
United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination

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The disproportionate impact of nuclear weapons detonations on indigenous communities¹

1. This historic negotiating process was born out of our deep concern at the catastrophic humanitarian consequences of nuclear weapons. In the first draft text released 22 May 2017, the preamble of the treaty recognizes those who have suffered, and continue to suffer, from the devastating long-term impacts of the use and testing of nuclear weapons. In this context, we consider it especially important that the preamble be amended to specifically recognize the disproportionate impact of nuclear testing on indigenous communities.

2. Since the dawn of the atomic age, in July 1945, nuclear tests have been carried out in the atmosphere, underwater and underground at more than 60 locations around the globe, often on the lands of indigenous and minority peoples – far away from those who made the decisions to conduct them. The tests have irradiated downwind and downstream communities, increasing the risk that their people will one day develop cancers and other chronic diseases as a result. In many cases, those residing near test sites have been permanently displaced from their homes.

3. The treaty's draft provisions on assistance cite the need to provide assistance "in accordance with applicable international humanitarian and human rights law." Including reference to indigenous peoples or indigenous rights in the preamble will make it clear that indigenous rights are applicable to the provision of assistance. This paper will discuss the impact of nuclear detonations on indigenous communities and indigenous rights in the international sphere to inform the inclusion of indigenous peoples and their rights in the treaty.

Impact of nuclear detonations on indigenous communities

4. In a paper submitted to the UN open-ended working group on nuclear disarmament in 2016, the Pacific island states of Fiji, Nauru, Palau, Samoa and Tuvalu described the terrible ongoing toll of more than 300 nuclear test explosions in their region over the course of half a century.² The harm from the testing is not limited to physical injuries and diseases. The tests have also had profound

¹ Submitted by Mines Action Canada in consultation with ICAN Australia.

² Fiji, Nauru, Palau, Samoa and Tuvalu "Elements for a treaty banning nuclear weapons," A/AC.286/WP.14, <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/OEWG/2016/Documents/WP14.pdf>.

psychological, social and cultural impacts, forever disconnecting many islanders from their indigenous way of life:

“We continue to experience epidemics of cancers, chronic diseases and congenital abnormalities as a result of the radioactive fallout that blanketed our homes and the vast Pacific Ocean on which we depend for our livelihoods. Entire atolls remain unsafe for habitation, for agricultural production, and for fishing. Some islanders have been permanently displaced from their homes and disconnected from their indigenous way of life. They have suffered, and continue to suffer, untold anguish, heartache, and pain.”

5. Many survivors of the 67 atomic and hydrogen bomb tests conducted by the United States in the Marshall Islands from 1946 to 1958 have described the loss of cultural identity and social cohesion as a result of their dislocation and ill health. Lani Kramer, a councilwoman for Bikini Atoll, where many of the tests were carried out, said in 2014: “As a result of being displaced we’ve lost our cultural heritage – our traditional customs and skills, which for thousands of years were passed down from generation to generation.”³

6. As a result of exposure to radiation, many Marshallese women, especially from the neighbouring Rongelap Atoll, have suffered multiple miscarriages, or have given birth to severely deformed babies. They have felt shame and humiliation, often fearing stigmatization. Many islanders have also had thyroid tumours removed, affecting their abilities to speak and sing – the latter of which is an important aspect of Marshallese culture. As elders have explained, Marshallese society is matrilineal, and when women and their lineages are silenced and displaced, the entire social organization and generational cohesiveness of a community begin to unravel.

7. In Australia, the story of dislocation and disconnection for indigenous peoples is similarly harrowing. Aboriginal communities bore the brunt of the 12 atmospheric nuclear tests and more than 600 related experiments carried out by the British government, with the full and active support of the Australian government, between 1952 and 1963. Little was done to protect the Aboriginal communities, many of whom were never warned of the health dangers of the tests. Much of the traditional land used for the blasts remains highly contaminated and off limits to this day.

8. At the Vienna conference on the humanitarian impact of nuclear weapons in December 2014, Sue Coleman-Haseldine, of the Kokatha nation, testified that the nuclear programme had violated the rights of Aboriginal Australians.⁴ She explained that Aboriginal peoples “were still looking after and living off the land” at the time of the explosions. “Our land is the basis of our culture. It is our supermarket for our food, our pharmacy for our medicine, our school and our church. Aboriginal people have special places throughout Australia, including in the vast arid areas. Looking

³ AFP, “Bikini Atoll nuclear test: 60 years later and islands still unliveable” *The Guardian*, 2 March 2014, <https://www.theguardian.com/world/2014/mar/02/bikini-atoll-nuclear-test-60-years>.

⁴ ICAN, “Australian nuclear test survivor took her story to the Vienna Conference,” 8 December 2014, <http://www.icanw.org/campaign-news/australia/australian-test-survivor-to-speak-in-vienna/>.

after these places is our religion,” she said. The testing will have implications for generations to come:

“Our old people remember the good life of hunting for wild game and collecting bush fruits. Life was healthy. There were still Aboriginal people living and travelling this way in the Emu Field and Maralinga region when the bomb tests started. The government was no good at ensuring everyone was safe ... There are many Aboriginal people who cannot go back to their ancestral lands, and their children and their children’s children and so on will never know the special religious places it contains.”

9. Similar experiences can be found among indigenous peoples in the United States where nuclear testing took place on indigenous peoples’ land and resulted in contamination of indigenous communities. For example, radioactive fall-out from above ground nuclear tests in Nevada often travelled over the Ely, Duckwater, Moapa, and Goshute reservation areas which are home to Western Shoshone and Southern Paiute peoples.⁵ Areas considered sacred for indigenous peoples are off-limits due to nuclear weapons detonations.

10. Indigenous peoples in Algeria were heavily affected by French nuclear detonations in the Sahara Desert. Like indigenous peoples in Australia, they were not informed about the health risks of the tests or the contamination. Communities exposed to the original tests or who continue to live on or migrate through contaminated land experience negative health impacts similar to those described by the Pacific Island states above.⁶

11. In Russia, approximately 500 members of the Nenet indigenous community were relocated from Novaya Zemlya, so these Arctic islands could be used for nuclear testing. Despite the forced displacement, indigenous peoples on the mainland near Novaya Zemlya experience high rates of cancer and birth defects.⁷

12. Very little is known about the humanitarian impacts of Chinese nuclear weapons tests. However it is highly likely that tests in the Xinjiang Uygur Autonomous Region have prevented indigenous peoples in the area from exercising their full rights similar to situations mentioned above.⁸

⁵ D. Quigley, V. Sanchez, D. Handy, R. Goble, P. George, “Participatory Research Strategies in Nuclear Risk Management for Native Communities,” *Journal Of Health Communication*, Vol. 5, Iss. 4, 2000, pg. 309.

⁶ CTBTO Preparatory Commission, *France’s Nuclear Testing Program*, <https://www.ctbto.org/nuclear-testing/the-effects-of-nuclear-testing/frances-nuclear-testing-programme/>.

⁷ CTBTO Preparatory Commission, *The Soviet Union’s Nuclear Testing Program*, <https://www.ctbto.org/nuclear-testing/the-effects-of-nuclear-testing/the-soviet-unionsnuclear-testing-programme/>.

⁸ CTBTO Preparatory Commission, *China’s Nuclear Testing Program*, <https://www.ctbto.org/nuclear-testing/the-effects-of-nuclear-testing/chinas-nuclear-testing-programme/>.

13. There is a lack of research on the health impacts of nuclear detonations on indigenous peoples. Much of the research on the health impact used homogenous research pools without taking into account traditional lifestyles, diets and cultural practices.⁹ Despite this lack of research, it is quite evident that the results of nuclear detonations prevent indigenous communities around the world from realizing their human rights and the rights specific to them as indigenous peoples.

International Indigenous Rights Frameworks

14. Indigenous rights are rights that exist in relation to the specific circumstances and experiences of indigenous peoples. These rights include self-determination and self-identification, the right to culture, religion, language and identity and right to health, family and healthy environments.

15. Nuclear weapons detonations have interfered with the exercise of many of these rights due to both the immediate suffering they cause and their long-term impacts. The environmental consequences of nuclear weapons are of particular concern. Indigenous peoples have a unique relationship with their environments, and their culture, religious practices, and way of life often depend on a healthy environment.

16. The cornerstone of the international indigenous rights framework is the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). UNDRIP lays out standards for how the rights and freedoms set out in binding international human rights law apply to indigenous peoples. UNDRIP has widespread acceptance among states, including those participating in these negotiations.

17. Other documents outlining indigenous rights include The American Declaration on the Rights of Indigenous Peoples and the International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. A number of other international human rights treaties and declarations also mention indigenous rights or have relevance to the topic.

18. In contrast to many other human rights, “[i]ndigenous peoples’ rights are, by definition, collective rights. In other words, they are vested in indigenous individuals that organize themselves as peoples...with the adoption of the Declaration, the international community clearly affirms that indigenous peoples require recognition of their collective rights as peoples to enable them to enjoy human rights.”¹⁰

19. While the concept of collective rights has not been explored very deeply in humanitarian disarmament, in the context of nuclear weapons collective rights will ease the provision of assistance to victims of nuclear detonations. Due to their widespread, multi-generational and diverse humanitarian impacts, nuclear weapon detonations prevent entire communities from realizing their human rights. Providing

⁹ Quigley et al, pg. 309-310

¹⁰ United Nations Office of the High Commissioner for Human Rights, “Indigenous Peoples and the United Nations Human Rights System” Factsheet 9 rev. 2, <http://www.ohchr.org/Documents/Publications/fs9Rev.2.pdf>.

services to assist victims of nuclear weapons detonations requires thinking beyond the individual or the family and towards the community as a whole. As collective rights, indigenous rights provide a framework to guide victim assistance provisions to the relevant affected communities.

Conclusion

20. The first section of this paper discussed how the ongoing impact of nuclear detonations prevent indigenous communities around the world realizing their full rights. In many cases, these communities and their land were selected for nuclear detonation due to colonial and discriminatory policies resulting in the continued suffering of multiple generations.

21. The second section outlined the rights of indigenous peoples through the international human rights system and states' existing obligations towards indigenous peoples. It is clear that the ongoing humanitarian impact of nuclear weapons detonations impedes affected indigenous communities from realizing their full rights.

22. During the March negotiating session at least 23 states plus CARICOM stated their desire for provisions in the treaty regarding victim assistance. In a rights-based approach to assisting victims of nuclear weapons detonations, the international community will need to take into account the specific rights of indigenous peoples.

23. The March negotiating session saw at least 16 states plus CARICOM call for positive obligations regarding environmental remediation. As noted above UNDRIP and other international agreements recognize that indigenous peoples have unique ties to the environment and therefore environmental remediation actions will be crucial to protecting their rights.

24. Positive obligations regarding risk education will also attempt to remedy the lack of information indigenous communities received about the past and ongoing contamination of traditional lands, wildlife and plants.

25. In order to address the humanitarian harm caused by nuclear weapons, states must consider the specific rights of affected indigenous communities. Including mention of UNDRIP or indigenous rights more generally in the treaty prohibiting nuclear weapons will ensure that states have the tools needed to meet the needs of indigenous communities who continue to be disproportionately impacted by nuclear weapon detonations. States have the opportunity to strengthen both disarmament and indigenous rights globally by including UNDRIP and indigenous rights in the final text of the treaty.

Recommendation:

The preamble of the treaty, in acknowledging those who have suffered from the use and testing of nuclear weapons, should refer specifically to the disproportionate impact of nuclear detonations on indigenous communities around the world.

The operative portion of the treaty should strengthen the positive obligations in Article 6 to mitigate and protect the human rights of people affected by nuclear detonations, including indigenous persons and communities.