Good afternoon, everyone. I want to welcome you to Gates Hall and the School of Law and to our program this afternoon. It's my pleasure to provide a welcome, and also to introduce our guest speakers. And the lecture that we have today explores international law, ethics and nuclear weapons policy. So, clearly an incredibly important topic. And so, for all of you who are here, nice going. I know it's very nice outside and it's Friday, but good for you for showing up for what matters. I want to let you know that before I go further into the welcome and the introductions that the Nuclear Age Peace Foundation is the organization that we're working with and our speakers are from. And they also have outside, you may have noticed, a table, with a number of brochures and books and sets of information. And so, for our students especially, I wanted to just say, don't be shy about picking those up. They're not charging for those. There's a lot of good information there. I hope that you'll make sure that you take full advantage of that.

Well, I'm pleased to introduce our featured speakers today, in partnership with the Nuclear Age Peace Foundation. For 28 years, this foundation has empowered individuals around the world to work for the abolition of all nuclear weapons. Today we have the great honor and pleasure of having with the law school two of the foundation's senior leaders.

So I want to introduce, first, Mr. David Krieger to you. He is the founder and president of the foundation and has served as president since 1982. Under his leadership, which has been quite impressive, he has initiated many innovative and important projects, for building peace, for strengthening international law, and abolishing nuclear weapons and empowering a new generation of peace leaders.

He is also the author of many studies of peace in the nuclear age. He has written or edited some 20 volumes, hundreds of articles. So really, very impressive, scholarly work. And his latest book is "God's Tears: Reflections on the Atomic Bombs Dropped on Hiroshima," published in both Japanese and also in English.

He is incredibly well-schooled, and something that we always like to tout, being an educational institution, having both a BA from Occidental, an MA and a PhD from Hawaii, and also a JD degree, and he also has served on the bench as a judge pro tem. So it is a great pleasure to welcome you today.

I also want to welcome Paul Chappell, who is the peace leadership director for the Nuclear Age Peace Foundation. He's a graduate of West Point, in 2002. He served in the Army for seven years and was deployed to Baghdad. He left active duty in November '09 as a captain. He is also an author and an impressive leader for the foundation. And the most recent work is called "Will War Ever End? A Soldier's Vision of Peace for the 21st
Century." And he has also authored "The End of War: How Waging Peace Can Save Humanity, Our Planet, and Our Future."

It is especially wonderful for me to be able to welcome these speakers today and this topic in general. As you all know from my background and work, I'm a very strong believer in law as having the possibility of charting a pathway to a peaceful, a prosperous world, one without violence. And so, having an occasion today to talk about this important topic with these two leaders is really quite an honor. And so I want to thank you for coming and I welcome you, and I'll turn the podium over to you now.

[applause]

David Krieger:

I just want to say thank you to Dean Testy and to the University of Washington School of Law for having us here. Paul Chappell is going to speak first, and I will follow up after he's spoken.

Paul Chappell:

Good afternoon. Thanks for being here today. My name is Paul Chappell. I'd like to talk to you today about why I think law is so vitally important, and also why I think all sorts of things are possible in our future. I'd like to begin, however, by talking about how I ended up being here today. One primary reason why I'm here is most of my life has been affected by war. My father served in the Army for 30 years and he fought in the Korean and Vietnam Wars. My mother lived in Japan during World War II and she lived in Korea during the Korean War. I graduated from West Point. I served in the Army for seven years. I was deployed to Baghdad, and I left the Army just 10 months ago as a captain.

Another reason I'm here is I think that this is one of the most hopeful times in human history. And I'll explain why.

200 years ago in America, anyone who was not a white, male landowner was oppressed. If you were African-American, Asian, Hispanic, female, even if you were white but you did not own land, you were oppressed. 150 years ago in America, women couldn't vote or own property. And my mother was Korean. My father was half-white and half-black. And I grew up in Alabama, and the fact that I'm here shows you we've come a long way as a country.

And when I was growing up, my parents always told me, since I was very young, they said, "The only place in America where a black man has a chance is the military." My father was born in 1925. He had me when he was 54 years old. Grew up in the South, half-white, half-black. Grew up in during the Great Depression. He was picking fruit since he was six years old. And they both told me, "The only place you have a chance is in the military. Nobody will hire you if they find out you're part black."

And 2009, I told my mother, "I want to get out of the Army," and she told me, "No one's going to hire you." And when I finally got hired by David Krieger, she said, "You need to thank that man, because he hired you and he knew you were part black." So, thank you, David.
Paul:

But that was the world they lived in. The world they lived in, the world my father grew up in in the 1940s, that was true. The Army desegregated over a decade prior to the Civil Rights movement. And where he grew up, that was true—in the Great Depression, in the South, living under segregation, being half-white, half-black. And if you look at the global scale, 500 years ago, things such as democracy, the right to vote, freedom of speech, freedom of religion, freedom of the press, women's and civil rights virtually did not exist anywhere on the planet. Now they're widespread.

How many countries were democracies 500 years ago? Zero. How many countries were democracies 200 years ago? Figure Napoleon was dictator in France. But America wasn't a democracy if you were African-American. America wasn't a democracy if you were female. America wasn't a democracy if you were Hispanic or Chinese, or even if you were white, unless you owned land. Now democracies, in 200 years, all over the place. North America, South America, New Zealand, Australia, Europe, parts of Asia, even parts of the Middle East have democracy. In 200 years, all over.

So if we've come so far, why can't we keep going in that direction? We have a long way to go. The world is far from perfect, but if we've come so far, why can't we keep going in that direction? And how did we get there? How did so much progress happen? Was it because of war?

Here's a popular misconception. How were the slaves freed? Why am I not a slave today? How were the slaves freed? Keep in mind, America was the only western country to have a war to try to free the slaves. But it took a peaceful movement in the 1960s before African-Americans got their human rights. And in many parts of the South, African-Americans were worse off after slavery. It took a peaceful movement in the 1960s before African-Americans got their civil rights.

And if you look at America as a whole, what did the founding fathers talk about? No taxation without representation, right? No taxation without representation. You can't tax me unless you give me a vote. But up until the 1820s and 1830s, less than 10 percent of the American population could vote. Women couldn't vote, African-Americans couldn't vote, and white people couldn't vote unless they owned land.

So how did we come so far? How come, 150 years ago, women couldn't vote or own property? Did the women fight a war over it? Did the non-landowners fight a war? Did Martin Luther King, Jr., fight a war? Through peaceful means.

And that's why law is so important, because, was every single person in the South convinced that segregation should go away? No. There are still people in the South who think that segregation should be intact. But, you don't have to convince everybody. You convince enough people, and then it becomes law. You need lawmakers, you need lawyers to pass legislation.

Was every single man in America convinced that women should have the right to vote or own property? No. There's still men in America who think that women shouldn't have the right to vote or own property. But, you don't have to convince everybody. You convince enough people, then it becomes law. And now, if somebody tries to prevent a woman
from voting or owning property, if someone tries to bring back segregation, there's a law. It's against the law, and they will be reprimanded for that.

And that's why laws are so important. If you look at all the great movements, there's all kinds of legislation to promote justice and to make the world better.

I think, if you look at our current global situation and where we are now, there's a saying in the military called "lead by example." What does that mean, lead by example?

Practice what you preach, right. Practice what you preach. Don't be a hypocrite. It's a real big saying at West Point and in the military. And here's a good example of what that means.

There's a story of how one day a woman came to Gandhi. The woman came to Gandhi and said, "Gandhi, you have to help me. My son won't stop eating sugar. My son won't stop eating sugar. Gandhi, please tell my son to stop eating sugar." And Gandhi looked at the woman and said, "Take your son home and bring him back to me in three days."

The woman took her son home, brought her son back to Gandhi in three days, and Gandhi looked at the boy and said, "Stop eating sugar." That was it. And the woman was very confused. The woman looked at Gandhi and said, "Gandhi, why did you make me go all the way home and come back three days later? Why didn't you tell my son three days ago that he should stop eating sugar?" And Gandhi looked at the woman and said, "Because three days ago I was still eating sugar." So it means don't be a hypocrite, right?

So America has the most amazing ideals in the world. And the world is not angry at our ideals; the world is angry that we don't live up to our ideals.

For example, you hear a lot of talk about how we are in Afghanistan to liberate the Afghan women. The Afghan women can't vote. The Afghan women can't own property. The Afghan women can't get an education. And we talk about how we have to be there with military force to liberate these poor women. At the same time, we are allied with Saudi Arabia, which is one of the most oppressive governments in the world toward women.

So do you see the hypocrisy? We talk about human rights, we talk about justice, but we don't live up to that standard. We talk about opposing dictators, yet we support dictators all over the world: Pakistani government, Saudi Arabian government, Shah of Iran, Saddam Hussein, the people who became Taliban and Northern Alliance. We have amazing ideals, but we don't live up to our ideals. And that's why the world is angry at us is because of the hypocrisy.

And America's had this problem before. If you ever read Frederick Douglass, he talks about how America talks about being free but it's a slave-holding country. But through action, we were able to give more people the right to vote and make America a much more just country, just as we can continue to do in the future, through activism and through, of course, lawmaking, which is vitally important for any kind of social justice is lawmaking.

So, to take that idea a little bit further, any of you remember the Axis of Evil? What were the three countries in the Axis of Evil? Iran, Iraq, North Korea. So, North Korea has nuclear weapons; we negotiate. Iraq doesn't have nuclear weapons; we invade. If you
were Iran, what would you be trying to do right now? We told every country in the world, "If you want to negotiate with us, you need to have a nuclear weapon." And the ironic thing about that is we have 9,000 nuclear weapons and we tell them they can't have one. "You can't have one. We can have 9,000."

And I saw a documentary called "Countdown to Zero," and they interviewed Ahmadinejad. And Ahmadinejad said, "If nuclear weapons are good, why can't I have them? And if they're bad, why do you have them?" This is an extremely dangerous situation. I'm not saying they should have nuclear weapons. Far from it: I think it's extremely dangerous if they have them. But we have to keep in mind how they look at us. How do they see the United States?

So, we tell them they can't have one, we have 9,000. But the problem is furthered by the fact that we talk about nuclear weapons like they're seat belts. We say, "They make you safe, they protect your country, they protect your security, they're great, they're wonderful, and we can have 9,000 and you can't have one." And then we tell other countries, we say, "Well, the reason we have 9,000 is because they work as a deterrent. We have 9,000 because they work as a deterrent, and the notion of mutually assured destruction works in terms of safety."

But if we really believed that nuclear weapons work as a deterrent, then why wouldn't we want every country to have nuclear weapons? If we really believed that was true, why would we care if Iran had one? Why would we care if North Korea had two? If we really believed that 9,000 weapons could threaten our enemies, why would we care if they had any? And why wouldn't we want every country to have them, and why would we be building a missile-defense shield?

So we have to solve these problems, and we can, through several different methods. First, being American citizens, we have so much power. A couple of reasons. First of all, we have a lot of power as American citizens because our country is still the most powerful country on the planet and our country is causing many of these problems. So we could do a lot as American citizens. And as lawmakers and as lawyers, we can pass legislation, and we can effect more change and justice, not only in America but around the world.

These are all vitally important things because, again, I think it's one of the most hopeful times in human history. If you were a woman, and you had to choose to be born at the beginning of any century in human history, what century would you choose other than the beginning of the 21st century? Would you choose to be born at the beginning of the 20th century, where in most countries women can't vote? Would you choose to be born at the beginning of the 19th century, where in most countries women can't own property? Would you choose to be born in the Roman Empire, where you are property?

So we've come a long way, and our responsibility is to keep pushing the world in that direction. And if we don't take action, things will get a lot worse.

David will talk about some very important issues and what we can do, and he'll talk more about lawmaking in particular and legislation and what we can all do to solve these problems.

I'll pass around the sign-up sheet, if you'd like to be on our monthly newsletter. I appreciate your time, and thanks for listening.
If you could pass that around, too...

[applause]

David:

Paul, thank you. Actually, you were one of the best hires I think I've made at the foundation. I'm very proud of the work you do and the outreach you do all over the country. As Dean Testy said, our foundation, the Nuclear Age Peace Foundation, was created 28 years ago. It was actually created by a very small group of ordinary citizens who felt that the world was just too dangerous. In 1982, when the foundation was put together, the leaders of the United States and the then-Soviet Union were not talking to each other. So, with tens of thousands of nuclear weapons in the world that seemed like a very dangerous situation.

What we thought was that peace is an imperative of the nuclear age, and how do we get to a world where nuclear weapons do not threaten humanity? We can't necessarily count on those leaders, who may or may not be talking to each other, may or may not be concluding treaties. We really need to have some power push up from below. We need to have ordinary citizens coming out, getting the issue and participating in the issue. We need ordinary citizens to be aware, and we need them to be engaged in the issue, if we're going to succeed.

So, we started with three goals: to abolish nuclear weapons; to strengthen international law, and particularly international law as it applies to abolishing nuclear weapons; and third, to empower a new generation of peace leaders. In essence, our being here today is to tell you about the abolition of nuclear weapons, but also, hopefully, to encourage you to engage in trying to make international law strong enough to be effective in exercising significant controls and then the abolition of these weapons.

I want to say just one more word about the organization, and that is we began with a strong emphasis on a quote by Albert Einstein, who said, "The splitting of the atom has changed everything save our modes of thinking, and thus we drift toward unparalleled catastrophe." And I think Einstein, in addition to being a great physicist and a person whose ideas changed our world, he was also a great humanitarian, and he also had great insights into the world and into human nature.

I think when he said, "Everything has changed save our modes of thinking," he was telling us something extraordinarily important, that once we created weapons powerful enough to destroy cities, and soon would be powerful enough to destroy the human species and most life on Earth, if we didn't change our thinking about weapons systems, about military solutions, about finding better ways to resolve our conflicts, we would be faced with horrible catastrophes which would make Hiroshima and Nagasaki, which were bad enough, look like very small incidents in looking back.

And at Hiroshima, more than 140,000 people died, mostly almost instantly, but by the end of 1945, that many people had died, and at Nagasaki, some 70,000 people had died.

Many people, of course, had died in warfare before that. The change was that we now had weapons that, if used in a systematic way and in warfare, could end the human species, and that, we believe, is a qualitative difference in the situation and why it's so important that it demands our attention.
Let me focus on international law for a moment. In international law - which, of course, is not as easy to discern sometimes as national law - in international law, we have three kinds of law.

We have treaty law: Laws that are created by agreement among states. And it can be agreement between two or more states or agreement of all states. We also have customary international law. Customary international law is accepted international law based on the fact that that's how states look at law. It's generally accepted law. It's become law by the custom of states.

And the third kind of law is authoritative opinion. I want to say just a few words about each of these types of law, not going into too much detail, because I want to have time to hear your questions and try to respond to them.

With treaty law, there are many treaties that relate to nuclear weapons. For example, you have the Partial Test Ban Treaty of 1963, which limited the testing of nuclear weapons and stopped atmospheric testing of nuclear weapons.

Later, in 1996, you had the Comprehensive Test Ban Treaty, which is, CTBT is comprehensive stopping of nuclear tests, not only those above ground, but those below ground as well. That treaty still has not been ratified by the United States Senate.

It was turned down in 1999 and possibly will be put back on the agenda of the Senate, but the Senate, of course, has other treaties to consider probably before it gets to that one, including the new START treaty that was negotiated between President Obama and President Medvedev.

You have SALT, Strategic Arms Limitation Treaties. Those are bilateral treaties between the United States and Soviet Union. You have START, Strategic Arms Reduction Treaties, also bilateral treaties between the United States and Soviet Union/Russia.

You have the Anti-Ballistic Missile Treaty, which President Bush unilaterally abrogated. That was a major...in my view, a major step back from where we need to be in terms of our security, and in terms of moving forward to nuclear disarmament.

You have also Nuclear Weapons Free Zones. Most of the southern hemisphere is covered by Nuclear Weapons Free Zones, which outlaw the possession, threat, or use of nuclear weapons in those areas. So, that includes the South Pacific. It includes Latin America. It includes Africa, and Southeast Asia. That's all southern hemisphere. And then you have Central Asia in the northern hemisphere and Mongolia as a single state Nuclear Weapons Free Zone.

But the treaty that I really want to talk to you about, because I think it's the most important treaty, is the Nuclear Non-Proliferation Treaty. It was negotiated in the 1960s, signed in 1968, entered into force in 1970. It's an extremely important treaty because it's the only treaty which has some provision for nuclear disarmament in the actual body of the treaty.

If you hear just the name of the treaty, Non-Proliferation Treaty, sounds like it's about proliferation, but actually it's about more than just non-proliferation. It's about nuclear disarmament as well. And I think there's confusion in thinking about non-proliferation and disarmament. The easiest way to get a handle on that confusion is to think, non-
proliferation is about somebody else, and disarmament is about everybody, including ourselves.

So, the countries that didn't have nuclear weapons agreed in the non-proliferation treaty that they would not create or acquire nuclear weapons.

In exchange, the nuclear weapons states, which initially were the U.S., U.K., and Soviet Union, agreed that they would pursue good faith negotiations on a cessation of the nuclear arms race at an early date on nuclear disarmament. And all the parties agreed to pursue general and complete disarmament.

Now, none of those things have happened to the extent that I think would be in fulfillment of that treaty. The treaty entered into force, as I said, in 1970. By its terms, 25 years later, in 1995, the parties of the treaty came together to decide, "Should this treaty be extended indefinitely, or for a period of years, or periods of years?"

They had a choice at the 25-year mark. And I happened to be at that treaty conference, and I saw the United States was there in force twisting arms, doing everything it could for an indefinite extension of the treaty.

There were some other countries there, Mexico, for example, that had a very different view of what had happened for the past 25 years and what should happen going forward. Their point of view was the nuclear disarmament clause of the Non-Proliferation Treaty had basically been pushed aside, and nothing much had happened.

In fact, it had gone the other way. There had been an arms race between the time the treaty was initially signed and ratified and the time in 1995 when they were meeting for this extension conference.

These states were saying, no, if we extend the treaty indefinitely, it's like giving a blank check to people who regularly overspend their account. We can't count on the United States, and Russia, and Great Britain, France, China, to do what they've said that they're going to do, because haven't done...we have no experience in seeing them actually do it. So, don't extend it indefinitely.

But what happened was, the United States has a lot of power in international circles, and when it starts twisting arms and talking financial consequences of votes in the United Nations, countries listen, and, in a sense, are forced to listen.

So, the treaty was extended indefinitely, but at that point in time, there were also some agreements made that used language like "systematic and progressive efforts, to achieve nuclear armament."

They also called for a Middle East Nuclear Weapons Free Zone. Many of the countries in the Middle East today feel that they signed on to an indefinite extension of that treaty contingent upon obligations such as a Middle East Nuclear Weapons Free Zone being fulfilled by the other states.

Now, the Nuclear Non-Proliferation Treaty has, I think, 188 or 89 member states now, parties to the treaty. And of those five...Yes, the five original nuclear weapons states or party, now you have...and they're treated differently from everybody else.
Then you have India, and Pakistan, and Israel, and North Korea that are outside the boundaries of the treaty, and so they're not bound by the provisions of the treaty not to acquire nuclear weapons, and, in fact, Israel long ago acquired nuclear weapons. India and Pakistan both acquired, or tested, nuclear weapons in 1998, and are having something of a mini arms race between themselves.

Just in relation to India and Pakistan, to give you an idea of how dangerous it is to have nuclear weapons in the world, these are two countries that three or four times in recent decades have gone to war over Kashmir, and both of them now have somewhere between 60 and 100 nuclear weapons.

Scientists recently did some simulation studies in which they suggested that the use of the 100 small nuclear weapons, meaning Hiroshima or Nagasaki-size nuclear weapons used on cities such as could take place between India and Pakistan would put enough particulate matter from the cities up into the atmosphere to block the sunshine from reaching earth.

That reduced heat and sun, heat from the sun, and light from the sun, would reduce crop production and could lead in addition to the blast and the radiation damage caused by these weapons - the immediate damage, in other words - it could lead to something on the order of a billion deaths resulting from starvation.

So, the stakes are very, very high. It may seem further away now than it did during the Cold War, but if it there were to be a more significant war using nuclear weapons, an exchange between the United States and Russia, for example, that could actually result in omnicide, which is a term coined by a philosopher, John Summerville, meaning "moving up suicide, genocide, and ultimately, the ultimate destruction, the death of all" - a possibility because of nuclear weapons.

So, that's what I want to say for the moment about treaty law and emphasize just again how important the Nuclear Non-Proliferation Treaty is and how the United States and the other nuclear weapon states that are parties really have not fulfilled their obligations to pursue those good-faith negotiations under international law.

Now, you have customary international law. Customary international law is a bit indirect in the case of nuclear weapons, because it doesn't talk about...it doesn't say specifically, "You can't use nuclear weapons." That's not the custom.

The custom is, "You can't use weapons that cannot discriminate between civilians and combatants." That's also in treaty law, in The Hague and Geneva Conventions, in what's called, "International Humanitarian Law," trying to make war a little less horrendous for the participants and for the civilians that are affected by it.

So, customary international law says, for example, "You can't use weapons that fail to discriminate. You can't use weapons that cause unnecessary suffering." An early example of that was dum-dum bullets that go in small and come out large on the other side of a human being.

And you can't use weapons that are disproportionate, or your counter-attack can't be disproportionate to a preceding attack. So, what I want to say about customary international law is, it's almost impossible to imagine - maybe it is actually impossible to
imagine - any use of nuclear weapons that wouldn't violate those rules of customary international law.

Certainly, if you take into account the policies of the nuclear weapon states which target the cities of other countries, and they also target the military sites of other countries that happen to be located near cities and near population centers. So when you use weapons that are as destructive as nuclear weapons, almost impossible to meet the criteria of customary international law.

The third area I'd like to talk about is authoritative opinion, and this is...I'm going to go for this to the International Court of Justice, sometimes called, "The World Court." It's the highest court in the world. It's a body of the United Nations, or attached to the United Nations. It's headquarters are in The Hague. It hears cases between contending countries, and it's authorized to give advisory opinions on major legal issues. But those opinions have to come from a request by an international body.

Around 1995, the World Health Organization and the General Assembly of the United Nations, both made requests of the court to give an advisory opinion on the legality of the threat or use of nuclear weapons.

I want to give just a little background on that. The General Assembly and the World Health Organization, in a way didn't come to that decision on their own. Ultimately they came to the decision, but it was civil society organizations like the International Association of Lawyers Against Nuclear Arms, and others.

We were involved, to a lesser extent - that promoted this idea that there should be an advisory opinion of the court and worked hard by lobbying countries, members of the General Assembly and the World Health Organization, to make this request of the International Court of Justice.

So the request was made. The court has the capacity to grant or deny certiorari. It denied for the World Health Organization, and it granted for the United Assembly of the United Nations. And so, the question placed before the court was...had to do with whether or not a threat or use of nuclear weapons was legal under international law.

The court considered that case, and on July 8, 1996, it issued its opinion. I'm going to just go over some of the highlights of that opinion, because I think it's an extremely important opinion.

First of all, the court unanimously said, and there are ordinarily 15 justices on the court. At the time that the opinion was rendered, there were only 14 because of the death of one judge. So, the court unanimously said, after reviewing law in the matter, that "there is in neither customary or conventional law any specific authorization of the threat or use of nuclear weapons." So, there's nothing positive in international law to authorize it.

Then they said by 11 votes to three that "...in neither customary or conventional international is there any comprehensive and universal prohibition of the threat or use of nuclear weapons as such."

The three judges that dissented were Shahabuddeen, Weeramantry, and Koroma, and they dissented on the basis of they believed that there was, in fact, such a prohibition that existed in international law. Then they said...then the court again unanimously said that
the threat or use of force by means of nuclear weapons is contrary to Article 2, Paragraph 4, of the United Nations Charter, and that any threat that fails, that is contrary to Article two Section 4, and fails to meet the requirements of Article 51 is unlawful. Article II, Section IV prohibits force and threat of force in international relations. That's in the U.N. Charter. And Article 51 allows an exception for self-defense.

Now, the next point they also agreed to unanimously. And I think this is an extremely important point. I'm actually the co-author of a book on nuclear weapons and the World Court and we emphasize the strong importance of this conclusion of the Court. "The threat or use of nuclear weapons should also be compatible with the requirements of international law applicable in armed conflict, particularly those of the principles and rules of international humanitarian law, " meaning the laws of war, "as well as with specific obligations under treaties and other undertakings which expressly deal with nuclear weapons."

So, what that's saying, in essence, is it would not be legal to use nuclear weapons or threaten to use them if such threat or use would violate international humanitarian law. And remember, international humanitarian law fails to discriminate between combatants' and civilians' unnecessary suffering and so forth.

Then the court split in its final conclusion about all of this. It agreed to this formulation of the problem on the basis of the presiding judge, the President of the Court making the casting vote that made this affirmative. So it says "It follows from the above-mentioned requirements that the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict and in particular to the principles and rules of international humanitarian law."

Then it put a very tiny, but perhaps significant, qualifier when it said, "However, in view of the current state of international law and the elements of fact at its disposal, the Court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defense in which the very survival of a state would be at stake."

So, the Court didn't say that if the very survival of the state was at stake you could use nuclear weapons, it just said the state of the law now doesn't answer that question. And still, if there was any violation of international humanitarian law, it would be in violation of international law, according to the Court, even, even if the very survival of the state was at stake.

And the Court went on to answer one final question that wasn't even asked. That question had to do with what the responsibilities of the nuclear weapons states were under international law. It said this, and it takes this formulation from the Nuclear Non-Proliferation Treaty and it expands it. So what the Court said is, "There exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control."

So the Court was saying there is an affirmative obligation, based, it doesn't say specifically this, but it is based upon the Non-Proliferation Treaty, to pursue these negotiations. Not just pursue negotiations, but to do it to lead to nuclear disarmament in all of its aspects and also to bring those negotiations to a conclusion.
That was 1995. I don't think we've progressed far enough in the interim 15 years since then and we still have a lot to do. But international law is clearly part of the picture.

I mentioned before that Judge Weeramantry was one of the dissenters. He wrote a brilliant dissenting opinion. It's about 80 pages long. And if any of you are so inclined, I highly recommend, if you want to follow this up, to read Judge Weeramantry's opinion on the illegality of the threat or use of nuclear weapons.

And I just want to read you two paragraphs from that dissenting opinion.

"My considered opinion is that the use or threat of use of nuclear weapons is illegal under any circumstances whatsoever. It violates the fundamental principles of international law and represents the very negation of the humanitarian concerns which underlie the structure of humanitarian law."

"It offends conventional law and in particular the Geneva Gas Protocol of 1925 and Article 23 A of the Hague Regulations of 1907. It contradicts the fundamental principle of the dignity and worth of the human person on which all law depends. It endangers the human environment in a manner which threatens the entirety of life on the planet."

I want you to really let that sink in, those last two sentences of Judge Weeramantry. "It contradicts the fundamental principle of the dignity and worth of the human person on which all law depends."

I know that in law school you can get so wrapped up in some of the nuances and details of the law that there is a tendency to forget the big picture. And he is reminding us that the big picture is "it's the dignity and worth of the human person on which all law depends."

And then he says "It endangers the human environment in a manner which threatens the entirety of life on the planet." So what I conclude from that is if the law cannot find a way to protect the dignity and worth of the human individual, and in this case related to nuclear weapons, of all human individuals on the planet, and it allows countries to continue to develop their own policies with regard to nuclear weapons in such a way that continues that threat to large portions or all life on the planet, then somehow the law is failing badly.

I think that this should be something, this is something that the Nuclear Age Peace Foundation strives to change. And it's something that I hope you will be inspired today to look into more deeply and add your voice to those who seek stronger law in this area. If not specific stronger law, at a minimum, raise your voices in such a way that leaders in your country will hear your voices and will be compelled by the power of your voice and those of your colleagues to make a change in policy which currently is so threatening to the human future.

Well, I was going to raise some issues of ethics here and I was going to talk about the Nuremberg Principles, but I think I've said enough. It's time to hear your questions. So, both Paul and I would welcome questions from you on any aspect of what we've had to say today, and I thank you very much for your attention.

[applause]
Paul:

Yes.

Questioner 1:

Can you offer some proactive specifics and a road plan that the nuclear [Inaudible 47:35]

David:

I think two very major points are pressing for a commitment to no first use of nuclear weapons, that, that, only one nuclear weapons country really has that policy now, and it's China. But I think that would be an important step in de-emphasizing the role of nuclear weapons. Another point is de-alerting nuclear weapons; most of them are on high alert right now, ready to be fired in moments of an order to do so. That's a big problem.

We, in other words, we need to look for things that de-emphasize the role of nuclear weapons in military policy. Right now, there are two treaties that deserve, three treaties that deserve attention. One is the new START treaty, which slightly lowers the numbers of nuclear weapons between the U.S. and Russia, but also re-establishes verification procedures between the two countries.

The other, another treaty is the Comprehensive Test Ban Treaty, which the United States still has not ratified, and a few other countries also, so it hasn't entered into course yet. We need to keep returning to the Non-Proliferation Treaty, keep coming back to that one, because it's so central to the, the bargain there is so central to the future of humanity.

We have some copies outside of a booklet that was prepared as a briefing booklet for the Non-Proliferation Treaty. You're welcome to take that. You may have it already. It has the sunflowers on the front. So, we do a lot. And I also would encourage you to come to wagingpeace.org, the foundation's website, join our Action Alert Network and you can send messages to political leaders in that manner, and sign up for our Sunflower Newsletter, which keeps you updated on a monthly basis on key issues going on. Paul, do you want to add to that?

Paul:

No, that's a great answer.

David:

Yes?

Woman 1:

I was curious. I was [Inaudible 50:06] and he's heralded as this advocate for peace through discourse and all these sorts of things. The questions asked about Iran and nuclear weapons, and nuclear power as well, basically kind of threw away all of the peace discourse that he was talking about, and said Iran has this great heritage, this amazing history, [Inaudible 50:35] country and because of that, he deserved to have nuclear power and weapons. And I'm wondering how the foundation deals with situations
like that, where maybe it's not necessarily, although the United States has nuclear weapons, but somebody just feels like they deserve them.

**David:**

Well, I think the reason countries feel like they deserve them is that the big, the P5, the permanent members of the United Nations Security Council, are all the original five nuclear weapons states, and they have behaved for the last 65 years as if nuclear weapons are devices that bestow prestige and power on a country. So rather than seeing nuclear weapons in the light of the murderous instruments of annihilation that they are, countries tend to think that they're a fast track to status in the international system. That's, you know, in my view, that has to change.

Iran right now, for the most part, I believe, is within the boundaries of... We don't know anything about the Iranian situation at this point that suggests they have a weapon program. They're enriching uranium to 20 percent, which is below weapons grade, but the problem is, and this is also a problem with the Non-Proliferation Treaty, it, the Non-Proliferation Treaty encourages so-called peaceful uses of nuclear weapons and the transfer of technology for nuclear power.

So Iran is within the scope of its rights to pursue nuclear, so-called peaceful nuclear programs, but there's a very thin dividing line between the peaceful and the warlike uses of nuclear weapons. For that reason, I believe that we've got to do much better at clamping down on nuclear power and not allow it to spread everywhere in the world.

Right now, there are at least a dozen countries in the Middle East who want to develop nuclear power, nuclear energy programs, and you can imagine how much more chaotic that would be.

I just wrote an article with Richard Falk, an international law professor emeritus from Princeton, a short article that is on our website about nuclear dangers and opportunities in the Middle East. Basically it says the danger is a possible war against Iran, as Paul mentioned, you know, Iran is, well, Iran is at least doing things that are provoking the United States and Israel. A war would be a terrible outcome for so many reasons, again, in the Middle East. And the alternative really is a Middle East nuclear weapons-free zone, promised long ago that the major states would be pursuing it, among other places at the Review and Extension Conference of the NPT.

So, you know, we really, we have some major choices now. We can pursue nuclear power and create chaos or the potential for chaos and nuclear programs everywhere, or we can pursue more nuclear weapons-free zones, including in the Middle East, in Northeast Asia, and other dangerous parts of the globe.

**Paul:**

Good question. Something I learned in the military is in order to think strategically, you have to be able to see the world from the other person's point of view. So we have to be able to look at the world from Iran's point of view and understand, it's not that they feel that they deserve nuclear weapons, they feel like they need nuclear weapons, because from their perspective, keep in mind, from the global perspective, the U.S. has the most powerful military in human history. Other countries are frightened of our military, it's so powerful. And we've invaded both of their neighbors, Afghanistan, Iraq. And we've
threatened them. They feel like they need a nuclear weapon to protect themselves from us. Iran had a democratic revolution in the 20th century, we overthrew their government and put a dictator in place and supported the dictator.

So from their perspective, they're afraid of the United States. And we have 9000 nuclear weapons, we have the most powerful military in human history, we are a very intimidating country, and we do invade other countries.

I want to address the other gentleman's point really quickly, too. In terms of what we can do in terms of practical steps, keep in mind that all change comes from people, not from governments, and you can't rely upon political leaders to do the necessary work. If you look at President Johnson, President Johnson wasn't an advocate for civil rights when he came into office. He had to give in to pressure from the civil rights movement and Martin Luther King, Jr.

FDR wasn't an advocate for workers' rights; when he came into office, he had to give in to pressure from the workers' rights movement. Woodrow Wilson was adamantly opposed to a woman's Constitutional amendment to vote, but he gave in to pressure from the women's rights movement. Abraham Lincoln wasn't an abolitionist when he began his political career; he gave in to pressure from the abolitionist movement.

We think that, we have this notion of, the American president is the leader of the free world, that is such an undemocratic concept. The president is supposed to be the administrator of the people's foreign policy, the people's decisions. We have this idea of this great, messianic leader who solves all of our problems, that's a very undemocratic concept. The president is supposed to be the administrator. He's supposed to be our employee, and we're supposed to enforce the right decisions, and we're supposed to be the moral conscience of the country and of the world.

And to give you one real quick example, I saw a really good interview with Martin Luther King, Jr. when Martin Luther King, Jr. spoke out on the Vietnam War. When Martin Luther King, Jr. spoke out on the Vietnam War, he was disowned by the NAACP and the black churches. That was a very controversial decision.

And the reporter, the interviewer asked Martin Luther King, Jr., he said, "Are you worried about people turning against civil rights because you're speaking out on Vietnam?" and he said, "Anybody who would turn against civil rights because I'm speaking out against Vietnam, they were never with civil rights to begin with, because they should care about it for the sake of civil rights."

And the reporter said well, are you worried about losing favor with the American public? And Martin Luther King Jr. said, I'm far more worried about losing favor with truth.

And then Martin Luther King Jr. said, look, he goes, I'm not a consensus taker. I don't do a poll and find out what's popular and do what's popular. I have to do what's right.

So as American citizens we have to do what's right, and we have to be consensus makers, and then the politicians will fall in line based on what we do, and if we apply enough pressure.

Man David:
Yes.

**Woman 2:**

What could lawyers specifically do to further this cause that the lay person would 
[Inaudible 57:50].

**David:**

Understand what the international law of the issue is. I think starting with understanding 
The opinion of the International Court of Justice, and potentially looking at how that 
opinion applies to U.S. policy and practice. That's actually probably asking a great deal 
for a lawyer. But we need lawyers who are willing to take that on. We need lawyers who 
understand the issue from a legal perspective and can help educate our fellow Americans 
on what the legality is. Of course, I was assuming that you all know. But I'll just say, that 
when we've agreed to something under international law, a treaty specifically, then that 
becomes the law of the United States.

So when we've signed and ratified a treaty, as we've done with the United Nations 
charter, and as we've done with the Non-proliferation Treaty, that's our law.

Our leaders should be held to account for fulling the obligations under that law. I think 
lawyers can do that better than almost anyone.

**Man 3:**

There's a gentleman named Gavin DeBecker, who's the nation's leading expert on 
violence and security, and he talks about when people resort to violence, two primary 
things almost always happen. First of all, they feel like they have no other options, and 
they feel like that violent act will help them accomplish their goals. If you look at 
countries where there are horrendous acts of violence, it's because their legal system is 
broken. People don't feel like they have a way to voice their concerns and vent their 
grievances through the justice system. The legal system is broken and they resort to 
violence.

The same is true of the international legal system. When you have a broken legal system 
and people can't vent their grievances and find reconciliation with their views and their 
problems through a legal system they will resort to violence.

So I think that the legal system and a just legal system and good lawyers who do what's right, is very necessary for thwarting the threat of violence because when you lose that 
just legal system and people feel like, well, the legal system's corrupt, what's the point of 
getting a lawyer, I'm going to go to jail anyway.

Or I can't voice this through international law because these UN countries keep blocking 
everything, people will resort to violence. So a good legal system is very necessary to 
keep violence at bay.

**David:**

Yes.
Man 4:

So this summer I went to Vietnam. [Inaudible 1:00:57] And so right now I don't see any incentives for other countries to [Inaudible 1:00:59].

Paul:

There's no incentive for a country not to develop nuclear weapons.

Man 4:

I mean, the US is the most powerful nation. If you're another country, and you develop nuclear weapons, you have this wild card that protects you from invasion from another country.

Paul:

That's why the Non-proliferation Treaty was created. That's why the US led the way in creating the non-proliferation treaty. It wanted to create some disincentives for other countries to develop nuclear programs. But in fact, by it's own failure, the United States' own failure to fulfill it's own obligations, it's undermined those disincentives for others. I think, my own analysis of the situation is the United States has to lead the way. We have to stop trying to enforce double standards in the world. Double standards don't work when you're raising children. They don't work in systems of law. You've got to have one standard that applies to everybody. And probably, until the United States is ready to take that step and apply the same standards to itself that it expects of others, those incentives to proliferate will remain.

That's a very dangerous situation, and I think, the American public really needs to understand that and put pressure on our government to the extent that we can do so.

One of the things, that I mentioned, that we do at the foundation, is have an action alert network where we try to get large numbers of people responding to political leaders to take actions that would in fact create some incentives for other countries to not go nuclear.

David:

I think there is a strong incentive for countries to not have nuclear weapons. Who are we most worried about now getting nuclear weapons? Yeah, who are we most worried about now getting nuclear weapons? Not even them. Al-Qaeda. We are most afraid of Al-Qaeda and terrorist getting nuclear weapons. Bin Laden. Now, the reason we don't want Iran to have one is we're worried that Iran will give one to Bin Laden and Al-Qaeda. Now, if Al-Qaeda has a nuclear weapon, will they use it on us?

Do you think they will? Absolutely. They don't care how many we have. They will use it. And who do we nuke back? Where's Bin Laden right now? Who do we nuke? So if they have one, they will use it against us and no number of nuclear weapons will protect us.

And we don't even know who we can nuke back. And if we do nuke other countries back, we'll destroy all life on the planet through nuclear winter. So the people that are most worried about getting nuclear weapons don't care how any we have, and that's a huge
problem. The only way to prevent terrorists from getting nuclear weapons. You can hear Reagan. You can hear, Reagan, Henry Kissinger, President Obama, all said the same thing, we have to get rid of all nuclear weapons.

You can hear a non partisan viewpoint. We have to get rid of them all. So the incentive for other countries to get rid of nuclear weapons is human survival. That is the incentive, human survival. As long a the United States has 9000 nuclear weapons, there is no incentive for other countries to not develop them. There is no incentive. And they have a strong incentive to develop them because we can invade them.

But there's a strong incentive for everyone to disarm. Strong incentive. But the reason other countries don't care about disarming or not getting nuclear weapons, is we aren't agreeing to do it. So as long as we have 9,000 that we refuse to disarm, what incentive do they have not to develop nuclear weapons. Especially when we invade a country without nuclear weapons, and we negotiate with countries with nuclear weapons.

So the incentive is the human survival. The only solution to thwart terrorism and the nuclear threat. Terrorists will eventually get a nuclear weapon. You can't stop them. They eventually will get nuclear material. The only way to prevent that is to get rid of all nuclear weapons and the incentive is human survival.

David:

Let me just conclude by thinking back to what Margaret Mead said. "Never doubt that a small group of people can change the world. Indeed it's the only thing that ever has." We have lots of power, the power of one is enormous. I encourage all of you to use your powers as a human being, as a human individual, I also encourage you to come to our website and get involved with the work of the Nuclear Age Peace Foundation.

Paul has a great peace leadership program. He travels around the country giving lectures and seminars in peace leadership. And if you want to find out more about that you can ask Paul to tell you a little bit afterwards. Or if you sign up on the sheet that went around, we'll get in touch with you.

So thanks a lot for taking some time out, for being here, and hearing something about, in my view, one of the most important issues that confronts humanity and each of us individually. Thanks. [applause]