

Australia and the Post-Ukraine Nuclear Disarmament Agenda

Ramesh Thakur

A world in growing disarray is at a nuclear inflection point with intensifying and multiplying nuclear threats. The Nuclear Non-Proliferation Treaty (NPT) was adopted in 1968 and entered into force in 1970. Mostly successful as a nonproliferation regime, it has proven to be stillborn as a nuclear disarmament treaty and hence its failure to act as an effective instrument to eliminate nuclear threats. To fill the legal gap and exert normative pressure towards elimination, 122 NPT states parties adopted a new UN instrument in July 2017 called the Treaty on the Prohibition of Nuclear Weapons (TPNW, simplified in common parlance to the Ban Treaty). As of 10 January 2023, it had 68 states parties and another 24 signatory states.¹ This article proceeds in three parts: a description of the global strategic landscape, a sketch of the Indo-Pacific nuclear situation against the global backdrop, and an assessment of possible pathways for Australia to once again make a difference in reducing nuclear risks.

¹ United Nations, Office for Disarmament Affairs, 'Treaty on the Prohibition of Nuclear Weapons', <https://treaties.unoda.org/t/tpnw>, accessed 13 January 2023.

Global Nuclear Landscape: Elevated Risks and Threats

Barack Obama was the first and only American president to visit Hiroshima (or Nagasaki) while in office. In an emotionally-charged address at the Hiroshima Peace Memorial on 27 May 2016, referencing 6 August 1945, he said: ‘on a bright, cloudless morning, death fell from the sky and the world was changed. A flash of light and a wall of fire destroyed a city and demonstrated that mankind possessed the means to destroy itself’.²

There are moral, legal and existential imperatives to reduce and eventually eliminate nuclear weapons. Article 6 of the NPT commits each state party ‘to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament’. In a 1996 Advisory Opinion, the World Court strengthened this: ‘There exists an obligation to pursue in good faith *and bring to a conclusion* negotiations leading to nuclear disarmament’ (emphasis added).³ The Ban Treaty builds on the World Court’s opinion. Of the NPT’s current 188 states parties, five are recognised as nuclear weapon states (NWS) because they conducted a nuclear test before 1 January 1967: China, France, Russia, UK, and USA. Not one has eliminated its stock of nuclear weapons. Instead, all five are modernising and upgrading their arsenals and expanding their roles in national security.

This is the biggest challenge for the NPT. We are in an exceptionally dangerous period in the atomic age with about 12,500 nuclear warheads still held by nine countries in 2023.⁴ For half a century, nuclear peace rested on the normative pillars of the NPT. Over the last decade, even as geopolitical tensions spiked in Europe, the Middle East, the Himalayas and East Asia, the existing nuclear arms control architecture began fraying, with no negotiations being held currently or scheduled to reduce global nuclear stockpiles. A hostile international security environment, proliferation of nuclear weapons and emergence of new space, cyber and AI technologies have increased the risk of accidental or deliberate use of nuclear weapons.

The risks of nuclear war—by design, accident, rogue launch or system error—have grown with more countries with weaker command and control systems in more unstable regions possessing these deadly weapons, terrorists wanting them, and vulnerability to human error, system malfunction and cyber-attack. The strategic boundary between nuclear warheads and conventional precision munitions is being steadily eroded. The boundaries between nuclear and conventional weapons, tactical and strategic warheads, and nuclear, cyber and space domains are eroding. On top of all this, state-sponsored cross-border militancy and extremism involving nuclear-armed states is another contemporary reality, as is the fear of nuclear terrorism. The growing risks and uncertainty in turn have fuelled a

² ‘Remarks by President Obama and Prime Minister Abe of Japan at Hiroshima Peace Memorial’, White House, Office of the Press Secretary, 27 May 2016, <https://obamawhitehouse.archives.gov/the-press-office/2016/05/27/remarks-president-obama-and-prime-minister-abe-japan-hiroshima-peace>.

³ *Legality of the Threat or Use of Nuclear Weapons: Advisory Opinion*. The Hague: International Court of Justice, 8 July 1996, <http://www.un.org/law/icjsum/9623.htm>.

⁴ Hans M. Kristensen and Matt Korda, ‘Status of World Nuclear Forces’, Federation of American Scientists, 28 March 2023, <https://fas.org/issues/nuclear-weapons/status-world-nuclear-forces/>

vicious cycle of renewed interest in the nuclear deterrent among US allies in Europe and the Pacific as a hedge against receding US primacy and reliability.

The Indo-Pacific in Global Context

The Indo-Pacific is unique among the world's regions in that it contains states with the full spectrum of nuclear-weapons status in relation to the NPT. The vast majority are non-NWS parties of the NPT. China is Asia's only NPT-recognised NWS and the sole Asian permanent member of the UN Security Council which functions as the global enforcement authority in the maintenance of nuclear peace and security. India and Pakistan never signed the NPT, acquired nuclear-weapon capability by the 1990s and declared themselves to be possessor states with breakout nuclear tests in May 1998.⁵ North Korea is the world's sole NPT defector state, having been a state party and then withdrawn and tested and acquired the bomb. Three US allies—Australia, Japan and South Korea—depend for their national security on the extended (nuclear) deterrence provided by US nuclear weapons. Russia and the US also have a massive geographical footprint each in the Pacific.

The second nuclear age⁶ is characterised by a multiplicity of nuclear powers with criss-crossing ties of cooperation and conflict, the fragility of command and control systems, the critical importance of cyber-security, threat perceptions between three or more nuclear-armed states simultaneously, and asymmetric perceptions of the military and political utility of nuclear weapons. The Cold War nuclear dyads have morphed into interlinked nuclear chains with a resulting greater complexity of deterrence relations between the nine nuclear-armed states (five NWS plus India, Israel, North Korea, Pakistan). The Cold War was also marked by the practice of strategic nuclear policy dialogues firstly among the US and its allies, and secondly between the US allies and the Soviet Union. No equivalent dialogues exist in the Indo-Pacific either among allies or between adversaries.

The subregional nuclear insecurity complex across Asia does not always coincide with the geographical subregion. For example, in the subcontinent, there is a triangular nuclear relationship between China, India and Pakistan. By contrast, in Northeast Asia every country is part of the nuclear equations complex. In Southeast Asia and Oceania, no country has or is likely to seek nuclear weapons in the foreseeable future. Asia is the world's only site, and Japan the only victim, of the use of nuclear weapons in war. The Indian subcontinent and the Korean peninsula are potential theatres of a nuclear war, while a direct China-US confrontation from an escalation spiral starting in the South China seas is also possible. In mid-2017 China and India faced each other in a tense military confrontation at the tri-junction with Bhutan in the Doklam plateau and their forces engaged in a deadly firefight, albeit with rocks and rods, in the Galwan Valley in 2020.

⁵ See Ramesh Thakur, 'The South Asian Nuclear Challenge', in John Baylis and Robert O'Neill, eds., *Alternative Nuclear Futures: The Role of Nuclear Weapons in the Post-Cold War World* (Oxford: Oxford University Press, 2000), pp. 101–24.

⁶ Paul Bracken, *The Second Nuclear Age: Strategy, Danger, and the New Power Politics* (New York: Henry Holt, 2012).

Premeditated nuclear strikes seem unlikely pathways to a nuclear exchange. But the toxic cocktail of growing nuclear stockpiles, expanding nuclear platforms, irredentist territorial claims and out of control jihadist groups makes the Indian subcontinent a high risk region of concern. Even a limited regional nuclear war could cause a famine through nuclear winter effects that destroy crop production, disrupt global food distribution networks, and, over a decade, kill up to two billion people.

Northeast Asia too is a dangerous cockpit for a possible nuclear war that could directly involve four nuclear-armed states (China, North Korea, Russia, US), plus South Korea, Japan, and Taiwan as major US allies. The pathways to a war that neither side wants include a fatal miscalculation in the instrumental recourse to brinksmanship by both sides. US threats could spook Kim Jong-un into launching a preemptive attack, or Kim's serial provocations could incite a South Korean or US military response that creates an unstoppable escalation spiral.

Australian Contributions to Reducing Risks and Eliminating Threats

In his political memoir *Incorrigible Optimist* (Melbourne University Press, 2017), Gareth Evans writes that to pursue an effective foreign policy, Australia must identify core national foreign policy objectives, assess national capabilities to advance them and choose the priorities against domestic and international real-world constraints (p. 107). Ideas matter as a driver of policy. Niche middle power diplomacy requires concentrating resources in areas of most impact and success depends on the three 'Cs' of capacity, creativity and credibility (p. 119). In the changing global order and regional balances, it is wise to visibly prioritise Asia-Pacific geography, with an investment in personal relationships, over Euro-Atlantic history (p. 122).

With far-flung civilisational, commercial, strategic and environmental interests and links, Australia has a direct and big stake in a rules-based global order. Although not a major power, Australia is a consequential tier two power with a substantial footprint in the Indo-Pacific. It has a global train of interests arising from its economic size and high income levels, landmass, continental identity, maritime environment and geographic location. It also has a unique set of knowledge, experience and skills to offer the world. It can leverage European heritage, political values and alliance links with the US, the gravitational pull of China as its biggest trading partner and membership of the G20.

Russia's repeated reminders of its nuclear arsenal amidst its military setbacks in its campaign of aggression in Ukraine have helped to normalise the discourse on nuclear weapons possession and the threat of their use. Yet the Ukrainian crisis also proves the essential lack of operational usability of nuclear weapons. They did not deter Russia from annexing Crimea, nor NATO from providing substantial, lethal and highly effective weapons to Ukraine. Russia's nuclear bombs and threats failed also as tools of nuclear coercion and blackmail. Kyiv was not intimidated into immediate surrender and instead fights on over a year later. Most importantly, the war in Ukraine underscores the risks of a nuclear Armageddon as long as these weapons exist.

Nuclear abolition remains an irreducible but distant goal. A global convention to enshrine a universal no first use (NFU) policy may be less challenging and Australia is a credible candidate to lead the push for such a convention. The intent to be the first to use nuclear weapons faces an unresolvable paradox. If the adversary is not nuclear-armed, the use of nuclear weapons would exact too heavy a moral and political price for the threat to be credible. If the adversary is nuclear-armed and has credible second-strike retaliatory capability, a first use posture is not credible as its execution would inflict unacceptable damage on the initiator of nuclear hostilities. The only rational strategy is to threaten but not actually to use nuclear weapons first. But if carrying out the threat would be national suicide, then the threat cannot be credible. And a non-credible threat cannot deter.

Thus, what is important is not a first-use policy, but credible second-strike capability. Once that is attained, an NFU policy, backed by appropriate nuclear force posture and deployment patterns, is a critical step back from nuclear brinkmanship. The policy avoids the need for forward deployment, launch-on-warning postures and pre-delegation of authority to battlefield commanders, thereby significantly dampening the prospects of accidental and unauthorised use. And it counteracts crisis instability by reducing the pressure on decision-makers to 'use or lose' their nuclear arsenal. The incentive and temptation to use nuclear weapons preemptively are lessened.

Australia is among a handful of Asia-Pacific countries with the entire supporting infrastructure—quality of political and bureaucratic leadership, scientific and technical expertise, credibility in all the relevant constituencies, and financial and human resources—to be able to consider launching a sustained initiative on this. Under the NPT, nuclear disarmament is a shared security responsibility of all countries party to the treaty, not just the prerogative of the nuclear powers. Evans played a key role in the negotiation of the Chemical Weapons Convention and was followed by Alexander Downer in shepherding the Comprehensive Test Ban Treaty (CTBT) through the UN General Assembly. China and India are officially committed to an NFU policy and thus there are no adverse implications for Australia's bilateral relations with these key countries. There are reasons to believe that Washington too wants to move in this direction but has been held back by the nervousness of some of its allies in Asia and Europe.⁷ All of which puts the reach of low-hanging fruit of an NFU convention within Australia's normative grasp.

A second practical contribution would be to fund the Asia-Pacific Leadership Network for Nuclear Non-proliferation and Disarmament.⁸ The APLN was founded by Evans and he and I set it up with the secretariat located for the first several years at the Australian National University before it moved to Seoul. The current Executive Director is Australia based. Yet the organisation has never received Australian Government funding despite being a potentially useful interface between policy research, advocacy sans activism and governments around the Indo-Pacific region.

⁷ Ramesh Thakur, 'Why Obama should declare a no-first-use policy for nuclear weapons', *Bulletin of the Atomic Scientists*, 19 August 2016, <https://thebulletin.org/2016/08/why-obama-should-declare-a-no-first-use-policy-for-nuclear-weapons/>.

⁸ <https://www.apln.network/>.

Third, the APLN could also be a useful conduit for a follow-up State of Play report. The inaugural report in 2013,⁹ with substantial Australian Government funding, was widely distributed and received extensive and positive feedback in the manner it addressed sensitive and contentious issues. It also helped to raise the global profile of Australia as a serious and credible voice on this subject. Ambassador Gary Quinlan, Permanent Representative of Australia to the United Nations, in an email message to this author on 11 May 2013, said that the report 'marks us out very much as a real contributor on this agenda'. Several others from around the world made similar comments. The second report was published in 2015 ahead of the NPT Review Conference.¹⁰ Another report after the inaugural meeting of the States Parties of the TPNW and the Tenth review Conference of the NPT would be timely and a constructive contribution to global nuclear debates.

The TPNW establishes a new normative settling point on the ethics, legality and legitimacy of the bomb.¹¹ The prop for the new initiative was humanitarian principles which permit advocates to transcend national and international security arguments.¹² The treaty reflects and deepens the democratisation of the process of international policymaking. It is legally binding only for signatories. However, since it is a UN-negotiated treaty following a UN-authorized process and conference, the claim that it has no implications for the legality and legitimacy of nuclear weapons possession and practices is implausible. It does substantially qualify, even for non-signatories, the legitimacy of possessing nuclear weapons and relying on the threat of using them for national security. The non-NWS are the majority shareholders in the NPT society of states and by acting together, they have derecognised the legitimacy of the five NWS as possessor states. The treaty reaffirms the global nuclear norms of nonproliferation, disarmament, security and non-use, and thereby devalues the currency of nuclear weapons. Its legal effect will lie in strengthening the disarmament norm for NPT parties and removing the NPT-sourced legal and legitimising plank for continued possession, deployment and doctrines of use by the five NWS.

The fraying normative consensus around the NPT as the embodiment of the global nuclear order as well as the framework for setting global nuclear policy directions has been effectively broken and the NPT regime is at a crossroads. If the NWS continue to disrespect the Ban Treaty, the divide between the two camps could harden. Such a destabilising outcome would not be in anyone's interest.

For Australia, the text of the ANZUS Treaty (anti-Japan in origins) is not in itself incompatible with the obligations of the Ban Treaty. But current practices, like naval and

⁹ Ramesh Thakur and Gareth Evans, eds., *Nuclear Weapons: The State of Play* (Canberra: Centre for Nuclear Non-Proliferation and Disarmament, 2013), https://cnnd.crawford.anu.edu.au/sites/default/files/publication/cnnd_crawford_anu_edu_au/2014-05/the_state_of_play_report_-_consolidated.pdf.

¹⁰ Gareth Evans, Tanya Ogilvie-White, and Ramesh Thakur, *Nuclear Weapons: The State of Play 2015* (Canberra: Centre for Nuclear Non-Proliferation and Disarmament, 2015), https://cnnd.crawford.anu.edu.au/sites/default/files/publication/cnnd_crawford_anu_edu_au/2015-02/printer_copy.pdf

¹¹ Ramesh Thakur, 'The Nuclear Ban Treaty: Recasting a Normative Framework for Disarmament', *The Washington Quarterly* 40:4 (2018): 71–95.

¹² Ramesh Thakur, ed., *The Nuclear Ban Treaty: A Transformational Reframing of the Global Nuclear Order* (London: Routledge, 2022).

intelligence facilities on Australian territory in North West Cape and Pine Gap, and possibly some joint military exercises at sea, would need to be terminated.

As one of only three umbrella states in the Pacific alongside Japan and South Korea, Australia has both the opportunity and the responsibility to attempt to harmonise the NPT and the Ban Treaty and promote reconciliation between the two camps. To this end, Australia should formally acknowledge the normative step forward of the Ban Treaty and actively engage with it instead of distancing itself from it. TPNW supporters and critics need to work together in the shared goal of achieving a world free of nuclear weapons. As a middle power, that is the middle way for which Australia should advocate.

This Policy Brief was first published In Casey Thompson and Huw Phillips, eds, *Evatt Journal: 90 Seconds to Midnight*, Vol. 21 (April 2023), pp. 17–23

The Author

Ramesh Thakur, a former UN assistant secretary-general, is emeritus professor at the Australian National University, Senior Research Fellow at the Toda Peace Institute, and Fellow of the Australian Institute of International Affairs. He is the editor of [The nuclear ban treaty: a transformational reframing of the global nuclear order](#).

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Toda Peace Institute
Samon Eleven Bldg. 5th Floor
3-1 Samon-cho, Shinjuku-ku, Tokyo 160-0017, Japan
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