

Written by John Hallam

Monday, 20 June 2016 16:29 - Last Updated Monday, 20 June 2016 16:31

Media Notice: 11 June 2016

Media Briefings on the Tribunal:

(1) 4.30-5.00pm, Wed 6 July 2016, Tutorial Room 401, Woolley Building, University of Sydney

(2) 18:00-18:30pm, Thurs 7 July 2016,
Common Room, Woolley Building

INTERNATIONAL PEOPLES' TRIBUNAL ON THE NUCLEAR POWERS AND THE DESTRUCTION OF HUMAN CIVILISATION

Human Survival Project
People For Nuclear Disarmament
Aotearoa Lawyers For Peace

An International Peoples' Tribunal announced today is laying charges against the leaders of the nuclear-armed states for threatening the end of human civilization and possibly even human extinction. 'We are indicting the nuclear powers in light of the increasing evidence of the risks of nuclear weapons use arising from their policies and practices, and the catastrophic consequences of such use,' says Prof Peter King, a founder of the Center for Peace and Conflict Studies and convener of its Human Survival Project at Sydney University, and one of the Tribunal organizers.

The Tribunal is being convened by Peter King, and People for Nuclear Disarmament (PND) UN lobbyist, John Hallam.

It has a cast of distinguished international lawyers, including the Hon. Matt Robson, former NZ Minister for Courts; international law expert Alan Webb; US lawyer David Krieger, adviser for the Marshall Islands case against the nuclear weapons states at the International Court of Justice (ICJ); French law professor Emilie Gaillard, expert on law protecting future generations; Daniel Reitiker, President of the Association of Swiss Lawyers for Nuclear Disarmament and expert in human rights law, and Alyn Ware, consultant to the International Association of Lawyers Against Nuclear Arms (IALANA) and lead prosecutor for the Tribunal. Mr Ware played a key role in the 1996 ICJ case on the legality of the threat or use of nuclear weapons.

The Tribunal aims to focus attention on the potential that multiple use of nuclear weapons will have to destroy human civilization completely; the spiraling current risks of such an exchange, and the possibility, however remote, (or otherwise) that such an event sequence might even lead to human extinction.

The Tribunal Hearings will be held on July 7-8 2016, July 8th being the 20th anniversary of the ICJ case on nuclear weapons and the first day of Chain Reaction, a series of nuclear disarmament events happening around the world from July 8 until October 2, the International

Written by John Hallam

Monday, 20 June 2016 16:29 - Last Updated Monday, 20 June 2016 16:31

Day of Non-Violence.

Says the Hon. Matt Robson, a Tribunal judge:

"Political power has so far prevented the testing of the criminality of nuclear weapons in an established official international tribunal such as the International Criminal Court...As judges in a Peoples' Tribunal we will not shy away from our duty to examine this issue of vital importance for human kind."

Says Alan Webb LLB, a member of the prosecution team:

"Nuclear weapons are not exempt from the laws of warfare, and if the threat or use of nuclear weapons is clearly illegal, as we intend to demonstrate, then it's an international crime of the most serious nature for individuals responsible for such nuclear weapons policies to continue upholding these policies."

According to American lawyer, David Krieger, legal adviser for the Tribunal:

"The Republic of the Marshall Islands (RMI) has filed cases against the nine nuclear-armed States in the ICJ and American courts for their failure to comply with international law on disarmament. This Peoples' Tribunal will complement the RMI cases, and will highlight the fact that individuals responsible for illegal policies cannot hide under the cloak of 'national security'. Such a spurious defense was rejected in the Nuremberg and Yugoslavia Tribunals and should be rejected by this Peoples' Tribunal."

Says French law professor Emilie Gaillard, legal adviser for the Tribunal:

"The International Court of Justice concluded in 1996 that 'the destructive impact of nuclear weapons cannot be contained in time or space'. To threaten such use by maintaining nuclear weapons or subscribing to nuclear deterrence doctrines is a crime against future generations. This tribunal will provide a voice for the voiceless who are threatened through time and space by the leaders of nuclear weapon states today."

Says Daniel Rietiker, legal adviser for the Tribunal,:

"The UN Human Rights Committee has affirmed that designing, testing, manufacture, possession and deployment of nuclear weapons are among the greatest threats to the right to life which confront mankind today."

And Alyn Ware, lead prosecutor for the Tribunal, says:

"The Peoples' Tribunal will hold its second day of hearings on July 8, the 20th anniversary of the decision of the International Court of Justice affirming the illegality of the threat or use of nuclear weapons. Both the ICJ case and the tribunal have arisen as civil society initiatives to hold governments and leaders accountable for illegal actions."

According to Tribunal conveners, John Hallam and Peter King:

"This Tribunal comes as part of a long process in which it is being demonstrated that nuclear weapons possession, nuclear threats and actual use not only violate international law in a massive way, but also jeopardize human civilization and even human survival. This is not a new idea – it has been around since at least the 1955 Einstein/Russell Manifesto – but it has legal implications...We are sending an indictment to the nine states that have nuclear weapons

Written by John Hallam

Monday, 20 June 2016 16:29 - Last Updated Monday, 20 June 2016 16:31

(faxed to their Canberra and UN missions and their ministries of foreign affairs) to the following effect:

--In light of the increasing evidence of the risk of nuclear weapons use and the catastrophic impact of any such use, the Tribunal will consider the following charges with regard to States possessing nuclear weapons and individual responsibility for nuclear weapons policies.

1 The use of nuclear weapons would be illegal and a crime;

as a weapon of mass destruction (multiple use);
in or affecting populated areas;
in any circumstances.

2 The threat to use nuclear weapons would be illegal and a crime;

as a weapon of mass destruction (multiple use);
in or affecting populated areas;
in any circumstances."

Charges will be laid against heads of state or government of the nine nuclear armed states (China, France, India, Israel, North Korea, Pakistan, Russia, the United Kingdom and United States) and also Australia (a nuclear reliant state).

Based on its decision regarding these charges, the Tribunal will decide on state and individual responsibility, including measures required to ensure compliance with the law.

As this Tribunal is not an 'official' body, its decisions are not, clearly, legally enforceable. Nonetheless they will represent the results of consideration of a substantial body of legal and civil society opinion. As such they will be influential in determining what is, in fact, the state of the law, and can thus influence legal and political thinking. We aim to demonstrate that nuclear weapons are a threat to everything that humans find important, and that as such they are illegal. If the Tribunal succeeds to further marginalize and discredit nuclear weapons it will all be worthwhile.

Contacts:

Prof. Peter King: +61 422 647 025, peter.king@sydney.edu.au

CPACS office: + 61 2 9351 7686, arts.cpacs@sydney.edu.au

John Hallam: M +61-469874984, H +61 2 9810 2598

PND office 61 2 9319-4296 johnhallam2011@yahoo.com.au

Alyn Ware (Basel, Switzerland) 41-788-912-156

Website:http://sydney.edu.au/arts/peace_conflict/practice/HSP_Tribunal.shtml

CPACS

International Peoples Tribunal on the Nuclear Powers and the Destruction of Human Civilisation

July 6-8, 2016

Woolley Common Room, Woolley Bldg
University of Sydney, Sydney, Australia

Hosted by CPACS, the Department of Peace and Conflict Studies (Human Survival Project), and SCIL, the Sydney Centre for International Law, at Sydney University

Co-sponsored by Aotearoa Lawyers for Peace and People for Nuclear Disarmament, New South Wales

Introduction

On July 8, 1996, the International Court of Justice affirmed that the destructive impact of nuclear weapons cannot be contained in time or space, that the threat or use of nuclear weapons would generally violate international law, and that there exists an obligation to pursue in good faith and bring to a conclusion negotiations on nuclear disarmament in all its aspects under strict and effective international control.

20 years later, and there is little progress by the nine nuclear-armed countries and the thirty-one other countries reliant on nuclear weapons to adhere to their legal obligations not to threaten the use of nuclear weapons and to achieve nuclear disarmament. Indeed, nuclear weapon policies appear to have remained the same, while the risks of nuclear weapons use have grown, knowledge about the catastrophic consequences of the use of nuclear weapons has increased (including the impact on climate), and the law against nuclear weapons has strengthened.

In January this year, the Doomsday Clock was set at 3 Minutes to Midnight, an indication that the world has returned again to the prospect of a nuclear holocaust that could destroy civilization or possibly even cause human extinction. This threat to human civilization was highlighted in a UN General Assembly Resolution entitled Humanitarian consequences of nuclear weapons, adopted on December 7, 2015 and supported by 144 governments.

This tribunal will examine nuclear weapons policies of the nine nuclear armed countries and of one nuclear-reliant country, outline the risks and consequences of nuclear weapons use, and

apply current law to these policies to determine legality.

The tribunal will focus primarily on the threat to human civilization from the multiple use of nuclear weapons, but will also consider more limited uses of nuclear weapons by state actors.

In line with the practice of the Nuremburg Tribunals, International Criminal Court and Ad Hoc Tribunals on Yugoslavia and Rwanda, the Peoples' Tribunal will also consider individual responsibility for current nuclear weapons policies, particularly the responsibility of the head of State.

The Indictment

In light of the increasing evidence of the risk of nuclear-weapons use and the catastrophic impact of any such use, the Tribunal will consider the following charges with regard to States possessing nuclear weapons and individual responsibility for nuclear weapons policies.

The use of nuclear weapons would be illegal and a crime;
as a weapon of mass destruction (multiple use):
in or affecting populated areas;
in any circumstances.

The threat to use nuclear weapons would be illegal and a crime;
as a weapon of mass destruction (multiple use);
in or affecting populated areas;
in any circumstances.

The charges would be made against the governments and heads of state of the nine nuclear armed states (China, France, India, Israel, North Korea, Pakistan, Russia, United Kingdom and United States) and of Australia (a nuclear reliant state).

Based on its decision regarding these charges, the Tribunal will then decide on state and individual responsibility including measures required to ensure compliance with the law.

The law

The International Court of Justice in 1996 applied the laws of peace and security (such as the United Nations Charter) and international law applicable in wartime, such as international humanitarian law (IHL), to arrive at its conclusions on the general illegality of the threat or use of nuclear weapons. However, the ICJ was unable to conclude that the threat or use of nuclear weapons was illegal in every circumstance, leaving a question mark over threat or use in an extreme circumstance of self-defense when the very survival of a state is at stake. The Court was also ambiguous on whether IHL would apply equally during such an extreme circumstance, or be modified by it.

Since then, there have been a number of developments in international law that would likely render any threat or use illegal. This includes the agreement in 2010 by States Parties to the Non-Proliferation Treaty that IHL applies at all times, a growing awareness and acceptance that any use of nuclear weapons would create catastrophic humanitarian consequences and developments in environmental and human rights law including the precautionary principle, ecocide and trans-generational rights (rights of future generations).

Written by John Hallam

Monday, 20 June 2016 16:29 - Last Updated Monday, 20 June 2016 16:31

There has also been an increased awareness of political and technical risk factors that render nuclear deterrence policies and practices significantly more dangerous – and likely to lead to a nuclear catastrophe – than previously known. This includes rising tensions between nuclear-armed States, greater risks of accidental or inadvertent nuclear exchange, proliferation to additional countries or to non-state actors, and command and control vulnerabilities, including possibilities of unauthorized (terrorist) access.

Finally, there have been credible challenges to post-Cold War notions that any accidental, inadvertent or authorized nuclear weapons use could be contained to a single detonation.

As such, the Tribunal will explore policies, practices, technical realities and law which, although drawing from the 1996 ICJ case, will likely go deeper and further. This will include the risk of destruction of civilization – or even human extinction – arising from multiple nuclear strikes by the nuclear weapon powers. As indicated above, the tribunal will also deal with individual responsibility and criminality – an area not addressed by the ICJ.

The trial will consist of:

An Indictment against the nuclear armed States and Australia. This will be released on June 12, 2016.

Written submissions by the prosecution and defence. These will be due by June 28 and will be posted on the Tribunal website the following day. The prosecution brief will include legal, rational and ethical cases against the nuclear powers. A Rational /Ethical Case document is being prepared by Peter King and John Hallam in consultation with a wide range of experts and will be circulated by June 30.

Amicus briefs. Interested organisations and qualified individuals will be able to submit amicus briefs to the Tribunal. These need to be received by July 3. Several amici curiae (friends of the court) have already been appointed to the Tribunal and those submitting briefs may also have an opportunity to participate in the proceedings.

Oral hearings and associated events. These will take place in Sydney on July 6-8 according to the following schedule:

July 6:

15:00 – 16:30: Pre-hearings consultation (for tribunal participants only).

Tutorial Room 401, Woolley Building, main campus, Sydney University

16:30--17:00: Media Briefing, same venue

18:00 - 19.30: Reception: drinks, canapes and welcome:

Posters Galley, Centre for Peace and Conflict Studies, Mackie Building, Arundel St, Forest

Written by John Hallam

Monday, 20 June 2016 16:29 - Last Updated Monday, 20 June 2016 16:31

Lodge

July 7: Tribunal Sessions:

Woolley Common Room, Woolley Building, main campus, Sydney University

9:00 – 9:30. Session 1. Introduction to the case. Background. Process

9:30 – 11:00. Session 2. Prosecution: Establishing the facts. Rational Case against nuclear powers presented; expert witnesses on nuclear weapons policies & practices, risks & consequences of nuclear weapons possession and use.

11:00 -11:30. Coffee break:

12:00 – 13:00. Session 3. Prosecution – Legal Case.

14:30 – 16:00. Session 4. Prosecution: Ethical Case against nuclear powers presented; witnesses on the threat to human civilisation and survival.

16:30 – 17:30. Session 5. Defence. Legal and other cases. Nuclear armed states.

19:30. Evening Banquet: (Drinks and socializing from 18:00).

345 Edgecliff Rd, Edgecliff. Home of Dr Yola Lucire and former Senator Bruce Childs.

July 8: Tribunal Sessions cont'd: Woolley Common Room

9:00 – 10:00. Session 6.. Defence. Legal case. Australia. Amicus briefs supporting the defence considered. Appointed amicus team comments freely on prosecution and defence.

10:00 – 10:30. Coffee break:

10:30– 12:30. Session 7. Interactive session. Questions from judges and audience to the prosecution and defence.

12:30 – 14:30. Lunch break:

14:30 – 16:00. Session 8. Rebuttals: Prosecution and Defence reply to each other's arguments. Appointed amici participate.

16:30 – 17:30. Session 9. Emerging law. Special session on ecocide, precautionary principle and protection of future generations.

17:30. Conclusion; Wrap-up and reminder of process from here until the judicial panel decision.

18:00-18:30 Media Conference

Deliberations. Following the oral hearings, the judicial team will deliberate electronically (email, conference calls...) for no more than 1 month before reaching its verdict.

Verdict. The verdict will be announced on August 9 at a press conference at the Sydney Centre for International Law.

Tribunal personnel

Prosecution. Alyn Ware, Alan Webb, John Hallam, Peter King. Legal advisers for the prosecution: Keith Suter, Emilie Gaillard, Daniel Rietiker, David Krieger.

Defence. Dr James Elmslie

Amici curiae: Richard Broinowski, Marianne Hanson

Expert witnesses: Helen Caldicott (ethics and nuclear extinction); Steven Starr (nuclear

Written by John Hallam

Monday, 20 June 2016 16:29 - Last Updated Monday, 20 June 2016 16:31

winter, launch ready thermonuclear arsenals), Alison Broinowski (“extended deterrence”: Australia); Sue Wareham (catastrophic humanitarian consequences of nuclear use).

Steering/ Fund Raising/Media Committee: Peter King and John Hallam (conveners), Emily Crawford, Daryl Le Cornu (social media), Frank Hutchinson, Anne Noonan.

International Advisory Team: Michael Kirby, Gavan McCormack, Aaron Tovish, Peter Wallensteen, Robert O'Neill.

Contacts:

Peter King: +61 422 647 025, peter.king@sydney.edu.au

John Hallam: +61 2 9810 2598, +61-4-6987-4984 (mobile), +61 9319-4296

(office)johnhallam2011@yahoo.com.au

CPACS office: + 61 2 9351 7686, arts.cpacs@sydney.edu.au

Website: http://sydney.edu.au/arts/peace_conflict/practice/HSP_Tribunal.shtml

Facebook: <https://www.facebook.com/Human-Survival-Project-388802504634024/>

Cover Letter: International Peoples' Tribunal Indictment

TO:

Kim Jong Un, Supreme Leader, Democratic Peoples Republic of Korea

Vladimir Putin, President of the Russian Federation

Barack Obama, President of the United States

Xi Jinping, President of China,

Francois Hollande, President of France

David Cameron, Prime Minister of the United Kingdom

Narendra Modi, Prime Minister of India

Nawaz Sharif, Prime Minister of Pakistan,

Benjamin Netanyahu, Prime Minister of Israel

Re: Peoples' Tribunal on The Nuclear Powers and the Destruction of Civilisation – Indictment

Dear Presidents, Prime Ministers and Supreme Leader of Nuclear-Armed States:

You are hereby notified of a Peoples Tribunal on the Nuclear Powers and the Destruction of Civilisation to be held on the 7th and 8th of July at the University of Sydney.

You have been indicted by the Tribunal for various breaches of international law as specified in the attached Indictment file. Also attached is the program of the tribunal hearings. You should study these documents closely and are urged to take this matter seriously-- to file documentation of your own, as you wish, and to send a defence team to attend the tribunal if

Written by John Hallam

Monday, 20 June 2016 16:29 - Last Updated Monday, 20 June 2016 16:31

you decide to contest the charges. Documentation that arrives by the end of June will be immediately placed on the Tribunal website and made available to Tribunal members.

In the absence of an official defence team for any of the government heads indicted, the Tribunal itself will appoint a surrogate defence.

You will find attached to this cover letter:

- A media release
- The program and schedule for the Peoples Tribunal, and
- The Indictment.

The Tribunal has been convened and organized by Professor Peter King of Sydney University's Centre for Peace and Conflict Studies (CPACS) and its Human Survival Project, and by Mr John Hallam, of People for Nuclear Disarmament (PND) and the Human Survival Project.

Prosecution is being coordinated by Mr Alyn Ware, who was one of the civil society leaders and coordinators for the 1996 case in the International Court of Justice on the illegality of nuclear weapons.

Please contact us with details of your defence team.

Our contact details are as follows:

Contacts:

Prof. Peter King: +61 422 647 025, peter.king@sydney.edu.au

CPACS office: + 61 2 9351 7686, arts.cpacs@sydney.edu.au

John Hallam: M +61-4-6987-4984: H +61 2 9810 2598johnhallam2011@yahoo.com.au

PND office 61 2 9319-4296

Alyn Ware (Basel, Switzerland) 41-788-912-156

Website:http://sydney.edu.au/arts/peace_conflict/practice/HSP_Tribunal.shtml

International Peoples Tribunal on the Nuclear Powers and the Destruction of Human
Civilisation

Indictment

The People v Xi Jinping, as President of the Peoples Republic of China

The People v Kim Jong-un, as the Supreme Leader of the Democratic People's Republic of Korea,

The People v François Hollande, as President of the Republic of France

The People v Narendra Modi, as Prime Minister of India

The People v Benjamin Netanyahu, as Prime Minister of Israel

The People v Nawaz Sharif, as Prime Minister of Pakistan,

The People v Vladimir Putin, as President of the Russian Federation

The People v David Cameron, as Prime Minister of the United Kingdom of Great Britain and Northern Ireland

The People v Barack Obama, as the President of the United States

on the following charges:

Planning and preparing for the use of nuclear weapons, which would constitute a crime;

as a weapon of mass destruction (multiple use):

in or affecting populated areas;

in any circumstance.

Making illegal threats to use nuclear weapons;

as a weapon of mass destruction (multiple use);

in or affecting populated areas;

in other unspecified circumstances.

The People v Malcolm Turnbull, as Prime Minister of Australia on the following charges:

Aiding and abetting the planning and preparation for the use of nuclear weapons, which would constitute a crime:

Making illegal threats to facilitate, support, aid and abet the use nuclear weapons;

The Facts

Policies and acts of the defendants regarding the use and threat of use of nuclear weapons

The governments of China, Democratic Peoples' Republic of Korea, France, India, Israel, Pakistan, Russia, United Kingdom and the United States have produced nuclear weapons and developed plans for their use in times of armed conflict.

Such plans include the multiple use of such weapons as weapons of mass destruction, the use of nuclear weapons against populated areas or in ways that would impact indiscriminately on populated areas, and other unspecified uses.

The governments of China, Democratic Peoples' Republic of Korea, France, India, Israel, Pakistan, Russia, United Kingdom and the United States also maintain policies of threatening to use nuclear weapons against other nations in both peace-time and war-time.

The governments of France, Israel, Pakistan, Russia, the United Kingdom and the United States maintain policy options for the first use of nuclear weapons, even before nuclear weapons have been used against them

The governments of Russia and the United States maintain high operational readiness to use a portion of their nuclear arsenals within minutes on launch-on-warning policies.

The government of Australia aids and abets the government of the United States in planning and preparing for the use of nuclear weapons in times of armed conflict. This includes both policy support, such as policy statements supporting the potential use of nuclear weapons by the United States, and logistical support, such as hosting U.S. military facilities vital to the command and control of nuclear weapons systems.

The government of Australia, in adopting and maintaining policy of extended nuclear deterrence, threatens to facilitate, support, aid and abet the use of nuclear weapons by the United States against other nations, supposedly to defend Australia.

Impact and consequences of the use of nuclear weapons
As a weapon of mass destruction – multiple use

The multiple use of nuclear weapons would create catastrophic human and environmental consequences, due to blast and fire storm effects, radioactive contamination and fallout, and gross impact on the earth's climate. All of these impacts would be trans-generational.

Depending on the number of nuclear weapons used and the targets hit, the extent of impact could range from widespread damage to the regions and populations surrounding the targets, to catastrophic damage to regional and global human support systems, to destruction of human civilization, or even the possibility of human extinction.

Recent evidence on climatic consequences of nuclear weapons use, long-term damage of low level ionizing radiation, and nuclear weapons impacts on increasingly interconnected human support systems, indicates that the threshold number of nuclear detonations that could trigger the destruction of human civilization – and possibly human extinction - is much lower than previously understood. This fact is now widely accepted in international discourse and diplomacy.

In or affecting populated areas

Evidence from the nuclear detonations in Hiroshima and Nagasaki – a single bomb on each city – indicates that and nuclear weapons detonated on cities would cause indiscriminate harm to civilians resulting in extensive death, injuries and transgenerational impact. Such detonations would also destroy, or severely damage, human support systems.

Evidence from nuclear test detonations, in the Marshall Islands, Algeria, Nevada, French Polynesia, Kazakhstan and other nuclear test sites, indicates that nuclear weapons detonated

some distance from human populations, would still impact severely on them. Multiple nuclear weapon detonations would have a much greater impact than single detonations. The International Court of Justice concluded in 1996 that 'the destructive impact of nuclear weapons cannot be contained in time or space.'

Indeed multiple detonations would cripple or destroy of nearly all of the infrastructure vital to 21st century humanity—financial, agricultural, industrial, health, transport, cultural and educational and more, along with the internet. Casualties would run readily into billions and civilization as we know it would cease, with a definite risk of human extinction to follow.

In any circumstance

The series of international conferences since 2013 on the humanitarian impact of nuclear weapons has brought forth evidence indicating that even a single nuclear weapon detonated in a populated area or to produce an electro-magnetic pulse could cause catastrophic consequences for human health. In addition, game theory modelling indicates that a single use of a nuclear weapon is most likely to trigger counter-use leading to multiple use of nuclear weapons.

Risks of nuclear weapons use

Proponents of nuclear deterrence assert that the threat to use nuclear weapons is necessary to deter a potential aggressor from using nuclear weapons and it therefore prevents the use of nuclear weapons. However, to be credible, such policy requires willingness to use nuclear weapons. Probability theory and risk analysis alike indicate that nuclear deterrence is unsustainable. It either has to be rescinded or nuclear weapons will be used at some point in time. A recent study by Chatham House¹ explores these risks, and notes that one indication of such risk is that nuclear weapons have nearly been used at least 13 times since 1945.

The Law

Illegality of the use of nuclear weapons

The rules of international humanitarian law (IHL) applicable in wartime, or *jus in bello*, hold that it is prohibited to use weapons or methods of warfare which:

would be disproportionate, i.e. excessive in relation to the concrete and direct military advantage anticipated

target civilians or cause indiscriminate harm to civilians;

cause unnecessary suffering to combatants,

violate neutral territory;

cause widespread damage to the environment.

The International Court of Justice and the International Committee of the Red Cross (ICRC) have concluded that the use of nuclear weapons is unlikely to be able to be reconciled with

Written by John Hallam

Monday, 20 June 2016 16:29 - Last Updated Monday, 20 June 2016 16:31

IHL. Furthermore, the fact that nuclear weapons have not been detonated in war since World War II, despite options for such use, contributes to the formation of a customary prohibition on use.

Human rights law is also applicable to nuclear weapons. Indeed the UN Human Rights Committee in 1984 held that designing, testing, manufacture, possession, deployment and use of nuclear weapons are among the greatest threats to the right to life and therefore constitute a crime against humanity.

Emerging law relating to ecocide, the precautionary principle and the rights of future generations is also applicable to nuclear weapons. Such law reinforces the prohibition on the use of nuclear weapons found in customary international law.

Illegality of the threat to use nuclear weapons

The law of jus ad bellum applies during peace-time to the threat to use nuclear weapons. Such law holds that it is illegal to threaten or use force, unless attacked or under imminent threat of attack. Current nuclear deterrence policies fail to meet this law.

In addition, general principles of law hold that if a specific act is illegal, the threat to commit that act is generally also illegal. As such, the International Court of Justice, in applying the laws of warfare to nuclear weapons held in 1996 that the threat or use of nuclear weapons would generally be illegal.

Illegality of acts to facilitate, support, aid or abet the use and threat to use nuclear weapons

General legal principles hold that if an act is a crime, then an act by another to facilitate, aid and abet such an act is also a crime.

Responsibility under the law

The charges laid in this indictment are against the leaders of the nuclear-armed States and of Australia – the “nuclear umbrella” country in which the tribunal is taking place. The leaders of these countries have a primary responsibility to ensure that the policies and practices of their countries comply with international law.

The principles of personal responsibility -- enshrined in the International Military Tribunal (Nuremberg Tribunal), International Military Tribunal for the Far East (Tokyo Tribunal), Ad Hoc Tribunal for Rwanda, Ad Hoc Tribunal for the Former Yugoslavia and Rome Statute for an International Criminal Court-- hold that individuals responsible for war crimes and crimes against humanity cannot escape responsibility by claiming that such acts are excusable because they are following government policy. Indeed, the leaders of countries have even less defence because they have specific responsibility for the nuclear weapons policies of their countries.

1 Too Close for Comfort: Cases of Near Nuclear Use and Options for Policy <https://www.chathamhouse.org/publications/papers/view/199200#sthash.nOPGHjWB.dpu>
f

Written by John Hallam

Monday, 20 June 2016 16:29 - Last Updated Monday, 20 June 2016 16:31

--

You received this message because you are subscribed to the Google Groups "Nuclear News List" group.

To unsubscribe from this group and stop receiving emails from it, send an email to nuclear-news-list+unsubscribe@googlegroups.com.

To post to this group, send email to nuclear-news-list@googlegroups.com.

To view this discussion on the web visit

<https://groups.google.com/d/msgid/nuclear-news-list/442844563.1023368.1465631863126.JavaMail.yahoo%40mail.yahoo.com>.

For more options, visit <https://groups.google.com/d/optout>.