

neighbouring state? Could a non-nuclear state under the "nuclear umbrella" of its allies invite a nuclear strike on its behalf? And, could nuclear weapons be used in response to an anticipated threat to survival of the state?

Prof. Le Bouthillier said that despite the uncertainty about specific scenarios, the Court's invoking of survival of the state makes many uses of nuclear weapons illegal. The British threat to use nuclear weapons to protect overseas investments and raw materials is, for example, in contradiction of the opinion. He cited a lawyer who believes that the defence of survival of the state would not justify any of the incidents in the past 50 years when a nuclear strike was either carried out or threatened.

The NATO official, however, did not recommend that NATO be pushed to sign a guarantee that nuclear weapons only be used when the survival of the state is at stake, because this would legitimize the existence of its nuclear arsenals and the alliance's position that their nuclear weapons are merely defensive.

The second, less common interpretation of the Opinion is that nuclear weapons can be used not only when the survival of the state is at stake, but also when their use would be in keeping with humanitarian law. For instance, said Prof. Le Bouthillier, this interpretation might have justified a nuclear retaliation if chemical weapons had been used against troops in the Gulf War. The problem with this interpretation, he added, is that the Court gave no indication of what the threshold of horror would have to be to justify this action.

The professor also said that he regrets that the Court, by not referring to the development of new nuclear weapons, has left the door open to the deployment and use of supposedly "clean" nuclear weapons. Nuclear states could argue that these could be used within the constraints of humanitarian law. Since the development of new generations of such "clean" nuclear weapons would likely spur a nuclear arms race, they could heighten the possibility of proliferation and the actual use of nuclear weapons.

In this context, Prof. Le Bouthillier suggested that the principle of "reasonable possibility of persecution" that exists within refugee law ought to be extended to allow humanity the benefit of living in a world in which nuclear arms are illegal. There is a reasonable possibility that if a limited nuclear exchange is allowed to escalate just once, life on this planet may end, he explained.

Question/Discussion Period

Following the presentations by Cdr. Green and Prof. Le Bouthillier, participants observed that the World Court has not delivered an outright ban on nuclear weapons. A partial or qualified ban is in many respects more complicated. Raising these issues in our culture involves not only informing and educating the public, but also rethinking our values. The Vatican II declaration that "there are no just wars" is important in this respect. Delegates expressed concern that some