

**Debbie Grisdale for Physicians for Global Survival on  
The International Court of Justice Opinion on the Legality of the  
Use or Threatened Use of Nuclear Weapons**

**SUMMARY**

During a one and one half day seminar on March 6/7 1997 fifty participants including scholars in international law, representatives from peace and disarmament organizations, students and government officials met to consider the implications of the July 8 1996 opinion of the International Court of Justice (ICJ) for Canadian policy. The seminar was organized into four sessions:

- Overview of the World Court Ruling
- NATO/Allied Nuclear Policy and the World Court Ruling
- Applying the World Court Ruling to Canada
- Conclusions and Looking to the Future

Each session opened with two presentations and then was followed by a period of questions and discussions with the presenters and participants.

**Session 1**

**Overview of the World Court Ruling**

*Presenters: Roger Clark, Professor of Law, Rutgers University and presented Samoa during the ICJ oral hearings; Jennie Hatfield-Lyon, Professor of Law at Queens University and the University of Western Ontario*

Prof. Roger Clark began the seminar by providing an overview of the case's history and judgement. In its opinion the Court determined that states do not have a "green light" to use nuclear weapons. Conversely, it recognized that there were "no prohibitions as such" against nuclear weapons. He explained that the "as such" in the clause refers to the requirement for proportional use of nuclear weapons. The prohibition becomes effective where the nuclear threat is disproportionate to the situation. Clark argued that would always be the case given the vast destructive power of nuclear weapons.

In the remaining sections of the Opinion, the Court declared while nuclear weapons are generally illegal, it could not conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in the "extreme circumstance of self defence in which the very survival of a State would be at stake."

Professor Hatfield-Lyon carefully reviewed the logical pyramid created by the International Court and noted that ten out of the fourteen Judges voted in favour of the general illegality of the use and the threat of use of nuclear weapons. Her presentation proposed future steps that might