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Berlin, November 1, 2013

## **Dear colleagues,**

one of the most important topics in this newsletter is whistleblowing. In late August, IALANA Germany, in collaboration with the Federation of German Scientists (VDW) and Transparency Germany, awarded the Whistleblower Prize to Edward Snowden for the services he has rendered to our societies by coming forward and leaking the information about the giant spying programs run by the US Government and others. We have included the laudation by Otto Jäckel as well as the acceptance speech by journalist and internet activist Jacob Appelbaum on Snowden's behalf.

The VDW has also issued the *Berlin Declaration on the Prerequisites for Democracy in the Digital World*, signed by dozens of scientists, which was delivered to the German Bundestag as well as the current administration. Furthermore, following the newest revelations regarding widespread surveillance, an open letter to Chancellor Merkel and Sigmar Gabriel, Chairman of the SPD (the probable coalition partner of Merkel's CDU), has been written, emphasizing the need for political measures and advocating the admission of Edward Snowden into Germany. Also regarding this topic: The Japanese Government is planning on tightening Japan's whistleblower legislation, widening the realm of "state secrets" and punishing the leaking of classified information by up to 10 years. Moreover, we have included a press report about General Keith Alexander, Head of the NSA, who will leave his post next year.

The upcoming year 2014 is a historically significant one: 100 years World War I – the beginning of a century full of war and violence. The IALANA is involved in the network 1914-2014, which will organize numerous activities revolving around this centenary, above all the Sarajevo Peace Event 2014 (June 6-9, 2014). The aim of this event is to foster a culture of peace and non-violence. The network has issued a newspaper, which can be found online. You will find all the information below.

Our section on nuclear weapons in this issue contains Joseph Gerson at the High-Level Meeting on September 26 as well as John Burroughs' report of the Meeting. The LCNP also wrote a letter to President Obama, urging him to speak on nuclear disarmament at the High-Level Meeting. Furthermore, the newsletter contains Roger S. Clark's considerations on the ICJ, international law and nuclear weapons. In May JALANA, the Japanese section of IALANA, wrote a statement

protesting against the Japanese Government's refusal to sign the "Joint Statement on the humanitarian impact of nuclear weapons". In October this decision has been reversed, Japan is signing the statement (as documented by press reports).

The network *No to War – No to NATO* (of which IALANA forms a part) in cooperation with others will organize an Afghanistan conference next year (April 25-27, 2014) whose topic will be the way forward for the Afghan society, especially after the Presidential elections. We have included an interview current Afghan President Hamid Karzai recently gave to the BBC in which he talked about the failure of the NATO mission. Joachim Lau writes about compensation of Nazi regime victims in Italy.

On a lighter note, we congratulate Paul Walker, International Program Director for Global Green, for receiving the Right Livelihood Award. We also congratulate the new Nobel Peace Prize laureate, the OPCW, and wish them success with their important mission.

Moreover, Peter Weiss will receive a prize from the Sturm College of Law for his lifetime struggle for human rights and against nuclear weapons. He recently became President Emeritus of LCNP, after 31 years of service as President. His successor is Guy Quinlan a retired corporate lawyer and longtime passionate opponent of nuclear weapons.

Have a great winter!

With warm regards,

Peter Becker  
Reiner Braun  
Robert Dernberger

The IALANA congratulates Reiner Braun for being named the new Co-President of the International Peace Bureau (IPB) in September 2013.

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## Whistleblower Award Ceremony – IALANA Germany, the Federation of German Scientists (VDW) and Transparency International Germany

Berlin-Brandenburgische Akademie der Wissenschaften, Berlin

August 30, 2013

### Whistleblower Award 2013 – Edward Snowden

*All the speeches and further information can be found under: <http://www.vdw-ev.de/index.php/en/fields-of-action/about-whistleblower/whistleblower-award/8-aktuelles-und-veranstaltungen-des-vdw/204-whistleblower-award-2013-information-in-english>*

#### Laudatory speech by Otto Jäckel

“This is our Manhattan Project for the 21st century.” This was how Admiral John Poindexter characterised the Total Information Awareness Program which George W. Bush commissioned him to initiate and develop in 2002, aiming for blanket surveillance of all communication data. The comparison should not be taken lightly since Admiral Poindexter was a nuclear physicist.

Edward J. Snowden has now confronted us with the terrifying dimensions of the current development stage of this program. He tapped us on the shoulder and said, “Take a look at that!” And now we can see what we previously did not notice: the “Five Eyes” and their smaller chums are standing behind us, watching over our shoulders when we use the telephone, write e-mails and surf the internet.

“Five Eyes” - an insider term reminding us of the one-eyed Cyclops which Homer, in Book 9 of the Odyssey, describes as being lawless malefactors.

Without Edward Snowden, ladies and gentlemen, we would know nothing about Prism, Tempora and XKeyScore.

Everyone who uses the internet to find political information, everyone who has used the telephone or e-mail to conduct a confidential conversation, everyone who is in any way involved with international political or business negotiations - all of these people are now asking themselves: How are my private data being used? Do the other parties to the negotiations already know the negotiation strategy we drew up internally? Do they know any of my company secrets? Results from our R&D department?

Ladies and gentlemen, Virtual profiling conducted by intelligence agencies has led to us all receiving our own second virtual identity to go with the one we have made of flesh and blood. This virtual identity serves to make us calculable and predictable in our behaviour as consumer, voter and political actor.

This total information awareness can be misused to create a totally authoritarian rule over guided citizens. In this regard, Edward Snowden posed the core question of our age: Do we want to live like this?

I would like to add the question: Do we want to be governed like this? After all, we are not talking about something that only concerns intelligence agencies.



These agencies are merely carrying out orders given to them by the ruling powers. And the analysis they deliver forms the basis of the government's action.

Broad surveillance for later analysis without any specific suspicion was disclosed by Edward Snowden and this represents a particularly severe breach of our fundamental rights.

Article 10 of the German constitution guarantees privacy of correspondence and privacy of post and telecommunications. There is also a fundamental right to informational self-determination and to a guarantee of confidentiality and integrity in information systems. However, these are all clearly now worthless and obsolete. The practices revealed go way beyond anything that the German Federal Constitutional Court declared to be permissible in its judgements on data retention and surveillance in the telecommunications sector.

According to §§ 203ff. of the German Criminal Code, violation of the privacy of post and telecommunications and violation of the personal and commercial right to privacy are both punishable offences. So we demand that our state prosecutors act accordingly and pursue these offences.

Insofar as espionage has been illegally carried out from German soil by foreign intelligence agencies, this should result in termination of the relevant treaties and agreements, cessation of any illegal exchanges of data by the German BND, and the strict enforcement of a clear separation of duties, whereby the agencies responsible for international intelligence cease to gather information about citizens of their own country.

Edward Snowden could make an important contribution to the investigations in this regard in Germany.

§ 22 of the Residence Act provides for the admission of a foreigner from abroad on these grounds. After his entry to the country we could admit him to a witness protection program.

Unfortunately, it is obvious the Federal Government is not taking this approach. The obligation of the executive to comply with the law according to Art. 20 § 3 of the constitution, on which Ms Merkel and the members of her Cabinet swore their oath of office, appears not to be important anymore.

The conspiracy of the Five Eyes and their allies against their own civil societies continues unabated. Instead of receiving an invitation, Edward Snowden was banned from flying over certain countries. He

was refused safe passage and conduct or protection from extradition to the USA. In the US, charges have already been filed against him for theft of government property and espionage. Although this is clearly a topsy-turvy interpretation of the facts.



After all, was it not the NSA and its British counterpart GCHQ, together with the Canadian Communication Security Management and their allied agencies from Australia, New Zealand and Europe who engaged in illegal activities to spy on their own citizens? And surely Edward Snowden was just the messenger carrying the bad news?

In terms of the 1917 Espionage Act, who was he spying for? Which enemy is supposed to have benefited from his actions? Perhaps the international community of internet users rightly seeking uncontrolled and uncensored usage of their e-mail services and the web? This threat of punishment nonetheless has to be taken seriously.



That is the lesson to be learnt from the fate of Chelsea Elizabeth Manning, born Bradley Edward Manning, the winner of the Whistleblower Award in 2011. In July she was sentenced to the draconian term of 35 years in prison and a dishonourable discharge from the military.

As far as the legal assessment of publication of documents from the Gulf War is concerned, there seems to be no room for consideration of the judgement that the war itself was a breach of international law, as passed by the Federal Administration Court after extensive analysis based on international law during a disciplinary hearing against an officer in the German Bundeswehr. The judgement against Manning also did not take into consideration the fact that a helicopter video he released (which later became known under the title “Collateral Murder”) actually documented a war crime.

We can also only be appalled by the Obama administration’s assurance that nobody should worry about extraditing Edward Snowden to the USA since he would not be tortured there, nor would be receive the death sentence.

A declaration as cynical as this from the first black President and the first black Attorney General? That is surely not part of Martin Luther King’s dream which inspired the American civil rights movement and people all around the world 50 years ago.

However, this declaration might not have been cynical but completely serious. After all, the UN High Commissioner of Human Rights determined that Manning was subjected to inhumane treatment during the initial period after the arrest: sleep prohibition during the day and orders to report every 5 minutes. She was accused of wanting to commit suicide and responded ironically by asking whether they thought she was going to kill herself with her underwear or flip-flops: this led to her guards removing the rest of her clothes from the cell. As a result she had to report to the guards naked and spend the nights naked as well.

What a disgrace for the “land of the free”!

Ladies and gentlemen,

At this point we call for the following. The terrible judgement against Manning should definitely not be allowed to remain in force.

Let Chelsea Manning, the 2011 Whistleblower Award winner, free!

And we say: Hands off Edward Snowden!

Edward Snowden does not deserve to be put in the dock and does not belong in an American prison cell. Instead, Edward Snowden deserves to win a prize for his brave behaviour and the courage of his convictions. When I say this I think I speak not only for the jury and not only for the Boards and members of IALANA, the Federation of German Scientists and Transparency International, but for everyone interested in free usage of telephones, e-mail and the internet without indiscriminate, general collection and analysis of data by intelligence agencies - and that is surely the vast majority of the civilian population!

The 2013 Whistleblower Award from the International Association of Lawyers Against Nuclear Arms, Germany, the Federation of German Scientists and Transparency International Germany goes to Edward Jacob Snowden!

*Otto Jäckel is the Chairman of IALANA Germany, Treasurer of IALANA International and member of the Jury of the Whistleblower Award.*

*He practices as an attorney at law in his law offices in Berlin and Wiesbaden.*

*[www.jaeckel-rechtsanwalt.de](http://www.jaeckel-rechtsanwalt.de)*

### **Speech by Jacob Applebaum, accepting the award on behalf of Edward Snowden**

Thank you so much for the opportunity to come here to speak with you tonight. It’s quite an honor, actually, and it’s really a privilege, especially to have someone like Laura [Poitras] in the audience here with us and to have Glenn [Greenwald] to send a video. I would speak with you in German, but this seems like a place where I should be able to express myself naturally and it’s a little difficult for me, so I

apologize if English is not easy for you; I'll try to not speak too quickly.

When I spoke with Edward Snowden this evening, he wanted me to convey a message to you, which I will read, but he also wanted me to not talk too much about geopolitics, and not to talk too much about all of the things that everyone also has already said this evening. And instead he wanted me to talk about individuals, to talk about people, he wanted me to talk about hope for change, and this reminded me of something that one of the greatest American whistleblowers to ever live is famous for saying – that is Daniel Ellsberg; he said: “Courage is contagious.” I see amongst people here in the audience a number of people who embody that – Laura being the clear winner of that so far. And I think that it is important to talk about what each of us have as our personal agency, that is to say: each and every one of us has the ability to stand against corruption, to stand against war crimes, to stand against things that we know are obvious lies that are done in our name. And it happens for each and every one of us when we choose it in each of the actions we do every single day. It's a very straightforward and simple thing, and so I think it is important to think of this not as an issue of internet freedom, but as a question of our own personal liberties, and we must have a consciousness raising about our own role in this. So, when we talk about spying on the internet, we should not pretend we are exempt from this, because in fact it is a question on our very lives and every aspect of our lives so as to be able to – literally, in some cases – try to read our minds. This is something that each and every single one of us I think would reject in its core if we were to really truly have an honest discussion about it, and so it is up to us to have those honest discussions with each other.

It seems important to say that Edward Snowden is a person of high moral character. I can't really imagine a person who would be better fitting for this award, not just this year, but almost any year. That isn't to forget about Chelsea Manning, it isn't to say that other people have not done great service for humanity, but when I spoke with him this evening, his first question was not about how things would go, but he asked me if I had slept. He asked me how I was feel-

ing, and I told him that I was fine. He said: “Are you sure?” This is person who really cares about other people. This is a person who has been attacked and relentlessly smeared by the propaganda machines. He is a person who has thrown himself onto the gears of that very machine, and he has done it for each and every one of us, and in some sense I can't actually believe that it is true, because it just seems so incredibly powerful, so passionate and so beautiful.

And so with that in mind, I'd like to read what he had to say. I think that this is beautiful; the first time I read it, I cried, mostly because, knowing that he is of such high moral character, it really rings true to me. So he says:

“It is a great honor to be recognized for the public good created by this act of whistleblowing. However the greater reward and recognition belongs to the individuals and organizations in countless countries around the world who shattered boundaries of language and geography to stand together in defense of the public right to know and the value of our privacy. It is not I, but the public who has affected this powerful change to abrogation of basic constitutional rights by secret agencies. It is not I, but newspapers around the world who have risen to hold our governments to the issues when powerful officials sought to distract from these very issues with rumor and insult. And it is not I, but certain brave representatives in governments around the world who are proposing new protections, limits and safeguards to prevent future assault on our private rights and private lives.

My gratitude belongs to all of those who have reached out to their friends and family to explain why suspicionless surveillance matters. It belongs to the man in a mask on the street on a hot day and the women with a sign and an umbrella in the rain, it belongs to the young people in college with a civil liberty sticker on their laptop, and the kid in the back of a class in high school making memes. All of these people accept that change begins with a single voice and spoke one message to the world: governments must be accountable to us for the decisions that they make. Decisions regarding the kind of world we will live in. What kind of rights and freedoms individuals

will enjoy are the domain of the public, not the government in the dark.

Yet the happiness of this occasion is for me tempered by an awareness of the road traveled to bring us here today. In contemporary America the combination of weak legal protections for whistleblowers, bad laws that provide no public interest defense and a doctrine of immunity for officials who have strayed beyond the boundaries of law has perverted the system of incentives that regulates secrecy in government. This results in a situation that associates an unreasonably high price with maintaining the necessary foundation of our liberal democracy – our informed citizenry. Speaking truth to power has caused whistleblowers their freedom, family, or country.

This situation befits neither America nor the world. It does not require sophistication to understand that policy equating necessary acts of warning with threats to national security inevitably lead to ignorance and insecurity. The society that falls into the deterrent trap known in cultural wisdom as "shooting the messenger" will quickly find that not only is it without messengers but it no longer enjoys messages at all. It is right to question the wisdom of such policies and the unintended incentives that result from them. If the penalty providing secret information to a foreign government in bad faith is less than the penalty for providing that information to the public in good faith, are we not incentivizing spies rather than whistleblowers? What does it mean for the public when we apply laws targeting terrorism against those engaged in acts of journalism? Can we enjoy openness in our society if we prioritize intimidation and revenge over fact-finding and investigation? Where do we draw the lines between national security and public interest, and how can we have confidence in the balance when the only advocates allowed at the table of review come from the halls of government itself?



Questions such as these can only be answered through the kind of vigorous public discussion we are enjoying today. We must never forget the lessons of history regarding the dangers of surveillance gone too far, nor our human power to amend such systems to the public benefit. The road we travel has been difficult, but it leads us to better times. Together we can guarantee both the safety and the rights of the generations that follow.

To all of those who have participated in this debate, from the highest official to the smallest citizen, I say thank you.

Edward J. Snowden“

So, he asked me also to try to contextualize this for Germany. He said that I could do a better job of it. I can't actually imagine that that is possible; it's a tough act to follow.

I think, though, that what he meant is something that many of us have felt. It is why Laura lives in Berlin; it is why I now live in Berlin. Germany has a history with these types of issues that is not forgotten, but it is in fact carried forth and remembered today. This is some-

thing which is so important, because it is not that Edward Snowden or Laura's journalism or my standing here is against the United States. It is actually the case that we are American citizens asking for your solidarity and help, because there are certain corrupt individuals in our government who have taken it and they have done things in our name that are simply wrong.

So to the individuals that are here, each and every one of us, what I hope is that it will be possible for each of you to recognize that there are people in the United States who need to learn from the history that each of you has learned, that many of you have lived, and that right now is so sorely lacking in the debate and in the discussion. We must not let history, especially German history of the 20th and the early 21st



century be forgotten. This is something that was learned through very hard times, and it is something that the rest of humanity is not exempt from. And so it is my hope that if each and every single one of you were to adapt an American or simply to reach out as individuals, this is something that can create change.

When it is a German that speaks to the world and says “these things scare me the same way that the Stasi Zersetzung scares me, when I see these things and they remind me of secret police action, when I see political crackdowns, when I see journalists being treated as terrorists, it reminds me of darker times”, and to show what those darker times are, to talk about the relationship and to talk about the progression past that, that kind of personal connection is something

that allows people to move past their fear, which is controlling them now.

So what I want to leave you with is the same thing that Edward Snowden has left with me, I think, and with all of us, hopefully, which is that courage is contagious, and it is up to all of us now to follow on with what he has started.

Thank you!

*Jacob Appelbaum is a journalist and writes about the internet security, data protection, privacy and internet anonymity. He is a US citizen currently living in Berlin. He was consulted by Laura Poitras for the analysis of Edward Snowden's documents.*

## Berlin Declaration by Scientists on the Prerequisites for Democracy in the DIGITAL WORLD

**VDW** VEREINIGUNG DEUTSCHER  
WISSENSCHAFTLER E.V.

The revelations made by the whistleblower Edward J. Snowden have led to some shocking facts becoming recognisable for many citizens: evidently it is not only authoritarian states but also liberal democracies who routinely monitor the electronic communication of a growing number of people. In fact, the technology used to monitor, record and evaluate these communications appears to be even more advanced in the democratic states. This is happening on a global scale by means of a range of different filters and mathematical algorithms and not only to investigate specific, tangible suspicions. One consequence was even the “mistaken” inclusion of tens of thousands of people in the surveillance net, according to an account given by the intelligence agencies themselves.

These practices have arisen in recent years out of an increasing interaction between technological developments, economic ways of thinking and new securi-

ty policies enacted after the attacks of September 2001.

Even before this, the relationship between liberty and security could best be described as precarious and now it has clearly shifted towards security: fundamental personal rights are being breached on a large scale; the importance of democracy, justice and the rule of law for the exercising of state power is being challenged. In this way, core achievements of Western constitutional states are being surrendered and it is particularly worrying to see one of the oldest modern democracies playing a central role in this process. A range of different historical experiences (including in the former GDR with the Stasi) should lead us to the conclusion that a political system which regards its citizens with a permanent attitude of mistrust and general suspicion is not viable in the long-term. It has to fall apart because of this distrust. As social and natural scientists from a wide range of disciplines we are deeply perturbed by the news of systematic, wide-

ranging, routine storage and evaluation of electronic communication, some of which was performed jointly with private network operators and data services. This forces us to conclude that the foundations of our democratic societies are being increasingly undermined.

As experts for the scientific analysis of the social and natural aspects of our modern human society, we know how fragile our legally constituted social democracy actually is. It is an achievement we need to actively renew and defend every day. If intelligence agencies are allowed to grind down human and civil rights, this represents a dangerous threat to liberty and responsibility as foundations of how we live together as humans. So democracy is not only threatened from outside; it is putting a question mark over its own future.

It is becoming more and more apparent that many party-political actors do not recognise how serious this situation is, are unwilling to articulate this for fear of upsetting political alliances, or are behaving opportunistically in view of the coming German parliamentary elections.

We are convinced that current global challenges can only be met by means based on justice and liberty: this applies to climate change, global food security, nuclear safety and terrorism. As scientists we depend on the freedom of thought. Surveillance, whether organised by the state or private firms, and the repression of free communication are the enemies of this freedom.

Our politicians, civil society, business and academic sectors are all now confronted with a duty that Edward J. Snowden's revelations have placed firmly on the political agenda: together we have to try to understand how our commonwealth is being affected by the processes, structures and technology of the digital world and to confer on how we wish to shape our political order in an era of global electronic communication, both for ourselves and for the next genera-

tions.

Here we are referring to the prerequisites of justice and liberty in a world offering us greater opportunities than ever before in human history, but also greater threats.

We observe that:

1. Germany urgently needs a "Great Debate" with equal participation from the political, civil society, economic and academic sectors in order to confer on the current situation and benefit from a wide range of expert viewpoints.
2. After the coming parliamentary elections, a new Enquete Commission (select committee) needs to be set up immediately on the issue of "Protection of privacy and civil liberties", with equal representation from members of parliament and scientists.
3. Germany has to actively work towards European and global regulations which meet current challenges regarding political, technical and economic developments in the digital world, aiming to defend and renew democratic structures. This should include the aim of becoming less dependent on monopolistic IT infrastructure, often dominated by US-American interests. The European parliament could also set up a special committee in this regard since this would also represent a suitable framework for the public debate which needs to be held and the development of practicable concepts.

The signatories to this declaration will support these processes.

Berlin, 29th August 2013

## Open letter on the admission of Edward Snowden into the Federal Republic of Germany

Berlin, Oktober 27, 2013

Dear Chancellor Merkel,  
Dear Mr Gabriel,

in late August the Federation of German Scientists (FGS), in collaboration with the lawyers association IALANA and Transparency International Germany, awarded the Whistleblower Prize 2013 to Edward Snowden. The new findings confirm our decision and shock us because they demonstrate the exorbitance of the current circumstances.

The time has come for decisive political and human action!

The Board of the Federation of German Scientists calls upon the sitting Administration as well as the one which will be formed by the future coalition to immediately allow Edward Snowden a safe entry and a safe haven in the Federal Republic of Germany (e.g., according to § 22 of the residence law). He is an important and, in our judgement, indispensable expert witness for the pressing elucidation and review of the surveillance measures by intelligence agencies from the US and other countries, particularly in Germany, which have come to light recently. This is in the best interest of all of us.

It is our impression that Edward Snowden is interested in having his residence in Berlin. We see it as Germany's humanitarian duty to allow his immigration and to ensure him a safe perspective in this country. Currently, he cannot find this necessary protection in his home country. There he is facing hard punishments, even though he has rendered outstanding services for the protection of civil and human rights.

The FGS hereby reaffirms its Berlin Declaration on the Prerequisites for Democracy in the Digital World,

which has been signed by 100 scientists. They also declared their willingness for participation.

It asserts:

“1. Germany urgently needs a “Great Debate” with equal participation from the political, civil society, economic and academic sectors in order to confer on the current situation and benefit from a wide range of expert viewpoints.

2. After the coming parliamentary elections, a new Enquete Commission (select committee) needs to be set up immediately on the issue of “Protection of privacy and civil liberties”, with equal representation from members of parliament and scientists.

3. Germany has to actively work towards European and global regulations which meet current challenges regarding political, technical and economic developments in the digital world, aiming to defend and renew democratic structures. This should include the aim of becoming less dependent on monopolistic IT infrastructure, often dominated by US-American interests. The European parliament could also set up a special committee in this regard since this would also represent a suitable framework for the public debate which needs to be held and the development of practicable concepts.”

Today, once again, we emphatically urge the persons responsible to act accordingly.

Prof. Dr. Ulrich Bartosch  
Chairman

## Whistleblowing – State secrets in Japan

### Status of state secrets may change depending on gov'ts: Abe

October 25, 2013 (Mainichi Japan)

The designation and declassification of state secrets may change depending on governments in power, Prime Minister Shinzo Abe said Oct. 24. He told the House of Councillors Budget Committee that Cabinet ministers have authority to classify and declassify state secrets under a proposed special secret protection law. He added that new ministers appointed after a change of government may pass a judgment on



"special secrets" and there is a possibility that some of those secrets may be declassified.

Abe made the remarks in response to a question from Jiro Ono, an upper house member of the opposition Your Party and former National Police Agency bureaucrat. The bill will slap tougher penalties on those who leak government secrets and consequently harm national security.

Regarding criticism that the bill may encourage ministries and agencies to hide information unfavorable to the government, Masako Mori, state minister in charge of the declining birthrate, gender equality, consumer affairs and food safety, referred to the Whistleblower Protection System. The system protects people who, to protect people's lives and assets, blow the whistle on crimes and illegal behavior in the workplace.

Public servants will also be protected under the system, and theoretically public servants who blow the

whistle on government crimes hidden as special secrets will not be treated unfavorably.

Mori emphasized that illegal behavior and serious blunders by the inner circle of government and authorities concerned won't be state secrets in the first place.

From:

<http://mainichi.jp/english/english/newsselect/news/20131025p2a00m0na004000c.html>

### Fuk-'hush'-ima: Japan's new state secrets law gags whistleblowers, raises press freedom fears

(RT, October 25, 2013)

Many issues of national importance to Japan, probably including the state of the Fukushima power plant, may be designated state secrets under a new draft law. Once signed, it could see whistleblowers jailed for up to 10 years.

Japan has relatively lenient penalties for exposing state secrets compared to many other nations, but that may change with the introduction of the new law. Prime Minister Shinzo Abe's government has agreed on draft legislation on the issue on Friday and expects the parliament to vote on it during the current session, which ends on December 6.

With a comfortable majority in both chambers, the ruling coalition bloc would see no problems overcoming the opposition. Critics say the new law would give the executive too much power to conceal infor-

mation from the public and compromise the freedom of the press.

Currently only issues of defense can be designated state secret in Japan, and non-military leakers face a jail term of up to one year. Defense officials may be sentenced to five years for exposing secrets, or 10 years, if the classified information they leaked came from the US military.

The new law would enact harsher punishment to leakers, but more importantly, it would allow government branches other than defense ministry designate information as state secrets. The bill names four categories of 'special secrets', which would be covered by protection – defense, diplomacy, counter-terrorism and counter-espionage.

Under the new legislation a ministry may classify information for a five-year term with a possibility of prolongation to up to 30 years. After that a cabinet ruling would be needed for the secret to be treated as such, but there is no limit for how long information may be kept under a lid.

*"Basically, this bill raises the possibility that the kind of information about which the public should be informed is kept secret eternally," Tadaaki Muto, a lawyer and member of a task force on the bill at the Japan Federation of Bar Associations, told Reuters.*

*"Under the bill, the administrative branch can set the range of information that is kept secret at its own discretion."*

Media watchdogs in Japan fear the bill would allow the government to cover up serious blunders, like the collusion between regulators and utilities, which was a significant factor in the 2011 Fukushima nuclear disaster. The quake- and tsunami-hit nuclear power plant went into meltdown and continues to leak contaminated water as its operator TEPCO failed to contain it.

TEPCO has long been accused of obscuring the crisis and Fukushima. Many details on its development were first published in the media before going to governmental or corporate reports.

Critics of the state secrets bill say it would undermine media's ability to act as the public's eye on the actions of the government and whoever it would choose to shield.

*"It seems very clear that the law would have a chilling effect on journalism in Japan," said Lawrence Repeta, a law professor at Meiji University.*

In a bid to address those concerns the cabinet added a provision to the draft which gives "utmost considerations" to citizens' right to know and freedom of the press. The addition came at the request of the New Komeito party, the coalition partner of Abe's Liberal Democratic Party. The added provisions also state that news reporting is legitimate if its purpose is to serve the public good and the information is not obtained in unlawful or extremely unjust ways.

The clause is based on the 1970s scandal in Japan, in which a reporter was charged and found guilty of unlawfully obtaining secret information about the government. The reporter, Takichi Nishiyama, revealed a secret US-Japanese pact under which Tokyo paid some \$4 million of the cost of transferring Okinawa Island from the US back to Japanese rule in 1972.

Nishiyama's report, which was revealed to have been truthful in 2000, was based on documents he received from a married Foreign Ministry clerk with whom he had an affair. The scandal ultimately ruined his career and dealt a serious blow to the newspaper he worked for.

Japanese law has no clear definition of what kind of new gathering could be deemed 'grossly inappropriate'. The bill introduces a jail sentence of up to five years for non-officials, including media professionals, using such methods to obtain information. But it does not clearly state that if a journalist reporting on a state secret is found to have obtained the information legitimately, he or she would not be punished. This has led critics to dismiss the 'freedom of press' provisions as political window dressing.

Despite criticisms, the Japanese cabinet insists that the law be adopted promptly. It is needed to the



planned establishment of a national security council, which would involve members from different ministries and agencies. The law would protect information exchanged through the new body from being leaked, the government says.

Abe's party has sought unsuccessfully to enact a harsher law on state secrets in the past. The effort had been given a boost after a leaking of a video in 2010, which showed a collision between a Chinese fishing boat and a Japanese patrol vessel near disputed isles in the East China Sea. The government led by the now-opposition Democratic Party wanted to keep the video under wraps, fearing that its publication would harm the already tense relations with Beijing.

Japan had harsh state secret legislations before and during World War II, so in the post-war period government secrecy has been viewed with suspicion, along with militaristic traditions and other things associated with the Imperial past. Abe's LDP is among the political circles in Japan, which seek change to some of those policies.

From:

<http://rt.com/news/japan-state-secrets-law-712/>

## **Embattled NSA director, deputy director both to retire**

**RT, October 16, 2013**

National Security Agency Director General Keith Alexander and his deputy will leave their jobs at the top of the US intelligence agency within six months, according to a new report.

Alexander has spent eight years at the helm of the NSA, with the agency's actions over much of that time shrouded in secrecy. Yet news of his departure comes just months after former NSA contractor Edward Snowden leaked thousands of classified documents revealing the surveillance programs that secretly monitored US citizens and foreign targets for nearly a decade.

The director will leave no later than March or April 2014, while his deputy John "Chris" Inglis will retire by the end of this year, according to a Reuters report published Wednesday. US officials speaking on condition of anonymity said both men are departing voluntarily and no decision has yet been made regarding their replacements.

Alexander has been a steadfast defender of the NSA programs since media outlets began publishing details in June. He has maintained that PRISM, XKEYSCORE, and the like are legal because they

were authorized by the Patriot Act and the Foreign Intelligence Surveillance Act (FISA) court.

The upcoming departures give President Obama the opportunity to revamp the public's perception of the NSA in the wake of the Snowden leaks.

Vice Admiral Michael Rogers, the commander of the US Navy's 10th Fleet and US Fleet Cyber Command, is among the possible candidates to serve as Alexander's successor, Reuters noted. The 10th Fleet originated at the end of World War II and was reactivated

in 2010 as an arm of Fleet Cyber Command, which is responsible for the Navy's cyber war programs.

Rogers was described as "*a good leader, very insightful and well thought of within the community*" by one unnamed official.

Inglis was named the NSA's second-in-command in 2006 and earlier this year admitted the NSA examines data belonging to individuals "*two or three hops*" from suspected terrorists. That revelation, which was unknown before Inglis made the comment in front of Congress in July, revealed that analysts

investigate all of one person's social connections, all of the connections each of those people have, then the relationships of those who are three people removed from the initial target.

While Alexander has previously noted his intention to retire in 2014, he has spent recent months railing against the “sensationalized” reporting in the wake of “media leaks.” Just last month, for example, he replied to a question from Senator Mark Udall (D-Colo.) on whether the NSA seeks to store “the phone records of all Americans” in the affirmative.

*“I believe it is in the nation's best interest to put all the phone records into a lockbox that we can search when the nation needs to do it, yes,”* Alexander said.

A profile in Wired magazine published just after the NSA revelations described Alexander's NSA as “*an empire he has built over the past eight years by insisting that the US's inherent vulnerability to digital attack requires him to amass more and more authority over the data zipping around the globe.*”

From:

<http://rt.com/usa/embattled-keith-alexander-deputy-retire-284/>

## Peace Event Sarajevo 2014

### From a World of War and Violence to a Culture of Peace and Nonviolence

Sarajevo, June, 6-9th, 2014



*Preparatory meeting in Sarajevo in September 2013*

#### From a World of war and violence...

The year 2014 marks the 100th anniversary of the beginning of World War I, which was triggered by the assassination of the Austro-Hungarian heir to the throne in Sarajevo on June 28th, 1914.

This can be seen as a symbolic date for a century of a “Culture of War and Violence” with two world wars and numerous regional wars - among them the one in

the former Yugoslavian countries in the 1990's when Sarajevo suffered from the siege of the city during the “last war in Europe” - as well as for the global dominance of structural and cultural violence.

#### ...to a Culture of Peace and Nonviolence

But the 20<sup>th</sup> and the beginning of the 21<sup>st</sup> century have also seen a world-wide rise of nonviolent ac-

tions and achievements as an alternative to war and violence, and increased efforts for global and social justice, human rights, peace and reconciliation which was reflected in the declaration of the International Decade for a Culture of Peace and Nonviolence (2001–2010) by the United Nations.

### **An European and International Event**

In September 2012 a number of Bosnian and other European organisations and individuals working in the field of peacebuilding, conflict transformation and nonviolent action have met for the first time as a group in Sarajevo, BiH.

During the Sarajevo meeting these organizations decided to organize a Peace Event in Sarajevo 2014, and to open up for participation in the planning and realization to all those willing to contribute to a Culture of Peace and Nonviolence.

Thousands of people from the city of Sarajevo, the country of Bosnia and Herzegovina, the region of the former Yugoslavia, all of Europe, but also from other countries around the world will be expected to participate to this Event.

### **Linked to many other events**

This Peace Event will hopefully be embedded into a more extended series of events in Sarajevo and in different countries in Europe. It would create a “European Season for a Culture of Peace and Nonviolence”, e.g. from June 2014 till September 21st, the International Day of Peace and October 2d, the International Day for Nonviolence.

Different decentralized previous or simultaneous events could be organized in many places in Europe.

### **Themes of the event**

<b>Active Nonviolence</b>	<b>Science and Peace</b>
Nonviolent actions for social justice; Nonviolent revolutions	New technologies and Peace
	Scientists for Peace
<b>History and Peace</b>	<b>Networking</b>

Demilitarization of History	Strengthen peace movements
Histories of peace movements	Involve young people

<b>Economy and War/Peace</b>	<b>Arts and Peace</b>
War industry & Arms trade	Peace artists;
	Music for peace
Conversion of these industries	Forum and Playback Theatre
<b>Women for Peace</b>	<b>Dealing with the Past</b>
Role of women in/after war	Reconciliation; Peace memories
Gender issues and gender equality	Culture of remembering

<b>Human Security</b>	<b>Sustainability and Peace with Nature</b>
Human rights, gender justice, economic, food, health and development security	Ecological issues, economical systems and growth
<b>Media and Peace</b>	<b>Networking</b>
Journalists & Press agencies for Peace	Strengthen peace movements
TV, Radio, Internet	Youth involvement

<b>Active Peace Policy</b>	<b>Education for Peace</b>
A new European policy for Peace	Education for Peace and Nonviolence;
Ministries of Peace; Conflict transformation and Civil Peace corps	Curriculum for Peace; Teachers for Peace

**Intercultural Dialogue**

Religions and cultures in peacebuilding

Cultural diversity

**Activities**

**The Peace Event Sarajevo 2014 will include, among others, the following types of activities:**

- Plenary sessions, keynote speeches, workshops and roundtable discussions on the above mentioned topics;
- A Peace trail, with NGOs presentations, exhibitions; music and film festival;
- Public events, street actions, artistic performances, animations in/with schools
- An International Youth Camp

**The Peace Event Sarajevo 2014 will be:**

- A meeting and exchanging place for activists, practitioners and researchers of peace and active nonviolence.
- An opportunity to review the achievements and challenges related to peace and nonviolence in Europe.
- An opportunity to present a Culture of Peace and Nonviolence in its diverse dimensions.
- A space to plan joint initiatives for the advancement of a Culture of Peace.

**How you can contribute**

If your organization or yourself as an individual have expertise on any of the above topics and/or wish to organize an activity that fits into one or more of the outlined categories, you are invited to write to the Coordinating Committee of the Peace Event Sarajevo 2014 to receive more information on the required steps.

**KEY VALUES of the Peace Event**

*Positive peace*

*Overcoming the institution of war*

*Further build on positive experiences related to non-violent movements*

*Solidarity, overcoming rivalry and competition, developing inclusive policies*

**Coordinating Committee**

**Alessandro Capuzzo** (Italian Network for Civil Peace Corps, Trieste)

**Bernard Dréano and Viviane Gendrot** (HAC France, Paris)

**Christian Renoux** (International Network for a Culture of Nonviolence and Peace, Paris)

**David Abyoni** (Nyitókör Egyesület, Budapest)

**Dragana Dardic** (HCA Banja Luka & Tuzla, Banja Luka)

**Goran Bubalo** (Mreža za izgradnju mira / Peace building Network, Sarajevo)

**Ljiljeta Goranci Brkic** (Nansen Dialog Center, Sarajevo)

**Pete Hämmerle** (Versöhnungsbund Austria, Wien)

**Reiner Braun** (IALANA, Berlin)

**Zaira Zafarana** (Comitato Italiano per una Cultura di Pace e Nonviolenza / MIR Italy, Torino)

*For further information about the event and other activities in 2014: [www.p2014.eu](http://www.p2014.eu)*

*The following piece is the lead article from the Newspaper 1914-2014, which can be found under: [http://www.no-to-nato.org/wp-content/uploads/2013/09/Newsletter\\_1914-2014\\_eng\\_web.pdf](http://www.no-to-nato.org/wp-content/uploads/2013/09/Newsletter_1914-2014_eng_web.pdf)*

## 1914 – 2014: Create Peace – Abolish War

Summer 2014 will be the commemorations to 100 years of the beginning of World War I

World War I fundamentally changed the political, social and economic fields in the world and many rudimentary questions and challenges have been put on the agenda. It was a war of unforeseen cruelties, destruction, annihilation, technization of war, and total eruptions of violence.

The official politics will actively interpret the results and will want to use them for their European policies. They see the EU's Nobel Peace Prize 2012 as encouragement and will increasingly courtship for today's EU as a force for peace. But to daily wage and legitimize war while weeping crocodile tears about a past war is insincere and hypocrite.

The peace movements and critical and reflective people face a great challenge. It is necessary to educate on the economically disastrous and anti-democratic project “European Union”. It is necessary to destroy the myth about the civil force of Europe; it is a military force – indeed not comparable to the USA but interventionist and armament-oriented.

## World War I 1914-2014: Which lessons have we learnt?

Only by acting united and internationally the peace movement is a moving social force. It needs to united

different social and societal organizations and political currents.

Basis for actions of the peace movement is an unmistakable “No to War and to all forms of national and international militarization”. There is no justification

of war no matter under which guise it gets presented – human rights, humanitarian intervention, responsibility to protect. To put it bluntly: the poison of 1914, nationalism and chauvinism today are replaced by a propaganda calling for the feigned defence of human rights or for the defence against the so called Islamic terrorism. The underlying interests – back in 1914 and today – remain the same: a redistribution of the world along economic and interests of great powers.

Historically and currently war is anti-democratic and deterrent. Thus, engaging for peace always means to defend fundamental

democratic rights and liberties against snooping, surveillance, and censorship. Armament has to be rudimentarily rejected. In 1914 new tanks and airplanes as well as poison gas were invented. Today the global armament is the modernization of nuclear weapons, drones as an important step towards an encompassing automatization and robotization of war, and the vast spread of old and new weapons systems around the world. Then and now the protest against weapons export and arms trade is a protest against the business of murder in the whole world.





War destroyed and still destroys nature. The peaceful defence and preservation of nature is needed more than ever, among others to handle the climate catastrophe and for the life of the generation after next. Till this day no tree is growing in Verdun; Vietnam is still victim of defoliation; the people of Hiroshima and Nagasaki still suffer of the results of the only droppings of nuclear weapons. The possibilities to completely destroy the blue planet earth and human living have not been banned from this world but still exist.

In 2014 the concept that there exist alternatives to war has to be renewed. In 1914 and the following years Rosa Luxemburg and Alfred Fried (just to name two) were acting against the savageness of World War I. Today comprehensive concepts of civil and societal alternatives oppose the concept of war. The statement “there is no alternative” is a lie. Peaceful alternatives have to be politically wanted. The peace movement has always struggled for them; today, with the broad public knowledge of the catastrophic consequences of the wars in Iraq and Afghanistan, with growing insight of misuse of the United Nations for the legitimization of war, and with clearer view on the dreadful role of hegemonic powers in the proxy war in Syria.

Learning the lessons of World War I means to abolish the institution of war. This will only work if the idea of global justice and a culture of peace gains global foothold in politics and ethics.

This is the challenge we are facing in the preparation of actions around 100 years of World War I in any country, with any of the manifold creative activities, and with the central international “peace event” in Sarajevo in June 2014.

Even though it is also of importance, it is not only a question of lessons learnt of history. Rather it is a matter of shaping a peaceful future worth living in. We want the “cultural hegemony” (Gramsci) for peace. Without peace and other social movements this will not happen. In “The International” it says:

“There are no supreme saviours / Neither God, nor Caesar, nor tribune\*. Producers, let us save ourselves / Decree the common salvation.”

\*Today also parliamentary/presidential democracy.

*Reiner Braun, Executive Director IALANA, Member of the coordinating committee „Peace Event Sarajevo 2014“*

#### **Statement by 1980 Nobel Peace Prize laureate Adolfo Pérez Esquivel:**

“The great German - French reconciliation, for what is it good for if the two nations are now together again rushed into war for foreign interests.

The country of the great revolution and human rights and the land of Goethe, Schiller and Brecht should fight together the evils of neo-liberal economics – on behalf of human rights and in the name of peace. That is the only way we can make this world to a better place.”

## **Joseph Gerson's Speech at the United Nations High Level Meeting on Nuclear Disarmament**

**26 September, 2013 – New York**

### **Civil society statement to the UN high-level meeting on nuclear disarmament**

#### **Delivered by Joseph Gerson of the American Friends Service Committee on behalf of civil society**

I want to begin by invoking the words of Yamaguchi Senji, one of the most seared and courageous Nagasaki A-bomb survivors, who passed away this summer. Speaking to the Second Special Session on Disarmament thirty-one years ago, he said:

...look at my face and hands. We should never allow people in the world or succeeding generations to suffer deaths and agonies from nuclear war as we, the Hibakusha, have done.

We appeal that now is the time for the UN to draw a comprehensive disarmament program with a specific timetable and with a ban on nuclear weapons as its top priority, and do its utmost to uproot the crisis of nuclear war.

Thirty-one years have passed since Yamaguchi-sensei's heartfelt appeal, and humanity still faces the threat of nuclear annihilation. It has been nearly two decades since the NPT was extended on the basis that the nuclear powers would pursue the "systematic and progressive" reduction and elimination of nuclear weapons globally, yet our survival remains in the balance against the world's estimated 17,000 remaining nuclear weapons. U.S.-Russian discussions on a follow-on to New START have stalled. Other nuclear-armed states, including China, India, and Pakistan, have continued to build up their overall nuclear weapons capabilities. All nuclear-armed states are engaging in or have plans to modernize their nuclear weapons.

We have been more than disappointed by the extremely limited and halting steps taken by the nuclear-armed states to fulfill their nuclear disarmament obligations. We are deeply disturbed by the reality that every nuclear-armed state has prepared for or threatened nuclear attack during wars and international crises; by the first use nuclear attack doctrines of most nuclear-armed states; by the modernizations of nuclear weapons; and by the continuing dangers of nuclear weapons proliferation.

The consequences of nuclear explosions so chillingly described by Nosizwe Baqwa are fundamentally inhuman. They are utterly incompatible with the elementary considerations of humanity that lie at the foundation of international humanitarian law. The implication is inescapable: these weapons must be completely eliminated. As the International Court of Justice made clear, elimination is required by the universally binding legal obligation to engage in good faith negotiation for complete nuclear disarmament. That obligation is rooted not only in the NPT, but in the long history of the United Nations.

Ladies and gentleman, there are no good nuclear weapons and no right hands for them, just as there are no good chemical or biological weapons. The nuclear deterrence policies, belied in large measure by first-use doctrines, are predicated on the willingness and capacity to inflict genocidal or omnicidal destruction. Nuclear weapons do not and cannot bring security. They bring the threat of death and destruction – including for those downwind from nuclear tests and those who do the work of constructing and dismantling the weapons. Nuclear weapons drive proliferation, thus increasing the likelihood of nuclear war. They divert vast and essential resources needed to address real human needs – including the Millennium Development Goals.

We are not dealing with abstractions. Humans and our systems are anything but infallible. Accidents happen. Systems fail. And miscalculations are endemic to the human condition. Today marks the 30th anniversary of the day that Col. Petrov, the duty officer at a nuclear early-warning system command center near Moscow, may have saved humanity by reporting a false alarm when his systems warned that the U.S. had launched a nuclear attack. This year saw the release of an official report advising that cyber attacks may need to be countered by nuclear attacks. Nuclear missile tests have been conducted in the run up to this meeting, and one is even scheduled for this very day. Northeast Asia experienced yet another

nuclear weapons test as well as simulated nuclear attacks. Also in that region, the world was brought to the brink of war, potentially nuclear war, in an increasingly militarized territorial dispute. Tensions between nuclear powers flared again in South Asia.

It is long past time to begin and to conclude comprehensive negotiations for the time-bound, verified, and irreversible abolition of nuclear weapons. There is no lack of ways and means. A model treaty has been put forward by Malaysia and Costa Rica. This summer in Geneva, the unprecedented UN Open-Ended Working Group held in-depth discussions, with ample civil society participation, of proposals to take forward multilateral negotiations on the achievement of a world free of nuclear weapons. And the UN Secretary-General has put forward a five-point proposal on nuclear disarmament.

This high-level meeting has provided an opportunity to governments to take these proposals to the next level. Action to implement them needs to begin now. The recent Russian-US agreement on Syria's chemical weapons stocks serves as a reminder of what urgent and committed diplomacy can achieve. Nuclear weapons abolition, which is essential for human survival, should be pursued with the same sense of urgency and dedication.

Here are some key steps:

1. In the immediate aftermath of the Cold War, Presidents Gorbachev and Bush achieved a massive and reciprocal removal of nuclear weapons from deployment without the laborious and obstacle-filled process of treaty negotiation. That is a model to emulate. Such parallel reductions, reinforced by the dealerting of their nuclear arsenals, would greatly reduce the nuclear threat and stimulate the process of multilateral nuclear weapons abolition by all nuclear-armed states.
2. All modernization of nuclear forces and infrastructure should cease.
3. Comprehensive negotiations for the abolition of nuclear weapons should be commenced without delay. They need not and should not await steps like entry into force of the nuclear test ban treaty and negotiation of a fissile materials treaty.
4. The conference for a Weapons of Mass Destruction-Free Middle East should be convened, and the world's Nuclear Weapons Free Zone Treaties should be reinforced by commitments to fully respect them.
5. States free of nuclear weapons have a role and responsibility to demand and work for nuclear abolition. Norway's and Mexico's examples of organizing conferences on the humanitarian consequences of nuclear weapons provide one model. Another is divestment from companies that produce nuclear weapons and their components, a policy now in effect in Norway and New Zealand and introduced as legislation in Switzerland. No one should profit from the production of inhuman, genocidal, and potentially omnicidal weapons.
6. The NPT recognizes that progress in the reduction of military tensions, elimination of biological and chemical weapons, and limitations of so-called "conventional" weapons complements nuclear weapons abolition. Looking forward, limitations on anti-missile systems, cyber warfare, and other high-tech capabilities will also facilitate the complete elimination of all nuclear arsenals and nuclear weapons capabilities.

Each of us, whether head of state, minister, ambassador, activist, or scholar, has agency. Each of us is responsible to our loved ones and to future generations to protect human lives and to preserve the human species. Each of us – to different extents – can impact our nations' policies. On behalf of the world's NGOs working for the abolition of nuclear weapons, I urge you to remember your humanity and take bold actions to eliminate the danger of nuclear war and annihilation. If there are to be No More Hiroshimas, No More Nagasakis, No More Hibakushas, there must be No More Nuclear Weapons!!

*Joseph Gerson is disarmament coordinator of the American Friends Service Committee and director of programs for AFSC in New England.*

## UN High-Level Meeting on Nuclear Disarmament

**John Burroughs, Executive Director, Lawyers Committee on Nuclear Policy**

The first-ever UN High-Level Meeting on Nuclear Disarmament was held in the General Assembly in New York on September 26. Some 75 governments spoke, most represented at the foreign minister, prime minister, or head of state level. The large majority called for urgent action to achieve the global prohibition and elimination of nuclear weapons. Reflecting a strong trend since 2010, many referred to the humanitarian and environment consequences of nuclear explosions. Statements of governments, international organizations, and civil society are posted at: <http://www.reachingcriticalwill.org/disarmament-fora/others/hlm-nuclear-disarmament/statements/>.

The President of Austria, Heinz Fischer, said: “Nuclear weapons should be stigmatized, banned and eliminated before they abolish us.” A number of governments quoted Secretary-General Ban Ki-moon’s pithy statement: “There are no right hands for the wrong weapons.”

Some governments highlighted that one cannot consistently condemn the use of chemical weapons in Syria but countenance continued reliance on nuclear weapons. “For the vast majority of UN member states, the days of chemical weapons as weapons of war are over,” said the Irish Foreign Minister, Eamon Gilmore. “So too, we believe, are the days of nuclear weapons.” Viola Onwuliri, Foreign Minister of Nigeria, said that the “zero tolerance” for biological and chemical weapons should apply to nuclear weapons as well.

The Non-Aligned Movement (NAM) statement was given by President Hassan Rouhani of Iran. It was a NAM-sponsored General Assembly resolution in 2012 that scheduled the high-level meeting. President Rouhani said NAM will be putting forward a resolution in the General Assembly to 1) call for commencement of negotiations on a comprehensive convention prohibiting and eliminating nuclear weapons in the Conference on Disarmament; 2) designate September 26 as an international day to renew our resolve to completely eliminate nuclear weapons; and 3) convene a High-Level International Conference on Nuclear Disarmament in five years to review progress in this regard.

Beginning in June, Lawyers Committee on Nuclear Policy and other US groups campaigned for the US to take a more constructive approach to multilateral forums and for President Obama to speak at the High-Level Meeting (see letter at: [http://lcnp.org/files/060613\\_Obama.docx](http://lcnp.org/files/060613_Obama.docx)). However, none of the Permanent Members of the Security Council were represented at the level of foreign minister or higher, nor was a constructive attitude displayed, especially by the P-3.

In a joint statement, delivered by a policy adviser at the UK mission in New York, the United States, United Kingdom, and France said that they regret the energy being put into the High-Level Meeting, the Open-Ended Working Group, the humanitarian consequences campaign, and the push for a Nuclear Weapons Convention. A step-by-step approach, with the next step being the Fissile Materials Cut-off Treaty, is what is needed, they said. A contrasting view was provided by Evan P. Garcia, Deputy Minister for Foreign Affairs of the Philippines, who said that the step-by-step approach “has become synonymous with foot dragging”.

China reiterated its willingness to negotiate the elimination of nuclear weapons after the United States and Russia have made substantial reductions. Russia said negotiations on further reductions are possible only taking into account factors affecting “strategic stability”, including missile defense, non-nuclear strategic arms (i.e. global precision strike), potential weapons in space, imbalances in conventional arms, and uncertainty over entry into force of CTBT.

India said it is committed to the Rajiv Gandhi vision of a non-violent world order and in the meantime is maintaining a “credible minimum deterrent.” Pakistan spoke of nuclear disarmament in the context of general and complete disarmament with undiminished security for all states and its policy of a “credible minimum deterrent” and nuclear restraint.

Joseph Gerson of American Friends Service Committee and Nosizwe Baqwa of the International Campaign to Abolish Nuclear Weapons made excellent civil society statements. Ray Acheson of Reaching Critical Will and I coordinated preparation of the statements and contributed to them. The written text of Gerson’s statement includes this paragraph on law:

The consequences of nuclear explosions so chillingly described by Nosizwe Baqwa are fundamentally inhuman. They are utterly incompatible with the elementary considerations of humanity that lie at the foundation of international humanitarian law. The implication is inescapable: these weapons must be completely eliminated. As the International Court of Justice made clear, elimination is required by the universally

binding legal obligation to engage in good faith negotiation for complete nuclear disarmament. That obligation is rooted not only in the NPT, but in the long history of the United Nations.

A full account of the meeting by the UN Department of Public Information is at:  
<http://www.un.org/News/Press/docs/2013/ga11426.doc.htm>

### **Letter to President Obama by the Lawyers Committee on Nuclear Policy, urging him to speak at the September 26, 2013 UN High Level Meeting on Nuclear Disarmament**

June 6, 2013

President Barack Obama  
 The White House  
 1600 Pennsylvania Avenue  
 Washington, DC 20500

Mr. President,

As representatives of national organizations working for the global elimination of nuclear weapons, we respectfully urge that you speak at the September 26, 2013 High-Level Meeting on Nuclear Disarmament at the United Nations and:

- Reaffirm your determination expressed in Prague to seek the peace and security of a world without nuclear weapons and endorse UN Secretary-General Ban Ki-moon's Five-Point Proposal on Nuclear Disarmament;
- Announce your convening of a series of Nuclear Disarmament Summits beginning in 2014, if possible under UN auspices;
- Support extending the General Assembly's Open-Ended Working Group to develop proposals to take forward multilateral nuclear disarmament negotiations for the achievement and maintenance of a world without nuclear weapons;
- Announce that the United States will participate in the follow-on conference on the humanitarian impact of nuclear weapons to take place in Mexico in early 2014.

President Obama – our organizations are counting on you to be bold in your second term actions and to put your principles into practice. The time is right; the world is ready.

The Nuclear Security Summit process you initiated has been a success. However, securing nuclear materials, while significant, falls well short of what civil society expected following your Prague speech. A Nuclear Disarmament Summit process would take the logical next step by expanding the scope of nuclear dangers to be addressed to the many thousands of nuclear weapons held by states, a large number of which are deployed and ready for use.

The Open-Ended Working Group is a good-faith effort open to all UN members to determine how to proceed with negotiations on nuclear disarmament within the UN framework. You can demonstrate the United States' good faith by directing that the State Department change its current position and participate constructively in the working group this summer, and by supporting extension of the group's mandate.

One-hundred twenty seven countries participated in the March conference in Oslo on the humanitarian impact of nuclear weapons, but not the United States and other members of the Permanent Five. You can demonstrate United States' readiness to act in the spirit of Prague by committing to participate constructively in the follow-on conference in Mexico in early 2014.



In closing, we strongly urge that the United States take advantage of the present opportunities to pursue with vigor a nuclear weapons-free world in accordance with the UN Charter and the Non-Proliferation Treaty obligation to conduct negotiations in good faith on cessation of the nuclear arms race at an early date and nuclear disarmament. We appreciate your attention and would be happy to meet with you about the matters addressed by this letter.

Sincerely,

John Burroughs, Ph.D., Executive Director, Lawyers Committee on Nuclear Policy

[contact for this letter: johnburroughs@lcnpp.org;  
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10017]

Joseph Gerson, Disarmament Coordinator, American Friends Service Committee

Kevin Martin, Executive Director, Peace Action

Jacqueline Cabasso, Executive Director, Western States Legal Foundation

Jonathan Granoff, President, Global Security Institute

David Krieger, Ph.D., President, Nuclear Age Peace Foundation

Catherine Thomasson, Executive Director, Physicians for Social Responsibility

Susan Shaer, Executive Director, Women's Action for New Directions

Paul F. Walker, Ph.D., Director, Environmental Security and Sustainability, Global Green USA

Katherine Fuchs, Program Director, Alliance for Nuclear Accountability

Marylia Kelley, Executive Director, Tri-Valley CARES (Communities Against a Radioactive Environment)

Ralph Hutchison, Coordinator, Oak Ridge Environmental Peace Alliance

Jay Coghlan, Executive Director, Nuclear Watch New Mexico

Joni Arends, Executive Director, Concerned Citizens for Nuclear Safety

Harvey Zendt, 2020 Vision Campaigner, Mayors For Peace

Mark Johnson, Executive Director, Fellowship of Reconciliation

David Swanson, Co-Founder, WarIsACrime.org

Valerie Heinonen, OSU, Leadership Team, Ursuline Sisters of Tildonk - US Province

Odile Hugonot Haber, Co-Chair, Middle East Committee of WILPF-US

Alan Haber, Megiddo Peace Project, Ann Arbor Grey Panthers

Sr. Patricia Chappell, SNDdeN, Executive Director, Pax Christi USA

Ellen Rosser, President, World Peace Now

Kathleen Sullivan, Ph.D., Program Director, Hibakusha Stories

Steven G. Gilbert, Ph.D., DABT, Executive Director, INND (Institute of Neurotoxicology & Neurological Disorders)

cc:

John Kerry, Secretary of State

Rose Gottemoeller, Acting Under Secretary of State for Arms Control and International Security

Thomas M. Countryman, Assistant Secretary of State for International Security and Nonproliferation

Thomas Donilon, National Security Advisor

Ben Rhodes, Deputy National Security Advisor

Susan Rice, Permanent Representative to the United Nations

## The International Criminal Court and Nuclear Weapons

**Roger S. Clark, New York, 18 October 2013 (New Zealand/Switzerland discussion on Nuclear Weapons and International Law)**

The law develops in strange ways. It is absolutely forbidden in armed conflict, international or non-international, to use a barbed lance or a poisoned arrow, and as recent events have reminded us, chemical weapons. It is perhaps not yet absolutely forbidden to use nuclear weapons, although the vast majority of those States making submissions in the Nuclear Weapons Advisory Proceedings in the ICJ thought so, as did three of the judges. Various proposals before the Rome Conference on the Establishment of the International Criminal Court would have adopted the views of the dissenting judges and criminalized per se the use of nuclear weapons in both international and non-international armed conflict. It was, however, not possible to obtain a consensus to include the absolute illegality of those weapons in the Statute, which thus does not mention them specifically.

That is not the end of the matter. Mexico is to be commended for its lonely efforts to achieve an appropriate amendment to the Statute unequivocally criminalizing the employment of nuclear weapons. Moreover, and this is the basic point I want to stress today, genocide, war crimes and crimes against humanity, the core crimes in the Statute as it now stands, are what I shall call “weapons- neutral”. So too is the crime of aggression, whose ratification is proceeding apace. Those crimes can be effected with simple tools like guns and machetes, or with sophisticated ones like atomic bombs or sarin gas. Existing criminal law, in short, is not totally silent on nuclear weapons. There are many ways in which a prosecutor can formulate a case in the event of their use. What is needed is a careful examination of the substantive elements of the relevant offences and of the contextual features which give rise to jurisdiction in the ICC. Leaders of both aggressor and victim states need to be aware of the potential criminal consequences.

Consider genocide. “Genocide” (Article 6 of the Statute) is defined for the purposes of the Statute to mean any one or more of a list of “acts” committed

“with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.” The acts include: “killing members of the group”; “causing serious bodily or mental harm to members of the group”; and “deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part”. Nuclear weapons can achieve all of these. Under Article 30 of the Statute, the acts must be committed “with intent and knowledge”. As Paragraph 3 of the General introduction to the ICC’s Elements of Crimes, adopted in 2002, notes: “Existence of intent and knowledge can be inferred from relevant facts and circumstances”. Using an atomic weapon is a powerful “fact” and “circumstance” from which genocidal intent may be inferred. The ICJ itself noted this in its Nuclear Weapons Advisory Opinion. Responding to the argument that the very use of a nuclear weapon would be, in itself, genocide, the Court insisted that the prohibition of genocide would be “pertinent . . . if the recourse did indeed entail the element of intent, towards a group as such. . . .”

“Crimes against Humanity” (Article 7 of the Statute) contains another list of “acts” that are crimes within the jurisdiction of the Court when they are “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”. The acts here include “murder” and extermination”. Once again, use of a nuclear weapon is strong circumstantial evidence both of the existence of the “widespread or systematic attack” threshold and of intent and knowledge to kill or to exterminate.

“War crimes” are codified separately in the Statute in respect of international and non-international armed conflict. In the dispositive of its Nuclear Weapons Advisory Opinion, the ICJ notes that “the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law”. The Court insisted that it “shares

the view” that “there can be no doubt as to the applicability of humanitarian law to nuclear weapons”. It added:

Indeed, nuclear weapons were invented after most of the principles and rules of humanitarian law applicable in armed conflict had already come into existence; the Conferences of 1949 and 1974-77 left these weapons aside, and there is a qualitative as well as quantitative difference between nuclear weapons and all conventional arms. However, it cannot be concluded from this that the established principles and rules of armed conflict did not apply to nuclear weapons. Such a conclusion would be incompatible with the intrinsically humanitarian character of the legal principles in question which permeates the entire law of armed conflict and applies to all forms of warfare and to all kinds of weapons, those of the past, those of the present and those of the future.

In an interpretive declaration accompanying its ratification of the Rome Statute, New Zealand drew attention to this statement, and added that: “The Government of New Zealand further notes that international humanitarian law applies equally to aggressor and defender states and its application in a particular context is not dependent on whether or not a state is acting in self-defence.”

In international armed conflict, the use of a nuclear weapon could readily fit the category of “grave breaches” of the Geneva Conventions (Article 8 (2) (a)) encompassed by “willful killing”, “torture or inhuman treatment” or “willfully causing great suffering, or serious injury to body or health”. It can equally come within the category “other serious violations of the laws and customs applicable in international armed conflict” (Article 8 (2) (b)), namely such specific items as “intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities”, or “intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly

excessive in relation to the concrete and direct overall military advantage anticipated”.

The Statute’s list of crimes in non-international armed conflict is not as extensive as that in international armed conflict, although distinctions between the two classes or warfare are slowly collapsing. Nevertheless, a use of nuclear weapons in a civil war could well implicate the prohibition based on Common Article 3 of the Geneva Conventions, namely violence to life and person of those taking no part in hostilities, in particular murder, mutilation, cruel treatment and torture. (Article 8 (2) (c)). Similarly it could come within the category of “intentionally directing attacks against the civilian population as such or against individual civilians not taking a direct part in hostilities” (contained in Article 8 (2) (e) (i) on “other serious violations . . . applicable in armed conflicts not of an international character”).

Fifty years and eight days ago, on 10 October 1963, the Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water entered into force. Its preamble had the parties:

Proclaiming as their principal aim the speediest possible achievement of an agreement on general and complete disarmament under strict international control in accordance with the objectives of the United Nations which would put an end to the armaments race and eliminate the incentive to the production and testing of all kinds of weapons, including nuclear weapons.

As a young man in New Zealand’s Department of External Affairs, I helped draft New Zealand’s instruments of ratification to that instrument. I have never stopped wondering about that paragraph. Was this language mere literary conceit, a stunning example of hypocrisy, or was it a genuine commitment? Be that as it may, the Rome Statute stands as a deterrent and as a pledge that there should be no impunity for those leaders who would dare to again use a weapon the “destructive power of which”, as the Court said, “cannot be contained in either space or time”.

## **Protest against Japanese Government, which refused to sign the “Joint Statement on the humanitarian impact of nuclear weapons”**

**May 8, 2013**

**Japan Association of Lawyers Against Nuclear Arms  
(Translation by Yaeka Inoue)**

The Japanese Government refused to sign the “Joint Statement on the humanitarian impact of nuclear weapons,” which was delivered by the representative of South Africa on behalf of 74 State Parties at the Second Preparatory Committee for the 2015 NPT Review Conference in Geneva on April 24.

As to why the government refused to sign the Statement, Ambassador Mari Amano, permanent representative to the Conference on Disarmament, stated as follows: *Japan supports the fundamental message regarding the humanitarian impact of nuclear weapons..., taking into account the security environment surrounding Japan..., Japan decided to forgo joining the statement.*

According to the press, the reason for the refusal is that the following part of the Statement is not compatible with the policy of nuclear deterrence of Japan: *It is in the interest of the very survival of humanity that nuclear weapons are never used again, under any circumstances.*

The Joint Statement was issued in the context of a historical process of aiming at the abolition of nuclear weapons in the view of international humanitarian law, and follows the “deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons” expressed in the final document of the 2010 Review Conference of the NPT. The process of reaffirming the illegality of use of nuclear weapons and outlawing and abolishing them based on the international humanitarian law is seen in the Judgment of the Shimoda Case by the Tokyo District Court in 1964, the 1996 Advisory Opinion of the International Court of Justice, the final document of the 2010 NPT Review Conference, and the “Conference of the Humanitarian Impact of Nuclear Weapons” held in Oslo in March this year. The Conference held in Oslo highlighted a new humanitarian view-

point that “no State or international body could address the immediate humanitarian emergency caused by a nuclear weapon detonation or provide adequate assistance to victims” (the Joint Statement) in addition to the longtime concern at indiscriminate damage caused right after a nuclear weapon is used and its wide-ranging and lasting aftereffect. All of these were the very facts Japan experienced in Hiroshima and Nagasaki, where medical institutions were destroyed and those who went for emergency relief also suffered grave damage.

However, Japanese Government did not agree with this Joint Statement. It is Japan that should lead the abolition of nuclear weapons in the view of inhumane consequence of a nuclear use and international humanitarian law. Nevertheless, the Government refused to sign the Statement. We cannot help feeling strong indignation at this attitude.

Japan Association of Lawyers Against Nuclear Arms (JALANA) strongly protests against Japanese Government, which should play a special role in realizing a world free of nuclear weapons for the survival of humanity but has failed to do so. Such an attitude of the country that has ever suffered nuclear attacks is an obstacle to the international community that desires a world without nuclear weapons. At the same time, JALANA would like to urge the Government, which “wishes to explore seriously the possibility of joining a statement with the same theme in the future (Statement by Ambassador Amano)”, to join the Statement as soon as possible.

This December is the 50<sup>th</sup> anniversary of the Judgment of the Shimoda Case by the Tokyo District Court, which declared for the first time in the world that the use of nuclear weapons (atomic bombs) was illegal under the international law. We would like to convey to the world the significance of Hiroshima

and Nagasaki, which are the origin of the inhumanity of the use of nuclear weapons.

## Appendix

### Japan to sign U.N. statement against use of nuclear weapons

TOKYO, Oct. 11, Kyodo

The Japanese government has decided to sign for the first time a joint statement to be issued at the United Nations calling on countries not to use nuclear weapons under any circumstances, Japanese government sources said Thursday.

Similar U.N. statements have been drafted three times before but Japan refused to endorse them on the grounds that they would contradict its policy of relying on the U.S. nuclear umbrella, they said.

Tokyo will join more than 80 other countries in upholding the statement to be released, possibly on Oct. 17, at the First Committee of the U.N. General Assembly, as it has confirmed with New Zealand, one of the drafters of the initiative, that the document will not be legally binding, the sources said.

Japanese Foreign Minister Fumio Kishida, a native of Hiroshima, is eager to promote nuclear disarmament and thought it would not be desirable for Japan to continue opposing U.N. initiatives calling on nations not to use nuclear weapons, they said.

People in Hiroshima and Nagasaki, which suffered U.S. atomic bombings in 1945, have criticized Japan's past refusal to sign U.N. documents on nuclear arsenals.

Hiroshima is scheduled to host a foreign ministers' meeting of the 10-member Non-Proliferation and Disarmament Initiative group in 2014.

From:

[http://english.kyodonews.jp/news/2013/10/251103.html?searchType=site&req\\_type=article&phrase=japan+humanitarian+statement](http://english.kyodonews.jp/news/2013/10/251103.html?searchType=site&req_type=article&phrase=japan+humanitarian+statement)

### Draft U.N. statement says nukes not to be used "under any circumstances"

NEW YORK, Oct. 11, Kyodo

A draft of a joint statement on nuclear disarmament that Japan has decided to join in crafting along with other countries for release at the United Nations says nuclear arsenals should never be used again "under any circumstances" in the interest of humanity's survival.

The draft, obtained by Kyodo News, also says the inhuman nature of atomic weapons "became evident from the moment of their first use," apparently alluding to Hiroshima, the first city devastated by a nuclear explosion in history.

Similar U.N. statements were issued three times in the past. But Japan did not endorse them on the grounds that a reference that nukes should not be used "under any circumstances" would contradict Japan's policy of relying on the U.S. "nuclear umbrella."

In a shift of position, Japanese Foreign Minister Fumio Kishida on Friday announced that Tokyo would endorse the joint statement.

A group of countries are currently fine-tuning the wording of the document expected to be unveiled Thursday or later, diplomats said.

The draft statement says nuclear weapons use would cause devastating consequences with "deep implications for human survival; for our environment; for socio-economic development; for our economies; and for the health of future generations."

Noting the uncontainable catastrophic effects of a nuclear weapon detonation, by design or accident, the statement says, "It is in the interest of the very sur-



vival of humanity that nuclear weapons are never used again, under any circumstances."

It has also been speculated that Japan did not endorse past statements because they did not conform to the country's policy of seeking the elimination of nuclear weapons in a phased manner.

The upcoming statement, however, mentions "all approaches and efforts towards nuclear disarmament," allowing a broader range of countries to support it.

The past documents also had cited "outlawing" nuclear weapons, an expression rejected by Japan but

the word "outlaw" was eliminated in the last statement issued in Geneva in April.

The Geneva statement noted the application of international humanitarian law to the use of nuclear weapons. This was not included in the draft statement, weakening the advocacy of a ban on nuclear weapons through international law.

From:

[http://english.kyodonews.jp/news/2013/10/251103.html?searchType=site&req\\_type=article&phrase=japan+humanitarian+statement](http://english.kyodonews.jp/news/2013/10/251103.html?searchType=site&req_type=article&phrase=japan+humanitarian+statement)

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## **Afghanistan's Hamid Karzai says Nato caused 'great suffering'**

**BBC, October 7**

President Hamid Karzai has criticised Nato for failing to bring stability to Afghanistan in over a decade there.

"On the security front the entire Nato exercise was one that caused Afghanistan a lot of suffering, a lot of loss of life, and no gains because the country is not secure," he said.

He said Nato had incorrectly focused the fight on Afghan villages rather than Taliban safe havens in Pakistan.

Mr Karzai has just six months remaining in office until a successor is elected.

"I am not happy to say that there is partial security. That's not what we are seeking. What we wanted was absolute security and a clear-cut war against terrorism," Mr Karzai said of the Nato campaign.

Speaking in one of his last major interviews before stepping down, he told BBC Newsnight that his priority now is to bring peace and security to Afghanistan, including a power-sharing deal with the Taliban.

He said that his government was actively engaged in talks with the hardline Islamic group with this aim in mind:

"They are Afghans. Where the Afghan president, the Afghan government can appoint the Taliban to a government job they are welcome," he said. "But where it's the Afghan people appointing people through elections to state organs then the Taliban should come and participate in elections."

### **Women's rights**

He dismissed concerns that bringing the Taliban back into government would sacrifice the tenuous gains on the status of women made in Afghanistan.

"The return of the Taliban will not undermine progress. This country needs to have peace. I am willing to stand for anything that will bring peace to Afghanistan and through that to promote the cause of the Afghan women better," he said.

"I have no doubt that there will be more Afghan young girls and women studying and getting higher education and better job opportunities. There is no doubt about that; even if the Taliban come that will not end, that will not slow down," he added.

Before the elections for Mr Karzai's successor the United States is keen to finalise a bilateral security agreement which will also formalise US-Afghan relations following the 2014 Nato troop withdrawal.

The US wants this signed by Mr Karzai, to avoid it becoming an election issue. However, the Afghan leader told Newsnight he was in no hurry to sign a pact:

"If the agreement doesn't suit us then of course they can leave. The agreement has to suit Afghanistan's interests and purposes. If it doesn't suit us and if it doesn't suit them then naturally we will go separate ways."

The US is becoming more and more pessimistic about the issue and has said it will consider a zero troops option.

### **Troop drawdown**

Mr Karzai has had troubled relations with his Western backers in recent years for openly criticising Nato, whom he has accused of having no respect for Afghan sovereignty.

In 2009, US President Barack Obama described Mr Karzai as an unreliable and ineffective partner. How-

ever, speaking to Newsnight Mr Karzai dismissed the claim saying he was characterised in this manner "because where they want us to go along, we don't go along. They want us to keep silent when civilians are killed. We will not, we cannot".

He said that in the years immediately following the US-led invasion of Afghanistan he had had good relations with the-then President George W Bush as in "those beginning years there was not much difference of opinion between us".

"The worsening of relations began in 2005 where we saw the first incidents of civilian casualties, where we saw that the war on terror was not conducted where it should have been."

Mr Karzai said the war should have been conducted "in the sanctuaries, in the training grounds beyond Afghanistan, rather than that which the US and Nato forces were conducting operations in Afghan villages, causing harm to Afghan people."

There has also been much criticism of the Afghan government's failure to deal with corruption, which along with lack of progress on significantly improving women's rights, saw Norway cutting some its aid to the country last week.

"Our government is weak and ineffective in comparison to other governments, we've just begun," Mr Karzai said. "But the big corruption, the hundreds of millions of dollars of corruption, it was not Afghan. Now everybody knows that. It was foreign."

"The contracts, the subcontracts, the blind contracts given to people, money thrown around to buy loyalties, money thrown around to buy submissiveness of Afghan government officials, to policies and designs that the Afghans would not agree to. That was the major part of corruption," he said.

From:

<http://www.bbc.co.uk/news/world-24433433>



**Conference: *Afghanistan 2014 – Challenges for Peace and Development***

**International Afghanistan Conference: April 25-27, 2014**  
**organized by the International Network *No to War – No to NATO***

**Location: CIARUS, 7 rue Finkmatt, 6700 Strasbourg, France**

**Registration: [registration@afghanistanprotest.eu](mailto:registration@afghanistanprotest.eu)**

**For further information: [www.afghanistanprotest.eu](http://www.afghanistanprotest.eu)**

**Questions remain as Kunduz trial continues**

**Who was responsible for the deaths of more than 100 civilians in Afghanistan? Video footage from American jets may shed light on the case as a court in Bonn deliberates the bombing of two tanker trucks.**

**(DW, October 31, 2013)**

Should the German commander Colonel Georg Klein, who was in charge of the operation at the time, have known that civilians had gathered around fuel tankers which had been stolen by the Taliban? Yes, according to activists from various peace-initiatives, demonstrating in front of the Bonn District court (30.10.2012). "Klein has violated international law," said Eymen Nahali, member of the left-wing anti-capitalist group, Aktion Bonn. "He is a mass murderer and war criminal."

Protesters carried "wanted posters" with Klein's photo and set up small signs with the names and ages of the victims of the Kunduz bombing. According to

police estimates, about 100 - 150 anti-war activists gathered for the rally.

**Bombardment with civilian casualties**

Lawyers Karim Popal and Peter Derleder represent the families of the victims. In civil proceedings at the Bonn district court, Popal said that a father who had lost two sons and a widow with six children who had lost her husband are suing for damages. Together the plaintiffs are seeking combined compensation of 90,000 euros (\$123,000) from Klein's employer, the German Ministry of Defense.

On September 3, 2009, Taliban fighters kidnapped two fuel tankers and killed a driver at a fake check-point. A few hours later, the stolen tankers got stuck in a dry river bed just a few kilometers from the German NATO camp in Kunduz. Shortly before 2 a.m. local time on September 4, Colonel Klein gave the command for the bombardment. In the subsequent attack, between 91 - 137 civilians died.

"Mr. Klein acted incorrectly. He made the decision himself, and he also saw the civilian population," said Popal. "But he deliberately and intentionally gave the command to attack."

### **No 'show of force'**

Two American pilots had been circling the scene for hours to get an overview of the situation. Repeatedly the pilots suggested a scare tactic of flying low over the tankers to chase the civilians away. But Klein declined this "show of force."

The Ministry of Defense, represented by Mark Zimmer, pleaded for the case to be dismissed at the opening of the trial in March 2013. According to Zimmer, the ministry is not the right target. "In our case Colonel Klein was not acting solely on behalf of the Federal Republic of Germany, but rather, he was involved in a NATO system. Therefore his superiors were NATO officers," Zimmer told DW prior to the start of the trial. The court, however, did not accept this argument.

### **Answers through aerial photographs?**

Now video footage from the American jets should shed some light. In the infrared images, people appear as small black dots approaching and leaving the fuel tankers and moving between them. Should Colonel Klein have recognized in these photos that these were civilians siphoning gasoline?

The defense disputes the footage. Zimmer calls it a "diffuse image," and according to experts from the German federal government, neither civilians nor Taliban fighters are clearly recognizable.

For the plaintiffs, however, the imagery shows clear patterns of movement to indicate that civilians were approaching the tankers with canisters, then returning to their villages.

### **'Taliban work in small groups'**

Toward the end of the proceedings, Thomas Ruttig, an expert on Afghanistan, explained the behavior of the Afghan rural population and the Taliban. Ruttig stressed that during Ramadan, when the attack occurred, it is not uncommon for people to remain out until late at night. He added that free fuel would have been a generous gift for the impoverished villagers - which is what might have lured them to the tankers.

Very seldom, Ruttig added, do more than 10 Taliban fighters at a time take part in a mission. On the aerial photographs many black dots are visible. "Someone familiar with the subject should know that such a large group can't just be made up of Taliban," Ruttig told DW after the trial. "For me, the back and forth looked much more like a frenzied flock of chickens."

The next trial date is set for December 11. At that point either the case will be dismissed, said court spokesman Philip Prietze, or the judges will find that Colonel Klein may have acted wrongly and will want to sift through additional evidence and witnesses.

From:

<http://www.dw.de/questions-remain-as-kunduz-trial-continues/a-17196492>

\* Karim Popal is a Board member of IALANA Germany; Peter Derleder a member of the Council.

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## **Report from Western States Legal Foundation, USA**

*In early September, when the United States appeared to be on a fast track to war, Western States Legal Foundation published a briefing paper on the international law implications of the Syria crisis, written by Andrew Lichterman, with contributions from Jacqueline Cabasso and John Burroughs. The Information Brief, titled The Rush to Bomb*

*Syria: Undermining International Law and Risking Wider War, argued that there is no legal basis for unilateral attacks on Syria by the United States or other powers, and that there are legal and diplomatic alternatives to military action, particularly the mechanisms provided by the Chemical Weapons Convention and the Organization for the Prohibition of Chemical Weapons. We were pleased (and as surprised as everyone else) to see that in this instance the available legal and institutional and diplomatic resources were used rather than ignored. Some excerpts from the introduction and conclusion can be found below. The full briefing paper is available at: <http://wslfweb.org/docs/wslfsyriabrief1.pdf>*

Once again, the President of the United States is leading a rush towards war without regard for the United Nations Charter and the international legal regime intended to control prohibited weapons and to respond to threats to peace and security. Even before United Nations inspectors were on the ground in Syria to determine whether a chemical weapons attack had occurred, the U.S. and its allies began moving ships into attack position in a manner that, in the context of public statements by the leaders of the United States, France, and the United Kingdom, constituted an undeniable military threat to Syria.

Since World War I, use of chemical weapons has been viewed almost universally as monstrous, and as a violation of treaty-based and customary standards of international humanitarian law. If they were used in Syria by any party, that action should be condemned, and all states should cooperate in identifying the perpetrators and in pursuing their apprehension and prosecution by all legal means. There is no provision of international law, however, that allows ad hoc coalitions of countries to determine for themselves who they believe the guilty parties to be, and to punish them by acts of war against the territory of a sovereign state. The United Nations Charter allows unilateral military action only where a country is under attack or imminent threat of attack. None of the countries proposing the use of force against Syria can make any claim that Syria has attacked them, or that they are under imminent threat of attack. International treaties outlawing chemical weapons and prohibiting their use provide no special exception for such ad hoc use of military force. To the contrary, the Chemi-

cal Weapons Convention, the most comprehensive instrument concerning chemical weapons, provides for investigation of alleged violations by specialist bodies constituted by the Convention and recourse to the United Nations to authorize any use of force.

In this instance, it is especially important that transparent, credible procedures be followed for investigation of the allegations of chemical weapons use and a determination of the responsible party or parties, as well as for actions to prevent further use and to punish those culpable.

The airwaves are full of pundits and politicians saying that both the chemicals weapons use and the broader crisis in Syria present no good choices. But it is hard to see how breaking solemn undertakings to most of the countries in the world by neglecting treaties and principles of international law that the United States has agreed to will either bolster U.S. “credibility” or enhance respect for international law. President Obama says he is ready to make the “hard choices.” But giving in to the powerful, omnipresent American war caucus once more by sending cruise missiles against a country that cannot respond in kind is neither a hard choice for an American president nor a good one. It is a course of action that will take many lives with little promise of saving others, and that will once again lead us all down a dangerous road with no visible end. For American elected officials, saying no to the easy, violent options offered by a national security and military industrial complex too long ascendant would be the hard choice, the courageous choice, and the right choice.



## **The development of the civil proceedings in Italy to gain compensation from Germany for forced workers of WWII and the massacres of the Wehrmacht**

**by Jo Lau**

After German reunification, many Italian claimants unsuccessfully asked German courts to hear their cases because German legislation excluded foreigners from any kind of legal recognition or compensation programs regarding the war damage they had. Therefore my law office sued the German state on behalf of Mr. Ferrini, a citizen from the village of Talla in Tuscany in the local Court of Arezzo to ask compensation for his deportation and suffering in a concentration camp at Kahl/Thuringia from 1944 to 1945. Germany appeared before the court and objected its jurisdictional immunity.

After 6 years, the Supreme Court rejected Germany's objection, saying that the gross violation of international humanitarian Law cannot justify jurisdictional immunity in civil cases. The Court then confirmed four years later its decision also with respect to the victims of massacres and the exequatur proceeding for the judgment of Livadia (Distomo); this tribunal almost had just condemned Germany in 1997 to pay 25.000.000 Euro for the massacre carried out on June 10, 1944 at Distomo, Greece.

At this moment Berlusconi and Merkel agreed to correct the national jurisdiction of the Italian Supreme Court by an international case in the ICJ. After a 3 year proceeding with a lot of strange events and circumstances, the International Court decided

with its judgment of February 3, 2012, that Italy should have violated international law not granting jurisdictional immunity to Germany in Italian Courts in cases of gross violation of humanitarian law.

Due to omission of the Italian and Greek Government – the latter as intervening party –, the Court did not examine important other legal facts, as for example the London debt agreement etc., which grants Italian citizens the individual right to claims against the German State as well as the right to accede to a court in their own state.

By the law 5/20013 Italian Judges became obliged to apply the judgment of February 3, 2012. It should be desirable that the Italian Constitutional Court and maybe also the Greek Supreme Court would reexamine whether the International Court can by the effect of the law 5/13 negate to Italian and Greek citizens fundamental constitutional rights and the access to a court unless that also the ICJ is aware of this problem when it “considers that it is a matter of surprise and regret that Germany decided to deny compensation to a group of victims on the ground that they had been entitled to a status which, at the relevant time, Germany had refused to recognize, particularly since those victims had thereby been denied the legal protection to which that status entitled them deportees and prisoners of war).”

Athens, September 16, 2013

## **Congratulations to Paul Walker for being awarded the Alternative Nobel Prize (Right Livelihood Award) 2013**

### **Global Green Director Paul Walker receives prestigious award for work to eliminate chemical weapons**

Paul Walker, International Program Director for Global Green, the US branch of Green Cross, was today honored as one of the three recipients for 2013 of the Right Livelihood Award, sometimes referred to as the 'Alternative Nobel Peace Prize'.

GSI and PNND commend Mr. Walker for this well-deserved recognition. "Mr Walker has engaged government leaders, officials, disarmament experts, legislators, UN officials, media, think tanks and citizens' groups around the world to strengthen the global prohibition of nuclear weapons and help lead to their elimination," said GSI President Jonathan Granoff. "Walker's leadership has helped to build near universal ratification of the Chemical Weapons Convention, and to safely and verifiably eliminate thousands of tons of chemical weapons from six declared national arsenals."

"Walker demonstrates that a verified and legally binding disarmament approach to deal with weapons of mass destruction is a much better alternative than the threat or use of force," said PNND Global Coordinator Alyn Ware, a recipient of the Right Livelihood Award in 2009. "This is aptly demonstrated in the approach currently being taken with respect to Syria's chemical weapons."

"Walker has also used his experience in the Chemical Weapons Convention to offer advice for nuclear disarmament – a field in which he also has some experience," said Mr Ware. "The Model Nuclear Weapons Convention which we drafted and which has been circulated by the UN Secretary-General as a starting point for multilateral nuclear disarmament negotiations, is modelled very much on the Chemical Weapons Convention. Mr Walker was a very valuable consultant for this."

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## **Congratulations to the OPCW for being awarded the Nobel Peace Prize 2013**

### **IPB welcomes Nobel Peace Prize for OPCW**

Efforts to rid the world of weapons of mass destruction undoubtedly fall within the scope of the will of Alfred Nobel, whose commitment to disarmament is well established. No-



bel was himself a chemist and before embracing the peace cause, held the view that his dynamite would become so powerful that states would no longer resort to war. He was of course quite wrong in that regard, and for that reason alone we have no doubt that the later Nobel would have approved of an international machinery to eliminate chemical weapons.

The award can be seen as honouring one positive outcome of the tragic Syrian war and the recent crisis in which military strikes were threatened by the USA.

We hope it is a sign that the international community has finally learned the painful lesson of Iraq: better inspections under the auspices of a competent UN body than rough justice at the hands of a self-appointed sheriff.

The OPCW has conducted more than 5,000 inspections in 86 countries. According to its statistics, 57,740 tonnes, or 81.1%, of the world's declared stockpile of chemical agents have been verifiably destroyed. These figures remind us that peace is not just a matter of fine words and good intentions, but is indeed the fruit of enormous hard work. And Syria reminds us that the work is not completed. The Norwegian Nobel Committee is correct to point out that some states have not yet ratified the Chemical Weapons Convention and that some – notably the largest possessors – have not yet fully carried out their obligations. This Prize will add to the pressure for them to do so.

It should be borne in mind however that the OPCW is the servant of the member states. The key issue in ridding the world of weapons and militarism is political will. To generate that, there is little alternative to the task of educating for peace and of mobilizing civil society worldwide, in order to put pressure on the decision-makers.

This argument applies even more so to biological weapons, for which there is a prohibition convention but no verification provisions; and to nuclear weapons, for which the struggle to achieve a full prohibition by treaty still remains to be achieved. Meanwhile the world continues to 'walk in the valley of the shadow of death', as Psalm 23 puts it.

Finally, IPB welcomes this award as a sign that perhaps the Committee is now taking more seriously the critique that in past years it has often not respected Nobel's intentions. Future awards will indicate whether this is in fact the case.

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### **Congratulations to Reiner Braun for being named IPB Co-President**

#### **IPB Press release:**

The German peace activist Reiner Braun is the new IPB Co-President. The managing director of the German section of the International Association of Lawyers Against Nuclear Arms (IALANA), he was elected at the IPB's Triennial Assembly last week in Stockholm. His Co-President, the former UNESCO

Director Ingeborg Breines from Norway, was confirmed in her post, for a further 3 years. Reiner Braun is also Director of the Federation of German Scientists (VDW). In late August, both it and IALANA-Germany, together with the anti-corruption organization Transparency International, jointly awarded the Whistleblower Prize to the former NSA employee Edward Snowden.