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Berlin, 9 June 2011

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**Ladies and Gentlemen,
Dear Colleagues,
Dear Friends of IALANA,**

There have not been many IALANA General Assemblies prepared as intensively, democratically and participatively as this year's event in the beautiful city of Szczecin. This is only possible due to the generous support from our Polish colleagues, and in particular from Pasquale Policastro.

In this newsletter, we would like to present the General Assembly's program with its public events and the sessions for IALANA discussions. As well as familiarising you with the main topics to be dealt with at the event, we would also like to give you an impression of IALANA's international work and activities.

The international IALANA relies on the activities of its national affiliate sections and particularly committed individuals. The essential focus of the organisation is its campaign against nuclear weapons, the blight of humankind, but it does not forget other issues related to war and peace.

This year's Assembly is taking place in a period of rapidly changing events that seem to compete with each other for the world's attention (which we can only refer to with brief keywords here): peoples' revolts in Arabian countries; the war in (or NATO's war against) Libya; the nuclear disaster in Fukushima; the international debate this provoked about the irresponsible use of nuclear energy; and the almost panic-like attempts to define the responsible alternatives, such as renewable energy, energy efficiency and energy savings. Should IALANA also assume a clear "twin no" stance: "No" to nuclear weapons and "No" to nuclear energy?

Within our organisation we have different opinions and positions on many issues, but as the "IALANA family" we surely agree upon the following: Humanity should free itself of its nuclear weapons blight, and wars do not represent a way to solve conflicts.

International law is facing some significant challenges and a wide-ranging discussion. Is it capable of dealing with the new situations? How can we stop it being abused? How should it and how can it be further developed? What does

“Peace through Law” really mean to us? How can it become a scientific, political and legal reality? This IALANA General Assembly provides another opportunity for us to take a look at these questions.

There will be many topics we can take a new and fresh look at, considering both the opportunities and the challenges presented to us by current developments.

IALANA needs new active members. Maybe this newsletter has helped to awaken your interest – we would be pleased to hear from you.

Peter Becker
Jenny Becker
Reiner Braun
Otto Jäckel

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IALANA GENERAL ASSEMBLY

Program

“Getting to a nuclear weapons free world: Gradualism versus leapfrogging”

Thursday, 16th of June

16.00 Sight-seeing walk in Szczecin

Until 18.00 Arrival of the participants

19.00 Get together Party

Friday, 17th of June

10.00 until 12.00

Round table:

“The Lisbon Treaty and the increasing role of military forces in European Policy”.

Chair: Pasquale Policastro

Introduction: Reiner Braun (political issues), Marc Entin (legal issues), Teresa Freixes (legal issues)

14.00 until 15.30

Round table:

“The rising danger of nuclear weapons and the use of nuclear energy - Counter Strategies”

Chair: Otto Jäckel

Introduction: John Burroughs, Peter Becker

16.00 until 17.30

Round table:

“Living Peace and International Law. IALANA’s activities for a Nuclear Weapons Convention.”

Chair: Dieter Deiseroth

Introduction: Peter Weiss, Alyn Ware, Phon van den Biesen, Toshinori Yamada

18.00 until 20.30

Public event at the university:

“Peace as a 21st century challenge – Is a nuclear weapons free World feasible?” with the President of the university, the mayor of the city, the arch bishop and Peter Weiss: Comments from the students.

Moderators: Peter Becker, Pasquale Policastro

Commentary: Takeya Sasaki (new president of IALANA) and Cora Weiss

20.30 Reception

Agenda for the General Assembly

Saturday, 18th of June

10.00 until 10.20

Welcome by Pasquale Policastro and Peter Weiss

10.20 until 13.00

- Reports on the international activities of IALANA since Berlin by Peter Becker, Alyn Ware, Jenny Becker
- Reports on the activities in different countries by representatives of the countries (7 Minutes each)

- Nomination of the election preparatory committee

Moderation: Teresa Bergmann (New Zealand, Germany, Poland), Robin Borrman (Germany), Kenichi Ohkubo (Japan)

14.30 until 17.00

Discussion about the future of the international IALANA: What are the main challenges for the IALANA? How to continue our fight for a Nuclear Weapons Convention? What to do in the field of Peace and international Law? Peace through Law. How to support Whistleblowing and social verification? How can we develop student work? How about promoting peace education in schools?

Introduction: Phon van den Biesen

Commentaries :(five minutes each)

- Jenny Becker
- John Borrrougths
- Annegret Falter
- Yaeka Inoue
- Kenji Urata
- Pasquale Policastro

17.00

Summary of the day: Pasquale Policastro

17.30-19.00

Central public event:

“Two aspects of the sword of Damocles: Nuclear Energy and Nuclear Weapons”.

(Judge Weeramantry)

A world without nuclear energy and weapons is possible.

Comment: Kenji Urata

19.00 until 19.30

Ongoing public event, discussion:

“Nobel Peace Prize – historical successes and recent betrayal?”

Introduction: Peter Weiss (10 min talk, 20 min discussion)

20.00

Social event

Sunday, 19th of June

10.00 until 11.30

- Decisions for the future work
- Finances (Otto Jäckel)
- Declaration of the meeting

11.45 until 13.00

Elections, i.e. for the new Board

13.00 until 13.30

Summary of the meeting (Peter Becker)

13.30 until 14.30

First meeting of the new elected Board

14.30...

Sight-seeing (castle), including concert with Teresa Bergman and Alex

Questions to Pasquale Policastro, Professor of Constitutional and European Law, University of Szczecin

Pasquale you are the main organizer of the General Assembly in Poland. Can you shortly introduce yourself.

I was born in Italy and I studied law there. I wrote my PhD and my habilitation in Poland, where I am working and doing research since 1987. In any model of “rule of law” peace has a very important role since it may permit to see whether the political entities are addressed to protect the existential manifestation of the person or to gain and exercise power. I gave a special emphasis to this topic throughout my researches, and for this reason I am specially happy of the possibility to contribute to the development of IALANA through the organization of this General Assembly.

What do you expect from the General Assembly? Why is it important for you?

This is a very important historical moment, where people are showing a deep need of freedom. Twenty years after the beginning of the process of transition in Europe, Arab world is showing similar desires. However many problems appear unresolved, and first of all, how to deal with conflicts. The use of strength is often deemed to be “necessary” without taking into genuine account its consequences. This assumption leads to the research and use of dreadful weapons, such as nuclear weapons. For example, the use of impoverished uranium bullets in former Yugoslavia seemed to be a huge set back for

European legal culture. To this extent, I am expecting from this GA to contribute to point out the practical legal content of the peace, as a fundamental principle of the international and European legal order, taking into account that the production and the use of



nuclear weapons is the final result of a constitutional foundation of the power of strength, and strength is founded on a relation between research, innovation, and capital accumulation that are addressed to these purposes. I expect from this GA that the problem of the banishment of nuclear weapons is seen starting from its constitutional grounds, in its relation with our everyday choices. In other words, that the banishment of nuclear weapons may become clearly related with our policies.

What is the support of your university?

The support of my university is huge, since Szczecin University has always wholeheartedly supported new line of research with practical implications. In particular, the Rector of the University, prof. Waldemar Tarczyński has been putting at the disposal of IALANA University facilities and organization structure and means, to support the endeavor of the organization of the GA, and to involve all the different local and regional institutions and agendas in the effort to organize this enterprise. The Faculty of Law is furthermore displaying every due effort to involve the Polish legal environment. Szczecin University sees in the GA a way to involve young lawyers in activities that have a very deep moral motivation, but that require technical skills and abilities. Especially lawyers that aim to contribute to the elimination of nuclear arms ought to have deep knowledges not only in politics, but in legislation, administration and judiciary, at national, international and transnational level. In particular, we are trying to support legal skills in the field of legislation in issues that, such as the elimination of nuclear arms, involve issues of big technological, environmental and social complexity, and that require a significant deal of interdisciplinary work.

Can you give us a short overview about the program?

The program is based upon two main days: June 17th, which is dedicated to present the present state of the affairs, and to start a discussion on the activities that may be developed in the future. In this discussion, we aim to involve an international group of scholars,

lawyers and practitioners from Szczecin and other environments, the institutional authorities, cultural and spiritual authorities of the city of Szczecin, and first of all the students. Among the objectives we have for the day, is to permit a wider interaction of IALANA, with a growingly wide environment of practitioners and scholars. We would like to underline the importance of joining moral engagement with a growing development of the technical skills that lawyers need to deal with nuclear weapons and the related problems, which embrace different legal branches, but require a specific specialization. For this reason we would like to involve lawyers with a different stage and different interests including students of law. In particular, they will with us their proposals for future legislation, international, European and national, to support the development of a world free from nuclear weapons, starting from the basic questions related with it.

How do you engage young people in the different meetings?

A university is a place for young people. The GA should be an occasion in which young people meet the challenges of the future involvement in the society and in their legal profession. We are developing an association of young lawyers, which is called "PEACELAB". The association is addressed especially to develop the legal skill related to project new legislation at the different levels, of the international organization, of the regional integration organizations such as European Union, and the national states. We aim to deal with projecting legislation in fields that are specially relevant for the development of the human societies, using them as a laboratory to train our legal skills as well as to develop supporting think thank and political advice. The GA of IALANA is for our young Members and our associates in the other universities we cooperate with, an extremely important reference point to project new legislation, refining our research, and making clear our purposes. Indeed our students are closely cooperating with the students of the

Autonomous University of Barcelona, of Montpellier I, of Milan, of Catania, of the University "MGIMO" of Moscow, of Rome, FO and FMO of München, within our joint Master in Law and Policies of European Integration. Our students plain carefully to share the results of the GA with the ather associates to PEACELAB, which include also our alumni and other young lawyers.

What should be the outcome of the General Assembly? Can we expect a Polish affiliate of the international IALANA?

I think that an important vocation of Poland, in the present international situation is to actively work to guarantee peace and the dignity of the human being. A wider engagement in IALANA is therefore an important contribution to this vocation. It is a fundamental duty of the Polish society to cooperate to eliminate all forms of cruelties and of oppression, starting from the most relevant and dangerous ones, such as nuclear arms. For this reason we expect to officially found our Polish affiliate during the days of the GA, as well as to contribute, to the world diffusion of the affiliates of IALANA International.



FUKUSHIMA

Nuclear reactor catastrophe in Japan – nuclear energy

An open letter to the world's environmental ministers

By C. G. Weeramantry

Former Vice President, International Court of Justice, The Hague President, International Association of Lawyers against Nuclear Arms Founder Trustee, Weeramantry International Centre for Peace Education & Research

March 14th 2011

The earthquake in Japan and the resulting damage to nuclear power plants have sent shock waves and a dire note of warning to the world's entire population. Despite their obvious dangers, nuclear reactors are proliferating worldwide and sowing the seeds of pollution and congenital deformities for a thousand generations to come (the half life of Plutonium 239, one of the bi-products of nuclear activities is 24,100 years).

Unborn generations are just as much members of the human family as ourselves but have no voice to speak for themselves. We take advantage of this and are damaging them catastrophically by our breach of trust of this environment of which we are custodians and not owners. Every single citizen is a trustee of the environment. All the more are Governments trustees, and in particular the environmental ministers of the world bear a special responsibility in this regard. We are in default of our duties if we continue to keep open such possibilities and create more, despite our knowledge of their dreadful consequences. Our generation and particularly those who are specially entrusted with the care of the environment will have to answer before the bar of history for our default and abuse of trust. Indeed we are committing the gravest possible crime against future generations and are doing so with a full consciousness of the effects of our actions.

If people of the Stone Age had been able to cause damage to the environment and cause congenital deformities to our generation, we would have condemned them as savages, brutes and barbarians. Yet, even if they could have caused such damage,

they could have had no idea of the irreparable harm they were causing to generations yet unborn. We, on the other hand, who are fully aware of the catastrophic damage we are causing to unborn generations, still proceed regardless, pursuing activities which, it is patently clear, will release these dangers sooner or later. We continue to build nuclear reactors all over the world.

Even a school child is aware that no power on earth can insure against earthquakes, tsunamis, wars, insurrections, negligent management and other disasters. These will inevitably occur over a period of years and not only do we know this as a virtual certainty, but we know also that there is no known means of eliminating them. This makes us savages, brutes and barbarians several times over. In a supposedly enlightened age, we are, with total disregard of any sense of responsibility, proceeding to build more reactors, pursuing short term advantages while being fully aware of the long term perils we are inflicting on our own posterity. Solar and other renewable energy sources provide all the energy the world needs but we neglect them, for there are great profits for those few who are engaged in the nuclear energy enterprise, whatever the costs to the vast majority and the generations yet to come.

As a result we have become the most destructive generation in all of human history, regardless of the fact that we are destroying the undoubted birthright of billions of human beings for whom we hold the environment on trust.

I take the liberty of addressing you on this matter as I have for over 30 years campaigned against the dan-

gers of nuclear weapons, nuclear reactors and nuclear waste. As early as 1985, I toured the major cities of Japan at the instance of the Japan Scientists' Association delivering lectures on the dire dangers to humanity resulting from nuclear weapons, nuclear reactors and nuclear waste.

Also, nearly thirty years ago, in *The Slumbering Sentinels: Law and Human Rights in the Wake of Technology*, Penguin 1983, pp 139-141, I foreshadowed this danger, referring to leakages from nuclear reactors and the possibilities of major accidents threatening our very survival. I referred also to the possibility that, if the residents of a city were exposed to radioactive contamination through a serious nuclear accident, the national interest may demand their compulsory sterilisation to prevent the birth of an unprecedented number of defective children, observing that "we are only a nuclear accident away from this". I referred also to the fact that a major accident near a populated city could cause property damage and health damage which could not be estimated even in hundreds of billions of dollars, and for which insurance coverage would be beyond the realm of possibility. As early as 1982, the Nuclear Regulatory Commission (NRC) released estimates of death and property damage from reactor accidents running to over \$300 billion in crowded city areas. The Harrisburg nuclear leak demonstrated, even then, how close we could be to a nuclear accident, the percentage possibility of a nuclear accident occurring somewhere in the world being assessable at between 5 and 10% within the next few years. Such reasonable forecasts of possible catastrophes have somehow been completely submerged by the combined political and economic strength of those who advocate the extension of nuclear energy.

In my Dissenting Opinion in the case in which and Advisory Opinion was sought from the International Court of Justice on the legality of nuclear weapons, I discussed the possibility of damage to nuclear reactors and the lethal doses of radiation to exposed persons 150 miles downwind and the radioactive contamination of the environment more than 600 miles away. I also discussed the damage caused by the Chernobyl incident, for years after its occurrence, to all species of life for thousands of square miles in

the vicinity, which necessitated the pouring in of medical personnel, supplies and equipment from across the Soviet Union in a manner which strained the resources even of that powerful nation. Smaller states could be completely crippled by such an accident, with a loss of income, loss of life, loss of jobs and loss of resources from which it would take generations to recover. Medical injuries caused included convulsions, vascular damage, cardio vascular collapse, keloids and cancers.

Having discussed these dangers in judgments, publications and lectures worldwide for so many years I have been devastated at the thought that my worst premonitions have come to pass and worse can follow if we continue with our betrayal of trust and abandonment of responsibility towards our children and our children's children.

Any plea for the abolition of nuclear reactors would be incomplete without reference to the problem of disposal of nuclear waste. Nuclear waste carries all the elements of radioactive danger to health and the environment and there is no known means of disposal of these toxic accumulations. Whether they be buried in the depths of the ocean or deep trenches or salt beds, or wherever else, we cannot guarantee for twenty-four thousand years that they will remain safe in their repositories, and we would be inflicting this source of inter-generational, environmental, and physical damage on future generations in a manner which is totally unjustifiable by any standards of morality or law.

Another danger, which by itself is sufficient to justify the total abolition of nuclear reactors, is that nuclear waste from hundreds of reactors cannot possibly be accounted for and it is well known that such records are not maintained, even by the International Atomic Energy Agency (IAEA). This material is the raw material needed for the manufacture of nuclear weapons and there is here an open invitation to terrorists across the world to interest themselves in the manufacture of nuclear weapons. This is particularly dangerous in a world in which the necessary knowledge for the construction of a nuclear weapon is available on the internet, as I have been assured by eminent physicists. In the result, the continuance and proliferation of nuclear reactors violates every prin-

ciple of humanitarian law, international law, environmental law and international sustainable development law.

The traditional wisdom of ancient peoples such as the Native Americans used to ordain that no serious decision concerning the community should be taken without considering its impact for seven generations to come. Traditional African wisdom has decreed that any major decision affecting a community should bear in mind the three-fold face of humanity – those who went before us, those who are alive here and now, and those who are yet to come – without which the decision taken would be a lopsided one.

Our modern technological civilisation disregards all such traditional wisdom in addition to disregarding the governing principle that we should tread lightly on the earth, which underlies all environmental law (I have expanded on these aspects in *Tread Lightly on the Earth: Religion, the Environment and the Human Future*, Stamford Lake, 2010).

It is not only traditional wisdom we disregard. We disregard also the wisdom of the great religions of the world, which are likewise united in their concern for the people of the future. Jesus Christ warned that it would be better for those who place obstacles in the way of children to have a millstone around their neck and to be drowned in the ocean. The Koran states that the true followers of the Almighty are those who tread lightly on the earth. Buddhism teaches that not even a sovereign is the owner of land, but only a

trustee, and Hinduism prescribes detailed duties lying on the sovereign to look after every department of environmental protection.

Judaism likewise, in numerous teachings, elevates protection of the environment to the level of a primary duty.

All these are aspects which must necessarily engage the attention of ministers charged with care of the environment, in an age when the environment is being threatened as never before during the hundreds of thousands of years of humanity's existence on the planet.

I urge on you, as custodians of our environment, the need for immediate action to halt the construction of new reactors, explore alternative energy systems and phase out the existing ones. Populations throughout the world need to be alerted to the dangers we are facing. The one-way flow of information on the benefits of nuclear reactors needs to be reversed.

Failure to take these steps will result in the commission of crimes against future generations and a gross betrayal of the trust which we owe to our children and our children's children. You are in a position to play a leadership role in this crisis. This is an appeal to you, as those primarily responsible for the care of our planet, to do all within your power to avert the catastrophes that loom ahead.

Time is running out. Please act now.

From Hiroshima to Fukushima: A New Look at Our Starting Point

By Kenji Urata

Vice president, International Association of Lawyers Against Nuclear Arms Professor emeritus, Waseda University

What Was Our Starting Point?

My involvement with the concerns of the International Association of Lawyers Against Nuclear Arms (IALANA) started even before its birth. The Chernobyl disaster occurred in April 1986, after which concerned international democratic lawyers began activities on nuclear arms. Unforgettable in this connec-

tion is the influence of Seán MacBride, the Irish winner of the Noble Peace Prize and Lenin Peace Prize. IALANA was founded in Stockholm in April 1988, and it held its inaugural general assembly in Den Hague in September 1989, which I heard during my stay in New Zealand. It was in February 1990, when I had gone to Australia for the Science Council of Ja-

pan, that IALANA released its important statement about its major project. A lawyers' movement seeking the abolition of nuclear weapons had already started in Japan before the spring of 1988. I was later sent by the Japan Association of Lawyers Against Nuclear Arms (JALANA) to attend the second general assembly of IALANA (Amsterdam, January 1992). There IALANA decided that the World Court Movement, which would seek the advisory opinion by International Court of Justice on the legality of use of nuclear weapons, would be high on the agenda for the time being, and I found out there how the campaign was specifically to be carried out. JALANA narrowed the focus of its campaign objectives to two areas: demanding the abolition of nuclear weapons and support for the A-bomb survivors: hibakusha.

After Hiroshima and Nagasaki

The nuclear age kicked off with the success of the Manhattan Project, and proceeded with the pursuance of plans for the peaceful use of nuclear energy. Looking back, we see that humanity experienced the unprecedented catastrophes of Hiroshima and Nagasaki in August 1945 owing to the grave crime committed by America's leaders. But the US leadership of the time had an extremely overoptimistic awareness of the dangers of artificial radioactive substances (the half life of Plutonium-239, a byproduct of nuclear reactions, is 24,100 years).

The US and the Soviet Union entered into a fierce nuclear arms race and created NATO and the Warsaw Pact alliance to protect their allies with "nuclear umbrellas," while the Japan-US Security Treaty likewise was from the outset in fact underpinned by the doctrine of nuclear deterrence. In 1952 and 1953 both the US and Soviet Union were even testing hydrogen bombs. In the midst of these developments America's President Eisenhower delivered his "Atoms for Peace" speech to the UN General Assembly out of consideration for the US strategy on nuclear weapons. The idea was that the International Atomic Energy Agency (IAEA) would be created, and all governments — including the Soviet Union — having nuclear power technology would deposit their natural uranium, enriched uranium, and other nuclear materials with the IAEA, and countries would together think of ways to use these nuclear materials

for peaceful purposes. This was followed by a big promotional pitch that successfully implanted in people's minds the dichotomy that "nuclear power and nuclear weapons are not the same thing."

Linked with this context were the efforts of Yasuhiro Nakasone and Matsutaro Shoriki, which in March 1954 helped pass a nuclear power budget in Japan, and this was followed in April by the Science Council of Japan's proposal of three nuclear power principles: autonomy, democracy, and openness. From that time, the intent of the political, academic, and economic circles in Washington and Tokyo created a "nuclear complex." The plan for the "peaceful use" of nuclear energy was in fact linked with the operation of the "nuclear umbrella" in conjunction with the military alliance.

Nuclear Power Accidents under the NPT System

The Nuclear Non-Proliferation Treaty (NPT) is part of the legal system to regulate arms. The true aim of this treaty, which was signed in New York in July 1968, was for the five nuclear powers to prohibit Germany, Japan, and other countries from acquiring nuclear weapons. In legal terms, the nuclear powers alone would continue to monopolize nuclear weapons, while countries without nuclear weapons would be allowed to demand that nuclear disarmament be carried out, and given the right to develop research, production and use of nuclear energy for peaceful purposes. This right was even said to be "inalienable" owing to the perception that had been shaped by the end of the 1960s. Additionally, the Statute of the Vienna-based IAEA is actually a law assuring the peaceful use of nuclear energy, and until now that has been emphasized. Facilitating the peaceful use of nuclear energy is the true intent, and for that purpose it also attempts to carry out its role of guaranteeing that the nonproliferation system functions.

A number of nuclear power disasters befell the US and Soviet Union nuclear superpowers, which had adopted this system. New questions were put to the science, philosophy, and policies for nuclear safety and the limitations of nuclear science and technology were exposed. First there was the US Three Mile Island accident in 1979. Even though an overwhelming number of researchers and engineers work in the US nuclear complex, no more nuclear power plants

have been built since that time. In the following year, 1980, Sweden's Riksdag voted to close that country's nuclear power plants. Then came the Chernobyl accident in 1986, followed five years later by the collapse of the Soviet empire. But because the radiation damage in the former Soviet republics of Belarus and Ukraine directly killed only 50 people, the IAEA has grossly underestimated it. Nevertheless, European countries such as Germany and Belgium subsequently moved to eliminate nuclear power. Even France decided to close its fast breeder reactor. But Japan swam against the current. In Japan, Tokyo Electric's Fukushima I-1, which had been designed by the US company General Electric and in whose construction Toshiba and Hitachi were involved, started operating in March 1971. Further, in November 1987, the year after the Chernobyl accident, Japan and the US signed a new accord on nuclear power. Thus in terms of energy self-sufficiency, this arrangement put Japan under 4% in practical terms. This happened because Japan followed the US nuclear strategy and gave in to the temptation of the money-first nuclear complex without thinking carefully. At the same time, Japan has accumulated enough nuclear materials and technology to enable it to quickly arm itself with nuclear weapons, to the extent that it is called a "quasi-nuclear power."

The Significance of Fukushima

First off, there was the mistake of taking no appropriate action within the first few hours of the first earthquake shock. After the earthquake on the afternoon of March 11, but before the tsunami came, operators shut down the emergency cooling system in accordance with the manual because core temperature and pressure had dropped. If the manual had not contained erroneous instructions and the cooling system had been operating, there should have been no hydrogen explosion. Also, belated venting that led to the hydrogen explosion was perhaps a greater instance of mismanagement in the initial response. Nine hours passed from the prime minister's order to

vent until venting started. The mythology of nuclear reactor safety, TEPCO's denial of the accident, and its culture of concealment led to these mistakes after the initial quake. On April 12, a month after the accident, NISA finally announced that the Fukushima accident was the same level 7 as the Chernobyl accident as assessed using the International Nuclear and Radiological Event Scale (INES). Already by March 25 French and US experts had recommended that the accident must be raised to level 6. The US Nuclear Regulatory Commission (NRC) and the IAEA had released their opinion made in light of information obtained on and after March 18, and faced with strong pressure from the Obama administration, the Japanese government had arrived at the assessment that the accident was actually level 7.

Conclusion

Lawyers against nuclear arms must take a new look at our starting point. This means that by redrawing the big picture of the nuclear age, we will overcome the dichotomy that "nuclear power plant and nuclear weapons are not the same thing," and help both "the atomic bombing hibakusha" and the "nuclear power plant hibakusha." If this perspective is limited to a discussion on the legal aspects of Fukushima, it is as follows: Continuing nuclear power plant and expanding it, even while knowing its horrific consequences, violate all the principles of international law, environmental law, and international law pertaining to sustainable development. If government authorities do not act immediately to stop the construction of new nuclear power plants, they are committing crimes against future generations. What is more, it is a crime against humanity to allow currently operating nuclear plants to continue operating. I suggest that lawyers of the present have the role and responsibility to academically and technologically elaborate on this legal consciousness and legal inquiry, and disseminate their results locally, regionally, and globally.

May 15, 2011

Japan's Nuclear Cartel

Atomic Industry Too Close to Government for Comfort

By Cordula Meyer

After the oil crisis of the 1970s, Japan embraced atomic power with a vengeance. Since then, the ties between the government and the nuclear industry have become so intertwined that public safety is at threat. Inspections are too lax, and anyone who criticizes the status quo can find themselves out of a job. For reasons of data protection and privacy, your IP address will only be stored if you are a registered user of Facebook and you are currently logged in to the service. For more detailed information, please click on the "i" symbol.

It was a Friday morning, and Yukio Yamaguchi had left his gray cardigan at home and was wearing his good, dark-brown suit instead. He had boarded the Shinkansen, Japan's high-speed train, to travel to Kashiwazaki-Kariwa on the west coast, home to the world's largest nuclear power plant.

The reserved physicist with horn-rimmed glasses and a gray goatee is an anti-nuclear activist with the Citizens' Nuclear Information Center. He was on his way to attend the meeting of a commission that addresses earthquake safety for power plants. This meeting, together with TEPCO, the operator of the Kashiwazaki plant, was being held to discuss the subject of earthquake and tsunami safety.

It was the morning of March 11, 2011.

Shortly after 1 p.m., Yamaguchi sat down in his usual seat, the second from the left in the first row, in a wood-paneled conference room at the Niigata Prefecture administration building. But what good was it to warn people about the dangerous tidal waves? "It was the same as always," says Yamaguchi. "One man against a dozen TEPCO people. And they said that everything was in perfect order." Until 2:46 p.m., that is, when TEPCO's "perfect order" was destroyed. The building suddenly started shaking. It was an earthquake, and everyone ran outside. The meeting was interrupted for 15 minutes, but then it was reconvened. A TEPCO spokesman pointed out, once again,

how well the Kashiwazaki plant was protected against earthquakes and tsunamis.

No one in the room suspected that in those very minutes, some 200 kilometers (125 miles) farther to the east, a wave more than 14 meters (46 feet) high was rolling toward the six-meter protective wall at TEPCO's second-largest nuclear complex.

The meeting in Niigata ended at about 4 p.m. Just as Yamaguchi was checking into a local business hotel (the bullet train had stopped running, because of the earthquake), TEPCO was notifying the government that it had lost control over the reactors at its Fukushima Daiichi nuclear power plant.

Making a Farce of Safety Claims

Time and again, the new realities have revealed the nuclear lobby's safety slogans to be a farce. Apparently the earthquake alone caused the first tubes to crack. The fuel rods melted down into redhot clumps of uranium, eating holes into the floor of the reactor pressure vessel in Unit 1 at an early juncture. And not even the risk of steam explosions has been averted.

TEPCO's and the Japanese government's reassurances have proven to be meaningless. Tens of thousands of people have had to leave their homes, possibly for good. Even the mountain village of Iitate, almost 40 kilometers (25 miles) from the disaster site, has begun to be evacuated.

For a full two months, TEPCO management tried to reassure the public and denied all responsibility, even during its ineffectual attempts to get the damaged reactors under control. It wasn't until last Friday that TEPCO President Masataka Shimizu and Vice President Sakae Muto finally announced their resignations -- a decision that was driven mainly by the company's massive quarterly loss of €10.7 billion (\$15.1 billion).

The choice of Toshio Nishizawa, another top executive at TEPCO, to replace Shimizu will hardly change the company's inept crisis management strategy. The crisis team will continue to meet on the second floor of the TEPCO headquarters building in Tokyo, in a large conference room with pieces of paper taped to the inside of the windows. The top executives sit around a semicircular table. There is Muto, head of TEPCO's nuclear division until now, who used to chair the meetings, with Chairman Tsunehisa Katsumata sitting to his left. Katsumata usually makes an appearance at 9 a.m. and returns between 6 and 7 p.m. Shimizu was rarely seen at the meetings recently, says another executive.

There are several smaller, round tables scattered around the conference table. Teams of outside experts, including specialists from the United States Nuclear Regulatory Commission and France's Areva nuclear power company, as well as Japanese scientists, sit at these tables. Everyone stares at a large video screen showing dedicated lines to all of TEPCO's power plants, including Kashiwazaki.

At the moment, however, they are usually looking at the bottom left corner of the screen, where there is an image of Masao Yoshida, 56, the head of the plant, who is reporting from the earthquake-proof room at the Fukushima Daiichi plant. "Yoshida often has trouble getting his message across," says one of the meeting participants. "The people at the site have to make an effort to convey how serious the situation really is."

Too Big to Fail

It isn't even entirely clear who is actually responsible for crisis management. A few weeks ago, when SPIEGEL asked a TEPCO spokesman who was running the crisis team, he replied: "Prime Minister (Naoto) Kan." When a member of the Japanese parliament asked the government the same question, it replied: "Primarily TEPCO." Meanwhile, the country's Nuclear and Industrial Safety Agency (NISA) announced: "We all support TEPCO in a unified manner in its management of the crisis." One of the government's contributions to this support is financial -- Tokyo is spending the astronomical sum of €43

billion to protect TEPCO from ruin. The axiom "too big to fail," which guaranteed the survival of the major European and American banks during the financial crisis, is also proving to be applicable to Japan's largest electric utility.

TEPCO, the world's fourth-largest power company, employs more than 52,000 people and most recently posted annual revenues of about €35 billion. Before World War II, the government nationalized all electric utilities and merged them into regional monopolies. The resulting 10 companies are now private, but they have retained their regional dominance.

The Ministry of Economy, Trade and Industry (METI) has consistently treated the electric utilities as tools with which to execute its industrial policy. In return, the utilities enjoy guaranteed profits. Some 45 million people in the Tokyo region get their electricity from TEPCO. The company is ubiquitous. It pays for research and sponsors many news programs. It even built a giant electricity museum in the center of Tokyo's popular Shibuya shopping district.

The Fukushima disaster destroyed much more than a power plant. It has destabilized the entire system on which the Japanese nuclear industry is based.

In Japan, the term "The Atomic Village" refers to an isolated elite that has formed around the country's nuclear complex. Its residents include TEPCO's nuclear divisions and the corresponding departments at the METI. Scientists, politicians and journalists are also members of this exclusive nuclear club.

Activist Yamaguchi has repeatedly run up against the secure walls surrounding this Atomic Village. "They all feel connected," he says. "They all studied at the top university in Tokyo, and after that they worked here at TEPCO or at the agency that's supposed to regulate TEPCO."

Part 2: A Threat to Japan's Democracy

Both the nuclear industry and its government regulators are also closely intertwined with the political sphere. TEPCO's management is among the key campaign donors to the conservative Liberal Democratic Party (LDP). Meanwhile, the union that repre-

sents workers in the electricity industry supports Prime Minister Kan's Democratic Party of Japan (DPJ). So far neither of the two parties has taken a position critical of the nuclear industry.

It's as if Austrian writer Robert Jungk's horrific vision of the "nuclear state" had become reality. In his book "The Nuclear State," once required reading for Germany's protest generation, Jungk describes how a high-risk technology can erode a democracy, even without a nuclear disaster. Many of the protesters who faced water cannons, batons and concertina wire during demonstrations in the 1970s and 1980s at German sites like the Brokdorf nuclear power plant near Hamburg, already felt as if they were living in the dreaded surveillance state.

Germany was ultimately spared Jungk's vision, but in Japan it has proven to be prophetic. In a consensus-based society, the nuclear industry, electric utilities, political parties and scientists have created a sacrosanct refuge for themselves that has become a threat to Japan's democracy.

It is clear that wheeling and dealing in the Atomic Village played a role in the Fukushima disaster. According to TEPCO's calculations, the maximum possible height of a tsunami in Fukushima was 5.7 meters. The company acted on the authority of a committee made up of members of Japan's engineering society. But a majority of the commission's 35 members had once worked for electric utilities or think tanks funded by the utilities.

'The Japanese Public Is Partly Responsible'

Even many media organizations, as recipients of generous payments for the electricity industry, are part of the cartel. "The Japanese public is partly responsible for the disaster in Fukushima," says activist Yukio Yamaguchi. Nature triggered the catastrophe, but Japan itself created the conditions that allowed it to happen, he says.

Ironically, hardly any country on earth is more poorly suited for high-risk nuclear technology than earthquake-plagued Japan. A folk legend describes the islands as being perched on the back of a giant fish in

the ocean, a fish that is constantly trembling and twitching -- not a good basis for operating the world's third-largest collection of nuclear reactors. Only the United States and France have more nuclear plants.

Nevertheless, until disaster struck Japan continued to forge ambitious expansion plans. To reach its goal of producing half of all the electricity it consumes with nuclear energy by 2030, the country had planned to build a double-digit number of new reactors.

The oil shock of the 1970s came as a wakeup call for Japan, a rising industrial nation at the time. It prompted the government to define the development of a strong nuclear industry as a national goal. Since then, Japanese politicians have inextricably linked the country's rise to prominence and prosperity with nuclear energy.

Buoyed by the prospect of being largely independent of imports of fuel for energy production, Japanese politicians even decided to establish a plutonium industry. Fast breeder reactors, which produce more fuel than they consume, seemed too tempting to pass up.

'Brainwashed'

While most of the world's nuclear nations were abandoning this risky and expensive option (Germany turned its fast breeder reactor in Kalkar near the Dutch border into the most expensive amusement park of all time), Japan inaugurated its Monju breeder reactor and, in 1993, laid the foundation for a reprocessing plant in Rokkasho on the northern tip of the main island, Honshu. At an estimated cost to date of more than €14 billion, the facility is one of the most expensive industrial plants in the world, and yet it has never been in full-fledged operation.

"Our country was literally brainwashed," says Taro Kono, a member of the lower house of the Japanese Diet for the conservative LDP. "Atomic energy is a cult in Japan."

Kono, 48, comes from one of Japan's major political dynasties. He has been a member of the parliament for almost 15 years and is notorious for his independ-

ent views. He is one of the few members of his parliamentary group to have dared to question Japan's nuclear policy. As a member of parliament who has one of the best election results in Japan, Kono feels even more emboldened to express his opinion. "This is the only reason I can afford to criticize the nuclear industry in the first place," he says with a smile.

"Now TEPCO is saying that the tsunami was much bigger than expected," says Kono. "But what were they expecting?" This, he says, was the conclusion reached by a commission dominated by the power companies, which included almost no earthquake or tsunami experts. "It determined how big the tsunami should be," Kono says. "That's why the electric utilities are the ones who are mainly responsible. It's as simple as that." But for Kono, finding allies is difficult in a country where any criticism of the nuclear industry can end the careers of scientists, journalists and politicians.

Scientists Keep Quiet

TEPCO's influence even extends into scientific laboratories. Many scientists, especially at the University of Tokyo, are partial to TEPCO. The company contributes millions to the university and supports many associations, think tanks and commissions. This form of public relations has been useful to the company until now.

Not a single scientist or engineer at the University of Tokyo has ever been known to have spoken critically about TEPCO, even after the accident in Fukushima. "If you are a critic of nuclear power, you are not promoted, you don't even become a professor, and you are certainly not appointed to key commissions," says Kono.

At times, doubts are indeed voiced about the system of crony commissions. Five years ago, for example, seismologist Katsuhiko Ishibashi resigned from the committee that had been tasked with revising the safety regulations for Japanese nuclear power plants. Of the 19 committee members, 11 were also members of committees within the Japanese electricity lobby. Ishibashi criticized the decision-making process on the committee for being "unscientific." "If we

do not fundamentally improve our technical standards for nuclear power plants, Japan could experience a nuclear catastrophe after an earthquake," he warned at the time.

But it is difficult to get through to the Japanese public with such warnings, given the millions upon millions of euros TEPCO spends on media and public relations each year. Its image cultivation campaign even includes the sponsorship of news programs, including Tokyo station TBS's "News 23," Fuji's "Mezamashi TV" and TV Asahi's "Hodo Station." In TEPCO's world, everyone gets a piece of a very large nuclear pie.

Part 3: Keeping the Media Sweet

The company also has a habit of placating journalists with luxury trips. For example, on the day the tsunami inundated the Fukushima Daiichi nuclear plant, TEPCO Chairman Katsumata was keeping journalists company in a nice new hotel in China -- on an "educational trip."

"We have built the structure in such a way that everyone has an interest in supporting nuclear power," says Kono. Stricter inspectors, critical reporters and obstreperous citizens would only get in the way.

There has been no lack of alarm signals, but they have never produced any consequences. The biggest scandal to date came to light through a disgruntled employee. In 1989, Kei Sugaoka, a US engineer with Japanese roots, inspected Reactor 1 at the now-stricken Fukushima Daiichi plant. He worked for General Electric (GE), the plant's manufacturer.

Sugaoka was startled to find cracks in the steam dryer, "pretty sizeable ones," as he recalls today. It later occurred to him that the device had been installed incorrectly -- by a 180-degree rotation. He notified his superiors. Then his team waited a few days for further instructions, while receiving their full pay.

Safety Revelations

When the men were called back to the power plant, their higher-ups had apparently agreed on the next steps. Sugaoka says that his supervisor at GE told him to edit the inspection video and remove the sections in which the cracks were visible. "And that was what my team did," says the engineer, "while two men from TEPCO looked on."

Nevertheless, he felt uneasy about the whole thing. After returning home, he wrote down what had happened and kept the documents. After being fired from GE in 1998, Sugaoka was determined to bring the affair to light. On June 28, 2000, he wrote a letter to Japan's nuclear safety agency NISA, describing what had happened. He wrote three or four similar letters after that.

Sugaoka's revelations shook the country. It soon became clear that TEPCO had systematically falsified safety reports. The company's president and four other senior executives had to resign over the affair, and the government temporarily shut down 17 reactors.

About that time, it was also revealed that several Japanese TEPCO employees had reported safety concerns to the regulatory agency. It, in turn, promptly disclosed the whistleblowers' identities to TEPCO, as a NISA spokesman confirmed.

Gentleman Whistleblower

The scandal had no long-term consequences in Japan. In Fukushima, however, it brought Eisaku Sato into the arena. Sato, the former governor of Fukushima Prefecture, is a distinguished, silver-haired gentleman. He loves antiques and golf, and he opposes nuclear energy.

After discovering how carelessly NISA had treated the complaints from inside the Atomic Village, he decided to get involved. From 2002 to 2006, 21 insiders contacted Sato directly, and members of his staff met secretly with the whistleblowers. After recording and documenting the complaints, they forwarded them to NISA.

Whenever nothing happened for a period of time after the complaints had been submitted, Sato's staff members made more inquiries. "No one was keeping tabs on TEPCO," says Sato, who is wearing dark-blue sports jacket with a pocket square. "Fukushima Prefecture took on the job that NISA really ought to be doing. The main problem wasn't TEPCO at all, but NISA. They simply didn't pass on the complaints."

The ministries, regulatory agencies and power companies are so closely intertwined that conflicts of interest are virtually built into the system. One of the objectives of the powerful industry ministry, METI, is to promote the nuclear industry. Another goal is to export Japanese nuclear technology to emerging economies. The problem, however, is that NISA, the agency that is supposed to monitor the nuclear industry, comes under the authority of the nuclear-friendly METI.

The Power of Amakudari

Not surprisingly, the controls are lax, reports nuclear engineer Tetsunari Iida. He once designed the Japanese version of the CASTOR containers that are used to transport highly radioactive nuclear waste in Europe. To this day, he remembers how shocked he was as a novice in the industry. "I was just a 20-year-old boy, but what I did was simply rubber-stamped," says Iida.

Even 20 years ago, Iida experienced how nuclear power plant workers would signal to each other when an inspector was approaching. A worker would quickly wipe off a leaking heat exchanger to make it look perfectly in order, and would then disappear. The inspector noticed what was going on but ignored it. "Our inspections are a complete sham," says Iida. The close-knit relationship between the industry and regulators is so legendary that it even has a name: "amakudari," or "descended from the sky," which refers to the practice of government officials, after serving out their terms at a ministry, directly switching to lucrative positions with the electricity giants.

One of the vice-president positions at TEPCO has been reserved for an amakudari official for decades. A man named Takeo Ishihara was once a deputy state

secretary, in a position titled "coordinator of nuclear policy." After TEPCO hired him in 1962, he became a managing director and then a vice-president.

In 1980, a state secretary at the Energy Ministry switched to TEPCO, where he performed the same duties. Other senior officials followed in 1990 and 1999. In April, a member of parliament with the Communist Party asked the government whether these industry jobs were "reserved slots." A spokesman said: "You could call it that."

Arrogance Meets Incompetence

In terms of the hands-on work at the plants, most workers are temporary workers and day laborers working for subcontractors and sub-subcontractors. But even the highly qualified specialists are often not employed by TEPCO, but by manufacturers like Hitachi and Toshiba, or even directly by General Electric in the United States.

These experts know all too well how little the TEPCO managers know about their own reactors. "The people at TEPCO," says Tsuneyasu Satoh, who worked as a subcontractor in Fukushima for many years, "are bureaucrats who stop by once in a while to tell us what to do."

TEPCO's engineers display a combination of arrogance and incompetence. When Sugaoka went public with the scandal over falsified safety reports, the company conducted an internal analysis and even admitted to significant deficiencies. According to the analysis, TEPCO engineers were "overly self-confident with regard to their nuclear expertise." For this reason, the analysis continued, they did not report problems to the government, "as long as they believed that safety was assured."

However, neither TEPCO nor NISA drew any conclusions from these insights. Even the scandal did nothing to stop the operating license for the extremely old Reactor 1 at Fukushima Daiichi being extended for another 10 years. Even worse, the regular intervals at which power plants are inspected can now be extended from 13 to 16 months.

"That's the consequence of the entire scandal for TEPCO," Aileen Mioko Smith, an anti-nuclear activist with the nongovernmental organization Green Action Japan, says derisively, "new standards and ultimately fewer inspections."

Part 4: 'No Commento'

When the TEPCO spokesman is asked whether the company has ever implemented a proposal by the anti-nuclear activists, he says: "I don't understand the question."

Even after the disaster, the company still tried to throw sand in the eyes of journalists. Reporters with the television stations and major newspapers have been camped out on the ground floor of the TEPCO headquarters building for the last 10 weeks. In press conferences, they are usually presented with a jumble of supposedly precise raw data. But what are reporters supposed to do with hundreds of pieces of data without any context at all, particularly as they often turn out to be incorrect soon afterwards?

TEPCO officials like to talk about the data but prefer to avoid the subject of responsibility. Whether it's amakudari, political contributions or funding for scientific research, a TEPCO spokesman has a similar response to questions on all of these issues: "No commento."

Fired After Reporting on Fukushima

Takashi Uesugi, a television journalist, is one of those reporting on how sensitively the electricity giant reacts when unflattering information manages to get out. He is a popular television and radio host in Japan, and his programs are both political and entertaining. Uesugi is normally an affable 43-year old who likes to play golf. Until the Fukushima accident, he had little to do with nuclear power.

But he has always taken issue with his counterparts at the major newspapers, who he sees as little more than the PR agents of the ministers they report about. After the disaster in Fukushima, Uesugi also camped out in the TEPCO lobby, because he wanted to know what was happening in the reactor.

On March 15, at 1 p.m., Uesugi was conducting a live broadcast on the Tokyo Broadcasting System (TBS). He said that radioactivity was apparently escaping from Reactor 3 and that this was being reported abroad. "It was an obvious thing to report," he says. After the broadcast, however, his boss came to him and told him he was fired, says Uesugi. He hasn't worked for TBS since then. A spokesman for the TBS programming department says that the station had already decided earlier to sever its working relationship with Uesugi, and that there was no pressure from TEPCO.

Uesugi doesn't believe these claims, particularly as he also experienced problems soon afterwards on another TV program. The electric utility association ended its sponsorship of "Asahi Newstar" after Uesugi had invited a critic of nuclear power to appear as a guest on his program. The station claims that it had already planned to end the electric utility sponsorship. A TEPCO spokesman characterizes as "inconceivable" the notion that TEPCO would try to pressure a journalist like Uesugi.

Intimidated

Meanwhile, the Japanese government has begun asking Internet providers to remove "false reports" about Fukushima from the web, arguing that the population should not be troubled unnecessarily. "This is worse than in Egypt and China," says Uesugi. According to the government request, all reports that "harm the public order and morale" should be removed. Nuclear critic Robert Jungk devoted an entire chapter to the industry's treatment of its adversaries. The chapter is titled: "The Intimidated."

In Japan, the insiders who talked about the abuses at TEPCO were intimidated, as were journalists who reported on these abuses, like Takashi Uesugi.

There are some indications that Eisaku Sato, the distinguished former governor of Fukushima Prefecture, was also a victim of intimidation. Sato attempted to oppose the power of the atom. He had aligned himself with the governors of other prefectures with nuclear plants, and he tried to establish an axis critical of nuclear power.

Sato, a relatively minor local politician, invited experts from all over the world to formulate a new Japanese energy policy. He was perhaps the most influential Japanese critic of the nuclear industry -- until his political career ended abruptly in 2006, when he was arrested on charges of corruption. He and his brother were accused of having collected an inflated price for a piece of property from a construction company that had worked for the prefecture.

'Same People as Always'

A court found Sato guilty, and although an appeals court in Tokyo later reduced the sentence, it did not overturn the guilty verdict. He has now taken his case to the Japanese Supreme Court, where he hopes to be declared innocent.

A former Tokyo prosecutor says that Sato's brother did not make any profit at all with the sale of the property. Besides, the public prosecutor assigned to the case at the time has since been sentenced to 18 months in prison for planting false evidence on a high-ranking government official he had investigated in another case.

But who, if not critics like Sato, can hold people responsible for the disaster? At least the statement made by Prime Minister Kan last Wednesday offers a hopeful outlook. He announced a new plan to decartelize the regulatory agencies, break up the regional monopolies of the Japanese electric utilities and rethink the country's energy policy "from the bottom up."

Aileen Mioko Smith, the activist with Green Action Japan, doesn't have much faith in such promises. She already dreads what she expects will be Japan's usual handling of such disasters. "A commission will be formed to examine the accident, and it will consist of exactly the same people as always."

Translated from German by Christopher Sultan

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NUCLEAR WEAPONS FREE WORLD

The “peaceful use” of nuclear energy

By Peter Becker

Vice president, International Association of Lawyers Against Nuclear Arms

International IALANA has no program for the end of “peaceful use” of nuclear energy. The main reason may be that the leading industrial states use nuclear power plants for production of electricity on a high level (USA: more than 100, France: 58, Japan: 57, Germany: 17). Worldwide exist more than 460 nuclear power plants, in the whole European Union 143.

The risks of nuclear power plants were not exactly predictable. The technical development went on but every accident – and there were several – produced new risks for catastrophes. So the power plants became more and more complex and the development more and more expensive. The “nuclear community” had no doubts about it – but it went further.

The main explanation is that the governments wanted to give a political answer to Hiroshima and Nagasaki: The “peaceful use” of nuclear power ought to be the civil answer to the nuclear threat. In December 1953 President Eisenhower spoke before the General Assembly of the United Nations and presented his program “Nuclear Power for Peace”. In the following years the American government forced the power plant owners to develop and buy nuclear power plants. The biggest enterprises General Electric, Westinghouse and others built nuclear power plants. If they wouldn’t have agreed with the government it would have cancelled their licenses. So the complete nuclear community was forced to work in a sector where it had technical improvement but unknown risks at the same time.

Japan was a good scholar. The industry copied not only the American industrial organization and philosophy. It ordered the nuclear power plants from the leading American electricity enterprises. So the electricity suppliers ordered not only the technical standards but meanwhile the risk philosophy. When Tepco ordered the Fukushima power plants, the

American nuclear industrial sector had a relation from 3,5 existing to 100 ordered nuclear power plants. The normal relation from existing power plants to order was three to two. So it was a voyage into the unknown.

In 1975 the Rasmussen-Report was edited. It said that the probability of the greatest possible accident was only 1 to 1 million. But the scientists only analyzed processes for accidents concerning one technical device. They didn’t analyze the accidents in their complexity – meanwhile alone in the western hemisphere existed several grave accidents: In the Canadian reactor Chalk River (1952), with melting core, Idaho Falls (USA 1955), Windscale (GB 1957), Simi Valley (USA 1959), Fermi near Detroit (USA 1966), Lucens in Switzerland (1969), all accidents with melting cores and all before the edition of the Rasmussen-Report. So the poor Japanese imported high risk systems with a trivializing philosophy. All this can only be explained with the psychological displacement effect.

A main influence in the US came from the nuclear laboratories Los Alamos and Oak Ridge where the military use of nuclear technology was the leading purpose. So the development was influenced by military necessities.

International IALANA should analyze how in Germany the political process went to step out from nuclear power plants and further to the change to renewable energies. The main decisions were made by law: nuclear step out 2000: all power plants had only a running time from 32 years. In 1990 the Bundestag decided the electricity feed law and in 2000 the renewable energy act.

The arrangements between the political parties were very interesting: The social democrats were competent for the conventional power sector, the greens for

renewables. This hidden contract was a base for the step out law in 2000, decided by the red/green coalition. After the regime change in 2009 the conservatives decided under lobby pressure by the nuclear utilities the “step out from the step out”. Even the eldest nuclear plants, which not would survive a terrorist attack, became eight additional years, the others fourteen. But the law producing process was not confirming to the German constitution. Meanwhile the law suits began before our constitutional court, Fukushima happened. Within three days (!) the conservative coalition decided to step out from the step out from the step out. Now the law producing machine delivers changes in all competent levels. The change should come very quickly. For the moment 17 % of electricity production comes from renewables. In

2020 it should be 40 %, in 2050 100 %. This runs equally against coal and gas power plants. Germany wants to solve two problems by one method: Renewables against greenhouse gas and nuclearism. The new way has already arrived in the rule of law.

Regarding this process German IALANA will propose to agree to a resolution for the General Assembly which analyses the German experience and extract the main principles for change. This proposal should not be misunderstood as arrogance but as a result of a lucky experience which is based on progressive law making since twenty years – thanks to the green movement and thanks to social democrats as Hermann Scheer who struggled all their life for peaceful energy.

For a future without nuclear weapons and nuclear energy

Working group Nuclear Energy of Abolition 2000

25 years after the horrible Chernobyl catastrophe, we – organizations and groups of the international peace and social movement – are urgently speaking out against the irresponsible and inhuman advocacy for nuclear energy.

In view of the euphoria for nuclear energy shown by almost all governments, and the ominous endorsement of nuclear energy in the Final Document of the Non-Proliferation Treaty Review Conference of May 2010, we emphasize:

Nuclear energy:

- is not a technology that can be sufficiently controlled;
- is threatening the environment;
- is not a solution to prevent climate change;
- is adversarial to democracy;
- is extremely expensive counting the overall costs;
- is hazardous to health with unaddressed human costs;
- is without a waste disposal concept and without a full clean-up concept from the mines to the plant grounds. Particularly problematic is that nuclear en-

ergy is a principal pre-requisite for the proliferation of nuclear weapons. Countries that are technologically able to run a nuclear “cycle” are not only capable of producing nuclear energy, they also gain access to the materials for nuclear weapons production. Advanced nuclear technology thus increases the danger of nuclear annihilation both for humanity and the entire planet.

The nuclear chain – beginning with uranium mining, through the operation of nuclear power plants and its waste disposal, and ending with the production and use of nuclear weapons – represent a tremendous danger for health and life itself. Uranium mining also has a devastating effect on Indigenous populations.

Consequently, those who seek a world without nuclear weapons must also abandon nuclear energy.

25 years after Chernobyl, we call on all governments of the world:

- to immediately negotiate a nuclear weapons convention;
- to abandon nuclear energy, to shut down all nuclear power plants, to stop the construction of new reactors and instead to invest massively into the use of renewable energies.

NPDI -- The search for a world free of nuclear weapons has a new name by multiple authors*

Two-thirds of a century have passed since the destruction of Hiroshima and Nagasaki. Yet the existential threat posed by nuclear weapons continues to menace our world.

Judged by declaratory statements, there has been some recent progress in disarmament. President Barack Obama's undertaking two years ago in Prague to work towards a world without nuclear weapons gave humanity new hope. Last year's Nuclear Non-Proliferation Treaty (NPT) Review Conference agreed on a blueprint for progress, while a new strategic arms reduction treaty between the United States and Russia was an important step forward.

But further practical steps remain elusive. Even by the incremental standards of multilateral diplomacy, progress on disarmament has been painfully slow. That is why the countries that we represent have committed themselves to making tangible progress in this area.

Our platform is new. The meeting we recently held in Berlin was only our second. And now we have a name: the Non-Proliferation and Disarmament Initiative (NPDI).

So who are we, and what is this NPDI?

First and foremost, we are 10 countries seeking the total elimination of nuclear weapons. We recognize the catastrophic humanitarian consequences that would result from their use and the dangers associated with their further proliferation. We also recognize the right of every country to access nuclear power for peaceful purposes -- and that this right entails responsibilities.

We come from all corners of the globe, representing states that have civil nuclear industries and those that do not. Some of us are in alliance relationships with the United States, others are fiercely independent members of the Non-Aligned Movement. All of us

have a long-standing commitment to regional and global disarmament efforts.

We aim to find ways to deliver on the objectives agreed to by states at the NPT Review Conference last year.

We understand that, since the world's major powers are nuclear weapon states, the effort to reduce global stocks of nuclear weapons will need impetus from others. Hence we, as middle powers, have a special role in this effort.

We believe in practical, measurable progress -- even though we know that such progress may prove painstaking and gradual.

At our meeting in Berlin, we resolved to focus on a handful of initial projects. First, we want to secure greater transparency in the way nuclear weapons states declare their disarmament efforts. Under the NPT, nuclear weapons states have agreed to report on their progress towards disarmament. Our view is that the form and content of such reporting is not just an issue for them to decide. We all have a stake in this.

That is why we are developing a standard reporting form for the nuclear weapons states to complete. We will urge them to use this form for both strategic and tactical nuclear weapons; we can only have confidence in their disarmament if it is irreversible and transparent.

Second, we have been waiting too long for a treaty to stop the growth in stocks of the material used to make nuclear weapons. Negotiations over a Fissile Material Cut-off Treaty in the UN Conference on Disarmament should have started as long as 15 years ago. It is unacceptable to us that these negotiations have been blocked by a tiny minority.

That is why we have agreed to make one final push to get the talks going in the Conference on Disarmament. If negotiations are not under way by Septem-

ber, at the time of the next UN General Assembly in New York, we will ask the General Assembly to find a new way to take the talks forward.

Third, we will do everything we can to secure the agreement of the nine remaining states necessary to bring the Comprehensive Test Ban Treaty into force. Achieving this would strike a major blow against countries acquiring or improving nuclear weapons. Fourth, as states which have an Additional Protocol in force, we will work assiduously to increase the current number of 107 states that have concluded an Additional Protocol with the International Atomic Energy Agency (IAEA). Additional protocols are the current “gold standard” for facilitating IAEA access to states’ nuclear programs and for assessing their compliance with safeguards obligations.

We will also continue to work to strengthen the expanding global framework of nuclear-weapon-free zones, to make export controls more effective and to promote disarmament and non-proliferation education. These initiatives aim to spur progress on the

global disarmament and non-proliferation agenda.

With effort on our part, and good will on the part of others, they can bring about steady, measureable progress -- progress towards achieving the world without nuclear weapons that all humanity craves.

**Kevin Rudd is minister for foreign affairs of Australia, Alfredo Moreno Charne is minister for foreign affairs of the Republic of Chile, Guido Westerwelle is minister for foreign affairs of the Federal Republic of Germany, Takeaki Matsumoto is minister for foreign affairs of Japan, Patricia Espinosa Cantellano is secretary of foreign affairs of the United Mexican States, Uri Rosenthal is minister for foreign affairs of the Kingdom of the Netherlands, Radoslaw Sikorski is minister of foreign affairs for the Republic of Poland, Ahmet Davutoğlu is minister of foreign affairs for the Republic of Turkey, Sheikh Abdullah bin Zayed Al Nahyan is minister of foreign affairs for the United Arab Emirates*

Published in *Sundays Zaman*, May 18, 2011

Vancouver Declaration, February 11, 2011*

Law’s Imperative for the Urgent Achievement of a Nuclear-Weapon-Free World

Nuclear weapons are incompatible with elementary considerations of humanity.

Human security today is jeopardized not only by the prospect of states’ deliberate use of nuclear weapons, but also by the risks and harms arising from their production, storage, transport, and deployment. They include environmental degradation and damage to health; diversion of resources; risks of accidental or unauthorized detonation caused by the deployment of nuclear forces ready for quick launch and inadequate command/control and warning systems; and risks of acquisition and use by non-state actors caused by inadequate securing of fissile materials and warheads. Despite New START there are more than enough nuclear weapons to destroy the world. They must be abolished and the law has a pivotal role to play in their elimination. In 1996 the International Court of Justice (ICJ) spoke of “the nascent *opinio juris*” of “a

customary rule specifically prohibiting the use of nuclear weapons.” Fifteen years later, following the establishment of the International Criminal Court, the entry into force of the Chemical Weapons Convention and the achievement of treaty bans on landmines and cluster munitions, the legal imperative for non-use and elimination of nuclear weapons is more evident than ever.

Reasons advanced for the continuing existence of nuclear weapons, including military necessity and case-by-case analysis, were once used to justify other inhumane weapons. But elementary considerations of humanity persuaded the world community that such arguments were outweighed by the need to eliminate them. This principle must now be applied to nuclear weapons, which pose an infinitely greater risk to humanity.

We cannot forget that hundreds of population centers in several countries continue to be included in the targeting plans for nuclear weapons possessing many times the yield of the bombs dropped on Hiroshima and Nagasaki. The hibakusha – survivors of those bombings – have told us plainly, “No one else should ever suffer as we did.” The conventions banning chemical and biological weapons refer to them as “weapons of mass destruction.” WMD are, by definition, contrary to the fundamental rules of international humanitarian law forbidding the infliction of indiscriminate harm and unnecessary suffering. As set out in the Annex to this Declaration, that label is best deserved by nuclear weapons with their uncontrollable blast, heat and radiation effects.

The ICJ’s declaration that nuclear weapons are subject to international humanitarian law was affirmed by the 2010 Nuclear Non-Proliferation Treaty (NPT) Review Conference. In its Final Document approved by all participating states, including the nuclear-weapon states, the Conference “expresses its deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons, and reaffirms the need for all states at all times to comply with applicable international law, including international humanitarian law.”

It is unconscionable that nuclear-weapon states acknowledge their obligation to achieve the elimination of nuclear weapons but at the same time refuse to commence and then “bring to a conclusion,” as the ICJ unanimously mandated, “negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.”

In statements made during the 2010 NPT Review Conference, one hundred and thirty countries called for a convention prohibiting and eliminating nuclear weapons globally. And the Conference collectively affirmed in its Final Document “that all states need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons,” and noted the “five-point proposal for nuclear disarmament of the Secretary-General of the United Nations, which proposes, inter alia, consideration of negotiations on a nuclear weapons convention or agreement on a framework of separate mutually reinforcing instruments, backed by a strong

system of verification.”

An “absolute evil,” as the President of the ICJ called nuclear weapons, requires an absolute prohibition.

*Developed with the input of a conference convened February 10-11, 2011, in Vancouver, Canada, by The Simons Foundation and the International Association of Lawyers Against Nuclear Arms, entitled “Humanitarian Law, Human Security: The Emerging Framework for the Non-Use and Elimination of Nuclear Weapons,” in acknowledgement of the Simons Chairs in International Law and Human Security at Simon Fraser University.

Annex: The Law of Nuclear Weapons

Well-established and universally accepted rules of humanitarian law are rooted in both treaty and custom; are founded, as the ICJ said, on “elementary considerations of humanity”; and bind all states. They are set forth in armed service manuals on the law of armed conflict, and guide conventional military operations. They include:

- The prohibition of use of methods or means of attack of a nature to strike military objectives and civilians or civilian objects without distinction. As put by the ICJ, “states must never make civilians the object of attack and must consequently never use weapons that are incapable of distinguishing between civilian and military targets.”
- The prohibition of use of methods or means of warfare of a nature to cause superfluous injury or unnecessary suffering.
- The Martens clause, which provides that in cases not covered by international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience.

Nuclear weapons cannot be employed in compliance with those rules because their blast, heat, and radiation effects, especially the latter, are uncontrollable in space and time. The ICJ found that “radiation released by a nuclear explosion would affect health, agriculture, natural resources and demography over a

very wide area” and that it “has the potential to damage the future environment, food and marine ecosystem, and to cause genetic defects and illness in future generations.”

Moreover, as the International Committee of the Red Cross has observed, the suffering caused by the use of nuclear weapons in an urban area “is increased exponentially by devastation of the emergency and medical assistance infrastructure.” Use of nuclear weapons in response to a prior nuclear attack cannot be justified as a reprisal. The immunity of non-combatants to attack in all circumstances is codified in widely ratified Geneva treaty law and in the Rome Statute of the International Criminal Court, which provides *inter alia* that an attack directed against a civilian population is a crime against humanity.

The uncontrollability of effects additionally means that states cannot ensure that the force applied in an attack is no more than is necessary to achieve a military objective and that its effects on civilians, civilian objects, and the environment are not excessive in relation to the concrete and direct military advantage anticipated. Other established rules of the law of armed conflict excluding use of nuclear weapons are the protection of neutral states from damage caused by warfare and the prohibition of use of methods or means of warfare that are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment. Recent studies have demonstrated that the detonation of a small fraction of the global nuclear stockpile (e.g., 100 warheads) in cities and the ensuing fire storms would generate smoke causing a plunge in average global temperatures lasting years. Agricultural production would plummet, resulting in extensive famine.

That nuclear weapons have not been detonated in war since World War II contributes to the formation of a customary prohibition on use. Further to this end, in 2010 the United States declared that “it is in the US

interest and that of all other nations that the nearly 65-year record of nuclear non-use be extended forever,” and President Obama and Prime Minister Singh jointly stated their support for “strengthening the six decade-old international norm of non-use of nuclear weapons.”

Threat as well as use of nuclear weapons is barred by law. As the ICJ made clear, it is unlawful to threaten an attack if the attack itself would be unlawful. This rule renders unlawful two types of threat: specific signals of intent to use nuclear weapons if demands, whether lawful or not, are not met; and general policies (“deterrence”) declaring a readiness to resort to nuclear weapons when vital interests are at stake. The two types come together in standing doctrines and capabilities of nuclear attack, preemptive or responsive, in rapid reaction to an imminent or actual nuclear attack.

The unlawfulness of threat and use of nuclear weapons reinforces the norm of non-possession. The NPT prohibits acquisition of nuclear weapons by the vast majority of states, and there is a universal obligation, declared by the ICJ and based in the NPT and other law, of achieving their elimination through good-faith negotiation. It cannot be lawful to continue indefinitely to possess weapons which are unlawful to use or threaten to use, are already banned for most states, and are subject to an obligation of elimination.

Ongoing possession by a few countries of weapons whose threat or use is contrary to humanitarian law undermines that law, which is essential to limiting the effects of armed conflicts, large and small, around the world. Together with the two-tier systems of the NPT and the UN Security Council, such a discriminatory approach erodes international law more generally; its rules should apply equally to all states. And reliance on “deterrence” as an international security mechanism is far removed from the world envisaged by the UN Charter in which threat or use of force is the exception, not the rule.

Vancouver Declaration Underlines the Inhumanity and Illegality of Nuclear Weapons

By **Dr. John Burroughs**

Executive Director, Lawyers Committee on Nuclear Policy (LCNP), UN Office of IALANA

Released March 23, 2011 by The Simons Foundation and IALANA and signed by eminent experts in international law and diplomacy, the Vancouver Declaration affirms that nuclear weapons are incompatible with international humanitarian law. The declaration observes that with their uncontrollable blast, heat, and radiation effects, nuclear weapons are indeed weapons of mass destruction that by their nature cannot comply with fundamental rules forbidding the infliction of indiscriminate and disproportionate harm.

Entitled “Law’s Imperative for a Nuclear-Weapon-Free World,” the declaration concludes by calling on states to commence and conclude negotiations on the global prohibition and elimination of nuclear weapons as mandated by the legal obligation unanimously proclaimed by the International Court of Justice (ICJ) in 1996. An annex to the declaration specifying the applicable law states: “It cannot be lawful to continue indefinitely to possess weapons which are unlawful to use or threaten to use, are already banned for most states, and are subject to an obligation of elimination.”

IALANA and The Simons Foundation developed the declaration with the input of a conference convened by the two organizations in Vancouver, Canada, on February 10-11, 2011, that brought together some 30 experts in international law, diplomacy, and nuclear weapons. The declaration builds upon the 2010 NPT Review Conference reaffirmation “of the need for all states at all times to comply with applicable international law, including international humanitarian law,” as well as other developments since the ICJ advisory opinion. They include the establishment of the International Criminal Court, the entry into force of the Chemical Weapons Convention, and the achievement of treaty bans on landmines and cluster munitions.

In connection with already banned weapons, the declaration states: “Reasons advanced for the continuing existence of nuclear weapons, including military necessity and case-by-case analysis, were once used to

justify other inhumane weapons. But *elementary considerations of humanity* persuaded the world community that such arguments were outweighed by the need to eliminate them. This principle must now be applied to nuclear weapons, which pose an infinitely greater risk to humanity.” (Emphasis supplied.) The ICJ had made clear the link between illegality and humanitarian values, stating that broad state participation in Hague and Geneva treaties is “undoubtedly” because “a great many rules of humanitarian law applicable in armed conflict are so fundamental to the respect of the human person and ‘elementary considerations of humanity’.”

The many signatories include **Christopher G. Weeramantry**, former Vice President of the ICJ and current President of IALANA; **Peter Weiss**, Vice President of IALANA and President of LCNP; **Mohammed Bedjaoui**, who was ICJ President when it handed down the opinion on nuclear weapons; **Nicholas Grief**, Professor, Kent Law School, UK, and Doughty Street Chambers, London, who was one of the drafters; Dr. **Dieter Deiseroth** (personal capacity), Judge, Federal Administration Court of Germany (“Bundesverwaltungsgericht”), and member of the Academic Council of IALANA Germany; **Geoffrey Robertson**, QC, Founder and Head, Doughty Street Chambers; **Louise Doswald-Beck**, Professor of International Law, Graduate Institute of International and Development Studies, Geneva, and co-author of a major International Committee of the Red Cross study of IHL; **Ved Nanda**, Evans University Professor, Nanda Center for International and Comparative Law, University of Denver Sturm College of Law, and member of the LCNP Consultative Council; **Kenji Urata**, Professor Emeritus, Waseda University, and member of the IALANA Board of Directors; **Burns H. Weston**, Bessie Dutton Murray Distinguished Professor of Law Emeritus and Senior Scholar, UI Center for Human Rights (UICHR), The University of Iowa, and member of the LCNP Board of Directors; **Jayantha Dhanapala**, former UN Under-Secretary-General for Disarmament Affairs and President of Pugwash Conferences on Science and World Affairs

and **Gareth Evans**, QC, former Foreign Minister of Australia who recently served as Co-Chair of the International Commission on Nuclear Non-proliferation and Disarmament.

Especially in view of its endorsement by former ICJ judges and leading international lawyers and scholars, it is noteworthy that the declaration resolves issues the ICJ left for another day. It affirms the universally binding character of the prohibition of reprisals against civilian populations, vindicating the position taken by Mexico before the ICJ: “Torture is not a permissible response to torture. Nor is mass rape acceptable retaliation to mass rape. Just as unacceptable is retaliatory deterrence—‘You have burnt my city, I will burn yours.’” The declaration similarly affirms the mandatory nature of the prohibition of the infliction of widespread, severe, and long-term damage to the natural environment. It also unreservedly states the unlawfulness of both specific signals of intent to use nuclear weapons and general policies (“deter-

rence”) declaring a readiness to resort to nuclear weapons when vital interests are at stake.

One of the drafters of the declaration was Peter Weiss, who advised governments on their submissions to the ICJ in the nuclear weapons case. He comments: “We offer the Vancouver Declaration to governments and civil society as a contribution to the debate about the road to zero. It underlines the inherent inhumanity and illegality of nuclear weapons and the consequent need for their rapid elimination. The horrific events in Japan serve to accentuate the danger of continuing to live with the risk of exposing humanity to nuclear radiation, whether emanating from nuclear meltdown or nuclear bombs.”

A list of signatories and other information regarding the Vancouver Declaration and Conference are available at www.lcnp.org

Nuclear Abolition Forum –

Dialogue on the Process to Achieve and Sustain a Nuclear Weapons Free World

By Alyn Ware

IALANA, in conjunction with a number of leading institutes and non-governmental organizations, has recently established the **Nuclear Abolition Forum** – a periodical and website for dialogue between academics, governments, disarmament experts and NGOs on key issues regarding the prohibition and elimination of nuclear weapons under a Nuclear Weapons Convention or package of agreements, and the process to achieve this. The Nuclear Abolition Forum is being developed by Director Rob van Riet and a group of editors from the co-sponsoring organisations, along with input from a diverse group of over 50 consultants. Editors include John Avery (Pugwash Denmark), John Burroughs (Lawyers’ Committee on Nuclear Policy/IALANA), David Ives (Albert Schweitzer Institute), Xanthe Hall (IPPNW), Juergen Scheffran (INESAP), Rhianna Tyson Kreger (GSI),

Alyn Ware (World Future Council/IALANA) and Jim Wurst (Middle Powers Initiative).

The Forum website, to be launched in mid 2011, will include:

- a) Database of existing articles and documents on the range of issues surrounding a nuclear weapons convention;
- b) Opportunities for comments on specific articles and dialogue on key issues;
- c) a periodical which will focus on specific issues or elements for achieving and maintaining a nuclear-weapons-free world.

Key topics to be covered by the forum include:

Elements for a nuclear weapons convention or framework of agreements

Comprehensive/Incremental (Relationship between disarmament/non-proliferation steps/measures and a comprehensive approach)

From deterrence to non-nuclear security

Verification

Compliance, enforcement and break-out

Phases and timing

Preventive controls

Nuclear energy and dual use

Delivery vehicles

Environmental aspects of disarmament

Political will

Role of civil society

Nuclear-weapon-free zones

Conversion

Criminality and individual responsibility

Knowledge and reversibility

Economic aspects

National implementation measures

Customary and International Humanitarian Law

Sustaining abolition for future generations

The Forum will seek to include a variety of perspectives rather than advocating any particular approach to achieving a nuclear-weapons-free world. This could include contributions from those who have put forward specific proposals, as well as from those who do not yet believe that nuclear abolition is possible, or who are not yet convinced of the merits of a comprehensive approach. Attention would however be given to examining and critiquing the framework for achieving and sustaining a nuclear-weapons-free world rather than focusing solely or primarily on the next immediate steps.

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Middle Powers Initiative proposal – UN Secretary General to host negotiations on nuclear abolition

By Alyn Ware

The Middle Powers Initiative (MPI), established in 1998 by a group of eight leading international NGOs including IALANA, has proposed a draft United Nations resolution which, if adopted, would empower the UN Secretary-General to start the preparatory process for a nuclear weapons convention (or pack-

age of agreements) in 2012, leading to the start of negotiations in 2014.

The draft resolution uses rather diplomatic language in order to allow for maximum support, including from countries which do not support the Malaysian resolution on the nuclear weapons convention (based

on the 1996 International Court of Justice Advisory Opinion). The MPI draft resolution calls on the Secretary-General "to convene a Preparatory Conference of all States, in the first half of 2012, to discuss the procedures which may be employed to establish the agenda and modalities of a Diplomatic Conference on Nuclear Disarmament to begin meeting in 2014, to reach agreement on the texts of a convention or a framework of separate, mutually reinforcing instruments, open to accession by all States, providing for universal, verifiable, and irreversible nuclear disarmament." MPI has since 2005 been organising Article VI Forum meetings of diplomats from middle power countries in order to build commitment to, and practical proposals for, the implementation of Article VI of the NPT. This contributed to the success of the 2010 NPT Review Conference – in which the States Parties agreed that "All States need to make special efforts to establish the necessary framework to

achieve and maintain a world without nuclear weapons" noting in this context "the Five-Point Proposal for Nuclear Disarmament of the Secretary-General of the United Nations, which proposes *inter alia* the consideration of negotiations on a nuclear weapons convention or a framework of separate mutually reinforcing instruments backed by a strong system of verification." As such, MPI has now shifted into a new phase of operations – led by the new MPI Chair Richard Butler, on implementation of this historic agreement through the commencement of deliberations followed by negotiations to achieve a nuclear weapons free world. Ambassador Butler has been consulting with key government representatives in New York and Geneva on the proposal – and will soon be embarking on a tour of key capitals with the aim of building sufficient support for it to be introduced at the UN General Assembly in October this year.

Torture: Immoral, Illegal, Counterproductive, and Un-American

If the law is discarded in the fight against terror, terrorists can rack up a win

By Peter Weiss

Osama bin Laden's death has laid to rest the mystery of his whereabouts. His body lies under the ocean. But now his death raises another increasingly popular question. Was he tracked down thanks to tips elicited through the torture of captured al-Qaeda operatives? The answer should be clear: no, torture doesn't "work." The damage done by systematically resorting to torture far outweighs the benefits obtained from the very rare instances where reliable information is obtained from torture.

Defenders of the Bush-Cheney policies that gave us rampant human rights abuses at the Abu Ghraib and Guantánamo prisons claim, on flimsy evidence, that waterboarding and other forms of torture produced information that eventually led the Navy SEALs to bin Laden's hideout in Pakistan. Defenders of Obama's policy of ending torture, such as White House counterterrorism advisor John Brennan, tell us that the trail to bin Laden's compound was assembled over a decade, from a multitude of bits and pieces of

intelligence. As New York Times reporters Scott Shane and Charlie Savage explained, "harsh techniques played a small role at most" in leading the Navy SEALs to Osama Bin Laden.

Professional interrogators, like Air Force Major Matthew Alexander, insist that torture is the wrong way to go because it tends to produce unreliable or deliberately deceptive information. In addition, torture creates more terrorists than it unmasks.

It's also unnecessary, as I learned first-hand many years ago. I did part of my army service in World War II at an interrogation center for high-level German POWs. We got a lot of valuable intelligence without ever laying a hand on them.

But it's not necessary to deny that torture ever works in order to come to the conclusion that it should never be used. People who believe in morality — and not everyone does — will oppose torture because they consider it deeply immoral. People who believe in the rule of law will refuse to employ it because it is

illegal. And people who are proud to be Americans should reject it because it is profoundly un-American. The U.S. Constitution forbids cruel and unusual punishment. In 1863, in the middle of the Civil War, a German immigrant law professor at Columbia University, Francis Lieber, drafted "Instructions for the Government of Armies of the United States in the Field," which President Abraham Lincoln subsequently promulgated. The Lieber Code, as it came to be known, is the fountainhead of all subsequent documents dealing with what is prohibited in warfare, both in this country and throughout the world.

At its core is this sentence: "The law of war does not only disclaim all cruelty and bad faith...offenses to the contrary shall be severely punished, and especially so if committed by officers." The United States is a party to the Geneva Conventions of 1949, which spell out the law of war in detail, and, as of 1994, to the Convention against Torture.

In 1980, in a case brought by the Center for Constitutional Rights, the Federal Court of Appeals for the Second Circuit said, "The torturer has become like the pirate and slave trader before him *hostis humani generis*, an enemy of all mankind."

Another reason to obey the injunction against torture,

one that military officers frequently cite, is the blow-back effect. If the United States tortures foreign detainees as a matter of policy, as it did during George W. Bush's administration, what is to prevent other countries from using torture on American detainees, as the North Koreans did during the Korean War?

Finally, there's something about a slippery slope. If the law can be broken because doing so "works," where will that stop? How about convicting Guantánamo detainees on secret evidence? Or locking up "really bad people" — that's what Dick Cheney called the ones in Gitmo — for life without trying them at all, as the government is getting ready to do? Or doing away with the presumption of innocence, as President Barack Obama did the other day when he declared that Private Bradley Manning "broke the law," despite the fact that the alleged WikiLeaks hasn't even been tried yet?

If the law is discarded in the fight against terror, terrorists can rack up a win.

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WAR IN LIBYA

IALANA Germany: Immediate end to military action in Libya Ceasefire necessary for the protection of the civilian population

In an urgent appeal to the Federal Government, IALANA Germany urged for an immediate end to the bombing of Libya. The offensive of cruise missiles and the bombing campaign by stealth bombers and pursuit planes provoked casualties among the civilian population, which should be prevented through sanctions against Gaddafi's regime.

It also seems highly doubtful whether the 1973 UN Security Council Resolution is compatible with the UN Charter to the extent of giving the green light to

military intervention. Firstly, it should be recalled that the ratio of the international community to individual states, such as the relationship between the states through the principle of sovereign equality under Article 2 Paragraph 1 of the UN Charter, and by the restrictions laid down in Article 2 Paragraph 3, prohibition on the use of force is determined. Sanctions under Chapter VII of the UN Charter, particularly in its strongest form of military sanctions under Article 42 of the UN Charter, require an establishment of danger to the peace under Article 39 of the Charter. The Security Council used the phrasing in

the Resolution of 17th March:

“...determining that the situation in the Libyan Arab Jamahiriya continues to constitute a threat to international peace and security...”.

Further arguments in support are not found at this point. Without doubt, there has not been a breach of the peace by the Libyan government in the form of an attack on another state. An attack against a “de facto” state on Libyan territory has also not taken place. For this, the opposition movement and those from their formed National Council would have to establish a permanent de facto rule over part of Libyan territory in terms of a separatist state. However, the National Council has reassured on several occasions that the formation of a separatist state in Cyrenaica is not a consideration for them. Their aim is to remove Gaddafi from power and gain control over the whole of Libya.

It is therefore a non-international armed conflict, a civil war. However, it is an established principle, derived from the respect of national sovereignty of states and the prohibition on the use of force as well as the principle of neutrality that third parties should not interfere in civil wars in favour of the conflicting parties. This was made explicitly clear by the UN International Court of Justice in The Hague in their judgement on Nicaragua on 27th June 1986.

Unless the intervention is based on humanitarian reason, the following applies: the violation of the Genocide Convention can lead to a declaration of the breach of peace and military sanctions through the Security Council. However, there is no indication that the Gaddafi regime is systematically killing parts of the population based on ethnic grounds or grounds of tribal affiliation, as in Rwanda.

However, both factions have complied with the rules of international humanitarian law through their armed actions. This includes the general principle of international law, whereby it is illegal to conduct attacks against the civilian population. This principle is enshrined in Article 51 of the Additional Protocol I of the Geneva Convention of 12.8.1949 on the protection of victims of international armed conflicts and is also observed in civil wars.

Subsequently, indiscriminate attacks which are not

directed for a specific military purpose are prohibited, Article 51, Paragraph 4a) 1 of Additional Protocol. As such, it is likely to cause loss of life among civilians, injuries to civilians, damage to civilian objects or a combination thereof, which are disproportionate to the concrete and direct military advantage, Article 51, Paragraph 5b) 1 of Additional Protocol.

In this regard, as far as it established in its initial phrasing, the Security Council has kept a low profile in its Resolution and acts as if the attacks against the civilian population in Libya “could constitute crimes against humanity”.

In fact, there is no secure evidence so far. The case is already called for the International Criminal Court to investigate the evidence and assess criminal penalties. In any case, at present there is no principle codified in either international law or customary international law which allows military sanctions to prevent violations of Article 51 of the Additional Protocol. The Security Council is breaking new ground with this case and is not covered by existing international rules.

Furthermore, under Article 42 of the UN Charter, military sanctions can only be imposed if peaceful sanctions under Article 41 of the Charter would be insufficient or have already proven to be insufficient. This is also questionable. As the German Foreign Minister Westerwelle rightly indicated after the beginning of the offensive, that a trade embargo for Libyan oil and natural gas should be imposed. Westerwelle regarded this as a main task for the EU. The obstruction of any source of income after freezing all foreign accounts would have been a first attempt to force the Gaddafi clan to back down. Even the more powerful Apartheid regime in South Africa finally broke down after economic sanctions and isolation.

It is also contradictory for the German federal government on the one hand to abstain from voting on the Resolution 1973 (2011) of the UN Security Council, and on the other hand to declare that it considered all of the stated objectives to be appropriate and to allow the US to have a base in Stuttgart to

direct their offensive. This contradicts the commitment that Germany made in the 2 + 4 Treaty of 1990, whereby only peace may emanate from German soil.

The massive military deployment is also politically counterproductive. It provides a possible respite for the opposition forces in the east of the country but poses a great risk that the majority of the people in the country will side with the Gaddafi clan after an attack from foreign forces. This would weaken the forces fighting for political change in Libya. It will also weaken the opposition forces in the whole of the Arab region, for they will be accused at least from now to be standing in alliance with the USA, the UK and France and carrying out their affairs.

Finally, there is a lack of credible military action due to its double standards. The opposition forces in Yemen and Bahrain who have been shot down by their dictators have not received similar support. In contrast, there have been calls against the military assistance from Qatar. The ruling Emid Hamed Al Khalifa consolidated the executive, legislature and judiciary in one person as absolute monarch. There are no political parties or parliament in his country. The democratic rights and freedoms, for which the people in Libya are risking their lives, are denied to his own citizens.

It is therefore necessary for an immediate ceasefire and to begin negotiations between the conflicting parties over a peaceful solution to the future of Libya.

Libya: International Peace Bureau condemns military strikes and urges political negotiations to protect the civilian population

21 March 2011. A new historical era opened three months ago with the popular uprisings in Tunisia and then Egypt, the first of the 'Arab spring' season. These rebellions brought hope to millions and youthful energy to societies suffering decades of repression, injustice, inequality, especially gender inequality, and increasing economic hardship. The Libyan revolt was inspired by these largely nonviolent victories, but, as the world has witnessed with dismay, has rapidly become militarized and is now embroiled in a full-scale civil war.

NO MORE ARMED INTERVENTIONS

The western powers' fateful decision to push through the UN Security Council a resolution to authorize military strikes and a no-fly zone has transformed the situation into one reminiscent of the Iraq crisis of 2003. While supporting the objective of protecting the civilian population, in Benghazi and elsewhere, IPB condemns yet more armed attacks by western powers on yet another Muslim country. Have these same powers learned nothing from their disastrous failures over the last 10 years? It is clear that non-military methods have not been utterly exhausted. Were all economic sanctions imposed and enforced?

Was massive electronic jamming put into operation? Were all oil and gas sales cancelled? – and will we ever be told?

WHEN WILL WE EVER LEARN?

Western media fascination with the minutiae of battle tends to obscure historical memory, without which any clear assessment is impossible. Have we all forgotten who sold arms to, and struck energy deals with, Col. Gaddafi in the first place? Do the phrases 'no-fly zone' and 'air strikes' not bring back painful memories of the slide into disastrous occupations in Iraq and Afghanistan?

ALTERNATIVE APPROACHES

There is no lack of alternative courses of action. In IPB's view, the most urgent task, and the most effective way to carry out the UN-mandated 'Responsibility to Protect' the civilian population, is to engage immediately both the Gaddafi regime and the rebels in serious negotiations. These should focus, first on a genuine and multi-lateral ceasefire, and then on the foundations of a political settlement based on participatory democracy. The UN already has a special representative in place in Tripoli. Cynical or not,

Gaddafi has made a ceasefire gesture – which could be used as a starting point. Western states, especially the US and the former colonial powers, should keep out. The UN Secretary-General and a panel of highly respected figures from the Muslim world should be invited to take part in whatever talks can be arranged. An offer to call off the air strikes could be used as a confidence-building measure. In the medium-term, consideration should be given to a UN-authorized peacekeeping presence, preferably not composed of western military forces, with a classical peacekeeping (not peace-enforcement) mandate. Why is it that investment in mediation, diplomacy, trust-building and similar efforts is always a tiny fraction of the money spent on armed intervention?

UNLOCKING CREATIVITY

Arab peoples have shown that they have the courage to break away from past habits and have demonstrated impressive discipline and dignity in confronting their oppressors. The western world should now respond by finding the courage to break with its own past habits, and to apply the enormous creativity of its own societies in the search for new ways of resolving conflicts. Success in Libya - or indeed elsewhere in the region - would offer tremendous inspiration to peoples locked in deadly conflict in other regions.

REVERSING COURSE

It is still not too late for those leading this latest military gamble to pull out of the quagmire that looms ahead. We urge the world to mobilise now against war and foreign intervention, and in favour of negotiated solutions.

What is done in the coming days and weeks will determine the possibilities for a long-term settlement. Foreign bombing only threatens a wider conflagration with unpredictable consequences.

WIDER ASPECTS

There are all kinds of wider considerations to be explored and important lessons that need to be assimilated. In particular, that the five permanent members of the Security Council cannot continue to police the world as if we were still in 1945; and that it is time for a global outcry against the massive expenditure devoted to the military system (\$1,500 billion per annum), and in particular the international arms trade, with its accompanying corruption and double standards.

The International Peace Bureau is clear on its own priorities. We need to disarm in order to develop. The basic needs of the population must be catered for as the absolute priority, not as a by-product of 'national security'. We appeal to the arms-producing countries and industries to urgently start converting military research and production to civilian purposes. The world will never achieve the Millennium Development Goals if it fails to abandon the military-dominated way of thinking and action. We have learned in recent years that democracy cannot be imposed, and that regime change is only a matter for the population itself. The time is now ripe to assist the people in the Middle East/North Africa region in building societies based on the vision of a culture of peace, as hoped for by peoples everywhere. Such a programme was agreed by the UN in the preparation of the International Year for a Culture of Peace in 2000 and the following Decade on a Culture of Peace and Non-Violence that has just come to an end, and that must now be energetically renewed.

The International Peace Bureau is dedicated to the vision of a World Without War. We are a Nobel Peace Laureate (1910), and over the years 13 of our officers have been recipients of the Nobel Peace Prize. Our 320 member organisations in 70 countries, and individual members, form a global network which brings together expertise and campaigning experience in a common cause. Our main programme centres on Sustainable Disarmament for Sustainable Development.

REPORTS FROM THE NATIONAL AFFILIATES

Report from USA

By **John Burroughs**, LCNP Executive Director

In 2010 and early 2011, the Lawyers Committee on Nuclear Policy worked to promote a positive outcome to the May 2010 NPT Review Conference, and subsequently to build upon the Review Conference's reaffirmation "of the need for all states at all times to comply with applicable international law, including international humanitarian law."

In the run-up to the Review Conference, I prepared the briefing paper for the Middle Powers Initiative (MPI) Atlanta consultation with governments in January, and LCNP President Peter Weiss, International Coordinator Alyn Ware, and I participated in the meeting. MPI subsequently made recommendations to the Review Conference which I helped formulate. IALANA is one of eight sponsors of MPI, and makes significant contributions to planning MPI events and formulating MPI strategy.

Also in the months preceding the Review Conference, LCNP gave media interviews; met with diplomats; and gave speeches. Notably, LCNP co-sponsored and spoke at two events at the UN: "The Non-Proliferation Treaty 40 Years On: Paving the Way to Abolition," March 5, 2010, at which I was a speaker; and "Unblocking the Road to Zero Nuclear Weapons: A Conversation with Dr. Barry Blechman," March 30, 2010, at which Peter Weiss introduced Dr. Blechman, co-editor of a new book, *Elements of a Nuclear Disarmament Treaty* and author of a New York Times [op-ed](#) on that theme.

Following the Review Conference's invocation of international humanitarian law (IHL), LCNP acted quickly to seize the opportunity. Charles Moxley and Jonathan Granoff of the LCNP Board of Directors and I are authors of a forthcoming article in the Fordham International Law Journal on IHL, the NPT, and nuclear weapons. The article was released at an October 25 event at the UN sponsored by LCNP, the Global Security Institute, and the Swiss Permanent

Mission to the UN. I also wrote a briefing paper for a September 2010 Middle Powers Initiative meeting co-sponsored by Switzerland and articles for Reaching Critical Will's First Committee Monitor examining the application of IHL to nuclear weapons.

In its capacity as the UN Office of IALANA, LCNP also partnered with The Simons Foundation to organize a February 10-11, 2011 conference in Vancouver: "Humanitarian Law, Human Security: The Emerging Paradigm for Non-Use and Elimination of Nuclear Weapons Conference." The conference brought together some 30 experts in international law, diplomacy, and nuclear weapons, including representatives of the International Committee of the Red Cross, the United Nations, and several governments, Austria, Switzerland, and Norway. The conference examined the current state of IHL as applied to nuclear weapons, as well as concepts of "humanitarian disarmament" and the lessons of negotiations on cluster munitions and landmines. It also provided input into the declaration developed and later released by IALANA and The Simons Foundation. Peter Weiss, Alyn Ware and I organized the conference with Jennifer Simon, and along with Nicholas Grief and Ms. Simons we drafted the declaration. Among other activities, LCNP has held several meetings in 2011 with US officials and Congressional staff in Washington, in which we have emphasized the IHL theme and the need for a comprehensive approach leading to a convention. LCNP personnel have also produced publications in addition to those mentioned above, including forthcoming articles in the Fordham International Law Journal by Peter Weiss on the Nuclear Weapons Convention and by Charles Moxley on the 2010 US

Nuclear Posture Review (NPR); my article also on the NPR for the Michigan International Lawyer; and an article by Peter Weiss for the Palestine-Israel Journal, Peace, Law and Nuclear Weapons (As Seen by Two Jews and an Arab).

CON - The criminality of nuclear weapons -A Citizen-led initiative

By George Farebrother

A War Crime

The CON campaign, launched by the Institute for Law and Peace (INLAP) and World Court Project UK, wants citizens across the world to affirm in their millions that any use of nuclear weapons by anyone under any circumstances would not only violate their basic human values; it would also be a war crime. This is not a phrase to be used lightly.

However, it does seem to comply with the definition contained in the Rome Statute of the ICC:

Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians ... which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated.

Applying this definition to nuclear weapons we know that they are uncontrollable in time and space, that their effects are unpredictable and that therefore the rules of Proportionality, Discrimination and Necessity could not even be assessed before a launch. This last point is important because the Rome statute talks about *intentionally* launching a disproportionate attack. No nuclear weapon has been used in war since

1945 and the vagaries of wind and weather mean that the effects of even a “limited” nuclear explosion are not merely unknown but unknowable. Under such conditions, launching a nuclear strike would, in itself, make a calibrated legal assessment of the consequences impossible. We have raised this issue several times with the UK ministry of Defence and they have no answer. We suspect that the reason for this is quite simple: there is no answer.

So International Humanitarian Law is the way forward – linked to our common humanity, and our sense of basic morality – the Public Conscience. In his Dissenting Opinion for the 1996 nuclear weapons case Judge Weeramantry reminded us that:

... the concept of humanitarian laws of war ... is not a recent invention, nor the product of any one culture.

The concept is of ancient origin, with a lineage stretching back at least three millennia. [It] is deep-rooted in many cultures - Hindu, Buddhist, Chinese, Christian, Islamic and traditional African. These cultures have all given expression to a variety of limitations on the extent to which any means can be used for the purposes of fighting one's enemy.

For these reasons, IALANA members will not need persuading that nuclear weapons must go. The end result we seek is a convention which would ban the production, testing, possession and use of nuclear weapons – or a cluster of binding international agreements leading to the same outcome.

How to get there

But how might this come about? The 2010 Revcon Final Document gives us a starting. It expresses *deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons and reaffirms the need for all States at all times to comply with applicable international law.*

Some states are beginning to take this obligation seriously. Last October Switzerland denounced nuclear weapons as immoral and illegal. This was followed in December by a Mexican announcement that any threat or use of nuclear weapons would be a crime. In March of this year in Vancouver eminent experts in international law and diplomacy affirmed that nuclear weapons are incompatible with international humanitarian law.

We know the goal: but the process is obscure. “Normal channels”, such as the NPT and the Conference on Disarmament often involve trade-offs between diplomats and politicians, the alleged “interests” and perceived security of states rather than the real security of all people everywhere. As a result we usually only get weak outcomes. However, there are alternatives. For example there have been suggestions of working through the UN General Assembly. We were inspired by the study commissioned by the Swiss Government for the 2010 NPT Review Conference, “Delegitimising Nuclear

Weapons". The basic points were:

- The security of all people everywhere, and not the alleged security of states, should be at the centre of the drive towards a world free of nuclear weapons.

- If people are to be at the centre of our security concerns, the goal is simple. The use of nuclear weapons must become unthinkable. This is what we mean by delegitimising their use.

- How is this to be achieved? We can learn from success in other areas of disarmament. These include agreements on anti-personnel mines and cluster munitions. There has been considerable progress in these because:

- They were led by citizen groups working together and providing expert analysis and coalitions and, in the first instance, a small number of interested states and serious individual politicians, members of the military and diplomats. Consequently, "spoiler" states were naturally excluded. As a result, the early work was done by groups and states which really meant business. As time went on, the number of supporting states increased as the process gained momentum.
- With no back-room and corridor deals aimed at reaching consensus, the basic aim - abolition - was strictly maintained. There was no watering down.
- The first step was banning the use of cluster munitions and anti-personnel mines. Possessing or selling them, and then setting up ways of monitoring and enforcing the agreement came later. In the same way, a process to ban nuclear weapons should always centre on the final goal - a Nuclear Weapons Convention - or something very much like it, beginning with banning their use.
- Ordinary citizens were kept informed and their help was enlisted throughout the whole process.

Our Campaign

The CON campaign is based on this approach. Research shows that most people do not see nuclear weapons as a high priority. However, many of them can be moved by an appeal to their basic values and to the importance of honouring internationally agreed obligations, rather than by the strident invocation of fear and panic. In this way we can reach out to other

constituencies concerned with the environment and human rights and to issues where people are motivated by values and conscience.

The way forward is to use what we have - several groups of concerned citizens, millions of individuals, and a core group of supportive states - to thrash out an agreement among themselves that nuclear weapons must never be used in their name and that they would view any use as criminal. To let states know that there is widespread support for something like an "Ottawa" process for the abolition of nuclear weapons, we are therefore collecting personal **Affirmations** from citizens and from groups stating their rejection of any use of nuclear weapons. This is being carried out partly on paper, but mainly online through our website, our Facebook page and through Twitter.

To be effective there must be very large numbers of Affirmations which can be presented to suitable state representatives as opportunities arise. This is an important point because when people are being asked to sign we must give them some idea of how their signatures will be used.

There are three versions of the Affirmation - for citizens of nuclear-armed states, for people living in non-nuclear states, and for citizens groups. You can find these on our Homepage on www.nuclearweapons-warcrimes.org where there is also a link to our Facebook page.

How IALANA can help

We hope that IALANA will support this campaign.

It can do this by:

- Actively promoting and distributing Affirmations - we have plenty of paper versions available, and we aim to have them in non-English languages. In the 1990s, before the days of online signatures, we collected 3.8 million *Declarations of Public Conscience* on paper for the approach to the ICJ on the nuclear weapons case.

- Featuring the campaign with our link prominently on the IALANA website

- Members sending the link - www.nuclearweapons-warcrimes.org - to all contacts and interacting with us on Facebook and Twitter.

- Using their contacts to bring the campaign to the attention of actors in key states and alerting us to important events we might take advantage of.

- Asking speakers on non-English languages to provide translations of the basic Affirmation (not the explanations), remembering the slightly difference versions for non-nuclear states. At the moment we only have French, Malay and Portuguese.

Finally we must emphasise that this is a long-term process. Obviously 2015, the next RevCon, is a useful point in time and the Mayors for Peace 20/20 vision is also very relevant. For this reason we are not talking about petitions which tend to be a short-term matter. In any case, petitions are not relevant to our campaign. They are about asking the powerful to do something we want. The Affirmations are about solemnly registering our root and branch rejection of any use of nuclear weapons because this would violate what we stand for.

Report from Italy

By Joe Lau

In the last weeks we had here in Italy intensive discussions about nuclear power stations and the danger that come from them. I think that this was discussed all around the world and the arguments are well known from every one also since Three Miles Island and Tschernobyl.

As in the past also discussed by IALANA, nuclear weapons as civil Nuclear Power Stations can not be handled without any kind of imponderable, collateral aspects, of human failure, technical and natural insufficient facilities in time of war and in time of peace. Mankind had artificially created - and it will go on creating - a huge number of materials. This is not conceivable with the human biology.

Considering the legal obligations of the genocide convention, on our opinion the States have the duty

to omit any kind of pollution directly or indirectly that can damage the health of great part of the population of a State or of a continent.

The nuclear - civil and military -industry and their States, in consideration of the long term effects of this metal - are violating principal rules of international law. It is well known that any convention in contrast with the ius cogens norms are invalid and all the well paid professors can never hint the contradiction between the destroying effect of radionucleide - long and short term - to any kind of mammiferi including homo sapiens and the human right convention rules. We hope we can discuss this in the General assembly at Stettin. We shall also ask for what reason the Ialana International shows no interest in the Nuclear weapon case pending actually in front of the Strassburg ECHR.

Report from Norway

By Fredrik S. Heffermehl

Norwegian members have been active, mainly in two projects:

1. Fredrik S. Heffermehl published a new book on how Norwegian politicians have misappropriated the peace prize and failed to respect the purpose of Alfred Nobel in establishing his prize for "the champions of peace" (fredsförfäktare).

The main idea of Nobel, now entirely forgotten, was that true and safe peace can only rest on profound global co-operation between nations, international law and disarmament. More on the book "The Nobel

Peace Prize. What Nobel really wanted", appearing in 5 languages, on <http://www.nobelwill.org>. It will also be the topic of a lecture by Peter Weiss in Szczecin on Saturday.

2. Professor of Law Ståle Eskeland has just published a text book on war crimes and grave international criminality, in Norwegian (title translates into: "The most serious crimes.")

The book covers the seven crimes of Aggression, genocide, crimes against humanity, warcrimes, terror, torture and use of weapons of mass destruction and the interpretation and prosecution of these categories of crimes under the rules of international and Norwegian law.

It also evaluates Norway's participation in three illegal wars of aggression, against Serbia, Afghanistan and Iraq - Norway is now also prominent participant in the war against Libya.

Report from Canada

By Dev Tollefson Belong

I am pleased to provide you with this report on activities in Canada.

Vancouver Declaration:

I had the privilege of participating in the excellent conference hosted by The Simons Foundation and co-convened by IALANA on February 10 and 11, 2011 entitled "*Humanitarian Law, Human Security: The Emerging Framework for the Non-Use and Elimination of Nuclear Weapons*". The resulting Vancouver Declaration entitled "*Law's Imperative for the Urgent Achievement of a Nuclear-Weapon-Free World*" has been circulated in Canada. I am very happy to report that one of the General Editors of "International Law Chiefly as Interpreted and Applied in Canada" (a key international law text for our law schools) has signed along with 13 other professors of international law from 6 universities. In addition, we have four former Ambassadors for Disarmament, 11 lawyers with expertise in this area and a parliamentarian. The list of signatories can be found

on www.lcnp.org. May I extend my thanks to Drs. John Burroughs and Jennifer Simons for the invitation to this conference and to Professor Penelope Simons of the University of Ottawa for her assistance in securing Canadian endorsements to the Vancouver Declaration.

Seminar: "Toward a Nuclear Weapons Convention: A Role for Canada"

Both our Senate and House of Commons have unanimously passed motions in 2010 that encouraging "the Government of Canada to engage in negotiations for a nuclear weapons convention" and "to deploy a major world-wide Canadian diplomatic initiative in support of preventing nuclear proliferation and increasing the rate of nuclear disarmament." These motions were a product of work done by a group consisting of over 570 members of the Order of Canada who have joined together to promote the call for a NWC.

To encourage an exploration of what Canada might do to implement these motions, and to respond to the UN Secretary General's Five Point Proposal for Nuclear Disarmament, we organized an expert seminar in Ottawa. It was sponsored by four major civil society organizations and I did a significant portion of the organizational work. The evening of April 11, 2011, we were very fortunate to have H.E. Sergio Duarte, the U.N. High Representative for Disarmament as our opening speaker and representatives from Austria, Mexico, Switzerland and the UK responding to Amb. Duarte. In the audience were diplomatic representatives from 10 other embassies.

On April 12, 2011 we continued with a full day expert seminar with roughly 55 participants from government and civil society to consider legal, technical and political challenges that must be overcome to enable the start of negotiations on a Nuclear Weapons Convention. I was particularly happy with the panel on "Legal Aspects of a NWC" that involved a presentation by Dr. John Burroughs, Executive Director of Lawyers Committee on Nuclear Policy and a presentation by Prof. Michael Byers, the Canada Research Chair in Global Politics and International Law, University of British Columbia. They considered the options with respect to the legal architecture of a NWC, and strategies for considering key legal questions now that might hasten the start of negotiations. We also discussed the implications of the inclusion of international humanitarian law language in the Final Document of the 2010 NPT Review Conference. I extend my sincere thanks to John Burroughs for his assistance in organizing the Legal Panel.

We were also honoured by having Amb. Richard Butler, Chairperson of the Middle Powers Initiative (MPI), provide a luncheon address. He provided us with an update of MPI's work with ambassadors handling nuclear disarmament issues. He called on the Government of Canada to either host a preparatory meeting in 2012 to enable planning for an international nuclear disarmament meeting in 2014. Should that not be possible, he hoped for Canada's support for MPI serving as host to such a meeting.

Of greatest interest to IALANA supporters might be these four recommendations:

1. Canada should support UN resolutions calling for formal negotiations toward a nuclear weapons convention to begin in 2014 and should offer to host in 2012 a preparatory committee meeting of states and civil society representatives to begin planning for that negotiation process.
2. The Minister of Foreign Affairs should welcome the unanimous motions in the Senate and House of Commons calling for a new Canadian diplomatic initiative in support of nuclear disarmament and request that a special joint committee of the Senate and House of Commons hold hearings and prepare a report on how best to implement those unanimous motions.
5. In support the NPT Review Conference's call on states "to further diminish the role and significance of nuclear weapons in all military and security concepts, doctrines and policies," Canada should initiate discussions within NATO with a view to ending the Alliance's reliance on nuclear deterrence. Such discussions should include the call for an immediate no-first-use pledge by NATO, as well as increased attention to transforming the security relationship between Russia and NATO. Canada should also insist on the removal of NATO's tactical nuclear weapons from the territories of non-nuclear weapons states in Europe, and encourage discussions to begin leading to a global legal ban on nuclear weapons.
6. Canada should restore the practice of an inclusive approach to non-governmental organizations (NGOs), to take advantage of the expertise within the NGOs, for example, by restoration of the annual government-civil society consultation and by naming representatives of civil society organizations to the Canadian delegation to the First Session of the NPT Preparatory Committee, 2012. In this regard, we are pleased to note Canada's endorsement of the "Berlin Statement by Foreign Ministers on nuclear disarmament and non-proliferation" of April 30, 2011 which includes this promise: "We will actively promote disarmament and non-proliferation education, based on our conviction that education is a powerful tool for mobilizing further disarmament and non-proliferation efforts globally by enhancing awareness and understanding among our citizens."

Next Steps

We have just had a Conservative majority government elected. We will be getting the Report of the Seminar to key parliamentarians, officials and civil society leaders over the next few weeks. We hope to engage with parliamentarians calling for support for the recommendations above. Our dream for a next step would be to have Canada host (or support Middle Powers Initiative in hosting) a preparatory meeting to plan for an international disarmament meeting in 2014.

I will hope to work with individuals in other NGOs to organize meetings with key parliamentarians and

officials to press for Canadian support for progress toward a global legal ban on nuclear weapons.

LSR is a small group that has, due to insufficient numbers of volunteers, suspended publication of our newsletter and regular meetings. I do maintain an email contact list with emails for most of the Canadian professors of international law and supportive lawyers. I try to provide these individuals with news that may be of interest to them. I would be happy to organize a gathering in future if interest is indicated. And I am going to try to update the website!

May 30, 2011

“German IALANA” in 2011

By Reiner Braun

The German section of IALANA held its Annual General Meeting in Ahrweiler, on the banks of the Rhine near Germany's previous capital, Bonn. It combined the meeting with a visit to the Federal Government's former nuclear fallout shelter, otherwise known as the “Government Bunker”. This was a massive underground complex designed to house the German government and other official authorities in the event of a nuclear war. One can hardly imagine a place more suited to conjuring up images of “cynicism” and “insanity”: Their citizens perish but the leaders are kept alive to emerge into a post-nuclear wasteland? The location of the AGM could thus be seen as a symbolic expression of IALANA's main priority: abolishing all nuclear weapons by means of a nuclear weapons convention.

We took part in the NPT Review Conference in New York in May, the NGO alternative conference and the side events. In the run-up to this we founded the uniquely broad and diverse coalition ZoA (Future without Nuclear Weapons), bringing together all the significant social organisations and their leading representatives. ZoA organised a variety of events and some intense lobbying “at home” to raise awareness of the NPT Conference and bring our vision of a world without nuclear weapons to politicians, the media and the general public.

We continued the resistance against the nuclear weapons stationed at Büchel and the related lawsuit against the German Federal Government. Further, with the 25th anniversary of Chernobyl on the horizon, we campaigned against both of the Siamese nuclear energy twins (civil and military). We were one of the organisations behind several demonstrations against nuclear energy.

As part of the peace movement, we organised our own events and pursued our own legal arguments against the war in Afghanistan, demanding the withdrawal of all foreign troops. We played an active role in a conference organised jointly by VENRO (the umbrella organisation for German development NGOs) and the peace movement to take a particularly critical look at civil-military cooperation in Afghanistan.

And as a logical follow-up to both of these activities, IALANA also took part again in the 2010 Easter Marches.

We consider ourselves to be an active part of the national and international peace movements and participate in their central coordination committees, such as “Kooperation für den Frieden” (Cooperation for Peace) in Germany and the IPB internationally.

We continued to work intensively on the complex issue of using legal means to achieve peace. Our conference in 2009 on this topic (Peace through Law) and the ensuing discussion has been published in a book with the same name. This book represents a uniquely comprehensive and varied summary of this issue.

We participated enthusiastically in further activities of the “No to War - No to NATO” network by taking part in the counter summit organised to coincide with the NATO Strategy Summit in Lisbon. Specialist legal knowledge is the main contribution our professions can make to the work of these networks, enriching the discussion around how international law can contribute to the development of peace. The need for explanations of current peace-related issues such as Kosovo and the new NATO strategy provided us

with opportunities for successful appearances in the press and other media.

We also continued to work actively within European and international social forums.

We tried to live up to expectations in our role as the office for the international IALANA, producing two newsletters in spite of the almost complete lack of financial resources. And we ensured that IALANA remained active within networks such as the Coalition during the important periods related to the NPT Conference.

Our own newsletter appeared regularly (quarterly). The membership of the German IALANA increased slightly in 2010 but we are still not satisfied with this development