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## Nuclear Disarmament and the Security of Humanity

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### Abstract

This paper examines a new concept called the security of humanity in the context of debates on nuclear disarmament. First, I clarify that the discussion on nuclear disarmament has traditionally been conducted with the objective of improving national and international military security. Second, I discuss how, for the last several years, the humanitarian approach to nuclear disarmament has been strongly advocated through three International Conferences on the Humanitarian Impact and several Joint Statements on the Humanitarian Consequences, at the 2015 NPT Review Conference and in the United Nations General Assembly resolutions. Third, I examine three key historical cases in the development of the concept of the security of humanity: the Russel-Einstein Manifesto, the UN General Assembly resolution 1653 (XVI), and the ICJ Advisory Opinion in 1996. Finally, I stress the importance of understanding recent discussions that emphasize debate on the issue of nuclear disarmament from the viewpoint of the security of humanity rather than of national security.

### I Introduction

The purpose of this paper is to examine the concept of the security of humanity as a new concept being built upon the current debate on nuclear disarmament. The issue of nuclear disarmament has traditionally been discussed from the viewpoint of national security and military security, and it has taken one of the highest positions in national military security considerations. The traditional arguments for nuclear disarmament have focused on improving international stability, peace, and security, and treaties on nuclear disarmament have stemmed mainly from the desire to strengthen strategic stability among states.

However, recent arguments surrounding nuclear disarmament are increasingly based upon the humanitarian approach, with an emphasis on the inhumane aspect of nuclear weapons and the catastrophic consequences of their use. The key word here is “humanitarian”, with the central idea that “it is in the interest of the very

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survival of humanity that nuclear weapons never be used again". The security of humanity is the core element of these arguments.

## **II Nuclear Disarmament and Traditional Security**

Historically considered, the original concept of security has its roots in national and military security, namely, how a nation can protect itself from the use of force or the threat of the use of force by other countries. It has been practiced by a single state alone or collectively in the form of military alliances with other states. Since the establishment of the League of Nations and later the United Nations, the concept of "security among states", that is, "international security", has been developed. The first and most important purpose of the United Nations is stipulated in its Charter: "to maintain international peace and security".

From the national security point of view, nuclear weapons have been considered one of the most important and useful assets at a country's disposal, and the regulation or reduction of nuclear weapons has thus been very difficult from the beginning. However, from the international security point of view, the increase and strengthening of nuclear weapons is feared to cause an uncontrollable nuclear arms race that would not strengthen but rather weaken their national security. As a result, international and mutual security has been pursued.

The purpose of nuclear disarmament from the viewpoint of international security is to strengthen the stability among states, and in particular, the strategic stability among states. As a result of the Strategic Arms Limitation Talks (SALT) between the United States and the Soviet Union, the Anti-Ballistic Missile (ABM) Treaty and the Interim Agreement on the Limitation of Strategic Offensive Arms (SALT I Interim Agreement) were signed in 1972, followed by the Treaty on the Limitation of Strategic Arms (SALT II Treaty) in 1979. The final document of the 2000 NPT Review Conference stipulates that "preserving and strengthening the ABM Treaty as a cornerstone of strategic stability", and the preamble of the SALT II Treaty stresses the importance of "recognizing that the strengthening of strategic stability meets the interests of the Parties and the interests of international security".

Also, the preamble of the Intermediate-range Nuclear Forces (INF) Treaty of 1987 states that the treaty is "guided by the objective of strengthening strategic stability, and is convinced that the measures set forth in this Treaty will help to reduce the risk of outbreak of war and strengthen international peace and security".

Through the Strategic Arms Reduction Talks (START), the Strategic Arms Reduction Treaty (START Treaty) of 1991 includes in the preamble the phrase that "recognizing that the interests of the Parties and the interests of international

security require the strengthening of strategic stability,” and the New Strategic Arms Reduction Treaty (New START Treaty) of 2010 states in the preamble that they concluded this Treaty “guided by the principle of indivisible security and convinced that measures for the reduction and limitation of strategic offensive arms and the other obligations set forth in the Treaty will enhance predictability and stability, and thus the security of both Parties”.

As the above examples have clearly shown, the treaties fleshed out between the United States and the Soviet Union or Russia emphasize that their main purpose is to strengthen the security of both states, with the central element or concept being strategic stability.

The arguments by the nuclear-weapon states on nuclear disarmament at the NPT Review Conferences also emphasize that the purpose of nuclear disarmament is to strengthen international peace and security and put strategic stability on the central stage. The 2010 NPT Review Conference succeeded in the adoption of the final document that includes a key phrase on nuclear disarmament based on the traditional idea of security, as stated in the Principles and Objectives of Nuclear Disarmament part: “The Conference reaffirms that significant steps by all the nuclear-weapon states leading to nuclear disarmament should promote international stability, peace, and security, and be based on the principle of increased and undiminished security for all”.

Its first part describes the purpose of nuclear disarmament, which is to promote international stability, peace, and security. Its second part describes the criteria of nuclear disarmament that it should be based on the principle of increased and undiminished security for all. These two elements are thought to be indispensable for the nuclear-weapon states. The final document also includes these elements in the Disarmament of Nuclear Weapons part. In addition, its Action 5 is written as follows:

Action 5: The nuclear-weapon states commit to accelerate concrete progress on the steps leading to nuclear disarmament, contained in the Final Document of the 2000 Review Conference, in a way that promotes international stability, peace, and undiminished and increased security.

### **III Humanitarian Approach to Nuclear Disarmament**

Even in the traditional treaties on nuclear disarmament, it was assumed in the preamble that nuclear war would result in catastrophic consequences for all humanity. The preamble of the NPT states that “considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to

make every effort to avert the danger of such a war and to take measures to safeguards the security of peoples”. However, aside from this one reference, there has been little positive discussion.

At the 2010 NPT Review Conference, the Foreign Minister of Switzerland argued for the inclusion of the humanitarian aspect in the debate on nuclear disarmament. Although a few nuclear-weapon states opposed the argument, the vast majority of non-nuclear-weapon states expressed their support of it. As a result, the Final Document<sup>1)</sup> states that “the Conference expresses its 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, including international humanitarian law”.

With this as a turning point, the humanitarian approach has been pursued by the initiative of the non-nuclear-weapon states. Two major actions have emerged as a result: one is the holding of the International Conferences on the Humanitarian Impact, and the other is the reading of the Joint Statements on the Humanitarian Consequences.

### **1 The International Conferences on the Humanitarian Impact**

These conferences were held in order to present a fact-based understanding of the humanitarian impact of nuclear weapon detonation and to facilitate an informal discussion of this impact rather than to make a political argument or promote any political negotiations or consultations. The first Conference was held in Oslo, Norway in March 2013 with the participation of 127 states, the United Nations, the International Committee of the Red Cross, and various NGOs. According to its Chair’s Summary, there were three key issues examined in the discussions:

- (1) It is unlikely that any state or international body could address the immediate humanitarian emergency caused by a nuclear weapon detonation in an adequate manner and provide sufficient assistance to those affected;
- (2) The historical experience from the use and testing of nuclear weapons has demonstrated their devastating immediate and long-term effects; and
- (3) The effect of a nuclear weapon detonation, irrespective of cause, will not be constrained by national borders, and will affect states and people in significant ways, regionally as well as globally<sup>2)</sup>.

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1) 2010 NPT Review Conference, Final Document, Volume I, NPT/CONF.2010/50(Vol. 1), 18 June 2010.

2) Norway Ministry of Foreign Affairs, “Chair’s Summary Humanitarian Impact of Nuclear ↗

The second conference was held in Nayarit, Mexico, in February 2014 with participants from 146 states, the United Nations, and others. The Chair's Summary mentions as key conclusions that

- (1) The effects of a nuclear weapon detonation are not constrained by national borders;
- (2) Beyond the immediate death and destruction caused by a detonation, socio-economic development will be hampered and the environment will be damaged;
- (3) Today the risk of nuclear weapon use is growing globally; and
- (4) It is a fact that no state or international organization has the capacity to address or provide the short and long term humanitarian assistance and protection<sup>3)</sup>.

The third conference was held in Vienna, Austria in December 2014 with participants from 158 states, the United Nations, and others. The key conclusions in the report and summary of the findings of the Conference are as follows.

- (1) The impact of a nuclear weapon detonation would not be constrained by national borders, causing profound and long-term damage to the environment, climate, human health and well-being, socioeconomic development, and social order, could even threaten the survival of humankind;
- (2) As long as nuclear weapons exist, there remains the possibility of a nuclear weapon explosion. The risks of accidental, mistaken, unauthorized, or intentional use of nuclear weapons are evident;
- (3) There are many circumstances in which nuclear weapons could be used in view of international conflicts and tensions, and against the background of the current security doctrines of states possessing nuclear weapons;
- (4) Looking at nuclear weapons from a number of different legal angles, it is clear that there is no comprehensive legal norm universally prohibiting possession, transfer, production, and use. The new evidence that has emerged in the last two years about the humanitarian impact of nuclear weapons casts further doubt on whether these weapons could ever be used in conformity with international humanitarian law<sup>4)</sup>.

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↘ Weapons," Oslo, 4-5 March 2013.

3) "Second Conference on the Humanitarian Impact of Nuclear Weapons, Chair's Summary," Nayarit, Mexico, 14 February 2014.

4) Vienna Conference on the Humanitarian Impact of Nuclear Weapons, "Report and Summary of Findings of the Conference," 8-9 December 2014.

On the last day of the Conference, the Minister of Foreign Affairs of Austria made the Austrian Pledge, as follows:

Austria pledges to follow the imperative of human security for all and promote the protection of civilians against risks stemming from nuclear weapons,

Austria calls on all state parties to the NPT to renew their commitment to the urgent and full implementation of existing obligations under Article VI, and to this end, to identify and pursue effective measures to fill the legal gap for the prohibition and elimination of nuclear weapons, and Austria pledges to cooperate with all stakeholders to achieve this goal,

Austria calls on all nuclear weapon possessor states to take concrete interim measures to reduce the risk of nuclear weapon detonations,

Austria pledges to cooperate with all relevant stakeholders in efforts to stigmatize, prohibit, and eliminate nuclear weapons in light of their unacceptable humanitarian consequences and associated risks<sup>5)</sup>.

At the 2015 NPT Review Conference, 107 states expressed their support of this pledge.

## **2 The Joint Statements on the Humanitarian Consequences**

The first joint statement was read out by Switzerland on behalf of 16 states at the first Preparatory Committee of the 2015 NPT Review Conference in May 2012. This statement aimed to promote the humanitarian approach to nuclear disarmament as a joint political expression supporting the idea by multilateral states. The main arguments are as follows<sup>6)</sup>.

Serious concerns related to the humanitarian dimensions of nuclear weapons have been voiced repeatedly. If such weapons were to be used again, be it intentionally or accidentally, immense humanitarian consequences would be unavoidable.

It is of utmost importance that these weapons never be used again, under any circumstances. The only way to guarantee this is the total, irreversible, and verifiable elimination of nuclear weapons. All states must intensify their efforts to outlaw nuclear weapons and achieve a world free of nuclear

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5) Vienna Conference on the Humanitarian Impact of Nuclear Weapons, “Austrian Pledge,” 8-9 December 2014.

6) First Session of the Preparatory Committee for the 2015 NPT Review Conference, “Joint Declaration on the Humanitarian Dimension of Nuclear Disarmament”, 2 May 2012.

weapons.

The second joint statement<sup>7)</sup> with the same content as the first was read out by Switzerland on behalf of 34 states at the United Nations General Assembly in October 2012.

The third joint statement<sup>8)</sup> was read out by South Africa on behalf of 80 states at the second Preparatory Committee of the 2015 NPT Review Conference. The main message included in this statement is that “it is in the interest of the very survival of humanity that nuclear weapons are never used again, under any circumstances. The only way to guarantee that nuclear weapons will never be used again is through their total elimination. Addressing the humanitarian impact of nuclear weapons is an absolute necessity.”

This is different from the previous statements in its inclusion of “the interest of the very survival of humanity” and its omission of “efforts to outlaw nuclear weapons”. The inclusion is very useful in that it is a popular and generally accepted stance, while the omission is aimed at securing support from more states that would not accept the argument for outlawing nuclear weapons. As a result, the number of supporting states increased to 80, including four NATO member states.

The fourth statement<sup>9)</sup>, the content of which was the same as the third one, was read out by New Zealand on behalf of 125 states at the UN General Assembly in October 2013. Japan for the first time joined the supporting countries at this point. The fifth one, which was the same as the fourth one, was read out by New Zealand on behalf of 155 states at the UN General Assembly in October 2014.

This series of joint statements represents the efforts of the states involved to support the humanitarian approach, arguing that it is in the interest of the very survival of humanity that nuclear weapons never be used again. The number of supporting states has steadily increased from 16 to 34, 80, 125, and 155, although some of the conditions have been softened in the process. This phenomenon clearly shows that this approach is now supported by a vast majority of the international society.

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7) 67<sup>th</sup> Session of the United Nations General Assembly First Committee, “Joint Statement on the Humanitarian Dimension of Nuclear Disarmament”, New York, 22 October 2012.

8) Second Session of the Preparatory Committee for the 2015 NPT Review Conference, “Joint Statement on the Humanitarian Impact of Nuclear Weapons”, delivered by South Africa, 24 April 2013.

9) UNGA68: First Committee, “Joint Statement on the Humanitarian Consequences of Nuclear Weapons,” delivered by Ambassador Drell Higgin, New Zealand, 21 October 2013.



To provide a counterpoint, the states allied with the United States, many of whom fear the increasing support and development of the above-mentioned humanitarian approach, also jointly read a statement. Australia read out a joint statement on behalf of 17 states<sup>10)</sup> at the UN General Assembly in October 2013. This statement welcomed the joint statement by New Zealand and the 125 states and stated that “the devastating immediate and long-term humanitarian impacts of a nuclear weapon detonation are of clear concern”. However, it emphasized that “banning nuclear weapons by itself will not guarantee their elimination without engaging substantively and constructively those states with nuclear weapons, and recognizing both the security and humanitarian dimensions of the nuclear weapons debate.” The same joint statement was also read out in 2014 at the UN General Assembly.

### **3 Arguments at the 2015 NPT Review Conference**

Against the backdrop of the constructive development of the arguments for the humanitarian approach over the last five years, this issue was extensively discussed at the 2015 NPT Review Conference, which considers it a topic of grave importance. These arguments can be analyzed by dividing them into three groups: the group of 159 states lead by Austria, the group of 26 states lead by Australia, and the group of nuclear-weapon states.

The first group, which is the most enthusiastic proponents of the humanitarian approach, consists of 159 states whose view can be summed up by the joint statement<sup>11)</sup> read at the Review Conference that included the following main elements:

- (1) Awareness of the catastrophic consequences of nuclear weapons must underpin all approaches and efforts towards nuclear disarmament;
- (2) It is in the interest of the very survival of humanity that nuclear weapons are never used again under any circumstances; and
- (3) The only way to guarantee that nuclear weapons will never be used again is through their total elimination.

The second group consists of 26 states under the U.S. extended nuclear deterrence whose view can be summed up by the joint statement<sup>12)</sup> read at the

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10) UNGA68: First Committee, “Joint Statement on the Humanitarian Consequences of Nuclear Weapons”, delivered by Ambassador Peter Woolcott, 21 October 2013.

11) 2015 NPT Review Conference, General Debate, Statement by Austria, Joint Statement on the Humanitarian Consequences of Nuclear Weapons, 28 April 2015.

12) 2015 NPT Review Conference, General Debate, Statement by Australia, Joint Statement on ↗

Review Conference that included the following main elements:

- (1) We stress the significance of spreading awareness of the humanitarian impact of nuclear weapons across borders and generations;
- (2) It is crucial that all states more resolutely and urgently fulfill their disarmament commitments and work to ensure these weapons are not used and do not proliferate;
- (3) Eliminating nuclear weapons is only possible through substantive and constructive engagement with those states which possess nuclear weapons; and
- (4) To create the conditions that would facilitate further major reduction in nuclear arsenals and eventually eliminate them requires the global community to cooperate to address the important security and humanitarian dimensions of nuclear weapons.

The third group, which consists of the nuclear-weapon states, maintains a generally negative view of the humanitarian approach. However, the U.S. is supportive of this approach and has stated that “it is in the interest of all nations that the nearly 70-year record of non-use of nuclear weapons be extended forever<sup>13)</sup>”. As a group, the P5 nuclear-weapon states stated that “We are ever cognizant of the severe consequences that would accompany the use of nuclear weapons. We affirm our resolve to prevent such an occurrence from happening. We each give the highest priority to ensuring the safety, security, and effective control over nuclear weapons. We further affirm that we do not target any state with nuclear weapons.<sup>14)</sup>” Although the five nuclear-weapon states recognize the severe consequences of the use of nuclear weapons and are ready to prevent any accidental use of nuclear weapons, they have never referred to their intentional use of nuclear weapons.

As the Conference could not agree on a final document by consensus, there is no formal document as such. However, the draft Final Document<sup>15)</sup> submitted by the Conference President calls for a humanitarian approach in which there is an assumed general consensus, as follows:

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↘ the Humanitarian Consequences of Nuclear Weapons, 30 April 2015.

13) 2015 NPT Review Conference, General Debate, Statement by the United States, 27 April 2015.

14) 2015 NPT Review Conference, General Debate, Statement by the United Kingdom on behalf of China, France, Russia, the United Kingdom, and the United States, 30 April 2015.

15) 2015 NPT Review Conference, Draft Final Document, Volume I, NPT/CONG.2015/R.3, 21 May 2015.

The Conference emphasized that deep concerns pertaining to the catastrophic humanitarian consequences of any use of nuclear weapons are a key factor that should continue to underpin efforts in the field of nuclear disarmament and that awareness of these consequences should lend urgency to efforts by all states leading to a world without nuclear weapons. The Conference affirms that pending the realization of its objective, it is in the interest of humanity and the security of all peoples that nuclear weapons never be used again.

The last sentence in previous versions stated that “it is in the interest of the very survival of humanity that nuclear weapons never be used again”. The final version was changed to include not only “humanity” but also “the security of all peoples”, as the joint statement by the 26 states referred to not only the humanitarian but also the security dimension.

#### **4 The United Nations General Assembly Resolutions**

This issue was also hotly discussed at the UN General Assembly in 2015, and several resolutions relevant to this issue were submitted. First, a draft resolution titled “Humanitarian consequences of nuclear weapons<sup>16)</sup>”, submitted by Austria, emphasizing that the catastrophic consequences of nuclear weapons affect not only Government but each and every citizen of our interconnected world and have deep implications for human survival; stresses that it is in the interest of the very survival of humanity that nuclear weapons are never used again, under any circumstances; emphasizes that the only way to guarantee that nuclear weapons will never be used again is their total elimination; stresses that the catastrophic effects of a nuclear weapon detonation cannot be adequately addressed; and expresses its firm belief that awareness of the catastrophic consequences of nuclear weapons must underpin all approaches and efforts towards nuclear disarmament.

This draft resolution was adopted with 136 states approving, 18 states opposing, and 21 states abstaining. Japan approved it, but the U.S., the U.K., Russia, and France opposed, and China, Australia, and Germany abstained.

Second, another draft resolution submitted by Austria, titled “Humanitarian pledge for the prohibition and elimination of nuclear weapons<sup>17)</sup>”, understanding that consequences of a nuclear weapon explosion would have regional and even global effects, potentially threatening the survival of humanity; emphasizing that

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16) UN General Assembly resolution, A/RES/70/47, 7 December 2015.

17) UN General Assembly resolution, A/RES/70/48, 7 December 2015.

the consequences of a nuclear weapon explosion concern the security of all humanity; affirming that it is in the interest of the very survival of humanity that nuclear weapons are never used again, under any circumstances; and appeals to all states to follow the imperative of human security for all and to promote the protection of civilians against risks stemming from nuclear weapons.

This draft resolution was adopted with 128 states approving, 18 states opposing, and 29 states abstaining. The U.S., the U.K., France, Russia, Australia, and Germany opposed, and Japan and China abstained.

Third, a draft resolution submitted by Japan, titled “United action with renewed determination towards the total elimination of nuclear weapons<sup>18)</sup>,” expressing deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons; reaffirming the need for all states at all times to comply with international humanitarian law; emphasizes that deep concern about the humanitarian consequences of any use of nuclear weapons continue to underpin efforts by all states towards a world free of nuclear weapons; and encourages every effort to raise awareness of the humanitarian impact of the use of nuclear weapons through visits by leaders, youth, and others to cities devastated by the use of nuclear weapons, and testimonies of atomic bomb survivors (Hibakusha).

This draft resolution was adopted with 156 states approving, 3 states (Russia, China, and North Korea) opposing, and 16 states including the U.S., the U.K., and France abstaining.

#### **IV Nuclear Weapons and Humanity**

In analyzing the humanitarian approach to nuclear disarmament from the viewpoint of humanity, it is indispensable to examine important events and developments from history. Since the start of the nuclear age, there have been three important events/developments considered to have played a crucial role in the development of the humanitarian response to nuclear weapons. These are the Russel-Einstein Manifesto in 1955, the UN General Assembly resolution 1653 (XVI) of 1961, and the ICJ Advisory Opinion in 1996.

##### **1 The Russel-Einstein Manifesto**

The Russel-Einstein Manifesto<sup>19)</sup> was written by Sir Bertrand Russell, Nobel Laureate in Literature, and Professor Albert Einstein, Nobel Laureate in Physics,

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18) UN General Assembly resolution, A/RES/70/40, 7 December 2015.

19) The Russel-Einstein Manifesto. <<http://pugwash.org/1955/07/09/statement-manifesto>>

and was signed by 11 scientists including Professor Hideki Yukawa on July 7, 1955 in London. This was a time when the arms race in the development and testing of hydrogen bombs between the United States and the Soviet Union was causing a serious concern that nuclear war might lead to the destruction of the globe.

The Manifesto begins with the sentence “In the tragic situation which confronts humanity, we feel that scientists should assemble in conference to appraise the perils that have arisen as a result of the development of weapons of mass destruction, and to discuss a resolution on the spirit of the appended draft,” and continues with “We are speaking on this occasion, not as members of this or that nation, continent, or creed, but as human beings, members of the species Man, whose continued existence is in doubt.”

It is absolutely clear from these sentences that the Manifesto is not dealing with nuclear weapons from the viewpoint of international or national security but rather from that of human beings and the very survival of humanity.

As a means of addressing this critical issue, the Manifesto suggests that “we have to learn to think in a new way. The question that we have to ask ourselves is: what steps can we take to prevent a military contest of which the issue must be disastrous to all parties?”

Concerning the disastrous effect of nuclear weapons, the Manifesto states that “The general public, and even many men in positions of authority, have not realized what would be involved in a war with nuclear bombs. The best authorities are unanimous in saying that a war with H-bombs might possibly put an end to the human race. It is feared that if many H-bombs are used there will be universal death.” Such an interpretation is identical to the humanitarian approach to nuclear disarmament that was widely shared at the International Conferences on the Humanitarian Impact of Nuclear Weapons held in Helsinki in 2013 and in Mexico and Vienna in 2014.

As an absolute solution to the issue of nuclear weapons, the Manifesto states that “Here, then, is the problem which we present to you, stark and dreadful and inescapable: Shall we put an end to the human race; or shall mankind renounce war?” and that “if the issues between East and West are to be decided in any manner that can give any possible satisfaction to anybody, then these issues must not be decided by war.”

The Manifesto emphasizes thinking as human beings, concluding with “We appeal as human beings to human beings: Remember your humanity, and forget the rest.”

The resolution to which both scientists and the general public are urged to subscribe is as follows:

In view of the fact that in any future world war nuclear weapons will certainly be employed, and that such weapons threaten the continued existence of mankind, we urge the governments of the world to realize, and to acknowledge publicly, that their purpose cannot be furthered by a world war, and we urge them, consequently, to find peaceful means for the settlement of all matters of dispute between them.

This manifesto is extremely important because it emphasizes that in the age of nuclear weapons we should think and behave not as members of this or that nation, continent, or creed but as human beings, members of the species Man, and that any security system based on national security or alliance security is meaningless; rather, we should think from the viewpoint of the security of humanity. The Manifesto starts from “in the tragic situation which confronts humanity,” and ends with the phrase “remember your humanity.”

## **2 The UN General Assembly Resolution 1653(XVI)**

At the United Nations General Assembly in 1961, Ethiopia along with Ceylon, Ghana, Guinea, Indonesia, Liberia, Libya, Nigeria, Somalia, Sudan, Togo, and Tunisia submitted a draft resolution declaring the use of nuclear weapons illegal and requesting the Secretary-General to consult on the possibility of convening a special conference for signing a convention on the prohibition of the use of nuclear weapons. This draft resolution was adopted as resolution 1653(XVI) with 55 states approving, 20 opposing, and 26 abstaining. The central part of this resolution stipulates as follows:

1. Declares that:
  - (a) The use of nuclear and thermonuclear weapons is contrary to the spirit, letter, and aims of the United Nations and, as such, a direct violation of the Charter of the United Nations;
  - (b) The use of nuclear and thermonuclear weapons would exceed even the scope of war and cause indiscriminate suffering and destruction to mankind and civilization and, as such, is contrary to the rules of international law and to the laws of humanity;
  - (c) The use of nuclear and thermonuclear weapons is a war directed not against an enemy or enemies alone but also against mankind in general, since the peoples of the world not involved in such a war will be subjected to all the evils generated by the use of such weapons;

- (d) Any state using nuclear and thermonuclear weapons is to be considered as violating the Charter of the United Nations, as acting contrary to the laws of humanity, and committing a crime against mankind and civilization.

The United States opposed the draft resolution on the grounds that its aim could only be achieved by complete and controlled disarmament and that it sanctions, by implication, other means of warfare. The United Kingdom stated that an uncontrolled ban of the use of nuclear and thermonuclear weapons would be no more effective than the uncontrolled moratorium of nuclear testing. Both the United States and the United Kingdom further maintained that the right of individual and collective self-defense, including the right to determine the degree of force necessary to repel aggression, could not be abrogated<sup>20</sup>.

This resolution is important from the viewpoint of the security of humanity in that it declares the use of nuclear weapons contrary to the laws of humanity, as such use causes indiscriminate suffering and destruction to mankind and civilization, and that it is a war directed against mankind in general. The resolution emphasizes that the use of nuclear weapons is a crime against humanity and all people in the world. The resolution stresses not only the illegality of the use of nuclear weapons but also the criminality of the use of nuclear weapons against human beings as a whole.

### **3 The ICJ Advisory Opinion**

On December 15, 1994, the UN General Assembly adopted a resolution 49/75K to request the International Court of Justice to render its advisory opinion on ‘Is the threat and use of nuclear weapons in any circumstances permitted under international law?’ On July 8, 1996, the ICJ gave its advisory opinion on “Legality of the Threat or Use of Nuclear Weapons.”<sup>21</sup> In the current work, this opinion will be examined mainly with a focus on the arguments of the inhumane character of nuclear weapons and on international humanitarian law.

The Court states that in applying international law in this case it is necessary to take into account certain unique characteristics of nuclear weapons. It states that “By their very nature nuclear weapons release not only immense quantities of heat

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20) United Nations, *The United Nations and Disarmament 1945-1970*, United Nations Publication, 1970, p. 153.

21) International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion of 8 July 1996, *I.C.J. Report 1996*, pp. 226-267.

and energy but also powerful and prolonged radiation. These characteristics render the nuclear weapon potentially catastrophic. The destructive power of nuclear weapons cannot be contained in either space or time. They have the potential to destroy all civilization and the entire ecosystem of the planet...It is imperative for the Court to take account of the unique characteristics of nuclear weapons, and in particular their destructive capability, their capacity to cause untold human suffering, and their ability to cause damage to generations to come.”

The Court then deals with the question of whether recourse to nuclear weapons must be considered as illegal in light of the principles and rules of international humanitarian law applicable in armed conflict. It recognizes that the conduct of military operations is governed by a body of legal prescriptions, and the right of belligerents to adopt means of injuring the enemy is not unlimited, as stated in Article 22 of the 1907 Hague Regulations relating to the laws and customs of war on land. There are two cardinal principles of humanitarian law. The first is aimed at the protection of the civilian population and civilian objects and establishes a distinction between combatants and non-combatants. According to the second principle, it is prohibited to cause unnecessary suffering to combatants.

The Court points out the importance of the Martens Clause, which in Article 1, paragraph 2, of the Additional Protocol of 1977 states that “in cases not covered by this Protocol or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity, and from the dictates of public conscience.”

Concerning the applicability of the principles and rules of humanitarian law to the possible threat or use of nuclear weapons, the Court shares the view of the vast majority of states as well as scholars that there can be no doubt as to the applicability of humanitarian law to nuclear weapons, although doubts in this respect have sometimes been voiced.

Finally, the Court examines the validity of the view that the recourse to nuclear weapons would be illegal in any circumstance owing to their inherent and total incompatibility with the law applicable in armed conflicts. The Court states that “in view of the unique characteristics of nuclear weapons, the use of such weapons in fact seems scarcely reconcilable with respect to such requirements. Nevertheless, the Court considers that it does not have sufficient elements to enable it to conclude with certainty that the use of nuclear weapons would necessarily be at variance with the principles and rules of law applicable in armed conflict in any circumstance. Furthermore, the Court cannot lose sight of the fundamental right of



every state to survival, and thus its right to resort to self-defense, in accordance with Article 51 of the Charter, when its survival is at stake.”

The Court replied to the question as follows in paragraph E, which was decided by seven votes to seven and by the President’s casting vote:

It follows from the above-mentioned requirements 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 to the principles and rules of humanitarian law.

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-defense, in which the very survival of a state would be at stake.

The importance of this opinion in connection with the use of nuclear weapons is that it examines the unique characteristics of nuclear weapons and points out their destructive power, their potential to destroy all civilization and the entire ecosystem of the planet, and their serious danger to future generations. The Court in its analysis on the legality from the viewpoint of international humanitarian law points out that the principles and rules of international humanitarian law and the principles of humanity apply to nuclear weapons. The Court could not come to the conclusion that the use of nuclear weapons would necessarily be at variance with the principles and rules of law applicable in armed conflict in any circumstance, although the use of nuclear weapons in fact seems scarcely reconcilable with the principles and rules of international humanitarian law.

This advisory opinion should be highly praised in that the Court examined the legal aspect of the use of nuclear weapons very precisely and concluded that it would generally be contrary to the rules of international humanitarian law. As an exception, the Court mentions an extreme circumstance of self-defense in which the very survival of a state would be at stake, but this exception does not mean that it would be legal, rather, the Court says that it cannot definitively conclude that it would be lawful or unlawful.

From the viewpoint of the security of humanity, with which this paper is concerned, the conclusion of the Court that the use of nuclear weapons would generally be contrary to the rules of international humanitarian law should be highly appreciated as the opinion by the main authoritative organ of the United Nations.

## V From National Security to the Security of Humanity

In the field of nuclear disarmament, negotiations have traditionally been conducted and treaties have been concluded in order to strengthen the international stability from the military point of view as its main purpose. In particular, the measures taken for nuclear disarmament between the Soviet Union or Russia and the United States aimed at strengthening strategic military stability between the two states by limiting and reducing their strategic weapons.

As for multilateral global nuclear disarmament treaties, the Nuclear Non-Proliferation Treaty (NPT) was signed in 1968 and the Comprehensive Nuclear-Test-Ban Treaty (CTBT) was signed in 1996. Regional nuclear-weapon-free zone treaties were concluded in Latin America, South Pacific, Southeast Asia, Africa, and Central Asia and involved more than 110 states. These treaties were negotiated and concluded mainly to strengthen international or regional military security. That is, the main purpose is to maintain and strengthen security among nations.

However, nowadays, the meaning or concept of security has been expanded both vertically and horizontally. Vertically, the concept of security now encompasses not only the national level but also the global level on the upper side, emphasizing the security of the globe, and humanity as a whole as well as human security on the lower side, which emphasizes the individual. Horizontally, the concept of security now extends to non-military areas, including energy security, economic security, environmental security, food security, security of water, and cyber security, among others.

In February 2016, Austria submitted a working paper<sup>22)</sup> on “Nuclear weapons and security: a humanitarian perspective” at the meeting on the Open-ended Working Group on Nuclear Disarmament. It is a response to the general opinion that the Humanitarian Initiative does not consider the “security dimension” of nuclear weapons. As the joint statement by Australia suggested, in order to create conditions for the reduction and eventual elimination of nuclear weapons, it is necessary to address the security and humanitarian dimensions of nuclear weapons. Here, in the traditional understanding, the security dimension and humanitarian dimension are clearly divided into two different and opposing concepts.

The notion of security is critically examined in this paper, which states that “the conclusions and arguments drawn from the humanitarian initiative challenge

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22) Open-Ended Working Group on Nuclear Disarmament, Working Paper by Austria, “Nuclear Weapons and Security: A Humanitarian Perspective,” A/AC.286/WP.4, 22 February 2016.

the question on the security narrow dimension provided by nuclear weapons and nuclear deterrence. The humanitarian initiative puts the security at the center of the debates and raises very serious issues and questions that challenge the narrower security perspective of states on nuclear weapons. The humanitarian initiative looks at the consequences of nuclear weapons for human populations and the risks that are borne by all humanity by the continued existence of these weapons. The main function of the state is to protect and provide security of its populations. The existence of nuclear weapons in a given state does not increase the protection and security of its population, but to the opposite lowers the protection and security of its population.” They argue that the humanitarian initiative does not lack the security dimension, on the contrary, it demands the security of human populations.

## **VI Conclusion**

The concept of security has been expanded both vertically and horizontally to include a host of new dimensions. The traditional concept of security, which focuses on national and military security, is still at the center of studies of security, but there are now so many new kinds of security, including global security and human security in the vertical sense and energy security, food security, economic security, environmental security, and others in the horizontal sense.

In discussions on nuclear disarmament, the traditional focus on national and military security has been shifted to emphasize the security of humanity. The main reason for this shift is the recent strong arguments for the humanitarian approach to nuclear disarmament that started appearing around 2010. The humanitarian approach or humanitarian initiative enthusiastically pursues the achievement of nuclear disarmament through attempting to negotiate a treaty prohibiting nuclear weapons.

Now is the time to shift the basic thinking of nuclear disarmament from a concept of security based on national and military considerations to one that is based upon the survival of humanity.