



## International Law and the Use of Nuclear Technology in Weapons

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### 1. Introduction

The history of science began in Greece with the great thinkers like Socrates (469 BC - 399 BC) and Aristotle (385 BC - 322 BC) and its path crosses with the history of nuclear technology and history of law. For Immanuel Kant (1724 - 1804, Prussia), the community among the peoples of the world, once developed in an extraordinary and general way, has gone so far that the violation of rights committed in one place on Earth is felt in all others. For this reason, the idea of a universal citizen's right is not a kind of fantastic and extravagant representation of law. However, a necessary complementation of the unwritten international Code, of the public rights of men in general and of eternal peace [1].

Thus, international law is the complex of rules that govern the external relations of the actors that make up international society. The mission of international law is to institute universal legal standards, respecting the sovereignty of States, individuals and their peculiarities. Value judgment on war should not justify its effects whether or not it is convenient for those involved. There are conflicts of values during a war. The question of the guilt of a war is a problem that cannot be solved by ethics. However, for us, as individuals, we seek meaning, even if it opposes meaning. We attribute meaning to an event when it comes to values and meaning when values derive from it [1]. If there are two sides, for both the war is fair when it comes to conflicts of interest or values.

In 1945, the Japanese cities Hiroshima and Nagasaki were destroyed by bombs developed from nuclear technology. And people started to question the use of nuclear energy: "Is it safe?", "Do we really need this technology?". Others said: "Nuclear power is too dangerous to be worth." And yet, in this context, today we have the reaction not in my backyard. This theory means that the person considers nuclear technology to be good, as long as the studies are not carried out in their backyard. Nuclear bombs were rated the worst war crime against humanity. However, bomb detonation continued during the Cold War in unpopulated locations [2]. Disarmament is the best protection against these dangers. But achieving that goal has been a tremendously difficult challenge. One nation at war forces another to use the same means of combat. As a result, the law began to regulate, in the international environment, the use of nuclear technology in weapons. The use of this technology for war purposes came to be judged as a crime of genocide by the International Criminal Court.

The purpose of this paper is to answer the question "what is the role of international law for the use of nuclear technology in weapons?". To understand this question, it's necessary presented history of nuclear technology, the philosophy behind the science of law, and deal with the relationship between international law and the use of nuclear technology in weapons. So that, at the conclusion, the question is answered.

### 2. Methodology

This research is classified as to the ends in exploratory and as to the means is a study of nature, substantially, bibliographic and documentary. To elaborate the bibliographic and documentary research, the systematization will be done with a string to organize the international reference databases about subjects that are published in books, journal articles, events and theses. They are: INIS (International Nuclear Information System), Nuclear Power, IAEA - Safety Standards, NRC (Nuclear Regulatory Commission), Planning & Economic Studies Section, Energy Technology Data Exchange, Scielo – Scientific Electronic Library Online, NDLTD

– Networked Digital Library of Theses and Dissertation, Google Scholar; United Nations etc. In Figure 2, the general proposal of the study method will be presented.

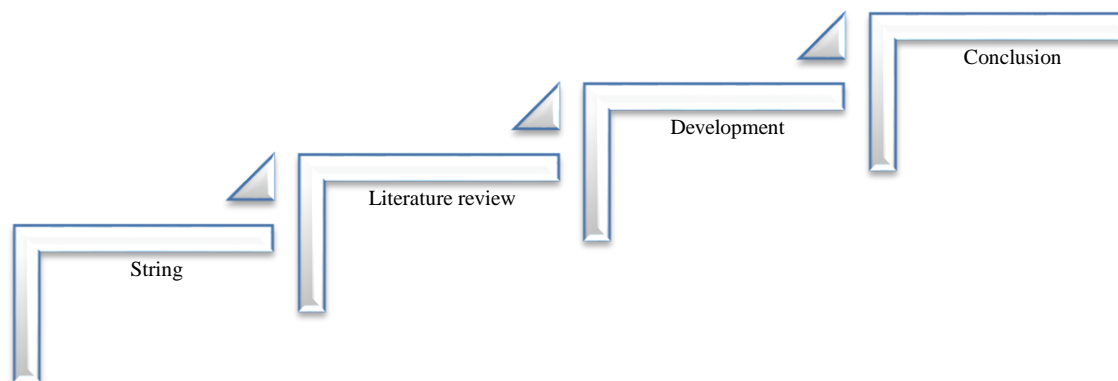


Figure 1: General proposal of study method.

### 3. Results and Discussion

The nuclear warhead does not distinguish between targets and its destruction causes devastating effects not only for humanity, but also for the environment. In this sense, it remains to be demonstrated that it is a weapon of mass destruction capable of causing death and unnecessary pain to the individual, as well as causing irreparable damage to the environment. International law is well aware that nuclear technology has brought advances to science, medicine, agriculture, but also the most destructive weapon known, the nuclear weapon. For this reason, the use of nuclear technology, in particular for the construction of weapons, must be regulated by international law.

The Vatican held a symposium on nuclear disarmament in New York. This is the first global meeting on atomic disarmament after the approval of the “Treaty on the Prohibition of Nuclear Weapons”, after years of intense and arduous negotiations, and open for signature in the American metropolis on September 20, 2017 [3]. For the United Nations, the Treaty on the Prohibition of Nuclear Weapons is the basis for seeking disarmament and the use of nuclear energy for peaceful purposes [4]. The United Nations, the largest representative of international law, has sought to eliminate nuclear weapons since their use [2]. The first resolution adopted by the UN General Assembly in 1946 established a Commission. The purpose of this commission was to present proposals to guarantee the use of nuclear energy only for peaceful purposes. The resolution also decided that the commission should make proposals for the elimination of nuclear weapons stockpiles and all other weapons that could be used as weapons of mass destruction.

A number of multilateral treaties have been established since then, with the aim of preventing nuclear proliferation and nuclear testing, while providing the advance in nuclear disarmament. They are: the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the Treaty Banning Nuclear Weapon Tests In The Atmosphere, In Outer Space And Under Water, also known as the Partial Test Ban Treaty (PTBT), the Comprehensive Nuclear-Test-Ban Treaty (CTBT), which was signed in 1996 but has yet to enter into force, and the Treaty on the Prohibition of Nuclear Weapons (TPNW). In a note published in February 2020, the agency's 15 member states declared themselves determined to go even further to achieve non-proliferation and disarmament. After all, the Treaty on the Prohibition of Nuclear Weapons is the only legally binding commitment in favor of disarmament for states that officially possess nuclear weapons.

In October 2020, Honduras was the number 50 country to ratify the Treaty on the Prohibition of Nuclear

Weapons. This fact brings the treaty into force in 90 days. According to the United Nations, entry into force will be on January 22, 2021 [2].

#### 4. Conclusions

The law is universal, in other words, it cannot carry out partial regulation or it will harm unregulated parties. It was verified in the course of this paper that in January 2021 there was positivization in the international legal system on the use of nuclear technology in weapons. However, the treaty has not yet been signed by the major powers, including those that maintain nuclear weapons in their arsenals: United States, United Kingdom, France, China and Russia [5].

Thus, it is concluded that there is a gap in international law regarding the prohibition of the use of nuclear weapons. Even if nuclear warheads are listed in, the list of weapons of mass destruction and their use is illicit. Nations that do not respect human rights and the ecosystem can come to use them. For such nations believe that they are supported by the maxim of law *Qui non proohibet quod prohibere potest assentire videtur*, that is, that which is not expressly prohibited, is permitted.

For this reason, it has been demonstrated that the entry into force of Treaty on the Prohibition of Nuclear Weapons (TPNW) is allegorical and, it is hoped, that in the near future it will be reliable. In order for the deliberate use of nuclear weapons technology not to occur, there must be complete implementation and universal adherence to the Treaty on the Prohibition of Nuclear Weapons.

The claim to be in effect throughout the legal system regarding the use of nuclear technology in weapons should be covered by the matter at an international level. It is a fact that these rules are part of international law. A state is not subject to international law because it is sovereign; it is sovereign because it is subject to international law.

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