

Stakeholder submission for the 50th session of the Universal Periodic Review

Report on the United States

The International Campaign to Abolish Nuclear Weapons (ICAN) is a campaign coalition of over 700 non-governmental organizations in more than 100 countries. Following the historic adoption and entry-into-force of the UN Treaty on the Prohibition of Nuclear Weapons (TPNW), ICAN now campaigns for all States to join and implement the TPNW, take measures towards the elimination of all nuclear weapons, and provide assistance to communities and environments affected by the use and testing of nuclear weapons, as a matter of urgency.

ICAN was awarded the Nobel Peace Prize in 2017 for “its work to draw attention to the catastrophic humanitarian consequences of any use of nuclear weapons and for its groundbreaking efforts to achieve a treaty-based prohibition of such weapons.”

International Human Rights Framework

The TPNW contains clear references to and implications for human rights law and practice. Preambular paragraph 8 of the TPNW reaffirms “the need for all States at all times to comply with applicable international law, including international humanitarian law and international human rights law”. The most relevant rights concern from a nuclear weapons attack is the right to life, other relevant rights concerns include the prohibition of inhuman and degrading treatment, the right to a home and to property, as well as rights violations resulting from nuclear weapons testing.

The United States has not yet signed or ratified the TPNW. However, a growing number of states – at the time of submission, approximately half of all UN Member States – have signed or ratified the TPNW, demonstrating its increasing relevance under international law.

The Human Rights Committee General Comment No. 36 on Article 6 of the Covenant on Civil and Political Rights, as adopted in 2018, states: “The threat or use of weapons of mass destruction, in particular nuclear weapons, which are indiscriminate in effect and are of a nature to cause destruction of human life on a catastrophic scale is incompatible with respect for the right to life and may amount to a crime under international law.” (paragraph 66).

National Human Rights Framework

The United States is the only country to have used nuclear weapons in war. In the final days of World War II, it detonated two nuclear bombs over the Japanese cities of Hiroshima and Nagasaki, killing more than 200,000 people instantly or within a few months of the attacks.

Many thousands more died in the years following the attacks from illnesses caused by their exposure to radiation from the bombs. Almost all of the victims were civilians.

The United States conducted 1,030 nuclear tests between 1945 and 1992, most of them in Nevada and the Marshall Islands, but some of them over the Malden and Kiritimati islands, Alaska, Colorado, Mississippi, New Mexico, and the Atlantic Ocean.

Numerous international instruments¹ recognise the rights to remedy for victims of violations of international human rights law, and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law² recognise that victims have the right to access relevant information concerning violations (VII.11(c)) and that “States should endeavour to develop procedures to allow groups of victims to present claims for reparation and to receive reparation, as appropriate.” (VIII.13)

Currently, the United States’s discontinuation of the Radiation Exposure Compensation Act (RECA), and limitations in that Act only to some forms of exposure, and to only 20% of the nuclear tests it carried out, do not meet the standards set out in these Basic Principles, and require redress. It is broadly known that United States atmospheric nuclear testing had significant impacts on a wider area³ than that covered under RECA.

The TPNW also recognizes that the imperative to assist people affected by the use and testing of nuclear weapons is a matter of human rights law. Specifically, Article 6 of the TPNW provides that “Each State Party shall, with respect to individuals under its jurisdiction who are affected by the use or testing of nuclear weapons, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, without discrimination, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion.”

Finally, the United States has failed to fulfil its legally binding disarmament obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The United States possesses approximately 5,449⁴ nuclear weapons, which it can launch from missiles, submarines, and aircraft. Its intercontinental ballistic missiles are based in silos in Montana, North Dakota, and Wyoming. These weapons are maintained as part of a security strategy which envisages their use. Nuclear weapons are weapons of mass destruction, and any use of nuclear weapons would have catastrophic and long-lasting consequences.

ICAN recommends that the United States fulfil its legally binding disarmament obligations under the NPT, and that it sign and ratify the TPNW, as a matter of urgency.

¹ Including, but not limited to: article 8 of the Universal Declaration of Human Rights, article 2 of the International Covenant on Civil and Political Rights, article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and article 39 of the Convention on the Rights of the Child, and of international humanitarian law as found in article 3 of the Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV), article 91 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977, and articles 68 and 75 of the Rome Statute of the International Criminal Court.

² A/RES/60/147

³ <https://thebulletin.org/2024/02/the-fallout-never-ended/>

⁴ <https://fas.org/initiative/status-world-nuclear-forces/>