

“Humanitarian Law, Human Security: The Emerging Paradigm for Non-Use and Elimination of Nuclear Weapons”
(The Simons Foundation, International Association of Lawyers Against Nuclear Arms IALANA)

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Ladies and Gentlemen,

- I would like to thank the International Association of Lawyers Against Nuclear Arms (IALANA) and the Simons Foundation for bringing us together and giving us this opportunity to discuss and share our thoughts on the impact of Humanitarian Law on Nuclear Weapons.
- Any use of nuclear weapons would have catastrophic humanitarian consequences. It would cause the massive loss of lives and inflict terrible suffering on the survivors. It would disrupt political and economic systems and destroy medical, educational, energy, transport and communications infrastructures. It would cause long-term damage to the environment and severely hamper development. It would endanger food production and cause massive migration flows. Humanitarian assistance to survivors would be rendered practically impossible, given the large-scale destruction of medical and other infrastructures.
- Switzerland considers nuclear weapons as immoral and illegal.
- They are fundamentally immoral because they cause massive indiscriminate destruction in terms of human lives, material resources and consequences for the environment.
- They are illegal by their very nature with regard to international humanitarian law and the law regulating the use of force. All fundamental principles in this context are violated, given that any use of force
 - must be proportional to the initial attack,
 - must be necessary for effective self-defense,

- must not be directed at civilians or civilian objects,
 - must be used in a manner that makes it possible to discriminate between military targets and civilians, who must not be targeted,
 - must not cause unnecessary or aggravated suffering to combatants,
 - must not affect states that are not parties to the conflict, and
 - must not cause severe, widespread or long-term damage to the environment.
- The use of nuclear weapons violates each and every one of these principles.
- All States have to comply with international humanitarian law at all times. Like in other areas of IHL and warfare, we need to recognize that the law would be there in principle, although there is no explicit comprehensive and universal prohibition on the use of nuclear weapons in either customary or conventional international law. What is missing at present is the political will of the nuclear powers to effectively outlaw the nuclear weapon explicitly.
- Switzerland will support initiatives aiming at re-stating the existing legal obligations on the use of the nuclear weapon. In this context, Switzerland calls for a clarifying legal instrument to outlaw nuclear weapons. In doing so, we support the 5-point plan of the UN Secretary General. A legal framework is a key ingredient for any credible disarmament process.
- Whereas the ICRC finds it “difficult to envisage how any use of nuclear weapons could be compatible with the rules of international humanitarian law” (President Kellenberger, 20 April 2010), Switzerland tends to be more direct and is of the opinion, that, notwithstanding the ambiguity of the ICJ advisory opinion of 1996, any use of nuclear weapons would definitely violate international humanitarian law.
- Switzerland is fully committed to the cause of nuclear disarmament and considers the humanitarian perspective and an IHL-based approach highly relevant. Our conviction is not only based in our humanitarian tradition and the fact that Switzerland is the Depositary State of the Geneva Conventions and their Additional Protocols. Like any State, Switzerland is bound to the general legal obligation under Article 1 common to the Geneva Conventions: the obligation to respect and to ensure respect for IHL.

- To further promote the debate, Switzerland has asked the Monterey Institute to produce a study on the subject of delegitimizing nuclear weapons. I commend the study for its lucid criticism of the doctrine of nuclear deterrence and for its focus on the humanitarian perspective (copies available, one of the authors, Patricia Lewis, is present).
- Several States might want to see the issue of IHL and nuclear disarmament included as an item on the agenda of the 31st International Conference of the Red Cross and Red Crescent to be held in Geneva from 28 to 30 November 2011. Switzerland favours including this issue on the Conference agenda.
- The 31st Conference is a unique opportunity to enhance the IHL-based momentum on nuclear disarmament, because the Conference gathers all the components of the Red Cross and Red Crescent Movement: not only the national Red Cross and Red Crescent societies, the ICRC and the Federation, but also all the High Contracting Parties to the Geneva Conventions, i.e. the States holding the key to any development in IHL.
- Switzerland is committed to organizing a number of workshops in the run-up to the Conference, one of which will be dedicated to IHL in Nuclear Disarmament. Such events will contribute to preparing the ground for negotiations on a legal instrument to outlaw nuclear weapons.
- We want to see an inclusive and pragmatic process lead by the humanitarian community and supported by like-minded elements of the arms control and nonproliferation community. Civil society plays a determining role in this process.
- One says, a vision without action is called a daydream and action without a vision is called a nightmare. Switzerland is ready to combine action and vision in a way so as to contribute to stopping the nuclear weapons nightmare – in close co-operation with like-minded States, intergovernmental and non-governmental organizations.

Thank you.