

# Nuclear-free pioneers still hard on the trail

NEW ZEALAND's nuclear-free status brought international renown, one way or another.

The role of New Zealanders in a new and more significant international move against nuclear weapons is pivotal but less obvious.

The World Court Project is a joint initiative by the International Physicians for the Prevention of Nuclear War (IPPNW), the International Association of Lawyers Against Nuclear Arms (IALANA) and the International Peace Bureau.

Its aim is to present a resolution to the United Nations General Assembly requesting the International Court of Justice to give an opinion on the illegality of nuclear weapons.

The original impetus for the project came from retired Christchurch magistrate Harold Evans who, in 1987, presented an open letter to the Prime Minister at the time David Lange and his Australian counterpart Bob Hawke which contained the opinions of international jurists on the illegality of nuclear weapons, and proposed referral of the question to the World Court.

The following year the issue was taken up by IPPNW, both in New Zealand and internationally.

The lawyers' association was formed in 1989 with the question of the legality of nuclear weapons as its keystone.

These two groups combined with the International Peace Bureau in Geneva to formally launch the World Court Project in May 1992.

This May, IPPNW successfully presented a resolution to the World Health Assembly which binds it to make a formal request to the International Court of Justice (ICJ) for an opinion on whether the use of nuclear weapons is permitted under international law.

IPPNW's delegation to the WHA included Dr Robin Briant, chairman of the New Zealand Medical Council, Wellington general practitioner Dr Erich Geiringer, and Dr George Salmond, a former director-general of health.

THE resolution to take the matter to the ICJ received 73 votes in favour, 40 against, and 10 abstentions including New Zealand and Australia. Those who voted against included all the countries which have nuclear weapons.

Although the ICJ is bound to consider questions referred to it by the appropriate international bodies, the issue is being pursued further by IALANA, the lawyers' association, which will present a similar but slightly strengthened resolution to the United Nations General Assem-

## PAT BASKETT finds out what determined New Zealanders are doing to rid the world of the nuclear threat.

bly when its next session opens in September.

The resolution asks that the United Nations assembly request the ICJ to consider whether "the threat of the use of nuclear weapons is permitted under international law."

Geiringer says that court referral by the General Assembly is necessary so that the nuclear powers receive "the clearest possible message that the WHA resolution is not an aberration but an expression of the impatience of the world community with the sabotage of progress towards a convention to ban nuclear weapons."

At the forefront of IALANA's campaign is former Hamilton kindergarten teacher Alyn Ware, who is executive director of their committee on nuclear policy.

He made a brief return to New Zealand last week from his home in New York before flying to Nauru to speak to members of the South Pacific Forum.

Since his appointment in February his work has consisted of lobbying United Nations delegations, providing them with information and encouraging them to make their own submissions on the issue.

WARE believes that international law is not nebulous or meaningless. "It consists of what people believe is appropriate or inappropriate behaviour. But we need to use it."

The move to have nuclear weapons declared illegal is a necessary and significant step in the long process of having such weapons banned by an international convention.

"The nuclear governments don't want the spotlight on the enormous problems posed by nuclear weapons — the environmental hazards of their production and the disposal of waste, and the enormous and unaffordable costs of maintaining the arsenals."

The first convention prohibiting the use of chemical weapons was the Geneva Gas Protocol of 1925, which banned the use — but not the possession — of chemical weapons. Countries reserved the right to use them in retaliation.

In 1992 the Chemical Weapons Convention made their possession illegal and set up an agency to oversee their destruction.

A convention banning biological weapons was signed in 1972.

The illegality of these weapons enables the international community to

carry out surveillance and to prosecute countries found producing or using them.

Less well known is the fact that the United Nations assembly has voted each year since 1961 on a resolution stating that nuclear weapons contravene existing United Nations treaties which make certain action unacceptable in war.

The resolution, which was originally put by Ethiopia and is now routinely presented by India, has been agreed to by the majority of United Nations member states, excluding most of the nuclear powers and some others.

China and Russia, both nuclear states, have voted for the resolution.

The relevant treaties are numerous. They spell out customary international law and humanitarian principles relating to the conduct of armed conflict and the protection of human rights.

The principal ones are the Hague Conventions of 1899 and 1907, the United Nations Charter and the Nuremberg Principles of 1945 and the Genocide Convention and the Geneva Convention signed in 1949.

Among the prohibitions of these rules of international law are weapons or tactics which cause unnecessary devastation or suffering; indiscriminate harm as between combatants and noncombatants; widespread, long-term and severe damage to the natural environment; reprisals which are disproportionate to provocation.

Ware points out that the ICJ won't be making law when it gives its opinion; it will be confirming law which is already enshrined in these conventions and, theoretically, accepted by member states.

"All countries are obliged to abide by the Nuremberg Principles. Thus, if the court rules that the use and threat of use of nuclear weapons violate these conventions and principles, the nuclear states will be bound to recognise this."

He admits the likelihood that such recognition will be resisted.

"However, the ICJ opinion would give tremendous support to those government members who are opposed to nuclear weapons but who have not had much success in advancing nuclear disarmament initiatives."

"It could also lead some previously pro-nuclear politicians to rethink their stance and it would chal-

lenge the notion that these weapons are the ultimate insurance policy."

An important part of the lawyers' case is presenting evidence of public opinion to the General Assembly. Millions of "Declarations of Public Conscience" have been signed worldwide, with nearly 10,000 from New Zealand.

The declaration consists of eight points, ending with the request that governments bring "one or more motions to the United Nations asking the International Court of Justice to pronounce on the legality or otherwise of nuclear weapons."

To mark Hiroshima Day, August 6, a ceremony will be held at the North Shore City Council chambers, Takapuna, when the declaration will be signed, among others,

by the mayor, Paul Titchener, and David Lange.

The Minister of Foreign Affairs and Trade, Don McKinnon, says New Zealand will consider any resolutions put to the United Nations.

New Zealand had abstained at the World Health Assembly vote in May because it was not considered to be the appropriate place to consider such a resolution.

"The Government supports all moves towards nuclear disarmament, but considers that negotiation and building up political will is more effective than a legal opinion. The process of working towards a treaty is already doing this."

● Alyn Ware ... spearheading the campaign.

PICTURE: YANSE MARTIN

