

**Written Statement of the Government of the
Islamic Republic of Iran**

The Government of the Islamic Republic of Iran is pleased to see that the question of the legality of the use of nuclear weapons is brought before the court. Our initial observations on this question are as follow:

a. Paragraph 4 of Article 2 of the UN Charter stipulates that all member states of UN shall refrain from use of force against the territorial integrity or political independence of each other. It is therefore only logical to conclude that the use of offensive weapons, especially weapons of mass destruction and in particular nuclear weapons, is prohibited since nuclear weapons is a threat to the existence and civilization of mankind in a large scale and indiscriminate manner.

b. Although legitimate defense is one of the fundamental principals of international law, humanitarian international law imposes certain restriction on the conduct of States in times of conflict. Some of those restrictions are clearly stipulated in the humanitarian international law. The Hague regulations on laws and customs of war on land annexed to Convention IV of 1907 clearly stipulates in article 22 that "The rights of belligerents to adopt means of injuring the enemy is not unlimited". Paragraph 1 of article 35 of the protocol I of 1977 annexed to the four Geneva Convention States " In any armed conflict the right of the parties to the conflict to choose methods or means of warfare is not unlimited".

we can therefore conclude that the non-existence of a legal instrument on prohibition of certain types of weapons does not mean that the States have an absolute right to use them. We can also argue that norms, rules and general principles that have been adopted in the humanitarian international law with a view to prohibiting and limiting the use of some special conventional weapons may be also effectively extended to nuclear weapons. Some of the principles that one can deduce the illegitimacy of nuclear weapons are as follow:

- Prohibition of means and methods of war that cause unnecessary suffering to human societies and environment;
- Distinguishing between military and civilian targets;
- Prohibition of the use of instruments that cause indiscriminate effects, including arms and methods that are used suddenly and equally against both military and civilian targets;

- The existence of proportionality between military advantages gained and the used weapons and methods.

As the result of global efforts, a number of legal instruments were created during the Cold War which limit the use of nuclear weapons in certain places, these are:

- The Antarctic Treaty of 1959 which prohibits nuclear weapons explosion and testing in the Antarctica;
- The Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space, and Under Water (1983);
- The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and other Celestial Bodies (1967):

- Treaty on the Non-proliferation of Nuclear Weapons (1968);

c- From the rules of international law relating to the environment, the prohibition of the use of such weapons, because of its huge destructive effects, can be concluded.

Article 35 of the Protocol I annexed to the Four Geneva Conventions prohibits the use of methods and means of warfare which are indeed, or may be expected to cause widespread, long term and severe damage to the natural environment. No doubt, this prohibition applies to nuclear weapons for their enormous destructive and long term effect on the environment.

In addition to article 54 and 56 of the said Protocol which place certain obligations on the belligerent parties for the protection of the environment, mention can also be made of Article 23 of the Fourth Hague Convention of 1907 and article 52 of the fourth Geneva Convention.

Furthermore, Article 1 of the fifth Hague Convention of 1907 on Rights and Duties of neutral States on Land Warfare states that "The territory of the neutral powers is inviolable". The belligerent states have an obligation not only to abstain from directly aggressing and attacking neutral states, but also to refrain from using methods and instruments that threaten

indirectly life and environment of third states. It is clear that the effects of the use of nuclear weapons are not confined to the national boundaries of belligerent states and have far-reaching effect that can impact human life and environment of third states.

D) Some of UN General Assembly Resolution declares the widely held beliefs of the member states on the illegitimacy of the use of nuclear weapons.

Some of these resolutions are:

Resolution 1653 (XVI) of the General Assembly under the title: The declaration on the Prohibition of the Use of Nuclear and Thermonuclear Weapons;

Resolution 2936 (XXVII) of 29 Nov. 1972 concerning Non-Use of Force in International Relations and Permanent Prohibition of Nuclear Weapons.

Taking into consideration the end of Cold War and the new developments in the international relations, the Islamic Republic of Iran believes that the International Court of Justice is in a better position now to respond to the international public conscience and pass a judgement on the illegality of the use of nuclear weapons.