



The bench: The 14 judges of the International Court of Justice, who advised against the use of nuclear weapons but said the ruling was not binding.

Picture: AP.

From JENNIFER SCOTT  
The Hague, Monday

# Court outlaws use of nuclear weapons

BY THE narrowest of margins, the International Court of Justice advised today that the use or threat of nuclear weapons in war should be outlawed.

It called nuclear weapons "the ultimate evil", but could not decide whether they should be banned in self-defence.

World Court President Mohammed Bedjaoui told a packed courtroom that the decision came by his casting vote, after the 14 UN judges had voted seven versus seven.

The court advised that "the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict".

The World Health Organisation and the United Nations General Assembly had asked the Court for a non-binding, advisory opinion on whether international law permitted the threat or use of nuclear weapons.

The court said that its opinion

was "consultative... and not binding".

"Nuclear weapons, the ultimate evil, destabilise humanitarian law which is the law of the lesser evil. The existence of nuclear weapons is therefore a challenge to the very existence of humanitarian law," Bedjaoui said in a personal statement explaining why he had cast his deciding vote.

At least 20 UN member states testified at the court last October, with the international community split between those which either have nuclear arms or come under the protection of the so-called nuclear umbrella, and those which do not.

The court remained undecided about a right to use nuclear weapons for self-defence.

"The court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a state would be at stake," Bedjaoui said.

Speaking in the Court's Great Hall of Justice, he urged the international community to continue its pursuit of a nuclear-free world through disarmament talks.

"There exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control," he said.

Acknowledging that the court's opinion was "unclear" and

merely noted "the existence of a legal uncertainty", Bedjaoui said that it did at least point to imperfections in international law and urged states to correct them.

Among the dissenting votes, vice-president Stephen Schwebel of the United States said that the court would have "done better... not to render an opinion at all".

"In terms redolent of realpolitik... the court proclaims its ambivalence about the most important provisions of modern international law," he said.

The court earlier dismissed the WHO request for an opinion on the legality of nuclear weapons, saying it was outside that agency's remit to request one.

"Whether nuclear weapons are used legally or illegally, their

effects on health would be the same," the court said.

Among the nuclear powers which testified to the court last November, the United States urged the court to throw out the request, saying nuclear weapons were vital for global security.

Australia and New Zealand led the call for nuclear arsenals to be outlawed, while France and Russia sided with their nuclear partners in urging the court to reject the request for advice.

□ Prime Minister H D Deve Gowda said that India stood by its decision to reject a proposed global nuclear test ban treaty and would resist Western pressure to sign up.

His pledge came after the US negotiator to the treaty said he did not expect India to block adoption of the text, even if it refused to sign the current draft.

India last month rejected a draft of the Comprehensive Test Ban Treaty being negotiated in Geneva, saying it was flawed and discriminatory and did not take the world any closer to universal nuclear disarmament. —Reuter.

## Scots activists hail ruling as victory

THE vice-chairman of Scottish CND claimed the landmark decision by the International Court of Justice to outlaw nuclear missiles effectively marked the final chapter of atomic weapons. Announcing the findings of the court in Edinburgh, Mr Alan Wilkie said: "We have seen the beginning of the end of the atomic age."

Mr Wilkie outlined the court's

findings on the steps of St Giles Cathedral, where the Scottish campaign to question the legality of Trident in the international court was launched in 1992.

He said the ruling had outlawed nuclear weapons, except where a country was threatened with extinction, and claimed the decision as a victory.

"It was a victory to get it to the court because of the tremen-

By LYNNE ROBERTSON

dous opposition which the nuclear powers had made against it all along," he said.

The anti-nuclear leader claimed it would have immediate and widespread implications and had "enormous" practical effect.

"The question of whether the Polaris or the Trident can law-

fully obey an order which would involve threatening or using their nuclear weapons is very much open to question," he said.

The Scottish National Party also welcomed the ruling and said it should be followed by the swift dispatch of nuclear weaponry from Scotland, including the nuclear hulks berthed at Rosyth.

The party's defence

spokesman, Mr Colin Campbell, said: "The majority of Scots do not want Trident or Polaris submarines, but have now been sentenced to have the hazards of unwanted nuclear submarines in Scottish waters for the next 16 years at least."

"If the Government thinks they are safe in the interim, why don't they stick them up the River Thames outside their cosy Westminster offices?"

GLASGOW HERALD: 9 JUL 96