



IALANA NEWS

NGO in consultative status (Category II) with the United Nations Economic and Social Council

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Reiner Braun, Kristine Karch and Peter Becker at the Nuclear Weapons Free Zone Demonstration in Büchel (5000 attendants, IALANA organised and moderated the event)

IALANA Announcement

We are pleased to announce that Jenny Becker has given birth to a healthy baby girl, Alice Becker. Congratulations to both Jenny and Felix!



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1. Press Release from the German IALANA

Comments from the German IALANA on President Obama's announcement to introduce concrete steps towards a nuclear weapon free world.

IALANA welcomes U.S President Barack Obama's announcement, that the USA will strive towards achieving a nuclear weapon free world and will introduce concrete measures to accomplish this task. Obama has seized the vision developed in dialogue between Gorbatschov and Reagan in Reykjavik October 1986. He is relinquishing decades of USA blockade politics and opening the door to a secure future. With his announcement Obama surprised politicians and media worldwide, leaving some of them speechless. A world without nuclear weapons has now become conceivable for many.

Of utmost importance in this development, is that the non-nuclear weapon states and the peace movement who have struggled for nuclear disarmament to date, have now been provided with the opportunity to really access the political discussion around this theme. Governments and Parliaments are being compelled to question their formerly trusted customs and ways of viewing these matters and to search for new ways forward. Within these circumstances lies the opportunity to make real progress in nuclear disarmament.

IALANA welcomes parts of President Obama's announcement which will bring about the start of and unilateralize reductions in nuclear weapons, but warns nevertheless against the preservation of nuclear deterrence strategies and the partition of the world into two camps of nuclear weapon states and non nuclear weapon states. As early as 1968, with the advent of the Non-Proliferation Treaty (NPT) the nuclear weapon states have felt explicitly obliged to renounce their nuclear weapons. Their constant and unchanging refusal to comply with this obligation however has been one of the main catalysts for the development of nuclear arms in other countries.

The initial temporally boundless adherence of the USA to nuclear deterrence is not justifiable. It is contrary to the obligation to deplete nuclear weapon stocks until the point of complete nuclear disarmament under NPT article 6 – therefore serving, as opposed to what president Obama has asserted, to undermine the NPT rather than strengthen it. At a lesser level, maintaining this nuclear strategy also contravenes the decision of the International Court of Justice, which in an opinion for the United Nations General Assembly on the 8.7.1996 decided under binding international law, that the threat presented by nuclear weapons and their use fundamentally contravened international humanitarian law. The International Court of Justice made it clear that none of the pro-nuclear weapons states before the court had voiced sufficiently sound reasoning to justify the use of nuclear weapons – including in extreme emergency situations, in which the survival of a state would depend on this 'nuclear game'.

Obama avoided introducing a concept, strategy or procedure for complete nuclear disarmament. He did not mention the current topical question in the UN of a Nuclear Weapons Convention. This draft of a binding treaty currently being formulated, provides steps toward the prohibition and





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abolition of all nuclear weapons, which could enable the nuclear weapon states to collectively and simultaneously reduce their warheads and launching systems to nil.

IALANA views President Obama's announcement that the USA will retain its missile defence systems in Europe as long as threats from Iran or other States persist, critically. With such comments Obama arouses suspicion that the USA are not inclined to take any steps towards disarmament which could put their supremacy and dominance in question.

Plausible first steps following Obama's announcement would be:

- The realization that the obligation stressed by the International Court of Justice applies to the USA as well as other states – and so, in accordance with NPT Article 6, negotiations striving to achieve complete nuclear disarmament should be led and concluded, within the overall task frame of achieving a nuclear weapons convention.
- The NATO strategy of nuclear deterrence and in particular the exercising of the nuclear first strike doctrine which is also towards states – should no longer have authority with regards to Nuclear Weapons.
- The depletion of US nuclear weapons stationed in Europe, and
- The renunciation of the planned European missile defence system.

The steps outlined by Obama, like the long outstanding ratification of the test ban treaty in the USA and the extension of the Strategic Arms Reduction Treaty with Russia which expires this year were already on the agenda.

An important step for Obama according to IALANA is to strive for negotiations with the goal of producing a treaty on the verifiable completion of atomic bomb capable fissile material production.

This intended world, free from nuclear weapons, will not fall directly into our laps. It must be hard earned politically. In many states persistently strong political opposition to the complete and even partial abolition of nuclear weapons exists. In Germany the Government Christian Democratic Party refuse to end the country's participation in nuclear matters, and to challenge the USA to remove their leftover nuclear weapons in Büchel and Eifel. Furthermore, coalition partner, the Social Democratic Party have not yet reached a decision on these matters.

Obama's welcomed Initiative will only have success if other countries follow his lead. To convince and persuade politicians to do so, will now be the task of the world wide peace movement and its networks.





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2. Reports from the NPT Prepcom 2009

a) Peter Weiss, IALANA Vice President., Introduction to NGO Presentations to NPT Prepcom, May 5, 2009

Mr. Chair, Distinguished Delegates: My name is Peter Weiss. I am Vice President of IALANA, the International Association of Lawyers Against Nuclear Arms.

I am grateful for the opportunity which you have given to civil society to share with you some of its concerns about the subject of this meeting. Like all of you, we have great expectations for next year's NPT Review Conference. It will take place in a new climate of internationalism which affords reason to hope that cooperation is replacing domination in world affairs and that international law is resuming its rightful place as the operative expression of the world's yearning for peace and justice.

My message, by way of introduction, is simple: For the first time since those two fateful days in August of 1945, the voices demanding "never again!" are growing to a thunderous chorus which can no longer be ignored. It comes, as always, mostly from the vast majority of countries who have kept their Article II pledge to renounce these hellish weapons, but also now from all shades of the political spectrum in the minority of countries who possess them, but have done little to fulfill their part of the Article VI bargain. It is welcome news when the new President of the United States declares that he will make a nuclear weapons free world a central element of American foreign policy and when leaders of other nuclear weapons countries voice that sentiment as well. It is welcome news when the Secretary General of the United Nations states that one way to achieve this objective is to begin discussion of the Draft Nuclear Weapons Convention which Costa Rica and Malaysia have made into an official UN document and it is welcome news when the European Parliament endorse the nuclear weapons convention.

At the same time, the danger of nuclear proliferation is arguably greater than ever. NPT is fraying at the seams; the noxious myth of deterrence remains firmly embedded in the strategies of the nuclear weapons states; the mantra of "going down to 1000" has emerged as a false substitute for real disarmament; the CD slumbers on in its perennial deadlock; and the dark cloud of nuclear terrorism continues to hang over all our heads.

This combination of negative and positive factors, of hope and despair, makes it absolutely essential to press on the door opening toward a nuclear weapons free world and to do so in a committed and robust manner, not merely step by halting step. Going down to three zeros, as in 1000, is not enough; going down to zero is imperative. If we embark on this path, our children and grandchildren will thank us. If we do not, history will not absolve us.

I thank you for your attention.





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b) Robin Borrmann, IALANA German Board Member, Impressions of the NPT Prepcom 2009,

“Excellencies, The work you do in the next two weeks will be critical. You must seize the moment and show your seriousness. This preparatory session must generate agreements on key procedural issues and substantive recommendations to the Review Conference. I urge you to work in a spirit of compromise and flexibility. I hope you will avoid taking absolute positions that have no chance of generating consensus. Instead, build bridges, and be part of a new multilateralism.”

New York 4th of May 2009

With these words UN Secretary General Ban Ki-moon opened the NPT Prepcom 2009 held at the UN New York Headquarters - and thereby expressed the common prospects for the conference.

From its outset, the atmosphere at the 2009 Prepcom was quite optimistic. This was especially so after President Obama's speech in Prague and his recent rapprochement with Russian counterpart President Medvediev resulting in a mutual agreement to renew the Strategic Arms Reduction Treaty. The high hopes of the participants and NGO representatives were not disappointed.

As early as the morning of the 6th of May a provisional agenda for next year's Review Conference was adopted. In addition the government statements made during the conference - and from the nuclear weapon states in particular were predominately promising. The US, France, the UK, China and Russia expressed their commitment to Article 6 and the NPT in general. Furthermore altogether 76 side events organized by NGOs and state missions stimulated thought for all attendees and often led to inspiring debates.

IALANA was very active this year at the Prepcom. The German section organised the event “Art. 6 NPT: Legal issues and German perspectives - A panel discussion between IALANA and a Representative of the German Ministry of Foreign Affairs” held on Wednesday the 6th of May. The panel was composed of IALANA German board members Ursel Reich, Imke Kügele and Robin Borrmann as well as the Deputy Head of Division of the Nuclear Arms Control and Non-Proliferation of the German Ministry of Foreign Affairs Dr. Stefan Kordasch. More than 25 people attended the discussion round.

The following topics were discussed and debated:

1. Do Nuclear Weapons still constitute an imminent threat to international peace and security?
2. The legality of the use of nuclear weapons?
3. Does Art. 6 NPT contain an obligation of conduct or result?
4. The Nuclear Weapons Convention - the next logical step after the NPT- a promising tool to achieve nuclear disarmament?





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5. Position of the German Ministry of Foreign Affairs
6. The legality of Germany's nuclear participation (US nuclear weapons on German soil)

IALANA's views on these issues presented to workshop participants prior to the discussion round were warmly welcomed and shared by most attendees. Dr. Kordasch focused his presentation as expected on Germany's political position on NPT Art.6 rather than the legal issues surrounding this topic. He expressed Germany's commitment to its obligations under NPT Art. 6 and also welcomed IALANA's support of the Nuclear Weapons Convention. He did add however, that Germany currently favors a 'step by step' approach in such developments, having acquired the opinion that states would not be able to find a corresponding consensus to adopt such a comprehensive and complex treaty during the last NPT Prepcom. In spite of this statement however Dr. Kordasch stated concurrently that Germany would support the NWC provided that the temper among the State parties to the NPT would change accordingly.

The high level of acceptance for IALANA's views and acknowledgment of its special role as an NGO composed of legal experts was highlighted at the Prepcom in various ways.

- In addition to the German IALANA's discussion event on May the 6th, NPT-TV requested to interview German Board Member Robin Borrmann on:

"The Legal standing of NPT outcome documents",
" In good faith -The implementation of Article VI",
"The World Court and the NPT."

The interview conducted on the 7th of May is available at www.npt-tv.net/index.php/interviews.

- The CEO of IALANA'S German section Reiner Braun played a large roll at the Prepcom, participating as a speaker in 4 events.
- Additionally the international IALANA organized a very interesting event on "Good Faith Disarmament: The Need for a Second Opinion from the World Court".

To sum up, the NPT Prepcom 2009 proceeded positively as a whole, and more specifically for IALANA , providing a useful forum for sharing thoughts on how to achieve nuclear zero and the opportunity to present IALANA's views in several events. The Prepcom gave reason to hope that the next NPT Review Conference will not result in another "disarmament depression" as in 2005. There is reason to believe the 2010 Review Conference will achieve a much higher level of consensus and positive progress towards nuclear disarmament.





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3. Invitation to IALANA General Assembly Berlin 2009

Part 1: IALANA Seminar on a nuclear weapon free world in collaboration with the European Academy Berlin,

Part 2: (Open) IALANA Board Meeting

Introduction

The IALANA general assembly meeting will firstly serve as an integral logistical planning tool for the future of the organisation. Secondly through the incorporation of a public seminar in our programme, this event will act as an opportunity for discussion and critical analysis of the current political situation in the aftermath of U.S President Barack Obama's speech in Prague. Evaluating IALANA's place within, and response to these political circumstances will be a valuable and constructive exercise. Thirdly the invitation of many of our affiliates and other international jurists and interested parties to the public seminar, will promulgate our cause, strengthening IALANA's international network of co-operative partners and affiliates.

Location

European Academy Berlin, Germany

Thursday 25th June 2009:

15.00 Welcome to participants

Peter Becker, Chairman German IALANA
Peter Weiss, Vice President IALANA
Eckart D. Stratenschulte, European Academy, Berlin, Germany





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Part 1: Seminar on a nuclear weapon free world

Session 1: A world without nuclear weapons - steps to nuclear abolition,

- | | | |
|--------------|---|---------------------------------|
| 15.30 | The aims of IALANA in nuclear abolition considering President Obama's speech. | John Burroughs, U.S.A |
| 16,00 | Discussion | |
| 16,30 | Break | |
| 16,45 | Returning to the ICJ | Phon van den Biesen, N.L, (tbc) |
| 17,15 | Discussion | |
| 17,45 | Report on the NPT Prepcom | Jackie Cabasso, U.S.A (tbc) |
| 18,00 | Discussion | |
| 18.30 | Welcome Dinner and Social Event | |

Friday 26th June 2009:

Session 2: The Nuclear Weapons Convention

- | | | |
|--------------|--|---------------------------|
| 9.30 | a) Challenges after the Obama speech and Nuclear Weapon Free Zones | Alyn Ware, N.Z |
| 9.45 | b) Experiences with campaigning and lobbying | Carlos Vargas, Costa Rica |
| 10,15 | Discussion | |
| 11,00 | Coffee Break | |





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Session 3: International Law

11.30 Legal aid against the use of
 airports in Germany for Peter Becker, Germany
 illegal warfare

12.00 Discussion

12.45 Lunch

Part 2: (open) IALANA Board Meeting – 14,00-18,00

1. Opening Peter Weiss, Peter Becker, Germany

2. Chair of the meeting and minute taker

3. Reports
 - a. President
 - b. Treasurer
 - c. Different affiliates, new affiliates
 - d. IALANA projects

4. Discussion and decisions - future projects and activities
5. Election of the President and the board
6. Dates for next meeting





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Organisational Details - for the IALANA General Assembly 2009

1. Registration

Registration is necessary, please confirm your registration by emailing:
bergman@ialana.de

2. Venue Information

The European Academy Berlin
 Bismarckallee 46/48
 D-14193 Berlin
 Telephone: +49 30 895-9510
 Fax: +49 30 895-951-635
 Internet: www.eab-berlin.de

3. Directions

From the Airport

- From **Tegel (TXL)** airport: take Bus 109 to Adenauerplatz/Kurfürstendamm. Change there to bus/Metroline M19 (leaving from the opposite side of the street). Take bus marked 'S-Bhf Grunewald' or 'Hagenplatz' and get off at '*Hagenplatz/ Taubertstraße*'. There turn left, the second street on the right will be 'Bismarckallee'.
- From Schönefeld airport (SXF): *either* take the express bus SXF1 <www.sxf1.de> to S 'Südkreuz' (20 min.), change to fast train S41(Ring-Line) to 'S Halensee' (11 min.) and change to bus M19 (direction 'S Grunewald/Hagenplatz') to 'Taubertstraße' (7 min.)

or take fast train S9 (direction 'S Spandau DB') to 'Westkreuz'; change to fast train S7 (direction 'Wannsee') to 'S Grunewald' and continue with bus line M19 (direction U Mehringdamm) to 'Taubertstraße'. (75 min.)
or take S 9 direction Spandau DB to S'Treptower Park' or 'Ostkreuz', change to S 41 or S 42 (Ring-Line) direction 'S+U Gesundbrunnen' to 'S Halensee' and follow the directions as above.

By train

- **From Central Station 'Hauptbahnhof - Lehrter Bahnhof':**
 take fast train S7 (direction 'Wannsee-Bhf' or 'Potsdam-Hbf') to S 'Grunewald' and continue with bus line M19 (direction U Mehringdamm) to 'Taubertstraße'. (25 min.).





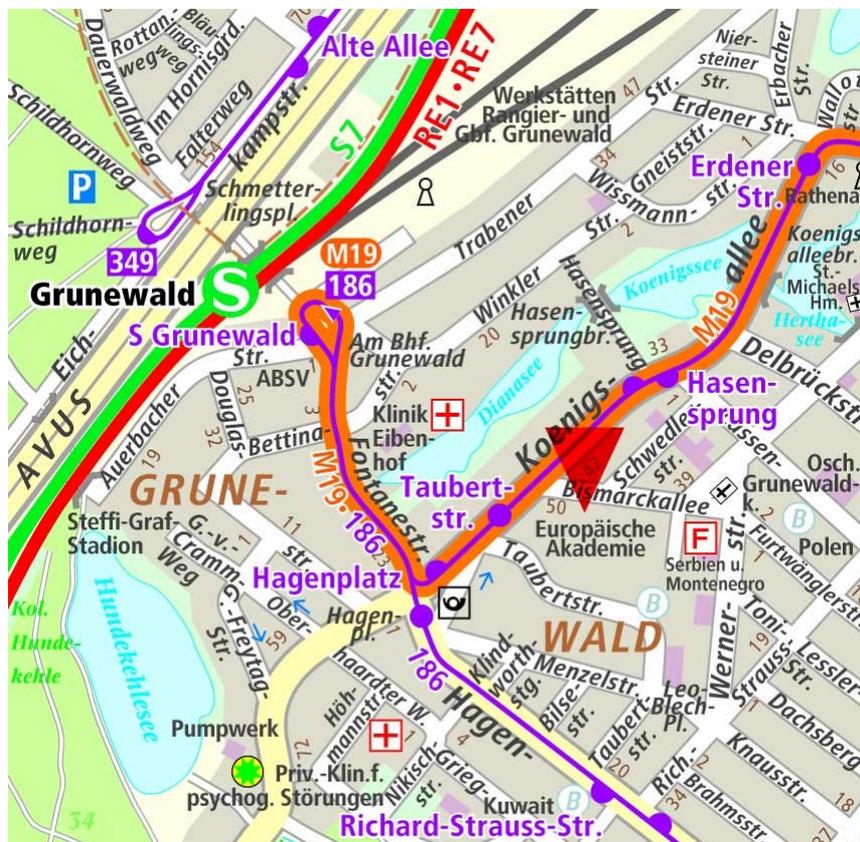
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- From 'Zoologischer Garten' railway station: either take S-Bahn (line S7) direction 'Wannsee DB' or 'Potsdam-Hbf' and get off at 'Grunewald' station, there change to bus M19 and get off at busstation 'Hagenplatz/ Taubertstr' or walk to Kurfürstendamm (about 400 m) and take Bus M19 at the streetcorner of Kurfürstendamm and Joachimstaler Straße.

Map



4. Accomodation

Participants from outside Berlin will stay at the European Academy mansion. Double and single rooms are available. Every room has an en-suite bathroom with a shower and toilet facilities. All rooms have telephone and Internet access



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5. Catering

All catering will be provided for guests by the Academy.

6. Information

Telephone: +49 30 20654857

Postal Address:

IALANA-Geschäftsstelle, Schützenstr. 6a , 10117 Berlin

Fax: +49 30 20654858

Email: bergman@ialana.de

7. Cost

Please take note that payments can only be made in cash at the time of the event.

- Accommodation at the European Academy - 100 EUR (Thursday the 25th and Friday the 26th of June). This fee includes breakfast, coffee breaks, lunch and dinner as well as a single room. (Double rooms will be 160 EUR).
- Accommodation during the German conference 'Frieden durch Recht' - reduced to 50 EUR per day for Saturday the 27th of June and Sunday the 28th, (as you will be eating away from the facility during those days).
- Pass for the event including all meals (but excluding accommodation) - 35 EUR per day.
- Pass without meals - 10 EUR per day.

n.b Financial support is possible for southern and eastern european delegates. Please contact Reiner Braun Hr.Braun@gmx.net for details.

Berlin, 2009 April 27th





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4. Reports from National Affiliates

a) Germany

Demonstration at the „Fliegerhorst Büchel“

Together with the German IPPNW and some other local initiatives for the abolishing of nuclear weapons IALANA organised a demonstration against the US-nuclear bombs stationed at the „Fliegerhorst Büchel“ on August 30th supported by the German punk singer Nina Hagen. The event was very successful, attracting about 5000 activists from all over the country. IALANA managed publicity and moderated the event.



Extract from the press release of the German IALANA Section regarding the declaration of acceptance of ICJ compulsory jurisdiction by the Federal Republic of Germany:

It is regrettable that Germany has not accepted the compulsory jurisdiction of the court for disputes relating to military operations abroad or the use of German territory for military purposes, as these are the very categories of disputes for which international jurisdiction has been established in a long historical process. In the future, such issues can only be brought before the ICJ if Germany specifically accepts the compulsory jurisdiction of the court on an ad hoc basis.

The two caveats (deployment of armed forces abroad and the use for military purposes of the territory of the Federal Republic of Germany) inevitably raise the suspicion that the German administration wants to avoid jurisdictional examination pertaining to military questions and possibly use the armed forces or German territory for military actions that are against international law.



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The exclusion of said disputes furthermore violates Article 24, paragraph 3 of the German constitution, which stipulates that Germany accept comprehensive international jurisdiction, including all matters that can be subject to international dispute without exception.

The German administration has also failed to include the German parliament in the decision making process, as the acceptance of ICJ compulsory jurisdiction constitutes new rights and obligations under constitutional (see Article 59, paragraph 2 of the German constitution) and international law and thus should have been asserted by the legislator through law of assent. Relying on the decision of the cabinet alone implies that public debate was intentionally circumvented.

Berlin, Mai 23, 2008

Frieden durch Recht Konferenz – Peace through Law Conference

The German IALANA have organised the 'Frieden durch Recht' Conference, which will take place in Berlin from the 26th/27th of June 2009. Conveniently the conference will be held directly after the IALANA General Assembly, also in Berlin. For those interested in further information about the conference please see www.ialana.de or email congress@ialana.de. Please note the conference will be held entirely in German.

Report on the 'No to war, No to NATO' campaign in Strasbourg

60 years are more than enough: "No to NATO – No to war"

Our actions against aggressive NATO military policy during its 60th birthday from April 1st to 5th 2009, and at the end of the worldwide week of action of the World Social Forum in Belem, have been a great success despite massive obstructions. Our goal is to dissolve and dismantle NATO.

Along the lines of "No to NATO – No to war" thousands of people protested and participated in the international demonstration, *the international conference*, actions of civil *and pacifist* disobedience, *and* the camp.

People from peace movements from all NATO countries were united, to democratize and demilitarize the relationships between the people and to search for new forms of peaceful cooperation.

The German and French governments' fear of their own citizens was obvious. It's the only explanation for the massive obstruction of the people living in this region, the police brutality, the many chicanes, the partial closing of the borders and the invalidation of the Schengen treaty. Basic democratic rights were trampled on. Violence comes from the powerful and ruling. We want the end of the militarization of the interior. We are defending Democracy.





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The old NATO of confrontation of the two blocks with arms race, nuclear missiles, nuclear war plans lost its function at the end of the cold war. The new “global NATO” threatens - with worldwide, unlawful military policy of intervention - hundreds of thousand of people and the environment, prevents the civilizing of international politics, and blocks solutions to global challenges. With the adoption of the preemptive strike strategy from the Bush era the danger of new wars, even with nuclear weapons, threatens.



Because of this we demonstrated on April 4th 2009 for a *political and peaceful* answer to international conflicts, for the withdrawal of all troops – and an end to the war - in Afghanistan, disarmament, countering poverty, the protection of the environment, social justice and the realization of the human rights. We are against the militarisation of the European Union and against the Lisbon Treaty because it imposes a role for NATO on the European Union. We want all foreign military bases, and all military structures used for wars, to be closed.

We want the military budgets to decrease noticeably and the transfer of the resources to counter the rising global social problems, all the more in the biggest crisis for 80 years. The way out of the global crisis is not the martial rearrangement under the dictate of the capital.

Our goal is a peace-spreading Europe in a world of solidarity. This is what we are going to work for.

Our participation in the “birthday celebration” of the NATO and other actions on April 4th in the US, Turkey, Cyprus etc. were the start of numerous further actions against NATO in 2009 and in the following years. We stood up for freedom, we will resume our resistance against war and authoritarian states. We will continue our international cooperation “No to NATO – No to war”.

60 years after the founding. 20 years since the end of the confrontation of the blocks we say No to NATO as a requirement for a world without war, *for peace, justice, solidarity, and democracy.*

Strasbourg, April 4th 2009



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b) New Zealand

Aotearoa Lawyers for Peace has moved into a new office in conjunction with the Peace Foundation and Parliamentarians for Nuclear Non-Proliferation and Disarmament.

ALP has two part-time staff - Alyn Ware and Mayra Gomez, both of whom are also working for the other two organisations previously mentioned.

Key projects include the Nuclear Weapons Convention, Nuclear Weapon Free Zones, Cluster Munitions, Depleted Uranium, the International Criminal Court and Divestment.

On the NWC, we launched Securing our Survival: The Case for a Nuclear Weapons Convention in the New Zealand parliament and received support for this event from around the world including from the Sergio Duarte (UN Under-Secretary General), Mayor Akiba, Rt Hon Jim Bolger (former conservative Prime Minister of New Zealand), Colonel Romeo Dallaire (former head of the UN Forces in Rwanda), Uta Zapf (Chair of the German Parliament Sub-committee on Arms Control, Non-proliferation and Disarmament), Sir Paul Reeves (former Governor-General of New Zealand) and many others.

On Nuclear Weapon Free Zones we commemorated the 20th anniversary of New Zealand's anti-nuclear legislation with events in parliament including parliamentarians from across the political spectrum. Implementing legislation and ratification.

On Cluster Munitions, we co-hosted the parliamentary reception for the negotiating conference for a Cluster Munitions Convention, which was attended by delegations from around the world and at which the New Zealand Minister for Disarmament received the international petition from Jodi Williams and cluster-munitions survivors.

On Depleted Uranium we assisted DUET (Depleted Uranium Education Team) in written and oral hearings to the parliamentary select committee on foreign affairs and trade in support of the petition to prohibit DU munitions.

On the International Criminal Court we assisted Pacific island countries in implementing legislation and ratification.

On Divestment we worked in coalition with other peace groups to encourage government funds to withdraw their international investments in corporations involved in the manufacture of nuclear weapons or their delivery systems. We succeeded in moving two government funds to do this. We are continuing to work on others.





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c) The U.S.A

LCNP/IALANA was the lead organizer of a May 1, 2008 conference in Geneva, “Good Faith, International Law, and the Elimination of Nuclear Weapons: The Once and Future Contributions of the International Court of Justice.” (See News in Review article, http://www.lcnp.org/wcourt/BurroughsNiRarticle_May2008.htm.)

The day-long conference attracted 90 NGOs, students, and diplomats. Featuring an outstanding keynote address by Judge Mohammed Bedjaoui, president of the International Court Justice when it rendered its advisory opinion on nuclear weapons in 1996, the conference greatly advanced understanding of the good faith negotiations on nuclear disarmament required by Article VI of the Nuclear Non-Proliferation Treaty (NPT). At the most basic level, good faith means keeping your promises and working sincerely and cooperatively to achieve agreed objectives. Phon van den Biesen of IALANA also examined the strategy of return to the International Court of Justice to seek its opinion on the nuclear disarmament obligation and the state of compliance with it.

With IALANA affiliate Western States Legal Foundation and our office-mates Global Action to Prevent War, and working closely with Mayor Frank Cownie and Mayors for Peace, LCNP also organized a great October 23, 2008 conference at Drake University in Des Moines, “Nuclear Abolition, Climate Protection, and Our Cities’ Future.” Speakers explained nuclear weapons and global warming both pose threats to the future of the human and other species; that action is needed at the local as well as the national and international levels; and that increased reliance on nuclear power is not a wise response to climate change, in part because it would only exacerbate the problem of nuclear weapons. For YouTube videos and texts of presentations, see <http://lcnp.org/disarmament/2008Oct23event.htm>.

In 2008, Charles J. Moxley, Jr., LCNP treasurer and author of Nuclear Weapons and International Law in the Post-Cold War World, led an LCNP board effort to produce an up-to-date statement on the incompatibility of nuclear weapons with the basic rules of the law of armed conflict. It's available at <http://lcnp.org/disarmament/2008JulyLCNPshortstatement.pdf> (2 pp) and <http://lcnp.org/disarmament/LCNPstatement2008.pdf> (6 pp).





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5. WORLD COURT PROJECT, 1 May Conference in Geneva:

Good Faith: A Fundamental Principle of International Law 1 May Conference Features Judge Mohammed Bedjaoui

John Burroughs Executive Director LCNP

“Good faith is a fundamental principle of international law, without which all international law would collapse,” Judge Mohammed Bedjaoui declared last week. President of the International Court of Justice when it gave its 1996 advisory opinion on nuclear weapons, and more recently Algerian Foreign Minister, he delivered the keynote address to a 1 May conference, “Good Faith, International Law, and the Elimination of Nuclear Weapons: The Once and Future Contributions of the International Court of Justice,” at the Warwick Hotel in Geneva. The event was co-organised by IALANA, IPB and several other international NGOs. (http://www.ipb.org/i/pdf-files/Good_Faith.pdf)

A major portion of Judge Bedjaoui’s address was devoted to the legal significance of the addition of the phrase “good faith” to NPT Article VI, which requires each state party to “pursue in good faith negotiations on effective

measures ... relating to nuclear disarmament”. The phrase also figures in the Court’s unanimous formulation of the obligation, based on NPT Article VI, “to pursue in good faith and bring to a conclusion negotiations on nuclear disarmament in all its aspects.” He explained that general legal principles governing good-faith negotiation as applied in the NPT context include:

sustained upkeep of the negotiation; awareness of the interests of the other party; and a persevering quest for an acceptable compromise, with a willingness to contemplate modification of one’s own position; • refraining from acts incompatible with the object and purpose of the NPT; proscription of every initiative the effect of which would be to render impossible the conclusion of the contemplated disarmament treaty; • respect for the integrity of the NPT; no selectivity regarding which provisions to implement; • a general obligation of information and communication; • prohibition of abuse of process such as fraud or deceit; • prohibition of unjustified termination of negotiations. In related observations regarding “building confidence,” Judge Bedjaoui stated: “Today more than ever, it is important to attribute a more decisive role to the UN in the coherent, democratic conduct of an integrated process of nuclear disarmament, with a realistic and reasonable schedule.”

Judge Bedjaoui also offered some fascinating observations on the 1996 opinion’s treatment of the question of legality of threat or use of nuclear weapons. He noted the “radical incompatibility existing in principle between the use of nuclear weapons and respect for international humanitarian law” reflected in the opinion. And he attributed the Court’s failure to advise that threat or use is illegal in all circumstances to the inability of some judges to ignore the “pseudo-scientific chiaroscuro” of a “clean” nuclear bomb raised by some states and referred to in paragraph 95 of the opinion.





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One of the conference panels considered the strategy of return to the International Court of Justice to seek its advice on the nature of the disarmament obligation and the state of compliance therewith.

Phon van den Biesen, an Amsterdam-based lawyer, advocate before the Court, and vice president of the International Association of Lawyers Against Nuclear Arms (IALANA), observed that the nuclear weapon states “pretend there are no specific obligations” flowing from the Court’s 1996 opinion. He said it is time for civil society to rally as it did in supporting the request for the first opinion, and for the UN General Assembly to “break the stalemate and ask the Court to remind the world that international law is not just text on paper, but agreed norms and obligations.” Representatives of organizations sponsoring the conference explained the emerging “good faith” campaign. Among them was John Loretz, program director of the International Physicians for the Prevention of Nuclear War (IPPNW). He said that the initiative to return to the Court and the International Campaign for the Abolition of Nuclear Weapons (ICAN) complement each other.

Other speakers addressing the conference were international lawyers and law professors and NGO analysts. Peter Weiss, vice president of IALANA and a distinguished human rights lawyer, called the U.S. retrogression from the 13 practical steps for nuclear disarmament agreed at the 2000 NPT conference a “clear violation” of good faith. Professor Marcelo Kohen of the Graduate Institute of International and Development Studies, Geneva, defended the Court’s holding in the 1996 opinion that states are required to “conclude” negotiations on nuclear disarmament. While that term is not found in Article VI, it is implied by the mandate to achieve the object and purpose of the NPT.

Professor Karima Bennoune of Rutgers Law School, USA, surveyed the human rights critique of nuclear weapons, which she said has been underutilized in both the human rights and disarmament fields.

She commented: “As in the area of nuclear disarmament, in the world of human rights, all too often we see clear and repeated violations of Article 26 of the Vienna Convention on the Law of Treaties which stipulates that ‘Every treaty in force is binding upon the parties to it and must be performed by them in good faith.’ States are rarely held accountable for these abuses.” She concluded: “Ultimately, I think that human rights and nuclear disarmament advocates should see a common interest in a vigorous defense of the principle of good faith in international legal process – as it is central to both our sets of projects.”

Ambassador Jaap Ramaker, drawing on his experience as chair of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) negotiations in 1996 when the treaty was adopted, identified political and legal conditions that support successful negotiations. Among them are: prior commitments to negotiation of a treaty (both the Partial Test Ban Treaty and the NPT identify the CTBT as an objective); commitments regarding completion of negotiation (the NPT 1995 Principles and Objectives specified 1996); establishment of a proper negotiating mechanism; and clear circumscription of the scope of the negotiations.





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Speaking on behalf of the New York-based Lawyers' Committee on Nuclear Policy, I outlined the lack of compliance with the disarmament obligation in the last decade. There have been no negotiations, bilateral, plurilateral, or multilateral, on the reduction and elimination of nuclear arsenals. The only arguable exception, the two-page 2002 U.S.-Russian agreement, was more of a confidence building measure, lacking provisions on verification or irreversibility.

Jacqueline Cabasso, executive director of the California-based Western States Legal Foundation, characterized the policy of the nuclear weapon states, in particular the USA, UK, and France, as "fewer but newer," and increasingly "capacity-based." These states, she said, cling to the notion of "deterrence" while the "threat" they seek to deter is an unknown and uncertain future. They are modernizing and qualitatively improving their "enduring" nuclear arsenals, both warheads and delivery systems.

The day-long conference attracted 90 NGOs, students, and diplomats. It was organized by the World Court Project to Abolish Nuclear Weapons, a civil society coalition formed by IALANA, IPPNW, International Peace Bureau, World Court Project UK, International Network of Engineers and Scientists for Global Responsibility, and other groups, and supported by the Simons Foundation and the Stiftung Europäische Friedenspolitik. A report on the conference and speakers' papers is available on www.lcnp.org

*John Burroughs is executive director of the Lawyers' Committee on Nuclear Policy and author of *The Legality of Threat or Use of Nuclear Weapons: A Guide to the Historic Opinion of the International Court of Justice* (1997).*





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6. A Nuclear Weapons Convention and the NPT: Is it a diversion or an enabler?

Draft Paper by Alyn Ware, Director, Aotearoa Lawyers for Peace

A: Introduction

"A nuclear disarmament treaty is achievable and can be reached through careful, sensible and practical measures. Benchmarks should be set; definitions agreed; timetables drawn up and agreed upon; and transparency requirements agreed. Disarmament work should be set in motion. Weapons of Mass Destruction Commission, 2006"

Introduction

The nuclear Non-Proliferation Treaty is generally considered to be a cornerstone of the current nonproliferation regime and the foundation for building a nuclear weapons free world. On the nonproliferation side it upholds an obligation by 185 countries not to acquire nuclear weapons and to accept international safeguards to prevent acquisition. On the disarmament side, it contains the only legally binding commitment on the States parties that possess nuclear weapons to pursue nuclear disarmament negotiations.

On the other hand, the NPT has been unsuccessful in preventing States outside of the treaty – India, Pakistan and Israel - from acquiring nuclear weapons. Nor is it able to prevent States acquiring nuclear technology assistance as parties to the treaty, and then withdrawing to pursue a nuclear weapons programme – as North Korea did. Nor has the treaty been successful in implementation of the nuclear disarmament obligation.

Following the International Court of Justice decision in 1996, which affirmed a universal obligation to pursue and bring to a conclusion negotiations on nuclear disarmament in all its aspects under strict and effective international control, the United Nations General Assembly called for the commencement of negotiations that would culminate in a Nuclear Weapons Convention (NWC) prohibiting the production, acquisition, stockpiling, transfer, use and threat of use of nuclear weapons and providing for their complete elimination under a phased program.

At the 2000 NPT Review Conference, Malaysia and Costa Rica introduced a working paper calling for the implementation of the nuclear disarmament obligation through the commencement of negotiations that would culminate in a NWC. However, this was not agreed by all States Parties to the NPT. Instead, they agreed to a more limited package of 13 disarmament steps which would reduce reliance on nuclear weapons and which could 'facilitate the process of elimination.'





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Thus, the question is whether it is best for States to continue to focus solely on the NPT and the 13 steps agreed in 2000, or whether a widening of focus to embrace the NWC would be more effective? Would a focus on a NWC divert attention and political impetus from the achievement of specific disarmament steps outlined in the 2000 NPT agreement, or would it enable such steps to be achieved more quickly as part of a more comprehensive process for the achievement of a nuclear weapons convention?

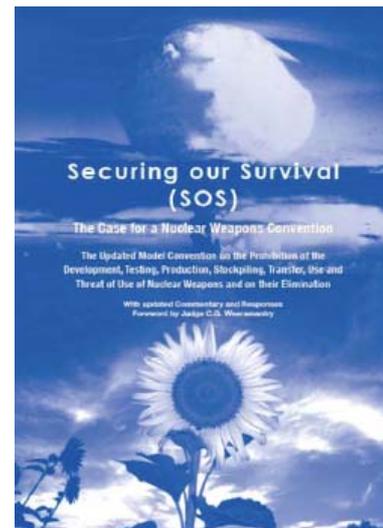
This paper examines the connection between the NPT and the NWC, explores the political dynamics which have prevented the NPT from achieving universality and from being able to implement the disarmament obligation, and concludes that a focus on a NWC would assist in the implementation of the NPT and in the achievement of a regime for the abolition and elimination of nuclear weapons.

For the full version of this article:

http://www.gsinstitute.org/pnnd/docs/NWC_and_NPT.pdf

Contents of full article:

- A) Introduction
- B) Connection between the NWC and the NPT
- C) An NWC can ensure full implementation of the NPT
- D) An NWC would help achieve universality of the NPT
- E) Next Step or a Comprehensive Process
- F) Investing Wisely in Political Capital
- G) From NPT to nuclear weapons convention – obligations of the nuclear Weapon States and the commencement of negotiations.
- H) Conclusion



There is an opportunity to do this now.
We should not let such an opportunity escape.





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7. UN Diplomatic Roundtable on the Nuclear Weapons Convention



H.E. Laura Thompson (Ambassador of Costa Rica to the United Nations in Geneva), Mohammed Bedjaoui and Lisa von Trapp (PNND Senior Officer – France)

On November 13, Parliamentarians for Nuclear Non-proliferation and Disarmament (PNND) joined the Costa Rican Mission to the United Nations, the Simons Foundation, the International Network of Engineers and Scientists against Proliferation (INESAP) and the International Association of Lawyers Against Nuclear Arms (IALANA) in co-sponsoring a day-long diplomatic roundtable at the United Nations in Geneva (Palais des Nations) on Steps toward a Nuclear Weapons Convention: Exploring and developing legal and political aspects.

The event came 11 days after the election of a new president in the United States, and three weeks after the announcement by UN Secretary-General Ban Ki-moon of a five-point disarmament plan which called for negotiations on a nuclear weapons convention (NWC), and highlighted the Model NWC which he had circulated to UN member States at the request of Costa Rica and Malaysia.

Ambassadors and disarmament representatives from 35 countries, including some of the Nuclear Weapon States, joined with legal and political experts to discuss ways of utilising the new political openings to make progress on nuclear disarmament, explore possibilities for advancing a nuclear weapons convention, and to consider key elements from the Model Nuclear Weapons Convention which could be developed and implemented in the near future.

The discussions were stimulated by a keynote speech from Mohammed Bedjaoui (former President of the International Court of Justice and former Foreign Minister of Algeria), and by short presentations from Greg Austin, (Vice-President of the East-West Institute), Tim Caughley (Director of the Geneva Branch UN Office for Disarmament Affairs), Ambassador Caroline Millar (Permanent Representative of Australia to the UN in Geneva), Ambassador Laura Thompson (Permanent Representative of Costa Rica to the UN in Geneva), Jeremy Corbyn MP (Member of the UK House of Commons and PNND Member), Thomas O'Grady (Mayor of North Olmsted and member of Mayors for Peace), John Burroughs (Executive Director, Lawyers' Committee on Nuclear Policy), Carlos Vargas Pizarro (Law Professor and Legal Consultant, Costa Rica), Peter



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Becker (Vice-President IALANA), Moritz Kutt and Martin Cieslik (Student participants in the 2008 Model NWC Negotiating Conference), and Ed Aguilar (Director of the Project for Nuclear Awareness).

Key themes (ideas, questions, issues) emerging from the roundtable included:

The need to adopt a comprehensive framework for nuclear disarmament, as proposed by the UN Secretary-General, in order to make progress on non-proliferation and disarmament steps, and to lay a pathway for a nuclear weapons free world;

There are now political openings arising from new leadership in the authoritative studies and a nuclear-weapons-free world, and point plan for nuclear

The need to enhance track two and Russia - and the role that parliamentarians and other actors



PNN Council Member Jeremy Corbyn

for a nuclear weapons convention United States, a combination of commissions focused on achieving the UN Secretary-General's five-disarmament;

diplomacy - especially between US disarmament experts, could play in this;

The possibilities for non-Nuclear Weapon States to take initial steps relating to the Nuclear Weapons Convention including national prohibition and criminalisation measures, development of verification capacities and possibly even the start of NWC negotiations or preparatory meetings for such. The value in using the Model NWC as an indication of the legal, technical and political mechanisms which can address concerns and security needs currently preventing progress, and the way it assists in developing a problem-solving approach to these issues;

The need to increase political will and momentum on nuclear non-proliferation and disarmament through high-level government action supported by parliamentarians, mayors and other sectors in civil society.

The roundtable included a presentation by Mayor Thomas O'Grady, member of the International Affairs Standing Committee of the United States Conference of Mayors, of a Proclamation entered into the US Congressional Record by Congressman Dennis Kucinich honouring PNN and supporting a Nuclear Weapons Convention.

There was also a UN delegates lunch honouring Mohammed Bedjaoui for his contribution to the advancement of international law, the promotion of legal principles for disarmament and the application of law to the peaceful settlement of disputes.

The lunch, which was vegetarian to support of the elimination of world hunger and protection of the environment, was hosted by PNN, The Simons Foundation and IALANA.





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8. Book Announcement – Legal Obligation to Nuclear Disarmament, Völkerrechtliche Pflicht zur nuklearen Abüstung?, L’Obligation de Désarmement Nucléaire?

The authors of this tri-lingual book devote themselves to the question:

What does it mean under international law that a legal obligation exists “to pursue negotiations in good faith and to bring it to a conclusion which leads to nuclear disarmament in all its aspects under strict and effective international control”?

Subject Content includes:



- Good Faith, International Law and Elimination of Nuclear Weapons
- The Intersection of Nuclear weapons and International Human Rights Law: Implications for the Good-Faith Obligation to Negotiate Nuclear Disarmament
- Good Faith Negotiation – The Nuclear Disarmament Obligation of Article 6 of the NPT and Return to the International Court of Justice.
- The use and function of human rights

Mohammed Bedjaoui - President of the International Court of Justice, 1994-1997, and a judge on the Court from 1982-2001. From 2005 to 2007, he was the Algerian Minister of Foreign Affairs.

Karima Bennoune - Professor of Law and the Arthur L. Dickson Scholar at the Rutgers School of Law – Newark. From 2005-2008, she also served on the board of directors of Amnesty International USA.

Dieter Deiseroth. Dr. jur - Judge at the Bundesverwaltungsgericht (German Federal Administrative Court) in Leipzig.

Elizabeth Jay Shafer, J.D. - (City University of New York Law School at Queens College, 1991). 2004 – 2007 Board Member of the Lawyers’ Committee on Nuclear Policy (LCNP), since 2008 Vice-President.



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9. The latest news from the Nuclear Weapons Convention (NWC): Former Secretary-General of PGA uses maiden speech to promote a nuclear weapons convention

Kennedy Graham, former Secretary-General of Parliamentarians for Global Action, entered the New Zealand parliament following the November 8 election and used his maiden speech as a Member of Parliament to emphasise the responsibilities that citizens, parliamentarians and the government have to creating a secure and sustainable world. He called on the parliament to adopt legislation prohibiting international aggression, and calling on the government to promote a Nuclear Weapons Convention. Graham argued that domestic legislation to prohibit aggression would serve to implement New Zealand's obligations under the UN Charter and ensure both State and non-State accountability in order to prevent any New Zealander being involved in an act of international aggression.

Graham argued that New Zealand could not rest on its 1987 legislation prohibiting nuclear weapons at home, but that the government needed to demonstrate genuine commitment to a nuclear weapons free world by acting more resolutely at the United Nations especially in promoting a Nuclear Weapons Convention.

Advancing a Nuclear Weapons Convention

Read the [latest announcement](#) from the Global Security Institute, highlighting the significant proposals for disarmament made by UN Secretary-General Ban Ki-moon, including his proposal for a World Summit to negotiate a nuclear weapons convention.

www.ialana.net

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