

accession to Additional Protocol I of the Geneva Convention, stating that it does not interpret the Protocol as applying to nuclear weapons. While it was acknowledged that the reservation has no effect on pre-existing Canadian commitments, some participants stated that it would be an important symbolic gesture for Canada to withdraw the reservation, in light of the World Court Opinion, and to urge other states to do likewise.

On the issue of "binding" versus "advisory" opinions, it was pointed out that advisory opinions should not be lightly dismissed -- the UN General Assembly did ask for the Opinion, and did not subsequently declare, as it has with some other World Court rulings, that political factors outweigh legal considerations. The Opinion is about customary legal norms that have, in fact, been implemented and ratified by Canada. Furthermore, some areas of international law are binding by definition -- the Canadian parliament can not legally authorize torture, why should it be able to authorize the use of nuclear weapons?

Although Canadian legislation authorizing NATO membership does not make reference to nuclear weapons, it was generally agreed that the Court's findings on the effects of such weapons have strengthened the case for a Charter challenge to Canadian participation in NATO and other nuclear war-related activities. With the Opinion, these issues have become more justiciable than the Operation Dismantle case. Since the government has no interest in referring the issue to the Supreme Court, the challenge is to find a plaintiff that the Court will agree to hear. On this front, recent trends have been unfavourable, with the Supreme Court becoming increasingly restrictive in granting standing to public interest groups.

#### **SESSION 4: CONCLUSIONS AND LOOKING TO THE FUTURE**

##### **Presenters:**

Tom Keating, Professor of Political Science, author of "Canada and the World Order" and "Canada, NATO and the Bomb", member of Project Ploughshares.

Douglas Roche, former Canadian Ambassador for Disarmament, former Chair of the UN Disarmament Committee, founding president of Parliamentarians for Global Action, and author of numerous books.

##### **Chairperson: Joanna Santa Barbara**

**Professor Tom. Keating** began by commenting that NATO today is at an interesting juncture in its history, with a recent decision made "from the top down" to take NATO's nuclear mandate into the emerging era. He reminded the seminar participants that Canada had pushed for the founding of NATO to manage European affairs and counterbalance US influence, and that it had voiced strong reservations about the body going nuclear in the 1950s. He continued by stating that the time is ripe for a decision "from the bottom up" on whether and how NATO can serve the interests of peace.