

Public Forum

**The Marshall Islands' Nuclear Zero Lawsuits**

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Opening Speech

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Ladies and gentlemen,

In the name of the International Association of Lawyers Against Nuclear Arms I greet you warmly. We meet here on the eve of the conference of governments on the Humanitarian Impact of Nuclear Weapons, arranged by the Austrian foreign ministry in the wonderful city of Vienna, because we have interesting news to tell!

The government of the Marshall Islands has decided to bring lawsuits against the 9 states possessing nuclear weapons, before the International Court of Justice of the United Nations.

The Marshall Islanders have suffered from the explosions of 67 atom bombs and suffer still today. Like us they have hoped, that the Non Proliferation Treaty of 1<sup>st</sup> July 1968 would bring a change. Like us they have hoped that the Advisory Opinion of the International Court of Justice from 8<sup>th</sup> July 1996 would bring a change.

In its Advisory Opinion, requested by the General Assembly of the United Nations, the World Court has stated 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 and rules of humanitarian law".

Among the more important of these principles are:

- a) the prohibition against causing unnecessary suffering;
- b) the principle of proportionality;
- c) the principle of discrimination between combatants and non-combatants;
- d) the obligation to respect the territorial sovereignty of non-belligerent states;
- e) the prohibition against genocide and crimes against humanity;
- f) the prohibition against causing lasting and severe damage to the environment;
- g) human rights law.

At the latest since the publication of the Advisory Opinion - and arguably earlier - nuclear weapons are stigmatized. The ultimate authority in the international law, the World Court of the United Nations, has determined that they are in general unlawful.

Consequently the World Court stated that the nuclear weapon states are obliged to negotiate a nuclear weapons treaty and reduce the number of nuclear weapons to zero. The Court derived this from the above-mentioned principles of international law and from Article VI of the Non-Proliferation Treaty.

I quote: "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."

But what happened then?

As Jonathan Swift once said: "Laws are like cobwebs, which may catch small flies, but let wasps and hornets break through."

What we hear from the nuclear weapon States is nothing more than lip-service. In June 2008 Obama declared he would make the abolition of nuclear weapons a central element of his policy. One year later, in his famous Prague speech, he said: “This goal will not be reached quickly – perhaps not in my lifetime.”

Hilary Clinton made it even clearer. In July 2010, at that time US Secretary of State, addressing the State Department staffers who had worked on the New START agreement and the 2010 Nuclear Posture Review, she said the following:

”I am personally very grateful for everything you have done to move us toward our goal of a world some day, in some century, free of nuclear weapons, but along the way, making the world safer and safer and safer for our children and grandchildren.”

“Some day - in some century”, I think we cannot wait so long.

In reference to the risks of nuclear deterrence the former US Secretary of Defense Robert McNamara said: “In the end we lucked out – it was luck that protected us from nuclear war.”

I don't know how long we are still going to be lucky.

A few weeks ago I had the opportunity to discuss the issue in the office of the Federal Chancellor and in the Foreign Ministry in Berlin. What we heard was that right now there would be no good times for nuclear disarmament. The security environment had changed with the Ukraine crisis and ISIS.

But is it not true that armed conflicts always carry the risk of escalation? And was it not the best thing to do in the Syrian crisis to bring all the chemical weapons out of the country and to destroy them on a ship in the Mediterranean Sea?

What if the Taliban in Pakistan join ISIS, as some of their leaders have already announced, and get hold of the Pakistani nuclear weapons?

I have asked this question in the office of Ms Merkel. The answer was: “We trust in the security provisions of the Americans.”

I believe the only reliable security measure in which we can really trust is the negotiation of a nuclear weapons convention which provides for strict timelines for the dismantling of warheads and the complete destruction of all the nuclear weapons. The step by step policy of the nuclear armed states, which leads to infinity, is not acceptable.

What we ask for is that the nuclear weapon States fulfill their obligation to negotiate and to reach an agreement on nuclear zero.

And that is what the government of the Marshall Islands is claiming before the World Court.

Ladies and gentlemen,

Now is the time for the non-nuclear weapon States and for the non-governmental organizations to increase the pressure on the nuclear weapon States and to gain momentum.

Let's get to work.