

The Netherland's nuclear weapons policies and human rights law including the Right to Life: Article 6 of the International Covenant on Civil and Political Rights

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1. Summary

The civil society organizations making this submission contend that the policies and actions of the government of the Netherlands with regard to its policy and practice of nuclear deterrence are not in conformity with international human rights law, in particular the **Right to Life** as interpreted by the UN Human Rights Committee in General Comment 36 of October 30, 2018, nor with other international law applicable to human rights.

Such policies and actions include:

- hosting nuclear weapons on their territory and under their control;
- plans and preparation for the use of these weapons in armed conflict;
- participation in North Atlantic Treaty Organization (NATO) plans and preparations for use of nuclear weapons including possible first-use;
- lack of action to implement the legal obligation to pursue in good faith negotiations for the complete elimination of nuclear weapons under strict and effective international control.

In times of high tensions involving nuclear armed and allied states, plans and preparations for the use of nuclear weapons, including the possible first use in an armed conflict, elevate the risk of nuclear war which would be a humanitarian catastrophe, severely impacting rights of current and future generations. Compliance with the Right to Life with respect to nuclear weapons is therefore an urgent matter, impacting not only the rights of Dutch citizens, but also the rights of all humanity and the rights of future generations.

In their failure to adequately comply with human rights and other international law, Netherlands is not alone. However, the fact that other NATO member states and nuclear weapon States are also acting in violation of the International Covenant on Civil and Political Rights (ICCPR) and other relevant law with respect to their nuclear weapons policies does not relieve the Netherlands government of their responsibilities. The civil society organizations making this submission are also making submissions with regard to other NATO member countries and nuclear armed countries.

There are some policy moves of the government of Netherlands in the right direction that could be expanded in order for the government to demonstrate good faith efforts to build compliance to the right to life with respect to protection of this right from the threat or use of nuclear weapons.

2. Nuclear weapons and human rights law including the Right to Life

2.1: Nuclear weapons and the ICCPR

In paragraph 66 of General Comment No. 36 on the right to life set out in Article 6 of the International Covenant on Civil and Political Rights (ICCPR), the United Nations Human Rights Committee stated:

The threat or use of weapons of mass destruction, in particular nuclear weapons, which are indiscriminate in effect and are of a nature to cause destruction of human life on a catastrophic scale, is incompatible with respect for the right to life and may amount to a crime under international law.

States parties must take all necessary measures to stop the proliferation of weapons of mass destruction, including measures to prevent their acquisition by non-state actors, to refrain from developing, producing, testing, acquiring, stockpiling, selling, transferring and using them, to destroy existing stockpiles, and to take adequate measures of protection against accidental use, all in accordance with their international obligations.

They must also respect their international obligations to pursue in good faith negotiations in order to achieve the aim of nuclear disarmament under strict and effective international control and to afford adequate reparation to victims whose right to life has been or is being adversely affected by the testing or use of weapons of mass destruction, in accordance with principles of international responsibility.

This paragraph complements and replaces *CCPR General Comment No. 14: Article 6 (Right to Life) Nuclear Weapons and the Right to Life*, adopted by the Human Rights Committee on 9 November 1984.¹

Under the ICCPR, Article 4(2), the right to life is non-derogable, to be observed in all circumstances, even in the event of a “public emergency which threatens the life of the nation.”

The Netherlands is a state party to the ICCPR and as a result is obligated to implement its provisions in good faith according to Article 26 of the 1969 Vienna Convention on the Law of Treaties (*pacta sunt servanda*). Even if the General Comment is not legally binding as such, it is considered the Committee’s authentic and highly authoritative interpretation of Article 6 and the relevant practice thereto.

2.2 Nuclear weapons and other international human rights law

The **Right to Life** is also found in the *Convention on the Rights of the Child* (Article 6).

The **objective of nuclear disarmament** is found in the preamble to the *Convention on the Elimination of All Forms of Discrimination against Women*.²

The use and testing of nuclear weapons also threaten the **Right to Health** as affirmed in *General Comment No. 14 (2000) The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, which concludes that:

*'States should also refrain from unlawfully polluting air, water and soil, e.g. through industrial waste from State-owned facilities, from using or testing nuclear, biological or chemical weapons if such testing results in the release of substances harmful to human health.'*³

3. Other relevant international law: International humanitarian law, laws of peace and security and the Nuclear Non-Proliferation Treaty

The obligations under *international human rights law* to not threaten or use nuclear weapons and to pursue comprehensive nuclear disarmament, are reinforced by the *international law applicable to armed conflict*, which includes international humanitarian law (*jus in bello*) and the laws of peace and security (*jus ad bellum*) in particular Articles 2 (3) and 2 (4) of the UN Charter.

The International Court of Justice in 1996 affirmed that this body of law, and additional elements of customary international law, render the threat or use of nuclear weapons generally illegal⁴ and require the pursuit and conclusion of nuclear disarmament in all its aspects under strict and effective international control.⁵

Since 1996, the UN General Assembly has called on UN member states to implement these obligations by negotiating a nuclear weapons convention – an international treaty to prohibit and eliminate nuclear weapons.⁶

The Netherlands has also accepted an obligation to work actively for nuclear disarmament under Article VI of the Nuclear Non-Proliferation Treaty.⁷

4. Policy and practice of the Netherlands inconsistent with the law

4.1 Hosting nuclear weapons and exercising control over them

It is understood Netherlands hosts approximately 20 United States B61 nuclear weapons at its Volkel airbase, and maintains operational measures to 'deliver' those nuclear weapons by Dutch Airforce F-16 planes to potential targets for use in wartime. The current government refuses to either confirm or deny this information. However, former prime ministers Dries van Agt and Ruud Lubbers acknowledged their presence in 2013⁸ and this information has been confirmed by other sources.⁹

The B61 bombs are officially 'owned' and controlled by the United States, and are guarded by a US unit, the 703 Munitions Support Squadron. However, during armed conflict, the nuclear sharing agreements between the USA and the NATO nuclear weapons hosting states (Belgium, Germany, Italy, Netherlands and Turkey) provide for the transfer of control of the weapons to the host states to enable them to use the weapons.

A number of non-nuclear States Parties to the Nuclear Non-Proliferation Treaty (NPT) have argued that the US/NATO such nuclear sharing arrangements are in violation of the NPT, under which “*Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons*” (Article 1) and “*Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons*” (Article 2).¹⁰

As reported by the British-American Security Information Council (BASIC), the United States argues that such nuclear sharing arrangements do not violate the NPT because they “*do not involve any transfer of nuclear weapons or control over them unless and until a decision were made to go to war, at which time the treaty would no longer be controlling.*”¹¹

However, the United States’ argument that NPT would no longer apply during armed conflict finds no support in the Vienna Convention on the Law of Treaties which holds that “*The termination of a treaty, its denunciation or the withdrawal of a party, may take place only as a result of the application of the provisions of the treaty or of the present Convention. The same rule applies to suspension of obligations under a treaty.*”¹²

Under Article X of the NPT, withdrawal is possible but requires three months’ notice plus an explanation of the “*extraordinary events it regards as having jeopardized its supreme interests.*”

If the United States, in time of armed conflict, decided to transfer control to the Netherlands government of the nuclear weapons hosted by the Netherlands, the transfer time following such a decision would likely take hours, days or at the most weeks, not wait for an announcement by the United States and Netherlands of withdrawal from the NPT followed by the required 3 months before such withdrawal could come into effect.

As such, the nuclear sharing arrangements constitute plans and preparations for a breach of the NPT, even if they might not constitute a material breach prior to the transfer of control of the weapons.

Conclusion:

The hosting of nuclear weapons by the Netherlands government, along with operational plans and preparation for their use by the Dutch Airforce, constitute:

- a) **a violation of the Right to Life as interpreted by General Comment 36;**
- b) **plans and preparations to breach Netherlands’ obligations under Article 2 of the NPT in time of armed conflict.**

4.2 Plans and preparations for the use of nuclear weapons, including first-use;

4.2.1. Plans and preparations as a member of NATO

The Netherlands is a full member of NATO, subscribes to NATO nuclear policy and takes part in the planning and preparation for the threat and use of nuclear weapons through its membership of NATO’s nuclear planning group.

NATO is a military alliance that continues to rely for its security on the threat of using nuclear weapons and on planning and preparing for the potential use of nuclear weapons in ‘defence’ of NATO member countries. This is outlined in the NATO Strategic Concept and in NATO summit declarations.

“Deterrence, based on an appropriate mix of nuclear and conventional capabilities, remains a core element of our overall strategy . The circumstances in which any use of nuclear weapons might have to be contemplated are extremely remote . As long as nuclear weapons exist, NATO will remain a nuclear alliance [...] The supreme guarantee of the security of the Allies is provided by the strategic nuclear forces of the Alliance, particularly those of the United States; the independent strategic nuclear forces of the United Kingdom and France, which have a deterrent role of their own, contribute to the overall deterrence and security of the Allies.”

NATO Strategic Concept, November 2010.¹³

“Allies’ goal is to continue to bolster deterrence as a core element of our collective defence and to contribute to the indivisible security of the Alliance. Following changes in the security environment, NATO has taken steps to ensure its nuclear deterrent capabilities remain safe, secure, and effective. As long as nuclear weapons exist, NATO will remain a nuclear alliance.”

Brussels Summit Declaration, July 2018.¹⁴

“ We are further strengthening our ability to deter and defend with an appropriate mix of nuclear, conventional, and missile defence capabilities, which we continue to adapt. As long as nuclear weapons exist, NATO will remain a nuclear alliance.”

NATO Leaders Meeting, London, 3-4 December 2019.¹⁵

The Netherlands, as a member of NATO, agreed to the NATO Strategic Concept which explicitly includes support for the threat or use of nuclear weapons, and in particular the extended nuclear deterrence provided by US nuclear weapons.

The policy is operationalized through: a) NATO’s Nuclear Planning Group, b) production and deployment of nuclear weapons by three of the NATO members (France, UK and USA), c) individual security agreements between the USA and NATO member countries involving extended nuclear deterrence, and d) some of NATO countries participating in nuclear-sharing arrangements where-by they host USA nuclear weapons and develop military capacity and preparations for their potential use.

“The Nuclear Planning Group acts as the senior body on nuclear matters in the Alliance and discusses specific policy issues associated with nuclear forces. (...) Irrespective of whether or not they have nuclear weapons, all Allies are members of the NPG with the exception of France, which has decided not to participate.”

NATO Nuclear Planning Group.¹⁶

NATO policy for use of nuclear weapons is based on the doctrine and practice of ‘flexible response’. This includes maintaining an option to use nuclear weapons in a range of security situations, including the **first-use of nuclear weapons** in response to a conventional attack or imminent attack, threat of attack from nuclear weapons or threat of attack with other weapons of mass destruction.

NATO has accepted the NPT Article VI obligation to achieve the global elimination of nuclear weapons, and has committed to ‘*the goal of creating the conditions for a world without nuclear weapons*’ but has done little to implement this obligation.

4.2.2 Other policy support for the threat or use of nuclear weapons

The Netherlands demonstrates further its support for the threat or use of nuclear weapons by either abstaining or voting against a number of UN General resolutions which affirm the catastrophic humanitarian consequences and the illegality of threat or use of nuclear weapons.

In 2021, these included abstention on Resolution A/76/444 DR VI entitled *Humanitarian consequences of nuclear weapons*,¹⁷ and in 2020 it also included opposition to Resolution A/75/75 entitled *Convention on the Prohibition of the Use of Nuclear Weapons*.¹⁸

Conclusion:

The continued support of the Netherlands in the United Nations for the threat of use and possible use of nuclear weapons is indicative of a disregard of the Netherlands for their responsibilities under the ICCPR to reject the threat or use of nuclear weapons in order to protect the right to life.

4.2.3 Initiating a nuclear war: Netherlands and the option of first-use of nuclear weapons

The Netherlands, and the NATO alliance, continue to maintain policies for the use of nuclear weapons to address a wide range of security situations relating to threats from nuclear, chemical, biological and conventional weapons. This includes the option to initiate a nuclear weapons conflict through the first-use of nuclear weapons.

Two of the nuclear armed States (India and China) have adopted no-first-use (NFU) policies. The current US Administration is considering the possibility of adopting a NFU policy. President Biden has expressed support¹⁹, and NFU resolutions were recently introduced in the US Senate and House of Representatives.²⁰

However, support from the President does not necessarily mean that this will become policy. President Obama tried at least twice in his presidency to adopt NFU or sole purpose policies but was unsuccessful. Indeed, the possibility for the US to adopt an NFU policy is severely **hampered by NATO members and other US allies** which have argued successfully that they require a US first-use option in order to defend themselves from threats from conventional, biological and chemical weapons (in addition to nuclear threats).²¹

Recommendation:

The Netherlands and other NATO countries should support the adoption of NFU policies by the USA, and also by the other nuclear armed states who have not already done so.

4.3 Failure to implement nuclear disarmament obligations

4.3.1. Opposition to negotiations for a nuclear weapons convention

Since 1996, the United Nations General Assembly has adopted a resolution on follow-up to the International Court of Justice Advisory Opinion calling for implementation of the nuclear disarmament obligation through negotiations leading to the conclusion of a nuclear weapons convention, a global treaty prohibiting nuclear weapons and providing for their elimination under strict and effective international control.

In 2010, States Parties to the NPT agreed that "All States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons. The Conference notes the Five-Point Proposal for Nuclear Disarmament of the Secretary-General of the United Nations, which proposes inter alia the consideration of negotiations on a nuclear weapons convention or a framework of separate mutually reinforcing instruments backed by a strong system of verification."

Despite this, the Netherlands continues to oppose the UN call for negotiations leading to the conclusion of a nuclear weapons convention. This includes voting against the UN General Assembly resolution calling for such negotiations.²²

4.3.2. *Opposition to the Treaty on the Prohibition of Nuclear Weapons*

In 2017, a number of non-nuclear countries negotiated a *Treaty on the Prohibition of Nuclear Weapons*.²³ The Treaty, which entered into force in January 2021, is an important contribution by non-nuclear states to codifying and implementing international law prohibiting nuclear weapons. Netherlands has not joined the Treaty, and expresses opposition to it, including voting against the UN resolution welcoming the Treaty.²⁴

The Netherlands is not alone in this. None of the nuclear armed or allied states support the Treaty or intend to join. Even when nuclear armed and allied states become ready to relinquish nuclear deterrence, they would probably negotiate a separate agreement²⁵ as the TPNW does not include adequate measures for verification of nuclear disarmament or to ensure compliance, and there is no process of confidence building measures or phased elimination to assist in maintaining the security of countries as they relinquish nuclear deterrence.²⁶

To its credit, the Netherlands joined the 2017 negotiations for the TPNW – the only nuclear allied state to do so – and participated constructively in the negotiations (see Section 6 below). Unfortunately, the other States negotiating the TPNW rejected proposals made by the Netherlands during the treaty negotiations that would have made it possible for NATO countries like the Netherlands to join the treaty.²⁷ However, that should not prevent the Netherlands from welcoming the Treaty, even if they are not able to join at this point in time.

4.3.3. *Step-by-Step process*

The Netherlands participates in a number of initiatives advancing a *step-by-step process* for nuclear disarmament (See Section 7). These initiatives are undertaking work on measures which are helpful to nuclear risk reduction, non-proliferation and arms control. They include measures to end nuclear tests, control fissile materials and lower the operational readiness to use nuclear weapons (de-alerting).

However, with the exception of the 2010 NPT final document which has not been implemented, none of these initiatives advance a framework or process to achieve the comprehensive prohibition and elimination of nuclear weapons. As such, the step-by-step process cannot be viewed as fulfilling the obligations to negotiate for the comprehensive prohibition and elimination of nuclear weapons.

4.4 Security without nuclear weapons

Nuclear weapons currently provide a security role for the Netherlands and other states reliant on nuclear deterrence, while at the same time increasing the risks of nuclear war. Initial nuclear disarmament steps can be taken which reduce these risks and do not impact on the security derived from nuclear weapons, such as the adoption of no-first-use policies. However, agreement to the complete prohibition and elimination of nuclear weapons will probably require increased adherence to and confidence in alternative mechanisms for security and the resolution of international conflicts. These include:

- better use of United Nations mechanisms, particularly the approaches and mechanisms outlined in Articles 33-41 of the UN Charter;
- enhancing the jurisdiction of the International Court of Justice, including through treaties which include referral to the court for disputes under the treaties and a broadening of the states which accept compulsory jurisdiction for any legal disputes;
- increasing individual responsibility for international crimes impacting security, including through the International Criminal Court;

- enhancing regional security mechanisms such as the OSCE to build confidence and common security.

While none of these are pre-conditions to commencing negotiations on a comprehensive framework for the prohibition and elimination of nuclear weapons, progress to enhance common security will help facilitate participation in such negotiations by all nuclear reliant countries, and faster conclusion and implementation of the framework.

4.5 Conclusion

The Netherlands' hosting of nuclear weapons, plans and preparation for the potential use of these weapons, support for and participation in NATO policy and practice regarding nuclear weapons including the possibility to initiate a nuclear war (first use), and lack of support for negotiations to achieve the comprehensive prohibition and elimination of nuclear weapons, constitute violations of the responsibilities of the Netherlands under the ICCPR to protect the Right to Life, as well as their responsibilities under other international law to refrain from the possession and control of nuclear weapons, to refrain from the threat or use of nuclear weapons and to help achieve comprehensive nuclear disarmament.

5. Nuclear weapons and climate change

Paragraph 62 of General Comment 36 on the Right to Life holds that "Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life." The production, deployment and use of nuclear weapons also impact negatively on climate change in a number of ways:

- a) The production of nuclear weapons and their delivery systems consumes human, financial and technical resources that are required to cut carbon emissions, make the transition from a fossil fuel economy to a green economy and ensure a stable climate for current and future generations;
- b) The tensions between nations which are elevated by nuclear threat postures, and the armed conflicts arising from suspected (or actual) nuclear weapons programs, place barriers on the international cooperation required to address the climate crisis;
- c) The use of nuclear weapons in armed conflict would cause catastrophic climatic consequences virtually immediately and lasting for generations.

The Netherlands, and other nuclear armed and allied States parties to the ICCPR, would be better able to implement their obligations to stabilise the climate if they also implemented their obligations to end the threat or use of nuclear weapons, eliminate their nuclear stockpiles and pursue negotiations in good faith to achieve the global prohibition and elimination of nuclear weapons.

The 1996 International Court of Justice Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons has been invaluable in clarifying the legal obligations to refrain from the threat or use of nuclear weapons and to achieve nuclear disarmament. A similar ICJ Advisory Opinion on legal obligations relating to climate change and human rights, including the rights of future generations, as proposed by civil society organizations²⁸ and the government of Vanuatu,²⁹ could be equally valuable.

6. Promising policy actions

The Netherlands has made some positive steps to reduce the risk of nuclear war and contribute to the achievement of a nuclear-weapon-free world. These include participating in the *International Partnership for Nuclear Disarmament Verification*,³⁰ advancing nuclear disarmament measures at the

Nuclear Non-Proliferation Treaty Review Conferences especially in 2000 and 2010, and participating in the *Stockholm Initiative* from 2018.³¹

The 2010 NPT Review Conference is significant because it adopted a final document by consensus which included the affirmation by States Parties to the NPT that:

"All States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons. The Conference notes the Five-Point Proposal for Nuclear Disarmament of the Secretary-General of the United Nations, which proposes inter alia the consideration of negotiations on a nuclear weapons convention or a framework of separate mutually reinforcing instruments backed by a strong system of verification."

In addition, the Netherlands participated in the UN negotiations for a *Treaty on the Prohibition of Nuclear Weapons*, the only allied state to do so, and made a number of concrete proposals at the negotiations to facilitate joining (signature and ratification) of the treaty by allied states. In addition, in its Explanation of Vote against the final adopted Treaty, Netherlands expressed a willingness to continue " bridging the divide between supporters and detractors of this treaty."³²

While promising, these actions are insufficient to offset the transgression of human rights law and other international law by the Netherlands in the ongoing policies and practices outlined above. However, they serve as a basis for further action that could feasibly be taken by the Netherlands.

7. Recommendations

We recommend that the Netherlands:

- Prevents the continued deployment of nuclear weapons by the Dutch air force. It is desirable that the Netherlands does not adapt the successor of the F-16s for the delivery and use of nuclear weapons;
- Supports implementation of the P5 statement of January 3, 2022 that 'a nuclear war cannot be won and must never be fought',³³ including through the adoption of no-first-use policies by all nuclear armed states in order to ensure that a nuclear war is never fought;
- Proposes to the next NATO Summit the early adoption of a policy of *no-first-use of nuclear weapons* and a goal for NATO to eliminate nuclear deterrence (any threat or use of nuclear weapons) from its security policy within 10 years;
- Participates in the 2022 Conference of States Parties to the Treaty on the Prohibition of Nuclear Weapons and subsequent Conferences of States Parties as an observer, and re-submits it's 'temporality clause' to help facilitate signature and ratification of the TPNW by nuclear allied countries;
- Follows-up the commitments agreed in the 2010 NPT Review Conference by promoting the start of negotiations on a nuclear weapons convention or package of agreements for the global prohibition and phased elimination of nuclear weapons under strict and effective verification and compliance;
- Encourages States Parties to the Non-Proliferation Treaty (NPT) to commit at the 2022 NPT Review Conference to achieve the global prohibition and elimination of nuclear weapons no later than 2045, the 75th anniversary of the NPT and the 100th anniversary of the United Nations;
- Supports the Vanuatu proposal to take the issue of climate change and human rights to the International Court of Justice as an advisory opinion

Endnotes:

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- ¹ See *CCPR General Comment No. 14: Article 6 (Right to Life) Nuclear Weapons and the Right to Life*. Adopted at the Twenty-third Session of the Human Rights Committee on 9 November 1984. <https://www.refworld.org/docid/453883f911.html>
- ² The Convention affirms that "... the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control... will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women." Convention on the Elimination of All Forms of Discrimination against Women, preambular paragraph 11.
- ³ Paragraph 34, General Comment No. 14 (2000) The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights) <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1AVC1NkPsgUedPIF1vfPMJ2c7ey6PAz2qaojTzDJmCOy%2B9t%2BsAtGDNzdEqA6SuP2r0w%2F6sVBGTpvTSCbiOr4XVFTqhQY65auTFbQRPWNdxL>
- ⁴ The Court included a caveat to its affirmation of the general illegality of the threat or use of nuclear weapons, which was that it could not determine whether or not their might possibly be a legal threat or use in the extreme circumstance when the very survival of the state was at stake.
- ⁵ Legality of the Threat or Use of Nuclear Weapons, International V=Court of Justice, Advisory Opinion delivered on July 8, 1996. <https://www.icj-cij.org/public/files/case-related/95/095-19960708-ADV-01-00-EN.pdf>. Dispositif and summary of the decision at <https://www.icj-cij.org/public/files/case-related/95/7497.pdf>
- ⁶ See, for example, [A/RES/70/56](#), *Follow-up to the advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons*, adopted by the UNGA on Dec 7, 2015.
- ⁷ "Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control." Treaty on the Non-Proliferation of Nuclear Weapons (NPT), Article VI, at <https://www.un.org/disarmament/wmd/nuclear/npt/text/>
- ⁸ *22 atoombommen in kluisen basis Volkel*". RTL Nieuws. *RTL Nederland*. 10 June 2013 and *"Een typisch geval van klassenjustitie (2)"*. RTL Nieuws. *RTL Nederland*. 4 December 2013.
- ⁹ United States nuclear weapons, 2021, Hans M. Kristensen and Matt Korda. Nuclear Notebook, Federation of American Scientists, January 26, 2021. www.tandfonline.com/doi/pdf/10.1080/00963402.2020.1859865?needAccess=true
- ¹⁰ Does NATO nuclear sharing breach the NPT? in NATO: Nuclear Sharing or Proliferation? <https://www.files.ethz.ch/isn/90409/05-04%20NATO%20Nuclear%20Sharing%20or%20Proliferation.pdf>
- ¹¹ NATO Nuclear Sharing: Opportunity for Change? Jeff King, Chris Lindborg, Philip Maxon – BASIC, 2008. https://basicint.org/wp-content/uploads/2018/06/gtz09_0.pdf
- ¹² Vienna Convention on the Law of Treaties, Article 42 para 2. https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf
- ¹³ NATO Strategic Concept, Adopted by Heads of State and Government at the NATO Summit in Lisbon 19-20 November 2010 <https://www.nato.int/strategic-concept/Index.html>
- ¹⁴ Brussels Summit Declaration, Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Brussels, https://www.nato.int/cps/en/natohq/official_texts_156624.htm
- ¹⁵ London Declaration, Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in London 3-4 December 2019. https://www.nato.int/cps/en/natohq/official_texts_171584.htm?selectedLocale=en
- ¹⁶ Nuclear Planning Group, NATO, https://www.nato.int/cps/en/natolive/topics_50069.htm
- ¹⁷ A/76/444: *Humanitarian consequences of nuclear weapons*. Text at <https://www.reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com21/resolutions/L11.pdf>. Voting at <https://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com21/votes-ga/444DRVI.pdf>
- ¹⁸ A/75/75: *Convention on the Prohibition of the Use of Nuclear Weapons*, Text at <https://undocs.org/en/A/RES/75/75>. Voting at <https://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com20/votes-ga/400DRII.pdf>
- ¹⁹ See [President Biden Says He Supports a No First Use Policy: Let's Hold Him to That](#), Union of Concerned Scientists, and [Mission Possible: Revisiting the o First Use of the Nuclear Weapon](#), Carlo Trezza, European Leadership Network, April 6, 2021.
- ²⁰ See, *No-First-Use Act, 117th US Congress First Session*, <https://adamsmith.house.gov/cache/files/e/5/e58528a5-908a-4312-85a0-66c3cc7ef630/31D081012955976B3EABD23847BA64EF.smitwa-001-xmlnofirstuse.pdf>
- ²¹ See ['No First Use' Nuclear Policy Proposal Assailed by U.S. Cabinet Officials, Allies](#), Wall Street Journal, August 12, 2016.
- ²² UNGA Resolution entitled **Follow-up to the 2013 high-level meeting of the General Assembly on nuclear disarmament**, which "Calls for the urgent commencement of negotiations in the Conference on Disarmament on effective nuclear disarmament measures to achieve the total elimination of nuclear weapons, including, in particular, on a comprehensive convention on nuclear weapons." Text at <https://www.reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com21/resolutions/L23.pdf>. Voting at <https://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com21/votes-ga/444DRXIIPP14.pdf>.
- ²³ See <https://treaties.unoda.org/treaty/98>
- ²⁴ UNGA [A/RES/75/40](#), Treaty on the Prohibition of Nuclear Weapons

²⁵ The States Parties to the NPT indicated in the 2010 NPT Review Conference final agreed document that the elimination of nuclear weapons could be achieved through “negotiations on a nuclear weapons convention or a framework of separate mutually reinforcing instruments backed by a strong system of verification”.

²⁶ The TPNW negotiators rejected a proposal from Netherlands to include such a process in the Treaty. The proposal, which was called a Temporality Clause, would have provided possibility for a phased adherence to the TPNW by those countries currently adhering to nuclear deterrence.

²⁷ Netherlands proposed, in particular, a ‘Temporality clause’ which would have provided the possibility for states to join the TPNW even if they could not comply immediately with all obligations under the treaty, so long as they accompanied this with declarations of intent to bring their security policies into full compliance of the TPNW within a time-bound framework. This proposal was rejected by the principal TPNW negotiating countries.

²⁸ World’s Youth for Climate Justice and Pacific Island Students Fighting for the Climate launched the initiative to seek an advisory opinion from the International Court of Justice on the issue of climate change and human rights. See <https://www.wy4cj.org/>

²⁹ Vanuatu to seek international court opinion on climate change rights, The Guardian, Sep 26, 2021.

<https://www.theguardian.com/world/2021/sep/26/vanuatu-to-seek-international-court-opinion-on-climate-change-rights>.

³⁰ See *International Partnership for Nuclear Disarmament Verification* <https://www.ipndv.org/>

³¹ The Stockholm Initiative for Nuclear Disarmament, launched by the government of Sweden, brings together 16 Non-Nuclear Weapon states, some of them in nuclear alliances, to advance nuclear risk-reduction and disarmament measures. Participating states include: Argentina, Canada, Ethiopia, Finland, Germany, Indonesia, Japan, Jordan, Kazakhstan, the Netherlands, New Zealand, Norway, the Republic of South Korea, Spain, Sweden and Switzerland. See <https://www.government.se/government-policy/stockholm-initiative-for-nuclear-disarmament/>

³² See *CCPR General Comment No. 14: Article 6 (Right to Life) Nuclear Weapons and the Right to Life*. Adopted at the Twenty-third Session of the Human Rights Committee on 9 November 1984. <https://www.refworld.org/docid/453883f911.html>

³³ Joint Statement of the Leaders of the Five Nuclear-Weapon States on Preventing Nuclear War and Avoiding Arms Races, January 3, 2022. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/03/p5-statement-on-preventing-nuclear-war-and-avoiding-arms-races/>

Annex: Information about the submitting organisations

Aotearoa Lawyers for Peace

www.facebook.com/nzpeacelaw www.ialana.info www.unfoldzero.org

Aotearoa Lawyers for Peace (ALP) is an organization of lawyers and law students from Aotearoa (New Zealand) working to abolish nuclear weapons, increase respect for international law and abolish war. ALP is the New Zealand affiliate of the International Association of Lawyers Against Nuclear Arms, and is a founding partner of UNFOLD ZERO, which promotes United Nations initiatives for nuclear disarmament.

Contact: Matt Robson matt@mattrobson.co.nz

Association of Swiss Lawyers for Nuclear Disarmament

<https://safna.org/>

The Association of Swiss Lawyers for Nuclear Disarmament (Schweizer Anwälte für Nukleare Abrüstung - SAFNA) is an organization of lawyers, jurists and law students to support general and complete disarmament, in particular nuclear disarmament. SAFNA raises awareness among the larger public, including legal circles, of the dangers of nuclear weapons through publications, seminars, conferences etc. The approach the association takes is above all a legal one. SAFNA is politically and religiously neutral and places the humanitarian aspect and the victims of nuclear weapons at the center of its activities. It respects gender diversity and equality. SAFNA supports all efforts towards the fortification of international humanitarian law, friendly settlement of disputes and the regulation of international arms trade.

Contact: Daniel Rietiker Daniel.Rietiker@unil.ch

Basel Peace Office

www.baselpeaceoffice.org www.facebook.com/BaselPeaceOffice

Basel Peace Office is a coalition established by five Swiss and four international organizations to advance the peace and security of a nuclear-weapon-free world. Basel Peace Office makes connections between inter-related issues - including peace, the climate, nuclear disarmament, human rights and sustainable development - and builds cooperation amongst key constituencies including mayors, parliamentarians, religious leaders, academics, youth/students, women, lawyers, medical professionals, government officials and UN entities. Basel Peace Office is a member of the EU Non-proliferation Consortium.

The partner organizations are the Basel-Stadt Canton (a member of Mayors for Peace), Global Security Institute, International Physicians for the Prevention of Nuclear War Switzerland, Middle Powers Initiative, Parliamentarians for Nuclear Non-proliferation and Disarmament, Schweizer Anwälte für Nukleare Abrüstung (the Association of Swiss Lawyers for Nuclear Disarmament), Swisspeace, University of Basel Sociology Seminary of the Department of Social Sciences and the World Future Council.

Contact: Marzhan Nurzhan marzhan@pnnd.org and info@baselpeaceoffice.org

Council of Churches in the Netherlands / Raad van Kerken in Nederland

www.raadvankerken.nl

The Council of Churches in the Netherlands is a community of 19 Christian churches and organizations from Catholic, Protestant, Orthodox and Evangelical churches in the Netherlands. It is a partner organization of the World Council of Churches. The Council of Churches in the Netherlands has issued statements denouncing the possession, stationing and threatening with, let alone the use of nuclear arms and made declarations to that effect to the Government and Parliament. The Council is also active in other peace, disarmament, inter-faith dialogue, human rights, refugee, poverty, sustainable development, gender/equity and public health (COVID-19) issues.

Contact: Kees Nieuwerth k.nieuwerth@wxs.nl

International Association of Lawyers Against Nuclear Arms

www.ialana.info www.facebook.com/IALANAinternational

The International Association of Lawyers Against Nuclear Arms (IALANA) is an international association of lawyers and lawyers' organisations working for the elimination of nuclear arms, the strengthening of international law and the development of effective mechanisms for the peaceful settlement of international disputes. Founded in 1988 in Stockholm IALANA has grown into a fully-fledged international citizens' organization with consultative status with the United Nations. IALANA has also expanded its scope of action to include: efforts to abolish all types of inhumane weapons and to control the international arms trade; advancing concepts of security based on the application of law and legal mechanisms; development of non-offensive defence and implementation of confidence building measures; and encouraging the establishment and use of the International Criminal Court and other legal procedures to address crimes against international humanitarian law.

Contact: Phon van den Biesen phon@vandenbiesen.eu

Pugwash Netherlands

www.pugwash.nl

Pugwash Netherlands is one of the many "National Groups" of the international "Pugwash Conferences on Science and World Affairs", which was inspired by the Russell-Einstein manifesto (1955) that called on world leaders to eliminate weapons of mass destruction, conflict in a peaceful way and above all to "put their humanity above all else." Pugwash now describes his goal like this: "Pugwash seeks a world free of nuclear weapons and other weapons of mass destruction. Through our long-standing tradition of 'dialogue across divides' that also earned us the Nobel Peace Prize in 1995, Pugwash aims to develop and support the use of scientific, evidence-based policymaking, focusing on areas where nuclear and WMD risks are present. By facilitating track 1.5 and track II dialogues, we foster creative discussions on ways to increase the security of all sides and promote policy development that is cooperative and forward-looking"

Contact: Niels rensen nielsrenssen@hotmail.com

Tribunal for Peace

www.tribunaalvoordevrede.nl

Tribunal for Peace (1984) promotes peace policy research, testing the legitimacy of the peace policy of The Netherlands, particularly on the preparation and actual use of nuclear weapons in general and the, for the public, secret kept treaty on USA nuclear weapons in The Netherlands.

Contact: Harry van Velsen harryvanvelsen48@gmail.com

World Future Council

www.worldfuturecouncil.org www.facebook.com/wfc.goodpolicies

The World Future Council (WFC) was established to promote effective policies to ensure a peaceful and sustainable future. WFC consists of 50 eminent global change-makers from governments, parliaments, civil society, academia, the arts and business who have already successfully created change. They are supported by a staff of experts that work with the councillors to identify, develop, highlight and spreading effective, future-just solutions for current challenges humanity is facing.

Contact: Alyn Ware alyn@pnnd.org

World's Youth for Climate Justice

www.wy4cj.org

World's Youth for Climate Justice is a global youth-led initiative to strengthen legal obligations and political action on climate change by take the issue of climate change and human rights to the International Court of Justice as an Advisory Opinion. The network is coordinated by a steering committee of youth from Aruba, Fiji, France, Germany, India, Marshall Islands, Netherlands, Philippines, Solomon Islands, South Africa and Sri Lanka.

Contact: Aoife Fleming aoife@wy4cj.org

Youth Fusion

www.youth-fusion.org www.facebook.com/Youth4Abolition

Youth Fusion is a world-wide networking platform for young individuals and organizations in the field of nuclear disarmament, risk-reduction and non-proliferation. Youth Fusion focuses on youth action and intergenerational dialogue, building on the links between disarmament, peace, climate action, human rights, sustainable development and building back better from the pandemic. Youth Fusion **serves as the youth section of** Abolition 2000, the global civil society network to eliminate nuclear weapons.

Contact: Michaela Sorensen michaela@pnnd.org and youthfusiona2000yn@gmail.com