# CHOOSING HUMANITY

Why Australia must join the Treaty on the Prohibition of Nuclear Weapons



This report was produced by the International Campaign to Abolish Nuclear Weapons, Australia, on Aboriginal land. We acknowledge that sovereignty has never been ceded and pay our respects to Indigenous elders past, present and emerging. Indigenous Australians continue to disproportionately suffer the intergenerational health impacts of nuclear testing, with vast tracts of land still contaminated. The legacy of nuclear weapons testing in our region is a constant reminder of the critical need to eliminate these weapons of mass destruction.

#### **Contributing authors:**

Chapter 1 – Stuart Maslen

Chapter 2 – Richard Tanter and Sue Wareham

Chapter 3 – Tilman Ruff

Chapter 4 – Vanessa Griffen, Dimity Hawkins and Talei Luscia Mangioni

Chapter 5 – Daryl Le Cornu

**Chapter 6 – Gem Romuld** 

**Editing: Gem Romuld** 

**Design: Tessa Sellar** 

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July 2019.

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N TO SIGN LEAR ON REATY

### FOREWORD

Moment of adoption of the Treaty on the Prohibition of Nuclear Weapons, United Nations, New York, 7 July 2017. *Credit: Clare Conboy*  The danger of nuclear war is growing. The more we learn about the catastrophic consequences of any use of nuclear weapons, the worse it looks. Nine nations possess some fourteen thousand nuclear weapons.<sup>1</sup> Eighteen hundred of them stand poised and ready to launch within minutes. As long as they exist, nuclear weapons pose the most acute existential threat that human beings have created for ourselves and for all species with whom we share planet Earth.

Humanity has made substantial progress towards eliminating other indiscriminate and inhumane weapons – chemical and biological weapons, landmines and cluster munitions. Evidence of the indiscriminate and unacceptable consequences of these weapons provided the necessary motivation to outlaw them. Prohibition treaties have then established a new standard and basis for progressively eliminating the relevant weapons.

Despite setbacks and slow progress, the pathway of "stigmatise, prohibit, eliminate" has proven effective in each case. While universal adherence to these treaties is the ultimate goal, no weapons-related treaty has gained universality.

It may take a long time for some states to join. China and France, for example, joined the Non-Proliferation Treaty in 1992, 24 years after it opened for signature. Waiting for other states to do the right thing is no excuse for delay. Treaties create norms which become influential over time. Treaties influence the behaviour of states, including those that have not joined them. For example the US does not manufacture or export landmines and is in virtual compliance with the landmine ban treaty, despite opposing it.

#### Former UN High Representative for Disarmament Affairs, Angela Kane, said in 2014:

How many States today boast that they are 'biological weapon states' or 'chemical weapon States'? Who is arguing now that bubonic plague or polio are legitimate to use as weapons under any circumstance, whether in an attack or in retaliation? Who speaks of a bio-weapon umbrella?<sup>2</sup>

It is inconsistent and morally bankrupt to deny the use of biological or chemical weapons while maintaining a right to threaten millions of civilians with radioactive incineration and famine.

Commendably, Australia under both Coalition and Labor governments has joined all treaties banning unacceptable weapons. It is anomalous that in recent years Australia has claimed to support nuclear disarmament while opposing the UN Treaty on the Prohibition of Nuclear Weapons. Indeed, Australia was one of the first governments to declare that it would not join this Treaty. The reason for this inconsistency is that since the early 1990s every Australian government has asserted that US nuclear weapons are essential to our national security and should be available for use on our behalf. Moreover, Australia provides material assistance for possible use of US nuclear weapons

through hosting key intelligence and communications facilities at Pine Gap and elsewhere. These facilities assist the command, control and targeting of US nuclear weapons.

We cannot have it both ways. We cannot claim to be working for a world free of weapons of mass destruction while also claiming that we need US nuclear weapons. This makes us part of the problem of the most acute existential threat humanity faces. We should be part of the solution instead. The danger posed by nuclear weapons is a fundamental issue of humanity, the right to life, international law, intergenerational justice and sustainability. It should be above party politics. Australia should ratify the UN Treaty on the **Prohibition of Nuclear Weapons** and implement it in good faith.

Other nations have demonstrated that supporting the Treaty is compatible with a military alliance with the US. More than half the states that the US designates as its "major non-NATO allies" voted to adopt the Treaty. New Zealand and Thailand have ratified the Treaty without causing any disruption to military cooperation with the US. This is because their cooperation does not involve the use of nuclear weapons. Another US ally in our region, the Philippines, has also signed the Treaty.

Joining the Treaty on the Prohibition of Nuclear Weapons is an effective way to build a safer future for all Australians. It will help advance the peace and security our world so desperately needs. This report explains why.

#### **Professor Gillian Triggs**

Former President of the Australian Human Rights Commission

### **INTRODUCTION**

Some claim that nuclear weapons keep us safe, but the reverse is true. Along with the explicit threat of nuclear war, there have been many accidents or near misses due to human, technical and computer errors. Only luck has prevented a nuclear launch since 1945. This luck cannot hold indefinitely. Extremists, hackers and unstable leaders further worsen the odds.

The humanitarian impacts are too great, and the risks too high.

Past horrors are a pale shadow of what newer weapons, many times more destructive than those used on Hiroshima and Nagasaki, can do. The Red Cross acknowledges that responding meaningfully to a nuclear detonation is impossible. One large thermonuclear blast would produce a massive firestorm, with an area tens of kilometres wide starved of oxygen, killing any survivors of the initial blast.

Even a limited regional nuclear war – perhaps between Pakistan and India fighting yet again in Kashmir – would produce enough soot to trigger a decade-long nuclear winter. Reduced crop yields would result in global famine. Careful modelling of detonations of under 0.5% of the global nuclear arsenal finds up to two billion people at risk of starvation.

Dismayed by the lack of progress on nuclear disarmament following the failure of nuclear-armed states to disarm despite their obligations under the nuclear Non-Proliferation Treaty, a small group of people gathered in Melbourne in 2005. This group of people founded ICAN, the International Campaign to Abolish Nuclear Weapons, which sought a global ban on the worst weapons of mass destruction.

A decade later, in July 2017, the United Nations adopted the Treaty on the Prohibition of Nuclear Weapons (TPNW), and in December that year ICAN was awarded the Nobel Peace Prize for our work to "draw attention to the catastrophic humanitarian consequences of any use of nuclear weapons" and for our "ground-breaking efforts to achieve a treaty-based prohibition of such weapons".<sup>3</sup>

Globally, we are at a turning point. The TPNW delegitimises and

## SIGN THE NUCLEAR NEAPONS BAN TREATY

#### BIOLOGICAL WEAPONS BANNED 1972 CHEMICAL WEAPONS BANNED 1993 LAND MINES BANNED 1997 CLUSTER MUNITIONS BANNED 2008 NUCLEAR WEAPONS BANNED 2017 Image: Comparison of the second state of

stigmatises nuclear weapons, providing fresh impetus and a practical pathway to disarmament. Prohibition and stigmatisation achieve results and change both discourse and behaviour.

This report outlines why it is crucial that Australia signs and ratifies the TPNW.

The Australian community wants our government to sign and ratify the Treaty. Seventy-nine per cent of the public are in favour, with only 8 per cent opposed (Ipsos, November 2018).

In this report, national health organisations, faith leaders, international legal experts, experts and parliamentarians from all sides endorse Australia signing and ratifying the Treaty. In the past Australia played an important role in efforts to achieve multilateral disarmament treaties, most notably with chemical weapons. Australia joined the treaties banning landmines and cluster munitions even when the US opposed them.

The TPNW was carefully drafted to complement the Non-Proliferation Treaty. It provides the next step forward in the global move for nuclear abolition. All signatories to the TPNW commit to work for its universal adoption and for the time-bound, verifiable elimination of nuclear stockpiles. All this will need skilled and sustained diplomacy over time.

Signing and ratifying is in our national security interest. These weapons are manifestly unsafe

and as much an existential threat as global warming.

We are out of step with our neighbours in the Asia-Pacific, and with the vast majority of states globally. Australia signing would send a clear message to all nuclear-armed states, and be a major step in increasing global security. As former UN Secretary-General Ban Ki-moon said: "There are no right hands for the wrong weapons"<sup>4</sup>

We cannot have it both ways. Either Australia supports nuclear disarmament, or it supports the potential use of nuclear weapons.

We have been leaders in nuclear disarmament in the past – we can be leaders again.

Australia needs to join this treaty.

#### Dr Margaret Beavis and Dr Ruth Mitchell

Co-Chairs ICAN Australia

### **CHAPTER 1: THE TREATY**

Nuclear weapons threaten the very survival of our planet. The UN Treaty on the Prohibition of Nuclear Weapons is the first treaty to comprehensively outlaw nuclear weapons, filling a major gap in international law. History shows that the prohibition of certain types of weapons facilitates progress towards their elimination. Weapons that have been outlawed by international treaties are increasingly seen as illegitimate, losing their political status and, along with it, the resources for their production. The TPNW strengthens the global taboo against nuclear weapons, challenging any notion that these are legitimate, acceptable weapons for certain nations.

The TPNW explicitly prohibits under all circumstances the development, production, stockpiling, transfer, and use of nuclear weapons and other nuclear explosive devices. Hosting and threatening to use nuclear explosive devices is also illegal, as is assisting or encouraging anyone else to engage in any conduct prohibited under the Treaty.

The TPNW was adopted by a UN diplomatic conference on 7 July 2017 with the support of 122 states and opened for signature on 20 September 2017. The TPNW will enter into force 90 days after 50 states have submitted an instrument of ratification or accession with the treaty depositary – the UN Secretary-General. It continues to gain new signatories and states parties and is expected to enter into force within the next two years.

The Treaty complements existing international treaties on nuclear weapons, in particular the 1959 Antarctic Treaty, the 1967 Outer Space Treaty, the 1968 Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the 1971 Seabed Treaty, the 1996 Comprehensive Nuclear-Test-Ban Treaty and the five treaties establishing regional nuclear-weapon-free zones. Australia is a state party to all of the aforementioned treaties. including the 1985 South Pacific Nuclear Free Zone Treaty, also known as the Treaty of Rarotonga.

### **Prohibition on assistance**

Each state party to the TPNW undertakes never under any circumstances to "assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a State Party" under the Treaty.<sup>5</sup> This provision is especially relevant for states such as Australia that do not possess nuclear weapons but are in an alliance with a nuclear-armed state. Without logistical, infrastructure and communication/intelligence assistance, nuclear-armed states might find it harder to maintain and modernise their arsenals, and even to deploy them operationally in certain parts of the world.

### Prohibitions on assistance in disarmament law

It is important to bear in mind that a clause outlawing different forms of assistance for prohibited activities has been an integral component in all global disarmament treaties - those that prohibit the possession and transfer of weapons and require the destruction of stockpiles. An early example is the prohibition on assistance in the 1971 **Biological Weapons Convention** (BWC).6 The NPT also includes a non-assistance clause,<sup>7</sup> though its scope of application is limited to the five "nuclear-weapon States" designated under that treaty: China, France, Russia, the United Kingdom, and the United States.<sup>8</sup>

### The scope of the prohibition

The scope of the prohibition on assistance is broad. The words "in any way" mean that the prohibition encompasses indirect as well as direct actions. As such, it would cover supply of the key components of any nuclear explosive device, as long as there

### **NOBEL PEACE PRIZE**

"The Norwegian Nobel Committee has decided to award the Nobel Peace Prize for 2017 to the International Campaign to Abolish Nuclear Weapons (ICAN). The organization is receiving the award for its work to draw attention to the catastrophic humanitarian consequences of any use of nuclear weapons and for its ground-breaking efforts to achieve a treaty-based prohibition of such weapons.

We live in a world where the risk of nuclear weapons being used is greater than it has been for a long time. Some states are modernizing their nuclear arsenals, and there is a real danger that more countries will try to procure nuclear weapons, as exemplified by North Korea. Nuclear weapons pose a constant threat to humanity and all life on earth. Through binding international agreements, the international community has previously adopted prohibitions against land mines, cluster munitions and biological and chemical weapons. Nuclear weapons are even more destructive, but have not yet been made the object of a similar international legal prohibition.

Through its work, ICAN has helped to fill this legal gap. An important argument in the rationale for prohibiting nuclear weapons is the unacceptable human suffering that a nuclear war will cause. ICAN is a coalition of non-governmental organizations from around 100 different countries around the globe. The coalition has been a driving force in prevailing upon the world's nations to pledge to cooperate with all relevant stakeholders in efforts to stigmatise, prohibit and eliminate nuclear weapons."

> Norwegian Nobel Committee Chair, Berit Reiss-Andersen Oslo 6 October 2017

> > ICAN Australia campaigners outside the Nobel Peace Center in Oslo, Norway, December 2017. Credit: Kristian Laemmle-Ruff



was knowledge on the part of the state party of the recipient's intent to use them in a nuclear weapon.9

The word "anyone" in the prohibition on assistance in the TPNW applies to any recipient of assistance. In addition to any other state, this includes helping any individual, company, or international organisation, as well as any non-state actor.

Under Article 1(1) of the TPNW, state parties must not develop, test, produce, manufacture, otherwise acquire, possess or stockpile nuclear explosive devices; transfer them to any recipient directly or indirectly; receive their transfer or control over them; or use or threaten to use or allow any stationing of such devices in any place under their jurisdiction or control. A state party therefore cannot help anyone to develop or obtain nuclear weapons or control over them, or to pass them on to any other party.

The notion of unlawful assistance is well known in public international law under the rules of state responsibility. Under the terms of Article 1(1)(e) of the TPNW, state party A cannot assist state B (irrespective of whether it has also joined the TPNW) to develop, produce, or stockpile any nuclear explosive device. An obvious instance of unlawful assistance would be through the supply of fissile material or related technology, where the supplying state party knows the material or know-how will be used to develop nuclear weapons.

The provision of ballistic missile technology would also be unlawful where it was known that the missile programme of the assisted recipient was intended for the delivery of nuclear weapons. Jointly planning with a nucleararmed state around how and where a nuclear weapon will be used or tested would clearly be a violation. Further, a state party

that allows a nuclear-armed state to deploy its nuclear weapons on its territory is engaging in prohibited assistance. The act of allowing the stationing, installation, or deployment of any nuclear weapons on a state party's territory is explicitly outlawed by Article 1(1)(g) of the TPNW.

It is also unlawful to gather and share intelligence to be used for the *targeting* of nuclear weapons where that would amount to assistance in their use. The work of the Five Eyes intelligence alliance<sup>10</sup>, of which Australia is a member, to prevent the proliferation of nuclear weapons is entirely lawful. But were, for instance, intelligence to be used to assist the United Kingdom or the United States in identifying sites for a nuclear weapon strike that took place against North Korea - that would breach the assistance provision as it is framed in the TPNW.

### WHY JOIN THE BAN

| Nuclear weapons pose a direct and constant threat to people everywhere.  |
|--|
| Nuclear weapons do not keep the peace, instead they fuel enmity and mistrust among nations.  |
| The Treaty on the Prohibition of Nuclear Weapons offers our best hope of ending decades of deadlock and inertia around nuclear disarmament. It provides a clear path towards abolition.  |
| Australia has joined the global conventions prohibiting other<br>unacceptable weapons, including biological and chemical<br>weapons, anti-personnel landmines and cluster munitions.<br>We should build on this positive history.            |
| Nothing in the TPNW prevents Australia from maintaining<br>a military and security alliance with the United States that<br>excludes nuclear weapons.   |
| As a party to the Treaty, Australia will be in a far stronger position to work with other members of the international community to advance disarmament and non-proliferation.   |
| Australia's current refusal to join the Treaty is inconsistent with our professed support for a rules-based international order.   |
| Australia cannot credibly demand that other nations reject<br>nuclear weapons while insisting that the same weapons are<br>essential for its own security. Joining the Treaty will send a<br>consistent and credible message to all nations. |
| A great majority of the world's nations support the<br>TPNW including Australia's neighbours in Southeast<br>Asia and the Pacific.   |
| The Treaty is consistent with other international agreements including the nuclear Non-Proliferation Treaty and the South Pacific Nuclear Free Zone Treaty.  |
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Four in five Australians want the government to sign and ratify the Treaty.

Campaigners outside the UN, 20 June 2017. *Credit: Clare Conboy* 



The prohibition on *encouraging* prohibited activities particularly concerns states in defence alliances with nuclear-armed states, such as Australia, and members of nuclear alliances, such as states that belong to the North Atlantic Treaty Organization (NATO). The preface to NATO's latest Strategic Concept of November 2010 commits it to "the goal of creating the conditions for a world without nuclear weapons" but "reconfirms that, as long as there are nuclear weapons in the world, NATO will remain a nuclear alliance".11

It is certainly lawful for Australia or a member of NATO to sign the TPNW. It is also lawful for a member state to ratify or accede to the Treaty and become a state party as long as the state disavows support for the possession and the use of nuclear weapons on its behalf. As was the case with the 1997 Anti-Personnel Mine Ban Convention, there is no problem in "merely" participating in military manoeuvres with states that possess the prohibited weapons. Australia, for example, could adhere to the TPNW and lawfully engage in military exercises with the United States.

In 2016, prior to the negotiation of the TPNW, the United States drafted a "non-paper" on the ramifications it foresaw of the future treaty prohibition of nuclear weapons.<sup>12</sup> The US argued that the future treaty could degrade security relationships and "delegitimize the concept of nuclear deterrence". More substantively, and with specific respect to the assistance provision, the US argued that it could force a signatory (by which the US presumably meant state party) to repudiate US statements that "it would defend the signatory with nuclear means".13

This is an accurate assessment of Article 1(1)(e) of the TPNW.

However, the US went on to suggest that a state party could believe that it was legally required to "block all NATO nuclear cooperation", even if it were not involved in any nuclear "burdensharing".<sup>14</sup> This is clearly wrong. A state party to a treaty is bound to comply with its own obligations, not to impose disarmament on other states. To "assist" or "encourage" does not mean to "permit". Perhaps, though, what is most interesting about this paper is the implicit recognition that a state party to the TPNW is not obligated to withdraw from a military alliance with the United States.

### Trade in nuclear material and technology transfer

States parties to the TPNW are able to trade in nuclear raw materials, fuel, and equipment and to provide



related technology for purely peaceful purposes, including with nuclear-armed states and states that are not party to the TPNW. In a considered move to ensure consistency with the NPT, a preambular paragraph to the TPNW emphasises that nothing in the Treaty affects the "inalienable right" of states parties to conduct research, produce and use nuclear energy for peaceful purposes.

Thus, trade in nuclear technology or material is not generally prohibited by the TPNW, unless the state party responsible for the transfer knows or believes that the technology or material in question is to be used for the development or production of a nuclear weapon or other nuclear explosive device.

#### Summary

The TPNW precludes states parties from assisting or encouraging the possession, transfer, or use of any nuclear explosive devices, for instance by providing technological knowhow for their development or by endorsing declarations calling for the maintenance of a nuclear deterrent. It does not stop state parties generally collaborating with other states in military affairs and operations or being a member of a regional organisation some of whose members possess nuclear weapons. The prohibition on assistance is thus broad in scope, requiring explicit disavowal of any existing nuclear umbrella arrangements, but realistic in application. It is an integral component of the prohibition of nuclear weapons.

### Safeguards and verification

Articles 2–4 of the TPNW set out the key implementation obligations of states parties to the Treaty and how that implementation is to be verified. Article 3 concerns safeguards agreements to be concluded with the International Atomic Energy Agency (IAEA). Each state party that has never owned, possessed, or controlled nuclear weapons or other nuclear explosive devices is obligated to conclude or maintain an IAEA comprehensive safeguards agreement.

Through a set of technical measures, known as safeguards, the IAEA endeavours to verify that states are honouring their international legal obligations to only use nuclear material and technology for peaceful purposes. States accept these measures through the conclusion of safeguards agreements. The objective of IAEA safeguards is to "deter the spread of nuclear weapons by the early detection of the misuse of nuclear material or technology".<sup>15</sup> Verification measures include on-site inspections, visits and ongoing monitoring and evaluation.





### Comprehensive safeguards agreements

Each non-nuclear-weapon state party to the NPT is obligated to conclude a safeguards agreement with the IAEA "with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices".16 Such a safeguards agreement must concern "source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility".<sup>17</sup> Further, the requisite safeguards apply to all such material used in peaceful nuclear activities on any territory under the state's jurisdiction or control.18

As of May 2019, the IAEA had safeguards agreements in force with 183 states. The IAEA concludes three types of safeguards agreements:<sup>19</sup> comprehensive safeguards agreements with non-nuclearweapon states parties to the NPT; "voluntary offer" safeguards agreements with each of the five nuclear-weapon states parties to the NPT recognised under that Treaty; and item-specific safeguards agreements with states not party to the NPT.<sup>20</sup>

The IAEA carries out different types of on-site inspections and visits under comprehensive safeguards agreements. An IAEA visit or inspection may involve auditing the facility's accounting and operating records and comparing these records with the state's reports to the Agency: verifying the inventory of nuclear material and any changes to it; taking environmental samples; and applying "containment and surveillance" measures, such as seal application or the installation of surveillance equipment.

### Additional Protocol to the safeguards agreement

SECRETARY

The Additional Protocol<sup>21</sup> is a binding agreement with the IAEA granting additional inspection authority to that provided in safeguards agreements. A principal aim is to enable the IAEA inspectorate to provide assurance of the accuracy of declared activities and the absence of undeclared activities. Under the Protocol, the IAEA is granted expanded rights of access to both information and sites.<sup>22</sup>

The Additional Protocol requires states to provide information and grant IAEA inspectors access to all parts of their nuclear fuel cycle – including uranium mines, fuel fabrication and enrichment plants and nuclear waste sites – as well as to "any other location where nuclear material is or may be present".<sup>23</sup> Under the Additional Protocol, each state is required to provide information on the manufacture and export of sensitive nuclear-related technologies.

The TPNW requires all of its states parties to conclude and maintain a safeguards agreement with the IAEA to ensure that nuclear materials and technology for peaceful purposes are not diverted to weapon programmes. The TPNW also goes a step further than this in requiring an Additional Protocol for all those that have already accepted it.

The safeguards under the TPNW are thus stronger than under the NPT, as the NPT does not require the Additional Protocol for any states.<sup>24</sup>

Article 3(1) of the TPNW also stipulates that the obligations to maintain existing safeguards agreements are "without prejudice to any additional relevant instruments that it may adopt in the future". In contrast, the 2010 **NPT Review Conference Action** Plan "encourages" all states parties which have not yet done so to adopt the Additional Protocol.<sup>25</sup> It is likely that the first meeting of states parties to the TPNW will strongly encourage all states parties which have not vet done so to adopt an Additional Protocol.

### Enforcement

As is the case generally under global disarmament treaties, there are no specific enforcement provisions in the TPNW but mechanisms exist to promote compliance, most notably the meetings of states parties and review conferences. The Chemical Weapons Convention, Anti-Personnel Mine Ban Convention, and Convention on Cluster Munitions similarly have both meetings of states parties and review conferences, while the NPT focuses on five-yearly review conferences.

The Chemical Weapons Convention goes further than other global disarmament treaties in including also a specific provision on measures to redress a situation and to ensure compliance, including sanctions.<sup>26</sup> A meeting of states parties may explicitly restrict or suspend a state party's rights and privileges under the Convention until it undertakes the necessary action to comply with its treaty obligations under the Convention. Where serious damage to the object and purpose of the CWC exists, the meeting of states parties may recommend collective measures

to states parties in conformity with international law. In cases of "particular gravity", the meeting of states parties is required to bring the issue to the attention of the UN General Assembly and the UN Security Council.<sup>27</sup>

Of course, it is always open to a TPNW meeting of states parties or review conference to bring a compliance concern before the UN General Assembly or the UN Security Council, or to seek resolution of any such issue before the International Court of Justice or the Permanent Court of Arbitration.

### Universality

Universality is a stated aim of the TPNW under Article 12. Every state party to the TPNW is obligated to encourage states not party to sign, ratify, accept, approve or accede to the Treaty, "with the goal of universal adherence of all States to the Treaty". The greater the adherence, the greater the stigmatisation of nuclear weapons and the stronger the pressure on nuclear-armed states to take seriously their obligations under Article VI of the NPT to move towards nuclear disarmament.



### THE TIME IS RIGHT TO ADDRESS THE PERIL OF NUCLEAR WAR

All nations have a responsibility to pursue nuclear disarmament. Non-nuclear states have initiated action aimed at bringing nuclear weapons under effective treaty law, even if those states possessing such weapons refused to join. Whilst any such treaty development would not necessarily achieve the abandonment of all weapons currently held by the nuclear-armed states, it would clearly assert a principle of international law and uphold the right of non-weapons states to protect their own populations and the health and safety of the global biosphere.

Founded in Melbourne, ICAN kicked off the global process which ultimately led to the Treaty on the Prohibition of Nuclear Weapons.

In December 2018, by unanimous vote at the Australian Labor Party national conference, it was agreed that ratification should be pursued by the next federal Labor government in Australia. This will not now happen in 2019. But it will happen. And it should happen quickly.

We need to reflect on the principled and powerful position taken by New Zealand. Whilst some opponents have suggested that Australia's ratification of the TPNW would be contrary to the ANZUS Treaty between Australia, New Zealand and the United States, no mention is made in the latter document concerning the so called "nuclear umbrella" afforded by the United States. Nor does the United States guarantee and promise in that treaty to defend Australia with or against the use of nuclear weapons. Opinions have been expressed that there would be no legal impediment to Australia's ratifying the TPNW whilst renouncing any use, possession or threat of use of nuclear weapons for itself or in its defence by the United States. In 2017 ICAN was named winner of the Nobel Peace Prize. It was acknowledged that a group of citizens in Melbourne had initiated the steps that led to a response by increasing numbers of states, despairing that the nuclear armed nations will ever take "bona fide" or any other steps to reduce the perils of nuclear war unless somehow obliged to do so. Although the Nobel Peace Prize is for Australia a unique and praiseworthy achievement, it attracted no commendation from the Australian government. Meanwhile, the treaty ratifications are being assembled and the test for Australia's own participation lies ahead.

While there may be weaknesses in the TPNW, doing nothing is a far greater weakness. Failing to address the challenges of nuclear weapons to humanity, the safety of the planet and the biosphere highlights the global community's failure to respond appropriately and effectively to the existential peril of nuclear weapons.

It is true that the world has survived since 1945 without a nuclear weapons holocaust. Nevertheless, there have been serious changes in that interval. These are not limited to the dangers of deliberate use of nuclear weapons, although these clearly exist and are serious enough. Existing dangers include the risks of accidents, mistakes and individual rage or desperation. The changing geo-political landscape with the rise in national, sub-national and extremist agendas, cyberwarfare, aging infrastructure and the threat of terrorism have all further complicated and undermined notions of nuclear security and credible control. That the world has survived seven decades since Hiroshima is more by good luck than effective management and there is no guarantee that it will continue to do so in an environment of proliferating nuclear weapons.

The time is right for an initiative that cannot await the actions of the nuclear weapons states. The states that are the source of the problem and the obstacle to action should not deter the states that realise the existential challenge and have commenced the global legal response.

> The Hon. Michael Kirby AC CMG Former Justice of the High Court of Australia

### CHAPTER 2: GETTING ON THE RIGHT SIDE OF HISTORY

The Treaty on the Prohibition of Nuclear Weapons came into being because of deepening international concern about the catastrophic effects of any use of nuclear weapons. It is built on the belief that the same rules must apply to all nations. A distinction between nuclear "haves" and "have nots" is discriminatory, illogical and unsustainable. Australia must assert the reality that these weapons are an illegitimate, inhumane and highly dangerous form of "defence" and that they undermine the security of our region and the world.

Australian government statements in favour of a nuclear-weaponfree world are plentiful. And yet our policies are heavily skewed towards non-proliferation, i.e. maintaining the nuclear status quo, rather than advancing global nuclear disarmament. Australia's ongoing claim that US nuclear weapons "protect" us undermines any credible commitment to disarmament. One cannot at the same time believe that a weapon is essential for our security and also must be abolished.

Joining the TPNW would not threaten or be inconsistent with the Australia-US alliance. Taking this next crucial step forward requires independent thinking, and a determination to act in the interests of both Australia and the global community.



It is, of course, true that nuclear disarmament must be undertaken by the nuclear-armed states themselves. It won't happen without them. But in the meantime non-nuclearweapon states, including Australia, can at least be clear that the status claimed by the nuclear weapon states is nothing to be proud of. It sets them apart in the wrong way. As such, the Treaty on the Prohibition of Nuclear Weapons should serve as a constant reminder of the fact that some countries still choose to possess a weapon whose use, in any circumstances, would be a crime against the human race.

Joining the TPNW won't keep Australia safe in a nuclear war. Nothing will. The indefinite possession of nuclear weapons makes their eventual use, whether by accident or design, inevitable. Nuclear deterrence may be claimed to work until the very day it doesn't, but when that day comes, there will be no shelter to be had under a nuclear umbrella.

#### **Peter Hooton**

Former Assistant Secretary of Arms Control and Counter-Proliferation, Department of Foreign Affairs and Trade

Australian Centre for Christianity and Culture, Charles Sturt University



### **ICAN AMBASSADORS**

The Australian government should give something back to all Australians by signing the nuclear weapon ban treaty to ensure that the threat of nuclear poisoning does not happen again.

People in my family and my community are still suffering today from the effects of bomb testing in Australia in the 1950s and 60s. Just do it for Australia and the world.

**Aunty Sue Coleman-Haseldine** 

Kokatha elder from the West coast of South Australia Co-Chair of the Australian Nuclear Free Alliance.

I am an ICAN Ambassador because nuclear weapons pose an existential threat to life every moment. They exist in their thousands as ticking time bombs of mass destruction, ready to be set off by accident or design.

Prohibiting and eliminating nuclear weapons is the only way we can guard against their use. The nuclear weapon ban treaty is humanity's chance to save the future. Australia has had a proud history of championing nuclear disarmament. It is time we signed and ratified this important treaty.

**Melissa Parke** 

ICAN Ambassador, Eminent Expert on Yemen (UN), former Federal Labor member for Fremantle, former Minister for International Development and United Nations lawyer.



The nuclear weapons ban treaty has been a powerful breath of fresh air in the global disarmament community. For the first time in many years there is real momentum towards a meaningful global ban on these horrific weapons. It gives all governments a choice on which side to stand, and ICAN will be working night and day to ensure that Australia is on the right side of history as the campaign continues to grow.

Scott Ludlam

Scott Ludlam is a writer, activist and former Australian Senator representing the Australian Greens. He served in Parliament from 2008 to 2017 and as Co-Deputy Leader of his party from 2015 to 2017.



I am honoured to be an ICAN Ambassador and urge all people of goodwill in Australia to get behind the campaign to ensure that our country signs and ratifies the historic Treaty on the Prohibition of Nuclear Weapons, which is a profoundly humanitarian goal.

Just like the campaign for the landmines ban treaty this issue ought to be above party politics.

#### **Robert Tickner AO**

Australia's longest-serving federal Minister for Aboriginal and Torres Strait Islander Affairs and former CEO of Australian Red Cross.

Australia has long been an advocate of nuclear disarmament and has been an active party to the nuclear Non-Proliferation Treaty. But, unlike New Zealand, it has not signed on to the Treaty on the Prohibition of Nuclear Weapons. In fact, its attitude has been very negative so far. If we believe it is possible to restore the world to a nuclearweapon-free state, and that we must work towards this for the sake of generations to come, we must encourage the Australian government to sign on to this treaty and encourage like-minded governments to do the same, and to work together to persuade states with nuclear weapons to join together in renouncing them.

#### Elizabeth A Evatt AC

### Our existing legal obligations

#### **Non-Proliferation Treaty**

Australia is already legally committed to advance global nuclear disarmament through its membership of the Non-Proliferation Treaty (NPT). The NPT opened for signature in 1968 and entered into force in 1970. Historically, Australia was slow to join this ground-breaking initiative. Prime Minister John Gorton reluctantly signed on in 1970 under international pressure, relinquishing his ambition to develop a nuclear weapons capacity (for which construction of a nuclear reactor at Jervis Bay\* in New South Wales began). Australia was the second-last country to sign before the Treaty entered into force. Prime Minister Gough Whitlam ratified it in 1973.

While the NPT has been critical in establishing a strong taboo against the *spread* of nuclear weapons globally, it has not established an effective global taboo against the possession of nuclear weapons. Article VI of the NPT obliges all member states (not just those with the weapons) 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". This requirement has been consistently overlooked, violated and downplayed. Most of the disarmament commitments made by the nuclear-armed NPT state parties at the 2000 and 2010 **Review Conferences were not** fulfilled. Deep concerns at the lack of progress on disarmament have been repeatedly expressed at these conferences and elsewhere.

The TPNW has emerged in large part because of this lack of progress, and as a logical development of international law in line with treaties prohibiting other indiscriminate weapons. It reaffirms the importance of "the full and effective implementation of the Treaty on the Non-Proliferation of Nuclear Weapons". Far from being a distraction from the NPT the TPNW builds on it,

Lawyer and jurist First Chief Justice of the Family Court of Australia

> and provides a clear pathway for fulfilment of the NPT's longneglected Article VI.

#### South Pacific Nuclear Free Zone Treaty

Australia is also a state party to the South Pacific Nuclear Free Zone Treaty (SPNFZ), which entered into force in 1986 and is also known as the Treaty of Rarotonga. Australia ratified it that same year and is therefore legally bound to abide by it.

Article 3 states that parties must not "take any action to assist or encourage the manufacture or acquisition of any nuclear explosive device by any State".

Australia's explicit insistence that US nuclear weapons protect us undermines the SPNFZ Treaty, which, like the NPT, calls for the elimination of all nuclear weapons. Notably, Australia is the only member of a nuclearweapon-free zone anywhere in the world to also claim "protection" by nuclear weapons. The TPNW

\* Although located on NSW's south coast Jervis Bay is administered as part of the Australian Capital Territory. It was this tenure that led the federal government to choose this as a possible reactor site.

### **CANBERRA COMMISSION: THEN AND NOW**

There are many important reasons why Australia should support the new Treaty on the Prohibition of Nuclear Weapons. As a former member of the Canberra Commission on the Elimination of Nuclear Weapons, I firmly believe that eliminating nuclear weapons is an urgent international issue.

There is a long-standing belief that nuclear weapons make us safer. But in reality, there have been many occasions where we have been perilously close to nuclear war by accident: we have come within a hair's breadth of disaster because of technical errors, extreme weather events being misread, drills being taken for real attacks, and because of plain-old human miscalculation.

If states insist on retaining nuclear weapons, then all of these risks are kept alive.

There is also the very real and dangerous prospect of nuclear weapons coming into the hands of nonstate actors. There have already been leakages from the arsenals of nuclear states to non-state groups. The history of poor management of nuclear materials and technology suggests that it is only a matter of time before terrorists or other aggrieved persons use crude radioactive bombs, or worse still, small nuclear weapons.

Given the state of our world today, where we see a rise of hatred, intolerance, and authoritarianism, and where challenges to our security come from environmental degradation, massive refugee flows, global inequality, or potential further economic crises, retaining nuclear weapons is at best a useless, expensive, and irrelevant policy. They cannot help us to address any of these pressing issues.

As my colleagues and I in the Canberra Commission made clear over 20 years ago, as long as any one state has nuclear weapons, other states will want them too; as long as nuclear weapons exist, there is the likelihood that, one day, they will be used. Any use of nuclear weapons would be catastrophic, bringing deadly risks to the entire planet.

This is why we must move seriously to eliminate these weapons. The new Treaty is a good start in that direction, offering a strong legal basis to ban these weapons of mass destruction.

Others in this report have pointed to ways in which Australia can extricate itself, technically and politically, from reliance on a US nuclear umbrella, noting that we can still maintain a healthy alliance relationship – based on shared knowledge and conventional weapons deterrence – with the United States. I believe that there is no reason why we cannot maintain friendly and productive relations with the US while still pushing seriously for the elimination of nuclear weapons.

These opportunities must be seized now, and Australia can demonstrate its real commitment to a world free of nuclear weapons by signing the new Treaty. There are many other countries who share Australia's concerns. We have an important leadership role to play in shaping a strong international effort.

### **Robert O'Neill AO FASSA**

#### Canberra Commissioner

ICAN committee members and staff celebrate the Nobel Peace Prize announcement in Melbourne, 7 October 2017.

Chair of the International Academic Advisory Committee at the United States Studies Centre at the University of Sydney



provides a logical pathway to fulfil and strengthen the SPNFZ Treaty and to move Australia into full treaty compliance.

#### **ANZUS Treaty**

The 1952 ANZUS Treaty between Australia, New Zealand and the US contains no reference to nuclear weapons. It is an agreement for the parties to "consult together" if the security of any party is believed to be under threat in the Pacific. The ANZUS Treaty also contains multiple references to the United Nations, repeatedly highlighting the UN's pre-eminent role in the maintenance of international peace and security and the obligation on parties to settle international disputes by peaceful means.

Any interpretation of ANZUS that seeks to validate the threat of use of weapons of mass destruction is a misrepresentation of the ANZUS agreement.

#### What needs to change?

To become compliant with the TPNW Australia will need to make two major changes in policy. Neither of these changes threatens the foundations of the Australian military and security alliance with the US.

### Non-nuclear defence of Australia

Article 1(1)(e) of the Treaty states that a state party undertakes never under any circumstances to

Assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Treaty.

The first change in policy requires Australia to discontinue its stated policy of reliance on US extended

nuclear deterrence.<sup>28</sup> Such reliance serves to encourage or induce the United States to use or threaten to use its nuclear weapons. In fact, there has never been a plausible nuclear threat to Australia – other than as a consequence of hosting US intelligence bases. Moreover, the US has never made an explicit promise to protect Australia in the face of a nuclear threat as it has done to its NATO and East Asian allies. Given the long and opaque history of Australian involvement with US extended deterrence, ending any agreements or policy arrangements with the US on nuclear deterrence must be demonstrated.<sup>29</sup>

#### A pathway to reform of Pine Gap

The second change would require ending any nuclear-related roles of Australia-US joint military facilities.

Joint Defence Facility Pine Gap, Northern Territory *Credit: Kristian Laemmle-Ruff* 

The Australian government has declared that two Australian defence facilities regarded as "joint facilities" with the United States and which are operated "with the full knowledge and concurrence of the Australian government", make the Australia-US alliance incompatible with Article 1(1)(e) of the TPNW. These are the Joint **Defence Facility Pine Gap and the** Joint Geological and Geophysical **Research Station, a US Air Force**operated seismic monitoring station, both in or near Alice Springs in the Northern Territory.<sup>30</sup> Pine Gap is by far the more important of these two facilities.

A careful examination of precisely what Pine Gap does shows there is a viable pathway for Australia to become compliant with the TPNW without disrupting its alliance with the US. The US has for some time built technological alternatives to relying solely on Pine Gap for its most important nuclear-related operations.

Pine Gap is a US-constructed and financed intelligence facility operated by the US National Reconnaissance Office. More than 800 Australians and Americans staff the facility, including units from all four branches of the US military.<sup>31</sup>

Pine Gap's multiple and complex intelligence activities can be basically characterised as providing big ears and big infrared eyes. There are three distinct major surveillance systems installed at Pine Gap, one of which has a critical role in US nuclear command, control and intelligence. This is the Relay Ground Station (RGS) in Pine Gap's western compound.

The four main antennas of the RGS provide linkage to US early

warning satellites which are known in US military jargon as Overhead Persistent Infra-Red, or OPIR, consisting of older satellites and more powerful modern satellites.<sup>32</sup> The infrared OPIR sensors detect the heat bloom of intercontinental and submarine-launched nuclear ballistic missiles launched against the US. Data from these sensors is downlinked to Pine Gap and sent automatically in virtual real time to the system's Mission Control Station at Buckley Air Force Base in Colorado, US Strategic Command and the White House, as early warning of nuclear attack.<sup>33</sup>

In the US the same data stream flows on to the US Air Force's Space Command, providing missile launch locations and anticipated trajectories for combined US and Japanese missile-defence systems. Today, these missile defence systems depend on "cueing" from Pine Gap to have any chance of finding their targets in flight in space.

Each of these functions of the RGS - early warning, and missile defence - might be seen as defensive, and therefore stabilising. However, such a claim is misleading. Missile defence, when it is possessed by only one of two nucleararmed enemies, is anything but defensive and stabilising. China correctly points out that US-Japanese missile defence, should it work as advertised, promises to make China's "minimum means of retaliation" deterrence force vulnerable to an attack by America's 6,000 or so nuclear weapons. This has led China to modernise its current 250 to 300 nuclear weapons in a classic action-reaction armament cycle.

More importantly for the TPNW, the satellites that provide early warning of an attack are also essential for US nuclear warfighting. The same technology that detects the heat blooms of missile launches also indicates which known adversary nuclear missile sites are empty following firing, and which remain capable of firing. This is critical data for compiling the list of locations to target in any US retaliatory strike.<sup>34</sup>

Pine Gap's role in nuclear targeting clearly conflicts with the TPNW's prohibition on assistance in the use or threat of use of nuclear weapons. To comply with the TPNW, an Australian government would have to provide assurances that the RGS's OPIR systems could not and would not be used for nuclear war fighting. The question is how this could be achieved without threatening what the US considers its national security interests. One approach to compliance could be for the Australian government to request, and the US to accept, verifiable, binding, legal, organisational and technical limits on specific categories of the operations of the RGS – i.e. separating the defensive functions from nuclear war-fighting.<sup>35</sup>

An alternative approach would be for an Australian government to require the closure of the RGS and the removal of its systems from Pine Gap, leaving the rest of the base and its principal signals intelligence functions – and acknowledged US national security concerns – unaffected. This could occur over an agreed period of time. Such an approach would be achievable without closing Pine Gap as a whole or throwing the Australia-US alliance into crisis, for two good reasons.

Firstly, the OPIR RGS is quite different in physical, personnel and technological character from the much larger signals intelligence part of the facility. The RGS is physically small and distinct, and is operated automatically and remotely by the Mission Control Station at Buckley Air Force Base in Colorado. There are only a very small number of staff on site at the RGS – essentially for maintenance. Pine Gap does not process or retain any of the data downlinked from the satellites - it flows automatically to Buckley Air Force Base by optical fibre and satellite communication.36

Secondly, for decades the US has been acutely aware of the physical vulnerability of facilities like Pine Gap to enemy attack, and has therefore built technological redundancy into the OPIR system. All of Pine Gap's OPIR satellites have satellite–satellite crosslinks and communications links to US relay satellites, which enable the crucial data to be transmitted from one to another and then downlinked to the Mission Control Station on US soil without ever relying on the Pine Gap RGS.

In addition, all US OPIR satellites themselves can and do downlink directly to dispersed mobile ground terminals in the US and elsewhere, as well as to US combat commands in South Korea and Germany. The RGS at Pine Gap – which is highly vulnerable to attack – provides redundant backup to both the cross-links and the mobile stations systems but is not in itself essential to the OPIR system's survival.

By deterring a surprise first strike, reliable early warning of nuclear attack is an essential element of nuclear deterrence. Even with the RGS closed, all of the data critical for US early warning would still flow from the OPIR satellites to the Mission Control Station.

The Pine Gap RGS could be closed, with appropriate notice of intent, without genuine disadvantage to US national security. This would provide a technically and strategically feasible pathway past the most important obstacle posed by Pine Gap to Australia becoming compliant with the TPNW.

### Transit

The negotiators of the TPNW did not include an explicit prohibition on the transit of nuclear weapons through a state party's territory in the text but it may be considered a prohibited form of "assistance".<sup>37</sup> The International Committee of the Red Cross considers transit to constitute assistance, as long as there is intent or knowledge that the state party's conduct would, in the ordinary course of events, result in assisting with the deployment of nuclear weapons.<sup>38</sup> The prohibition on transit is unlikely to require any action by Australia upon joining the Treaty as visiting US ships have not carried nuclear weapons since 1991.<sup>39</sup> US strategic missile submarines continue to deploy with nuclear weapons on board, but are unlikely to enter Australian ports. Moreover, US aircraft entering Australian airspace or using Australian airfields are unlikely to carry nuclear weapons.

### Australia coming on board

The process by which countries join the TPNW, as with other treaties, is by signing and ratifying it, or acceding to it. Signing indicates an agreement in principle with the purpose and terms of the Treaty, but it is not a legally binding step. It does however create an obligation to refrain, in good faith, from acts that would defeat the purpose of the Treaty. Signing the TPNW is a symbolically powerful step in support of the delegitimisation of nuclear weapons.

Ratification, or accession, creates a binding agreement that the country will abide by the terms of the Treaty. It involves the passage of any legislation that is required to give domestic effect to the Treaty.

Australia could sign the TPNW without further delay, as an important signal of commitment to nuclear disarmament. The subsequent steps to ratification are eminently achievable within the current framework of our major military alliance. They are in the interest of Australia, our region and the global community.



### **IRATI WANTI**

When people first got sick my eyes got sore. I couldn't open my eyes. I got tjuri (diarrhoea) and a rash on my skin. I remember when this happened my mother asked me to stay in the shade.

Because I couldn't see I was led around with a stick. You hold it one end and the person ahead of you holding the other end and you follow along. I didn't have the stick for long, I don't reckon it was even a week. My left eye came good again so I threw away the stick but my right eye was permanently blinded after that. But I could see with my left eye but it gave me a lot of trouble. I could not see 100% with my left eye.

These are the words of my late father Yami Lester, a Yankunytjatjara Man, *Wati Ngintaka* (Perentie Man), Leader and a Father. These are the words that are always in my head that are so strong and clear to always continue his amazing work for a world free of nuclear weapons.

For decades now my family have campaigned and spoken up strong against the harms of nuclear weapons because of their firsthand experience of the British nuclear tests in outback South Australia on the 15<sup>th</sup> October 1953, Emu Fields. Many Aboriginal people suffered from the British nuclear tests that took place in the 1950s and 1960s and many are still suffering from the impacts today.

*"Irati Wanti", Kupa Piti Kungka Tjuta, ngayuku kami Tjuta munu kuntili tjuta* – led by my grandmothers and aunties. Amazing, strong, humble and driven traditional women who had a responsibility to protect ngura – country. One of these amazing women was my *Kami* Eileen *Kampakuta* Brown, my father's "little mum" and my "little *Kami*". A true leader with so much wisdom, compassion and vision for her people and for non-Aboriginal people. I learnt so much working alongside her in the Irati Wanti campaign "talking straight out' for all people, both black and white.



ICAN mural featuring the late Yankunytjatjara elder Yami Lester at Preston Library, Melbourne *Credit: Michael Findlay*  My father spoke up strong against this dark secret of Australia's history because it took something away from him forever – his sight. Dad never saw me grow up to be the woman I am today, but he has taught me so much to be that woman. He wanted to let everyone know what happened in this country and what impact it had on his people in the Western Desert Region, a land seen by outsiders as bare and nothing but wasteland. To Anangu it is our home, our safe place rich in the things that are important to us.

Having been born into a family of true leaders and fighters, I have made it my commitment to continue their work with grace and passion as they did before me. To talk up about what happened on these soils, to remind everyone of its harm to humanity, to be a messenger and to share our story for a better future for our children, free of nuclear weapons.

#### Karina Lester

Yankunytjatjara-Anangu woman, Aboriginal language worker and ICAN Ambassador.

Karina participated in the 2017 negotiations for the Treaty on the Prohibition of Nuclear Weapons.

Right: Rose and Karina Lester in Melbourne to celebrate ICAN's Nobel Peace Prize, 10 December 2017. *Credit: ICAN* 

# **INDIGENOUS STATEMENT** TO THE U.N. NUCLEAR WEAPONS BAN TREATY NEGOTIATIONS



For more than seven decades, nuclear weapons have posed an intolerable, ever-present danger to all peoples and the posed and the posed and mass destruction, we warmly welcome the United Nations negotiations for a treaty to ban them.

We write to remind those drafting this important new treaty about the ongoing harm caused by the use of nuclear weapons, and by more than two thousand nuclear test explosions around the globe. Indigenous communities have borne the brunt of these deadly experiments. Our land, our sea, our communities, and our physical bodies carry this legacy with us now, and for unknown generations to come.

Governments and colonial forces exploded nuclear bombs on our sacred lands - upon which we depend for our lives and livelihoods, and which contain places of critical cultural and spiritual significance - believing they were worthless. They saw us as expendable, offering little or no protection against the harmful effects of radioactive contamination.

We were told that the explosions would benefit humankind, that they would make the world safer. But we learnt that was not true. We learnt that these bombs could only ever be a source of death, misery and destruction.

We were never asked for, and we never gave, permission to poison our soil, food, rivers and oceans. We continue to resist inhumane acts of radioactive racism.











CSWAB













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The nuclear tests permanently dislocated us from our homes and disconnected us from our traditional way of life. Future generations will never be able to enjoy and live off the land and the ocean in the way that our ancestors had done for thousands of years before the mushroom clouds descended.

In pursuit of ever-deadlier weapons of mass destruction, the authorities have subjected our peoples to epidemics of cancers, chronic diseases and congenital abnormalities. They have treated us as "guinea pigs", in some cases denying us access to adequate medical care and even our own medical records.



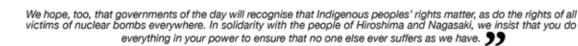
The mining of uranium – the essential first step in the production of every nuclear bomb – has also taken a terrible toll on Indigenous communities in many parts of the world. Tailings and other nuclear wastes that remain toxic into eternity have been dumped on our lands and in the ocean against our will. In some countries, our Traditional lands are under ongoing pressure to be the solution to the world's nuclear waste problem.



As a result, we have experienced immeasurable pain and heartache. We have lost many loved ones. We have lived with the anguish of not knowing what impact the unleashed radiation might one day have on our children and grandchildren.



Our suffering cannot be undone. Our lands can never be fully restored. Some of our customs will never be revived and will forever remain disrupted. But we hope that, in this new treaty to ban nuclear weapons, governments will at last acknowledge and make reparations for the harm inflicted upon Indigenous peoples, communities, lands and sea.











Endorsed by:

Australian Nuclear Free Alliance Citizens for Safe Water Around Badger **Coalition Québec Meilleure Mine** Collaborative Visions Committee for Future Generations Documentation and Information Network for Indigenous Peoples' Sustainability Elimondik Environmental Protection Association of the Upper Laurentians FemLINK Pacific Forward Together/ Strong Families New Mexico Gundjeihmi Aboriginal Corporation HELP Resources lju in Ean Women's Club Indigenous Environmental Network Indigenous Life Ways Inc.

Australia United States Canada United States Canada

United States Marshall Islands

France Fiji United States Australia Papua New Guinea Marshall Islands United States North America

Inter-Church Uranium Committee Educational Coop Jo-Jikum Laguna Acoma Coalition for a Safe Environment Mana MiningWatch Canada Moruroa e Tatou Multicultural Alliance for a Safe Environment Native Organizers Alliance Observatoire du Nucléaire Pacific Network on Globalisation Peace Movement Aotearoa Red Water Pond Road Community Association **Rocky Mountain Peace and Justice Centre** Sept lles sans Uranium Southeast Indigenous Peoples' Center Southwest Indigenous Uranium Forum Te Runanga O Te Whanau (Te Whanau a Apanui) Tewa Women United Vidas Vieguenses Valer Western Australian Nuclear Free Alliance

Canada Marshall Islands United States Aotearoa New Zealand Canada French Polynesia United States North America France Aotearoa New Zealand United States United States France North America North America Aotearoa New Zealand United States Puerto Rico Australia

Presented on 16 June, 2017



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### CHAPTER 3: THE DANGER AND THE CONSEQUENCES

The preamble to the Treaty on the Prohibition of Nuclear Weapons declares the deep concern of states parties for the "catastrophic humanitarian consequences that would result from any use of nuclear weapons, and recogniz[es] the consequent need to completely eliminate such weapons. which remains the only way to guarantee that nuclear weapons are never used again under any circumstances." Further, states parties acknowledge the risks posed by the continued existence of nuclear weapons, including from accidental detonations. They state that nuclear weapons pose "grave implications for human survival, the environment, socioeconomic development, the global economy, food security and the health of current and future generations, and have a disproportionate impact on women and girls, including as a result of ionizing radiation."40

#### What nuclear weapons do

Humanity faces two unprecedented existential challenges which loom over everything, jeopardising the hospitable conditions for life and health for all human beings and most other species. These could break the chain of life, depriving countless future generations of their opportunity to exist. One such danger is climate disruption, many impacts of which may yet be mitigated. The other is the awesome destructive power of nuclear weapons. If more than a



tiny fraction of the global nuclear weapon stockpile were used, the catastrophic effects would be acute and largely irreversible. Stabilising the climate and eradicating nuclear weapons are not simply worthy priorities among others. They are the preconditions for safeguarding and progressing everything else.

Nuclear weapons are almost limitless in their destructive power. A single nuclear weapon has been detonated that had four times the power of all the explosives used in all wars throughout human history.41 The nuclear arsenals of nine nations contain 13,890 nuclear weapons, 3750 actively deployed, and 1,800 on accident-prone high alert, ready to be launched within minutes.<sup>42</sup> Their average size at 200 kilotons of high explosive equivalent is 13 times the size of the bomb which destroyed

Hiroshima. Australia hosts priority nuclear targets for any adversary of the US, and the only Chinese land-based missiles able to reach Australia carry a nuclear warhead, the largest deployed anywhere, up to 5 megatons of high explosive equivalent.<sup>43</sup>

The acute effects of blast and heat from nuclear explosions are cataclysmic. Ionising radiation is spread worldwide in the wind and rain, and the electromagnetic pulse from a single high altitude nuclear explosion would disrupt on a continental scale much of the electrical equipment on which modern life depends. The greatest immediate cause of casualties would be from fires, while the greatest longer term toll would be from starvation.

Nuclear weapons efficiently ignite everything flammable over vast areas. The fires ignited by the

### THE RED CROSS CASE FOR THE ELIMINATION OF NUCLEAR WEAPONS

Nuclear weapons pose the greatest existential threat facing the world today and are of deep and enduring concern to the worldwide Red Cross Red Crescent Movement. This is why, since responding to the grave needs of the Japanese atomic bomb survivors in 1945, the Movement has marshalled evidence, expertise and experience to oppose their use.

There are powerful legal and humanitarian grounds for eliminating nuclear weapons. As custodians of the laws of war (also known as international humanitarian law), and recognised experts in the field, we advocate that nuclear weapons are inconsistent with the laws of war. We draw on our experience of the aftermath in Hiroshima and Nagasaki to warn that the suffering is intolerable. As the world's largest humanitarian organisation we know that no adequate humanitarian response would be possible in the event of a nuclear war.

#### The legal case

Red Cross has a unique mandate to promote the laws of war which restrict excessive and unnecessary uses of force during armed conflict. Nuclear weapons fail to comply with the universally agreed rules found in the Geneva Conventions and their Additional Protocols. The key rules require that those engaged in conflict must:

- always distinguish between civilians and combatants, as only combatants can be legally attacked;
- not use weapons which cause superfluous injury or unnecessary suffering;
- not use methods which are disproportionate to the military aim;
- not use weapons which cause widespread, long-term and severe damage to the environment.

Nuclear weapons cannot comply with these conditions and should have been banned before they were ever used, as blinding laser weapons were in 1995 when irreversible blindness was considered too great an injury to inflict in the course of war and inconsistent with the rules of war. The Treaty on the Prohibition of Nuclear Weapons presents the first opportunity towards rectifying this legal anomaly.



#### The humanitarian case

There is no viable emergency service or effective medical response plan for a nuclear detonation. The Movement would be unable to fulfil its mandate to respond to the needs of the affected population. Evidence of the human suffering caused by nuclear weapons was revealed to the world in 1945. The Red Cross doctor in Hiroshima, Marcel Junod, reported that 270 of the 300 doctors had died or were injured and 1654 nurses perished or were injured. The burns and sickness were unlike anything seen before and no effective treatment was available. For the small proportion of survivors, the injuries are life-long and inter-generational. To this day Japanese Red Cross hospitals continue to tend to the medical conditions of the hibakusha, bomb survivors, and their descendants.

We now know that the impact on humans of the blast, heat and radiation associated with nuclear explosions would be insurmountable for medical and humanitarian responders and are not comparable to experiences with emergencies past. Responders would not be able to access those affected because it would likely expose them to unacceptable levels of risk.

The scale of the next blast will also be unprecedented; the yields of many modern nuclear weapons are hundreds of times more potent than the bombs dropped on Japan. The total destruction not just at the impact site but extensive surrounding areas are forgone conclusions with modern nuclear weapons, defeating the ability of those left to respond. Knowing the devastation that these weapons will cause, and that their ongoing modernisation and manufacture increases the likelihood of future use, the Movement cannot countenance the continued existence of these weapons.

The Red Cross, as experts in and champions of the laws of war and as experienced humanitarian first-responders, therefore unreservedly urge all states to join the Treaty on the Prohibition of Nuclear Weapons.

> **Tara Gutman** Legal Adviser, International Humanitarian Law Australian Red Cross

Red Cross emergency simulation at the Vienna Conference on the Humanitarian Impact of Nuclear Weapons, 8 December 2014. *Credit: Marko Kovic* 

Hiroshima bomb are estimated to have released a thousand times more energy than the nuclear explosion itself.44 The fireball of a 5-megaton nuclear explosion - 2 km in diameter and hotter than the Sun - would ignite hundreds of thousands of fires that would rapidly coalesce into a massive firestorm 45 km across, 1600 km<sup>2</sup> in area. Everything flammable would burn - wood, cloth, paper, petrol, oil, plastics, rubber, asphalt, trees, many chemicals, most waste - in an area which in Melbourne would stretch to Springvale, Wantirna, Warrandyte, past Greenvale and Point Cook. Over this area temperatures would exceed 800°C. oxygen would be consumed and every living thing would die.45

Studies by some of the world's best climate scientists in 2007 found that even a small-scale regional nuclear war would have severe global consequences. One hundred Hiroshima-sized bombs targeted on cities in a war between India and Pakistan, constituting less than half those nations' current nuclear arsenal, would loft 6 million tons of smoke into the stratosphere and beyond.<sup>43</sup> Updated research shows that 125 Hiroshima-sized nuclear weapons exploded over the growing cities in each country could produce 15 million tons of smoke.<sup>46</sup> This smoke would spread around the globe, persisting beyond the reach of washout by clouds and rain for more than two decades.<sup>43</sup>

These findings have been upheld through extensive presentations and publications in international peer-reviewed journals, are accepted by the Intergovernmental Panel on Climate Change, have not been disputed by any government and are reflected in the preamble to the TPNW. Cities ignited by nuclear explosions in any part of the world would have similar effects.

A blanket of 6 million tons of high altitude smoke would block sunlight, rapidly cooling, darkening and drying the climate worldwide. While temperatures on Earth's surface would fall on average 1.5°C, the smoke would heat the upper atmosphere by 50 to 80°C, dramatically depleting the stratospheric ozone which protects us from biologically damaging ultraviolet (UV) radiation.43 UV levels around the world would increase to levels not seen since life crawled out of the oceans aeons ago. This would adversely affect our eyes, skin and immune systems and profoundly damage plants and animals on land and in the water, including the plankton at the base of the marine food chain.

In the continental interiors where most of the world's grain is grown, temperatures would decline by 5 to 8°C, with more frequent frosts and growing seasons averaging



### NURSES AND MIDWIVES FOR THE BAN

As advocates for the health and well-being of the population and the planet, nurses, midwives and carers overwhelmingly support the push to abolish nuclear weapons.

The Australian Nursing and Midwifery Federation has long recognised evidence showing no health service in the world is capable of responding to the devastation that nuclear attacks could inflict.

The use of nuclear weapons poses a catastrophic threat to human and environmental health, including civilian casualties, the destruction of hospitals and global famine. In the event of a nuclear attack, health professionals such as nurses and midwives would be among the first to respond but would likely find it extremely challenging to provide aid amidst ravaged infrastructure and the lingering threat of radiation.

In order to protect worldwide health, it is crucial the Australian government listen to the ANMF and other peak health bodies and commit to joining the landmark UN Treaty on the Prohibition of Nuclear Weapons immediately.

It's up to all of us to become part of the solution and take action to safeguard our future.

#### **Annie Butler**

Federal Secretary Australian Nursing and Midwifery Federation



about one month shorter. These colder, darker and drier conditions would reduce major grain crops in the US and China, the world's largest producers, by 15-40% in the first five years and 10-25% for the second five years.<sup>47</sup> Nowhere would be unaffected. At higher latitudes, food production would essentially cease. These are conservative estimates, as they do not yet include the effects of increased ultraviolet radiation, radioactive and chemical contamination of productive land or the disruption to the complex global distribution system for water, fertiliser, seed, pesticides and fuel.

The UN Food and Agriculture Organisation estimates that 821 million people are chronically malnourished today.48 More than 300 million additional people are dependent for more than half their energy intake on imported food. Global trade in food could be expected to stop as nations hoarded and defended whatever reserves they could secure. Global grain stocks generally hold between 60 and 115 days' consumption, and production is becoming more erratic as the effects of climate disruption accelerate. Humanity could not withstand sustained declines in

food production of this magnitude, and upwards of 2 billion people would be at risk of death from starvation following a "small" regional nuclear war anywhere in the world.<sup>49, 50</sup> Disease epidemics and further conflict within and likely between nations triggered by widespread famine would compound the toll. Such a scenario would effectively see the end of human civilisation.

One hundred Hiroshima-sized bombs represents less than 0.5% of the global nuclear arsenal and less than 0.1% of its explosive yield. Each of the smaller nuclear arsenals – of China, France, India, Israel, North Korea, Pakistan and the UK – constitutes a global threat, not only the massive arsenals of Russia and the US which contain over 90% of the world's nuclear weapons.

The warheads on a single nucleararmed submarine could cause such a global climate catastrophe and nuclear famine several times over. War involving the Russian and US weapons currently on high alert would produce typical lce Age temperatures, 5°C colder than now. War involving the current long-range Russian and US weapons would plummet temperatures 10°C colder, likely bringing about human extinction.<sup>51</sup>

Current nuclear arsenals and war plans to use them are delusionally divorced from the reality of their consequences. Nuclear weapons cannot provide security to any people or nation, whether through threat of mutually assured destruction, tactical or pre-emptive use. All that is publicly known about the war plans of nuclear-armed states points to rapid and full escalation being highly probable once the nuclear threshold is crossed. The reality of our nuclear age is that self-assured destruction is what can be realistically expected, and nuclear weapons are in reality global suicide bombs.52

The World Health Organization has concluded that nuclear weapons constitute the greatest immediate threat to the health and welfare of humankind, and that no health services in the world could meaningfully respond to the vast number of casualties from even a single nuclear explosion over a city.<sup>53</sup> The UN Development Programme and the Red Cross and Red Crescent movement, the world's largest humanitarian organisation, have similarly concluded that no effective humanitarian response to nuclear war is possible. The only cure is prevention.

### The growing danger of nuclear war

We are now dangerously close to a world without arms control agreements, paving the way for a new arms race and for increased risk of nuclear weapons use ... the risk of nuclear weapons being used is now greater than it has been since the end of the Cold War.

 - UK House of Lords Select Committee on International Relations, *Rising nuclear risk, disarmament and the Nuclear Non-Proliferation Treaty,* 24 April 2019.

The dangers of nuclear war are widely assessed to be as great as they have ever been, and growing. For the first time in over thirty years, no nuclear disarmament negotiations are underway or planned. In fact, disarmament is currently in reverse.

The welcome developments in nuclear diplomacy with North Korea are languishing and have yet to yield concrete and durable results. The hard-won agreements that eliminated Russian and US short and medium-range missiles entirely, the Intermediate-Range Nuclear Forces Treaty, which ushered in the end of the Cold War, and the Anti-Ballistic Missile Treaty, which limited missile defences between Russia and the US, have been abandoned. The continuation of the New START treaty, which limits long-range strategic nuclear weapons, is in

jeopardy. A new NATO–Russian arms race is ratcheting up. The first of a new generation of warheads for US submarine-launched Trident missiles has this year rolled off the assembly line in Texas. They are not designed for deterrence, but to be used in battle. Russia is developing new missiles and entirely new types of nuclear weapons including hypersonic delivery vehicles, nuclear-powered cruise missiles, and a long-range nuclear torpedo.<sup>54</sup>

The US is currently walking away from the landmark Joint Comprehensive Plan of Action, better known as the Iran nuclear deal. This initiative successfully placed the most stringent constraints ever negotiated on any nation's nuclear program and is verified by the most demanding safeguards provisions yet implemented. The US abandoning this agreement despite clear evidence of Iran's compliance bodes ill for an agreement with North Korea.

Rather than disarming, the nuclear-armed states are collectively investing well over US\$105 billion annually, not simply to retain nuclear weapons indefinitely, but in modernising them to make them more accurate and usable. Projected nuclear weapons spending in the US over the next 30 years may reach US\$1.5–2 trillion.<sup>55</sup>

The current US administration in particular seems determined to jettison hard-won gains embodied in treaties on multiple fronts, and to risk a return to the worst of the Cold War. The current US push for military superiority over Russia and China through an unrestrained arms race poses profound dangers for the whole world. Technical malfunction and human error have brought us close to nuclear war on multiple occasions. These risks will inevitably continue for as long as nuclear weapons do. The first use of nuclear weapons has been considered and threatened repeatedly by almost all nuclear-armed states. The US alone has made this threat on at least 25 occasions.<sup>56</sup>

Recent years have seen the widespread escalation of explicit threats to use nuclear weapons in multiple spheres; between the US, UK and Russia, between India and Pakistan, between North Korea and the US, and from Israeli leaders.

The scenario discussed earlier of conflict between India and Pakistan is not unlikely. These two nuclear-armed neighbours have been to war four times since their independence. Further, they have mobilised for war on three additional occasions, including as recently as February 2019, when nuclear weapons use was actively considered by both sides following a terrorist attack on Indian forces and aerial combat across their disputed border in Kashmir.<sup>57</sup>

Since 1947 the Doomsday Clock has provided an authoritative annual assessment of our proximity to an existential chasm. Every January this is reset by the Bulletin of the Atomic Scientists, an organisation with 15 Nobel Laureates on its Board. In 2018, primarily in response to growing nuclear dangers, the hands of the clock were moved forward to 2 minutes to midnight for the first time since 1953. This is as far forward as they have ever been. In 2019, with the increased threat from nuclear weapons and climate disruption. the clock remained at two minutes

to midnight.<sup>58</sup> UN Secretary-General Antonio Guterres has stated bluntly: "we are living in dangerous times", and "we are on the brink of a new cold war."<sup>59</sup>

A climate stressed world with increasing food and water insecurity, crop failures, displacement of millions of people and more frequent armed conflict, is an even more dangerous place for nuclear weapons. The US intelligence community's 2019 analysis of worldwide threats assessed that the effects of climate change and environmental degradation increase stress on communities around the world and intensify global instability and the likelihood of conflict, which increases the danger of nuclear war.60

One of the most alarming areas of increasing nuclear risk is cyberwarfare. Cyberweapons have already been used by nations hundreds of times, including US attacks on Iran's uranium enrichment centrifuges and North Korean and Iranian missiles: North Korean attacks on US banks. Sony Corporation and the UK healthcare system and Russian attacks on Ukraine, European and US elections. In late 2017, even the computers of the US National Security Agency were extensively hacked. In 2018 our federal parliament and multiple political party IT systems were hacked. Cyberwarfare is within the capacity of non-state organisations as well as state actors and is extremely difficult to control. Nuclear command and control and early warning systems are vulnerable. General James Cartwright, the former head of US Strategic Command, has stated that it "might be possible for terrorists

to hack into Russian or American command and control systems and launch nuclear missiles, with a high probability of triggering a wider nuclear conflict."<sup>61</sup>

### A logical, evidence-based approach

The humanitarian imperative to eliminate nuclear weapons before they are otherwise inevitably used again is urgent.

The conclusions of the three intergovernmental conferences on the humanitarian impact of nuclear weapons in 2013 and 2014 were clear:

- any use of nuclear weapons would be a potentially irreversible catastrophe threatening the survival of humankind;
- no effective humanitarian response is possible;
- the risk of nuclear weapons use has been underestimated, is growing, and exists as long as the weapons do; and
- there is a legal gap: the most destructive of all weapons are not explicitly prohibited.<sup>62</sup>

These conclusions informed and inspired the negotiation and adoption of the Treaty on the Prohibition of Nuclear Weapons. This followed an extensive and open international UN process which found that a new treaty to ban nuclear weapons was the best feasible next step the world could take, in the face of the nine nuclear-armed states' failure to disarm over multiple decades.

The humanitarian case for the stigmatisation, prohibition and elimination of nuclear weapons could not be clearer or more compelling.

# **CHAPTER 4: BLACK MIST WHITE RAIN**

A strong focus on the humanitarian impacts of nuclear weapons informed the drafting of the Treaty on the Prohibition of Nuclear Weapons, which recognises the "unacceptable suffering of and harm caused to the victims of the use of nuclear weapons (hibakusha), as well as of those affected by the testing of nuclear weapons". It also recognises the disproportionate impact of nuclear-weapon activities on Indigenous peoples, and provides positive obligations for monitoring, assistance and remediation of environments and communities affected by nuclear testing.63 These provisions are directly relevant for people and areas impacted by nuclear testing in Australia and the Pacific, representing an important recognition of past injustices and a pathway forward to address harm done.

# Nuclear testing in Australia and the Pacific Islands

Australia and the Pacific Islands played a key role in the development of the US, French and British nuclear arsenals. Silences imposed on this history are gradually lifting with more education, advocacy by affected communities, and increasing global awareness of the humanitarian impacts of nuclear weapons testing.

The TPNW requires recognition and a close analysis of the immediate and lasting harm done, including the unfolding intergenerational impacts within and beyond the borders of designated "test sites". This will be challenging but is both necessary and long overdue. Systemic historical denial and intense state secrecy still obscure the truth. Racist and colonialist prejudices were inherent in the assumptions that Australian and Pacific test sites were of scant value, remote, uninhabited or even empty. Such assumptions undermined recognition of the harm caused to people and the environment, and have hindered monitoring and remediation measures to this day.

# British nuclear weapons testing in Australia

Britain conducted a dozen atmospheric nuclear weapons tests<sup>64</sup> and hundreds of smaller toxic radiological "minor trials" in Western and South Australia for more than a decade. In 1947, **British Prime Minister Clement** Atlee headed an elite committee working on "a British bomb". This was partly driven by "the desire to demonstrate, against the tide of history, that Britain still had a place in the major league of world powers".65 In 1950 Atlee secretly asked Australian Prime Minister Robert Menzies "whether the Australian Government would be prepared in principle to agree that the first United Kingdom atomic weapon should be tested in Australian territory". Menzies immediately agreed without consultation or consent from his Cabinet, raising questions of Australian sovereignty and parliamentary accountability.



## WE CANNOT LET HISTORY REPEAT ITSELF: WE ARE NOT GUINEA PIGS!

We wish to recognise the Pacific's storied history, as stewards of the world's largest ocean. We acknowledge the test of time that this region has withstood, and commemorate those who have endured and withstood nuclear testing, a period in history with ramifications that are still felt by our oceans, lands, and peoples.

We remember this period as being a time when our oceans and people were utilised as guinea pigs by foreign powers. We acknowledge the issues both past and present that the Pacific faces, and we firmly refute the narrative that *"we are victims"*. We stand tall as the next generation of Pacific Islanders who shall also thrive on our sea of islands. We stand on the shoulders of the giants who went before us to make a stand. On this note we call upon our Pacific and global leaders to take a stand against genocide. We the Pacific will not allow a repetition of colonialism.

Our peoples have suffered greatly from the destructive programs of militarized colonial powers during the 20<sup>th</sup> century, continuing into the 21<sup>st</sup>. The legacy of nuclear testing throughout Oceania, in particular the Marshall Islands, French Polynesia, and elsewhere, has never been effectively remedied or addressed. The consequences of detonating hundreds of nuclear bombs of a much greater destructive power than the Hiroshima and Nagasaki atomic bombs, are still being felt today by Indigenous islanders – manifesting in, among other impacts, debilitating health and intergenerational maladies. This legacy continues to threaten not just Pacific islanders and the Pacific Ocean, but the health and wellbeing of all the planet's oceans and the people who depend upon them.

The oceans have still not recovered from the destructive acts of world wars, nuclear testing, and continued military manoeuvres. Intensified efforts must be made to demilitarise the oceans and to clean-up existing messes. As we the Pacific clamour for international action to halt carbon emissions, and desist from environmentally degrading activities, let us therefore be the change that we wish to see in the world.

Let us embrace the spirit of the Marshallese saying "Lappout lene", which means to utilise or employ all the knowledge, skills and resources available to solve a problem. With this, we say that we the people of Wansolwara (One Salt Water) are in this together. When nuclear testing was occurring, the people of Wansolwara did not remain passive. We call on our leaders to honour that proud legacy, and to "Lappout lene", make a stand and recognise and address the fact that our land, ocean and people have historically been used as guinea pigs to fuel the greed, defence needs, and convenience of foreign entities.

We the people of Wansolwara stand firmly opposed to militarism, environmental degradation, and the violation of our human rights. We are Oceania, we are Wansolwara, and we are the sea of islands.

We will not allow this history to repeat itself!

#### Youngsolwara Pacific and MISA4thePacific

Statement to the UN Ocean Conference, June 2017. Youngsolwara is a regional Pacific network, based within and supported by the Pacific Network on Globalisation (PANG).

MISA4thePacific is the Marshall Islands Students Association based at the University of the South Pacific in Suva, Fiji. The British nuclear weapons programme began in collaboration with the American programme during World War II. This was formally stymied by the US McMahon Act of 1946 which prohibited the sharing of nuclear technology with foreign powers. As British historian Margaret Gowing noted, "Politically there would be advantages ... in showing the world that Britain could produce and test an atomic weapon on her own."<sup>66</sup>

Excluded from the US' "proving grounds" in the Marshall Islands and Nevada, where the first US nuclear tests were conducted, Britain set its sights and atomic ambitions on Australia. In December 1951, PM Menzies received notice from newly elected British Prime Minister Winston Churchill that the first of the British nuclear tests would begin in 1952.

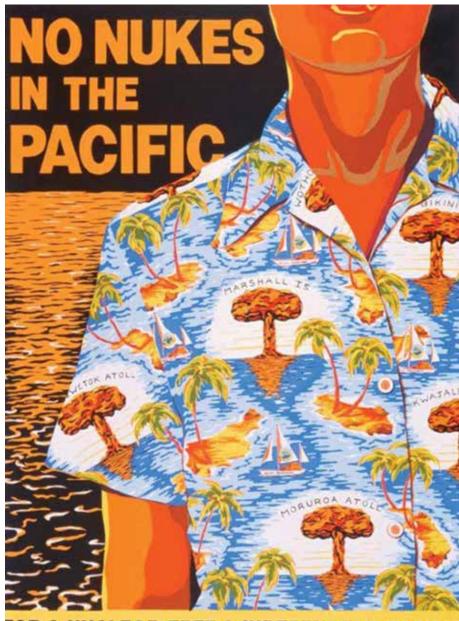
Between 1952 and 1957, a dozen nuclear weapons were exploded at three Australian sites at the Monte Bello islands in Western Australia and Emu Field and Maralinga in South Australia. The total yield of these detonations was around 181 kilotons,<sup>67</sup> 12 times the yield of the weapon that destroyed Hiroshima.



Former Marshallese Senator Abacca Anjain-Maddison at the UN, 7 July 2017. *Credit: Ralf Schlesener* 

TABLE: Major nuclear weapon tests in Australia

| Test name               | Date              | Place tested   | Estimated size |
|-------------------------|-------------------|--|----------------|
| Hurricane <sup>68</sup> | 3 October 1952    | Monte Bello islands,<br>Western Australia            | 25 kt          |
| Totem 1                 | 15 October 1953   | Emu Field, South Australia                           | 9.1–10 kt      |
| Totem 2                 | 27 October 1953   | Emu Field  | 7.1–8 kt       |
| Mosaic G1               | 16 May 1956       | Trimouille Island, Monte<br>Bello, Western Australia | 15–16 kt       |
| Mosaic G2               | 19 June 1956      | Alpha Island, Monte Bello                            | 60–98 kt       |
| Buffalo 1               | 27 September 1956 | Maralinga, South<br>Australia                        | 13–15 kt       |
| Buffalo 2               | 4 October 1956    | Maralinga  | 1.4–1.5 kt     |
| Buffalo 3               | 11 October 1956   | Maralinga  | 2.9–3 kt       |
| Buffalo 4               | 22 October 1956   | Maralinga  | 10–10.8 kt     |
| Antler 1                | 14 September 1957 | Maralinga  | 0.93–1 kt      |
| Antler 2                | 25 September 1957 | Maralinga  | 5.7–6 kt       |
| Antler 3                | 9 October 1957    | Maralinga  | 25–26.5 kt     |



## OR A NUCLEAR FREE & INDEPENDENT PACIFIC

"No Nukes in the Pacific" 1984, screen print on paper. *Credit: © Pam Debenham* 

Between 1953 and 1963, the British military conducted over 600 "minor trials", testing components of nuclear devices and safety mechanisms. Toxic and radioactive materials were burned or exploded in these tests including uranium-238, uranium-235, depleted uranium and around 24 kg of plutonium. The 11-year testing program was characterised by negligence and oversights. Exposure and harm to regional communities, Aboriginal peoples and military personnel was under-recorded or systematically ignored. Australian scientific and military involvement was marginalised. Conditions of hyper-secrecy paralysed not only media and community awareness, but also political scrutiny. Following the cessation of tests in Australia, the British continued developing their nuclear arsenal on colonised Christmas Island/ Kiritimati in 1957–58, conducting nine further atmospheric nuclear tests, including Britain's largestever nuclear test.

#### Affected communities

The British nuclear testing programme impacted both military personnel and civilians including Aboriginal people in areas adjacent or downwind to the test sites.

An estimated 17,023 Australians took part in the nuclear tests, 52% of whom were civilians and 48% classified as military personnel.<sup>69</sup> The Australian military personnel included more than 8,000 members of the Navy, Army and Air Force.<sup>70</sup> Over its entire course the British testing programme in Australia and the Pacific involved more than 20,000 British military personnel. Personnel from Aotearoa/ New Zealand, Canada and Fiji also participated in the 1957–58 Pacific test series.

In the 1980s Prime Minister Bob Hawke set up a Royal Commission into British Nuclear Testing in Australia, chaired by Jim McClelland. The resulting two-volume report contributed significantly to our understanding of what took place. However later studies show that it underestimated radioactive contamination and the toxicity of some materials used.

The Royal Commission examined incidents reported by test veterans, and heard testimony from expert and military witnesses. Subsequent research has built on this evidential foundation. Today, veteran groups continue to seek recognition and redress for harm and intergenerational impacts on their families.<sup>71</sup>

The Royal Commission made findings of negligence in relation to the safety and protection of Aboriginal peoples within the test zones. Preparations for the tests failed to consider "the distinctive lifestyles of Aboriginal people" and saw a period plagued with incidents of oversight and neglect. In a damning critique of the Buffalo test series the Commission noted the "ignorance, incompetence and cynicism on the part of those responsible for ... safety".

Dispossession of traditional lands and travel routes contributed

to Aboriginal survivors'

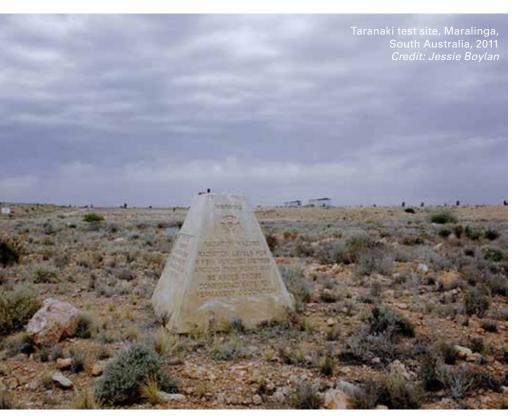
"emotional, social and material distress and deprivation". The Royal Commission found there was inadequate resourcing to locate, inform, warn and protect Aboriginal communities. Only one patrol officer was allocated to the "impossible task" of covering over 100,000 square kilometres in South Australia. The Commission found "the resources allocated for Aboriginal welfare and safety were ludicrous, amounting to nothing more than a token gesture".

When cross-examined at the Royal Commission Sir Ernest Titterton, the man in charge of safety for the tests, claimed "... if Aboriginal people objected to the tests they could vote the government out".<sup>72</sup> This attitude ignored both the limitations of Aboriginal Australians' citizenship rights at the time, as well as the significant power imbalance between Indigenous and colonial powers. Human rights abuses of Aboriginal Australians during the British nuclear tests remain underrecognised and under-addressed.

Communities living downwind of the tests received little attention at the time. Aboriginal activists such as the late Yankunytjatjara elder Yami Lester and his daughters Rose and Karina have highlighted

"Marcoo" nuclear test, Operation Buffalo at Maralinga, South Australia, 1956. *Credit: Australian Screen* 





the devastating health effects of the "black mist" produced by the Totem 1 test in 1953.<sup>73</sup> Kokatha-Mula woman Aunty Sue Coleman-Haseldine addressed the Third Conference on the Humanitarian Impact of Nuclear Weapons in Vienna in 2014, stating:

There are lots of different Aboriginal groups in Australia. For all of us our land is the basis of our culture. It is our supermarket for our food, our pharmacy for our medicine, our school and our church... These tests contaminated a huge area and everything in it but people hundreds of kilometres away were also impacted.<sup>74</sup>

#### Learning the lessons

P.N. Grabosky notes that for "the entire course of the testing program, public debate on the costs and risks borne by the Australian public was discouraged through official secrecy, censorship, misinformation, and attempts to denigrate critics".75 These obfuscations are not unique to Australia. Similar stories emerge wherever foreign nations have used lands, people and oceans for nuclear tests, particularly throughout colonised places like in the Pacific between 1946 and 1996 and in North Africa. Historian Elizabeth Tynan argues that while Australia was exploited by its former colonial "master", it also willingly participated in the tests, and even paid to do so.<sup>76</sup>

Wilful ignorance by British authorities and inadequate Australian oversight led to a deep and disturbing neglect for the safety of military personnel and civilians, including Aboriginal peoples. Crippling official secrecy practices have obscured the impacts of the major tests and "minor trials". As a nation Australia has much work to do to ensure that its citizens and political institutions learn the lessons of this dangerous period in our history.

# Nuclear weapons testing in the Pacific Islands

Pacific Island peoples were drawn into nuclear testing programs without having any political control over the colonial powers' use of their land and sea resources. The US, Britain and France tested nuclear weapons in sites including the Marshall Islands, Johnston Atoll, Maohi Nui (French Polynesia), Kiritimati (Christmas) and Malden Islands (now part of Kiribati) from 1946 until 1996.

The Pacific Islands and Ocean were seen as empty and available areas for military use. The atomic bombs that destroyed Hiroshima and Nagasaki in World War II were launched from Tinian Island in the Marianas in the North Pacific. Soon after, the United States began using its UN-mandated Trust Territory of Micronesia to conduct 93 nuclear tests on Bikini and Enewetak atolls in the Marshall Islands from 1946–58.

In 1954, the notorious Castle Bravo test spread nuclear fallout over vast expanses of ocean and inhabited islands. A design error produced an explosion 1,000 times the yield of the bomb that destroyed Hiroshima, far larger than intended. The late former Foreign Minister of the Marshall Islands, Tony de Brum, witnessed this fallout as a child. In 2014 he led the Marshall Islands' challenge in the International Court of Justice to all nine nuclear-armed states for their failure to disarm.<sup>77</sup>

The Marshallese suffered nuclear test-related illnesses, genetic defects, stillbirths, cancers and

deaths. Many were relocated, never to return to their long loved but now contaminated homelands.

Nuclear tests continued on the Pacific Islands. France conducted a total of 193 atmospheric and underground nuclear tests in Maohi Nui on Mururoa and Fangataufa atolls. These explosions exposed human beings and the environment to radioactive fallout across the Pacific Ocean for over thirty years. The Nuclear Free and Independent Pacific movement united Pacific Islanders from far and wide in opposition to the nuclear tests. Despite continuous international, regional and local protests France continued testing nuclear weapons until 1996.

Nuclear weapons testing in the Pacific has left a legacy of profoundly adverse humanitarian and environmental impacts. Radioactive fallout contaminated waterways, agriculture and food chains leading to devastating genetic and health impacts. Cancers, infertility, birth defects, leukaemia and deaths related to the tests were covered up at the same time as health data was gathered and retained by the testing governments.

In Moahi Nui, activists from Muruora e Tatou, the Moruroa Nuclear Test Workers Association, reported that compensation and medical assistance required victims to provide evidence documenting the connection between their illnesses and the nuclear tests. The majority of cases were rejected anyway, after review by the military responsible for the tests in the first place.<sup>78</sup>

Environmental impacts are ongoing. In Maohi Nui, the nuclear test sites of Moruroa and Fangataufa atolls are reportedly

Maralinga Junction,



breaking down and the Runit Dome on Enewetak atoll shows signs of cracking. The degradation of nuclear test sites, further compromised by rising sea levels, risks the extensive release of radioactive waste into the sea.

For inhabitants and their descendants in nuclear test areas it has been "a catastrophe for the country and people".79

#### **Pacific Island nations** support the Treaty on the Prohibition of **Nuclear Weapons**

Pacific Island nations and people have long united in opposition to nuclear testing through the Nuclear Free and Independent Pacific movement, the Pacific Islands Forum and the 1985 Treaty of Rarotonga, also known as the South Pacific Nuclear Free Zone.

Most Pacific Island nations voted

with the global majority to adopt the TPNW at the UN in July 2017. At the time of writing Fiji, Kiribati and Tuvalu have signed on, while the Cook Islands, Palau, New Zealand, Samoa and Vanuatu are state parties to the Treaty.

From a Pacific perspective, there is no distinction between the environment and human beings. Peoples have existed in deeply interconnected relations with their lands, oceans and skies. This is evidenced through Indigenous creation stories and environmental stewardship principles.<sup>80</sup> Knowing full well the humanitarian impacts of nuclear testing, many Pacific leaders support the paradigm shift embodied by the TPNW.

It is time Australia acted in concert and cooperation with our regional neighbours to address the continuing impacts of these past injustices and to advance future security.

### ANOINTED

I'm coming to meet you I'm coming to see you what stories will I find? Will I find an island or a tomb?

To get to this tomb take a canoe. Take a canoe through miles of scattered sun. Swallow endless swirling sea. Gulp down radioactive lagoon. Do not bring flowers, or speeches. There will be no white stones to scatter around this grave. There will be no songs to sing.

#### How shall we remember you?

You were a whole island, once. You were breadfruit trees heavy with green globes of fruit whispering promises of massive canoes. Crabs dusted with white sand scuttled through pandanus roots. And beneath coconut trees beds of ripe watermelon slept still, swollen with juice. And you were protected by powerful irooj, chiefs birthed from women who could swim pregnant for miles beneath a full moon.

Then you became testing ground. Nine nuclear weapons consumed you, one by one by one, engulfed in an inferno of blazing heat. You became crater, an empty belly. Plutonium ground into a concrete slurry filled your hollow cavern. You became tomb. You became concrete shell. You became solidified history, immoveable, unforgettable.

You were a whole island, once.

Who remembers you beyond your death? Who would have us forget that you were once green globes of fruit, pandanus roots, whispers of canoes? Who knows the stories of the life you led before?

There's a story of a turtle goddess. She gifted one of her sons, Letao, a piece of her shell, anointed with power. A leathery green fragment, hollow as a piece of bark. It gave Letao the power to transform into anything, into trees and houses, the shapes of other men, even kindling for the first fire he almost burned us alive.

l am looking for more stories. I look and I look. There must be more to this than incinerated trees, a cracked dome, a rising sea, a leaking nuclear waste with no fence, there must be more than a concrete shell that houses death.

Here is a legend of a shell. Anointed with power. Letao used this shell to turn himself into kindling for the first fire. He gave this fire to a boy. The boy almost burned his village to the ground. Licks of fire leapt from strands of coconut leaves from skin and bone and while the boy cried Letao laughed and laughed.

Here is a story of a people on fire – we pretend it is not burning all of us.

Here is a story of the ways we've been tricked, of the lies we've been told:

It's not radioactive anymore Your illnesses are normal You're fine. You're fine.

My belly is a crater empty of stories and answers only questions, hard as concrete.

Who gave them this power?

Who anointed them with the power to burn?

#### Kathy Jetnil-Kijiner

Marshallese poet, educator and activist

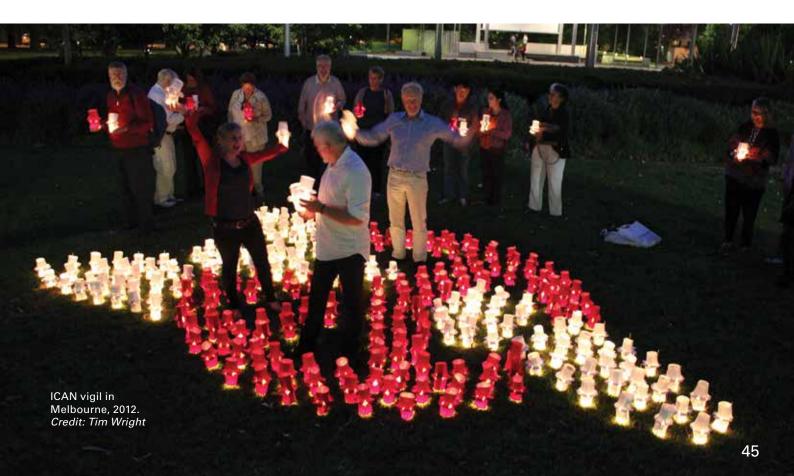
Kathy Jetnil-Kijiner standing upon the Runit Dome, Enewetak, Marshall Islands. *Credit: Dan Lin* 

# CHAPTER 5: AUSTRALIA'S APPROACH TO BANNING THE BOMB

Australia abandoned its early ambitions to acquire an atomic arsenal almost 50 years ago, instead joining the nuclear Non-Proliferation Treaty and the South Pacific Nuclear Free Zone. Despite being a state party to the treaties prohibiting other indiscriminate and inhumane weapons, Australia boycotted negotiations and has resisted joining the Treaty on the Prohibition of Nuclear Weapons. This approach is vigorously contested by the federal opposition party and crossbench, civil society and the Australian people. Australia must now shift direction and realign with the international rules-based order it claims to respect by joining the TPNW.

The International Campaign to Abolish Nuclear Weapons (ICAN) was launched at the Victorian Parliament House in April 2007. A decade later the campaign played a major role in ushering in the 2017 UN Treaty on the Prohibition of Nuclear Weapons. Despite Australia having participated in the three international conferences on the humanitarian impacts of nuclear weapons that laid important groundwork, the Coalition government of the day boycotted the negotiating conference for the new Treaty - a decision that the Labor opposition criticised. This was the first time Australia had bovcotted nuclear disarmament negotiations.

While the Coalition government declared it would not sign the TPNW following its adoption at the UN, support for the Treaty quickly grew among parliamentarians from all sides of politics. When ICAN won international acclaim by being awarded the 2017 Nobel Peace Prize the Coalition government was mute, while the Greens and Labor offered their congratulations. At its national conference in December 2018, Labor committed to sign and ratify the TPNW in government. Thenleader Bill Shorten stated Labor's desire to pursue a foreign policy "with an Australian accent".





## **CHANGING THE WORLD**

Nuclear weapons are the most destructive, inhumane and indiscriminate weapons ever created.

Today we have an opportunity to take a step towards their elimination.

Our members know this, and some have seen it firsthand. One was my mentor, the late Tom Uren.

In 1945, having served his country and fought for his country, he was captured in Timor in 1941, had a tour of Asia including Changi Prison and the Burma-Siam Railway, and ended up on an island close to Nagasaki.

He saw the mushroom cloud bloom over the Japanese city with his own eyes. Upon his return home, having fought for Australia, he became a fighter for peace and disarmament. Years later, he reaffirmed in his retirement speech "the struggle for nuclear disarmament is the most important struggle for the human race."

There is a continuum. Gareth Evans, one of Labor's great foreign ministers, has said that the difficulty of achieving disarmament is no excuse for inaction, and that "nuclear disarmament is core business for any Labor government worth the name."

And that is why I am pleased that Labor in government will sign and ratify the UN Treaty on the Prohibition of Nuclear Weapons.

Of course, there are a range of issues that must be accounted for, but this is necessary work in the face of the nuclear threat. I am confident that we can do it.

Some argue that signing the treaty will undermine the Nuclear Non-Proliferation Treaty, but that's not the view of the experts. UN Secretary-General, António Guterres, said recently "It must be said that the ban is fully compatible with the Non-Proliferation Treaty. I think there is complementarity."

We must push for universal support for this treaty. We must work to bring nuclear states forward and Australia must play a role by being a part of this treaty.

Some have raised concerns that somehow this would interfere with our relations with the United States. Not true. I am a very strong supporter of our friends and our alliance with the United States. The fact is that we can disagree with our friends in the short term, while maintaining those relations.

When other treaties such as landmines first came up, the United States and many other countries that ended up supporting it today were hostile to the idea.

We have on our side the overwhelming support of the Australian people.

The fact is that a large majority of our Federal Labor Caucus have signed up to support this process, and that's because it's consistent with the Labor way.

It's consistent with what we did on the Canberra Commission.

Anthony Albanese MP at the ALP National Conference, Adelaide, December 2018. *Credit: Lukas Coch/AAP*  It's consistent with our membership of the Nuclear Non-Proliferation Treaty.

It's consistent with the role that we've played internationally.

We need to be out there advocating advancement on these issues because progress always requires leadership.

The 2017 Nobel Peace Prize was awarded to an organisation made up of activists concerned about our place in the world, formed in Melbourne. We should be incredibly proud of this achievement.

People who change the world are those that are ambitious.

We have debated the nuclear weapon ban treaty and changed Labor Party policy. This isn't easy, or simple, but it is just. And it is consistent with what the Labor Party is about.

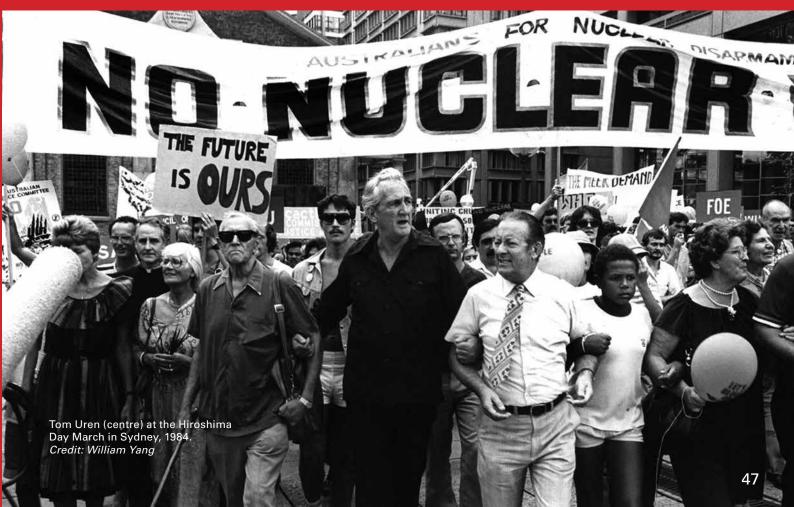
Our commitment to sign and ratify the nuclear weapon ban treaty in government is Labor at our best.

**Anthony Albanese MP** 

Leader

Australian Labor Party

This is an edited extract of a speech that Anthony Albanese delivered at the ALP National Conference on 18 December 2018.



The Australian Labor Party has a long and proud tradition in the area of nuclear disarmament. This was demonstrated in response to the French government's resumption of nuclear testing in the Pacific in 1995. Public outcry saw Prime Minister Keating respond by establishing the **Canberra Commission on the** Elimination of Nuclear Weapons. Labor saw this as an opportunity to shape the international debate and work towards a new strategic environment to reduce and eliminate nuclear weapons. The participants in the Commission included a diverse range of influential people from longtime anti-nuclear campaigners to former parliamentarians and experienced military practitioners.

The Report of the Canberra Commission on the Elimination of Nuclear Weapons released in August 1996 and made three central findings:

- As long as some countries have nuclear weapons others will want them.
- Sooner or later nuclear weapons will be used.
- Any use of nuclear weapons would be catastrophic.

The Report recommended "a program to achieve a world totally free of nuclear weapons" to be achieved by a practical stepby-step process.

After the Coalition won government in March 1996 they delivered the Commission's Report to the UN General Assembly but subsequently failed to actively advocate for its recommendations. Despite this the Report was influential for years to come, particularly in a number of key international forums such as the New Agenda Coalition and the Tokyo Forum in 1998.

There were further positive developments in 1996. In July the **International Court of Justice's Nuclear Weapons Advisory Opinion found that there exists** for all states "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. On 24 September the **Comprehensive Test Ban Treaty** (CTBT) opened for signature at the United Nations and the Howard government signed that day and ratified two years later.

By 1998 the international outlook deteriorated dramatically. In May, India resumed testing nuclear weapons, followed by its rival Pakistan a few weeks later. Despite a growing groundswell of countries which wanted definitive action on nuclear disarmament, the close of the millennium saw the international community in a state of drift and policy inertia.

Australia had ceased to play a constructive role in nuclear matters, though it was active in other areas. The Howard government signed the Ottawa Landmine Treaty<sup>81</sup> in December 1997 and ratified it two years later. Australia signed the Rome Statute for the establishment of an International Criminal Court in 1998 and ratified it four years later when it came into force. However, Australia's direction on nuclear issues became largely dependent on the outcome of the US presidential elections.

### **PARLIAMENTARIANS FOR THE BAN**



No other challenge facing humankind has the potential to irretrievably wreak devastation upon the earth simply by the miscalculation of but a few individuals. Banning and eliminating nuclear weapons is the only way forward that safeguards the collective hopes and dreams of our shared planet.

**Rebekha Sharkie MP** 

Federal member for Mayo, South Australia Centre Alliance



I am so proud that an Australianfounded organisation won the Nobel Peace Prize for their work on the nuclear weapon ban treaty. This new piece of international law is a powerful global declaration of the unacceptability of nuclear weapons. It's well past time for Australia to sign up and genuinely commit to a nuclear-weapon-free future.

**Senator Richard Di Natale** 

Senator for Victoria Leader of the Australian Greens



I support the Treaty on the Prohibition of Nuclear Weapons and urge Australia to sign up because any use of nuclear weapons would have catastrophic consequences. Banning the production, stockpiling, testing, possession, hosting and use of nuclear weapons is the only way to deal with the very real risks of nuclear war.

**Andrew Wilkie MP** 

Federal member for Clark, Tasmania Independent I support the nuclear weapon ban treaty because the terrible events that occurred in north-east Kazakhstan in the latter part of last century should be a sufficient reminder to us all that this sort of nuclear testing can never happen again.



Ken O'Dowd MP

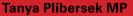
Federal member for Flynn, Queensland National Party of Australia

As a society we are much better off without nuclear weapons. Nuclear should only be used for the betterment of society, not used as a threat to destroy society.

Warren Entsch MP

Federal member for Leichhardt, Queensland Liberal Party of Australia

Chemical weapons. Biological weapons. Anti-personnel landmines. Cluster bombs. Whenever the global community has sought to ban weapons some have said it is impossible, but as Nelson Mandela said, "it always seems impossible until it is done". Today there are around 14,000 nuclear weapons globally. The use of just one would change the course of history and change our world forever. Momentum is building across the globe in support of the UN Treaty on the Prohibition of Nuclear Weapons and for the peace and security that can only be achieved in a world free of nuclear weapons. It's time for the global community to work together to eliminate nuclear weapons. That's why I support Australia signing and ratifying the Treaty.



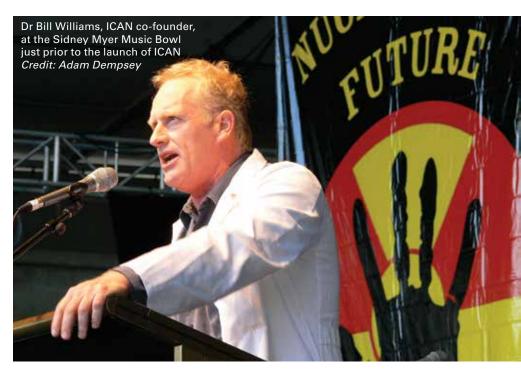
Federal member for Sydney, New South Wales Australian Labor Party





Internationally, meaningful action on nuclear disarmament halted when George W Bush became US President in February 2001. The US pursued a unilateralist foreign policy exhibiting disdain for treaties and a willingness to use force to ensure non-proliferation. Motivated by the September 11 terrorist attacks, the Bush administration focused on proliferation policy and the threat posed by terrorist groups and "rogue states" acquiring nuclear weapons. Nuclear disarmament was not on the agenda. One of President Bush's first decisions was to pull out of the 1972 Anti-Ballistic Missile Treaty with Russia in December 2001. The Howard government supported this decision along with US plans for a National Missile Defence system, and generally fell into line with the Republican administration's approach to the nuclear threat. This involved joining the 2003 "Coalition of the Willing" to invade Iraq, which the Bush administration accused of possessing "weapons of mass destruction", including nuclear weapons.

The Bush administration's disdain for disarmament treaties was starkly reflected in its decision to send a low-level delegation to the 2005 NPT Review Conference. Without US leadership at the Review Conference there was no concluding plan of action from the conference. This failure was a major disappointment to many in the international community who wanted action on nuclear disarmament. It prompted initiatives outside the NPT process from high-profile individuals, civil society groups and nation states. In Australia, ICAN was launched by former Liberal Prime Minister Malcolm Fraser and former judge of the International Court of Justice, Christopher Weeramantry.



Malcolm Fraser remained the inaugural patron of ICAN until his death in 2015.

ICAN's early work involved promoting the idea of a nuclear weapons convention in the lead-up to the 2010 NPT Review Conference. ICAN's outreach to federal parliamentarians received a more sympathetic hearing from the new Rudd government following Labor's victory in the 2007 federal election.

The Rudd Labor government took a proactive approach to nuclear security matters. The 2007 Labor Party platform contained a number of disarmament commitments including consideration of an international treaty to ban nuclear weapons. While in Tokyo in 2008 Rudd proposed a joint Australia-Japan panel of international experts and eminent persons to promote new thinking on nuclear non-proliferation and disarmament. What came to be known as the International Commission on Nuclear Non-proliferation and

Disarmament (ICNND) was cochaired by former Australian and Japanese Foreign Ministers Gareth Evans and Yoriko Kawaguchi. The Commission was backed by members from 15 other countries whose collective intent was to put nuclear disarmament back on the international agenda. Malcolm Fraser was one of a number of former political leaders who gave their support to the Commission.

Kevin Rudd's successor, Prime Minister Julia Gillard, made a controversial change in nuclear policy. At the 2011 National Labor Conference Gillard won a hotly-contested vote in favour of exporting uranium to India, despite Labor's long-held policy of only exporting uranium to signatories of the NPT.

By the time the ICNND presented its report in December 2009 the international mood had shifted following President Obama's Prague speech of April 2009. Obama committed to addressing the nuclear threat, including by

cuts to the US nuclear arsenal in tandem with Russia. A few months later the UN Security Council in Resolution 1887 called for progress on non-proliferation and the reduction of global stockpiles. Obama was awarded the Nobel Peace Prize in 2009 in a move aimed at encouraging a new direction on nuclear disarmament. However, these hopes were soon dashed at the 2010 NPT Review Conference when the United States, along with the other nuclear-weapon states, committed to a vague "step-by-step" process and ruled out pursuing a comprehensive nuclear weapons convention as proposed by ICAN, Sadly, no progress was made on advancing even these much more modest steps. This stalemate was a source of widespread frustration for many nations and civil society groups.

In November 2011, the Red Cross Red Crescent Movement passed a resolution, "Working towards the elimination of nuclear weapons". This solidified the emerging "Humanitarian Initiative". Three ground-breaking conferences on the humanitarian impacts of nuclear weapons were hosted by Norway, Mexico and Austria

Peace Boat arrives in Sydney as part of the "Making Waves" speaking tour to promote the TPNW. Sydney, February 2018. *Credit: Zoe Jeanne Burrell /Greenpeace*  in 2013 and 2014, with the participation of 128, 146 and 158 governments respectively. ICAN was the civil society partner for all three conferences.

The humanitarian conferences considered new and existing evidence relating to the impact of nuclear weapons on people and the environment. The overwhelming conclusion of the conferences was that any use of nuclear weapons would be catastrophic and that no credible or comprehensive humanitarian response to a nuclear detonation is possible. Following the Austrian conference 127 countries endorsed the "Humanitarian Pledge" to cooperate in efforts to "stigmatise, prohibit and eliminate nuclear weapons in light of their unacceptable humanitarian consequences and associated risks". Australia had participated in all three conferences but did not endorse the Humanitarian Pledge.

The Abbott government was concerned that a prohibition treaty could negatively impact Australia's relationship with the United States. As Foreign Minister for the Coalition government from 2013 to 2018, Julie Bishop remained opposed to efforts to promote a weapons ban.

By 2016 the momentum for change had gathered pace at the international level. A UN "open-ended working group" met during February, May and August to discuss the legal measures and norms required to progress and maintain a world free of nuclear weapons. The report<sup>82</sup> of the working group, chaired by Ambassador Thani Thongphakdi of Thailand, recommended negotiations begin on a legally binding instrument to prohibit nuclear weapons. In December the **UN General Assembly approved** 



Protest at the Australian permanent mission to the UN in Geneva, May 2016. Credit: Tim Wright

a resolution<sup>83</sup> to launch negotiations on a treaty prohibiting nuclear weapons the following year and encouraged all UN member states to participate.

Australia participated in the open-ended working group but decided to boycott the negotiating conference along with the nuclear-armed states.<sup>84</sup> On the opening day of negotiations, the US ambassador to the UN, Nikki Haley, held a press conference flanked by supporters including Australia, to condemn any ban on nuclear weapons. In March 2017 Labor's Anthony Albanese MP and Senator Lisa Singh introduced motions in both chambers of Parliament urging the government to participate in the historic talks. Shadow minister for foreign affairs Senator Penny Wong called on the government to explain "why Australia is the only country in the region to boycott negotiations for a new global nuclear weapons treaty".85

On 7 July 2017 at the UN in New York the Treaty on the Prohibition

of Nuclear Weapons was adopted with the support of 122 nations. The Humanitarian Initiative had succeeded in transforming and broadening the debate on nuclear weapons from being a "national security"-driven issue to one regarded as a global humanitarian priority.

On 6 October 2017, the Norwegian Nobel Committee announced the awarding of the Nobel Peace Prize to ICAN "for its work to draw attention to the catastrophic humanitarian consequences of any use of nuclear weapons and for its ground-breaking efforts to achieve a treaty-based prohibition of such weapons". This humbling and powerful recognition drew global attention to the new Treaty and the diverse civil society campaign that championed it. Despite being the first time an Australian-founded organisation was awarded the Nobel Peace Prize, the response in Australia was mixed, and surprisingly muted compared to the positive international response.

Congratulations were offered by many parliamentarians including the Australian Labor Party and the Greens, however the then-Prime Minister Malcolm Turnbull failed to congratulate ICAN.

From the outset ICAN has engaged with federal and state parliamentarians to highlight the existential threat posed by nuclear weapons and the need for a legal instrument to ban these weapons of mass destruction. Nearly two hundred state and federal parliamentarians have signed a "Parliamentary Pledge"<sup>86</sup> to work for Australia to sign and ratify the TPNW. Supporters include threeguarters of federal Labor, all the Greens, independents, National Party, Liberal Party and Centre Alliance parliamentarians.

At the December 2018 Labor National Conference delegates voted unanimously for a resolution committing Labor to sign and ratify the Treaty in government. Speaking to the resolution, Anthony Albanese MP said: "People who change the world are ones that are ambitious. We just had a debate and changed the Labor party policy ... This resolution is Labor at our best." Seconding the motion, Richard Marles MP said the success of the treaty would be "a profound gift from the present to the future of humanity".

The TPNW will soon enter into force and become international law. Will Australia be one of the countries that helps to achieve this outcome? Taking immediate action to sign and ratify the TPNW is the most fitting way to deliver on the vast majority of Australians' longheld commitment to eradicating nuclear weapons and securing a safer future.

## WHO SUPPORTS THE BAN?

Nuclear weapons are everybody's business. These are just some of the organisations in Australia that support signing and ratifying the TPNW:

**Amnesty International Australia** 

Australian Catholic Social Justice Council

Australian Conservation Foundation

Australian Council for International Development

**Australian Council of Trade Unions** 

**Australian Education Union** 

Australian Manufacturing Workers' Union

**Australian Medical Association** 

**Australian Nuclear Free Alliance** 

Australian Nursing and Midwifery Federation

**Australian Red Cross** 

Australian Services Union

Australian Student Environment Network

Communications, Electrical and Plumbing Sector Union

Community and Public Sector Union

**Electrical Trades Union** 

**Health Services Union** 

**Maritime Union of Australia** 

Medical Association for

Prevention of War

National Council of Churches

National Tertiary Education Union

#### Oxfam Australia

**Psychologists for Peace** 

**Public Health Association** of Australia **Queensland Council of Unions** Rail, Tram and Bus Union, Victoria **Royal Australasian College of Physicians** Save the Children Australia South Australian Unions **Unions ACT Unions WA United Nations Association of** Australia **United Firefighters Union United Voice Uniting Church in Australia Victorian Trades Hall Council** 



### PEACE IS UNION BUSINESS

Nuclear weapons put our world in grave danger. Total nuclear disarmament is unfinished business and true security evades us.

Unions are not only about workers' rights. We have a proud history of domestic and international campaigning and have played a crucial role in ensuring equality and justice for all people worldwide. We know that workers on the frontline of a nuclear attack would be killed, and there would be no ability to send workers safely into highly radioactive areas.

Everything we have worked so hard to win is rendered unstable by the nuclear threat.

It is almost 75 years since the dawn of the nuclear age and the people of the world continue to carry the burden of almost 14,000 nuclear weapons, many able to be launched within minutes. Our ability to resolve conflicts and pursue peace is weaker in a world wrought with war.

Nuclear-armed leaders continue to invest billions in the perpetuation of the bomb, instead of spending on healthcare, education and other critical needs.

In the middle of these dangerous times a bright light has emerged. More than 120 nations came together and decided to ban nuclear weapons, knowing the power of international law and consensusbuilding, even before nuclear-armed states get on board.

Now that the UN Treaty on the Prohibition of Nuclear Weapons exists, all the nations of the world are responsible for putting it to work. Australia's current policies support nuclear weapons. We have a profound responsibility to reject any role for these WMDs, by joining the Treaty.

We cannot wait for a peaceful world to emerge by itself, we must work for it by adhering to international law. Our commitment to the UN and to nuclear disarmament generally is undermined by the Australian government's inaction.

The Australian Council of Trade Unions is a proud partner organisation of ICAN, a campaign that has changed the rules on nuclear weapons. We represent millions of workers across Australia who want to see our nation get on the right side of history.

More than 20 unions representing a broad cross-section of workers have added their weight to the campaign for Australia to join the Treaty. This movement is growing.

The working people of Australia have spoken; it is beyond time for our parliamentary representatives to heed our call by signing and ratifying the nuclear weapon ban treaty. Our collective safety depends upon it.

**Michele O'Neil** 

President Australian Council of Trade Unions



1.5

ACT FIRE & RESCUE

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23

The Dearman +

Members of the United Firefighters' Union ACT join the Nobel Peace Ride, September 2018. *Credit: ICAN* 

# **CHAPTER 6: MOMENTUM FOR CHANGE**

The emergence of the Treaty on the Prohibition of Nuclear Weapons has reinvigorated global efforts for nuclear abolition. The Treaty challenges long-held assumptions about the role of nuclear weapons in our world, declaring them illegal for all nations and for all time. The call for Australia to end its complicity and join the right side of history has been taken up by international lawyers, prominent Australians, nuclear test survivors, medical organisations, unions and local councils. This movement will continue to grow until Australia takes the inevitable and imperative step of rejecting nuclear weapons and joining the Treaty.

Nuclear weapons affect everyone. From the hibakusha, nuclear test survivors and their descendants to every person living today. All of us would benefit from a world free of nuclear weapons. in which cities are not nuclear targets and public funds are not allocated to weapons of mass destruction. Collective human security is undermined by the reckless actions of only nine nations that insist on their right to nuclear aggression. Like all major steps forward in human history, eliminating nuclear weapons is a difficult and necessary task.

Civil society worldwide has resisted nuclear weaponry since the dawn of the atomic age. Decades of activism to "ban the bomb" built a movement ready to participate and mobilise behind the push for a prohibition treaty. ICAN created a vehicle for activists young and old to take renewed action against nuclear weapons and the policies that perpetuate them. The TPNW now provides the necessary tool for governments and civil society to leverage pressure and end the existential threat of nuclear weapons. In Australia this means sending an unequivocal message that nuclear weapons have no place.

ICAN is a campaign coalition of 540 partner organisations in over 100 countries. The Australian campaign includes environmental, faith-based, union, international, Indigenous, peace, student, media and medical organisations. Nuclear weapons



undermine everything our partners are working for, including environmental protection, workers' rights, education and public health.

The International Red Cross and Red Crescent Movement played a major role in the development of the TPNW by drawing attention to the devastating humanitarian impacts of nuclear weapons in UN forums, especially since 2010. As the largest humanitarian organisation in the world, they have built a compelling and evidencebased case that an effective emergency response to any nuclear detonation is simply not possible. The Red Cross movement worldwide, including in Australia, continues to urge all nations to sign and ratify the TPNW. According

to International Committee of the Red Cross President Peter Maurer, this would help realise their "responsibility to protect humanity from nuclear catastrophe, based on a vision of security without nuclear weapons, a security that is more viable and humane".<sup>87</sup>

In 2012 more than 700 prominent Australians appealed to then-Prime Minister Gillard to support international efforts to ban nuclear weapons. The Order of Australia Appeal<sup>88</sup> garnered the support of such diverse Australians as writer Bryce Courtenay, gardener Jamie Durie, publisher Ita Buttrose, Olympian Liz Ellis and former prime ministers Malcolm Fraser, Bob Hawke and Gough Whitlam. They called on the Australian government to adopt a nuclearweapon-free defence posture and to join other nations in working to achieve a comprehensive, verifiable treaty to abolish nuclear weapons.

In 2016 around 50 international law experts called on then-**Defence Minister Senator Marise** Payne to reassess Australia's position on nuclear weapons. In an open letter they noted the evidence laid out by experts at the intergovernmental conferences on the humanitarian impacts of nuclear weapons in 2013 and 2014. The letter encouraged Australia to "cease its reliance on weapons" whose use would almost certainly violate international law, given the uncontrollability of their blast, heat and radiological effects", and described nuclear weapons as "an affront to the entire framework of international law".89



Ahead of the negotiating conference for the TPNW in 2017 a diverse group of 52 faithbased organisations endorsed an Interfaith Appeal urging Australia to take its seat at the table. They declared that "as people of faith, we understand the gift of life that nuclear weapons are designed to destroy. Nuclear weapons are incompatible with our religious values, moral principles and international humanitarian law. We have an obligation to address this paramount peril."90 **Signatories included Muslims** Australia, the Hindu Council of Australia, the Australian Catholic Social Justice Council, the National Council of Churches. Quakers Australia and Soka Gakkai International.

Karina Lester, a Yankunytjatjara-Anangu second-generation nuclear test survivor, presented a statement to the UN negotiating conference on behalf of 35 Indigenous organisations worldwide. Karina described the ongoing emotional, mental and physical suffering of her family due to the British nuclear testing programme in South Australia. The statement declared:

Our suffering cannot be undone. Our lands can never be fully restored. Some of our customs will never be revived and will forever remain disrupted. But we hope that, in this new treaty to ban nuclear weapons, governments will at last acknowledge and make reparations for the harm inflicted upon Indigenous peoples, communities, lands and sea.<sup>91</sup>

Among the signatories were the Australian Nuclear Free Alliance, Moruroa e Tatou (French Polynesia), Tewa Women United (US), Jo-Jikum (Marshall Islands) and the Pacific Network on Globalisation.

Australia's boycott of the negotiating conference and subsequent refusal to join the TPNW has disappointed many. As a signatory to the treaties banning chemical and biological weapons, anti-personnel mines and cluster munitions, it makes sense and is consistent for Australia to join the prohibition on the most indiscriminate and inhumane device invented. Successive

<image>

### **SEEKING A JUST AND PEACEFUL WORLD**

The Uniting Church in Australia (UCA) has a long-term commitment to working for a world free from nuclear weapons. As a proud partner of ICAN, we have continued to call upon our political leaders to work towards a ban on nuclear weapons.

The UCA believes that God in Jesus came to make peace. As Christians, we are called by God to love our neighbours and to work for an end to violence and fear in our world. The destructive power of nuclear weapons threatens all life on this planet. We believe that reliance upon nuclear weapons to attain peace and security is entirely contrary to God's creative will for the world.

In our statement *Our Vision for a Just Australia*, we called on the Australian government to sign the Treaty on the Prohibition of Nuclear Weapons as part of Australia's contribution to a just and peaceful world. It is the first Treaty to outlaw nuclear weapons and create a pathway to their total elimination.

We maintain that reliance on weapons for peace and security can never achieve a just and lasting peace.

As noted in our 2003 statement *Uniting for Peace*, "security achieved through armament is sustained by fear of the enemy and can never see the world reconciled." Australia cannot claim any distinction between the intended use or the actual use of nuclear weapons. Further we reject any distinction between the possession of such weapons ourselves for security and their possession by others for our security.

We do not support the notion of nuclear deterrence, that nuclear weapons keep the peace because no nation would risk a retaliatory attack from a nuclear-armed nation. Nuclear weapons are intrinsically unstable and represent a willingness to indiscriminately kill millions of civilians.

In a letter to then Foreign Minister Julie Bishop in 2015, the Uniting Church Assembly highlighted the urgency of a ban on nuclear weapons. "To ensure that nuclear weapons are never used again, they must be eliminated. To eliminate them, they must be banned."

Our former President Rev Gregor Henderson said in 2008, "nuclear weapons are an obscenity and an expression of the brokenness in our world. They breed relationships of distrust, difference and fear." Rather, we seek to build a world transformed by hope, peace and justice where the sacredness of all life is protected.

We continue to pray that those who seek security in nuclear weapons may discover that genuine security can only be achieved through non-violent means.

#### **Rob Floyd**



Associate General Secretary Uniting Church in Australia Assembly



Australian governments have professed their commitment to pursuing a world free of nuclear weapons many times but have routinely fallen short of rejecting the potential use of these weapons on our behalf. Independent public opinion polls consistently demonstrate a high level of support for the TPNW; the latest indicating 79% of Australians want the government to sign and ratify, with only 8% opposed.<sup>92</sup>

Unions representing millions of workers around Australia have long championed peace and nuclear disarmament. Twenty-five unions and Trades and Labour Councils are now putting their weight behind the TPNW and joining the call for Australia to sign and ratify.<sup>93</sup> Union partners include the Australian Council of Trade Unions, the Australian Education Union, the Australian Nursing and Midwifery Federation and the Maritime Union of Australia. Many have passed motions calling for action, for example the Health Services Union's plea for "a nuclear-free defence policy for Australia. Nuclear weapons are inherently indiscriminate and inhumane. Their existence and policies for their use threaten the security of all."<sup>94</sup>

Medical organisations have a specific mandate to advocate against nuclear weapons as the greatest threat to public health. ICAN was established by members of the Medical Association for Prevention of War, the Australian affiliate of the Nobel Peace Prizewinning International Physicians for the Prevention of Nuclear War. On International Human Rights Day on 10 December 2018, Dr Tony Bartone, the President of the Australian Medical Association (AMA), stated that "nuclear weapons have catastrophic consequences for human health, both when tested and when used in conflict situations" and that the AMA "strongly encourages the Government to sign the Treaty."<sup>95</sup> Other supporters include the Royal Australasian College of Physicians, the Australian College for Emergency Medicine and the Public Health Association of Australia.<sup>96</sup>

Dozens of Australian parliamentarians supported the idea of a nuclear weapon prohibition treaty before and during its development. More than 130 state and federal parliamentarians endorsed a global appeal calling for national governments to negotiate a "necessary, feasible and increasingly urgent"<sup>97</sup> ban treaty. Since the Treaty's adoption in July 2017 support within Australia's

parliaments has rapidly grown with more than 220 parliamentarians pledging to work for Australia to sign and ratify it. Parliamentary supporters include members of the Liberal Party of Australia, National Party of Australia, Australian Labor Party, Australian Greens, Centre Alliance and independent parliamentarians.<sup>98</sup> The Australian Labor Party committed to sign and ratify the TPNW in government at their December 2018 national conference, reflecting the large majority of support in the Labor caucus and among rank-andfile members. With growing community support for Australia to join the Treaty, it is in the interest of all elected representatives to achieve this goal on behalf of their constituents.

Cities are champions in challenging the world's most urgent existential issues. Local governments worldwide are speaking out against these instruments of humanitarian harm and and in support of the TPNW. Cities and towns in countries that have not yet joined the Treaty are endorsing the ICAN Cities Appeal, stating that "our city is deeply concerned about the grave threat that nuclear weapons pose to communities throughout the world. We firmly believe that our residents have the right to live in a world free from this threat." The Appeal calls on national governments to sign and ratify the TPNW without delay. Australian supporters99 include Melbourne, Sydney, Fremantle, Hobart and

Canberra while international signees include Washington DC, Los Angeles, Paris, Berlin, Manchester and Geneva.<sup>100</sup>

The Australian government's refusal thus far to join the TPNW is dramatically out of step with community opinion. Australia's role as an effective endorser of the US nuclear weapons programme and policies that promote the use of weapons of mass destruction will become increasingly isolated and contested. The call for change will continue to broaden and grow until Australia takes the inevitable and necessary step of signing and ratifying the TPNW. This action will be supported and celebrated by the millions of Australians that long for meaningful progress towards a world free of these inhumane weapons.



## COMMUNITIES OF FAITH FOR A FUTURE FREE OF NUCLEAR WEAPONS



Quakers have worked to influence government throughout our history. This has been consistent with a commitment to "take away the occasion of war" and to social justice, following the leadings of the Spirit. Advocacy rather than revolution has been the primary method, emerging from a profound belief of "that of God in every one".

Hindu Council of Australia

continues to support a world free

of mass destruction. Violence

takes us away from humanity

towards animals. Destroying all life and the only earth, in order to

seek revenge or victory is not a

In modern age where weapons

end of us all.

victory but a certain recipe for an

of weapons and certainly weapons

#### Jo Jordan

Presiding Clerk Quakers Australia In an age of a great many threats to human development and environmental security it is easy to forget the most immediate existential threat humanity faces – the very real possibility of nuclear annihilation. The only decision possible for the nations of the world who have consideration for the future of their populace is to sign the nuclear weapon ban treaty in all haste.



Soka Gakkai International, Australia

The Holy See was one of the first States to sign and ratify the Treaty... My Delegation strongly encourages all Governments of States who adopted the Treaty to sign and ratify it.

Today, with so many informed analysts warning against the extreme dangers posed to the world by the moves away from further progress in nuclear disarmament, and the vigorous condemnation of their possession by Pope Francis, the time for action is not only ripe but pressing.

#### H. E. Archbishop Bernardito Auza

Apostolic Nuncio, Permanent Observer of the Holy See to the United Nations First Committee Statement on Nuclear Disamament, 22 October 2018



of mass destruction have been produced, organisations like ICAN are the rod of Brahma that will stop the weapons that can destroy us all and deserve all our support.

#### Surinder Jain

National Vice President Hindu Council of Australia

Australia must choose between signing the UN treaty to ban nuclear weapons, or continuing to play with fire, and risk a nuclear conflagration. The AJDS believes the ban is an essential step to restoring our belief in a world that can live in peace.

> Australian Jewish Democratic Society





## **A FEMINIST PERSPECTIVE**

The Women's International League for Peace and Freedom Australia, as part of WILPF International, works to achieve a permanent "feminist peace" with justice, equality, and demilitarised security for all. We mobilise women to abolish the causes of war by challenging militarism, advocating for gender justice, rights and peace, and advocating for just economic and social systems.

WILPF Australia supports the work of ICAN and its partners in continuing to challenge militarisation and the proliferation of weapons. Militarism normalises armed conflict and armed violence. It is underpinned by the assumption that the use or threat of force or the threat thereof is the most appropriate response to conflicts, and actual or perceived threats. While nuclear weapons exist such norms pose an existential threat to humanity. The UN Treaty on the Prohibition of Nuclear Weapons is a major breakthrough in attempts to eliminate nuclear weapons. It shifts the conversation from adversarial threats of annihilation to a humanitarian discourse. In so doing, the Treaty actively creates the spaces for alternative, human-centred and peacebuilding approaches to take place.

From a feminist perspective our goal is to redefine human security. Security does not come from conflict and armaments production. Australia must disavow any role for nuclear weapons in our security doctrines and sign and ratify the TPNW as a humanitarian imperative.

> Women's International League for Peace and Freedom, Australia

## **CONCLUSION**

Why is it crucial that Australia sign and ratify the TPNW?

Is it because 79% of Australians surveyed say they are in favour of it? Or because the danger of nuclear war is ever growing? Or is it because of the fundamental inconsistency of outlawing all other classes of weapons of mass destruction, but continuing to legitimise the most destructive weapons of all?

Australia is called upon to participate in the prohibition and elimination of nuclear weapons by its citizens, by civil society, and most importantly by nuclear survivors. The TPNW provides the first comprehensive framework outlawing nuclear weapons. It bolsters the safeguards regime set up by the NPT, and has the ultimate goal of universal adherence and a world free of nuclear weapons.

The TPNW gives Australia an opportunity to fulfil our existing legal obligations under the NPT. It broadens the taboo against the spread of nuclear weapons and makes real the taboo against the very possession of nuclear weapons. The TPNW helps to fulfil the promise of the NPT and provides an avenue for the implementation of Article VI.

The first step to getting on the right side of history is for Australia to sign the TPNW, signalling an unambiguous commitment to nuclear disarmament. Ratification should follow, binding Australia to abide by the TPNW and bringing consistency to Australia's existing position on indiscriminate weapons.

The absurdity of a world bristling with nuclear weapons is that the consequences of their use are almost unthinkably awful. Even a so-called limited regional nuclear

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war would be devastating to life, catalysing a blanket of highaltitude sunlight-blocking smoke, cooling the earth and depleting stratospheric ozone. The health effects on human beings, animals, and plant life would be wide reaching, and the impact on global agricultural systems would trigger famine and exacerbate conflict.

It is no accident that the International Campaign to Abolish Nuclear Weapons was born out of the Medical Association for the Prevention of War. ICAN's activist and public health roots bring a clarity that the only prescription for survival is nuclear abolition. The only cure is prevention. From our home in the Asia-Pacific region comes a deep understanding of the terrible legacy of nuclear testing. Nuclear experiments led to dispossession of traditional lands, environmental devastation, and underrecognised health consequences for Indigenous people, military personnel and regional communities. This mirrors the experience of Pacific Island peoples, where ongoing health consequences are compounded by the degradation of nuclear test sites due to rising sea levels, threatening further contamination of the land and sea. We must heed the call of Pacific leaders

who await our cooperation in the advancement of environmental stewardship and the future security of our region.

While the road to the elimination of nuclear weapons is long, the TPNW will soon enter into force. Australia has an opportunity to provide international leadership and be one of the countries to deliver this milestone. By joining the TPNW, Australia would honour the victims and survivors of nuclear weapons and nuclear testing, respect the wishes of the vast majority of Australians and uphold our international obligations.

It is time for Australia to choose humanity.

#### Dr Margaret Beavis and Dr Ruth Mitchell

Co-Chairs ICAN Australia

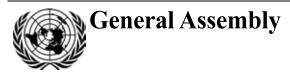
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United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination New York, 27-31 March and 15 June-7 July 2017

Agenda item 9 Negotiations, pursuant to paragraph 8 of General Assembly resolution 71/258 of 23 December 2016, on a legally binding instrument to prohibit nuclear weapons, leading towards

their total elimination

#### Treaty on the Prohibition of Nuclear Weapons

The States Parties to this Treaty,

*Determined* to contribute to the realization of the purposes and principles of the Charter of the United Nations,

*Deeply concerned* about the catastrophic humanitarian consequences that would result from any use of nuclear weapons, and recognizing the consequent need to completely eliminate such weapons, which remains the only way to guarantee that nuclear weapons are never used again under any circumstances,

*Mindful* of the risks posed by the continued existence of nuclear weapons, including from any nuclear-weapon detonation by accident, miscalculation or design, and emphasizing that these risks concern the security of all humanity, and that all States share the responsibility to prevent any use of nuclear weapons,

*Cognizant* that the catastrophic consequences of nuclear weapons cannot be adequately addressed, transcend national borders, pose grave implications for human survival, the environment, socioeconomic development, the global economy, food security and the health of current and future generations, and have a disproportionate impact on women and girls, including as a result of ionizing radiation,

Acknowledging the ethical imperatives for nuclear disarmament and the urgency of achieving and maintaining a nuclear-weapon-free world, which is a global public good of the highest order, serving both national and collective security interests,

*Mindful* of the unacceptable suffering of and harm caused to the victims of the use of nuclear weapons (hibakusha), as well as of those affected by the testing of nuclear weapons,





*Recognizing* the disproportionate impact of nuclear-weapon activities on indigenous peoples,

*Reaffirming* the need for all States at all times to comply with applicable international law, including international humanitarian law and international human rights law,

*Basing themselves* on the principles and rules of international humanitarian law, in particular the principle that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, the rule of distinction, the prohibition against indiscriminate attacks, the rules on proportionality and precautions in attack, the prohibition on the use of weapons of a nature to cause superfluous injury or unnecessary suffering, and the rules for the protection of the natural environment,

*Considering* that any use of nuclear weapons would be contrary to the rules of international law applicable in armed conflict, in particular the principles and rules of international humanitarian law,

*Reaffirming* that any use of nuclear weapons would also be abhorrent to the principles of humanity and the dictates of public conscience,

*Recalling* that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources,

*Recalling also* the first resolution of the General Assembly of the United Nations, adopted on 24 January 1946, and subsequent resolutions which call for the elimination of nuclear weapons,

*Concerned* by the slow pace of nuclear disarmament, the continued reliance on nuclear weapons in military and security concepts, doctrines and policies, and the waste of economic and human resources on programmes for the production, maintenance and modernization of nuclear weapons,

*Recognizing* that a legally binding prohibition of nuclear weapons constitutes an important contribution towards the achievement and maintenance of a world free of nuclear weapons, including the irreversible, verifiable and transparent elimination of nuclear weapons, and determined to act towards that end,

*Determined* to act with a view to achieving effective progress towards general and complete disarmament under strict and effective international control,

*Reaffirming* that 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,

*Reaffirming also* that the full and effective implementation of the Treaty on the Non-Proliferation of Nuclear Weapons, which serves as the cornerstone of the nuclear disarmament and non-proliferation regime, has a vital role to play in promoting international peace and security,

*Recognizing* the vital importance of the Comprehensive Nuclear-Test-Ban Treaty and its verification regime as a core element of the nuclear disarmament and non-proliferation regime,

*Reaffirming* the conviction that the establishment of the internationally recognized nuclear-weapon-free zones on the basis of arrangements freely arrived at

among the States of the region concerned enhances global and regional peace and security, strengthens the nuclear non-proliferation regime and contributes towards realizing the objective of nuclear disarmament,

*Emphasizing* that nothing in this Treaty shall be interpreted as affecting the inalienable right of its States Parties to develop research, production and use of nuclear energy for peaceful purposes without discrimination,

*Recognizing* that the equal, full and effective participation of both women and men is an essential factor for the promotion and attainment of sustainable peace and security, and committed to supporting and strengthening the effective participation of women in nuclear disarmament,

*Recognizing also* the importance of peace and disarmament education in all its aspects and of raising awareness of the risks and consequences of nuclear weapons for current and future generations, and committed to the dissemination of the principles and norms of this Treaty,

*Stressing* the role of public conscience in the furthering of the principles of humanity as evidenced by the call for the total elimination of nuclear weapons, and recognizing the efforts to that end undertaken by the United Nations, the International Red Cross and Red Crescent Movement, other international and regional organizations, non-governmental organizations, religious leaders, parliamentarians, academics and the hibakusha,

*Have agreed* as follows:

#### Article 1 Prohibitions

1. Each State Party undertakes never under any circumstances to:

(a) Develop, test, produce, manufacture, otherwise acquire, possess or stockpile nuclear weapons or other nuclear explosive devices;

(b) Transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly or indirectly;

(c) Receive the transfer of or control over nuclear weapons or other nuclear explosive devices directly or indirectly;

(d) Use or threaten to use nuclear weapons or other nuclear explosive devices;

(e) Assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Treaty;

(f) Seek or receive any assistance, in any way, from anyone to engage in any activity prohibited to a State Party under this Treaty;

(g) Allow any stationing, installation or deployment of any nuclear weapons or other nuclear explosive devices in its territory or at any place under its jurisdiction or control.

#### Article 2 Declarations

1. Each State Party shall submit to the Secretary-General of the United Nations, not later than 30 days after this Treaty enters into force for that State Party, a declaration in which it shall:

(a) Declare whether it owned, possessed or controlled nuclear weapons or nuclear explosive devices and eliminated its nuclear-weapon programme, including the elimination or irreversible conversion of all nuclear-weapons-related facilities, prior to the entry into force of this Treaty for that State Party;

(b) Notwithstanding Article 1 (a), declare whether it owns, possesses or controls any nuclear weapons or other nuclear explosive devices;

(c) Notwithstanding Article 1 (g), declare whether there are any nuclear weapons or other nuclear explosive devices in its territory or in any place under its jurisdiction or control that are owned, possessed or controlled by another State.

2. The Secretary-General of the United Nations shall transmit all such declarations received to the States Parties.

#### Article 3 Safeguards

1. Each State Party to which Article 4, paragraph 1 or 2, does not apply shall, at a minimum, maintain its International Atomic Energy Agency safeguards obligations in force at the time of entry into force of this Treaty, without prejudice to any additional relevant instruments that it may adopt in the future.

2. Each State Party to which Article 4, paragraph 1 or 2, does not apply that has not yet done so shall conclude with the International Atomic Energy Agency and bring into force a comprehensive safeguards agreement (INFCIRC/153 (Corrected)). Negotiation of such agreement shall commence within 180 days from the entry into force of this Treaty for that State Party. The agreement shall enter into force no later than 18 months from the entry into force of this Treaty for that State Party. Each State Party shall thereafter maintain such obligations, without prejudice to any additional relevant instruments that it may adopt in the future.

#### Article 4 Towards the total elimination of nuclear weapons

1. Each State Party that after 7 July 2017 owned, possessed or controlled nuclear weapons or other nuclear explosive devices and eliminated its nuclear-weapon programme, including the elimination or irreversible conversion of all nuclear-weapons-related facilities, prior to the entry into force of this Treaty for it, shall cooperate with the competent international authority designated pursuant to paragraph 6 of this Article for the purpose of verifying the irreversible elimination of its nuclear-weapon programme. The competent international authority shall report to the States Parties. Such a State Party shall conclude a safeguards agreement with the International Atomic Energy Agency sufficient to provide credible assurance of the non-diversion of declared nuclear material from peaceful nuclear activities and of the absence of undeclared nuclear material or activities in that State Party as a whole. Negotiation of such agreement shall commence within 180 days from the entry into force of this Treaty for that State Party. The agreement

shall enter into force no later than 18 months from the entry into force of this Treaty for that State Party. That State Party shall thereafter, at a minimum, maintain these safeguards obligations, without prejudice to any additional relevant instruments that it may adopt in the future.

2. Notwithstanding Article 1 (a), each State Party that owns, possesses or controls nuclear weapons or other nuclear explosive devices shall immediately remove them from operational status, and destroy them as soon as possible but not later than a deadline to be determined by the first meeting of States Parties, in accordance with a legally binding, time-bound plan for the verified and irreversible elimination of that State Party's nuclear-weapon programme, including the elimination or irreversible conversion of all nuclear-weapons-related facilities. The State Party, no later than 60 days after the entry into force of this Treaty for that State Party, shall submit this plan to the States Parties or to a competent international authority designated by the States Parties. The plan shall then be negotiated with the competent international authority, which shall submit it to the subsequent meeting of States Parties or review conference, whichever comes first, for approval in accordance with its rules of procedure.

3. A State Party to which paragraph 2 above applies shall conclude a safeguards agreement with the International Atomic Energy Agency sufficient to provide credible assurance of the non-diversion of declared nuclear material from peaceful nuclear activities and of the absence of undeclared nuclear material or activities in the State as a whole. Negotiation of such agreement shall commence no later than the date upon which implementation of the plan referred to in paragraph 2 is completed. The agreement shall enter into force no later than 18 months after the date of initiation of negotiations. That State Party shall thereafter, at a minimum, maintain these safeguards obligations, without prejudice to any additional relevant instruments that it may adopt in the future. Following the entry into force of the agreement referred to in this paragraph, the State Party shall submit to the Secretary-General of the United Nations a final declaration that it has fulfilled its obligations under this Article.

4. Notwithstanding Article 1 (b) and (g), each State Party that has any nuclear weapons or other nuclear explosive devices in its territory or in any place under its jurisdiction or control that are owned, possessed or controlled by another State shall ensure the prompt removal of such weapons, as soon as possible but not later than a deadline to be determined by the first meeting of States Parties. Upon the removal of such weapons or other explosive devices, that State Party shall submit to the Secretary-General of the United Nations a declaration that it has fulfilled its obligations under this Article.

5. Each State Party to which this Article applies shall submit a report to each meeting of States Parties and each review conference on the progress made towards the implementation of its obligations under this Article, until such time as they are fulfilled.

6. The States Parties shall designate a competent international authority or authorities to negotiate and verify the irreversible elimination of nuclear-weapons programmes, including the elimination or irreversible conversion of all nuclear-weapons-related facilities in accordance with paragraphs 1, 2 and 3 of this Article. In the event that such a designation has not been made prior to the entry into force of this Treaty for a State Party to which paragraph 1 or 2 of this Article applies, the Secretary-General of the United Nations shall convene an extraordinary meeting of States Parties to take any decisions that may be required.

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#### Article 5 National implementation

1. Each State Party shall adopt the necessary measures to implement its obligations under this Treaty.

2. Each State Party shall take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Treaty undertaken by persons or on territory under its jurisdiction or control.

#### Article 6 Victim assistance and environmental remediation

1. Each State Party shall, with respect to individuals under its jurisdiction who are affected by the use or testing of nuclear weapons, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, without discrimination, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion.

2. Each State Party, with respect to areas under its jurisdiction or control contaminated as a result of activities related to the testing or use of nuclear weapons or other nuclear explosive devices, shall take necessary and appropriate measures towards the environmental remediation of areas so contaminated.

3. The obligations under paragraphs 1 and 2 above shall be without prejudice to the duties and obligations of any other States under international law or bilateral agreements.

#### Article 7 International cooperation and assistance

1. Each State Party shall cooperate with other States Parties to facilitate the implementation of this Treaty.

2. In fulfilling its obligations under this Treaty, each State Party shall have the right to seek and receive assistance, where feasible, from other States Parties.

3. Each State Party in a position to do so shall provide technical, material and financial assistance to States Parties affected by nuclear-weapons use or testing, to further the implementation of this Treaty.

4. Each State Party in a position to do so shall provide assistance for the victims of the use or testing of nuclear weapons or other nuclear explosive devices.

5. Assistance under this Article may be provided, inter alia, through the United Nations system, international, regional or national organizations or institutions, non-governmental organizations or institutions, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies, or national Red Cross and Red Crescent Societies, or on a bilateral basis.

6. Without prejudice to any other duty or obligation that it may have under international law, a State Party that has used or tested nuclear weapons or any other nuclear explosive devices shall have a responsibility to provide adequate assistance to affected States Parties, for the purpose of victim assistance and environmental remediation.

#### Article 8 Meeting of States Parties

1. The States Parties shall meet regularly in order to consider and, where necessary, take decisions in respect of any matter with regard to the application or implementation of this Treaty, in accordance with its relevant provisions, and on further measures for nuclear disarmament, including:

(a) The implementation and status of this Treaty;

(b) Measures for the verified, time-bound and irreversible elimination of nuclear-weapon programmes, including additional protocols to this Treaty;

(c) Any other matters pursuant to and consistent with the provisions of this Treaty.

2. The first meeting of States Parties shall be convened by the Secretary-General of the United Nations within one year of the entry into force of this Treaty. Further meetings of States Parties shall be convened by the Secretary-General of the United Nations on a biennial basis, unless otherwise agreed by the States Parties. The meeting of States Parties shall adopt its rules of procedure at its first session. Pending their adoption, the rules of procedure of the United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination, shall apply.

3. Extraordinary meetings of States Parties shall be convened, as may be deemed necessary, by the Secretary-General of the United Nations, at the written request of any State Party provided that this request is supported by at least one third of the States Parties.

4. After a period of five years following the entry into force of this Treaty, the Secretary-General of the United Nations shall convene a conference to review the operation of the Treaty and the progress in achieving the purposes of the Treaty. The Secretary-General of the United Nations shall convene further review conferences at intervals of six years with the same objective, unless otherwise agreed by the States Parties.

5. States not party to this Treaty, as well as the relevant entities of the United Nations system, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organizations, shall be invited to attend the meetings of States Parties and the review conferences as observers.

#### Article 9 Costs

1. The costs of the meetings of States Parties, the review conferences and the extraordinary meetings of States Parties shall be borne by the States Parties and States not party to this Treaty participating therein as observers, in accordance with the United Nations scale of assessment adjusted appropriately.

2. The costs incurred by the Secretary-General of the United Nations in the circulation of declarations under Article 2, reports under Article 4 and proposed amendments under Article 10 of this Treaty shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

3. The cost related to the implementation of verification measures required under Article 4 as well as the costs related to the destruction of nuclear weapons or other nuclear explosive devices, and the elimination of nuclear-weapon programmes, including the elimination or conversion of all nuclear-weapons-related facilities, should be borne by the States Parties to which they apply.

#### Article 10 Amendments

1. At any time after the entry into force of this Treaty, any State Party may propose amendments to the Treaty. The text of a proposed amendment shall be communicated to the Secretary-General of the United Nations, who shall circulate it to all States Parties and shall seek their views on whether to consider the proposal. If a majority of the States Parties notify the Secretary-General of the United Nations no later than 90 days after its circulation that they support further consideration of the proposal, the proposal shall be considered at the next meeting of States Parties or review conference, whichever comes first.

2. A meeting of States Parties or a review conference may agree upon amendments which shall be adopted by a positive vote of a majority of two thirds of the States Parties. The Depositary shall communicate any adopted amendment to all States Parties.

3. The amendment shall enter into force for each State Party that deposits its instrument of ratification or acceptance of the amendment 90 days following the deposit of such instruments of ratification or acceptance by a majority of the States Parties at the time of adoption. Thereafter, it shall enter into force for any other State Party 90 days following the deposit of its instrument of ratification or acceptance of the amendment.

#### Article 11 Settlement of disputes

1. When a dispute arises between two or more States Parties relating to the interpretation or application of this Treaty, the parties concerned shall consult together with a view to the settlement of the dispute by negotiation or by other peaceful means of the parties' choice in accordance with Article 33 of the Charter of the United Nations.

2. The meeting of States Parties may contribute to the settlement of the dispute, including by offering its good offices, calling upon the States Parties concerned to start the settlement procedure of their choice and recommending a time limit for any agreed procedure, in accordance with the relevant provisions of this Treaty and the Charter of the United Nations.

#### Article 12 Universality

Each State Party shall encourage States not party to this Treaty to sign, ratify, accept, approve or accede to the Treaty, with the goal of universal adherence of all States to the Treaty.

#### Article 13 Signature

This Treaty shall be open for signature to all States at United Nations Headquarters in New York as from 20 September 2017.

#### Article 14 Ratification, acceptance, approval or accession

This Treaty shall be subject to ratification, acceptance or approval by signatory States. The Treaty shall be open for accession.

#### Article 15 Entry into force

1. This Treaty shall enter into force 90 days after the fiftieth instrument of ratification, acceptance, approval or accession has been deposited.

2. For any State that deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, this Treaty shall enter into force 90 days after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

#### Article 16 Reservations

The Articles of this Treaty shall not be subject to reservations.

#### Article 17 Duration and withdrawal

1. This Treaty shall be of unlimited duration.

2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of the Treaty have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to the Depositary. Such notice shall include a statement of the extraordinary events that it regards as having jeopardized its supreme interests.

3. Such withdrawal shall only take effect 12 months after the date of the receipt of the notification of withdrawal by the Depositary. If, however, on the expiry of that 12-month period, the withdrawing State Party is a party to an armed conflict, the State Party shall continue to be bound by the obligations of this Treaty and of any additional protocols until it is no longer party to an armed conflict.

#### Article 18 Relationship with other agreements

The implementation of this Treaty shall not prejudice obligations undertaken by States Parties with regard to existing international agreements, to which they are party, where those obligations are consistent with the Treaty.

#### Article 19 Depositary

The Secretary-General of the United Nations is hereby designated as the Depositary of this Treaty.

#### Article 20 Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Treaty shall be equally authentic.

DONE at New York, this seventh day of July, two thousand and seventeen.

I was overwhelmed with joy when a great majority of the world's nations voted to adopt the Treaty on the Prohibition of Nuclear Weapons. Having witnessed humanity at its worst, I witnessed, that day, humanity at its best. We hibakusha had been waiting for the ban for seventy-two years. Let this be the beginning of the end of nuclear weapons.

All responsible leaders will sign this treaty. And history will judge harshly those who reject it. No longer shall their abstract theories mask the genocidal reality of their practices. No longer shall "deterrence" be viewed as anything but a deterrent to disarmament. No longer shall we live under a mushroom cloud of fear.

#### **Setsuko Thurlow**

Hiroshima survivor and ICAN campaigner Excerpt from the Nobel Peace Prize Lecture, 10 December 2017