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Topic 1

I appreciate the opportunity to make a few comments on preambular elements of a prohibition treaty. I will draw upon the discussion paper submitted and circulated by the International Association of Lawyers Against Nuclear Arms. It makes detailed arguments in support of the three points I will make today, and also comments on other topics you will be addressing this week. I commend the paper to your attention.

First, it is imperative that the preamble include an affirmation of the illegality of use of nuclear weapons under existing law. That is essential because the core operative prohibitions will apply only to states parties. Any implication that non-states parties are not subject to a prohibition of use must be avoided.

A preambular affirmation of the illegality of use would also reinforce the norm of non-use of nuclear weapons. The norm of non-use arises out of a broad recognition that use of nuclear weapons is incompatible with international humanitarian law and the practice of non-use of the weapons in war since 1945.

Second, the preamble should include an affirmation of the illegality of the threat of use of nuclear weapons under the UN Charter and international humanitarian law. This would help undermine 'nuclear deterrence' as well as specific threats that could lead to actual employment of nuclear weapons. Delegitimizing 'nuclear deterrence' is essential to achieving the abolition of nuclear weapons. So long as 'nuclear deterrence' is tolerated, good-faith negotiation of nuclear abolition is impossible, resulting in the permanent violation of the disarmament obligation.

Third, as stated in the resolution deciding to convene this conference to negotiate a treaty to prohibit nuclear weapons, leading towards their total elimination, the preamble should recognize that additional measures for the irreversible and verified destruction of nuclear weapons will be needed in order to achieve and maintain a world without nuclear weapons. In particular, it should describe the prohibition treaty as a step toward a comprehensive agreement on nuclear disarmament – a Nuclear Weapons Convention. Let me remind you that a model convention, drafted by IALANA and colleague organizations, is a UN document.

Thank you for your attention.