

79 years after Hiroshima and Nagasaki – nuclear weapons are incompatible with the law

IALANA-Statement*



On 6 August 1945, a US atomic bomb with an explosive force of 16kt TNT, known as “Little Boy”, struck Hiroshima. It is estimated that 140,000 people died. Three days later, on 9 August 1945, “Fat Man”, a US plutonium bomb, was dropped on Nagasaki. It took an estimated 80,000 lives. The cities of Hiroshima and Nagasaki were completely destroyed.

This happened 79 years ago. And although the first logical thought that follows the images of Hiroshima and Nagasaki in 1945 is complete nuclear disarmament, we still face this danger today. It is greater than ever. Nuclear weapons states have always worked on and are currently working to expand and modernise their nuclear arsenals (warheads and delivery vehicles). They continue to insist on the unsustainable policy of deterrence and are continuing nuclear sharing and modernising the aircrafts and bases provided by Germany and other states for this purpose. Nevertheless, the impression should not be created that the last 79 years have been unsuccessful.

Immediately after the Second World War, voices were raised calling for nuclear disarmament. The first resolution of the UN General Assembly on 24 January 1946 called for the “Elimination from national armaments of atomic weapons and all other major weapons adaptable to mass destruction.”¹

There is a global nuclear disarmament movement, spearheaded by the *Hibakusha* – the survivors of Hiroshima and Nagasaki. With their tireless efforts, they remind the world of the consequences of the use of atomic bombs and call for their abolition.

The efforts of civil society, UN bodies and the non-aligned community to achieve a world free of nuclear weapons also led to the conclusion of

treaties on nuclear-weapon-free zones. There are now many legal instruments and norms that prohibit the use of nuclear weapons. They range from treaties on nuclear-weapon-free zones, the NPT and test ban treaties to international humanitarian law, human rights and environmental standards.²

In fact, the world came one step closer to the goal of a nuclear-weapon-free world in 2021 when the *Treaty on the prohibition of nuclear weapons* (TPNW) entered into force. This treaty, a milestone in nuclear disarmament, complements and builds on other instruments and norms. Among other things, it prohibits the production, use, transfer or deployment of nuclear weapons and contains norms on victim protection and environmental remediation, an increasingly important area.

While the TPNW is only binding for member states, there are norms under international law that apply to all states as customary law. These include the rules and principles of international humanitarian law, which prohibit the use of nuclear weapons because

- a) nuclear weapons do not distinguish between civilians and combatants,
- b) they cause unnecessary suffering, and
- c) they cause long-term and severe damage to the environment.

In addition, neutral states are affected by such use. This was confirmed by the *International Court of Justice* (ICJ) in its epoch-making opinion of 8 July 1996 which left open the question of whether the use of nuclear weapons in an extreme situation of self-defence, in which the survival of the state would be at stake, is lawful, but should in no way be interpreted as an affirmative answer. It was clear to the ICJ that self-defence is only lawful if it complies with the rules and principles of international humanitarian law.

In other words, the right of self-defence is limited by international humanitarian law and the principles of necessity and proportionality. Nuclear weapons that exist today do not fulfil these conditions. Their use in any situation is therefore

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contrary to international law. Moreover, this also results in a ban on the threat of the use of nuclear weapons.

Furthermore, nuclear weapons are incompatible with human rights, particularly the right to life. The *Human Rights Committee* reaffirmed this finding in General Comment 36, in which it emphasised that states are prohibited from developing, testing or using nuclear weapons.³ In addition, the Human Rights Committee stated that states are subject to the international obligation to enter and conclude negotiations in good faith leading to nuclear disarmament in all its aspects under strict and effective international control. The legal obligation under Article 6 of the *Non-Proliferation Treaty*, which dates to 1970, was expressly reaffirmed by the ICJ in its 1996 Advisory Opinion and declared to be customary international law. It is therefore binding for all states in the world: All states must ensure the complete elimination of nuclear weapons!

A ban on the threat and use of nuclear weapons and an obligation to negotiate with the aim of complete nuclear disarmament are the greatest achievements of the last 79 years. They apply to all states without exception. IALANA has been recalling these commitments since its foundation.⁴ Despite these achievements, we still have much to do. Unfortunately, we are witnessing the continued disregard of the treaty and customary law obligation to engage in serious negotiations on nuclear disarmament. The boycott of the negotiations on the realisation of the TPNW and the conferences to promote the treaty are examples of this.

79 years have passed since those days in August 1945. *Taniguchi Sumiteru*, Hibakusha from Nagasaki, dedicated his life to telling the story of his life, the atomic bomb on his back,⁵ and the fight for peace and nuclear disarmament. In an interview he said:

“In order to create a world in which we can live as human beings, we must free ourselves from all substances that could be labelled ‘nuclear’.”⁶

IALANA is committed to this goal. We call on all states to fulfil their international obligations and take all measures to create a world without nuclear weapons. This includes ending nuclear sharing and the abolition and destruction of all existing nuclear weapons.

Because only a world without nuclear weapons is a safe world.

Source: https://ialana.de/aktuell/ialana-deutschland-zur-aktuellen-diskussion/ialana-zu-abc-waffen/2893-ialana-stellungnahme-79-jahre-nach-hiroshima-und-nagasaki-atomwaffen-mit-recht-unvereinbar#_ftnref2, 7 August 2024

(Translation “Swiss Standpoint”)

- ¹ UN-General Assembly, Resolution 1: «Establishment of a Commission to Atomic Energy», 24 January 1946. It was followed by many other UN General Assembly resolutions in which the use of atomic bombs was branded a crime against humanity.
- ² See attachment: https://ialana.de/aktuell/ialana-deutschland-zur-aktuellen-diskussion/ialana-zu-abc-waffen/2893-ialana-stellungnahme-79-jahre-nach-hiroshima-und-nagasaki-atomwaffen-mit-recht-unvereinbar#_ftnref2
- ³ General remark Nr. 36, CCPR/C/GC/36, para. 66.
- ⁴ See a list of publications in attachment 2.
- ⁵ Sumiteru Taniguchi, *The Atomic Bomb on My Back: A Life Story of Survival and Activism*, 2020.
- ⁶ <https://www.pbs.org/wgbh/peoplescentury/episodes/fallout/taniguchitranscript.html>