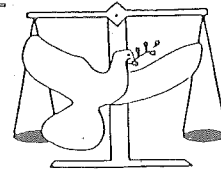


World Court Project

Bulletin No. 4

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Peace on Earth?

WHAT a to-do! Thanks to you and many other New Zealanders, very strong support has been given this year to the World Court Project. But the powers that be — the nuclear powers — have bullied and "negotiated" the resolution of the smaller non-aligned nations off the UN agenda.

The WCP, however, has seen significant gains this year: the decision of the WHA in May, the rallying of people's support worldwide, and the tabling of the resolution at the UN — itself no mean feat.

Politics at the UN appear to have prevailed over law and morality — but only temporarily.

Here in nuclear-free Aotearoa-New Zealand we have won the support of the three major political parties. (The new Government informed the WCP on November 19 that it would be prepared to support the UN resolution if it went to the vote.)

We have a real chance in 1994 to further the successes of this year.

Wouldn't it be wonderful if our political representatives declared a free conscience vote to co-sponsor such a resolution at the UN in 1994 — to take again the initiative of our global nuclear-free leadership? We believe we have a majority of MPs in the new Parliament on our side to achieve this.

All eyes are now on the WHA initiative, with fears that the WHA might also be bullied into withdrawing their decision.

We are winning but the struggle continues. Therefore, as a sign of hope, I ask you to write a card to our political leaders and to your own MP

- thanking them for their stand
- urging co-sponsorship at the UN in 1994;
- requesting information about New Zealand's submission to the World Court following the WHA resolution;
- wishing them a peaceful Christmas and New Year.

Arohanui

John Murray

UN resolution withdrawn under pressure

THE UN resolution tabled by the Non-Aligned Movement challenging the legality of nuclear weapons was withdrawn on November 19 after intense pressure on the NAM countries by the nuclear powers.

The resolution, which calls for an advisory opinion from the International Court of Justice on the legality of the threat or use of nuclear weapons, had been successfully tabled at the UN on November 9.

"Compromise"

In a statement to the UN First Committee on 19 November, Indonesian Ambassador Wisnumurti stated:

"...in the spirit of cooperation and compromise, the NAM have decided not to press the resolution for a final action by the committee at this time."

However, the Non-Aligned Countries will continue to monitor developments concerning efforts in different fora towards nuclear disarmament.... [and] reserve their rights to raise this issue at any time they deem it as necessary and appropriate."

The withdrawal came after weeks of frantic activity by the Western nuclear powers and some of their allies, who are reported to have threatened individual NAM countries that trade and aid could be at stake if they pressed ahead with the resolution.

Katie Boanas-Dewes, a New Zealand representative of the World Court

Project who lobbied UN members in New York, said she believed losing the resolution was part of the horse-trading to get support for a comprehensive test ban.

"It is outrageous that the nuclear states prevented this resolution from coming to a vote. Democracy and justice have been thwarted by a small minority of countries using their political power to prevent action to curb a threat to the planet."

Despite the setback, the nuclear States were on notice that the legality of nuclear weapons was under challenge, she said.

Majority support

Alyn Ware, a member of the WCP International Steering Committee, also expressed outrage at the outcome.

"The fact that the 110 states which are members of the Non-Aligned Movement introduced this resolution, and many more were going to vote in favour, indicates the majority support for this initiative," he said.

"The Western nuclear states are now turning their attention towards scuttling the case against the use of nuclear weapons which the ICJ is due to begin considering in June 1994 at the request of the World Health Organisation. We urge the WHO to remain strong and not give in to pressure by the nuclear states."

* See "The way ahead", page 2

Down but not out

Some personal reflections by Rob Green, one of the principal leaders of the World Court Project, from the UK.

What did we achieve?

In the knowledge that we were directly challenging the most powerful and ruthless lobby in the world, I offer the following:

- 1) We got the resolution into the First Committee. This was no mean feat: most UN missions thought we wouldn't even get it on the agenda.
- 2) Every UN member nation's government now knows about the World Court Project and the importance given it by the nuclear weapon states.
- 3) The two statements by Indonesia to the First Committee, on behalf of a clear majority of UNGA, contain valuable quotes which could strengthen the WHO case with the IJC.

Why could we not repeat the WHA miracle?

I offer the following observations:

- 1) *No surprise at UNGA.* The IPPNW team had the crucial and unrepeatable advantage of surprising an unprepared nuclear cartel. With the WHO question accepted by the ICJ, the USA, UK and France made sure they did not repeat that mistake at UNGA.
- 2) *UNGA resolution challenged deterrence.* Because the added question of threat was included in the UN resolution, and the fact that it was not confined to health and environmental effects, the nuclear cartel clearly understood the resolution directly chal-

lenged deterrence doctrine, and with it their privileged position.

3) *IPPNW influence in WHO.* IPPNW has members working within the WHO and health ministries who helped the path of the WHO resolution.

4) *Health/environment effects easier to argue than law.* The legal status of nuclear weapons is a new issue to most governments and the public, and is more difficult to argue than health and environmental effects.

5) *NAM complacency, gullibility and timidity.* The WCP received expressions of interest and sometimes support from most NAM UN missions in early meetings. However, the majority of NAM governments were later conned by specious US/UK/French arguments. When threats to trade and aid were added, all but a few were easily intimidated.

What chance in 1994?

It will probably be tougher next year because:

- 1) Nuclear Non-proliferation Treaty negotiations are imminent
- 2) A Comprehensive Nuclear Test Ban Treaty agreement is a possibility
- 3) NAM is in disarray and easily intimidated
- 4) The WHO question hopefully under consideration by ICJ could allow the nuclear cartel to claim that "use" is sub judice.

The way ahead

Three viewpoints

Rob Green:

I feel we should focus on:

- 1) Protecting the WHO question in the ICJ (we know that the US is determined to get it withdrawn or challenged).
- 2) Producing as strong a case as possible for the WHO.
- 3) Getting as many states as possible to make supportive submissions to the ICJ.
- 4) Opening up the debate worldwide.
- 5) Amassing endorsements and declarations.

Katie Boanas-Dewes:

Will the resolution ever reach the UN again?

The NAM countries which led this year's attempt have indicated they could not withstand the pressure again. They would be reluctant to push the resolution again so close to the Nuclear Non-Proliferation Treaty renegotiation (1994) and the promise of a Comprehensive Test Ban Treaty. NAM could not afford to risk the unity of their precarious alliance, and they would want to await the result of the WHA case at the World Court.

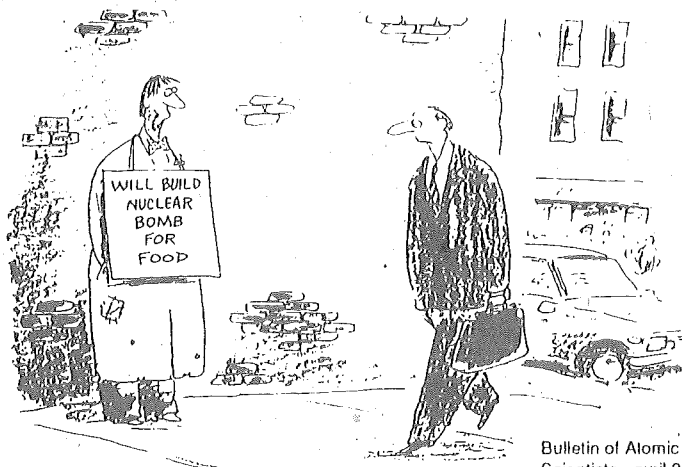
Depending on that outcome, there is a possibility that New Zealand could take the lead next time, under an MMP government.

Alyn Ware:

NAM has established a working group to keep this resolution under consideration. It is not likely to be raised by NAM in 1994. The same countries who used NAM's consensus procedures to block action on this resolution will likely do so again.

The only way to ensure this resolution comes to a vote in 1994 is to take it out of NAM and find an individual country willing to introduce it and others willing to co-sponsor.

(An encouraging development was the support from outside NAM, including New Zealand, Australia, Canada, Ireland and Italy. Other countries were prepared to abstain.)



Bulletin of Atomic Scientists - avril 93

Nuclear powers worried by WHA decision

THERE IS GOOD evidence that the US, the UK and France are likely to exert pressure of various sorts to get the 31 members of the Executive Board of the WHO to reconsider the World Health Assembly resolution to approach the World Court (WHA 46.40).

The board will meet in Geneva on January 17 and 26 to among other things set the provisional agenda for the 47th World Health Assembly.

If the resolution is placed on the agenda, then the goal of the opposition will be to force the Health Assembly to pass a resolution to withdraw the question from the World Court.

The 47th WHA will convene in Geneva on May 2 and close no later than May 12, 1994.

The US, UK and France are worried about the prospect of a World Court advisory opinion on nuclear weapons, particularly when such an opinion will likely be rendered just prior to the 1995 NPT review conference where they are hoping to obtain an indefinite extension of a discriminatory nuclear regime.

IPPNW is at present briefing members countries of the Executive Board about the issues and the importance of allowing the referral to the World Court to be followed through.

Government to consider World Court submission

ON NOVEMBER 9 the WCP wrote to the Prime Minister asking whether the New Zealand Government intended to accept the invitation from the International Court of Justice to make submissions on the illegality of nuclear weapons, following the resolution passed at the World Health Assembly in May of this year.

The following is an excerpt from a reply from the Rt Hon Don McKinnon, Minister of Foreign Affairs and Trade, 19 November 1993:

"In response to your specific query, the Government has received notice from the International Court of Justice of the time limit within which states may submit written statements on the request for an advisory opinion adopted at the World Health Assembly in May. The time limit is 10 June 1994. The Government will be considering the matter in due course.

"The first committee's handling of

disarmament matters this year was generally positive and constructive. The highlight for New Zealand was the adoption by consensus, with the record 156 co sponsors, of a resolution supporting the early commencement and completion of a Comprehensive Nuclear Test Ban Treaty.

"New Zealand has been among the leaders on this resolution for many years and it is most encouraging to have achieved, for the first time, universal support in the United Nations for the CTBT goal. Negotiations are due to commence in the Conference on Disarmament in Geneva early next year and New Zealand will be seeking appropriate involvement..."

On the morning of November 19, Mr McKinnon's office phoned the WCP to say that the Government had given instructions to support the resolution, if it were tabled.

Political support

MPs who have so far declared their support for the World Court Project

Labour

Clive Matthewson (Dunedin West)
David Caygill (St Albans)
David Lange (Mangere)
Geoff Braybrooke (Napier)
George Hawkins (Manurewa)
Graham Kelly (Porirua)
Helen Clark (Mt Albert)
John Blincoe (Nelson)
Judith Tizard (Panmure)
Koro Wetere (Western Maori)
Lianne Dalziel (Christchurch Central)
Liz Tennet (Island Bay)
Margaret Austin (Yaldhurst)
Michael Cullen (St Kilda)
Mike Moore (Christchurch North)
Peter Dunne (Onslow)
Peter Tapsell (Eastern Maori)
Paul Swain (Eastern Hutt)
Johnathan Hunt (New Lynn)
Steve Maharey (Palmerston North)
Jack Elder* (West Auckland)
Harry Dynhoven* (New Plymouth)
Jim Sutton* (Timaru)
Larry Sutherland* (Avon)
Mark Burton* (Tongariro)
Peter Hodgson* (Dunedin North)
Ross Robertson* (Papatoetoe)
Phil Goff* (Roskill)
Jill White* (Manawatu)

National

Christine Fletcher (Eden)
Jim Gerard (Rangiora)
Joy McLauchlan (Western Hutt)
Nick Smith (Tasman)
Pauline Gardiner* (Wellington- Karori)
Robert Anderson* (Kaimai)
Roger McClay* (Waikaremoana)
Warren Kyd* (Hauraki)

Alliance

Jim Anderton (Sydenham)

MPs defeated or retired at election:

Labour

Chris Laidlaw (Wellington Central)
Bruce Gregory (Northern Maori)
Sonja Davies (Pencarrow)

National

Grant Thomas (Hamilton West)

NZ First

Gilbert Myles (Roskill)
Hamish McIntyre (Manawatu)
Cam Champion* (Wanganui)

**Indication of support since the election.*

A long and winding road...

Harold Evans looks towards the day the nuclear question comes before the ICJ

WHEN, in March 1987, with supporting opinions from six jurists of international standing, I suggested that the International Court of Justice be asked to look at the legality or otherwise of nuclear weapons of war, I scarcely imagined what powerful resistance and opposition the suggestion would encounter six years later.

The fact is that in recent weeks three of the nuclear powers — the USA, Britain and France — have taken the lead in subverting and frustrating the corporate will of the 110 Non-Aligned member states of the UN.

So, for the moment, the WCP has suffered a reverse. Yet it remains alive through the World Health Assembly's resolution last May — with a life more viable than Nuclear Deterrence, to which the nuclear powers and their allies have chosen to wed themselves.

For them, the total elimination of nuclear weapons — an essential first step towards the elimination of all weapons of mass destruction — is as far away as ever. To break through this barrier remains the aim of the World Court Project.

Nuclear weapons must be exposed

to the bracing influence of law and the international judicial process. The principal actors in the affairs will not be politicians or their legal advisers, but the 15 Justices of the International Court of Justice.

The court itself is no ordinary one. Its statute not only establishes it as "the principal judicial organ of the United Nations", but provides that "it shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognised competence in international law".

This is the kind of Court (and judges) that the people of the world are entitled to look to for guidance in so vital a case as:

The Law v Nuclear Weapons

New Zealand as role model

AT THE IPPNW Annual Conference in Auckland in September, Professor Jim Falk, of the University of Wollongong, noted that, at a time when people are looking for new models for achieving a safer world, New Zealand's nuclear-free stand continues to inspire people in many parts of the world.

Professor Falk said the Nuclear Non-Proliferation Treaty review conference in 1995 provides a vital opportunity for New Zealand to provide a strong leadership role in not only extending but greatly strengthening that treaty by setting time limits for complete nuclear disarmament.

The WCP will be keen to see New Zealand accept that role.

Acknowledgements

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Politics at the UN

By Rod Alley

FOR THE AMERICANS, the British and the French an approach to the World Court on the legal status of nuclear weapons cuts too close to the bone. Better by far, they told the Non-Aligned Movement, be grateful for the consensus resolution passed supporting a long overdue commencement of negotiations in the Conference on Disarmament for the comprehensive banning of nuclear tests.

Here is where the momentum lies, NAM would have been told, now why go complicating things unduly by pushing the illegality question?

Secondly, it is not at all clear that the non-aligned countries themselves were sufficiently persuaded that the draft resolution had sufficient support to emerge strongly.

This is a highly diversified group. Among its members, disarmament agendas have been running for some time, including so-called negative security guarantees and attempts to move towards a clearer recognition of no-first use of nuclear weapons principles. These are issues which would be affected by an approach to the ICJ.

Certain governments develop proprietary interest towards the regular running of particular disarmament issues within the UN General Assembly. Mexico, Egypt and Nigeria are

examples. Like fancy thoroughbreds, diplomats have strong turf instincts.

Above all, the non-aligned countries are concerned to present a strong and united front at the 1995 Nuclear Non-Proliferation Review Conference — a comprehensive test ban under negotiation seen by them as a vindication of having gone to the wire over this issue at an earlier NPT review conference.

Third, but by no means least, is the snail's pace of disarmament diplomacy in the UN. Even under current conditions of major international system change, the interaction between capitals and delegations regarding responses to new agenda items is normally cautious and often slow.

Supporters of the WCP should not feel unduly disheartened by the withdrawal of the draft General Assembly resolution. The exercise proved valuable in smoking out contrasting intensities of support and opposition to the initiative.

Lobbying at many levels now needs reinvigorating to build the kind of support that, if not delivering a General Assembly consensus in 1994 or 1995 on the issue, will serve notice on the nuclear weapons states that their opposition to the move is becoming increasingly parlous and lonely.