



**DESIGNING A TRUST FUND
TO MAXIMIZE THE HUMANITARIAN IMPACT OF THE TPNW**

RESPONSES TO KEY QUESTIONS

March 2025

States parties to the Treaty on the Prohibition of Nuclear Weapons (TPNW) should take multiple measures to implement Articles 6 and 7, including developing national plans, conducting needs assessments, submitting reporting forms, and establishing mechanisms for international cooperation and assistance. In this paper, Harvard Law School’s International Human Rights Clinic (IHRC), which has done extensive research and analysis related to those articles, addresses the proposed international trust fund on victim assistance and environmental remediation.

The working group on Articles 6 and 7, led by co-chairs Kazakhstan and Kiribati, has held productive discussions on the trust fund since the Second Meeting of States Parties to the TPNW in November 2023. States and other stakeholders have engaged actively in the consultations, and common ground on some important elements has emerged. More work remains to be done, however. IHRC encourages states parties to continue focused discussions regarding the trust fund in the next intersessional period.

This paper identifies key issues that require further consideration and offers recommendations for resolving them. It expands on a working paper that IHRC submitted to the March 2025 Third Meeting of States Parties (3MSP). The current paper addresses four questions in particular:

1. Who should be eligible to contribute to the trust fund?
2. Who should be involved in distribution decisions?
3. Who should be eligible to apply for grants?
4. Who should be included in designing the fund?

IHRC’s recommendations are based on policy analysis, principles of the TPNW and associated documents, and precedent from other trust funds. In 2023, IHRC produced a detailed comparative analysis of design elements of ten existing international trust funds, which offer models that can be drawn on and adapted to the TPNW context.¹ That report responded to Action 29 of the Vienna Action Plan, adopted at the TPNW’s First Meeting of States Parties, which says that a TPNW trust fund should “tak[e] into account relevant precedents.”²

¹ Harvard Law School’s International Human Rights Clinic (IHRC), “Designing a Trust Fund for the Treaty on the Prohibition of Nuclear Weapons: Precedents and Proposals,” January 2023, https://humanrightsclinic.law.harvard.edu/wp-content/uploads/2023/01/011323_Trust-Fund-Report-Combined.pdf (accessed February 15, 2025).

² Vienna Action Plan, in “Report of the First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons,” TPNW/MSP/2022/6, July 21, 2022, annex II.

In answering the four questions above, IHRC's overarching recommendation is to involve a broad range of actors at each stage of the trust fund's operation and design. Doing so would be consistent with the TPNW's cooperative and inclusive approach and help ensure that the trust fund is effective, sustainable, legitimate, and well grounded.

1. Who Should be Eligible to Contribute to the Trust Fund?

To maximize and expedite support to affected communities, the trust fund should accept contributions from a broad range of actors, including states not party.

Rationale

From a practical perspective, allowing actors beyond states parties to contribute could increase the fund's resources, creating the possibility that projects would receive more support in a timely manner. Initial funds could be used to assess the needs of victims and contamination of the environment, which could in turn inform decisions about other grant distributions. In the long term, supplementing states parties' contributions with outside donations would bolster the sustainability of the fund.

Welcoming donations from many actors, particularly states not party, could strengthen the influence of the TPNW. It could attract new states to the treaty by encouraging states not party to engage with and join the instrument. Furthermore, it would reduce the risk of states not party establishing a similar trust fund outside the auspices of the TPNW and thus prevent competition for resources and a threat to the significance of the TPNW and its fund. A trust fund with a broader donor base would enhance respect for the TPNW regime while leaving states parties in control over its activities.

Such a trust fund would also be consistent with the TPNW's cooperative approach to victim assistance and environmental remediation. Articles 6 and 7 lay out a framework of shared responsibility: affected states parties take the lead on assisting victims and cleaning the contaminated environment; all other states parties, in a position to do so, are obligated to support them in those activities; and using and testing states parties in particular are obligated to provide international cooperation and assistance to address the harm they caused. The TPNW is an instrument of humanitarian disarmament, which is characterized by cooperation among different states, affected communities, nongovernmental organizations, and international organizations.³ A similar collaborative approach should be reflected in the trust fund by inviting all possible actors to contribute. It is especially appropriate in this context given the transnational impacts of nuclear weapons use and testing.

³ Bonnie Docherty, "A 'Light for All Humanity': The Treaty on the Prohibition of Nuclear Weapons and the Progress of Humanitarian Disarmament," *Global Change, Peace & Security*, 2018, DOI: 10.1080/14781158.2018.1472075, pp. 167-169, 174-175.

Precedent

There is significant precedent for allowing many actors to contribute to a trust fund. IHRC’s 2023 comparative analysis report found that while in practice donations from states parties tend to dominate, six of the ten trust funds it examined allow all states as well as nongovernmental organizations, international organizations, and private actors to donate to the fund.⁴

Two trust funds were created under the auspices of a specific treaty and accept contributions from states parties as well as states and other actors beyond states parties. The Arms Trade Treaty (ATT) Voluntary Trust Fund, for example, is open to contributions from all states regardless of whether they have joined that treaty; this approach suggests that even though the treaty itself only explicitly requires states parties to donate, designers felt expanding the donor base was appropriate and important.⁵ The UN Partnership on the Rights of Persons with Disabilities (UNPRPD) Trust Fund, created under the Convention on the Rights of Persons with Disabilities (CRPD), similarly accepts contributions from states not party as well as states parties. Both of these funds also allow non-state actors to contribute.⁶ The UN General Assembly and the UN Office of Disarmament Affairs established four other trust funds that adopt an expansive approach because they welcome donations from all UN member states and several types of non-state actors.⁷ The creation of such trust funds by these UN bodies suggests that many states found them to be useful humanitarian mechanisms.

To ensure that donations from states and non-state actors meet certain standards, some of the trust funds apply criteria to specific donors. For example, the ATT Trust Fund only accepts contributions from state and non-state donors that support the object and purpose of the treaty.⁸ Under the UNPRPD Trust Fund and the UN Victims of Trafficking Trust Fund, donations from the private sector are guided by the UN guidelines on cooperation between the UN and the business community.⁹

The six trust funds discussed above emphasize the importance of allowing a wide range of donors, notably because it can increase a fund’s resources and sustainability. For instance, the ATT Trust Fund adopts a “multi-pronged” strategy where it actively solicits donations from states and non-state actors to “mobilize resources.”¹⁰ Both the UN Trust Fund Facility Supporting Cooperation on Arms Regulation (UNSCAR) and the UNPRPD Trust Fund stress that a broad donor base will enhance the sustainability of the funds and, in turn, have a positive and lasting impact on affected

⁴ IHRC, “Designing a Trust Fund,” p. 6 and appendix B.

⁵ Arms Trade Treaty, adopted April 2, 2013, entered into force December 24, 2014, art. 16(3).

⁶ IHRC, “Designing a Trust Fund,” appendix B.

⁷ *Ibid.*, appendices A and B.

⁸ Arms Trade Treaty, “Voluntary Trust Fund: Administrative Rules,” [thearmstradetreaty.org/hyper-images/file/VTF%20Administrative%20Rules%20\(Rev%202024\)-Final%20-23%20Sept%202024/VTF%20Administrative%20Rules%20\(Rev%202024\)-Final%20-23%20Sept%202024.pdf](https://thearmstradetreaty.org/hyper-images/file/VTF%20Administrative%20Rules%20(Rev%202024)-Final%20-23%20Sept%202024/VTF%20Administrative%20Rules%20(Rev%202024)-Final%20-23%20Sept%202024.pdf) (accessed February 27, 2025), para. 17.

⁹ UN Partnership on the Rights of Persons with Disabilities (UNPRPD) Fund, “Terms of Reference,” https://mptf.undp.org/sites/default/files/documents/25000/tors_unprpd_mptfo_5.19.pdf (accessed February 27, 2025), p. 18; “UN Voluntary Trust Fund for Victims of Trafficking in Persons, Especially Women and Children: Terms of Reference,” www.unodc.org/documents/human-trafficking/UN_Voluntary_Trust_Fund_for_Human_Trafficking_TORs_October2010.pdf (accessed February 27, 2025), para. 20.

¹⁰ Arms Trade Treaty, “Voluntary Trust Fund: Administrative Rules,” para. 18.

communities.¹¹ The UN Victims of Trafficking Trust Fund similarly stresses that it welcomes “any contribution, large or small, that . . . strengthen[s] the networks that provide humanitarian, legal and financial assistance to thousands of victims across the globe.”¹² The motivations behind these trust funds are equally applicable to the TPNW fund, which seeks to urgently gather resources for the timely implementation of the treaty’s victim assistance and environmental remediation obligations.

Recommendations

For the trust fund to achieve its full humanitarian potential, IHRC recommends that it welcome contributions from states parties, states not party, nongovernmental and international organizations, and private actors. Such contributions should be accepted as soon as possible, ideally immediately but at least within 1–2 years of the trust fund’s establishment. The latter schedule would allow time for states parties to set up the fund without unduly delaying much-needed support for victims and the environment. While the trust fund should accept contributions from a wide range of parties, states parties should establish criteria to ensure that it does not accept donations that conflict with the object and purpose of the treaty.

2. Who Should Be Involved in Distribution Decisions?

While states parties could make the final decisions about how grants are distributed, representatives of affected communities, nongovernmental organizations, and international organizations should actively participate in reviewing applications and recommending those that would best advance the humanitarian aims of Articles 6 and 7.

Rationale

First, broader involvement would promote well-informed decision-making. Affected communities, nongovernmental organizations, and international organizations are favorably positioned to judge the value and viability of a grant proposal. Affected communities, for example, have personal knowledge of their needs and culturally sensitive ways to deal with them. Given their range of in-depth experience, nongovernmental and international organizations bring extensive expertise that helps them determine whether a proposal would be a useful and realistic response to the complex challenges associated with victim assistance and environmental remediation.

Second, greater inclusiveness would increase buy-in, trust in, and the perceived legitimacy of a specific project, the trust fund, and the TPNW. If affected communities know TPNW trust fund decisions are informed by the views of non-state actors who understand their situation, they may be more likely to embrace an approved project and help it succeed. Any project that meets its intended purpose will reflect positively upon the TPNW.

¹¹ “UNPRPD Multi-Partner Trust Fund, Objectives,” <https://mptf.undp.org/fund/rpd00> (accessed February 27, 2025); “UN Trust Facility Supporting Cooperation on Arms Regulation,” <https://disarmament.unoda.org/unscar/> (accessed February 27, 2025).

¹² UN Trust Fund for Victims of Human Trafficking, “Our Partners,” www.unodc.org/unodc/en/human-trafficking-fund/unvtf-partners.html (accessed February 27, 2025).

Third, affected communities should play a role in the selection process because it is essential to consult and take into account their views when making decisions that affect their lives. The purpose of the trust fund is to implement Articles 6 and 7, and thus it will clearly have an impact on those who receive victim assistance or feel the effects of environmental remediation. Article 6(1) of the TPNW explicitly states that victim assistance must be implemented “in accordance with” international human rights law. That body of law emphasizes the principles of inclusivity and participation in decision-making in areas relevant to assisting victims and remediating the environment.¹³ Humanitarian disarmament, which encompasses the TPNW, also emphasizes the need to include non-state actors in treaty processes and affected communities in victim assistance decisions in particular.¹⁴ Question 4 of this paper discusses these principles and precedents of international human rights humanitarian disarmament law at greater length.

Precedent

Existing international trust funds have often incorporated different views in the process of assessing grant applications and determining distributions. Several of these funds make clear that the decision-making process is not a responsibility exclusively granted to states. Instead, the guidance and direction of several actors, including experts and affected communities, is critical to making such decisions.

The UNPRPD Trust Fund, for example, has a decision-making committee comprised of UN bodies, three UNPRPD donors, and one representative each from a global alliance of organizations of persons with disabilities and an international civil society consortium.¹⁵ The UNPRPD specifically indicates that the fund’s approach involves “enabling full and effective participation of persons with disabilities.”¹⁶

Other trust funds solicit participation from boards of appointed or elected experts who provide technical reviews, advice, and recommendations to fund managers.¹⁷ For example, the UN Victims for Torture Fund relies on a Board of Trustees, composed of independent experts from the five regions of the world, to make grant recommendations to the UN high commissioner of human rights.¹⁸ Before making these recommendations, the board helps to conduct evaluations and on-

¹³ See, for example, Convention on the Rights of Persons with Disabilities, adopted December 13, 2006, entered into force May 3, 2008, art. 4(3); Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14, The Right to the Highest Attainable Standard of Health (2000), E/C.12/2000/4, August 11, 2000, para. 54; CESCR, General Comment No. 15, The Right to Water (2002), E/C.12/2002/11, January 20, 2003, para. 48; UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the UN General Assembly on September 13, 2007, arts. 4, 5, 18, 19, 23, 27; Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), adopted June 25, 1998, entered into force October 30, 2001, pmbl, and arts 3(2), 6-8; Rio Declaration on Environment and Development, A/CONF.151/26 (Vol. I), Rio de Janeiro, June 3-14, 1992, principle 10.

¹⁴ See, for example, Convention on Cluster Munitions, adopted May 30, 2008, entered into force August 1, 2010, art. 5.

¹⁵ IHRC, “Designing a Trust Fund,” pp. 8-9.

¹⁶ UNPRPD Fund, “What We Do: Participation and Equality,” <https://unprpd.org/participation-and-equality/> (accessed February 26, 2025).

¹⁷ See, for example, UN Trust Fund for Victims of Human Trafficking, <https://www.unodc.org/unodc/en/human-trafficking-fund/unvtf-about.html>; UN Voluntary Fund for Victims of Torture, <https://www.ohchr.org/en/about-us/funding-and-budget/trust-funds/united-nations-voluntary-fund-victims-torture>; International Criminal Court Trust Fund for Victims, <https://www.icc-cpi.int/tfv> (all accessed February 26, 2025).

¹⁸ UN Voluntary Fund for Victims of Torture, “How the Fund Is Managed,” <https://www.ohchr.org/en/about-us/ohchr-funding-and-budget/trust-funds/united-nations-voluntary-fund-victims-torture/how-fund-managed> (accessed February 26, 2025).

site visits to assess projects in concert with the field staff of the office of the high commissioner and the fund's secretariat.¹⁹ The board notably has “expertise in human rights, in particular torture and its effects on individuals, families and communities, as well as knowledge of other relevant fields such as fundraising and project management.”²⁰ The current members of the board clearly reflect these criteria: a medical doctor with thirty years of torture-specific medical experience; a psychiatrist, psychoanalyst, and founder of a nongovernmental organization; a human rights defender, activist, and nongovernmental organization founder; and a human rights advocate.²¹ The board's relevant expertise allows for the fund's decision-makers to conduct a thorough evaluation of the project applications and their institutional capacity.

The inclusion of human rights and other experts and representatives from nongovernmental organizations, affected communities, and affected communities' organizations in the grant application decision-making processes can lead to better informed outcomes. The UNPRPD favors this model of a widely representative board because it means that “UNPRPD Fund programs are more likely to meet the needs and priorities of persons with disabilities, respond to the national context, and elevate the voices of persons with disabilities across decision-making processes.”²² The UN Victims for Torture Fund similarly relies on a collaborative model in order to assess projects in a way that “respond to torture survivors' needs,” and to “ensure accountability for grants.”²³ Such cooperative approaches could be adapted to serve the needs of the TPNW trust fund. Participation from those with relevant expertise in relevant topics such as human rights, victim assistance, environmental remediation, and the impacts of nuclear weapons on people and their environments would allow for projects to implement the TPNW to effectively respond to and meet the needs of those most affected.

Recommendations

Representatives of affected communities, nongovernmental organizations, and international organizations should work closely with states parties in the process of making determinations about trust fund distributions. The non-state actors should help review, assess, and offer recommendations to states parties regarding grant applications and disbursement. The choice of representatives involved in the process should be geographically diverse and gender sensitive.

Multiple frameworks could achieve this goal. A decision-making committee could be comprised of voting and non-voting members. States parties, responsible for making the final decision on grant applications, would have voting status, allowing them to vote on a proposed project if they cannot reach consensus. Representatives of affected communities, nongovernmental organizations, and international organizations would serve as advisors on the committee. They could participate fully in the committee's discussions but would not have voting power. Alternatively, a panel with representatives of non-state actors could review applications based on their diverse expertise and make recommendations to a separate committee of states parties. The committee would make final decisions about approving grants, taking the panel's recommendations heavily into account.

¹⁹ Ibid.

²⁰ UN Voluntary Fund for Victims of Torture, “The Board of Trustees,” <https://www.ohchr.org/en/about-us/funding-and-budget/trust-funds/united-nations-voluntary-fund-victims-torture/board-trustees> (accessed February 26, 2025).

²¹ Ibid.

²² UNPRPD Fund, “What We Do: Participation and Equality.”

²³ UN Voluntary Fund for Victims of Torture, “How the Fund Is Managed.”

3. Who Should Be Eligible to Apply for Grants?

To best address the problems faced by victims and the environment, the trust fund should welcome applications from affected communities', nongovernmental, and international organizations as well as states parties.

Rationale

Allowing these organizations to apply for funding would enhance the effectiveness of the fund on multiple fronts. Due to first-hand knowledge or close engagement with affected communities, they can offer an in-depth understanding of the needs and perspectives of victims that would be crucial to the successful design and implementation of projects. These groups also frequently have experience providing victim assistance or engaging in environmental remediation as well as proximity to the relevant people or sites, which makes them appropriate grant recipients.

While organizations should have the opportunity to serve as implementing partners of states parties if they prefer, the ability to apply for grants as independent entities has several advantages. It allows them to proceed with projects if states parties are unwilling or unable to pursue grants. It would avoid situations where government politics, bureaucracy, or priorities hold up projects. In addition, independence protects organizational applicants in cases where states change governments in the middle of a project and seek to renege on their commitments.

Having some projects led independently by organizations could also increase affected communities' trust in the fund and by extension the TPNW. Many affected communities have developed a distrust of governments, especially in the nuclear weapons context. They may, however, feel comfortable working with organizations that operate locally, have strong relationships with communities, and/or are culturally sensitive about local needs, priorities, and environments. By seeing the positive benefits of individual trust fund projects, communities may more easily come to accept the legitimacy of the fund as a whole.

Welcoming applications from organizations also reinforces the victim-centered and cooperative spirit of the TPNW. The treaty's preamble emphasizes the harm suffered by affected communities, and Articles 6 and 7 lay out ways to address the resulting needs. The trust fund should therefore support projects based on their ability to achieve the trust fund's humanitarian goals rather than the nature of the applicant. Given that organizations are particularly well-placed to design projects to achieve the above goals, allowing applications from organizations would best serve and reflect the treaty's humanitarian aims.

Precedent

In its analysis of existing trust funds, IHRC found that at least five relevant trust funds allow organizations, including nongovernmental organizations, to apply for funding independently.²⁴ Two funds—the UN Victims of Torture Trust Fund and the UN Victims of Trafficking Trust Fund—allow only nongovernmental organizations to apply, underscoring how important civil

²⁴ IHRC, "Designing a Trust Fund," appendix B.

society groups are to the process of assisting victims.²⁵ Other trust funds adopt a mixed approach that allows international, nongovernmental, and/or intergovernmental organizations to apply either independently or in partnership with states or other organizations.²⁶ Under UNSCAR, states may not apply for grants independently; instead of being given the lead role, states are encouraged to partner with eligible organizations, which submit proposal for coordinated projects on the behalf of governments.²⁷

To ensure that applicants are qualified to complete their proposed projects, trust funds often establish eligibility criteria for them to receive grants. For example, the UN Victims of Torture Trust Fund requires that a nongovernmental grantee has operated for at least one year and holds relevant experience in providing redress and rehabilitation to victims.²⁸ The UN Victims of Trafficking Trust Fund requires that nongovernmental organizations hold at least two years' prior experience implementing assistance in the relevant area, and that they are registered in the country where the proposed project will be implemented.²⁹ Under UNSCAR, all applicants, including nongovernmental organizations, are expected to have relevant expertise as well as have the support of the country in which the project is carried out.³⁰

The five trust funds provide multiple reasons for allowing organizations to apply for grants. Both the UN Victims of Torture Trust Fund and the UN Victims of Trafficking Trust Fund emphasize that nongovernmental organizations, including grassroots and survivors' groups, have established channels for assisting victims.³¹ The latter fund finds that such organizations are "best suited to provide direct assistance" because they are based in the local communities where the projects are implemented and therefore offer specialized expertise and practical advantages.³² The UN Victims of Torture Trust Fund notes that nongovernmental organizations "fill[] important gaps in State services" concerning victim assistance.³³ UNSCAR similarly highlights that "ensuring NGOs' access to UNSCAR funds is crucial" because influential nongovernmental organizations that

²⁵ Ibid.

²⁶ The trust funds that adopt a mixed approach include the UN Mine Action Trust Fund, UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR), the Council of Europe Development Bank Migrant and Refugee Trust Fund, and the UNPRPD Trust Fund. See IHRC, "Designing a Trust Fund," appendix B.

²⁷ UNSCAR, "How to Apply," http://s3.amazonaws.com/unoda-web/wp-content/uploads/2013/06/How-to-apply_UNSCAR.pdf (accessed February 27, 2025).

²⁸ UN Voluntary Trust Fund for Victims of Torture, "Guidelines for the Use of Applicants and Grantees," www.ohchr.org/sites/default/files/documents/issues/torture/unvftv/guidelines-un-torture-fund-2025-en.pdf (accessed February 27, 2025), paras. 4-5; UN Voluntary Trust Fund for Victims of Torture, "Funding Opportunities for Civil Society Organizations Supporting Torture Survivors," www.ohchr.org/sites/default/files/documents/issues/torture/unvftv/FundingOpportunitites_en.pdf (accessed February 27, 2025).

²⁹ UN Trust Fund for Victims of Trafficking in Persons, "Global Call for Proposals Guidelines for Grant Applicants," www.unodc.org/documents/human-trafficking/Human-Trafficking-Fund/Cfp9.1/UNVTF_SGP_9.1_Cfp_Guidelines.pdf (accessed February 27, 2025), p. 7.

³⁰ UNSCAR, "2024 Call for Proposals," front.un-arm.org/wp-content/uploads/2024/04/UNSCAR-2024-Call-for-Proposals-2.pdf (accessed February 27, 2025), p. 8.

³¹ UN Voluntary Fund for Victims of Torture, "Beneficiaries of the Fund," www.ohchr.org/en/about-us/funding-and-budget/trust-funds/united-nations-voluntary-fund-victims-torture (accessed February 27, 2025); UN Voluntary Fund for Victims of Trafficking, "Terms of Reference," para. 2.

³² UN Voluntary Trust Fund for Victims of Trafficking in Persons, "Basic Facts," www.unodc.org/pdf/human_trafficking/UN_Victims_Trust_Fund_Basic_Facts_Dec2017.pdf (accessed February 27, 2025).

³³ UN Voluntary Fund for Victims of Torture, "About the Fund's Assistance for Victims of Torture," www.ohchr.org/en/about-us/ohchrs-funding-and-budget/trust-funds/united-nations-voluntary-fund-victims-torture/about-funds-assistance-victims-torture (accessed February 27, 2025).

support arms regulation activities function as a key driving force within the work of the fund.³⁴ The same reasoning applies in the context of the TPNW given the specialized, culturally sensitive expertise and practical resources of organizations that support victim assistance and environment remediation.

Recommendations

To take full advantage of every initiative that could contribute to victim assistance and environmental remediation, IHRC urges the TPNW trust fund to welcome applications from both states parties and non-state actors. Organizations should be eligible to apply either independently or in partnership with states parties. States parties could discuss potential application criteria such as requiring that the organizations operate within states parties, possess relevant expertise, and/or uphold the object and purpose of the treaty. There are many benefits and essentially no risks to allowing organizations to apply for grants because, while their applications should be taken seriously, they will only be selected if they meet relevant criteria and standards that also apply to state party applicants.

4. Who Should Be Included in Designing the Fund?

Affected communities as well as nongovernmental and international organizations should be meaningfully included in the process of designing the trust fund and, if necessary, revising it in the future. They should have ample opportunity to express their views, and states parties should take their input into account.

Rationale

Inclusivity throughout the design process is critical for several of the reasons discussed above. Just as inclusion enhances the effectiveness of the operation of the trust fund, the participation of affected communities and other relevant experts will make a stronger institution. Affected communities' personal understanding of humanitarian and environmental needs will increase the designers' awareness of the problems. Affected communities and other experts bring applicable experience and valuable advice regarding practical and tailored solutions. Inclusivity in the design process also increases the legitimacy of the trust fund in the eyes of those it is designed to serve.

Precedent

The importance of inclusion in all stages of the victim assistance and environmental remediation process has been emphasized throughout the history of the TPNW and the Vienna Action Plan. In the latter, states parties resolve to “facilitate the active participation of relevant stakeholders and take into account the different needs of people in affected communities and indigenous people” (Action 41). Action 19 says that states parties pledge to “engage . . . and work cooperatively with” relevant stakeholders, including affected communities, nongovernmental organizations, and international organizations in the implementation of Articles 6 and 7, and in particular to “actively involve” and share information with affected communities “at all stages of the victim assistance

³⁴ UNSCAR, Proposal for Potential Donors, <https://front.un-arm.org/wp-content/uploads/2024/11/24-0478nve-Final-Version.pdf> (accessed February 27, 2025).

and remediation process.” Action 25 similarly expresses a commitment to uphold the principles of “accessibility, inclusivity, non-discrimination, and transparency.” Inclusivity at the design level helps promote these critical principles by taking diverse perspectives into account.

As discussed under Question 2 of this paper, Article 6(1) of the TPNW explicitly states that victim assistance should be implemented “in accordance with” international human rights law. International human rights law provides significant precedent for consulting affected communities. It underscores that they should be actively involved and allowed to participate in decisions that concern their needs and their rights in several different contexts. These contexts encompass situations relevant to indigenous peoples, other specific groups (notably persons with disabilities and victims of banned weapons), and communities threatened by environmental harm.

As the preamble of the TPNW notes, indigenous peoples have been disproportionately affected by nuclear weapons testing. The UN Declaration on the Rights of Indigenous Peoples, which lays out the widely endorsed standards for protecting the rights of indigenous people around the world, includes several provisions that call for their involvement in decisions akin to ones that designing and revising a trust fund would entail.³⁵ Article 19, for example, declares that “states shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.” Article 23 highlights that “indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.”

Treaty law offers additional precedent for ensuring the participatory rights of certain other groups that are among or analogous to the victims of nuclear weapons use or testing. The Convention on the Rights of Persons with Disabilities says that “persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them.”³⁶ Generally, legislation or policies and other “decision-making processes concerning issues relating to persons with disabilities” require states to closely consult and actively involve those with disabilities. The CPRD applied this same reasoning when it established its trust fund, indicating that organizations of persons with disabilities “meaningfully participate in the design, implementation, and monitoring and evaluation of UNPRPD Fund programs.”³⁷ Given that many survivors of nuclear weapons use and testing will experience life-long health impacts, which can cause disabilities, this precedent is relevant to the TPNW trust fund. The Convention on Cluster Munitions provides a humanitarian disarmament model for promoting inclusion. Article 5(1) of that convention contains a victim assistance obligation that is very similar to the TPNW’s. The article goes on to obligate states parties to “[c]losely consult with and actively involve cluster munition victims and their representative organisations” in the provision of victim assistance.³⁸

³⁵ UNDRIP, arts. 4, 5, 18, 19, 23, 27.

³⁶ Convention on the Rights of Persons with Disabilities, pmbl.

³⁷ UNPRPD Fund, “What We Do: Participation and Equality.”

³⁸ Convention on Cluster Munitions, art. 5(1), 2(f).

Instruments that address the intersection of environmental issues and human rights are also relevant given that the TPNW trust fund would support remediation of areas contaminated by nuclear weapons use and testing. The Rio Declaration on Environment and Development, produced at the 1992 United Nations Conference on Environment and Development, for example, stipulates that “environmental issues are best handled with the preparation of all concerned citizens,” and that “states should facilitate and encourage public awareness and participation.”³⁹ The Aarhus Convention, or the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, establishes important international norms although it only binds European Union states.⁴⁰ This convention encourages states to ensure that the public can access information and participate in decision-making.⁴¹

Many of these human rights precedents explain why this type of inclusion is so important. The UN Declaration on the Rights of Indigenous Peoples says that indigenous peoples’ control over decisions that affect them will enable developments to be carried out “in accordance with their aspirations and needs.”⁴² The Aarhus Convention makes clear that “improved access to information and public participation in decision-making enhance the quality and the implementation of decisions.”⁴³ In the end, broader participation during the TPNW trust fund’s establishment and revision processes will lead to a design that is better informed and more carefully considered and that will produce more effective results on the ground,

Recommendations

Affected communities, nongovernmental organizations, and international organizations should substantively engage in the process of designing and revising the trust fund over the course of its operations. Meaningful participation in the design process should entail but not be limited to: having the ability to attend and engage actively in working group meetings, meetings of states parties, review conferences, and other forums where this topic is discussed; receiving sufficient advance notice of these meetings; and being granted access to relevant documents. Affected community consultations, ideally in local languages, should continue to be held.

³⁹ Rio Declaration on Environment and Development, principle 10.

⁴⁰ Aarhus Convention, pmb. and arts. 3(2) 6-8.

⁴¹ Ibid., art. 3(2).

⁴² UNDRIP, pmb.

⁴³ Aarhus Convention, pmb.