



American Model United Nations
ICJ Justice

INTERNATIONAL COURT OF JUSTICE

OF THE

AMERICAN MODEL UNITED NATIONS

**ADVISORY OPINION: LEGALITY OF THE THREAT OR USE
OF NUCLEAR WEAPONS**

Presented by the Honorable Delegation from Egypt

By letter dated 19 December 1994 and filed in the Registry on 6 January 1995, the Secretary-General of the United Nations officially delivered a decision taken by the General Assembly, by its resolution 49/75 K adopted on 15 December 1994, to submit to the Court for advisory opinion the following issue: "Is the threat or use of nuclear weapons in any circumstance permitted under international law?" The resolution begs of the Court to deliver its advisory opinion "urgently".

This advisory opinion from the honorable delegation from Egypt wishes to urge the decision of the International Court of Justice to entertain and hand down a thoughtful, timely opinion on this crucial matter concerning the legality of the threat or use of nuclear weapons and its relation to the international community. Without question, this is an pressing issue where the well respected and broad hand of the International Court of Justice should be fervently implored to render decision that will shape how the global community shall perceive and act regarding this issue. This opinion shall serve as a pivotal point of multi-lateral dialog in which we may come to a more conclusive and cohesive international mindset for the sake of preserving the international law and basic human rights that continues to identify this Court as the paramount international bastion of justice.

The nature of the threat and use of nuclear weapons holds quite a uniqueness in the application of pertinent international law. The Court must first consider Article 2(4) of the UN Charter which generally prohibits the threat or use of force. Article 51 (recognizing every state's inherent right of individual or collective self-defense if an armed attack occurs) and Article 42 (authorizing the Security Council to take military enforcement measures) does not necessarily mention specific weapons; however it is this opinion that they shall apply to any use of force, regardless of type of weaponry. Particular attention should be paid to the relation of the conditions of necessity and proportionality within armed conflict and the subsequent relation of the very nature of nuclear weapons and the profound risks and effects associated with their use.

International humanitarian law therefore must continue to expand its scope in its inclusion of the threat and use of nuclear weaponry. All warfare must be considered for its international humanitarian ramifications, particularly to weapons that have tragic and uncontrollable effects such as that as the utter destruction found within nuclear weaponry. Treaties such as the Comprehensive Test Ban Treaty and Nuclear Test Ban Treaty, various bodies in the nuclear field such as the International Atomic Energy Agency, and the loose string of international laws are somewhat proactive and have experienced a measure of purpose, yet they do not concentrate nearly enough of its considerable and collective energies at this endeavor to preserve the basic rights of humanity on the global realm in times of nuclear threat or warfare. It is vital to consider the overarching premise of all these treaties, for the international community is overwhelmingly moving towards the universal idea that total nuclear disarmament is for the betterment of global relations. Thus, this opinion is even more timely in coming and imperative for establishing an internationally lawful precedent in the preservation of the basic needs and functions of humanity.

The aforementioned insistence of international law continues to underlie the overarching issue of the legality of the practice of nuclear deterrence. As the United Nations Security Council of 1992 stated that “the proliferation of all weapons of mass destruction constitutes a threat to international peace and security”, so too must we uphold that the sheer threat and terror that the practice of nuclear deterrence ensues is a matter that the international law community through the multi-lateral platform of the United Nations must intervene.

It is this country’s opinion that the actual threat of nuclear weapons, or the possession of them to discourage military aggression in accordance with the policy of deterrence, is an unlawful threat as defined within the meaning of Article 2, paragraph 4, of the Charter. Therefore, every attempt should be made to spur complete and total disarmament for all nations.

We as an international community must bear the ever increasing responsibility particularly to the human rights of the populations of non nuclear states. The paradigms of international law must provide protection of the non nuclear state, particularly during disarmament processes. Regional disarmament should be encouraged; however we must ardently encourage the whole of the international community to provide protection for the state and of its natural persons who pledges that it will disarm even if their neighbors will not play fair.

Truly, this effort to preserve the rights of humanity and safeguard the security of the international community must be a bilateral effort. With the increased vigilance and enforcement of the United Nations through its natural and necessary means of the International Court of Justice and the Security Council, we may further uphold the basic rights of the individual that we claim to hold so dear and also further cultivate international tranquility. The honorable delegation of Egypt rejoices in taking action on

this timely and critical matter through laws, treaties, and policies yet unwritten. For we uphold that this is the true embodiment of justice that upholds the ideals of this fine Court.