



International Disarmament Institute

41 Park Row, Room 1114
New York, NY 10038
mbolton@pace.edu
Phone: (212) 346-1828

www.pace.edu

4 March 2024

Raphael Pangalangan

Office of the United Nations High Commissioner for Human Rights
48 Avenue Giuseppe Motta
Geneva, Switzerland

Re: Input Regarding UN Human Rights Council Resolution 51/35

Dear Raphael Pangalangan,

Thank you for your request for input regarding UN Human Rights Council Resolution 51/35 and the legacies of nuclear weapons testing in the Republic of the Marshall Islands (RMI). In addition to our faculty participating in the visit of the World Council of Churches and contributing to its submission to your office, we would like to highlight several relevant peer-reviewed publications that have come out of the International Disarmament Institute that may be of some use to your work. They highlight the human rights dimensions of nuclear weapons testing in a variety of contexts, including assessments of international policy frameworks. They are listed below, including their abstracts and, where available, policy implications:

Bolton, M.B. & K. Ketterer. (2023) "Environmental Remediation as Social Archaeology: Excavating Sites Contaminated by Early Nuclear Weapons Activities in New York City, Both Literally and Hermeneutically." *Global Policy*. 14(2). pp. 318-330. <https://onlinelibrary.wiley.com/doi/abs/10.1111/1758-5899.13197>

New York City, where the Manhattan Project began, has some of the world's oldest nuclear weapons production sites, exposing New Yorkers to ongoing risks of ionising radiation. This article considers six sites of particular environmental concern. Assessment, monitoring and clean-up of these locations have taken place over three different periods: private remediation before 1992; federal government remediation in the early 1990s followed by two decades of neglect; and a long-standing campaign to deal with risks at two remaining sites. Addressing radioactive legacies has involved a feedback loop between literal excavation of contaminated locations and a more hermeneutical process of meaning-making. Journalists, activists and politicians have transformed some places into sites of memory, cultivating connections to concerns about environmental justice, radiation protection and nuclear disarmament. The 2017 Treaty on the Prohibition of Nuclear Weapons (TPNW) established new obligations to remediate environments contaminated by nuclear weapons activities. While the USA refuses to join the TPNW, in-depth, historical study of remediation at these sites can provide useful insight for states parties establishing

policy to implement TPNW obligations. Recent passage of nuclear disarmament legislation by the NY City Council shows the ongoing policy relevance of nuclear weapons issues in local policymaking.

Policy Implications

- Remediation of contaminated environments is not just a technical process, but involves a kind of archaeology, both literally – excavating sites – and metaphorically, recovering community memory.
- Given extensive secrecy surrounding nuclear weapons activities, remediation also requires excavation of archives, making public what has hitherto been kept secret, private and obscured by technocratic discourse.
- More public and transparent processes of remediation render the history of environmental remediation visible and legible, leaving a trail that can be followed by others in the future, enabling the transformation of a contaminated site into a site of memory and policy conversation.
- As States Parties to the 2017 Treaty on the Prohibition of Nuclear Weapons make policy decisions regarding its environmental remediation obligation, they should ensure a transparent process, open to civil society and mindful of the importance of local memory.

Bolton, M.B. (2022) "The Human Rights Fallout of Nuclear Detonations: Reevaluating 'Threshold Thinking' in Policies Assisting Victims of Atmospheric Nuclear Testing." *Global Policy*. 13(1). pp. 76-90.

<https://onlinelibrary.wiley.com/doi/abs/10.1111/1758-5899.13042>

Atmospheric nuclear test detonations conducted by USA, USSR, UK, France and China, 1945–1980, generated radioactive particles that were dispersed by weather patterns, returning to earth as fallout. People who lived 'downwind' face ongoing risks from their exposure to ionizing radiation, as well as psychological, social, cultural and political distress. However, testing states obscured these humanitarian consequences by claiming that fallout could be contained to specific spatial zones, that there are 'thresholds' below which radiation exposure has negligible health impacts and that socio-political forms of harm should be disregarded. While the scientific consensus concludes fallout circulates in complex, nonlinear patterns; there is no safe level of radiation exposure; and nuclear testing can generate tremendous anxiety, what Liboiron calls 'threshold thinking' continues to underlie policies ostensibly assisting victims of nuclear weapons. This article offers examples from responses to French Pacific nuclear testing, showing how access to compensation and other assistance has often been conditioned on threshold qualifications that function to limit downwind communities' access to assistance and remedy. Victim assistance and environmental remediation obligations in the 2017 Treaty on the Prohibition of Nuclear Weapons offer opportunities to move beyond reductive policy logics to multifaceted, human rights-based approaches to affected communities' concerns.

Policy Implications

- Policy making on assistance to victims of nuclear weapons testing must put the voices of survivors themselves – rather than the structures responsible for the test program – at the center of the conversation, taking seriously the disability rights slogan 'Nothing about us, without us'.

- Policy makers should avoid designing policies of assistance to victims of nuclear testing that limit eligibility to people living in pre-determined spatial zones, given the widespread dispersal and non-linear circulation of radioactive fallout.
- Victim assistance policy making should start from the presumption that there is no threshold below which exposure to radiation is safe, or politically unimportant.
- Decision-makers should not deny access to benefits based on qualifying threshold radiation doses; such policies may discriminate against women and girls; Indigenous Peoples; and those with genetic predispositions to cancer.
- Global standards of 'permissible doses' of radiation protection – based on a trade-off for the claimed benefits of peaceful uses of nuclear energy – should not be used to evade responsibility for the harms of nuclear weapons activities.
- Policy makers should design victim assistance programs that recognize and remedy the complex medical, psychological, social, political and economic harms of nuclear test programs.
- Policy makers, associations of nuclear weapons survivors, civil society organizations and scientists should consider using the forums offered by the Treaty on the Prohibition of Nuclear Weapons to build more holistic and human rights-based approaches to assisting victims of nuclear weapons activities.

Bolton, M.B. & E. Minor. (2021) "Addressing the Ongoing Humanitarian and Environmental Consequences of Nuclear Weapons: An Introductory Review." *Global Policy*. 12(1). pp. 81-99.
<https://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.12892>

The use and testing of nuclear weapons caused transnational and catastrophic humanitarian and environmental consequences. Legacies of more than 2,000 nuclear detonations in the territories of 15 states persist today, with serious implications for human rights and sustainable development. There is an inadequate global policy architecture for addressing the humanitarian and environmental consequences of nuclear weapons. However, the Treaty on the Prohibition of Nuclear Weapons (TPNW), adopted by 122 states at the UN in 2017, established obligations to assist victims of nuclear weapons and testing and remediate contaminated environments. Other global policymaking bodies have also mandated action on such concerns. In this review article, introducing a Special Section on 'Addressing the Humanitarian and Environmental Consequences of Nuclear Weapons', we provide a global overview of the facts about past nuclear weapons activities in different countries and some of the known and potential ongoing consequences of the blast, heat and radioactive energy released by past nuclear weapons detonations. In doing so, we aim to inform the development of policy around the TPNW and the gathering of further relevant information, enabling efforts to develop global humanitarian, human rights and sustainable development policy assisting communities affected by nuclear weapons.

Policy Implications

- The global humanitarian and environmental legacies of nuclear weapons use, testing and related activities have not been adequately addressed.

- The victim assistance, environmental remediation and international cooperation and assistance provisions in the 2017 Treaty on the Prohibition of Nuclear Weapons offer an opportunity to global.
- When the Treaty on the Prohibition of Nuclear Weapons enters into force, governments should be encouraged to declare to Meetings of States Parties relevant data on the consequences of nuclear weapons for people and environments under their jurisdiction.

Alexis-Martin, B., M.B. Bolton, et al. (2021) "Addressing the Humanitarian and Environmental Consequences of Atmospheric Nuclear Weapon Tests: A Case Study of UK and US Test Programs at Kiritimati (Christmas) and Malden Islands, Republic of Kiribati." *Global Policy*. 12(1). pp. 106-121.

<https://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.12913>

Between 1957 and 1962, the UK and USA conducted 33 atmospheric nuclear weapons test detonations at or close to Malden and Kiritimati (Christmas) Islands (total yield 31 megatons), formerly British colonial territories in the central Pacific region, now part of the Republic of Kiribati. Some 40,000 British, Fijian, New Zealand and US civilian and military personnel participated in the test program and 500 i-Kiribati civilians lived on Kiritimati at the time. This article reviews humanitarian and environmental consequences of the UK and US nuclear weapons testing programs in Kiribati, as well as the policy measures that have addressed them. The authors contend that policy interventions to date have not adequately addressed the needs and rights of test survivors, nor ongoing environmental concerns. They argue that the victim assistance and environmental remediation obligations in the 2017 Treaty on the Prohibition of Nuclear Weapons offer an important new opportunity for addressing the consequences of nuclear detonations in Kiribati, by focusing policy attention and constituting a new field of development assistance.

Policy Implications

- Policy interventions to date have not adequately addressed the needs and rights of survivors of the UK and US nuclear test program in Kiribati, nor ongoing environmental concerns.
- The victim assistance and environmental remediation obligations in the 2017 Treaty on the Prohibition of Nuclear Weapons offer an important new opportunity for addressing the consequences of nuclear detonations.
- Humanitarian and human rights framing of the effects of nuclear testing offer an alternative both to denialism and the litigation and liability model.
- Victims of nuclear testing seek not only medical assistance, but also support for practices of recognition, acknowledgement and memorialization to address psychosocial and cultural consequences of the test programs.
- Policy interventions should acknowledge the intrinsic value many Pacific peoples place on the environment, not only its instrumental worth.

Bolton, M.B. & E. Minor. "The Agency of International Humanitarian Disarmament Law: The Case of Advocacy for Positive Obligations in the Treaty on the Prohibition of Nuclear Weapons." In: Bolton, M.B., et al (Eds.). (2020) *Global Activism and Humanitarian Disarmament*. New York, Palgrave Macmillan. pp. 59-101.

https://link.springer.com/chapter/10.1007/978-3-030-27611-9_3

The 2017 Treaty on the Prohibition of Nuclear Weapons (TPNW) not only bans nuclear weapons; it also obligates victim assistance, environmental remediation, and international cooperation and assistance. This chapter examines how these “positive obligations” were included in the TPNW, focusing on the “PosObs team” of the 2017 Nobel Peace Prize-winning International Campaign to Abolish Nuclear Weapons (ICAN).

Bolton, M.B. (2018) “The ‘-Pacific’ part of ‘Asia-Pacific’: Oceanic diplomacy in the 2017 Treaty for the Prohibition of Nuclear Weapons.” *Asian Journal of Political Science*. 26(3). pp. 371-389.

<https://www.tandfonline.com/doi/abs/10.1080/02185377.2018.1515641>

The 2017 Treaty for the Prohibition of Nuclear Weapons (TPNW) was negotiated at the UN over the objections of nuclear-armed and -allied states and established a global categorical ban on nuclear weapons framed in terms of humanitarianism, human rights and environmentalism. States and NGOs from the Pacific region advocated for a strong treaty text, particularly its positive obligations. They were influenced by the region’s history as a site of nuclear weapons testing in Marshall Islands, Kiribati and French Polynesia/Maohi Nui; the 1985 South Pacific Nuclear Free Zone’s precedent; and earlier diplomatic efforts and activism linking denuclearization with decolonization. The paper demonstrates the agency of small states—the ‘-Pacific’ part of ‘Asia-Pacific’—in multilateral policymaking on peace and security, often overlooked in international relations scholarship.

While not peer-reviewed, the following policy report may also be relevant to your work:

Bolton, M. (2022) *Humanitarian action on nuclear weapons: Reinvigorating nuclear diplomacy in the NPT and beyond*. Bonn, Friedrich Ebert Stiftung.

<https://library.fes.de/pdf-files/iez/19406.pdf>

The August 2022 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) was overshadowed by geopolitical insecurities arising from Russia’s nuclear threats, the war in Ukraine, and renewed concerns about proliferation. By contrast, the first meeting of states parties to the Treaty on the Prohibition of Nuclear Weapons (TPNW) in June 2022 led to the most comprehensive global policy framework addressing humanitarian and environmental impacts of nuclear weapons. So far, many Western states have had an ambivalent engagement with the TPNW and its victim assistance and environmental remediation obligations, while complying with the humanitarian requirements of treaties that curb land- mines and cluster munitions. A focus on humanitarian and environmental concerns could build much-needed trust in multilateral nuclear disarmament policymaking.

If you should have questions regarding any of this research, please do not hesitate to contact me.

Sincerely,

Matthew Breay Bolton, MSc, PhD

Co-Director of the international Disarmament Institute
Professor of Political Science