

***Intervention on Concern about Possession,
on the very Existence of Nuclear Weapons
– Corfu Channel Case ICJ Legal Precedent***

**Second Conference on the
Humanitarian Impact of Nuclear Weapons**

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***Jennifer Allen Simons, C.M., Ph.D., LL.D.
Founder and President
The Simons Foundation***

My name is Jennifer Allen Simons. I am the President of The Simons Foundation, Canada

I would like to thank the Government of Mexico for hosting this Conference and to commend the Government for entering a proposed Amendment to the Rome Statute of the International Criminal Court to criminalize the use of nuclear weapons in the context of armed conflict as a war crime.

This will reinforce what seems to have become a norm – the practice of non-use. However, in this time of peace - we are in considerable danger from the 17,000 weapons, many of high alert status.

It is time to acknowledge that the danger posed by nuclear weapons in a time of peace is equal to that of a time of war – or even that detonation of a nuclear weapon is a more likely event than a nuclear war.

For many years, my concern has been focused, primarily, on the dangers posed by the possession, by the very existence of nuclear weapons.

Dr. Bruce Blair and the participants on this panel have clarified the immense danger to humanity posed by the existence of these weapons.

Too much attention is paid to the use of nuclear weapons as a weapon of war – in the context of war - to International Humanitarian Law.

It is unnecessary for me to state that – because of its indiscriminate nature, its “blast, heat and effects uncontrollable in time and space” and its consequences disproportionate to any military advantage - nuclear weapon use is in violation of International Humanitarian Law.

I would like to draw your attention to the International Court of Justice Opinion on the legality of nuclear weapons. The Court affirmed that the principals of humanitarian law applied, and in fact, to quote the document are “more exacting in times of peace” citing as precedent the 1949 “Corfu Channel Case”. Unfortunately, this principle was not followed up in the Court’s Advisory Opinion.

In 1949 - a time of peace - the International Court of Justice found Albania responsible for the creation of a hazard to human life because of its minefield in the Corfu Channel. And ruled that the Government of Albania compensate the United Kingdom for damage to two destroyers and the loss of naval personnel.

To quote from the 1949 Court Report (p.22) “general humanitarian principles apply in times of peace” and “obligations are based ... on certain general and well-recognized principles, namely: *elementary considerations of humanity, even more exacting in peace than in war.*”

The existence of this minefield posed a threat to human lives and – in a time of peace – was considered a violation of international humanitarian law.

The possession and very existence of nuclear weapons is a threat of a magnitude far greater than that of a minefield. The deliberate or accidental detonation of a nuclear weapon poses a catastrophic threat to humanity.

I would ask that a future focus of these conferences be on the *possession*, on the *existence* of nuclear weapons in peacetime - on the threat they pose by their very existence - on their illegality in this context - and to the development of a legal position based on the precedent of the findings of the 1949 International Court of Justice Corfu Channel case.

Thank you!

Jennifer Allen Simons, C.M., Ph.D. LL.D
Founder and President,
The Simons Foundation,
Canada
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www.thesimonsfoundation.ca