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Berlin, 31 May 2011

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**Ladies and Gentlemen,
Dear Colleagues,
Dear Friends of IALANA,**

There have not been many IALANA General Assemblies prepared as intensively, democratically and participatively as this year's event in the beautiful city of Szczecin. This is only possible due to the generous support from our Polish colleagues, and in particular from Pasquale Policastro.

In this newsletter, we would like to present the General Assembly's program with its public events and the sessions for IALANA discussions. As well as familiarising you with the main topics to be dealt with at the event, we would also like to give you an impression of IALANA's international work and activities.

The international IALANA relies on the activities of its national affiliate sections and particularly committed individuals. The essential focus of the organisation is its campaign against nuclear weapons, the blight of humankind, but it does not forget other issues related to war and peace.

This year's Assembly is taking place in a period of rapidly changing events that seem to compete with each other for the world's attention (which we can only refer to with brief keywords here): peoples' revolts in Arabian countries; the war in (or NATO's war against) Libya; the nuclear disaster in Fukushima; the international debate this provoked about the irresponsible use of nuclear energy; and the almost panic-like attempts to define the responsible alternatives, such as renewable energy, energy efficiency and energy savings. Should IALANA also assume a clear "twin no" stance: "No" to nuclear weapons and "No" to nuclear energy?

Within our organisation we have different opinions and positions on many issues, but as the "IALANA family" we surely agree upon the following: Humanity should free itself of its nuclear weapons blight, and wars do not represent a way to solve conflicts.

International law is facing some significant challenges and a wide-ranging discussion. Is it capable of dealing with the new situations? How can we stop it being abused? How should it and how can it be further developed? What does

“Peace through Law” really mean to us? How can it become a scientific, political and legal reality? This IALANA General Assembly provides another opportunity for us to take a look at these questions.

There will be many topics we can take a new and fresh look at, considering both the opportunities and the challenges presented to us by current developments.

IALANA needs new active members. Maybe this newsletter has helped to awaken your interest – we would be pleased to hear from you.

Peter Becker
Jenny Becker
Reiner Braun
Otto Jäckel

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IALANA GENERAL ASSEMBLY

Program

“Getting to a nuclear weapons free world: Gradualism versus leapfrogging”

Thursday, 16th of June

16.00 Sight-seeing walk in Szczecin

Until 18.00 Arrival of the participants

19.00 Get together Party

Friday, 17th of June

10.00 until 12.00

Round table:

“The Lisbon Treaty and the increasing role of military forces in European Policy”.

Chair: Pasquale Policastro

Introduction: Reiner Braun (political issues), Marc Entin (legal issues), Teresa Freixes (legal issues)

14.00 until 15.30

Round table:

“The rising danger of nuclear weapons and the use of nuclear energy - Counter Strategies”

Chair: Otto Jäckel

Introduction: John Burroughs, Peter Becker

16.00 until 17.30

Round table:

“Living Peace and International Law. IALANA’s activities for a Nuclear Weapons Convention.”

Chair: Dieter Deiseroth

Introduction: Peter Weiss, Alyn Ware, Phon van den Biesen, Toshinori Yamada

18.00 until 20.30

Public event at the university:

“Peace as a 21st century challenge – Is a nuclear weapons free World feasible?” with the President of the university, the mayor of the city, the arch bishop and Peter Weiss: Comments from the students.

Moderators: Peter Becker, Pasquale Policastro

Commentary: Takeya Sasaki (new president of IALANA) and Cora Weiss

20.30 Reception

Agenda for the General Assembly

Saturday, 18th of June

10.00 until 10.20

Welcome by Pasquale Policastro and Peter Weiss

10.20 until 13.00

- Reports on the international activities of IALANA since Berlin by Peter Becker, Alyn Ware, Jenny Becker
- Reports on the activities in different countries by representatives of the countries (7 Minutes each)

- Nomination of the election preparatory committee

Moderation: Teresa Bergmann (New Zealand, Germany, Poland), Robin Borrmann (Germany), Kenichi Ohkubo (Japan)

14.30 until 17.00

Discussion about the future of the international IALANA: What are the main challenges for the IALANA? How to continue our fight for a Nuclear Weapons Convention? What to do in the field of Peace and international Law? Peace through Law. How to support Whistleblowing and social verification? How can we develop student work? How about promoting peace education in schools?

Introduction: Phon van den Biesen

Commentaries :(five minutes each)

- Jenny Becker
- John Borrrougths
- Annegret Falter
- Yaeka Inoue
- Kenji Urata
- Pasquale Policastro

17.00

Summary of the day: Pasquale Policastro

17.30-19.00

Central public event:

“Two aspects of the sword of Damocles: Nuclear Energy and Nuclear Weapons”.

(Judge Weeramantry)

A world without nuclear energy and weapons is possible.

Comment: Kenji Urata

19.00 until 19.30

Ongoing public event, discussion:

“Nobel Peace Prize – historical successes and recent betrayal?”

Introduction: Peter Weiss (10 min talk, 20 min discussion)

20.00

Evening dinner with Arch Bishop

Dinner speech: Judge Weeramantry, Peter Weiss

Sunday, 19th of June

10.00 until 11.30

- Decisions for the future work
- Finances (Otto Jäckel)
- Declaration of the meeting

11.45 until 13.00

Elections, i.e. for the new Board

13.00 until 13.30

Summary of the meeting (Peter Becker)

13.30 until 14.30

First meeting of the new elected Board

14.30...

Sight-seeing (castle), including concert with Teresa Bergman and Alex

Questions to Pasquale Policastro, Professor of Constitutional and European Law, University of Szczecin

Pasquale you are the main organizer of the General Assembly in Poland. Can you shortly introduce yourself.

I was born in Italy and I studied law there. I wrote my PhD and my habilitation in Poland, where I am working and doing research since 1987. In any model of “rule of law” peace has a very important role since it may permit to see whether the political entities are addressed to protect the existential manifestation of the person or to gain and exercise power. I gave a special emphasis to this topic throughout my researches, and for this reason I am specially happy of the possibility to contribute to the development of IALANA through the organization of this General Assembly.



What do you expect from the General Assembly? Why is it important for you?

This is a very important historical moment, where people are showing a deep need of freedom. Twenty years after the beginning of the process of transition in Europe, Arab world is showing similar desires. However many problems appear unresolved, and first of all, how to deal with conflicts. The use of strength is often deemed do be “necessary” without taking into genuine account its consequences. This assumption leads to the research and use of dreadful weapons, such as nuclear weapons. For example, the use of impoverished uranium bullets in former

Yugoslavia seemed to be a huge set back for European legal culture. To this extent, I am expecting from this GA to contribute to point out the practical legal content of the peace, as a fundamental principle of the international and European legal order, taking into account that the production and the use of nuclear weapons is the final result of a constitutional foundation of the power of strength, and strength is founded on a relation between research, innovation, and capital accumulation that are addressed to these purposes. I expect from this GA that the problem of the banishment of nuclear weapons is seen starting from its constitutional grounds, in its relation with our everyday choices. In other words, that the banishment of nuclear weapons may become clearly related with our policies.

What is the support of your university?

The support of my university is huge, since Szczecin University has always wholeheartedly supported new line of research with practical implications. In particular, the Rector of the University, prof. Waldemar Tarczyński has been putting at the disposal of IALANA University facilities and organization structure and means, to support the endeavor of the organization of the GA, and to involve all the different local and regional institutions and agendas in the effort to organize this enterprise. The Faculty of Law is furthermore displaying every due effort to involve the Polish legal environment. Szczecin University sees in the GA a way to involve young lawyers in activities that have a very deep moral motivation, but that require technical skills and abilities. Especially lawyers that aim to contribute to the elimination of nuclear arms ought to have deep knowledges not only in politics, but in legislation, administration and judiciary, at national, international and transnational level. In particular, we are trying to support legal skills in the field of legislation in issues that, such as the elimination of nuclear arms, involve issues of big technological, environmental and social complexity, and that require a significant deal of interdisciplinary work.

Can you give us a short overview about the program?

The program is based upon two main days: June 17th, which is dedicated to present the present state of the affairs, and to start a discussion on the activities that may be developed in the future. In this discussion, we aim to involve an international group of scholars, lawyers and practitioners from Szczecin and other environments, the institutional authorities, cultural and spiritual authorities of the city of Szczecin, and first of all the students. Among the objectives we have for the day, is to permit a wider interaction of IALANA, with a growingly wide environment of practitioners and scholars. We would like to underline the importance of joining moral engagement with a growing development of the technical skills that lawyers need to deal with nuclear weapons and the related problems, which embrace different legal branches, but require a specific specialization. For this reason we would like to involve lawyers with a different stage and different interests including students of law. In particular, they will with us their proposals for future legislation, international, European and national, to support the development of a world free from nuclear weapons, starting from the basic questions related with it.

How do you engage young people in the different meetings?

A university is a place for young people. The GA should be an occasion in which young people meet the challenges of the future involvement in the society and in their legal profession. We are developing an association of young lawyers, which is called "PEACELAB". The association is addressed especially to develop the legal skill related to project new legislation at the different levels, of the international organization, of the regional integration organizations such as European Union, and the national states. We aim to deal with projecting legislation in fields that are specially relevant for the development of the human societies, using them as a laboratory to train our legal skills as well as to develop supporting think thank and political advice. The GA of IALANA is for our young Members and our associates in the other universities we cooperate

with, an extremely important reference point to project new legislation, refining our research, and making clear our purposes. Indeed our students are closely cooperating with the students of the Autonomous University of Barcelona, of Montpellier I, of Milan, of Catania, of the University "MGIMO" of Moscow, of Rome, FO and FMO of München, within our joint Master in Law and Policies of European Integration. Our students plain carefully to share the results of the GA with the other associates to PEACELAB, which include also our alumni and other young lawyers.

What should be the outcome of the General Assembly? Can we expect a Polish affiliate of the international IALANA?

I think that an important vocation of Poland, in the present international situation is to actively work to guarantee peace and the dignity of the human being. A wider engagement in IALANA is therefore an important contribution to this vocation. It is a fundamental duty of the Polish society to cooperate to eliminate all forms of cruelties and of oppression, starting from the most relevant and dangerous ones, such as nuclear arms. For this reason we expect to officially found our Polish affiliate during the days of the GA, as well as to contribute, to the world diffusion of the affiliates of IALANA International.



FUKUSHIMA

Nuclear reactor catastrophe in Japan – nuclear energy

An open letter to the world's environmental ministers

By C. G. Weeramantry

Former Vice President, International Court of Justice, The Hague President, International Association of Lawyers against Nuclear Arms Founder Trustee, Weeramantry International Centre for Peace Education & Research

March 14th 2011

The earthquake in Japan and the resulting damage to nuclear power plants have sent shock waves and a dire note of warning to the world's entire population. Despite their obvious dangers, nuclear reactors are proliferating worldwide and sowing the seeds of pollution and congenital deformities for a thousand generations to come (the half life of Plutonium 239, one of the bi-products of nuclear activities is 24,100 years).

Unborn generations are just as much members of the human family as ourselves but have no voice to speak for themselves. We take advantage of this and are damaging them catastrophically by our breach of trust of this environment of which we are custodians and not owners. Every single citizen is a trustee of the environment. All the more are Governments trustees, and in particular the environmental ministers of the world bear a special responsibility in this regard. We are in default of our duties if we continue to keep open such possibilities and create more, despite our knowledge of their dreadful consequences. Our generation and particularly those who are specially entrusted with the care of the environment will have to answer before the bar of history for our default and abuse of trust. Indeed we are committing the gravest possible crime against future generations and are doing so with a full consciousness of the effects of our actions.

If people of the Stone Age had been able to cause damage to the environment and cause congenital

deformities to our generation, we would have condemned them as savages, brutes and barbarians. Yet, even if they could have caused such damage, they could have had no idea of the irreparable harm they were causing to generations yet unborn. We, on the other hand, who are fully aware of the catastrophic damage we are causing to unborn generations, still proceed regardless, pursuing activities which, it is patently clear, will release these dangers sooner or later. We continue to build nuclear reactors all over the world.

Even a school child is aware that no power on earth can insure against earthquakes, tsunamis, wars, insurrections, negligent management and other disasters. These will inevitably occur over a period of years and not only do we know this as a virtual certainty, but we know also that there is no known means of eliminating them. This makes us savages, brutes and barbarians several times over. In a supposedly enlightened age, we are, with total disregard of any sense of responsibility, proceeding to build more reactors, pursuing short term advantages while being fully aware of the long term perils we are inflicting on our own posterity. Solar and other renewable energy sources provide all the energy the world needs but we neglect them, for there are great profits for those few who are engaged in the nuclear energy enterprise, whatever the costs to the vast majority and the generations yet to come.

As a result we have become the most destructive

generation in all of human history, regardless of the fact that we are destroying the undoubted birthright of billions of human beings for whom we hold the environment on trust.

I take the liberty of addressing you on this matter as I have for over 30 years campaigned against the dangers of nuclear weapons, nuclear reactors and nuclear waste. As early as 1985, I toured the major cities of Japan at the instance of the Japan Scientists' Association delivering lectures on the dire dangers to humanity resulting from nuclear weapons, nuclear reactors and nuclear waste.

Also, nearly thirty years ago, in *The Slumbering Sentinels: Law and Human Rights in the Wake of Technology*, Penguin 1983, pp 139-141, I foreshadowed this danger, referring to leakages from nuclear reactors and the possibilities of major accidents threatening our very survival. I referred also to the possibility that, if the residents of a city were exposed to radioactive contamination through a serious nuclear accident, the national interest may demand their compulsory sterilisation to prevent the birth of an unprecedented number of defective children, observing that "we are only a nuclear accident away from this". I referred also to the fact that a major accident near a populated city could cause property damage and health damage which could not be estimated even in hundreds of billions of dollars, and for which insurance coverage would be beyond the realm of possibility. As early as 1982, the Nuclear Regulatory Commission (NRC) released estimates of death and property damage from reactor accidents running to over \$300 billion in crowded city areas. The Harrisburg nuclear leak demonstrated, even then, how close we could be to a nuclear accident, the percentage possibility of a nuclear accident occurring somewhere in the world being assessable at between 5 and 10% within the next few years. Such reasonable forecasts of possible catastrophes have somehow been completely submerged by the combined political and economic strength of those who advocate the extension of nuclear energy.

In my Dissenting Opinion in the case in which and

Advisory Opinion was sought from the International Court of Justice on the legality of nuclear weapons, I discussed the possibility of damage to nuclear reactors and the lethal doses of radiation to exposed persons 150 miles downwind and the radioactive contamination of the environment more than 600 miles away. I also discussed the damage caused by the Chernobyl incident, for years after its occurrence, to all species of life for thousands of square miles in the vicinity, which necessitated the pouring in of medical personnel, supplies and equipment from across the Soviet Union in a manner which strained the resources even of that powerful nation. Smaller states could be completely crippled by such an accident, with a loss of income, loss of life, loss of jobs and loss of resources from which it would take generations to recover. Medical injuries caused included convulsions, vascular damage, cardiovascular collapse, keloids and cancers.

Having discussed these dangers in judgments, publications and lectures worldwide for so many years I have been devastated at the thought that my worst premonitions have come to pass and worse can follow if we continue with our betrayal of trust and abandonment of responsibility towards our children and our children's children.

Any plea for the abolition of nuclear reactors would be incomplete without reference to the problem of disposal of nuclear waste. Nuclear waste carries all the elements of radioactive danger to health and the environment and there is no known means of disposal of these toxic accumulations. Whether they be buried in the depths of the ocean or deep trenches or salt beds, or wherever else, we cannot guarantee for twenty-four thousand years that they will remain safe in their repositories, and we would be inflicting this source of inter-generational, environmental, and physical damage on future generations in a manner which is totally unjustifiable by any standards of morality or law.

Another danger, which by itself is sufficient to justify the total abolition of nuclear reactors, is that nuclear waste from hundreds of reactors cannot possibly be

accounted for and it is well known that such records are not maintained, even by the International Atomic Energy Agency (IAEA). This material is the raw material needed for the manufacture of nuclear weapons and there is here an open invitation to terrorists across the world to interest themselves in the manufacture of nuclear weapons. This is particularly dangerous in a world in which the necessary knowledge for the construction of a nuclear weapon is available on the internet, as I have been assured by eminent physicists. In the result, the continuance and proliferation of nuclear reactors violates every principle of humanitarian law, international law, environmental law and international sustainable development law.

The traditional wisdom of ancient peoples such as the Native Americans used to ordain that no serious decision concerning the community should be taken without considering its impact for seven generations to come. Traditional African wisdom has decreed that any major decision affecting a community should bear in mind the three-fold face of humanity – those who went before us, those who are alive here and now, and those who are yet to come – without which the decision taken would be a lopsided one.

Our modern technological civilisation disregards all such traditional wisdom in addition to disregarding the governing principle that we should tread lightly on the earth, which underlies all environmental law (I have expanded on these aspects in *Tread Lightly on the Earth: Religion, the Environment and the Human Future*, Stamford Lake, 2010).

It is not only traditional wisdom we disregard. We disregard also the wisdom of the great religions of the world, which are likewise united in their concern for the people of the future. Jesus Christ warned that it would be better for those who place obstacles in the

way of children to have a millstone around their neck and to be drowned in the ocean. The Koran states that the true followers of the Almighty are those who tread lightly on the earth. Buddhism teaches that not even a sovereign is the owner of land, but only a trustee, and Hinduism prescribes detailed duties lying on the sovereign to look after every department of environmental protection.

Judaism likewise, in numerous teachings, elevates protection of the environment to the level of a primary duty.

All these are aspects which must necessarily engage the attention of ministers charged with care of the environment, in an age when the environment is being threatened as never before during the hundreds of thousands of years of humanity's existence on the planet.

I urge on you, as custodians of our environment, the need for immediate action to halt the construction of new reactors, explore alternative energy systems and phase out the existing ones. Populations throughout the world need to be alerted to the dangers we are facing. The one-way flow of information on the benefits of nuclear reactors needs to be reversed.

Failure to take these steps will result in the commission of crimes against future generations and a gross betrayal of the trust which we owe to our children and our children's children. You are in a position to play a leadership role in this crisis. This is an appeal to you, as those primarily responsible for the care of our planet, to do all within your power to avert the catastrophes that loom ahead.

Time is running out. Please act now.

From Hiroshima to Fukushima: A New Look at Our Starting Point

By Kenji Urata

Vice president, International Association of Lawyers Against Nuclear Arms ; Professor emeritus, Waseda University

What Was Our Starting Point?

My involvement with the concerns of the International Association of Lawyers Against Nuclear Arms (IALANA) started even before its birth. The Chernobyl disaster occurred in April 1986, after which concerned international democratic lawyers began activities on nuclear arms. Unforgettable in this connection is the influence of Seán MacBride, the Irish winner of the Noble Peace Prize and Lenin Peace Prize. IALANA was founded in Stockholm in April 1988, and it held its inaugural general assembly in Den Hague in September 1989, which I heard during my stay in New Zealand. It was in February 1990, when I had gone to Australia for the Science Council of Japan, that IALANA released its important statement about its major project. A lawyers' movement seeking the abolition of nuclear weapons had already started in Japan before the spring of 1988. I was later sent by the Japan Association of Lawyers Against Nuclear Arms (JALANA) to attend the second general assembly of IALANA (Amsterdam, January 1992). There IALANA decided that the World Court Movement, which would seek the advisory opinion by International Court of Justice on the legality of use of nuclear weapons, would be high on the agenda for the time being, and I found out there how the campaign was specifically to be carried out. JALANA narrowed the focus of its campaign objectives to two areas: demanding the abolition of nuclear weapons and support for the A-bomb survivors: hibakusha.

After Hiroshima and Nagasaki

The nuclear age kicked off with the success of the Manhattan Project, and proceeded with the pursuance of plans for the peaceful use of nuclear energy. Looking back, we see that humanity experienced the unprecedented catastrophes of Hiroshima and Nagasaki in August 1945 owing to the grave crime committed by America's leaders. But the US

leadership of the time had an extremely overoptimistic awareness of the dangers of artificial radioactive substances (the half life of Plutonium-239, a byproduct of nuclear reactions, is 24,100 years).

The US and the Soviet Union entered into a fierce nuclear arms race and created NATO and the Warsaw Pact alliance to protect their allies with "nuclear umbrellas," while the Japan-US Security Treaty likewise was from the outset in fact underpinned by the doctrine of nuclear deterrence. In 1952 and 1953 both the US and Soviet Union were even testing hydrogen bombs. In the midst of these developments America's President Eisenhower delivered his "Atoms for Peace" speech to the UN General Assembly out of consideration for the US strategy on nuclear weapons. The idea was that the International Atomic Energy Agency (IAEA) would be created, and all governments — including the Soviet Union — having nuclear power technology would deposit their natural uranium, enriched uranium, and other nuclear materials with the IAEA, and countries would together think of ways to use these nuclear materials for peaceful purposes. This was followed by a big promotional pitch that successfully implanted in people's minds the dichotomy that "nuclear power and nuclear weapons are not the same thing."

Linked with this context were the efforts of Yasuhiro Nakasone and Matsutarō Shōriki, which in March 1954 helped pass a nuclear power budget in Japan, and this was followed in April by the Science Council of Japan's proposal of three nuclear power principles: autonomy, democracy, and openness. From that time, the intent of the political, academic, and economic circles in Washington and Tokyo created a "nuclear complex." The plan for the "peaceful use" of nuclear energy was in fact linked

with the operation of the “nuclear umbrella” in conjunction with the military alliance.

Nuclear Power Accidents under the NPT System

The Nuclear Non-Proliferation Treaty (NPT) is part of the legal system to regulate arms. The true aim of this treaty, which was signed in New York in July 1968, was for the five nuclear powers to prohibit Germany, Japan, and other countries from acquiring nuclear weapons. In legal terms, the nuclear powers alone would continue to monopolize nuclear weapons, while countries without nuclear weapons would be allowed to demand that nuclear disarmament be carried out, and given the right to develop research, production and use of nuclear energy for peaceful purposes. This right was even said to be “inalienable” owing to the perception that had been shaped by the end of the 1960s. Additionally, the Statute of the Vienna-based IAEA is actually a law assuring the peaceful use of nuclear energy, and until now that has been emphasized. Facilitating the peaceful use of nuclear energy is the true intent, and for that purpose it also attempts to carry out its role of guaranteeing that the nonproliferation system functions.

A number of nuclear power disasters befell the US and Soviet Union nuclear superpowers, which had adopted this system. New questions were put to the science, philosophy, and policies for nuclear safety and the limitations of nuclear science and technology were exposed. First there was the US Three Mile Island accident in 1979. Even though an overwhelming number of researchers and engineers work in the US nuclear complex, no more nuclear power plants have been built since that time. In the following year, 1980, Sweden’s Riksdag voted to close that country’s nuclear power plants. Then came the Chernobyl accident in 1986, followed five years later by the collapse of the Soviet empire. But because the radiation damage in the former Soviet republics of Belarus and Ukraine directly killed only 50 people, the IAEA has grossly underestimated it. Nevertheless, European countries such as Germany and Belgium subsequently moved to eliminate nuclear power. Even France decided to close its fast breeder reactor. But Japan swam against the current. In Japan, Tokyo Electric’s Fukushima I-1, which had

been designed by the US company General Electric and in whose construction Toshiba and Hitachi were involved, started operating in March 1971. Further, in November 1987, the year after the Chernobyl accident, Japan and the US signed a new accord on nuclear power. Thus in terms of energy self-sufficiency, this arrangement put Japan under 4% in practical terms. This happened because Japan followed the US nuclear strategy and gave in to the temptation of the money-first nuclear complex without thinking carefully. At the same time, Japan has accumulated enough nuclear materials and technology to enable it to quickly arm itself with nuclear weapons, to the extent that it is called a “quasi-nuclear power.”

The Significance of Fukushima

First off, there was the mistake of taking no appropriate action within the first few hours of the first earthquake shock. After the earthquake on the afternoon of March 11, but before the tsunami came, operators shut down the emergency cooling system in accordance with the manual because core temperature and pressure had dropped. If the manual had not contained erroneous instructions and the cooling system had been operating, there should have been no hydrogen explosion. Also, belated venting that led to the hydrogen explosion was perhaps a greater instance of mismanagement in the initial response. Nine hours passed from the prime minister’s order to vent until venting started.

The mythology of nuclear reactor safety, TEPCO’s denial of the accident, and its culture of concealment led to these mistakes after the initial quake. On April 12, a month after the accident, NISA finally announced that the Fukushima accident was the same level 7 as the Chernobyl accident as assessed using the International Nuclear and Radiological Event Scale (INES). Already by March 25 French and US experts had recommended that the accident must be raised to level 6. The US Nuclear Regulatory Commission (NRC) and the IAEA had released their opinion made in light of information obtained on and after March 18, and faced with strong pressure from the Obama administration, the Japanese government had arrived at the assessment that the accident was actually level 7.

Conclusion

Lawyers against nuclear arms must take a new look at our starting point. This means that by redrawing the big picture of the nuclear age, we will overcome the dichotomy that “nuclear power plant and nuclear weapons are not the same thing,” and help both “the atomic bombing hibakusha” and the “nuclear power plant hibakusha.”

If this perspective is limited to a discussion on the legal aspects of Fukushima, it is as follows:

Continuing nuclear power plant and expanding it, even while knowing its horrific consequences, violate all the principles of international law, environmental law, and international law pertaining to sustainable development. If government authorities do not act

immediately to stop the construction of new nuclear power plants, they are committing crimes against future generations. What is more, it is a crime against humanity to allow currently operating nuclear plants to continue operating.

I suggest that lawyers of the present have the role and responsibility to academically and technologically elaborate on this legal consciousness and legal inquiry, and disseminate their results locally, regionally, and globally.

May 15, 2011

The “peaceful use” of nuclear energy

By Peter Becker

Vice president, International Association of Lawyers Against Nuclear Arms

International IALANA has no program for the end of “peaceful use” of nuclear energy. The main reason may be that the leading industrial states use nuclear power plants for production of electricity on a high level (USA: more than 100, France: 58, Japan: 57, Germany: 17). Worldwide exist more than 460 nuclear power plants, in the whole European Union 143.

The risks of nuclear power plants were not exactly predictable. The technical development went on but every accident – and there were several – produced new risks for catastrophes. So the power plants became more and more complex and the development more and more expensive. The “nuclear community” had no doubts about it – but it went further.

The main explanation is that the governments wanted to give a political answer to Hiroshima and Nagasaki:

The “peaceful use” of nuclear power ought to be the civil answer to the nuclear threat. In December 1953 President Eisenhower spoke before the General Assembly of the United Nations and presented his program “Nuclear Power for Peace”. In the following years the American government forced the power plant owners to develop and buy nuclear power plants. The biggest enterprises General Electric, Westinghouse and others built nuclear power plants. If they wouldn’t have agreed with the government it would have cancelled their licenses. So the complete nuclear community was forced to work in a sector where it had technical improvement but unknown risks at the same time.

Japan was a good scholar. The industry copied not only the American industrial organization and philosophy. It ordered the nuclear power plants from the leading American electricity enterprises. So the electricity suppliers ordered not only the technical standards but meanwhile the risk philosophy.

When Tepco ordered the Fukushima power plants, the American nuclear industrial sector had a relation from 3,5 existing to 100 ordered nuclear power plants. The normal relation from existing power plants to order was three to two. So it was a voyage into the unknown.

In 1975 the Rasmussen-Report was edited. It said that the probability of the greatest possible accident was only 1 to 1 million. But the scientists only analyzed processes for accidents concerning one technical device. They didn't analyze the accidents in their complexity – meanwhile alone in the western hemisphere existed several grave accidents: In the Canadian reactor Chalk River (1952), with melting core, Idaho Falls (USA 1955), Windscale (GB 1957), Simi Valley (USA 1959), Fermi near Detroit (USA 1966), Lucens in Switzerland (1969), all accidents with melting cores and all before the edition of the Rasmussen-Report.

So the poor Japanese imported high risk systems with a trivializing philosophy. All this can only be explained with the psychological displacement effect. A main influence in the US came from the nuclear laboratories Los Alamos and Oak Ridge where the military use of nuclear technology was the leading purpose. So the development was influenced by military necessities.

International IALANA should analyze how in Germany the political process went to step out from nuclear power plants and further to the change to renewable energies. The main decisions were made by law: nuclear step out 2000: all power plants had only a running time from 32 years. In 1990 the Bundestag decided the electricity feed law and in

2000 the renewable energy act.

The arrangements between the political parties were very interesting: The social democrats were competent for the conventional power sector, the greens for renewables. This hidden contract was a base for the step out law in 2000, decided by the red/green coalition. After the regime change in 2009 the conservatives decided under lobby pressure by the nuclear utilities the “step out from the step out”. Even the eldest nuclear plants, which not would survive a terrorist attack, became eight additional years, the others fourteen. But the law producing process was not confirming to the German constitution. Meanwhile the law suits began before our constitutional court, Fukushima happened. Within three days (!) the conservative coalition decided to step out from the step out from the step out. Now the law producing machine delivers changes in all competent levels. The change should come very quickly. For the moment 17 % of electricity production comes from renewables. In 2020 it should be 40 %, in 2050 100 %. This runs equally against coal and gas power plants. Germany wants to solve two problems by one method: Renewables against greenhouse gas and nuclearism. The new way has already arrived in the rule of law.

Regarding this process German IALANA will propose to agree to a resolution for the General Assembly which analyses the German experience and extract the main principles for change. This proposal should not be misunderstood as arrogance but as a result of a lucky experience which is based on progressive law making since twenty years – thanks to the green movement and thanks to social democrats as Hermann Scheer who struggled all their life for peaceful energy.

For a future without nuclear weapons and nuclear energy

Working group Nuclear Energy of Abolition 2000

25 years after the horrible Chernobyl catastrophe, we – organizations and groups of the international peace and social movement – are urgently speaking out against the irresponsible and inhuman advocacy for nuclear energy.

In view of the euphoria for nuclear energy shown by almost all governments, and the ominous endorsement of nuclear energy in the Final Document of the Non-Proliferation Treaty Review Conference of May 2010, we emphasize:

Nuclear energy:

- is not a technology that can be sufficiently controlled;
- is threatening the environment;
- is not a solution to prevent climate change;
- is adversarial to democracy;
- is extremely expensive counting the overall costs;
- is hazardous to health with unaddressed human costs;
- is without a waste disposal concept and without a full clean-up concept from the mines to the plant grounds. Particularly problematic is that nuclear

energy is a principal pre-requisite for the proliferation of nuclear weapons. Countries that are technologically able to run a nuclear “cycle” are not only capable of producing nuclear energy, they also gain access to the materials for nuclear weapons production. Advanced nuclear technology thus increases the danger of nuclear annihilation both for humanity and the entire planet.

The nuclear chain – beginning with uranium mining, through the operation of nuclear power plants and its waste disposal, and ending with the production and use of nuclear weapons – represent a tremendous danger for health and life itself. Uranium mining also has a devastating effect on Indigenous populations.

Consequently, those who seek a world without nuclear weapons must also abandon nuclear energy.

25 years after Chernobyl, we call on all governments of the world:

- to immediately negotiate a nuclear weapons convention;
- to abandon nuclear energy, to shut down all nuclear power plants, to stop the construction of new reactors and instead to invest massively into the use of renewable energies.

NUCLEAR WEAPONS FREE WORLD

Vancouver Declaration Underlines the Inhumanity and Illegality of Nuclear Weapons

By **Dr. John Burroughs**

Executive Director, Lawyers Committee on Nuclear Policy (LCNP), UN Office of IALANA

Released March 23, 2011 by The Simons Foundation and IALANA and signed by eminent experts in international law and diplomacy, the Vancouver Declaration affirms that nuclear weapons are incompatible with international humanitarian law. The declaration observes that with their

uncontrollable blast, heat, and radiation effects, nuclear weapons are indeed weapons of mass destruction that by their nature cannot comply with fundamental rules forbidding the infliction of indiscriminate and disproportionate harm.

Entitled “Law’s Imperative for a Nuclear-Weapon-Free World,” the declaration concludes by calling on states to commence and conclude negotiations on the global prohibition and elimination of nuclear weapons as mandated by the legal obligation unanimously proclaimed by the International Court of Justice (ICJ) in 1996. An annex to the declaration specifying the applicable law states: “It cannot be lawful to continue indefinitely to possess weapons which are unlawful to use or threaten to use, are already banned for most states, and are subject to an obligation of elimination.”

IALANA and The Simons Foundation developed the declaration with the input of a conference convened by the two organizations in Vancouver, Canada, on February 10-11, 2011, that brought together some 30 experts in international law, diplomacy, and nuclear weapons. The declaration builds upon the 2010 NPT Review Conference reaffirmation “of the need for all states at all times to comply with applicable international law, including international humanitarian law,” as well as other developments since the ICJ advisory opinion. They include the establishment of the International Criminal Court, the entry into force of the Chemical Weapons Convention, and the achievement of treaty bans on landmines and cluster munitions.

In connection with already banned weapons, the declaration states: “Reasons advanced for the continuing existence of nuclear weapons, including military necessity and case-by-case analysis, were once used to justify other inhumane weapons. But *elementary considerations of humanity* persuaded the world community that such arguments were outweighed by the need to eliminate them. This principle must now be applied to nuclear weapons, which pose an infinitely greater risk to humanity.” (Emphasis supplied.) The ICJ had made clear the link between illegality and humanitarian values, stating that broad state participation in Hague and Geneva

treaties is “undoubtedly” because “a great many rules of humanitarian law applicable in armed conflict are so fundamental to the respect of the human person and ‘elementary considerations of humanity’.”

The many signatories include **Christopher G. Weeramantry**, former Vice President of the ICJ and current President of IALANA; **Peter Weiss**, Vice President of IALANA and President of LCNP; **Mohammed Bedjaoui**, who was ICJ President when it handed down the opinion on nuclear weapons; **Nicholas Grief**, Professor, Kent Law School, UK, and Doughty Street Chambers, London, who was one of the drafters; Dr. **Dieter Deiseroth** (personal capacity), Judge, Federal Administration Court of Germany (“Bundesverwaltungsgericht”), and member of the Academic Council of IALANA Germany; **Geoffrey Robertson**, QC, Founder and Head, Doughty Street Chambers; **Louise Doswald-Beck**, Professor of International Law, Graduate Institute of International and Development Studies, Geneva, and co-author of a major International Committee of the Red Cross study of IHL; **Ved Nanda**, Evans University Professor, Nanda Center for International and Comparative Law, University of Denver Sturm College of Law, and member of the LCNP Consultative Council; **Kenji Urata**, Professor Emeritus, Waseda University, and member of the IALANA Board of Directors; **Burns H. Weston**, Bessie Dutton Murray Distinguished Professor of Law Emeritus and Senior Scholar, UI Center for Human Rights (UICHR), The University of Iowa, and member of the LCNP Board of Directors; **Jayantha Dhanapala**, former UN Under-Secretary-General for Disarmament Affairs; and **Gareth Evans**, QC, former Foreign Minister of Australia who recently served as Co-Chair of the International Commission on Nuclear Non-proliferation and Disarmament.

Especially in view of its endorsement by former ICJ judges and leading international lawyers and scholars, it is noteworthy that the declaration resolves issues the ICJ left for another day. It affirms the universally binding character of the prohibition of reprisals against civilian populations, vindicating the position taken by Mexico before the ICJ: “Torture is not a permissible response to torture. Nor is mass rape acceptable retaliation to mass rape. Just as

unacceptable is retaliatory deterrence—‘You have burnt my city, I will burn yours.’” The declaration similarly affirms the mandatory nature of the prohibition of the infliction of widespread, severe, and long-term damage to the natural environment. It also unreservedly states the unlawfulness of both specific signals of intent to use nuclear weapons and general policies (“deterrence”) declaring a readiness to resort to nuclear weapons when vital interests are at stake.

One of the drafters of the declaration was Peter Weiss, who advised governments on their submissions to the ICJ in the nuclear weapons case.

He comments: “We offer the Vancouver Declaration to governments and civil society as a contribution to the debate about the road to zero. It underlines the inherent inhumanity and illegality of nuclear weapons and the consequent need for their rapid elimination. The horrific events in Japan serve to accentuate the danger of continuing to live with the risk of exposing humanity to nuclear radiation, whether emanating from nuclear meltdown or nuclear bombs.”

A list of signatories and other information regarding the Vancouver Declaration and Conference are available at www.lcnp.org.

Nuclear Abolition Forum – Dialogue on the Process to Achieve and Sustain a Nuclear Weapons Free World

By Alyn Ware

IALANA, in conjunction with a number of leading institutes and non-governmental organizations, has recently established the **Nuclear Abolition Forum** – a periodical and website for dialogue between academics, governments, disarmament experts and NGOs on key issues regarding the prohibition and elimination of nuclear weapons under a Nuclear Weapons Convention or package of agreements, and the process to achieve this. The Nuclear Abolition Forum is being developed by Director Rob van Riet and a group of editors from the co-sponsoring organisations, along with input from a diverse group of over 50 consultants. Editors include John Avery (Pugwash Denmark), John Burroughs (Lawyers’ Committee on Nuclear Policy/IALANA), David Ives (Albert Schweitzer Institute), Xanthe Hall (IPPNW), Juergen Scheffran (INESAP), Rhianna Tyson Kreger (GSI), Alyn Ware (World Future Council/IALANA) and Jim Wurst (Middle Powers Initiative).

The Forum website, to be launched in mid 2011, will include:

- a) Database of existing articles and documents on the range of issues surrounding a nuclear weapons convention;
- b) Opportunities for comments on specific articles and dialogue on key issues; c) a periodical which will focus on specific issues or elements for achieving and maintaining a nuclear-weapons-free world.

Key topics to be covered by the forum include:

Elements for a nuclear weapons convention or framework of agreements

Comprehensive/Incremental (Relationship between disarmament/non-proliferation steps/measures and a comprehensive approach)

From deterrence to non-nuclear security

Verification

Compliance, enforcement and break-out

*Phases and timing**Customary and International Humanitarian Law**Preventive controls**Sustaining abolition for future generations**Nuclear energy and dual use**Delivery vehicles**Environmental aspects of disarmament**Political will**Role of civil society**Nuclear-weapon-free zones**Conversion**Criminality and individual responsibility**Knowledge and reversibility**Economic aspects**National implementation measures*

The Forum will seek to include a variety of perspectives rather than advocating any particular approach to achieving a nuclear-weapons-free world. This could include contributions from those who have put forward specific proposals, as well as from those who do not yet believe that nuclear abolition is possible, or who are not yet convinced of the merits of a comprehensive approach. Attention would however be given to examining and critiquing the framework for achieving and sustaining a nuclear-weapons-free world rather than focusing solely or primarily on the next immediate steps.

For more information contact: Rob van Riet, Director, *Nuclear Abolition Forum*, World Future Council, 100 Pall Mall, St. James, London SW1Y 5NQ, United Kingdom. Tel.: +44 (0) 20 7321 3810 Fax: +44 (0) 20 73213738. Email: rob.vanriet@worldfuturecouncil.org, or Alyn Ware, *Nuclear Abolition Forum Founder and Co-editor*, alyn@lcnp.org.

Middle Powers Initiative proposal – UN Secretary General to host negotiations on nuclear abolition

By Alyn Ware

The Middle Powers Initiative (MPI), established in 1998 by a group of eight leading international NGOs including IALANA, has proposed a draft United Nations resolution which, if adopted, would empower the UN Secretary-General to start the preparatory process for a nuclear weapons convention (or package of agreements) in 2012, leading to the start of negotiations in 2014.

The draft resolution uses rather diplomatic language in order to allow for maximum support, including from countries which do not support the Malaysian resolution on the nuclear weapons convention (based on the 1996 International Court of Justice Advisory

Opinion). The MPI draft resolution calls on the Secretary-General “to convene a Preparatory Conference of all States, in the first half of 2012, to discuss the procedures which may be employed to establish the agenda and modalities of a Diplomatic Conference on Nuclear Disarmament to begin meeting in 2014, to reach agreement on the texts of a convention or a framework of separate, mutually reinforcing instruments, open to accession by all States, providing for universal, verifiable, and irreversible nuclear disarmament.” MPI has since 2005 been organising Article VI Forum meetings of diplomats from middle power countries in order to

build commitment to, and practical proposals for, the implementation of Article VI of the NPT. This contributed to the success of the 2010 NPT Review Conference – in which the States Parties agreed that “All States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons” noting in this context “the Five-Point Proposal for Nuclear Disarmament of the Secretary-General of the United Nations, which proposes *inter alia* the consideration of negotiations on a nuclear weapons convention or a framework of separate mutually reinforcing instruments backed by a strong system of

verification.” As such, MPI has now shifted into a new phase of operations – led by the new MPI Chair Richard Butler, on implementation of this historic agreement through the commencement of deliberations followed by negotiations to achieve a nuclear weapons free world. Ambassador Butler has been consulting with key government representatives in New York and Geneva on the proposal – and will soon be embarking on a tour of key capitals with the aim of building sufficient support for it to be introduced at the UN General Assembly in October this year.

Torture: Immoral, Illegal, Counterproductive, and Un-American

If the law is discarded in the fight against terror, terrorists can rack up a win

By Peter Weiss

Osama bin Laden's death has laid to rest the mystery of his whereabouts. His body lies under the ocean. But now his death raises another increasingly popular question. Was he tracked down thanks to tips elicited through the torture of captured al-Qaeda operatives?

The answer should be clear: no, torture doesn't "work." The damage done by systematically resorting to torture far outweighs the benefits obtained from the very rare instances where reliable information is obtained from torture.

Defenders of the Bush-Cheney policies that gave us rampant human rights abuses at the Abu Ghraib and Guantánamo prisons claim, on flimsy evidence, that waterboarding and other forms of torture produced information that eventually led the Navy SEALs to bin Laden's hideout in Pakistan.

Defenders of Obama's policy of ending torture, such as White House counterterrorism advisor John Brennan, tell us that the trail to bin Laden's compound was assembled over a decade, from a multitude of bits and pieces of intelligence. As New York Times reporters Scott Shane and Charlie Savage explained, "harsh techniques played a small

role at most" in leading the Navy SEALs to Osama Bin Laden.

Professional interrogators, like Air Force Major Matthew Alexander, insist that torture is the wrong way to go because it tends to produce unreliable or deliberately deceptive information. In addition, torture creates more terrorists than it unmasks.

It's also unnecessary, as I learned first-hand many years ago. I did part of my army service in World War II at an interrogation center for high-level German POWs. We got a lot of valuable intelligence without ever laying a hand on them.

But it's not necessary to deny that torture ever works in order to come to the conclusion that it should never be used. People who believe in morality — and not everyone does — will oppose torture because they consider it deeply immoral. People who believe in the rule of law will refuse to employ it because it is illegal. And people who are proud to be Americans should reject it because it is profoundly un-American. The U.S. Constitution forbids cruel and unusual punishment. In 1863, in the middle of the Civil War, a German immigrant law professor at Columbia

University, Francis Lieber, drafted "Instructions for the Government of Armies of the United States in the Field," which President Abraham Lincoln subsequently promulgated. The Lieber Code, as it came to be known, is the fountainhead of all subsequent documents dealing with what is prohibited in warfare, both in this country and throughout the world.

At its core is this sentence: "The law of war does not only disclaim all cruelty and bad faith...offenses to the contrary shall be severely punished, and especially so if committed by officers." The United States is a party to the Geneva Conventions of 1949, which spell out the law of war in detail, and, as of 1994, to the Convention against Torture.

In 1980, in a case brought by the Center for Constitutional Rights, the Federal Court of Appeals for the Second Circuit said, "The torturer has become like the pirate and slave trader before him *hostis humani generis*, an enemy of all mankind."

Another reason to obey the injunction against torture, one that military officers frequently cite, is the

blowback effect. If the United States tortures foreign detainees as a matter of policy, as it did during George W. Bush's administration, what is to prevent other countries from using torture on American detainees, as the North Koreans did during the Korean War?

Finally, there's something about a slippery slope. If the law can be broken because doing so "works," where will that stop? How about convicting Guantánamo detainees on secret evidence? Or locking up "really bad people" — that's what Dick Cheney called the ones in Gitmo — for life without trying them at all, as the government is getting ready to do? Or doing away with the presumption of innocence, as President Barack Obama did the other day when he declared that Private Bradley Manning "broke the law," despite the fact that the alleged WikiLeaker hasn't even been tried yet?

If the law is discarded in the fight against terror, terrorists can rack up a win.

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WAR IN LIBYA

IALANA Germany: Immediate end to military action in Libya Ceasefire necessary for the protection of the civilian population

In an urgent appeal to the Federal Government, IALANA Germany urged for an immediate end to the bombing of Libya. The offensive of cruise missiles and the bombing campaign by stealth bombers and pursuit planes provoked casualties among the civilian population, which should be prevented through sanctions against Gaddafi's regime.

It also seems highly doubtful whether the 1973 UN Security Council Resolution is compatible with the UN Charter to the extent of giving the green light to military intervention. Firstly, it should be recalled that the ratio of the international community to

individual states, such as the relationship between the states through the principle of sovereign equality under Article 2 Paragraph 1 of the UN Charter, and by the restrictions laid down in Article 2 Paragraph 3, prohibition on the use of force is determined. Sanctions under Chapter VII of the UN Charter, particularly in its strongest form of military sanctions under Article 42 of the UN Charter, require an establishment of danger to the peace under Article 39 of the Charter. The Security Council used the phrasing in the Resolution of 17th March:

“...determining that the situation in the Libyan Arab Jamahiriya continues to constitute a threat to international peace and security...”.

Further arguments in support are not found at this point. Without doubt, there has not been a breach of the peace by the Libyan government in the form of an attack on another state. An attack against a “de facto” state on Libyan territory has also not taken place. For this, the opposition movement and those from their formed National Council would have to establish a permanent de facto rule over part of Libyan territory in terms of a separatist state. However, the National Council has reassured on several occasions that the formation of a separatist state in Cyrenaica is not a consideration for them. Their aim is to remove Gaddafi from power and gain control over the whole of Libya.

It is therefore a non-international armed conflict, a civil war. However, it is an established principle, derived from the respect of national sovereignty of states and the prohibition on the use of force as well as the principle of neutrality that third parties should not interfere in civil wars in favour of the conflicting parties. This was made explicitly clear by the UN International Court of Justice in The Hague in their judgement on Nicaragua on 27th June 1986.

Unless the intervention is based on humanitarian reason, the following applies: the violation of the Genocide Convention can lead to a declaration of the breach of peace and military sanctions through the Security Council. However, there is no indication that the Gaddafi regime is systematically killing parts of the population based on ethnic grounds or grounds of tribal affiliation, as in Rwanda.

However, both factions have complied with the rules of international humanitarian law through their armed actions. This includes the general principle of international law, whereby it is illegal to conduct attacks against the civilian population. This principle is enshrined in Article 51 of the Additional Protocol I of the Geneva Convention of 12.8.1949 on the protection of victims of international armed conflicts and is also observed in civil wars.

Subsequently, indiscriminate attacks which are not directed for a specific military purpose are prohibited, Article 51, Paragraph 4a) 1 of Additional Protocol. As such, it is likely to cause loss of life among civilians, injuries to civilians, damage to

civilian objects or a combination thereof, which are disproportionate to the concrete and direct military advantage, Article 51, Paragraph 5b) 1 of Additional Protocol.

In this regard, as far as it established in its initial phrasing, the Security Council has kept a low profile in its Resolution and acts as if the attacks against the civilian population in Libya “could constitute crimes against humanity”.

In fact, there is no secure evidence so far. The case is already called for the International Criminal Court to investigate the evidence and assess criminal penalties. In any case, at present there is no principle codified in either international law or customary international law which allows military sanctions to prevent violations of Article 51 of the Additional Protocol.

The Security Council is breaking new ground with this case and is not covered by existing international rules.

Furthermore, under Article 42 of the UN Charter, military sanctions can only be imposed if peaceful sanctions under Article 41 of the Charter would be insufficient or have already proven to be insufficient. This is also questionable. As the German Foreign Minister Westerwelle rightly indicated after the beginning of the offensive, that a trade embargo for Libyan oil and natural gas should be imposed. Westerwelle regarded this as a main task for the EU. The obstruction of any source of income after freezing all foreign accounts would have been a first attempt to force the Gaddafi clan to back down. Even the more powerful Apartheid regime in South Africa finally broke down after economic sanctions and isolation.

It is also contradictory for the German federal government on the one hand to abstain from voting on the Resolution 1973 (2011) of the UN Security Council, and on the other hand to declare that it considered all of the stated objectives to be appropriate and to allow the US to have a base in Stuttgart to direct their offensive. This contradicts the commitment that Germany made in the 2 + 4 Treaty of 1990, whereby only peace may emanate from

German soil.

The massive military deployment is also politically counterproductive. It provides a possible respite for the opposition forces in the east of the country but poses a great risk that the majority of the people in the country will side with the Gaddafi clan after an attack from foreign forces. This would weaken the forces fighting for political change in Libya. It will also weaken the opposition forces in the whole of the Arab region, for they will be accused at least from now to be standing in alliance with the USA, the UK and France and carrying out their affairs.

Finally, there is a lack of credible military action due to its double standards. The opposition forces in

Yemen and Bahrain who have been shot down by their dictators have not received similar support. In contrast, there have been calls against the military assistance from Qatar.

The ruling Emid Hamed Al Khalifa consolidated the executive, legislature and judiciary in one person as absolute monarch. There are no political parties or parliament in his country.

The democratic rights and freedoms, for which the people in Libya are risking their lives, are denied to his own citizens.

It is therefore necessary for an immediate ceasefire and to begin negotiations between the conflicting parties over a peaceful solution to the future of Libya.

Libya: International Peace Bureau condemns military strikes and urges political negotiations to protect the civilian population

21 March 2011. A new historical era opened three months ago with the popular uprisings in Tunisia and then Egypt, the first of the 'Arab spring' season. These rebellions brought hope to millions and youthful energy to societies suffering decades of repression, injustice, inequality, especially gender inequality, and increasing economic hardship. The Libyan revolt was inspired by these largely nonviolent victories, but, as the world has witnessed with dismay, has rapidly become militarized and is now embroiled in a full-scale civil war.

NO MORE ARMED INTERVENTIONS

The western powers' fateful decision to push through the UN Security Council a resolution to authorize military strikes and a no-fly zone has transformed the situation into one reminiscent of the Iraq crisis of 2003. While supporting the objective of protecting the civilian population, in Benghazi and elsewhere, IPB condemns yet more armed attacks by western powers on yet another Muslim country. Have these

same powers learned nothing from their disastrous failures over the last 10 years? It is clear that non-military methods have not been utterly exhausted. Were all economic sanctions imposed and enforced? Was massive electronic jamming put into operation? Were all oil and gas sales cancelled? – and will we ever be told?

WHEN WILL WE EVER LEARN?

Western media fascination with the minutiae of battle tends to obscure historical memory, without which any clear assessment is impossible. Have we all forgotten who sold arms to, and struck energy deals with, Col. Gaddafi in the first place? Do the phrases 'no-fly zone' and 'air strikes' not bring back painful memories of the slide into disastrous occupations in Iraq and Afghanistan?

ALTERNATIVE APPROACHES

There is no lack of alternative courses of action. In IPB's view, the most urgent task, and the most effective way to carry out the UN-mandated

‘Responsibility to Protect’ the civilian population, is to engage immediately both the Gaddafi regime and the rebels in serious negotiations. These should focus, first on a genuine and multi-lateral ceasefire, and then on the foundations of a political settlement based on participatory democracy. The UN already has a special representative in place in Tripoli. Cynical or not, Gaddafi has made a ceasefire gesture – which could be used as a starting point. Western states, especially the US and the former colonial powers, should keep out. The UN Secretary-General and a panel of highly respected figures from the Muslim world should be invited to take part in whatever talks can be arranged. An offer to call off the air strikes could be used as a confidence-building measure. In the medium-term, consideration should be given to a UN-authorized peacekeeping presence, preferably not composed of western military forces, with a classical peace-keeping (not peace-enforcement) mandate. Why is it that investment in mediation, diplomacy, trust-building and similar efforts is always a tiny fraction of the money spent on armed intervention?

UNLOCKING CREATIVITY

Arab peoples have shown that they have the courage to break away from past habits and have demonstrated impressive discipline and dignity in confronting their oppressors. The western world should now respond by finding the courage to break with its own past habits, and to apply the enormous creativity of its own societies in the search for new ways of resolving conflicts. Success in Libya - or indeed elsewhere in the region - would offer tremendous inspiration to peoples locked in deadly conflict in other regions.

REVERSING COURSE

It is still not too late for those leading this latest military gamble to pull out of the quagmire that looms ahead. We urge the world to mobilise now against war and foreign intervention, and in favour of negotiated solutions.

What is done in the coming days and weeks will determine the possibilities for a long-term settlement. Foreign bombing only threatens a wider

conflagration with unpredictable consequences.

WIDER ASPECTS

There are all kinds of wider considerations to be explored and important lessons that need to be assimilated. In particular, that the five permanent members of the Security Council cannot continue to police the world as if we were still in 1945; and that it is time for a global outcry against the massive expenditure devoted to the military system (\$1,500 billion per annum), and in particular the international arms trade, with its accompanying corruption and double standards.

The International Peace Bureau is clear on its own priorities. We need to disarm in order to develop. The basic needs of the population must be catered for as the absolute priority, not as a by-product of ‘national security’. We appeal to the arms-producing countries and industries to urgently start converting military research and production to civilian purposes. The world will never achieve the Millennium Development Goals if it fails to abandon the military-dominated way of thinking and action. We have learned in recent years that democracy cannot be imposed, and that regime change is only a matter for the population itself. The time is now ripe to assist the people in the Middle East/North Africa region in building societies based on the vision of a culture of peace, as hoped for by peoples everywhere. Such a programme was agreed by the UN in the preparation of the International Year for a Culture of Peace in 2000 and the following Decade on a Culture of Peace and Non-Violence that has just come to an end, and that must now be energetically renewed.

The International Peace Bureau is dedicated to the vision of a World Without War. We are a Nobel Peace Laureate (1910), and over the years 13 of our officers have been recipients of the Nobel Peace Prize. Our 320 member organisations in 70 countries, and individual members, form a global network which brings together expertise and campaigning experience in a common cause. Our main programme centres on Sustainable Disarmament for Sustainable Development.

REPORTS FROM THE NATIONAL AFFILIATES

Report from USA

By **John Burroughs**, LCNP Executive Director

In 2010 and early 2011, the Lawyers Committee on Nuclear Policy worked to promote a positive outcome to the May 2010 NPT Review Conference, and subsequently to build upon the Review Conference's reaffirmation "of the need for all states at all times to comply with applicable international law, including international humanitarian law."

In the run-up to the Review Conference, I prepared the briefing paper for the Middle Powers Initiative (MPI) Atlanta consultation with governments in January, and LCNP President Peter Weiss, International Coordinator Alyn Ware, and I participated in the meeting. MPI subsequently made recommendations to the Review Conference which I helped formulate. IALANA is one of eight sponsors of MPI, and makes significant contributions to planning MPI events and formulating MPI strategy.

Also in the months preceding the Review Conference, LCNP gave media interviews; met with diplomats; and gave speeches. Notably, LCNP co-sponsored and spoke at two events at the UN: "The Non-Proliferation Treaty 40 Years On: Paving the Way to Abolition," March 5, 2010, at which I was a speaker; and "Unblocking the Road to Zero Nuclear Weapons: A Conversation with Dr. Barry Blechman," March 30, 2010, at which Peter Weiss introduced Dr. Blechman, co-editor of a new book, *Elements of a Nuclear Disarmament Treaty* and author of a New York Times op-ed on that theme.

Following the Review Conference's invocation of international humanitarian law (IHL), LCNP acted quickly to seize the opportunity. Charles Moxley and Jonathan Granoff of the LCNP Board of Directors and I are authors of a forthcoming article in the

Fordham International Law Journal on IHL, the NPT, and nuclear weapons. The article was released at an October 25 event at the UN sponsored by LCNP, the Global Security Institute, and the Swiss Permanent Mission to the UN. I also wrote a briefing paper for a September 2010 Middle Powers Initiative meeting co-sponsored by Switzerland and articles for Reaching Critical Will's First Committee Monitor examining the application of IHL to nuclear weapons.

In its capacity as the UN Office of IALANA, LCNP also partnered with The Simons Foundation to organize a February 10-11, 2011 conference in Vancouver: "Humanitarian Law, Human Security: The Emerging Paradigm for Non-Use and Elimination of Nuclear Weapons Conference." The conference brought together some 30 experts in international law, diplomacy, and nuclear weapons, including representatives of the International Committee of the Red Cross, the United Nations, and several governments, Austria, Switzerland, and Norway. The conference examined the current state of IHL as applied to nuclear weapons, as well as concepts of "humanitarian disarmament" and the lessons of negotiations on cluster munitions and landmines. It also provided input into the declaration developed and later released by IALANA and The Simons Foundation. Peter Weiss, Alyn Ware and I organized the conference with Jennifer Simon, and along with Nicholas Grief and Ms. Simons we drafted the declaration.

Among other activities, LCNP has held several meetings in 2011 with US officials and Congressional staff in Washington, in which we have emphasized the IHL theme and the need for a comprehensive approach leading to a convention.

LCNP personnel have also produced publications in addition to those mentioned above, including forthcoming articles in the Fordham International Law Journal by Peter Weiss on the Nuclear Weapons Convention and by Charles Moxley on the 2010 US

Nuclear Posture Review (NPR); my article also on the NPR for the Michigan International Lawyer; and an article by Peter Weiss for the Palestine-Israel Journal, Peace, Law and Nuclear Weapons (As Seen by Two Jews and an Arab).

CON - The criminality of nuclear weapons -A Citizen-led initiative

By George Farebrother

A War Crime

The CON campaign, launched by the Institute for Law and Peace (INLAP) and World Court Project UK, wants citizens across the world to affirm in their millions that any use of nuclear weapons by anyone under any circumstances would not only violate their basic human values; it would also be a war crime. This is not a phrase to be used lightly. However, it does seem to comply with the definition contained in the Rome Statute of the ICC:

Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians ... which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;

Applying this definition to nuclear weapons we know that they are uncontrollable in time and space, that their effects are unpredictable and that therefore the rules of Proportionality, Discrimination and Necessity could not even be assessed before a launch. This last point is important because the Rome statute talks about *intentionally* launching a disproportionate attack. No nuclear weapon has been used in war since 1945 and the vagaries of wind and weather mean that the effects of even a “limited” nuclear explosion are not merely unknown but unknowable. Under such conditions, launching a nuclear strike would, in itself, make a calibrated legal assessment of the consequences impossible. We have raised this issue several times with the UK ministry of Defence and

they have no answer. We suspect that the reason for this is quite simple: there is no answer.

So International Humanitarian Law is the way forward – linked to our common humanity, and our sense of basic morality – the Public Conscience. In his Dissenting Opinion for the 1996 nuclear weapons case Judge Weeramantry reminded us that:

... the concept of humanitarian laws of war ... is not a recent invention, nor the product of any one culture. The concept is of ancient origin, with a lineage stretching back at least three millennia. [It] is deep-rooted in many cultures - Hindu, Buddhist, Chinese, Christian, Islamic and traditional African. These cultures have all given expression to a variety of limitations on the extent to which any means can be used for the purposes of fighting one's enemy.

For these reasons, IALANA members will not need persuading that nuclear weapons must go. The end result we seek is a convention which would ban the production, testing, possession and use of nuclear weapons – or a cluster of binding international agreements leading to the same outcome.

How to get there

But how might this come about? The 2010 Revcon Final Document gives us a starting. It expresses *deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons and reaffirms the need for all States at all times to comply with applicable international law.*

Some states are beginning to take this obligation seriously. Last October Switzerland denounced nuclear weapons as immoral and illegal. This was followed in December by a Mexican announcement that any threat or use of nuclear weapons would be a crime. In March of this year in Vancouver eminent experts in international law and diplomacy affirmed that nuclear weapons are incompatible with international humanitarian law.

We know the goal: but the process is obscure. “Normal channels”, such as the NPT and the Conference on Disarmament often involve trade-offs between diplomats and politicians, the alleged “interests” and perceived security of states rather than the real security of all people everywhere. As a result we usually only get weak outcomes. However, there are alternatives. For example there have been suggestions of working through the UN General Assembly. We were inspired by the study commissioned by the Swiss Government for the 2010 NPT Review Conference, “Delegitimising Nuclear Weapons”. The basic points were:

- The security of all people everywhere, and not the alleged security of states, should be at the centre of the drive towards a world free of nuclear weapons.

- If people are to be at the centre of our security concerns, the goal is simple. The use of nuclear weapons must become unthinkable. This is what we mean by delegitimising their use.

- How is this to be achieved? We can learn from success in other areas of disarmament. These include agreements on anti-personnel mines and cluster munitions. There has been considerable progress in these because:

- They were led by citizen groups working together and providing expert analysis and coalitions and, in the first instance, a small number of interested states and serious individual politicians, members of the military and diplomats. Consequently, “spoiler” states were naturally excluded. As a result, the early work was done by groups and states which really meant business. As time went on, the number of

supporting states increased as the process gained momentum.

- With no back-room and corridor deals aimed at reaching consensus, the basic aim - abolition - was strictly maintained. There was no watering down.
- The first step was banning the use of cluster munitions and anti-personnel mines. Possessing or selling them, and then setting up ways of monitoring and enforcing the agreement came later. In the same way, a process to ban nuclear weapons should always centre on the final goal - a Nuclear Weapons Convention - or something very much like it, beginning with banning their use.
- Ordinary citizens were kept informed and their help was enlisted throughout the whole process.

Our Campaign

The CON campaign is based on this approach. Research shows that most people do not see nuclear weapons as a high priority. However, many of them can be moved by an appeal to their basic values and to the importance of honouring internationally agreed obligations, rather than by the strident invocation of fear and panic. In this way we can reach out to other constituencies concerned with the environment and human rights and to issues where people are motivated by values and conscience.

The way forward is to use what we have - several groups of concerned citizens, millions of individuals, and a core group of supportive states - to thrash out an agreement among themselves that nuclear weapons must never be used in their name and that they would view any use as criminal. To let states know that there is widespread support for something like an “Ottawa” process for the abolition of nuclear weapons, we are therefore collecting personal **Affirmations** from citizens and from groups stating their rejection of any use of nuclear weapons. This is being carried out partly on paper, but mainly online through our website, our Facebook page and through Twitter.

To be effective there must be very large numbers of Affirmations which can be presented to suitable state representatives as opportunities arise. This is an

important point because when people are being asked to sign we must give them some idea of how their signatures will be used.

There are three versions of the Affirmation – for citizens of nuclear-armed states, for people living in non-nuclear states, and for citizens groups. You can find these on our Home Page on www.nuclearweapons-warcrimes.org where there is also a link to our Facebook page.

How IALANA can help

We hope that IALANA will support this campaign.

It can do this by:

- Actively promoting and distributing Affirmations – we have plenty of paper versions available, and we aim to have them in non-English languages. In the 1990s, before the days of online signatures, we collected 3.8 million *Declarations of Public Conscience* on paper for the approach to the ICJ on the nuclear weapons case.

- Featuring the campaign with our link prominently on the IALANA website

- Members sending the link - www.nuclearweapons-warcrimes.org - to all contacts and interacting with us on Facebook and Twitter.

- Using their contacts to bring the campaign to the attention of actors in key states and alerting us to important events we might take advantage of.

- Asking speakers on non-English languages to provide translations of the basic Affirmation (not the explanations), remembering the slightly difference versions for non-nuclear states. At the moment we only have French, Malay and Portuguese.

Finally we must emphasise that this is a long-term process. Obviously 2015, the next RevCon, is a useful point in time and the Mayors for Peace 20/20 vision is also very relevant. For this reason we are not talking about petitions which tend to be a short-term matter. In any case, petitions are not relevant to our campaign. They are about asking the powerful to do something we want. The Affirmations are about solemnly registering our root and branch rejection of any use of nuclear weapons because this would violate what we stand for.

Report from Italy

By Joe Lau

In the last weeks we had here in Italy intensive discussions about nuclear power stations and the danger that come from them. I think that this was discussed all around the world and the arguments are well known from every one also since Three Miles Island and Tschernobyl.

As in the past also discussed by IALANA, nuclear weapons as civil Nuclear Power Stations can not be handled without any kind of imponderable, collateral aspects, of human failure, technical and natural insufficient facilities in time of war and in time of peace. Mankind had artificially created - and it will

go on creating - a huge number of materials. This is not conceivable with the human biology.

Considering the legal obligations of the genocide convention, on our opinion the States have the duty to omit any kind of pollution directly or indirectly that can damage the health of great part of the population of a State or of a continent.

The nuclear - civil and military -industry and their States, in consideration of the long term effects of this metal - are violating principal rules of international law. It is well known that any convention in contrast with the *ius cogens* norms are

invalid and all the well paid professors can never hint the contradiction between the destroying effect of radionucleide - long and short term - to any kind of mammiferi including homo sapiens and the human right convention rules. We hope we can discuss this

in the General assembly at Stettin. We shall also ask for what reason the Ialana International shows no interest in the Nuclear weapon case pending actually in front of the Strassburg ECHR.

“German IALANA” in 2010

By Reiner Braun

The German section of IALANA held its Annual General Meeting in Ahrweiler, on the banks of the Rhine near Germany's previous capital, Bonn. It combined the meeting with a visit to the Federal Government's former nuclear fallout shelter, otherwise known as the “Government Bunker”. This was a massive underground complex designed to house the German government and other official authorities in the event of a nuclear war. One can hardly imagine a place more suited to conjuring up images of “cynicism” and “insanity”: Their citizens perish but the leaders are kept alive to emerge into a post-nuclear wasteland? The location of the AGM could thus be seen as a symbolic expression of IALANA's main priority: abolishing all nuclear weapons by means of a nuclear weapons convention. We took part in the NPT Review Conference in New York in May, the NGO alternative conference and the side events. In the run-up to this we founded the uniquely broad and diverse coalition ZoA (Future without Nuclear Weapons), bringing together all the significant social organisations and their leading representatives. ZoA organised a variety of events and some intense lobbying “at home” to raise awareness of the NPT Conference and bring our vision of a world without nuclear weapons to politicians, the media and the general public.

We continued the resistance against the nuclear weapons stationed at Büchel and the related lawsuit against the German Federal Government. Further, with the 25th anniversary of Chernobyl on the horizon, we campaigned against both of the Siamese nuclear energy twins (civil and military). We were

one of the organisations behind several demonstrations against nuclear energy.

As part of the peace movement, we organised our own events and pursued our own legal arguments against the war in Afghanistan, demanding the withdrawal of all foreign troops. We played an active role in a conference organised jointly by VENRO (the umbrella organisation for German development NGOs) and the peace movement to take a particularly critical look at civil-military cooperation in Afghanistan.

And as a logical follow-up to both of these activities, IALANA also took part again in the 2010 Easter Marches.

We consider ourselves to be an active part of the national and international peace movements and participate in their central coordination committees, such as “Kooperation für den Frieden” (Cooperation for Peace) in Germany and the IPB internationally.

We continued to work intensively on the complex issue of using legal means to achieve peace. Our conference in 2009 on this topic (Peace through Law) and the ensuing discussion has been published in a book with the same name. This book represents a uniquely comprehensive and varied summary of this issue.

We participated enthusiastically in further activities of the “No to War - No to NATO” network by taking part in the counter summit organised to coincide with the NATO Strategy Summit in Lisbon. Specialist legal knowledge is the main contribution our

professions can make to the work of these networks, enriching the discussion around how international law can contribute to the development of peace. The need for explanations of current peace-related issues such as Kosovo and the new NATO strategy provided us with opportunities for successful appearances in the press and other media.

We also continued to work actively within European and international social forums.

We tried to live up to expectations in our role as the office for the international IALANA, producing two

newsletters in spite of the almost complete lack of financial resources. And we ensured that IALANA remained active within networks such as the Coalition during the important periods related to the NPT Conference.

Our own newsletter appeared regularly (quarterly). The membership of the German IALANA increased slightly in 2010 but we are still not satisfied with this development