimum) Afghanistan, Albania, Angola, Australia, Argentina, Austria, Belgium, Benin, Burundi, Cambodia, Canada, Chile, Democratic Republic of Congo, Costa Rica, Croatia, Ecuador, Finland, Guatemala, Guinea, Guinea-Bissau, Holy-See, Ireland, Italy, Kenya, Lao PDR, Lebanon, Lesotho, Liberia, Madagascar, Mexico, Montenegro, Mozambique, New Zealand, Nicaragua, Norway, Panama, Peru, Philippines, Sierra Leone, South Africa, South Korea, Spain, Sweden, Switzerland, Thailand, Togo, Uganda, United Kingdom, Uruguay, and Zambia.<sup>22</sup> Other states will have spoken strongly in support of these provisions during CCM Meetings of States Parties and in other forums, whilst some states have also shown leadership as coordinators of multilateral work on victim assistance. Given the commitment of the CCM to be non-discriminatory, these countries should be strong supporters of a legal response that gives nuclear weapon victims a legal recognition equal to that afforded to cluster munition victims.

## Conclusion and recommendations

A legal articulation of the obligations on states to provide assistance to victims should be seen as a key step in the fulfillment of victims' rights rather than a conclusion to that process. Experience from other weapon-related treaties has shown that even under such legal frameworks the levels of assistance available to survivors may be inadequate to the needs. In some countries, wider challenges of social and economic capacity significantly limit the provisions that can be provided even if international cooperation and assistance is available. Furthermore, some states with significant survivor popula-

tions may not choose to join a legal instrument initially. However, it would significantly strengthen the position of victims and survivors of nuclear weapons to have international legal recognition of their experience. An ongoing framework of meetings would provide a forum within which to articulate that experience and maintain pressure to ensure that the international response is adequate. Given the horrors and injustice experienced by many such populations, denying that legal expression in a treaty banning nuclear weapons would seem unacceptable.

States can take action towards such a legal response by associating themselves with the Austrian Pledge,<sup>23</sup> which recognises that the rights and needs of victims have not yet been adequately addressed and commits states to working to “close the legal gap” regarding nuclear weapons. States, international organisations and NGOs, in conjunction with survivors and their representative groups need to begin a more detailed conversation on how the rights of victims and survivors can be fulfilled.

## END NOTES

1 This report is online at: [http://www.article36.org/wp-content/uploads/2014/04/AR06\\_TREATY\\_REPORT\\_27.4.14.pdf](http://www.article36.org/wp-content/uploads/2014/04/AR06_TREATY_REPORT_27.4.14.pdf)

2 Full text online at: [http://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Aussenpolitik/Abbruestung/HINW14/HINW14\\_Austrian\\_Pledge.pdf](http://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Abbruestung/HINW14/HINW14_Austrian_Pledge.pdf)

3 In this paper we use the terms ‘victims’ and ‘survivors’ more or less interchangeably. We use the term ‘survivors’ in order to reflect the potential for a positive, empowered identity for people affected. However, the term ‘victim’ is generally used in the legal instruments under discussion here, where it is defined also as including those killed (for whom the term survivor would clearly be inappropriate.)

4 The government of Kazakhstan, which saw nuclear testing over a 40 year period from 1949 to 1989, emphasised at the Vienna Conference the long term, inter-generational impact of nuclear weapons, stating that “the effects of radiation are still borne today by current generations” and that the testing’s effects, “still have an impact on the condition of the population’s health, ecology and the social development of the region.” Statement of Kazakhstan to the Vienna Conference on the Humanitarian Impact of Nuclear Weapons, 8-9 December 2014, [http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/vienna-2014/9Dec\\_Kazakhstan.pdf](http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/vienna-2014/9Dec_Kazakhstan.pdf) See also testimony to the Vienna Conference from the Marshall Islands, [http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/vienna-2014/9Dec\\_MarshallIslands.pdf](http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/vienna-2014/9Dec_MarshallIslands.pdf)

5 See presentation by Mary Olson, Senior Radioactive Waste Policy Specialist, at the Vienna Conference on the Humanitarian Impact of Nuclear Weapons, 8-9 December 2014, <http://www.reachingcriticalwill.org/disarmament-fora/hinw/vienna-2014/statements>

6 Statement to the Second Conference on the Humanitarian Impact of Nuclear Weapons, Nayarit, 13-14 February 2014, by Terumi Tanaka, Secretary General, Japan Confederation of A- and H-Bomb Sufferers Organizations (Nihon Hidankyo): <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/nayarit-2014/statements/Hibakusha-Tanaka.pdf>

7 Statement at the Second Conference on the Humanitarian Impact of Nuclear Weapons, Nayarit, 13-14 February 2014, by Toshiki Fujimori, Assistant Secretary General, Japan Confederation of A- and H-Bomb Sufferers Organizations: <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/nayarit-2014/statements/Hibakusha-Fujimori.pdf>

8 Statement of Setsuko Thurlow at the Second Conference on the Humanitarian Impact of Nuclear Weapons, Nayarit, 13-14 February 2014. <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/nayarit-2014/statements/Hibakusha-Thurlow.pdf>

9 Statement of Ms. Masaki Koyanagi at the Second Conference on the Humanitarian Impact of Nuclear Weapons, Nayarit 13-14 February 2014, <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/nayarit-2014/statements/Hibakusha-Koyanagi.pdf>

10 See, for example, the testimony of Sue Coleman-Haseldine to the Vienna Conference for a perspective from communities that affected by nuclear weapons testing in Australia: <http://www.reachingcriticalwill.org/images/documents/>

Disarmament-fora/vienna-2014/8Dec\_Coleman.pdf

11 Senator Jeban Riklon of the Marshall Islands noted at the Second Conference on the Humanitarian Impact of Nuclear Weapons, Nayarit, 13-14 February 2014, that “many of our survivors became human subjects in laboratories and almost 60 years on, we are still suffering.” <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/nayarit-2014/statements/MarshallIslands-Testimony.pdf>

12 See for example Helfand, I. (2013), Nuclear famine: two billion people at risk, International Physicians for the Prevention of Nuclear War / Physicians for Social Responsibility, <http://www.ippnw.org/pdf/nuclear-famine-two-billion-at-risk-2013.pdf>

13 Available online at: <http://www.unog.ch/80256EE600585943/%28httpPages%29/ECEBD38C355D8C6AC125791F004CDA9D?OpenDocument> Whilst its provisions are not legally binding, and in a number of respects are weaker than those of the CCM, the Protocol V Plan of Action was adopted by a diverse set of States Parties and reinforces the type of approach taken by the CCM.

14 The Convention on Cluster Munitions, article 5(1), online at: <http://www.clusterconvention.org/>

15 Statement of Kazakhstan to the Vienna Conference on the Humanitarian Impact of Nuclear Weapons, 8-9 December 2014: “Kazakhstan, jointly with the UNDP, UNICEF, UNFPA, and the IAEA, is implementing a number of projects to rehabilitate and reconstruct the region. Japan, Norway, the UK and other countries continue to provide assistance to the people of affected areas living in the Semipalatinsk region. The focus is on empowering the local rural population, including the most vulnerable, to enhance their own well-being and developing local self-governance capabilities through training.” [http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/vienna-2014/9Dec\\_Kazakhstan.pdf](http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/vienna-2014/9Dec_Kazakhstan.pdf)

16 Statement of Algeria to the Oslo Conference on the Humanitarian Impact of Nuclear Weapons, 4 March 2013, [https://www.regjeringen.no/globalassets/upload/ud/vedlegg/hum/hum\\_algeria.pdf](https://www.regjeringen.no/globalassets/upload/ud/vedlegg/hum/hum_algeria.pdf)

17 It contains an obligation in Article 6 (3) that “each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programs” which is supplemented by a right to seek technical assistance (Article 6 [7e]) and some further encouragement in the treaty Preamble.

18 See for example, The First Review Conference (Nairobi Summit) (2004), Ending the Suffering Caused by Anti-Personnel Mines: Nairobi Action Plan 2004-2009, [http://www.apminebanconvention.org/fileadmin/APMBC/MSP/6MSP/Nairobi\\_Action\\_Plan.pdf](http://www.apminebanconvention.org/fileadmin/APMBC/MSP/6MSP/Nairobi_Action_Plan.pdf); The Second Review Conference (2009), Cartagena Action Plan 2010-2014, <http://www.cartagenasummit.org/fileadmin/APMBC-RC2/2RC-ActionPlanFINAL-UNOFFICIAL-11Dec2009.pdf>; The Third Review Conference (2014), Maputo Action Plan 2014-2019, <http://www.maputoreviewconference.org/fileadmin/APMBC-RC3/3RC-Maputo-action-plan-adopted-27Jun2014.pdf>

19 See for example Le Monde, 14 January 2015, Demi-victoire pour les victimes des essais nucléaires, [http://www.lemonde.fr/planete/article/2015/01/14/demi-victoire-pour-les-victimes-des-essais-nucleaires\\_4555838\\_3244.html](http://www.lemonde.fr/planete/article/2015/01/14/demi-victoire-pour-les-victimes-des-essais-nucleaires_4555838_3244.html)

20 It is worth noting in this context that the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence has recently reported a gap “of scandalous proportions” in the implementation of obligations for reparations for victims in the aftermath of gross human rights violations and serious violations of international humanitarian law. See <http://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/Index.aspx> Report: A/69/518

21 See Article 36 (2013), Banning nuclear weapons ([http://www.article36.org/wp-content/uploads/2013/02/Report\\_web\\_23.02.13.pdf](http://www.article36.org/wp-content/uploads/2013/02/Report_web_23.02.13.pdf)); Article 36 (2013) Banning nuclear weapons without the nuclear armed states (<http://www.article36.org/wp-content/uploads/2013/10/Banning-without.pdf>); Article 36 (2013), Banning nuclear weapons: responses to ten criticisms (<http://www.article36.org/wp-content/uploads/2013/12/Ten-criticisms.pdf>); Article 36 / Reaching Critical Will (2014) A treaty banning nuclear weapons: Developing a legal framework for the prohibition and elimination of nuclear weapons ([http://www.article36.org/wp-content/uploads/2014/04/AR06\\_TREATY\\_REPORT\\_27.4.14.pdf](http://www.article36.org/wp-content/uploads/2014/04/AR06_TREATY_REPORT_27.4.14.pdf)) and Article 36 (2014), Nuclear weapon free zones and banning nuclear weapons ([http://www.article36.org/wp-content/uploads/2014/05/A36\\_NWFZ\\_2014.pdf](http://www.article36.org/wp-content/uploads/2014/05/A36_NWFZ_2014.pdf))

22 Human Rights Watch and Landmine Action (2009), Banning Cluster Munitions: Government Policy and Practice ([http://www.the-monitor.org/cm/2009/banning\\_cluster\\_munitions\\_2009.pdf](http://www.the-monitor.org/cm/2009/banning_cluster_munitions_2009.pdf)).

23 States can associate themselves with the Austrian Pledge via note verbale. The pledge is online at: [http://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Aussenpolitik/Abbruestung/HINW14/HINW14\\_Austrian\\_Pledge.pdf](http://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Abbruestung/HINW14/HINW14_Austrian_Pledge.pdf)

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