



## REPORTING GUIDELINES FOR ARTICLES 6 AND 7 OF THE TREATY ON THE PROHIBITION OF NUCLEAR WEAPONS:

### PRECEDENT AND RECOMMENDATIONS

May 2023

Articles 6 and 7 of the Treaty on the Prohibition of Nuclear Weapons (TPNW) establish obligations on victim assistance, environmental remediation, and international cooperation and assistance,<sup>1</sup> but the articles' effectiveness could be enhanced if accompanied by regular reporting. Transparency on the status and progress of a state party's implementation promotes monitoring and accountability. It can lead to the exchange of valuable information and expertise, which can improve efforts to assist victims and remediate the environment. It can also facilitate the provision of international cooperation and assistance by helping donor states identify the needs of affected states parties.

The Vienna Action Plan, adopted in June 2022 by the First Meeting of States Parties (1MSP) to the TPNW, recognizes the value of reporting, noting the "importance of information exchange for the implementation of articles 6 and 7."<sup>2</sup> It therefore commits states parties to develop reporting guidelines and, by the Second Meeting of States Parties (2MSP), to consider developing "a voluntary and a non-burdensome" reporting format.<sup>3</sup> The Action Plan specifies that the format should "tak[e] into account best practices for reporting under other disarmament treaties."<sup>4</sup>

This report by the International Human Rights Clinic at Harvard Law School (IHRC) seeks to inform the process by providing an analysis of the reporting regimes under other disarmament and arms-related treaties and offering recommendations for TPNW reporting guidelines. After reviewing the Vienna Action Plan's mandate regarding reporting and the general principles that states parties should follow when implementing Articles 6 and 7, the IHRC report introduces the reporting mechanisms of three treaties that provide relevant precedent for TPNW reporting guidelines: (1) the Mine Ban Treaty, (2) the Convention on Cluster Munitions, and (3) Protocol V on Explosive Remnants of War (ERW) to the Convention on Conventional Weapons (CCW). IHRC also acknowledges the distinctive challenges involved with reporting in the nuclear weapons context.

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<sup>1</sup> Treaty on the Prohibition of Nuclear Weapons, adopted July 7, 2017, entered into force January 22, 2021, arts. 6-7.

<sup>2</sup> Vienna Action Plan, Action 27, in Treaty on the Prohibition of Nuclear Weapons First Meeting of States Parties, "Report of the First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons," TPNW/MSP/2022/6\*, Vienna, June 21-23, 2022, Annex II (Vienna Action Plan).

<sup>3</sup> *Ibid.*, Action 28.

<sup>4</sup> *Ibid.*

The IHRC report then provides a detailed comparative analysis of the three models across four sections: (1) the format and process of reporting, (2) victim assistance, (3) environmental remediation, and (4) international cooperation and assistance. IHRC's report compiles, analyzes, and extrapolates best practices from the design of these treaties' reporting guidelines, rather than assesses the results generated by the guidelines. An appendix presents key elements of the guidelines in three tables on victim assistance, environmental remediation, and international cooperation and assistance, respectively.

Finally, IHRC proposes recommendations for TPNW reporting guidelines that draw on precedent and adapts it, as necessary, to the nuclear weapons context. It recommends, as elaborated in each section below, that each state party should:

- File an initial report covering the state party's existing knowledge when the treaty has entered into force for the state party, followed every two years by reports with updated information, all made publicly available and submitted under clearly established deadlines; and
- Report on:
  - Data on victims affected by and areas contaminated by nuclear weapons use and testing, the methods for gathering and comprehensiveness of such data, and the criteria used to classify individuals as victims and areas as contaminated;
  - Development and implementation of frameworks for victim assistance and environmental remediation, including national plans, laws and policies, and focal points;
  - Status and progress of victim assistance and environmental remediation measures;
  - Efforts to include affected individuals and communities, including Indigenous Peoples, in the planning, implementation, monitoring, and evaluation of victim assistance and environmental remediation measures; and
  - Details of assistance provided to or received from other states parties for victim assistance and environmental remediation, as well as the details of any assistance requested.

## Context

### *Vienna Action Plan*

Adopted at the TPNW's 1MSP on June 23, 2022, the Vienna Action Plan lays out 50 actions to guide implementation of the TPNW in an "effective and timely" manner.<sup>5</sup> As the co-chairs of the intersessional working group for the implementation of Articles 6 and 7, Kazakhstan and Kiribati have identified three matters, including the establishment of reporting guidelines, to address prior to the 2MSP.<sup>6</sup> The working group held its first meeting to advance implementation work in October 2022, and it will continue to meet in the months leading up to the 2MSP in November 2023.

Although the TPNW itself does not require states parties to report on national measures taken to implement Articles 6 and 7, states parties resolved in the Vienna Action Plan to establish

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<sup>5</sup> Ibid., para. 2.

<sup>6</sup> The other matters are national implementation measures and the establishment of an international trust fund.

reporting guidelines for such measures, and to consider developing a format by the 2MSP. The Action Plan specifies that reporting should be voluntary, non-burdensome, and drawn from the input of relevant stakeholders and other disarmament treaties.

Action 27 of the Vienna Action Plan declares that states parties “will develop guidelines for voluntary reporting on national measures related to victim assistance, environmental remediation and international cooperation and assistance, including deadlines, as appropriate.”<sup>7</sup> It emphasizes that these reports should be voluntary and respectful of affected states parties, noting that the guidelines should be developed by “consulting with, and bearing in mind the needs and constraints of affected States.” Action 27 thus reflects an understanding that affected states parties already face the consequences of nuclear weapons, have responsibility for addressing them under Article 6 of the TPNW, and often have fewer resources. Reporting should not create an undue burden and can, in part, facilitate the delivery of international cooperation and assistance to help affected states parties assist victims and remediate the environment. According to Action 27, the development of reporting guidelines will also “draw on the input of relevant stakeholders, including international organizations, civil society, affected communities, indigenous peoples, and youth.”

Action 28 calls on states parties “to consider developing a voluntary and a non-burdensome format for reporting,” which could, according to precedent, take the form of a reporting template or guide. To develop such a format, Action 28 says states parties should take into account the “best practices for reporting under other disarmament treaties,” which is the subject of this IHRC report. Reiterating its respect for the position of affected states parties, the action specifies that consideration of such development should also be “in close cooperation with States concerned.”

Action 28 also suggests topics that states parties could cover in their reports. Affected states parties could report on “the effects of nuclear weapons in their territory, their progress in implementing the Treaty’s victim assistance and environmental remediation obligations and where they may need external support.” Other states parties could report on the “international cooperation and assistance they have provided and on their outreach to States not party in support of their objectives of articles 6 and 7.” These topics, and their analogous coverage under the reporting regimes of other disarmament and arms-related treaties, are covered in depth below.

Reporting guidelines and the process for developing them should follow specific principles enumerated by the Vienna Action Plan. Under Action 25, states parties at the 1MSP agreed to implement their positive obligations “in accordance, in particular, with the principles of accessibility, inclusivity, non-discrimination and transparency and in coordination with affected communities.” Transparency and accessibility of information call for states parties’ reports to be made public. To ensure inclusivity and promote non-discrimination, states parties should engage with affected communities at all stages of the reporting process. As noted above, Action 27 says that reporting guidelines should be developed with input from a range of stakeholders. Under Action 41, states parties resolve to “take into account the different needs of people in affected communities and indigenous people.” Action 39 declares that states parties resolve “to integrate gender considerations across the work of the Treaty’s implementation.” In their consultations,

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<sup>7</sup> Vienna Action Plan, Action 27.

states parties should pay particular attention to the perspectives of Indigenous Peoples and women and girls because they have been disproportionately affected by the use and testing of nuclear weapons.

### *Reporting Models*

To help states parties comply with their deadline to consider a reporting format by the 2MSP, IHRC responded to the Vienna Action Plan's call to take into account best practices for reporting under other disarmament treaties. The IHRC report provides a comparative analysis of the reporting regimes of other disarmament and arms-related treaties and draws on them to propose recommendations for TPNW reporting guidelines.

This report examines models set by three prominent international disarmament and arms-related treaties: (1) the Mine Ban Treaty, (2) the Convention on Cluster Munitions, and (3) CCW Protocol V on Explosive Remnants of War.<sup>8</sup> Like the TPNW, all three of these treaties advance the goals of humanitarian disarmament,<sup>9</sup> and they contain similar positive obligations on victim assistance, clearance (analogous to environmental remediation), and international cooperation and assistance.<sup>10</sup> States parties to the three treaties have promulgated procedural and substantive guidelines for reporting on the fulfillment of their obligations by adopting specific reporting formats.

The Mine Ban Treaty, the Convention on Cluster Munitions, and Protocol V require states parties to submit annual reports. The topics and amount of detail that states parties are bound to report on vary by treaty. Article 7 of the Convention on Cluster Munitions obligates states parties to report on victim assistance, clearance of contaminated areas, and international cooperation and assistance. Article 7 of the Mine Ban Treaty only requires that states parties report on clearance of contaminated areas, and Protocol V's Article 10(b)(2) calls on Conferences of High Contracting Parties to consider "matters pertaining to national implementation of this Protocol, including national reporting or updating on an annual basis," but does not specify what that reporting should cover.

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<sup>8</sup> Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Mine Ban Treaty), adopted September 18, 1997, entered into force March 1, 1999; Convention on Cluster Munitions, adopted May 30, 2008, entered into force August 1, 2010; Protocol V on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects (CCW), adopted November 28, 2003, entered into force November 12, 2006.

<sup>9</sup> "Humanitarian disarmament seeks to prevent and remediate arms-inflicted human suffering and environmental harm through the establishment and implementation of norms." "About," Humanitarian Disarmament, undated, <https://humanitariandisarmament.org/about/> (accessed March 26, 2023).

<sup>10</sup> For principles for victim assistance and environmental remediation in the nuclear weapons context that draw from existing humanitarian disarmament norms, see Harvard Law School International Human Rights Clinic and Conflict and Environment Observatory, *Confronting Conflict Pollution: Principles for Assisting Victims of Toxic Remnants of War*, June 2020, <https://humanrightsclinic.law.harvard.edu/wp-content/uploads/2022/10/Confronting-Conflict-Pollution.pdf> (accessed April 16, 2023). Harvard Law School International Human Rights Clinic and Conflict and Environment Observatory, *Facing Fallout: Principles for Environmental Remediation of Nuclear Weapons Contamination*, June 2022, <https://humanrightsclinic.law.harvard.edu/wp-content/uploads/2023/02/Facing-Fallout-2022.pdf> (accessed April 16, 2023).

While these treaties establish general requirements for reporting, the details are laid out in voluntary reporting formats adopted by states parties. The documents take two forms. Templates are blank tables that solicit data and narrative responses to provided prompts. Guides, which may or may not be tied to templates, include more detailed questions that states parties are encouraged to answer. States parties have at various points adopted a reporting template and reporting guide for each treaty, although as explained in the next section, only some of these documents continue to be in use. The templates and guides overlap significantly in substance and thus serve as valuable models for a TPNW reporting format on victim assistance, environmental remediation, and international cooperation and assistance. At the same time, there are nuances between them, which underscore the necessity of adapting reporting guidelines to the particular focus of an individual treaty.

IHRC draws on its comparative analysis of these reporting templates and guides to propose recommendations for TPNW reporting guidelines. It identifies common elements that are applicable to reporting on Articles 6 and 7 of the TPNW. It also recognizes the distinctive challenges of addressing the consequences of nuclear weapons use and testing. For example, it can be harder to determine who is affected by nuclear radiation, harm can manifest itself years after a nuclear detonation, and the scale of environmental damage done by nuclear weapons is significantly greater and longer-lasting than that of conventional weapons. The IHRC report highlights some elements of reporting guidelines that should be adapted to these features of the nuclear weapons context.

## **History of Disarmament and Arms-Related Treaty Reporting**

### *Mine Ban Treaty*

States parties to the Mine Ban Treaty adopted a reporting template at the First Meeting of States Parties in 1999.<sup>11</sup> The reporting template initially covered only the issues outlined in Article 7(1), which included reporting requirements for clearance but not victim assistance or international cooperation and assistance. At the Second Meeting of States Parties in 2000, states parties adopted a revised template to include Form J, titled “Other relevant matters,” and over the years have recommended that states use the template to report on topics related to victim assistance and international cooperation and assistance.<sup>12</sup> A draft “Guide to Reporting” was introduced at the Thirteenth Meeting of States Parties in 2013 and adopted by states parties at the Fourteenth Meeting of States Parties in 2015.<sup>13</sup> The guide explains that it “replaces previous reporting formats by providing guidance that can be applied in a flexible manner consistent with national circumstances, albeit with the proviso that useable, high-quality and comparable data are being

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<sup>11</sup> Mine Ban Treaty First Meeting of States Parties, “Final Report,” APLC/MSP.1/1999/1, Maputo, May 3-7, 1999, para. 23 (Mine Ban Treaty First Meeting of States Parties, “Final Report”).

<sup>12</sup> See, e.g., Mine Ban Treaty Second Meeting of States Parties, “Final Report,” APLC/MSP.2/2001/1, Geneva, Sept. 11-15, 2000, para. 27; Mine Ban Treaty Third Meeting of States Parties, “Final Report,” APLC/MSP.3/2001/1, Managua, September 18-21, 2001, para. 26; Mine Ban Treaty Fourth Meeting of States Parties, “Final Report,” APLC/MSP.4/2002/1, Geneva, September 16-20, 2002, p. 39; Mine Ban Treaty Fifth Meeting of States Parties, “Final Report,” APLC/MSP.5/2003/5, Bangkok, September 15-19, 2003, Annex V, para. 9.

<sup>13</sup> Mine Ban Treaty Fourteenth Meeting of States Parties, “Final Report,” APLC/MSP.14/2015/33, Geneva, November 30-December 4, 2015, para. 32.

obtained from all States Parties on relevant matters.”<sup>14</sup> Most states, however, have continued to use the original templates to structure their annual submissions. In accordance with state practice, the IHRC report analyzes the content and structure of both the reporting template and the reporting guide.

### *Convention on Cluster Munitions*

At the First Meeting of States Parties in 2010, states parties adopted a reporting template and recommended its use by states parties.<sup>15</sup> In 2012, the Final Document of the Third Meeting of States Parties noted that a reporting guide had been developed,<sup>16</sup> and the Final Document of the Fourth Meeting of States Parties in 2013 stated that a draft reporting guide was available on the convention’s website.<sup>17</sup> The Final Report of the First Review Conference in 2015 reflected states parties’ endorsement of increased use of the reporting guide.<sup>18</sup> No subsequent references were made to the reporting guide until the Second Review Conference in 2021, however, where states parties noted that it was “difficult to assess whether the reporting guide has been increasingly used in preparing reports.”<sup>19</sup> Because states parties largely use the template for their report submissions and because the website of the Implementation Support Unit posts only the template, not the guide, the IHRC report analyzes the content and structure only of the reporting template.<sup>20</sup> States parties to the Convention on Cluster Munitions appear to be considering new reporting guidelines. Action 45 of the Lausanne Action Plan, adopted at the Second Review Conference in 2021, declared that states parties would “develop adapted reporting forms” for consideration at the Tenth Meeting of States Parties. The Final Report of the Tenth Meeting of States Parties did not mention new reporting forms or progress in this area, but Iraq delivered a statement in its capacity as transparency coordinator stating that it has been listening to state party views on the issue and that the work will continue to the Eleventh Meeting of States Parties in 2023.<sup>21</sup>

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<sup>14</sup> Mine Ban Treaty Fourteenth Meeting of States Parties, “Guide to Reporting,” APLC/MSP.14/2015/WP.2, December 28, 2015, para. 4. (Mine Ban Treaty, “Guide to Reporting”).

<sup>15</sup> Convention on Cluster Munitions First Meeting of States Parties, “Final Document,” CCM/MSP/2010/5, Vientiane, Nov. 9-12, 2010, para. 21 (Convention on Cluster Munitions First Meeting of States Parties, “Final Document”).

<sup>16</sup> Convention on Cluster Munitions Third Meeting of States Parties, “Final Document,” CCM/MSP/2012/5, Oslo, September 11-14, 2012, Annex I, para. 9.

<sup>17</sup> Convention on Cluster Munitions Fourth Meeting of States Parties, “Final Document,” CCM/MSP/2013/6, Lusaka, September 10-13, 2013, para. 78 (Convention on Cluster Munitions Fourth Meeting of States Parties, “Final Document”).

<sup>18</sup> Convention on Cluster Munitions First Review Conference, “Final Report,” CCM/CONF/2015/7, Dubrovnik, September 7-11, 2015, Annex III, para. 49.

<sup>19</sup> Convention on Cluster Munitions Second Review Conference, “Final Report,” CCM/CONF/2021/6, Geneva, November 25-27, 2020, Annex III, para. 99 (Convention on Cluster Munitions Second Review Conference, “Final Report”).

<sup>20</sup> “Reporting,” Convention on Cluster Munitions Implementation Support Unit, <https://www.clusterconvention.org/reporting-forms/#:~:text=In%20accordance%20with%20Article%207,30%20April%20each%20year%20thereafter> (accessed March 10, 2023).

<sup>21</sup> Government of Iraq, Statement to the Convention on Cluster Munitions Tenth Meeting of States Parties, August 31, 2022, <https://www.clusterconvention.org/wp-content/uploads/2022/08/Iraq-summary-report-as-coordinator-10thMSP-2022.pdf> (accessed March 10, 2023).

*Protocol V on Explosive Remnants of War to the Convention on Conventional Weapons*

States parties adopted a reporting template at the First Conference of the High Contracting Parties to Protocol V on Explosive Remnants of War in 2007.<sup>22</sup> This template is very general, consisting of text boxes for individual articles of Protocol V in which states parties can submit narrative information about their efforts to comply with their obligations. States parties agreed in 2012 to add a specific section for states with ERW victims,<sup>23</sup> and in 2014 to merge the section on assistance with respect to existing ERW with that on international cooperation and assistance.<sup>24</sup> States parties also approved use of a “Guide to National Reporting” at the 2009 Third Conference of the High Contracting Parties to Protocol V. The guide, “to be used as a tool at the discretion of the High Contracting Parties to facilitate the filling-out of the forms,”<sup>25</sup> provides detailed prompts and specific questions within the format of the original template. States parties amended the reporting guide in 2015 with further questions on victim assistance and international cooperation and assistance, although it did not reflect the updated lettering in the 2014 template.<sup>26</sup> The IHRC report primarily analyzes the structure and content of the 2009 reporting guide and its 2015 amendment because they encompass the 2007 template and its 2012 addition while providing detailed questions for states parties to respond to.

### **Format and Process of Reporting**

The three reporting regimes discussed in this report offer models for the format and process of submitting reports. States parties have made use of reporting templates and guides to assist them in structuring their reports. They have also set procedures for submitting reports, which encompass deadlines, recipients, languages, and transparency options. Following the best practices of these mechanisms could lead to the development of guidelines under the TPNW that are voluntary, non-burdensome, and transparent.

States parties have created tools to facilitate comprehensive yet non-burdensome reporting under the Mine Ban Treaty, the Convention on Cluster Munitions, and Protocol V. States parties to

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<sup>22</sup> First Conference of the High Contracting Parties to CCW Protocol V, “Final Document,” CCW/P.V/CONF/2007/1, Geneva, November 5, 2007, para. 28 and Annex VI (First Conference of the High Contracting Parties to Protocol V, “Final Document”).

<sup>23</sup> Sixth Conference of the High Contracting Parties to CCW Protocol V on Explosive Remnants of War, “Final Document,” CCW/P.V/CONF/2012/10, Geneva, November 12-13, 2012, para. 31(b). This version of the template is the one available on the UNODA website.

<sup>24</sup> Eighth Conference of the High Contracting Parties to CCW Protocol V on Explosive Remnants of War, “Final Document,” CCW/P.V/CONF/2014/10\*, Geneva, November 10-11, 2014, para. 34(b). This change is not reflected in the template available on the UNODA website, but the website notes, “At the Eighth Conference of Protocol V States Parties decided to amend the national reporting template and to merge the forms addressing reporting on Articles 7 and 8.” “Protocol V National Annual Reports and Database,” United Nations Office for Disarmament Affairs, <https://disarmament.unoda.org/ccw-protocol-v-on-explosive-remnants-of-war/national-reporting-and-database/> (accessed April 21, 2023).

<sup>25</sup> Third Conference of the High Contracting Parties to CCW Protocol V on Explosive Remnants of War, “Final Document,” CCW/P.V/CONF/2009/9, Geneva, November 9-10, 2009, para. 46.

<sup>26</sup> Though the conference document states that these questions are supposed to correspond to Form F(a), IHRC presumes these questions are intended to fit into the 2014 Form E(a) on steps taken by states which have ERW victims to implement the relevant provisions of Article 8(2) on victim assistance, and the reference to Form F(a) is in error because there is no Form F(a) in the revised template and Form F now addresses generic preventive measures. Ninth Conference of the High Contracting Parties to CCW Protocol V on Explosive Remnants of War, “Final Document,” CCW/P.V/CONF/2015/11, Geneva, November 9-10, 2015, para. 34(b).

each treaty have adopted a reporting template, which they are encouraged, although not required, to use.<sup>27</sup> As noted above, the templates include structured tables with useful prompts in which states parties can report updates on various aspects of their treaty obligations. To supplement its template, states parties to Protocol V adopted a reporting guide in 2009 to “increase the quality and improve the substance of the reports.”<sup>28</sup> The guide contains a checklist of questions under each section of the reporting template aimed at “clarifying the degree of specificity by providing recommendations on elements to be included.”<sup>29</sup> Similarly, states parties to the Mine Ban Treaty adopted a reporting guide at its Fourteenth Meeting of States Parties in 2015 to “consolidate and streamline” previous decisions on reporting by states parties, with the purpose of “eas[ing] the reporting burden and improv[ing] transparency,” and in the longer term “increas[ing] the opportunity for States Parties to understand current issues and possibly take action in a cooperative manner to address them.”<sup>30</sup> The guide provides flowcharts for each subsection of the reporting template and includes suggested language for reporting certain results. States parties to the Convention on Cluster Munitions adopted a reporting guide in 2013, but the guide failed to gain traction and is no longer published online by the convention’s Implementation Support Unit.<sup>31</sup>

All three reporting regimes also provide cover pages to complement annual reports. Cover pages allow states parties to indicate whether the information to be provided on specific topics is the same as the information provided in the last report; for instance, if a state has not taken any new steps to implement a particular provision, it may merely check “unchanged” since the last report. Cover pages ease the reporting burden on states parties by not requiring them to repeat information already readily available in a prior report.

The reporting regimes for the Mine Ban Treaty, the Convention on Cluster Munitions, and Protocol V also provide precedent for establishing a clear process for submitting reports. All three treaties require states parties to submit annual reports.<sup>32</sup> The Mine Ban Treaty and Convention on Cluster Munitions also explicitly require states parties to submit initial reports within 180 days after the treaty enters into force for the state party.<sup>33</sup> Initial transparency reports generally provide information on the status of treaty obligations at the time of acceding to or ratifying the treaty, and any actions taken between joining the treaty and submitting the initial

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<sup>27</sup> “Article 7 Reports,” United Nations Office for Disarmament Affairs, <https://www.unoda.org/aplc-article-7-reports> (accessed April 22, 2023); “Reporting,” Convention on Cluster Munitions Implementation Support Unit, <https://www.clusterconvention.org/reporting-forms/#:~:text=In%20accordance%20with%20Article%207,30%20April%20each%20year%20thereafter> (accessed February 11, 2023); First Conference of the High Contracting Parties to Protocol V, “Final Document,” para. 28 and Annex VI.

<sup>28</sup> Third Conference of the High Contracting Parties to CCW Protocol V on Explosive Remnants of War, “Report on National Reporting,” CCW/P.V/CONF/2009/4/Add.1, Geneva, November 9-10, 2009, para. 4 (Protocol V, “Report on National Reporting”). This document contains Protocol V’s 2009 “Guide to National Reporting.”

<sup>29</sup> Protocol V, “Report on National Reporting,” para. 6.

<sup>30</sup> Mine Ban Treaty, “Guide to Reporting,” para. 3.

<sup>31</sup> Convention on Cluster Munitions Fourth Meeting of States Parties, “Final Document,” para. 78. At the Second Review Conference in 2021, states parties noted it was “difficult to assess whether the reporting guide has been increasingly used in preparing reports.” Convention on Cluster Munitions Second Review Conference, “Final Report,” p. 54.

<sup>32</sup> Mine Ban Treaty, art. 7(2); Convention on Cluster Munitions, art. 7(2); Protocol V, art. 10(2)(b).

<sup>33</sup> Mine Ban Treaty, art. 7(1); Convention on Cluster Munitions, art. 7(1).



transparency report. Annual reports provide updates on national implementation efforts taken over the preceding year.<sup>34</sup> According to the reporting guidelines of all treaties, states parties should submit initial reports 180 days after the treaty enters into force for that state party and annual reports on a yearly basis thereafter.<sup>35</sup> Annual reports for Protocol V are due no later than March 31 of each year,<sup>36</sup> while Mine Ban Treaty and Convention on Cluster Munitions reports are due annually by April 30.<sup>37</sup> Precise deadlines help states parties to a treaty to comply with reporting guidelines. States not party to the Mine Ban Treaty are also encouraged to submit voluntary transparency reports,<sup>38</sup> an action that promotes universalization and has been exercised by several states over the years.<sup>39</sup>

Other elements of the process address how reports are submitted and disseminated. All three reporting regimes encourage states parties to submit reports in an official United Nations (UN) language and, if possible, in electronic form.<sup>40</sup> The Mine Ban Treaty and Convention on Cluster Munitions require states parties to submit reports to the UN secretary-general.<sup>41</sup> The text of Protocol V does not specify the body to which states parties should submit reports, but the reporting guide indicates that reports should be submitted to the CCW secretariat.<sup>42</sup> State party reports to the Mine Ban Treaty and the Convention on Cluster Munitions are automatically made public on the United Nations Office for Disarmament Affairs (UNODA) website. By contrast, the reporting form for Protocol V asks states parties whether the information disclosed in the report “can be available to other interested parties and relevant organizations,” allowing for full disclosure, no disclosure, or partial disclosure of certain sections.<sup>43</sup> States parties, however, seem relatively infrequently to exercise the option to withhold information from public view, as the number of reports publicly available on the UNODA website generally corresponds to the total number of state party submissions. The UNODA databases provide not only public copies of the reports but also analytical information about the number of reports submitted, submissions by states parties by year, and submissions by language.<sup>44</sup>

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<sup>34</sup> Mine Ban Treaty, art. 7(2); Convention on Cluster Munitions, art. 7(2); First Conference of the High Contracting Parties to Protocol V, “Final Document,” paras. 24-25.

<sup>35</sup> Mine Ban Treaty, arts. 7(1), 7(2); Convention on Cluster Munitions, arts. 7(1), 7(2); First Conference of the High Contracting Parties to Protocol V, “Final Document,” para. 26.

<sup>36</sup> First Conference of the High Contracting Parties to Protocol V, “Final Document,” para. 26.

<sup>37</sup> Mine Ban Treaty, art. 7(2); Convention on Cluster Munitions, art. 7(2).

<sup>38</sup> “All states still outside the treaty . . . can help solidify the norms of the treaty by taking interim steps toward a total ban, including: . . . Submit a voluntary transparency report with all relevant information.” International Campaign to Ban Landmines, “Treaty Status,” undated, <http://www.icbl.org/en-gb/the-treaty/treaty-status.aspx> (accessed April 15, 2023).

<sup>39</sup> International Campaign to Ban Landmines, *Landmine Monitor 2003*, <http://the-monitor.org/media/1704629/lm2003execsum-nomaps.pdf> (accessed April 18, 2023), p. 4.

<sup>40</sup> Mine Ban Treaty, “Guide to Reporting,” Annex V; “Reporting,” Convention on Cluster Munitions Implementation Support Unit, <https://www.clusterconvention.org/reporting/> (accessed March 10, 2023); First Conference of the High Contracting Parties to Protocol V, “Final Document,” para. 27.

<sup>41</sup> Mine Ban Treaty, art. 7(1); Convention on Cluster Munitions, art. 7(1).

<sup>42</sup> Protocol V, “Report on National Reporting,” p. 3.

<sup>43</sup> First Conference of the High Contracting Parties to Protocol V, “Final Document,” p. 29.

<sup>44</sup> “Article 7 database (1999-present),” United Nations Office for Disarmament Affairs, <https://www.unoda.org/aplc-article-7-database> (accessed April 22, 2023); “CCM Article 7 Database,” United Nations Office for Disarmament Affairs, <https://www.unoda.org/ccm-article-7-database> (accessed April 22, 2023); “Protocol V Database (2008-present),” United Nations Office for Disarmament Affairs, <https://disarmament.unoda.org/ccw-protocol-v-on-explosive-remnants-of-war/national-reporting-and-database/ccw-protocol-v-database/> (accessed April 22, 2023).

Given the shared goals of ease of reporting and transparency, the administrative mechanisms from the Mine Ban Treaty, the Convention on Cluster Munitions, and Protocol V provide valuable models for the TPNW. In an effort to make state party reporting non-burdensome in accordance with the Vienna Action Plan, states parties should consider endorsing use of a reporting template or guide with a cover page analogous to the existing models. Encouraging both initial and regular follow-up reporting would be useful in the TPNW context to ensure states parties are making immediate and sustained progress toward implementation.<sup>45</sup> A state party should file its initial report by a specified date, no more than one year but preferably 180 days after the TPNW has entered into force for the state party; 180 days is recommended because it accords with precedent. As with the precedent treaties, reporting should be regular, although it could be every two years instead of one, in order to align with the TPNW's schedule of Meetings of States Parties. As a confidence-building measure that promotes universalization and transparency, states not party to the TPNW could voluntarily submit reports as well. Because the TPNW is administered by the UN, it is logical for reports to be submitted electronically in one of the official UN languages to the UN secretary-general, or another body that is designated by the TPNW's states parties. A fully public report database, where states parties are not given the option to prevent disclosure of the report contents, would be consistent with states parties' commitment to transparency as articulated in the Vienna Action Plan.

### *Recommendations*

Each TPNW state party should:

- File an initial report covering the state party's existing knowledge at the time of entry into force, by a specified date between 180 days and a year after the treaty has entered into force for the state party.
- File reports every two years, covering updates and progress from the previous two calendar years, or a cover page if the state party has no significant updates to report, by a specified date.
- Submit reports in an official UN language to the UN secretary-general or another body designated for this purpose.
- Ensure that state party reports are publicly available in a database managed by a body designated for this purpose, such as the UNODA.

### **Victim Assistance**

Reporting guidelines on victim assistance under the Mine Ban Treaty, the Convention on Cluster Munitions, and Protocol V provide applicable precedent for developing a reporting structure for the TPNW's positive obligations on victim assistance. The reporting regimes under the precedent treaties solicit information on four topics related to victim assistance: (1) victims and

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<sup>45</sup> This proposal reflects the Vienna Action Plan's call for initial reporting on assessments. See Vienna Action Plan, Action 30.

assessments of their needs; (2) the national framework for implementation; (3) the status and progress of assistance services; and (4) efforts to include victims' voices throughout the assistance process. All three treaties' reporting regimes call for articulating national objectives and chronicling progress toward those goals. The Mine Ban Treaty sets this framework out in its reporting guide by creating different reporting guidelines for initial and subsequent reports aimed at "measur[ing] progress towards the achievement of this [desired] change."<sup>46</sup> The Convention on Cluster Munitions and Protocol V generally imagine a similar framework of reporting on progress made, demonstrating that a Needs → Goals → Progress format is a standard, effective way to report on victim assistance.<sup>47</sup>

The first category of victim assistance reporting is data on victims. All three sets of treaty reporting guidelines contain a call for the provision of data on the victims within a state party's jurisdiction.<sup>48</sup> The Mine Ban Treaty guide indicates a preference for data in the form of numbers, demographics, and harms suffered, and the Convention on Cluster Munitions template specifically requests data on demographics and needs.<sup>49</sup> With regard to scope, the Mine Ban Treaty guide asks for "data on mine victims and on disability generally,"<sup>50</sup> and the Protocol V guide asks for data on "victims of explosive remnants of war" and "persons with disabilities" within a reporting "country's jurisdiction or control."<sup>51</sup> The Convention on Cluster Munitions reporting template requests "data collection" on "cluster munitions victims," which the convention defines as encompassing affected individuals, families, and communities.<sup>52</sup> While some guidelines indicate preferences for certain categories of information, all three guidelines keep their asks relatively general for data on victims and leave the decision of what specifics to include to the states parties.

Reporting data on victims can help states parties assess victims' needs and, in turn, evaluate national plans for assistance. The Convention on Cluster Munitions reporting template pairs the collection of such data with "assessment of the needs of . . . victims."<sup>53</sup> The Mine Ban Treaty's reporting guide states that victim assistance data could "relate . . . to the commitments to establish and pursue the attainment of [victim assistance] objectives and to enhance and implement plans, policies and legal frameworks."<sup>54</sup> The reporting regimes specifically call for contextualization of data on victims, presumably to understand the scope of harm. The Protocol

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<sup>46</sup> Mine Ban Treaty, "Guide to Reporting," para. 40.

<sup>47</sup> Convention on Cluster Munitions First Meeting of States Parties, "Draft Reporting Formats for Article 7 of the Convention on Cluster Munitions," CCM/MSP/2010/WP.4, Vientiane, November 9-12, 2010, Form H, pp. 18-19 (Convention on Cluster Munitions, "Draft Reporting Formats"); Protocol V, "Report on National Reporting," pp. 11-12.

<sup>48</sup> Convention on Cluster Munitions, "Draft Reporting Formats," Form H(2); Mine Ban Treaty, "Guide to Reporting," paras. 80-82; Ninth Conference of the High Contracting Parties to CCW Protocol V on Explosive Remnants of War, "Report on National Reporting," CCW/P.V.CONF/2015/3, Geneva, November 9-10, 2015, Annex I (Protocol V, "Reporting Guide, 2015 Amendment on Victim Assistance").

<sup>49</sup> Convention on Cluster Munitions, "Draft Reporting Formats," Form H(2); Mine Ban Treaty, "Guide to Reporting," paras. 80-82.

<sup>50</sup> Mine Ban Treaty, "Guide to Reporting," para. 41.

<sup>51</sup> Protocol V, "Reporting Guide, 2015 Amendment on Victim Assistance," para. 3.

<sup>52</sup> Convention on Cluster Munitions, "Draft Reporting Formats," Form H(2); Convention on Cluster Munitions, art. 2(1).

<sup>53</sup> Convention on Cluster Munitions, "Draft Reporting Formats," Form H(2).

<sup>54</sup> Mine Ban Treaty, "Guide to Reporting," para. 41.

V guide asks how victim “data relate[s] to the overall population,”<sup>55</sup> and the sample report of the fictional “Republic of Minelandia” at the end of the Mine Ban Treaty reporting guide includes recent census data to estimate the population of the known affected area in an attempt to judge the number of indirect victims.<sup>56</sup> Such contextualization enables states parties to gain an understanding of the extent of harm by comparing the number of documented victims to the total population. It may also reveal gaps in the data on victims and allow states parties to extrapolate more accurate numbers of affected individuals. A fuller picture of the scope of effects can prove useful to states parties in interpreting the data on victims and designing responses to meet needs.

The reporting guidelines for all three treaties also provide direction for determining which individuals qualify as victims. The Convention on Cluster Munitions defines “[c]luster munitions victims” as “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.”<sup>57</sup> In a similar vein, the “Republic of Minelandia” sample report in the Mine Ban Treaty reporting guide contains a category of reporting labeled “[d]ata on direct and indirect victims,”<sup>58</sup> indicating the scope of the term “victim” extends to those who have been indirectly harmed. By defining the term “victim” and delineating its scope, these treaties facilitate data interpretation and comparison in the specific context addressed by each treaty. In sum, gathering and sharing data on the characteristics of victims, the nature of their harms, and contours of their needs is a feature common to reporting under all three precedent treaties and an indispensable step to gauging the proportionality and effectiveness of the assistance provided.

Second, all three treaties have associated guidelines for reporting on national plans, policies, laws, and focal points, which are elements of a framework for implementing the provision of victim assistance. The Convention on Cluster Munitions reporting template asks states parties to report on the “development and implementation of national laws and policies,” existing “[n]ational plan[s] and budget[s],” and “[s]teps taken to mobilize national . . . resources.”<sup>59</sup> The Mine Ban Treaty reporting guide encourages states parties to report “time-bound and measurable objectives” to be achieved “through the implementation of national policies, plans and legal frameworks” alongside information on “enhancements” to existing government plans and budgets.<sup>60</sup> The Protocol V guide similarly requests information on “[l]aws and policies” related to victim assistance, and frames the guiding questions around efforts to incorporate victim assistance into existing “national plan[s] on persons with disabilities.”<sup>61</sup> In addition to information on relevant plans and policies, the Convention on Cluster Munitions and Protocol V reporting guidelines request that states parties provide the name and contact of their focal points, i.e., government bodies or representatives responsible for coordinating national implementation

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<sup>55</sup> Protocol V, “Reporting Guide, 2015 Amendment on Victim Assistance,” para. 3.

<sup>56</sup> Mine Ban Treaty, “Guide to Reporting,” para. 83.

<sup>57</sup> Convention on Cluster Munitions, art. 2(1).

<sup>58</sup> Mine Ban Treaty, “Guide to Reporting,” paras. 80-83.

<sup>59</sup> Convention on Cluster Munitions, “Draft Reporting Formats,” Form H, pp. 18-19.

<sup>60</sup> Mine Ban Treaty, “Guide to Reporting,” paras. 37-38.

<sup>61</sup> Protocol V, “Reporting Guide, 2015 Amendment on Victim Assistance,” para. 10.

of victim assistance measures.<sup>62</sup> Along similar lines, all three treaty reporting regimes encourage states parties to list budgets for implementation, and all but Protocol V specifically mention reporting on timeframes as well.<sup>63</sup>

Third, at the heart of victim assistance reporting are the substance of the assistance provided and its continuing availability. Article 7(1)(k) of the Convention on Cluster Munitions requires states parties to submit information on the categories of medical care, physical rehabilitation, psychological support, and economic and social inclusion. The Mine Ban Treaty reporting guide and the Protocol V reporting guide amendment on victim assistance request the same categories of information.<sup>64</sup> The reporting guidelines for all three treaties focus on assistance services currently available to affected individuals and communities and assistance that may soon be available. For example, the Protocol V reporting guide amendment on victim assistance phrases its questions in terms of what services are “available,” “in place,” or “ongoing.”<sup>65</sup> Along similar lines, some of the guidelines also demonstrate an interest in whether the provision of victim service is advancing. The Mine Ban Treaty guide asks for forward-looking objectives and enhancements as well as the current state of any “[m]easurable improvements made” in the categories of assistance.<sup>66</sup> The Convention on Cluster Munitions reporting template requests information both on the type of services available and the agency currently responsible for providing them, and on “progress . . . , number of persons assisted, [and] time period.”<sup>67</sup>

When asking about the status and progress of victim assistance, the reporting regimes inquire not only about the substance of specific measures, but also about the accessibility and non-discrimination of assistance provision. The Convention on Cluster Munitions reporting template requests that states parties report on the “age- and gender- sensitive” nature of victim assistance,<sup>68</sup> and the Protocol V guide asks states parties for information about how medical care is made “available, accessible and affordable.”<sup>69</sup> Furthermore, in the Mine Ban Treaty’s “Minelandia” sample report, example enhancements include goals like “remov[ing] financial barriers to accessing services” and “making it illegal to deny health insurance to persons with disabilities,”<sup>70</sup> showing that this guide similarly values reporting on accessibility and non-discrimination. Such reporting draws attention to and creates accountability around *how* assistance is provided, not just *what* assistance is provided. The Mine Ban Treaty guide also includes “coordination” and “referral to services”<sup>71</sup> on its list of victim assistance information

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<sup>62</sup> Convention on Cluster Munitions, “Draft Reporting Formats,” Form H(1); Protocol V “Reporting Guide, 2015 Amendment on Victim Assistance,” para. 13.

<sup>63</sup> Mine Ban Treaty, “Guide to Reporting,” paras. 38, 40; Convention on Cluster Munitions, “Draft Reporting Formats,” Form H(4); Protocol V, “Reporting Guide, 2015 Amendment on Victim Assistance,” para. 12. Timeframe is mentioned in the guidelines document relating to provision of ERW assistance to other states, but not specifically in the context of victim assistance. See Protocol V, “Report on National Reporting,” Form F.

<sup>64</sup> Mine Ban Treaty, “Guide to Reporting,” para. 41; Protocol V, “Reporting Guide, 2015 Amendment on Victim Assistance,” paras. 4, 8.

<sup>65</sup> Protocol V, “Reporting Guide, 2015 Amendment on Victim Assistance,” paras. 4-8.

<sup>66</sup> Mine Ban Treaty, “Guide to Reporting,” paras. 37-41.

<sup>67</sup> Convention on Cluster Munitions, “Draft Reporting Formats,” Form H(6).

<sup>68</sup> *Ibid.*

<sup>69</sup> Protocol V, “Reporting Guide, 2015 Amendment on Victim Assistance,” paras. 4-7.

<sup>70</sup> Mine Ban Treaty, “Guide to Reporting,” para. 86.

<sup>71</sup> *Ibid.*, para. 41.

categories. These considerations, while not explicitly connected to accessibility or non-discrimination, relate to the method of the provision of assistance services.

Finally, to tailor victim assistance to the needs of affected people, it is essential to include direct victim input in the processes. To that end, the reporting guidelines for all three treaties call on states parties to report on structures for incorporating the views of those affected in data collection, assistance provision, and policy formation and implementation. The Convention on Cluster Munitions reporting template explicitly encourages reporting on “[e]fforts to closely consult with and actively involve . . . victims and their representative organisations in victim assistance planning and implementation.”<sup>72</sup> The Mine Ban Treaty guide lists victim “inclusion in relevant legislative, policy or planning processes”<sup>73</sup> as a relevant reporting category, and the Protocol V’s amendment to its reporting guide asks about “opportunities . . . for victims to contribute and be actively involved in the Government’s plans and policies that will impact on them.”<sup>74</sup>

While the assistance required for victims of nuclear weapons is not identical to that required for explosive ordnance victims, there are many similarities, and therefore, the reporting guidelines in the surveyed treaties are largely transferable to the nuclear context. Based on the victim assistance reporting models from the Mine Ban Treaty, the Convention on Cluster Munitions, and Protocol V, states parties to the TPNW should similarly report on (1) data of victim numbers, demographics, harm, and needs; (2) relevant national plans, laws and policies, and focal points; (3) the provision and accessibility of medical care, physical rehabilitation, psychological support, and social and economic inclusion measures; and (4) victim inclusion in policy development and assistance provision. These reporting categories are consistent with TPNW Article 6’s list of victim assistance services. They are also in line with the Vienna Action Plan, which commits states parties to adopt national plans, laws and policies, and focal points and to assess the effects of nuclear weapons use and testing and the needs of victims. In addition, Action 25 of the Vienna Action Plan calls for including affected communities in victim assistance activities, in the same way that the precedent treaties note the need for inclusion of victim perspectives.

The models will also need to be adapted specifically to fit the nuclear weapons context. While the precedent makes some attempts at defining the scope of victims, identifying who has been affected by nuclear weapons use and testing can be challenging. For instance, the physical injuries caused by antipersonnel landmines, cluster munitions, and explosive remnants of war, such as the loss of a limb or eye, are usually visible shortly after the detonation, but in the nuclear weapons context, physical health effects are often not immediately apparent, and causation can be harder to prove. It may be decades before an individual exposed to radiation develops a physical ailment, such as cancer,<sup>75</sup> and even then, such victims may be “unable to

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<sup>72</sup> Convention on Cluster Munitions, “Draft Reporting Formats,” Form H(5).

<sup>73</sup> Mine Ban Treaty, “Guide to Reporting,” para. 41.

<sup>74</sup> Protocol V, “Reporting Guide, 2015 Amendment on Victim Assistance,” para. 14.

<sup>75</sup> See Joseph J. Mangano, “A Short Latency between Radiation Exposure from Nuclear Plants and Cancer in Young Children,” *International Journal of Health Services* 36 (2006): 113, accessed January 14, 2019, doi:10.2190/5GRE-KQ1B-UTM1-KHQ1, p. 113 (“The latency period between radiation exposure and the onset of cancer has been documented to be as long as several decades.”).

pinpoint [radiation] as a specific source of harm.”<sup>76</sup> Because of the latency of these effects, states parties should contextualize data to help estimate the broad scope of harm. In addition, states parties should make clear what criteria they are using to identify individuals as victims. While early reports may rely on criteria within existing national policies, states parties should consider working together to develop further norms and criteria down the road. In developing reporting guidelines for victim assistance as well as environmental remediation and international cooperation and assistance, states parties should remain cognizant of the distinctive challenges of the nuclear weapons context and adjust precedent accordingly.

### *Recommendations*

Each TPNW state party should report on:

- Effects of nuclear weapons use and testing on victims, including:
  - Disaggregated data on victims, encompassing the estimated number and location, types of harm experienced, needs reported, and demographic information, including but not limited to gender and age;
  - Methods for gathering data, including where and when the data was collected, and information on ongoing data collection efforts;
  - Comprehensiveness of the data available and identification of areas where further data collection is needed;
  - Criteria for determining who is a victim.
- Development and implementation of national victim assistance frameworks, including:
  - National plans, with budgets and timeframes;
  - National laws and policies;
  - National focal point(s) responsible for implementation of Article 6(1), including contact information.
- Status and progress of victim assistance measures, including:
  - Medical care, physical rehabilitation, psychological support, social and economic inclusion, and/or other measures available to victims of nuclear weapons;
  - Assistance provided in the past reporting period, including type(s) of assistance, number and location of victims assisted, and when and for how long they were assisted;
  - Efforts to make assistance non-discriminatory, including on the basis of age and gender, and accessible, including through the removal of physical, social, and economic barriers.
- Efforts meaningfully to involve affected individuals and communities, including Indigenous Peoples, in victim assistance planning, implementation, monitoring, and evaluation, including:
  - Ensuring their perspectives have informed who is classified as a victim and how their needs are determined;

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<sup>76</sup> Harvard Law School International Human Rights Clinic and Conflict and Environment Observatory, *Confronting Conflict Pollution: Principles for Assisting Victims of Toxic Remnants of War*, p. 8.

- Providing them with data and other information in order to enable them to make informed decisions;
- Engaging with them in the process of designing and delivering victim assistance;
- Consulting with them regarding the effectiveness of victim assistance measures and recognition of areas where further assistance is necessary.

## **Environmental Remediation**

The Mine Ban Treaty, the Convention on Cluster Munitions, and Protocol V reporting regimes all recommend states parties provide information about clearance measures. The reporting templates and guides for these treaties address three broad categories of information—the nature of contaminated areas, the frameworks for implementation, and the status and progress of clearance programs—and can be adapted to TPNW reporting on environmental remediation, an analogous obligation.

The reporting guidelines for all three treaties solicit information about contaminated areas, including their location and size, the types of explosive ordnance present and the estimated quantity, and the estimated or known date of contamination.<sup>77</sup> Some of the templates and guides ask for additional information that provides context to clearance efforts. For example, the Protocol V reporting guide requests states parties report the cause of contamination, if known, which is important for better understanding the nature of the problem to be addressed.<sup>78</sup> It also encourages states parties to identify or review the humanitarian risks present in the contaminated areas, including possible effects on the civilian population.<sup>79</sup> The Convention on Cluster Munitions reporting template asks states parties to report the method used to estimate the location and size of suspected contaminated areas.<sup>80</sup>

The reporting guidelines under the three treaties request some information regarding the implementation framework for clearance, but ask for significantly less detail than for victim assistance. The Protocol V reporting guide recommends that states parties identify the entities responsible for coordinating and implementing marking and clearance activities (“international or private institutions, governmental organizations, military department, police, etc.”).<sup>81</sup> Making this information available allows for other states and the secretariat to follow up with relevant authorities more easily. In addition, the Protocol V reporting guide solicits information about budget allocations for marking and clearing and the amount of funds used to date,<sup>82</sup> while the Mine Ban Treaty guide suggests that states report on resources made available for clearance.<sup>83</sup> Transparency on financial and other resources allocated for clearance activities helps other states parties and the secretariat understand where gaps in existing resources might exist and provides context for any state requests for assistance.

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<sup>77</sup> Mine Ban Treaty First Meeting of States Parties, “Final Report,” Annex II, Form C; Mine Ban Treaty, “Guide to Reporting,” p. 13; Convention on Cluster Munitions, “Draft Reporting Formats,” Form F; Protocol V, “Report on National Reporting,” p. 4.

<sup>78</sup> Protocol V, “Report on National Reporting,” p. 4.

<sup>79</sup> *Ibid.*

<sup>80</sup> Convention on Cluster Munitions, “Draft Reporting Formats,” Form F(1).

<sup>81</sup> Protocol V, “Report on National Reporting,” p. 5.

<sup>82</sup> *Ibid.*

<sup>83</sup> Mine Ban Treaty, “Guide to Reporting,” p. 14.



The three reporting regimes also request information about the status and progress of clearance programs. Their guidelines collectively provide a model for a comprehensive examination of a state's clearance activities. States parties are requested to provide information on steps taken to survey and assess the threat of explosive ordnance and to set clearance priorities, including a timeline for the assessment process.<sup>84</sup> Reporting guidelines also recommend states parties provide details on the size and location of areas cleared, clearance methods used (including applicable safety and environmental standards), and the status of destruction programs, including plans and a timeline for completion.<sup>85</sup> States parties are further asked to provide information on steps taken to mobilize resources to carry out clearance activities.<sup>86</sup> The issue of status and progress illustrates how states parties can agree to reporting requirements beyond those required by the treaty. Both the Mine Ban Treaty and the Convention on Cluster Munitions obligate states parties to report basic information on status and progress of clearance activities, but the Convention on Cluster Munitions reporting template requests more details. Similarly, the text of Protocol V does not outline specific information to be reported on, yet the reporting guide shows that states parties can agree to solicit a wide range of information even when the treaty does not require it.

Clearance programs should encompass ongoing measures to protect affected communities by marking and fencing contaminated areas, issuing warnings, and educating civilians about the risks posed by contamination. Both the Mine Ban Treaty and Convention on Cluster Munitions obligate states parties to provide information on the measures taken to provide an "immediate and effective warning" to the population.<sup>87</sup> The Convention on Cluster Munitions also requires states parties provide information on risk education measures.<sup>88</sup> The corresponding reporting templates ask generally about such issues, providing states parties with opportunities to provide separate narratives about their efforts on warning and risk education.<sup>89</sup> The Protocol V reporting guide poses additional questions for states parties that encourage them to elaborate on these topics, such as describing steps to mark, fence, and monitor contaminated areas, and reporting on the use of and compatibility with international standards of warning signs.<sup>90</sup> The reporting guide further encourages states parties to provide information on "steps and resources to ensure that warnings and risk education are provided to civilians in contaminated areas and to civilians likely to transit contaminated areas, including internally displaced persons," as well as details about how warnings are provided, timeframes during which warnings and risk education have taken place (and whether they are still occurring), and whether risk education was integrated into the national education system.<sup>91</sup>

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<sup>84</sup> Protocol V, "Report on National Reporting," p. 4.

<sup>85</sup> Both the Mine Ban Treaty and Convention on Cluster Munitions require states parties to report basic information including the size and location of current programs and the clearance methods to be used. Mine Ban Treaty, art. 7(1)(f); Convention on Cluster Munitions, art. 7(1)(i); Mine Ban Treaty First Meeting of States Parties, "Final Report," May 3-7, 1999, Annex II, Form F(2); Mine Ban Treaty, "Guide to Reporting," p. 14; Convention on Cluster Munitions, "Draft Reporting Formats," Form F(3).

<sup>86</sup> Protocol V, "Report on National Reporting," p. 4.

<sup>87</sup> Convention on Cluster Munitions, art. 7(1)(j); Mine Ban Treaty, art. 7(1)(i).

<sup>88</sup> Convention on Cluster Munitions, art. 7(1)(j).

<sup>89</sup> Mine Ban Treaty First Meeting of States Parties, "Final Report," Annex II, Form I; Convention on Cluster Munitions, "Draft Reporting Formats," Form G.

<sup>90</sup> Protocol V, "Report on National Reporting," p. 8.

<sup>91</sup> *Ibid.*

Aspects of these reporting regimes would serve as useful precedent for environmental remediation reporting guidelines in the nuclear weapons context, but some factors unique to environmental remediation under the TPNW should be taken into consideration. First, TPNW states parties should report details on areas known or suspected to be contaminated, including information on the estimated location and size of the area, the date and suspected cause of contamination, and any existing risks to the civilian population posed by the contamination. Because there are currently neither agreed upon criteria for determining what is a contaminated areas nor a common approach for conducting comprehensive risk assessments of radioactive sites, states parties should also report on what criteria they used to classify areas as contaminated and how those criteria were chosen. As with victim assistance, the criteria listed in later reports may reflect the result of further norm development. Second, states parties should report on the elements of their national framework for implementing environmental remediation—including national plans and budgets, relevant laws and policies, and focal points—to which they agreed in the Vienna Action Plan.<sup>92</sup> Third, as under the three earlier treaties, states parties should report on the status and progress of remediation efforts, taking into consideration that the specific steps involved in environmental remediation are different from those involved in clearance of explosive ordnance. For example, environmental remediation of land contaminated by radioactive material requires long-term waste management, and state reporting should address how that material is managed over time, including the state’s attention to environmental justice implications if the material has been removed from its original site. Fourth, states parties should report on steps to mark, fence, and monitor contaminated areas, and risk education measures, similar to the precedent treaties. States parties should also recognize other pathways of contamination, including food and water sources, and report on actions to block exposure to them. Finally, states parties should go beyond earlier models and report on how the perspectives of affected individuals and communities, including Indigenous Peoples, are being included in environmental remediation efforts, in line with the principles of optimization<sup>93</sup> and inclusivity, the latter of which is emphasized in the Vienna Action Plan.<sup>94</sup>

### *Recommendations*

Each TPNW state party should report on:

- Areas known or suspected to be contaminated, including:
  - Data on contaminated areas, encompassing the estimated size and location of contaminated areas, the type and degree of contamination, the cause and date of contamination, and the risks posed by contamination;
  - Methods for assessing the contamination, including the degree of certainty;

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<sup>92</sup> Vienna Action Plan, Action 31.

<sup>93</sup> According to the principle of optimization, “When planning the remediation of a contaminated site, affected states should evaluate a range of potentially effective options and implement the option that produces the greatest benefit to the affected communities and the environment. This evaluation should include considerations of costs and benefits related to the environment, human health, society, culture, and the economy, and it should be guided by the preferences of affected communities and other stakeholders.” Harvard Law School International Human Rights Clinic and Conflict and Environment Observatory, *Facing Fallout: Principles for Environmental Remediation of Nuclear Weapons Contamination*, pp. 38-51.

<sup>94</sup> Vienna Action Plan, Actions 39-42.

- Comprehensiveness of the data available and identification of areas where further data collection is needed;
- Criteria used for classifying areas as contaminated.
- Development and implementation of national environmental remediation frameworks, including:
  - National plans, including budgets and timeframes;
  - National laws and policies;
  - National focal point(s) responsible for implementation of Article 6(2), including contact information.
- Status and progress of environmental remediation measures, including:
  - Assessments, surveys, and records of the nature, extent, and effects of contamination;
  - Process for evaluation and selection of remediation techniques and technologies;
  - Activities involving containment or treatment of contamination, including locations, dates, processes, amount of contamination, and results;
  - Transport and storage of contamination, including locations, dates, amount of contamination, current status, and long-term management plans;
  - Evaluation of environmental, occupational, and public health and safety issues during remediation.
- Status and progress of measures to reduce risks of civilian exposure, including:
  - Measures to mark, fence, post warnings about, and monitor contaminated areas;
  - Programs to educate the population about ongoing threats, including steps taken to identify the most at-risk populations and ensure that risk education programs are age appropriate and gender sensitive.
- Efforts to include affected individuals and communities, including Indigenous Peoples, in environmental remediation planning, implementation, monitoring, and evaluation, including:
  - Consulting with them on whether and how to treat contaminated areas, taking into consideration their desired uses for the land and other preferences. Special consideration should be given to the preferences of Indigenous Peoples, who have been disproportionately affected by nuclear testing and have a unique relationship to the land;
  - Providing them with data and other information in order to enable them to make informed decisions;
  - Consulting with them regarding effectiveness of environmental remediation measures and recognition of areas where further remediation is necessary.

### **International Cooperation and Assistance**

The earlier reporting regimes all establish guidelines on international cooperation and assistance for donor and affected states parties. They vary in their details more than they do for victim assistance and environmental remediation because they focus on different elements of the topic.

Nevertheless, collectively they provide a model for a robust reporting regime on international cooperation and assistance that TPNW states parties can follow.

The existing templates and guides provide most of the precedent for state reporting on international cooperation and assistance; only one of the three treaties obligates states parties to report on international cooperation and assistance. Article 7 of the Convention on Cluster Munitions requires states parties to report on “the amounts, types and destinations of international cooperation and assistance provided.” By contrast, neither the Mine Ban Treaty nor Protocol V require reporting on international cooperation and assistance. The templates and guides for the three instruments, however, encourage states parties to report on such information.

The reporting guidelines for each of the treaties ask states parties to answer separate questions based on whether the state party has provided assistance or received assistance (or both). For states parties that have provided assistance, all three mechanisms request that they report information on the types of assistance provided (financial assistance, technical advice, exchange of expertise, etc.).<sup>95</sup> The Convention on Cluster Munitions and Protocol V guidelines request information on the “sector” to which the assistance was provided (medical care, assessment of contaminated areas, fallout monitoring, risk education, creation of national plans, etc.).<sup>96</sup> The Protocol V reporting guide seeks details on specific areas for which support was earmarked, such as assistance provided for “data collection in relation to victims of ERW,” “needs assessments in relation to victims of ERW,” and “activities undertaken to ensure legal and policy frameworks were put in place, including a national plan on victim assistance.”<sup>97</sup> The Convention on Cluster Munitions and Protocol V guidelines also specifically request states parties provide information on the amount of assistance provided.<sup>98</sup>

The treaties’ guidelines ask donor states parties to report on the destination of the assistance provided. The Convention on Cluster Munitions template inquires about the destination of assistance,<sup>99</sup> while Protocol V requests states parties specify the organizations through which assistance was provided (e.g., the UN system; international, regional, or national organizations; the International Committee of the Red Cross (ICRC); nongovernmental organizations (NGOs); or bilateral agreements).<sup>100</sup> The Mine Ban Treaty guide does not ask for details on the destination of any assistance provided, but requests that states parties provide information on partnerships that they have entered into in the previous year.<sup>101</sup> Similarly, the Protocol V guide asks states parties to report on whether the assistance was provided through participation in joint operations or in coordination with other organizations.<sup>102</sup> The reporting guidelines for two of the treaties—

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<sup>95</sup> Mine Ban Treaty, “Guide to Reporting,” p. 22; Convention on Cluster Munitions, “Draft Reporting Formats,” Form I(2); Protocol V, “Report on National Reporting,” pp. 11-12.

<sup>96</sup> Convention on Cluster Munitions, “Draft Reporting Formats,” Form I(2); Protocol V, “Report on National Reporting,” p. 11.

<sup>97</sup> Protocol V, “Report on National Reporting,” pp. 11-12.

<sup>98</sup> Convention on Cluster Munitions, “Draft Reporting Formats,” Form I(2); Protocol V, “Report on National Reporting,” p. 11.

<sup>99</sup> Convention on Cluster Munitions, “Draft Reporting Formats,” Form I(2).

<sup>100</sup> Protocol V, “Report on National Reporting,” p. 11.

<sup>101</sup> Mine Ban Treaty, “Guide to Reporting,” p. 22.

<sup>102</sup> Protocol V, “Report on National Reporting,” p. 11.

the Convention on Cluster Munitions and Protocol V—also raise the possibility of directing financial assistance to trust funds.<sup>103</sup>

While all three treaties' reporting regimes request information of states parties that provide assistance, they differ in whether they seek information from states parties who have received or requested assistance. The Mine Ban Treaty guide requests information from states parties that have already received assistance, while the Convention on Cluster Munitions template solicits information from states parties who are seeking assistance. The Protocol V reporting guide addresses both categories.

The Mine Ban Treaty and Protocol V guides request reports from state party recipients of international cooperation and assistance. The Mine Ban Treaty guide seeks information on the “complete range of assistance received (e.g., financial, technical, exchange of experiences, etc.),” and the “results” of the assistance.<sup>104</sup> The Protocol V reporting guide calls for more generic information, asking affected states parties to report on whether the state party has received “international support to address explosive remnants of war,” and asks if any of the support is allocated to victim assistance.<sup>105</sup>

The Convention on Cluster Munitions and Protocol V reporting regimes direct most of their reporting guidelines in this area toward states parties who are seeking assistance. The Protocol V guide addresses questions to states parties who have already submitted requests for assistance. The guide asks whether a state party requested financial or technical assistance, whether it sought assistance with “marking, fencing, clearance or removal, destruction, risk education training and/or victim assistance,” and whether it transmitted its request to other states parties, relevant international organizations, or NGOs.<sup>106</sup>

The Convention on Cluster Munitions reporting template addresses relevant reporting questions to states parties that have an outstanding need for assistance. It suggests that such states parties report on the activity, description, time period, and need for stockpile destruction, clearance and risk education, and victim assistance separately.<sup>107</sup>

Development of a reporting process for the TPNW is an opportunity to draw on the three earlier treaties, which collectively provide a strong precedent for reporting on international cooperation and assistance. A TPNW reporting regime should ensure that states parties are encouraged to report on international cooperation and assistance both provided and received. States parties should report on the exact amount of assistance provided or received, information about to which initiatives the assistance was directed (e.g., victim assistance or environmental remediation) and for which specific activities, the objectives of the assistance, how it was distributed, and its results and adequacy. States parties could consider reporting on international cooperation and

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<sup>103</sup> Convention on Cluster Munitions, “Draft Reporting Formats,” Form I(2); Protocol V, “Report on National Reporting,” p. 12.

<sup>104</sup> Mine Ban Treaty, “Guide to Reporting,” p. 22.

<sup>105</sup> Protocol V, “Reporting Guide, 2015 Amendment on Victim Assistance,” para. 2.

<sup>106</sup> Protocol V, “Report on National Reporting,” pp. 11-12.

<sup>107</sup> Convention on Cluster Munitions, “Draft Reporting Formats,” Form I(3).

assistance efforts regarding victim assistance or environmental remediation measures even outside of the TPNW context.

States parties should also report requests for assistance, which should be based on specific, clearly articulated needs. Transparency about needs would benefit affected states parties because the Vienna Action Plan emphasizes that international cooperation and assistance should be needs-based. Action 23 declares that states parties resolve to “coordinate and develop mechanisms” to facilitate the provision of international cooperation and assistance that affected states parties “may require” to meet their Article 6 obligations. The action further specifies that such mechanisms should match needs with offers of assistance. Action 31 adds: “International cooperation and assistance should be provided *where needed* to reduce the burden on affected States parties” (emphasis added). States parties requesting assistance should also report on the specific objective—the goals and anticipated outcomes of the assistance—to be achieved.

TPNW reporting should take note of types of international cooperation and assistance that are particularly important in the nuclear weapons context. Information exchange and technical assistance are especially relevant to track given the highly specialized nature of nuclear weapons. In the area of victim assistance, sharing the expertise of health professionals specializing in the effects and treatment of radiation exposure with affected states parties will help ensure that nuclear weapons victims receive optimal medical care. Similarly, advice on how to remediate radioactive contamination can come from states parties that have dealt with nuclear waste from other sources.

In addition, states parties should provide any information they have on the use or testing of nuclear weapons, such as locations, types, and studies of the health and environmental effects. They should also report on their efforts to engage and promote information exchange with states not party to the TPNW that have used or tested nuclear weapons, in line with Action 20 of the Vienna Action Plan. When nuclear armed states join the TPNW, they should specify that they are providing international cooperation and assistance in fulfillment of their treaty obligations under Article 7(6).

Finally, TPNW states parties should report on their efforts meaningfully to involve affected individuals and communities, including Indigenous Peoples, in decision-making regarding international cooperation and assistance activities, such as the creation of a trust fund. Inclusivity is important in international cooperation and assistance for the same reasons as it is with victim assistance and environmental remediation.

### *Recommendations*

Each TPNW state party should report on:

- Assistance provided for purpose of victim assistance or environmental remediation, including:
  - Type (e.g., financial, material, technical, etc.) and amount of assistance provided;
  - Sector of assistance (e.g., medical care, assessment of contaminated areas, fallout monitoring, risk education, creation of national plans, etc.) and specific activities facilitated by the assistance, and their results;

- Process through which the assistance was provided (e.g., contributions to UN agencies, NGOs, bilateral agreements, trust funds, etc.);
  - Dates and/or timeframe of assistance;
  - Whether the assistance was provided under Article 7(6) because the state party had previously used or tested a nuclear weapon.
- Assistance received for purpose of victim assistance or environmental remediation, including:
  - Type and amount of assistance received;
  - Sector of assistance and specific activities facilitated by the assistance, and their results;
  - Process through which the assistance was received;
  - Dates and/or timeframe of assistance.
- Assistance requested for purpose of victim assistance or environmental remediation, including:
  - Need(s) to be addressed by the assistance;
  - Type, amount, sector, activities, and timeframe of assistance;
  - Objectives intended to be achieved.
- Efforts to include affected individuals and communities, including Indigenous Peoples, in international cooperation and assistance decision-making.

## Appendix: Precedent for Reporting Guidelines

Precedent for Victim Assistance Reporting				
	Mine Ban Treaty <sup>1</sup>	Convention on Cluster Munitions <sup>2</sup>	CCW Protocol V on Explosive Remnants of War <sup>3</sup>	
<b>Information Required</b>				
<b>Victim assistance reporting treaty obligations</b>		<p>[Each state party shall report on:]</p> <p>“The status and progress of implementation of its obligations under Article 5 of this Convention 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 and to collect reliable relevant data with respect to cluster munition victims.”</p> <p><i>(Article 7(1)(k))</i></p>		
<b>Information Requested</b>				
	<b>Reporting Template</b>	<b>Reporting Guide</b>	<b>Reporting Template</b>	<b>Reporting Guide</b>
<b>Data on victims</b>		<p>“Victim assistance is well understood to include (a) data on mine victims and on disability generally . . . . In reporting on victim assistance, States Parties could relate</p>	<p>Information on “[d]ata collection and assessment of the needs of cluster munition victims,” including “gender and age of survivors as well as information on affected families and communities.”</p> <p><i>(Form H(2))</i></p>	<p>“Are there victims of explosive remnants of war under your country’s jurisdiction or control? Does your country have any data on victims or persons with disabilities?”</p> <p><i>(Amendment on Victim Assistance, para. 3)</i></p>

<sup>1</sup> States parties to the Mine Ban Treaty adopted a reporting guide at the Fourteenth Meeting of States Parties in 2015. The guide states that it “replaces previous reporting formats.” The IHRC report, however, examines both documents as most states have continued to use a form of the original reporting template in their annual reports.

<sup>2</sup> States parties to the Convention on Cluster Munitions embraced use of a reporting guide from 2012-2015. The IHRC report does not consider the reporting guide in its analysis for several reasons. From 2016-2020, states did not reference the reporting guide in the final reports of their annual Meetings of States Parties. The final report of the Second Review Conference in 2021 noted it was unclear if the reporting guide was being used. The reporting guide is not available on the convention’s website.

<sup>3</sup> States parties to Protocol V adopted a reporting template in 2007. This template was very general, consisting of text boxes for individual articles of Protocol V in which states could submit narrative information about their efforts to comply with their obligations. In 2009, states parties approved use of a reporting guide, which provides detailed prompts and lists of specific questions within the format of the original template. In 2015, states parties amended the guide to include additional questions on victim assistance and international cooperation and assistance. The IHRC report focuses its analysis on the reporting guide and its amendment because they encompass the template.



		each of these elements to the commitments to establish and pursue the attainment of objectives and to enhance and implement plans, policies and legal frameworks.” <i>(p. 19, para. 41)</i>		
<b>Relation of data to overall population</b>				“How does this data [on victims] relate to the overall population?” <i>(Amendment on Victim Assistance, para. 3)</i>
<b>National plans and budget for victim assistance</b>		<p>“Initially, time-bound and measurable objectives that the State Party seeks to achieve through the implementation of national policies, plans, and legal frameworks that will tangibly contribute to the full, equal and effective participation of mine victims in society. Subsequently, on an annual basis, revisions/updates to objectives and information on the implementation of them.” <i>(p. 19, para. 37)</i></p> <p>“Initially, enhancements that have been made or will be made to disability, health, social welfare, education, employment, development and poverty reduction plans, policies and legal frameworks needed to meet the needs of mine victims, and on budgets allocated for their implementation. Subsequently, on an annual basis, information on efforts to implement these plans, policies and legal frameworks and efforts to enhance them.” <i>(p. 19, para. 38)</i></p>	Information on “[n]ational plan and budget, including timeframes to carry out [victim assistance] activities.” <i>(Form H(4))</i>	<p>“Is there a national plan on persons with disabilities? If so, how is the work on victim assistance incorporated into your Government’s national plan on persons with disabilities? And into the Government’s overall development framework? How is the progress of victims tracked within these different frameworks?” <i>(Amendment on Victim Assistance, para. 10)</i></p> <p>“Is there a national budget to support the work on victim assistance?” <i>(Amendment on Victim Assistance, para. 12)</i></p>

<p><b>National laws and policies on victim assistance</b></p>		<p>“Initially, time-bound and measurable objectives that the State Party seeks to achieve through the implementation of national policies, plans, and legal frameworks that will tangibly contribute to the full, equal and effective participation of mine victims in society. Subsequently, on an annual basis, revisions/updates to objectives and information on the implementation of them.” <i>(p. 19, para. 37)</i></p> <p>“Initially, enhancements that have been made or will be made to disability, health, social welfare, education, employment, development and poverty reduction plans, policies and legal frameworks needed to meet the needs of mine victims, and on budgets allocated for their implementation. Subsequently, on an annual basis, information on efforts to implement these plans, policies and legal frameworks and efforts to enhance them.” <i>(p. 19, para. 38)</i></p>	<p>Information on “development and implementation of national laws and policies for implementation of article 5 [on victim assistance].” <i>(Form H(3))</i></p>	<p>“Is there a comprehensive law to protect and promote the rights of persons with disabilities? If not, what laws exist that address the rights of persons with disabilities, including victims? If possible, please attach the relevant legislation.” <i>(Amendment on Victim Assistance, para. 11)</i></p>
<p><b>Steps taken to mobilize national and international resources</b></p>			<p>Information on “[s]teps taken to mobilize national and international resources.” <i>(Form H(7))</i></p>	
<p><b>Coordination efforts</b></p>		<p>“Victim assistance is well understood to include . . . (g) coordination . . . . In reporting on victim assistance, States Parties could relate each of these elements to the commitments to establish and pursue the attainment of</p>		<p>“How is coordination [with] persons with disabilities, including victims, among the ministries, institutions and other relevant stakeholders carried out?” <i>(Amendment on Victim Assistance, para. 12)</i></p>

		objectives and to enhance and implement plans, policies and legal frameworks.” <i>(p.19, para. 41)</i>		
<b>Efforts undertaken to raise awareness of the rights of victims and persons with other disabilities</b>			Information on “[e]fforts undertaken to raise awareness of the rights of cluster munition victims and persons with other disabilities.” <i>(Form H(9))</i>	
<b>Contact details for institutions responsible for victim assistance measures, including data collection</b>			Information on “[n]ational focal point/coordination mechanism for the implementation of article 5 [on victim assistance] (specifying name and contact information of government body responsible).” <i>(Form H(1))</i>	<p>“Does your country have any data on victims or persons with disabilities? If ‘Yes’, then which ministry or institution is responsible for collecting such data?” <i>(Amendment on Victim Assistance, para. 3)</i></p> <p>“Is there a focal point within your Government on victim assistance? If so, please provide the contact details of the focal point and the ministry or institution.” <i>(Amendment on Victim Assistance, para. 13)</i></p>
<b>Services for victims</b>	Information on “other relevant matters,” including “assistance provided for the care and rehabilitation, and social and economic reintegration, of mine victims.” <i>(Form J)</i>	“Victim assistance is well understood to include . . . (b) medical care, (c) physical rehabilitation, (d) psychological support, (e) economic inclusion, (f) social inclusion, (g) coordination, (h) referral to services . . . . In reporting on victim assistance, States Parties could relate each of these elements to the commitments to establish and pursue the attainment of objectives and to enhance and implement plans, policies and legal frameworks.” <i>(p. 19, para. 41)</i>	Information on “[t]ype of service (medical care, physical rehabilitation, psychological support, social and economic inclusion),” “[i]mplementing agency,” and “[d]escription of service (progress, types of services, number of persons assisted, time period).” <i>(Form H(6))</i>	<p>“What medical care, rehabilitation, psychological support services are available for treating injuries such as those caused by ERW? According to the severity of impairment of the victims, do different levels of facilities exist? For example, in-patient versus out-patient care?” <i>(Amendment on Victim Assistance, para. 4)</i></p> <p>“What measures are in place to support the social and economic inclusion of victims?” <i>(Amendment on Victim Assistance, para. 8)</i></p>
<b>Specific questions on medical care</b>				<p>“Is emergency and ongoing medical care, including hospitals that can treat ERW related injuries, available? Is emergency transportation available? How are these services made available to victims?” <i>(Amendment on Victim Assistance, para. 5)</i></p>

<p><b>Specific questions on physical rehabilitation</b></p>				<p>“Are prosthetic/orthotic services available, accessible and affordable for ERW victims? How are these services made available to ERW victims and for how long?” <i>(Amendment on Victim Assistance, para. 6)</i></p> <p>“Are rehabilitation services provided based on an individual needs assessment?” <i>(Amendment on Victim Assistance, para. 7)</i></p>
<p><b>Specific questions on social and economic inclusion</b></p>				<p>“What program[me]s exist for income generation, including employment, micro-enterprise support, affirmative action programmes, vocations training for victims and persons with disabilities?” <i>(Amendment on Victim Assistance, para. 8)</i></p> <p>“What incentives are provided by your country to increase employment of victims and persons with disabilities? These may include quotas, tax incentives and government employment of victims and persons with disabilities.” <i>(Amendment on Victim Assistance, para. 9)</i></p> <p>“[C]an victims access formal education?” <i>(Amendment on Victim Assistance, para. 8)</i></p>
<p><b>Inclusion of victims in relevant legislative, policy, or planning processes</b></p>		<p>“Victim assistance is well understood to include . . . (i) inclusion in relevant legislative, policy or planning processes. In reporting on victim assistance, States Parties could relate each of these elements to the commitments to establish and pursue the attainment of objectives and to enhance and implement plans, policies and legal frameworks.” <i>(p. 19, para. 41)</i></p>	<p>Information on “[e]fforts to closely consult with and actively involve cluster munition victims and their representative organisations in victim assistance planning and implementation.” <i>(Form H(5))</i></p>	<p>“What opportunities are there for victims to contribute and be actively involved in the Government’s plans and policies that will [have an] impact on them? If applicable, list the projects underway to integrate victims into the planning and policy process. What is the contribution of victims to such work?” <i>(Amendment on Victim Assistance, para. 14)</i></p>

Precedent for Environmental Remediation Reporting			
	Mine Ban Treaty <sup>4</sup>	Convention on Cluster Munitions	CCW Protocol V on Explosive Remnants of War
Information Required			
<b>Clearance reporting treaty obligations</b>	<p>[Each state party shall report on:]</p> <p>“To the extent possible, the location of all mined areas that contain, or are suspected to contain, anti-personnel mines under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of anti-personnel mine in each mined area and when they were emplaced.” <i>(Article 7(1)(c))</i></p> <p>“The status of programs for the destruction of anti-personnel mines in accordance with Articles 4 and 5 [on destruction of anti-personnel mines in mined areas], including details of the methods which will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed.” <i>(Article 7(1)(f))</i></p> <p>“The types and quantities of all anti-personnel mines destroyed after the entry into force of this Convention for that State Party, to include a breakdown of the quantity of each type of anti-personnel mine destroyed, in accordance with Articles 4 and 5 [on destruction of anti-personnel mines in mined areas]” <i>(Article 7(1)(g))</i></p> <p>“The measures taken to provide an immediate and effective warning to the population in relation to all areas identified under paragraph 2 of Article 5 [on areas contaminated or suspected to be contaminated by anti-personnel mines].” <i>(Article 7(1)(i))</i></p>	<p>[Each state party shall report on:]</p> <p>“To the extent possible, the size and location of all cluster munition contaminated areas under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of cluster munition remnant in each such area and when they were used.” <i>(Article 7(1)(h))</i></p> <p>“The status and progress of programmes for the clearance and destruction of all types and quantities of cluster munition remnants cleared and destroyed in accordance with Article 4 of this Convention [on clearance and destruction of cluster munition remnants], to include the size and location of the cluster munition contaminated area cleared and a breakdown of the quantity of each type of cluster munition remnant cleared and destroyed.” <i>(Article 7(1)(i))</i></p> <p>“The measures taken to provide risk reduction education and, in particular, an immediate and effective warning to civilians living in cluster munition contaminated areas under its jurisdiction or control.” <i>(Article 7(1)(j))</i></p>	

<sup>4</sup> For IHRC’s reasoning for analyzing each treaty’s reporting guide, reporting template, or both, see footnotes 1-3 of the victim assistance table.

Information Requested				
	Reporting Template	Reporting Guide	Reporting Template	Reporting Guide
<b>Details on contaminated areas and sources of contamination</b>	Information on “location of mined areas,” including location, type, quantity, date of emplacement, and supplementary information for all areas that contain or are suspected to contain mines. <i>(Form C(1-2))</i>	“Consider annexing a list of all areas known and all areas suspected to contain anti-personnel mines. . . . This list could include, for each area, (a) the number or name assigned to the area, (b) the subnational jurisdiction(s) . . . where the area is found, (c) geographic coordinates, (d) the size of the area in square meters, and (e) the status of the area.” <i>(p. 13, para. 1)</i>  “Consider including as much detail as possible regarding the type and quantity of each type of anti-personnel mine in each mined area and when they were emplaced.” <i>(p. 13, para. 2)</i>	Information on the “size and location of cluster munition contaminated area,” including location, size of contaminated area, type of remnants, estimated quantity of remnants, estimated or known date of contamination, method used to estimate suspected areas, and any supplementary information. <i>(Form F(1))</i>	“Provide the details on the extent of contamination. Describe the geographic locations affected (geographic references). Describe the types of ordnance that constitute the contamination.” <i>(Form A(2))</i>  “If known and relevant, describe the cause of the ERW contamination, e.g.: Residual Unexploded Ordnance (UXO); From which armed conflict; From test ranges; Resulting from Abandoned Explosive Ordnance (AXO).” <i>(Form A)</i>
<b>Subjects responsible for coordinating and implementing clearance activities</b>				“Identify the subjects responsible for coordinating and implementing marking and clearance activities (international or private institutions, governmental organizations, military department, police, etc.).” <i>(Form A)</i>  “If appropriate, provide further details regarding national Point of Contact or department/agency/organisation responsible for the implementation of different provisions of Protocol V.” <i>(Form I)</i>
<b>Resources used (types, amount of funding, etc.) to clear contaminated areas</b>		“Consider providing any other relevant information that would be useful for understanding the State Party’s programme for implementing Article 5 of the Convention [on areas		“Describe the resources for marking and clearing operations: . . . Amounts of funds used to date.” <i>(Form A)</i>

		contaminated or suspected to be contaminated by anti-personnel mines] (e.g., . . . resources made available)” <i>(p. 14, para. 7)</i>		
<b>Estimate of resources needed for clearance operations</b>			Information on “challenges and international assistance and cooperation needed for the implementation of article 4 [on clearance and destruction of cluster munition remnants],” including activity, description, time period, and need. <i>(Form F(5))</i>	“Describe the resources for marking and clearing operations: . . . Estimate of resources needed to clear contaminated areas.” <i>(Form A)</i>
<b>Steps taken to mobilize resources from third parties</b>				“Describe the resources for marking and clearing operations: . . . Steps taken to mobilize resources funding from the third parties (international, domestic).” <i>(Form A)</i>
<b>Status of clearance programs, including steps taken to survey and assess contaminated areas</b>	Information on the “status of programs for destruction of APMs [anti-personnel mines] in mined areas (Article 5),” including location of destruction sites and details of destruction methods. <i>(Form F(2))</i>	“Consider providing a list . . . or a summary table . . . of progress that is planned during the current year and in subsequent years.” <i>(p. 14, para. 6)</i>	Information on the “status and progress of programmes for the clearance of cluster munitions remnants,” including location, size of cleared area, status of clearing programme (if possible, including plans, time table and completion date), type and quantity of cluster munition remnant cleared, clearance method, and safety and environmental standards applied. <i>(Form F(3))</i>	“If applicable and possible, describe the steps taken to implement the responsibilities set out in Article 3 [on clearance, removal, or destruction of explosive remnants of war]: Describe steps being taken to survey and assess the threat posed by ERW; Describe steps being taken to assess and prioritize the needs and practicability in terms of marking and clearance, removal or destruction of ERW; Describe steps being taken to mark and clear the contaminated areas and destroy ERW; Provide a timeline for the assessment of the threat posed by ERW as well as prioritized efforts to mark, clear and remove or destroy ERW; Describe the steps taken to mobilize resources to carry out activities required to implement Article 3.” <i>(Form A)</i>  “Provide information on past and/or ongoing clearance operations. List the organizations providing financial and technical support or personnel.” <i>(Form A)</i>
<b>Procedures for releasing land previously</b>			Information on the “release of land previously suspected to contain cluster munition remnants by methods other than	

<b>suspected to be contaminated</b>			clearance,” including information on location #, size of area, date of release, and method of release (technical or non-technical survey). <i>(Form F(2))</i>	
<b>Applicable safety and environmental standards for clearance</b>	Information on the “status of programs for destruction of APMs in mined areas (Article 5),” including applicable safety and environmental standards. <i>(Form F(2))</i>	“Consider providing any other relevant information that would be useful for understanding the State Party’s programme for implementing Article 5 of the Convention [on destruction of anti-personnel mines in mined areas] (e.g., applicable safety and environmental standards).” <i>(p. 14, para. 7)</i>	Information on the “status and progress of programmes for the clearance of cluster munitions remnants,” including “safety standards” and “environmental standards” applied for each location at which clearance activity is taking place. <i>(Form F(3))</i>	
<b>Measures taken to mark and fence contaminated areas</b>				“Identify the measures taken for the protection of the civilian population, such as: Marking, fencing and monitoring of the ERW contaminated areas; Warning signs that have been used and if how their compatibility with international standards have been addressed.” <i>(Form C)</i>  “Describe steps being taken to mark and clear the contaminated areas and destroy ERW.” <i>(Form A)</i>
<b>Measures taken to issue warnings to the population of contaminated areas, including risk education</b>	Information on “measures to provide warning to the population.” <i>(Form I)</i>	“Consider providing information on measures taken during the previous calendar year to provide an immediate and effective warning to the population in relation to all mined areas that contain, or are suspected to contain, anti-personnel mines. Consider indicating how such measures are part of broader risk assessment and reduction activities targeting the most at-risk populations and how programmes in question are age-appropriate and gender-sensitive, coherent with applicable national and	Information on “measures taken to provide risk reduction education.” <i>(Form G(1))</i>  Information on “measures taken for effective warning of the population.” <i>(Form G(2))</i>	“Provide the details on the extent of contamination . . . If known and possible, identify or review of humanitarian risk (possible effects of ERW to civilian population, etc.)” <i>(Form A)</i>  “Detail warnings, risk education and other information provided to civilians such as: Steps and resources to ensure that warnings and risk education are provided . . . ; The way how the warnings etc. are provided . . . ; Educational or training activities for the civilian population; Integration with the national education system . . . ; Timeframes during which warnings and risk education activities were initiated . . .” <i>(Form C)</i>



		international standards, tailored to the needs of mine-affected communities and integrated into ongoing mine action activities.” <i>(p. 14, para. 8)</i>		“Describe any ongoing project for the elimination of the risk arising from the ERW contamination.” <i>(Form A)</i>
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Precedent for International Cooperation and Assistance Reporting				
	Mine Ban Treaty <sup>5</sup>		Convention on Cluster Munitions	CCW Protocol V on Explosive Remnants of War
<b>Information Required</b>				
<b>International cooperation and assistance reporting treaty obligations</b>			[Each state party shall report on:]  “The amounts, types, and destinations of international cooperation and assistance provided under Article 6 of this Convention [on international cooperation and assistance].” <i>(Article 7(1)(n))</i>	
<b>International Cooperation and Assistance Provided: Information Requested</b>				
	<b>Reporting Template</b>	<b>Reporting Guide</b>	<b>Reporting Template</b>	<b>Reporting Guide</b>
<b>Details of international cooperation and assistance provided</b>	Information on “other relevant matters,” including “activities undertaken with respect to Article 6 [on international cooperation and assistance].” <i>(Form J)</i>	“Consider providing information on the complete range of assistance provided (e.g., financial, technical advice, the exchange of experiences, etc.) and the results of this assistance.” <i>(p. 22)</i>	Information on “[d]estination,” “[s]ector (stockpile destruction, clearance, risk education, victim assistance, advocacy),” “[a]mount [of assistance] (list currency),” “[t]ype of cooperation or assistance (financial, material or in kind),” and “[d]etails (including date allocated, intermediary destinations such as trust funds, project details, timeframes).” <i>(Form I(2))</i>	“Indicate what was the amount of and the timeframe for the assistance.” <i>(Form F)</i>  “Provide information on participation in exchange of equipment, material and scientific and technical information (other than weapons technology) necessary for the implementation of the protocol, such as: [t]ype of equipment, material or information exchanged.” <i>(Form F)</i>  “If appropriate, present information on assistance provided for the care and rehabilitation and social and economic integration of victims of ERW,” such as data collection and needs assessments in relation to victims, activities undertaken to ensure legal and policy frameworks, and a national plan on victim assistance. <i>(Form F)</i>

<sup>5</sup> For IHRC’s reasoning for analyzing each treaty’s reporting guide, reporting template, or both, see footnotes 1-3 of the victim assistance table.

				<p>“State whether the reporting State has provided assistance for ERW after entry into force of the Protocol for: [m]arking and clearance operations; [r]emoval or destruction of ERW; [r]isk education of civilians; [v]ictim assistance; [t]raining of personnel involved in the above.” <i>(Form F)</i></p> <p>“For donor countries: does your country support international cooperation and assistance activities relating to victim assistance? If so, in which areas of victim assistance?” <i>(Amendment on Victim Assistance, para. 1)</i></p>
<b>Destination</b>			<p>Information on “intermediary destinations” of any international cooperation and assistance provided, “such as trust funds.” <i>(Form I(2))</i></p>	<p>“Specify through what organizations was assistance provided, e.g.: [t]hrough the UN system (specify the agency/department); [t]hrough international, regional or national organizations or institutions; [t]hrough the International Committee of the Red Cross (ICRC), national Red Cross or Red Crescent Societies and their International Federation; [t]hrough Non-Governmental Organizations (NGOs); through bilateral agreements or other forms of bilateral cooperation.” <i>(Form F)</i></p> <p>“Report contributions to UN trust funds within the UN system as well as to other relevant funds. Specify to what fund(s) was the contribution(s) made. Indicate what was the amount and purpose for the funds.” <i>(Form F)</i></p>
<b>Cooperation efforts</b>		<p>“Consider providing information on partnerships for completion that the State Party may have entered into.” <i>(p. 22)</i></p> <p>“Consider providing any other pertinent information on efforts undertaken to develop and promote bilateral, regional and</p>		<p>“State whether the assistance was provided through participation in joint operations or in cooperation with other organizations. If so, specify the organizations or joint operations.” <i>(Form F)</i></p>

		international cooperation.” (p. 22)		
<b>International Cooperation and Assistance Received or Requested: Information Requested</b>				
	Reporting Template	Reporting Guide	Reporting Template	Reporting Guide
<b>Details of international cooperation and assistance requested or received</b>	Information on “other relevant matters,” including “activities undertaken with respect to Article 6 [on international cooperation and assistance].” (Form J)	“Consider providing information on the complete range of assistance received (e.g., financial, technical advice, the exchange of experiences, etc.) and the results of this assistance.” (p. 22)		“For affected countries: [d]oes your country receive international support to address explosive remnants of war? If so, is any of the support allocated to victim assistance?” (Amendment on Victim Assistance, para. 2)
<b>Cooperation efforts</b>		“Consider providing information on partnerships for completion that the State Party may have entered into.” (p. 22)  “Consider providing any other pertinent information on efforts undertaken to develop and promote bilateral, regional and international cooperation.” (p. 22)		
<b>Outstanding requests for assistance</b>				“State whether the reporting State has submitted a request for assistance to the UN, other appropriate bodies and organizations or to other states. If so, specify whether: [t]he request was for financial or technical assistance; [t]he request included a request for assistance with marking, fencing, clearance or removal, destruction, risk education training and/or victim assistance; [t]he requests were, to the reporting State[’]s knowledge, transmitted to other [high contracting parties], relevant international organizations or NGOs.” (Form F)
<b>Details of international cooperation and assistance needed</b>			Information on the activity for which assistance is needed, a description, the time period, and the need. The template encourages states to separate the	

			information into the categories of stockpile destruction, clearance and risk education, and victim assistance. <i>(Form I(3))</i>	
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