

# REPORT # 6

LAWYERS' COMMITTEE ON NUCLEAR POLICY

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## World Court Opens its Doors to Citizens' Evidence.

On June 10, a coalition of citizens organizations including the International Peace Bureau (IPB, 1910 Nobel Peace Prize winner), the International Physicians for the Prevention of Nuclear War (IPPNW, 1985 Nobel Peace Prize winner) and the International Association of Lawyers Against Nuclear Arms (IALANA), made a formal presentation to the International Court of Justice in the Hague of a unique collection of citizens' evidence against nuclear weapons.

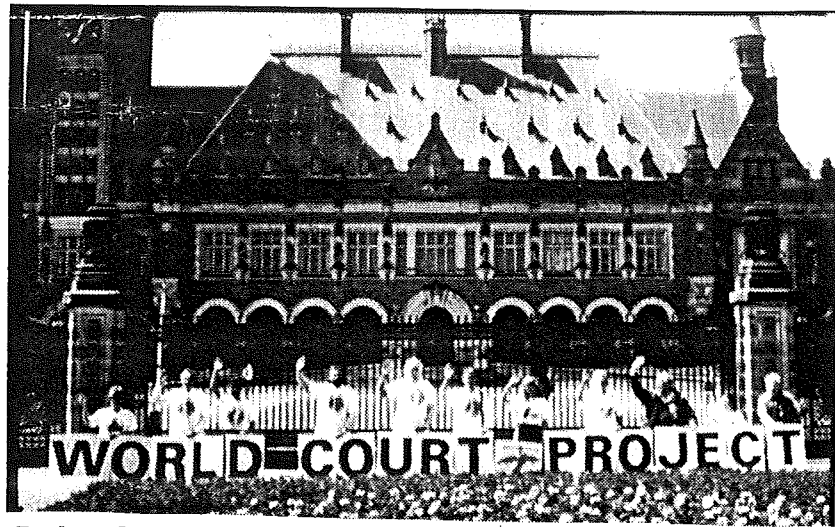
This included 160,000 declarations of public conscience, an appeal condemning nuclear weapons use by over 11,000 lawyers, a sample of the 100 million signatures from the Appeal from Hiroshima and Nagasaki, and other material surveying 50 years of citizen opposition to the nuclear arms race.

The presentation was made to the Registrar Mr. Eduardo Valencia-Ospina by Vic Sidel, Co-President of IPPNW; Saul Mendlovitz, UN Representative for IALANA; Colin Archer, Secretary-General of IPB; Michael Christ, World Court Project Coordinator for IPPNW, Willemijn Straeter, IALANA Secretariat; Robert Green, Chair of the World Court Project UK; and Wout Klein Haneveld, European President of IPPNW.

Following the presentation, Mr. Valencia-Ospina gave the citizens organizations a guided tour of the Peace Palace, which houses the Court.

The presentation was to support the case on the legality of the use of nuclear weapons which has been requested by the World Health Organization. It was reported on Dutch Television, but got little notice elsewhere.

This is the first time in its history that the International Court of Justice has opened its doors to admit a presentation of citizen's evidence to support a particular case. This is a great step forwards in increasing citizen awareness and involvement in the work of the Court. However, citizens and citizens' organizations still do not have any standing to argue the case in the Court.



World Court Project Supporters Outside the Peace Palace in The Hague, Netherlands

## 27 Countries make statements to the Court. Deadline extended.



Swedish MP Maj-Brit Theorin, who was instrumental in Sweden making a submission.

On 13 September 1993, the ICJ announced that it had received the request from the World Health Organization (WHO) to render an advisory opinion on the legality of the use of nuclear weapons, and it invited states members of the WHO to make written submissions for this case by 10 June

1994. However, on 22

June 1994, the Court announced that it had extended the deadline at the request of some countries, until 20 September 1994. The Court also announced that

countries making submissions had until 20 June 1995 to submit written responses to the submissions made by other countries.

As of 10 June, 27 countries had made such submissions. The Court is treating these submissions as confidential at this stage. However, the following is a breakdown of positions taken by various countries;

1. Stating that the use of nuclear weapons is illegal: Costa Rica, India, Kazakhstan, Mexico, Moldova, North Korea, Solomon Islands, Sweden, Ukraine, Papua New Guinea.

2. Supporting the case but not commenting on the legality of nuclear weapons use; Belarus, Ireland.

3. Expressing interest in the case and support for nuclear disarmament: Aotearoa/New Zealand, Japan, Norway.

4. Case inadmissible: Germany

5. Case inadmissible, nuclear weapons use could be legal in some circumstances: Australia, France, USA, UK, and Russia.

## United Nations General Assembly Resolution

The 11th Ministerial Meeting of the Non-Aligned Movement (NAM), held in Cairo in June 1994, adopted a statement which included the following;

"The Ministers decided to retable and put to the vote the resolution seeking an advisory opinion from the International Court of Justice on the legality of the use and threat of use of nuclear weapons, during the 49th Session of the General Assembly."

The General Assembly resolution in question was introduced by the NAM in 1993, but was not voted on following heavy pressure on the NAM by nuclear states.

If the resolution is adopted at this year's General Assembly, it would add the question of the threat of use of nuclear weapons to the case currently being considered by the ICJ. It would also add an additional authoritative UN organization asking the court to consider the question of the use of such weapons. This could

strengthen the current case. In particular, the spurious arguments by the nuclear countries and their allies that the court case could hurt progress being made on nuclear disarmament in other UN forums would be totally demolished should the General Assembly, the primary UN organ dealing with disarmament questions, request such an opinion.

We can again expect considerable pressure from the nuclear powers in attempting to prevent the resolution being voted upon. However, the decision at the Cairo NAM Meeting to "put to the vote the GA resolution", is an advance on last years' decision by NAM which was merely to introduce the resolution. The possibility of the resolution being successfully adopted by the United Nations is thus greater than last year.

## World Court Project #5

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## World Court Project Summary:

An initiative to seek advisory opinions from the International Court of Justice confirming that the threat or use of nuclear weapons is illegal.

## North Korea tells World Court that use of nuclear weapons is illegal.

North Korea, under increasing suspicion of developing nuclear weapons, has reportedly made a submission to the International Court of Justice (ICJ) in the Hague, stating that the use of nuclear weapons is a violation of international law.

North Korea is believed to have cited a number of sources of international law which would be violated by the use of nuclear weapons, including the UN Charter, the Convention on Biodiversity, the WHO Constitution and the Statutes of the International Atomic Energy Agency.

North Korea's submission creates, at least on paper, a self imposed obligation not to use nuclear weapons. It is likely, however, that North Korea has made the submission in an effort to bind all nuclear weapons states, including the US, against any use of such weapons. The UK Guardian reported on June 22 that one of North Korea's objectives in their current dispute with the US is to obtain a promise from the US not to use nuclear weapons against North Korea.

The US has tried to create a smokescreen over this call from North Korea by insinuating that North Korea is the one to be feared. The NY Times (June 11) for example reported that the United States is "analyzing scenarios in which North Korea might use such weapons". The smokescreen appears to have worked in the US. There has been little or no media reporting of North Korea's fears of nuclear attack against them nor their calls for non-use of nuclear weapons. It has also diverted attention from the nuclear programs of South Korea and Japan, both of which, according to Eric Nadler (The

Nation, July 4, 1994) have a greater capability of producing nuclear weapons than North Korea.

Even if North Korea has produced nuclear weapons, it is unlikely that they would be the first to use them in any renewed Korean conflict. To do so could result in radioactive contamination drifting back to their own country. Even worse, it would invite nuclear retaliation from the United States, which could easily obliterate North Korea.

If anything, it is more likely that the US would use nuclear weapons first. The US has reserved the option to first-use of nuclear weapons, and would not need to fear nuclear retaliation from North Korea which has no missiles capable of reaching the US. The US has used nuclear weapons in the past in the Asian region, against Japan, and also planned to use them against North Korea in the Korean war (secret war plan OPLAN 8-52), as reported by Michio Kaku in "To Win a Nuclear War: The Pentagon's Secret War Plans" (South End Press, 1987).

If the United States, and other major nuclear weapons states, are serious about preventing the proliferation of nuclear weapons in Korea and elsewhere, they should change their policy of threatening to use nuclear weapons and should themselves adhere to the Non-Proliferation Treaty, according to which they agreed to take steps towards the complete elimination of such weapons.

As long as the major nuclear powers continue their policies of possession and threat of use of nuclear weapons, other countries- not only North Korea- will continue to be tempted to build their own arsenals.

**Jersey City endorses World Court Project** The City Council of Jersey City passed a resolution in support of the World Court Project on Wednesday 20 June 1994, and called on other cities in the USA and throughout the world to do the same. Jersey City is the first US city to have officially endorsed the project. 35 councils from Aotearoa, Australia, Canada and the UK have passed similar resolutions.

**Please join LCNP and help cover World Court Project expenses.**

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## **United States says Don't Meddle! (and anyway nukes are legal for us)**

The United States announced on June 17 (US State Department Press Guidance) that the US had made a submission to the International Court of Justice stating that the Court should refuse to provide an opinion on the question asked by the World Health Organization (WHO) on whether the use of nuclear weapons by a state would violate international law. The US said that WHO has no authority to ask the Court for such a question because the issue is "political".

While WHO specifically asked the ICJ to give its opinion "in view of the health and environmental effects," the US stated that the question had nothing to do with WHO's constitutional functions.

It is clear that the US has a different understanding of what health means, and the mandate of WHO, than other members of WHO, the majority of whom voted in favor of asking the Court to give its opinion, on the basis that "*no health service in the world can alleviate in any significant way a situation resulting from the use of even one single weapons*" (Resolution WHA 46/40, 1993) and that "*the only approach to the treatment of health effects of nuclear warfare is primary prevention, that is, the prevention of nuclear war.*"

The United States on the other hand believes that the work of WHO should be confined to "*assist its members in enhancing the provision of health services to their populations*" (US State Department Press Guidance, June 17), totally overlooking the fact that WHO has done major research, over many years, on the health effects of nuclear weapons.

The US submission went on to say that if the Court should decide to provide an opinion, the US would argue that "*there is no prohibition in conventional or customary international law, or in the WHO Constitution, on the use of nuclear weapons. On the contrary, numerous international agreements regulating the possession or use of nuclear weapons are evidence that their use is not deemed to be generally unlawful.*"

This ignores the fact that most of these agreements call for the eventual elimination of nuclear weapons, and the fact that the use of nuclear weapons has repeatedly been declared to be illegal by the United Nations General Assembly in resolutions supported by a vast majority of nations.

## **India's Submission Circulated as UN Document**

At the request of Mr. Ansari, India's UN Ambassador, the United Nations has circulated the Indian submission to the Court as a UN document (A/49/181). In their submission, India referred to WHO reports which have established that even a limited nuclear conflict, a contradiction in terms, would cause unprecedented environmental destruction and human suffering.

India invited the Court to confirm the generally accepted view among nations that the use of nuclear weapons is illegal. India noted that such a view has been demonstrated by the adoption of a series of General Assembly resolutions, beginning in 1961, stating that the use of nuclear weapons would be a crime against humanity and a violation of the UN Charter. Since 1982, India has been the country which has introduced these resolutions in the UN.

India's submission is the first one to have been made officially available to the international community.

## **Present composition of the World Court**

President: Mohammed Bedjaoui (Algeria)

Vice-President: Stephen M. Schwebel (USA)

Judges: Shigeru Oda (Japan), Roberto Ago (Italy), Sir Robert Yewdall Jennings (United Kingdom), Nikolai K. Tarassov (Russian Federation), Gilbert Guillaume (France), Mohammed Shahabuddeen (Guyana), Andres Aguilar Mawdsley (Venezuela), Christopher G. Weeramantry (Sri Lanka), Raymond Ranjeva (Madagascar), Geza Herczegh Hungary, Shi Jiuyong (China), Carl-August Fleischhauer (Germany), Abdul G. Koroma (Sierra Leone).  
Registrar: Eduardo Valencia-Ospina (Colombia)