

# NOTTINGHAM CND

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July

## SPECIAL

1996

## World Court Project.

As the information regarding the World Court verdict did not reach us until the bulletin was posted, and our membership had collected a very large number of signatures on the Declarations of Public Conscience the Committee decided that it would be better to issue this special newsletter rather than wait until October to pass the information on to you.

**reminder:**

**Hiroshima Day**  
**Tuesday August 6th**

## ARBORETUM

We shall start assembling from 7:00p.m. and the

Commemorative service will commence at 7:30p.m.

We have been asked to vacate the Arboretum by 9:00p.m.

## Green Festival

We shall just be having our 'Saturday' stall at this event. Due to accident, illness, holidays and our involvement in running the event we shall be very short-staffed and would appreciate help. Half an hour would be good, but an hour would be better, for relief shifts.



# World Court Project



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

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## PRESS COMMUNIQUE

### WORLD COURT DECLARES NUCLEAR WEAPONS THREAT AND USE ILLEGAL

In a landmark decision today, the International Court of Justice declared that the threat or use of nuclear weapons would be "contrary to the rules of international law applicable in armed conflict" in just about any imaginable circumstance.

The only exception to this sweeping declaration of illegality was the Court's holding that "in view of the current state of international law and of the elements of fact at its disposal, the Court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defense, in which the very survival of a State would be at stake."

The single vote on these two provisions was seven to seven, with the President casting the deciding vote. However, since three of the dissenting judges did so because they took the complete illegality view and did not agree with the possible "extreme circumstance" exception, the vote for general illegality was, in effect, ten to four.

The Court unanimously stressed that, in accordance with Article VI of the Nuclear Non-Proliferation Treaty, "there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control."

The Court was also unanimous that nuclear weapons, like any weapons, are subject to the law of armed conflict protecting civilians, combatants, the environment, neutral nations, and succeeding generations from the effects of warfare, as well as United Nations Charter prohibitions of threat or use of force except in self-defense.

Peter Weiss, co-president of the International Association of Lawyers Against Nuclear Arms, welcomed the Court's opinion, stating, "This was an appropriate sequel to Wimbledon, with a group of unseeded states carrying the day against the world's top seeds. The Court has charted a clear path toward nuclear abolition, in terms both of its legal analysis and its appeal to start taking Article VI of the NPT seriously."

Commander Robert Green, Royal Navy (ret.), of World Court Project UK, said: "With this remarkable decision, I could never have used a nuclear weapon legally. This places a duty on the military to review their whole attitude toward nuclear weapons, which are now effectively in the same category as chemical and biological weapons."

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Co-founding organisations

International Peace Bureau, International Association of Lawyers Against Nuclear Arms, and

In response to a request for an advisory opinion from the World Health Organization concerning the legality of use of nuclear weapons in view of their health and environmental consequences, the Court found that it had no jurisdiction because the legality of nuclear weapons is not within the scope of WHO activities. Ann Marie Janson, WHO liaison for International Physicians for the Prevention of Nuclear War (IPPNW), commented that, "This case was initiated by the WHO, with a boost from IPPNW, which understands that prevention is the only medical response to the threat of nuclear war. We are happy that the Court referred to the need to protect the environment and future generations from nuclear damage in the General Assembly case, but we are disappointed that these same health aspects were understood only by the three dissenting judges in the WHO case."

The Court's opinion in the General Assembly case comes as a blow to the United States, United Kingdom, France and Russia, all of which urged the Court not to consider the case. The case was initiated by international peace and disarmament groups including the International Association of Lawyers Against Nuclear Arms (IALANA), International Peace Bureau (IPB) and International Physicians for the Prevention of Nuclear War (IPPNW). Not having direct access to the World Court, they successfully petitioned the World Health Assembly and the United Nations General Assembly to make requests for advisory opinions. Fredrik Heffernehl of IPB stated, "This case is an encouraging example of the ability of people's organizations to make use of international institutions like the World Court, which are meant to serve the world's people and not only their governments."

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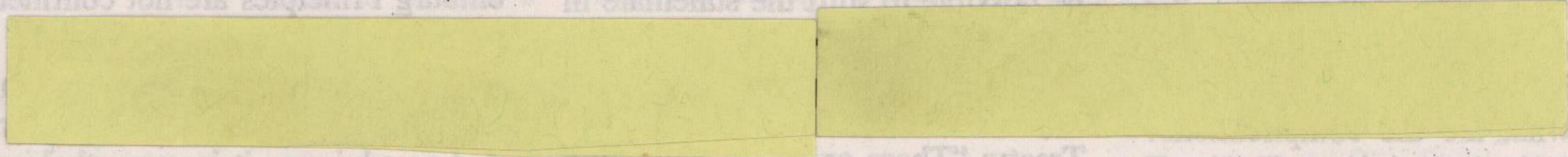
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# A triumph for peace

**PAT HAWARD from the World Court Project examines this week's judgement on the legality of nuclear weapons.**

**A**T last, the highest court in the world has given its opinion — the threat and use of nuclear weapons are illegal.

Of course, there are complications in the detail of the opinion given by the International Court of Justice and, of course, parts of the media have latched onto that.

But, basically, this is a triumph for the states who want the nuclear powers to be held in check until there is total nuclear disarmament.

It is a triumph, too, for the peace movement which internationally has worked through the World Court Project.

The judges at the Hague complimented the non-governmental organisations on their constructive assistance and welcomed the Declarations of Public Conscience from the people of the world, 3.7 million of them, including 155,000 from Britain.

So what are the complications? In Monday's opinion, Clause E reads that "the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict and, in particular, the principles of humanitarian law."

But it is in Clause E that the confusion arises. That first paragraph is "balanced" by the addition: "However, in view of the current state of international law and of the elements of fact at its disposal, the court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a state would be at stake."

Politically, the interesting aspect is the division of votes on Clause E, announced as seven in favour, se-

ven against. From statements in the ICJ summary, four judges were patently against the first paragraph: Schwebel (US), Guillaume (France), Higgins (UK) and Oda (Japan). But three other judges objected to the inclusion of the proviso: Shahabuddeen (Guyana), Weeramantry (Sri Lanka) and Koroma (Sierra Leone).

The balance of votes on the first paragraph is thus effectively 10 to four. We shall probably never know how those two statements got into the same clause.

There may, however, be an explanation in the full court report of why it is "the survival of a state," rather than the safety of us, the peoples of the world, which is at stake and also, the question of whether survival of the state applies to non-nuclear states.

There are very positive implications in the opinion. It should now be possible to shift the stalemate in the Test Ban discussions. And there is a restatement, in Clause F, of Article VI of the Non-Proliferation Treaty: "There exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control." That bodes well for next year when the newly extended NPT has its first review.

There is further political enlightenment. Judges Schwebel (US) and Guillaume (France) justify the threat of nuclear strike in the Gulf war with the idea that Iraq might have used chemical or biological weapons and the latter stresses that international law cannot deprive a state of the right to resort to nuclear weaponry if such action constitutes the ultimate means by which it can ensure its survival.

Judge Guillaume adds: "If the law is silent on that matter, the

states, in the exercise of their sovereignty, remain free to act as they think fit." Go for it, France! And all the so-called rogue states, too!

Judge Koroma challenges the emphasis on the survival of the state, maintaining that the court should have focused only on the lawfulness of nuclear weapons.

He is echoed by Judge Weeramantry, who stresses that nuclear warfare "contradicts the fundamental principle of the dignity and worth of the human person on which all law depends."

How the British government will respond remains in question. The British military try very hard to stay within the law, but a recent statement from the Chief Naval Judge Advocate indicates that they may be rather casual in their interpretation of the ICJ opinion and may need to be reminded that the Nuremberg Principles are not confined to the losers of World War II.

Even if, as the government claims, the opinion could be regarded as advisory, it is, nevertheless, an interpretation of existing law.

For the first time it has been explicitly stated that nuclear weapons come within the same laws as other weapons of mass destruction and are illegal. We have a right to ask whether Britain is in an "extreme circumstance of self-defence," justifying Trident patrols. Service personnel who deploy nuclear weapons should do the same.

British judge Dame Rosalyn Higgins effectively outlawed any use of Trident when she argued that "a weapon will be unlawful, per se, if it is incapable of being targeted at a military objective only, even if collateral harm occurs... To the extent that a specific nuclear weapon would be incapable of this distinction, its use would be unlawful."