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The world seems ever beset by "crises" – the unshakeable global financial crisis, the imminent crisis of climate change, trans-national Islamic terrorists that might loom from the shadows at any moment...

However, one issue that tends to evade such "world is nigh" characterisation nowadays is, inexplicably, the only thing of our own design that actually *could* conceivably spell an immediate and irreversible end for humanity – nuclear weapons. Since the end of the Cold War, the issue has largely fallen off the mainstream radar and there is now an entire generation who has no concept of living with the anxiety of "reds under the beds", or the simmering dread of nuclear war. The report of the International Commission on Nuclear Non-proliferation and Disarmament (ICNND) has a telling tale about how well-founded this dread was:

*"...for all the careful handling, there were dozens of false alarms on both sides during the Cold War years. ...information [is] now available about Soviet nuclear weapons deployed in Cuba and on nearby submarines at the outset of the 1962 crisis – of which US commanders were not aware. ...a Soviet submarine was subjected to US Navy practice depth charges as part of the "quarantine". The submarine, cut off from communication with its command authority, had to decide either to surface or to use its nuclear torpedo. Delegation of use was subject to a joint decision between the three commanding officers of the submarine – and the vote was two against, one for."*¹

But with the demise of the Soviet Union, surely some complacency is warranted? The world stockpile of nuclear warheads has decreased from a whopping 70,000 in 1985 to approximately 23,000 today. This dramatic reduction can largely be attributed to the success of the bilateral START I² treaty between USA and Russia, who between them still account for more than 95% of the world's stockpiles. However, these 23,000 nuclear warheads still have a combined blast-destruction capability of 2,300 megatonnes, equivalent to 150,000 Hiroshima bombs³. This is simply beyond mortal comprehension.

While the threat of inter-superpower war may have declined dramatically, other threats remain. A medium-scale nuclear exchange over Kashmir between India and Pakistan – say, 50 warheads of an average of 3 megatonnes – is by some estimates predicted to cause a global dust storm ("nuclear winter") that would destroy the vast majority of the world's agricultural production and kill more than five billion people.

Besides USA, Russia, India and Pakistan, four other countries – UK, France, China and Israel – have the bomb. While the stability of these states may be more encouraging than that of Pakistan, the chance of a mistake that could spark a nuclear confrontation – a momentary error of judgment, malfunctioning equipment – remains all too real.

And what of a world in which North Korea and Iran have operational nuclear weapons? Even if we ignore the sabre-rattling rhetoric, these countries arguably have even less capacity to put robust failsafes in place. As co-chair of the ICNND, our own former Foreign Minister Gareth Evans has said: *"It is sheer dumb luck, not a matter of political genius or the inherent stability of our security systems, that the world has not seen a major nuclear-weapon disaster in the last 65 years."*⁴

As if this was not enough, there is yet another cause for concern. As US President Obama stated in his speech in Prague in May 2009:

*"In a strange turn of history, the threat of global nuclear war has gone down, but the risk of a nuclear attack has gone up... Black market trade in nuclear secrets and nuclear materials abound... Terrorists are determined to buy, build or steal one."*⁵

However, there is hope and it lies with the international legal regime. The cornerstone legal instrument is the Treaty on the Non-proliferation of Nuclear Weapons (the Non-Proliferation Treaty, or NPT). Coming into force in 1970, the treaty has 189 signatories, including five recognised nuclear-weapon states. The central bargain of the NPT is the renouncement

of the pursuit of nuclear weapons by non-weapon states in return for access to civil technology and a long-term commitment by nuclear weapon states to disarm.

However, the NPT regime is not without its flaws, the starkest of which being countries that are *not* party to the treaty – India, Pakistan, Israel, and, if withdrawal from the NPT is possible (and many argue that it is not), North Korea. Containing Iranian nuclear ambitions also remains a key challenge.

The treaty was extended indefinitely in 1995, and regular review conferences are held every five years. The decision-making process at NPT review conferences is distinctive in that it requires the consensus of all 189 states – a mean feat to achieve which encourages slow progress, but also deeply entrenches what progress *is* made.

After the dismal failure of the 2005 conference to achieve any consensus the May 2010 conference has delivered a document heavy on rhetoric, but short on substantive, path-breaking action. Rhetoric does, however, help to establish norms that then govern the legitimacy of actions and responses in international relations. While norms may not have the same stopping power of legally binding provisions, they do have non-trivial value as a constraining influence.

The great beacon of hope from the conference was an agreement to hold a conference in 2012 on establishing a Middle-East Nuclear Weapons Free Zone. Nuclear weapons free zones currently cover most of the Southern Hemisphere, but an agreement in this volatile region would be a major advance.

However, the NPT regime is under threat, as the central bargain is flawed and unsustainable. Civil nuclear cooperation, as enshrined in the NPT, is an inherent contradiction with non-proliferation of nuclear weapons. This is because civil nuclear reactors and associated nuclear fuel cycle facilities are essentially bomb starter-kits, and there are no penalty provisions for abrogating the treaty. As Obama said in Prague:

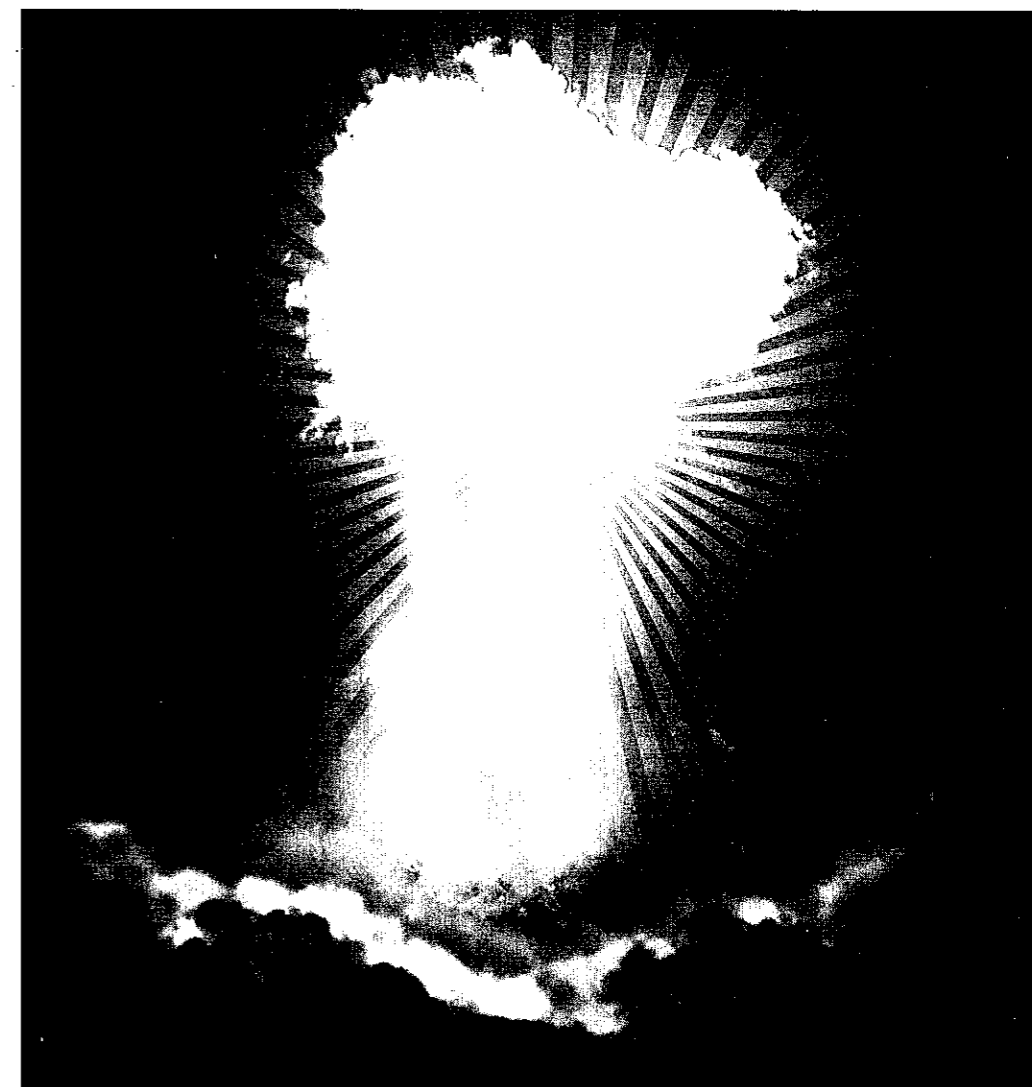
"Our efforts to contain these dangers are centred on a global non-proliferation regime, but as more people and nations break the rules, we could reach the point where the centre cannot hold."

Work therefore needs to begin on a nuclear weapons convention – a legally binding treaty that prohibits the use of nuclear weapons, firstly with prescribed exceptions, but ultimately as a complete and universal ban.

As put simply by Gareth Evans, *"It cannot be assumed that our luck will continue, and maintaining the status quo is simply not an option."*⁶

(Endnotes)

- 1 p62, Gareth Evans and Toriko Kawaguchi (Co-Chairs, Eds.), International Commission on Nuclear Non-Proliferation and Disarmament, *Eliminating Nuclear Threats: A Practical Agenda for Global Policy Makers*
- 2 Strategic Arms Reduction Treaty
- 3 p13, above n1
- 4 Gareth Evans, *A menace more real than ever: The risk posed by nuclear weapons*, L'Osservatore Romano, 6 May 2010, <<http://www.gevans.org/oped/oped105.html>>, accessed 1 July 2010
- 5 Barack Obama, <http://www.whitehouse.gov/the_press_office/Remarks-By-President-Barack-Obama-In-Prague-As-Delivered/>, accessed 1 July 2010
- 6 Above n4



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