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978-1-108-49313-0 — On Nuclear Weapons: Denuclearization, Demilitarization and Disarmament

Edited by Stefan Andersson , With Curt Dahlgren

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**ON NUCLEAR WEAPONS: ESSAYS BY RICHARD FALK ON  
DENUCLEARIZATION, DEMILITARIZATION, AND DISARMAMENT**

We are at a time when international law and the law of war are particularly important. The testing of nuclear weapons that is being used in the rhetoric surrounding threats of war is creating new fears and heightening current tensions. Richard Falk has for decades been an outspoken authority calling for nuclear disarmament and the enforcement of nonproliferation treaties. In this collection of essays, Falk examines the global threats to all humanity posed by nuclear weapons. He is not satisfied with accepting arms-control measures as a managerial stopgap to these threats and seeks no less than to move the world back from the nuclear precipice and toward denuclearization. Falk's essays reflect the wisdom and innovative thinking he has brought to his long career as a scholar and activist, as he reminds nuclear states of their obligation under international law and moral imperative to seek nuclear disarmament.

Stefan Andersson is the editor of *Revisiting the Vietnam War and International Law: Views and Interpretations of Richard Falk* (Cambridge University Press, 2017), the coeditor of *Russell on Religion: Selections from the Writings of Bertrand Russell* (1999) on religion and related topics, and the author of *In Quest of Certainty: Bertrand Russell's Search for Certainty in Religion and Mathematics up to "The Principles of Mathematics"* (1994).

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# On Nuclear Weapons: Essays by Richard Falk on Denuclearization, Demilitarization, and Disarmament

*Edited by*

**STEFAN ANDERSSON**

Lund University, Sweden

**with CURT DAHLGREN**



**CAMBRIDGE**  
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*We do not want to look at this thing simply from the point of view of the next few years; we want to look at it from the point of view of the future of mankind. The question is a simple one: Is it possible for a scientific society to continue to exist, or must such a society inevitably bring itself to destruction? It is a simple question but a very vital one. I do not think it is possible to exaggerate the gravity of the possibilities of evil that lie in the utilization of atomic energy. As I go about the streets and see St. Paul's, the British Museum, the Houses of Parliament, and the other monuments of our civilization, in my mind's eye I see a nightmare vision of those buildings as heaps of rubble with corpses all round them. That is a thing we have got to face, not only in our own country and cities, but throughout the civilized world.*

—Bertrand Russell, "The International Situation." *Parliamentary Debates*, Lords,  
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## Foreword by Zia Mian

The international nuclear order established by a range of treaties and agreements between states, some dating back fifty years, to limit, reduce, and eliminate nuclear weapons is widely felt to be coming undone. The nine nuclear-armed states, some of which are the most powerful military and economic states in the international system, despite frequent high-level public commitments and long-standing international obligations to pursue and achieve nuclear disarmament, have each in their own way been putting in place policies and programs intended to assure nuclear weapons will continue to be key instruments and symbols of power, force, and violence far into our new century. For the leaders of these states, the political conditions are not yet right to give up these weapons and likely will not be so for the foreseeable future. At the same time, never having sought these weapons, the large majority of countries of the world have moved from exhorting the nuclear-armed states to end the nuclear dangers facing humanity to agreeing in 2017 at the United Nations the Treaty on the Prohibition of Nuclear Weapons. This new treaty bans unconditionally the threat and use of nuclear weapons and obliges states “never under any circumstances” to develop, test, produce, manufacture, otherwise acquire, possess, or stockpile such weapons. Global public opinion largely supports the abolition of nuclear weapons through such a binding international legal instrument.

With the nuclear future hanging in the balance, the essays by Richard Falk collected here are a timely and invaluable guide for scholars, citizens, and policy-makers interested in understanding and engaging with the deep structures of ideas and interests underlying these two contending political projects, what they mean for the future of international security, and for efforts to achieve a safer and more peaceful world. These essays, written over a span of more than half a century, explore in critical detail the systems of ideas, interests, and institutions that have clashed repeatedly as part of the nuclear weapons debate since the dawn of the nuclear age more than seventy years ago. Running through them is a fascinating and challenging set of reflections on the complex relationship between the destructive

power of the bomb, the nature and role of law and violence in the interlinked system of states and peoples that is the world order, the endangered future of humankind, and the prospects that radical democracy and engaged citizenship can help reorder this relationship.

The recognition that nuclear weapons pose a threat to the human community and to the world is at least as old as the weapons. In April 1945, before the first nuclear weapon had been assembled for testing, US Secretary of War Henry Stimson explained to US President Harry Truman that the United States had almost finished its secret project to build “the most terrible weapon ever known in human history, one bomb of which could destroy a whole city.” Stimson explained the stakes, telling Truman “The world in its present state of moral advancement compared with its technical development would be eventually at the mercy of such a weapon. In other words, modern civilization might be completely destroyed.” In the midst of a massive campaign against Japan involving attacks by hundreds of bombers almost every other day, which eventually destroyed over sixty Japanese cities, a wartime US president, in full knowledge of the consequences, chose to take upon himself responsibility for the fate of the earth. Within four months, the bomb was completed, tested, and used to destroy two Japanese cities.

The ruin of first Hiroshima and then Nagasaki by the United States raised humanitarian, political, and legal concerns in people and states around the world, and fueled grave fears about the future of a world where so much power rested in the hands of one country’s leaders, the prospect that in time other leaders in other countries would seek the same power, and the need for action. Mahatma Gandhi lamented that “the atomic bomb has deadened the finest feeling that has sustained mankind for ages. There used to be the so-called laws of war which made it tolerable. Now we know the naked truth. War knows no law except that of might.” Looking at the geopolitics of the bomb, George Orwell observed bleakly, “We have before us the prospect of two or three monstrous super-states, each possessed of a weapon by which millions of people can be wiped out in a few seconds, dividing the world between them ... [and] a permanent state of ‘cold war’.” Writing in the French newspaper *Combat*, Albert Camus urged that “Faced with the terrifying prospects that are opening up before humanity we see even more clearly than before that peace is the only fight worth engaging in. This isn’t a plea any more, but an order that has to rise up from peoples to governments, the order to choose once and for all between hell and reason.” In the view of these writers, and others, including Richard Falk, the coming of the bomb marked a decisive rupture in human affairs.

For some there was hope in the ideals, practices, and institutions of democracy. Led by Albert Einstein, Leo Szilard, Linus Pauling, and others, the Emergency Committee of Atomic Scientists was established in 1946 in Princeton, New Jersey. Its office was across the street from Princeton University, where Richard Falk was a professor of international law for fifty years, from 1961 until 2001, the period when many of these essays were written. The Emergency Committee said its first task was

to educate the public about the dangers of nuclear weapons and the coming nuclear arms race. In January 1947, under Einstein's signature as chairman, the Emergency Committee issued a short letter arguing that nuclear weapons "cannot be fitted into the outmoded concept of narrow nationalisms" and as such "there is no possibility of control except through the aroused understanding and insistence of the peoples of the world." They declared, "We believe that an informed citizenry will act for life and not death." For the scientists, states could not be entrusted to end the nuclear danger, only an informed and active citizenry with a global rather than a national sense of identity, responsibility, and duty could save humanity. This perspective is shared by Richard Falk and informs many of the essays here.

Another source of hope was the newly created United Nations, whose Charter, agreed in San Francisco in June 1945, declared that its fundamental goal was "to save succeeding generations from the scourge of war," and to this end obliged states to "refrain in their international relations from the threat or use of force" against each other. In January 1946, at its first meeting, the UN General Assembly adopted Resolution 1(1), setting up a UN Commission tasked to "proceed with the utmost dispatch" to make specific proposals "for the elimination from national armaments of atomic weapons." Resolution 1(1), the first to be adopted by the United Nations, inextricably tied nuclear weapons to the legitimacy of the new international order and the political organization of the world it aimed to create, and to the need collectively to constrain national security policy, the use of force, and the conduct of war by the most powerful states. It put the creation of international law at the heart of the debate over how to deal with nuclear weapons. It also codified that addressing and ending the nuclear danger was to be a collective undertaking of the United Nations and the system of states through some kind of accountable, internationally democratic process rather than the national prerogative of nuclear-armed states, of which there was only one at the time – the United States.

Resolution 1(1) yielded competing plans from the United States (which had nuclear weapons) and the Soviet Union (which was seeking to build them) for the elimination of nuclear weapons, plans which prefigure another core theme of the still ongoing struggle over nuclear weapons and one that is a major concern of Richard Falk's writings. The United States proposed as part of its Baruch Plan that the "manufacture of atomic bombs shall stop [and] existing bombs shall be disposed of pursuant to the terms of the treaty" only after "an adequate system for control of atomic energy, including the renunciation of the bomb as a weapon, has been agreed upon and put into effective operation and condign punishments set up for violations of the rules of control which are to be stigmatized as international crimes." In short, before it would give up its nuclear monopoly, the United States saw the need to create the conditions for nuclear disarmament, and these conditions involved demonstration of the "effective operation" of a nonproliferation regime able to ensure that there was no possible risk of any other country making such weapons. For its part, the Soviet Union submitted a Draft International Convention

to Prohibit the Production and Employment of Weapons Based on the Use of Atomic Energy for the Purpose of Mass Destruction, which would require states to commit “not to use atomic weapons in any circumstances whatsoever,” production and storage of nuclear weapons was to be banned, and “within a period of three months” existing weapons were to be destroyed. Nuclear disarmament could not wait on the other problems of possible proliferation to be solved first.

The tension between the need for the elimination of actually existing weapons and concern about preventing the potential spread or proliferation of weapons or the reconstitution of a nuclear arsenal after it had been dismantled and destroyed was left unresolved in the nuclear Non-Proliferation Treaty (NPT) that was opened for signature in 1968 and came into force in 1970. The NPT created detailed nonproliferation obligations for states that did not have nuclear weapons, backed by a system of mandatory international inspections to prevent these states from any “diversion of nuclear energy from peaceful uses to nuclear weapons.” The sole treaty article touching on disarmament action, Article VI, declared that “Each of the Parties to the Treaty undertakes 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, and on a treaty on general and complete disarmament under strict and effective international control.”

The five nuclear-armed states recognized by the NPT (the United States, Soviet Union, Britain, France, and China), because each of them had carried out nuclear weapon tests before 1967, have so far seen this Article VI obligation as hortatory, encouragement to them from the world community “to pursue negotiations” related to nuclear weapon issues. After all, the treaty offers no metrics for “good faith” or “effective measures” against which they can be held to account. These states prefer to avoid the implications of the fact that since the Article VI obligations apply to “Each of the Parties to the Treaty” not just the nuclear-armed states, it codifies and reinforces the view first laid out in UN General Assembly Resolution 1(1) that the pursuit and achievement of nuclear disarmament is a shared obligation of the world community. The regular meetings of the NPT, which now has 191 member states, have become a key site of contest between the five nuclear-armed states and the nonweapon states over the lack of progress on nuclear disarmament. While Israel, India, Pakistan, and North Korea are all nuclear-armed states, they are not parties to the NPT. Richard Falk’s essays illuminate key features of this enduring contest over nonproliferation and disarmament and what this means for the legitimacy of the NPT.

Another set of fundamental differences in perspective between nuclear-armed states and their allies who seek protection by these weapons and the majority of states who have forsworn nuclear weapons and seek their global elimination is the concern about the humanitarian impacts of nuclear weapons, especially the potentially global nature of these impacts, how nuclear-armed states and their leaders may use nuclear weapons, and how the international community and international law

can be brought to bear on these problems. These differences weave through the nuclear age and through these essays. One example may suffice here. In November 1961, the UN General Assembly declared that “any state using nuclear and thermonuclear weapons is to be considered as violating the Charter of the United Nations, as acting contrary to the laws of humanity, and as committing a crime against mankind and civilization.” This was because “the use of nuclear and thermonuclear weapons would bring about indiscriminate suffering and destruction to mankind and civilization.” In September 1963, Richard Falk engaged with this set of concerns in an essay “No First Use of Nuclear Weapons: Pros and Cons” republished here, making the case not just for the practical and the prudential value of no first use of nuclear weapons in conflict but also for “a new morality of rights, duties, and limits” given the danger of nuclear weapons.

Concern about the global humanitarian consequences of the use of nuclear weapons recurred in the 1980s, most famously in Jonathan Schell’s seminal book *The Fate of the Earth* and the studies on the possible “nuclear winter” that might follow large-scale use of nuclear weapons made famous by Carl Sagan and other scientists. It went beyond the earlier perspective in that it included a more explicitly ecological and human rights awareness that mirrored a growing consciousness among people and state policy-makers of the requirements for human well-being and of human impacts on the natural environment. This awareness continued to evolve. A humanitarian, ecological, legal, and moral sensibility underpinned three major international conferences that were held in Norway (2013), Mexico (2014), and Austria (2014), the last of which drew 158 states, international bodies, the Red Cross, civil society from around the world, scholars, and experts. It was an amazing display of a new perspective on nuclear weapons taking shape and a new sense of agency. The essays here show how Richard Falk’s ideas prefigured this development.

In Austria, the states issued a Humanitarian Pledge: “Understanding that the immediate, mid- and long-term consequences of a nuclear weapon explosion are significantly graver than it was understood in the past and will not be constrained by national borders but have regional or even global effects, potentially threatening the survival of humanity” and “Recognizing the complexity of and interrelationship between these consequences on health, environment, infrastructure, food security, climate, development, social cohesion and the global economy that are systemic and potentially irreversible.” The pledge highlighted that “nuclear weapons concern the security of all humanity and that all states share the responsibility to prevent any use of nuclear weapons” and that “the scope of consequences of a nuclear weapon explosion and risks associated raise profound moral and ethical questions that go beyond debates about the legality of nuclear weapons.” The signatories committed themselves to “efforts to stigmatize, prohibit and eliminate nuclear weapons in light of their unacceptable humanitarian consequences and associated risks.” Within a year, 127 states had endorsed this pledge, and in late 2015 the pledge was adopted as a UN General Assembly resolution. These steps laid the basis for the successful

negotiation in 2017 of the Treaty on the Prohibition of Nuclear Weapons. The nonweapon states saw this treaty as fulfillment of Resolution 1(1) and of their NPT Article VI obligation. The major nuclear-armed states were at best dismissive, and some actively opposed the whole effort; they remain resolutely attached to what Falk has called “nuclearism,” a category that connects the theory and practice and institutions of nuclear deterrence, the attendant willingness to wage nuclear war, the rejection of international law, and the hierarchical ordering of states in the world system, which helps explain much of nuclear weapons policy and politics.

The new treaty is only one sign of turmoil and transformation in the nuclear order. Other signs are evident for instance in the continuities and changes in the nuclear policies of the United States. In 2009, speaking in Prague, US President Barack Obama declared the United States’s commitment “to seek the peace and security of a world without nuclear weapons” and announced his country would take “concrete steps towards a world without nuclear weapons.” At the same time, he declared “the United States will maintain a safe, secure and effective arsenal,” and to this end launched a vast and costly decades-long program to modernize its existing nuclear arsenal and complex. His successor President Donald Trump, elected in 2016, has shown no such ambivalence, committing not just to “modernize and rebuild” the nuclear arsenal of the United States but ordering the development of new kinds of nuclear weapons and easing existing restrictions on the conditions under which nuclear weapons might be used. Trump also announced his intention to withdraw the United States from the 1987 US–Soviet Intermediate-Range Nuclear Forces (INF) Treaty signed by President Ronald Reagan and Secretary-General Mikhail Gorbachev, which removed from service several thousand nuclear weapons. Other nuclear arms control agreements may fall; Trump has described as a “bad deal” the 2010 US–Russia New START agreement, signed by Obama, which limits the number of deployed long-range nuclear weapons, suggesting it may be allowed to expire in 2021. Many observers fear a new nuclear arms race.

While many of the core issues about nuclear weapons – who has them, what they do with them and why, the dangers this poses and what can be done to end them – have not changed, there has been a transformation of the world in other ways. The world in which nuclear-armed states seek to exercise power and influence through these weapons has changed, most notably in the rise of new “developing” states. At the time of the UN General Assembly Resolution 1(1) in 1946, there were only fifty-one member states of the United Nations. Many of today’s states were still territories in European colonial empires. UN membership had doubled to 104 states by the time of the 1961 Resolution declaring the use of nuclear weapons “a crime against mankind and civilization.” This number has now grown to 193 states. For many of them, the world order from the 1940s, dominated by a handful of great powers armed with nuclear weapons and economies that shaped global production, distribution, exchange, and consumption, is an obvious structural injustice. The new states often find allies in another new force in world politics: the vast array of national and

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transnational groups, networks, and antisystemic movements that together make up global civil society. Many of the essays in this volume touch on the importance of both of these sets of new players and share with them a core antisystemic sensibility concerning the need for a more equitable and peaceful world order, the importance of humanity's impact on the natural environment, and the possibilities of deepening and broadening human emancipation. It is here that many readers of Richard Falk may find hope for a way out of our often lawless, violent, and unjust world.

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## Preface by Richard Falk

*On Nuclear Weapons: Denuclearization, Demilitarization,  
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## POINTS OF DEPARTURE

My concern about nuclear weapons goes back to my time as a graduate student. Two reckless misconceptions of the early Cold War period struck me back in the 1950s as particularly disturbing: first, to avoid the apocalyptic catastrophe of nuclear war by relying on the rationality of leaders and the reliability of information about an imminent attack; second, to base the national security of liberal democracies on the cultural and ethical depravity of an omnicidal threat to annihilate millions, possibly tens of millions, of civilians, while terrorizing the whole of humanity and spreading clouds of toxic radiation across the planet. What has surprised and deepened these concerns over time is the structurally embedded character of this reliance on nuclear weaponry by a growing number of sovereign states, including those who without nuclear weapons of their own, hold a nuclear umbrella over their society. At present there are nine countries that possess nuclear weapons and many more that base their security on nuclear deterrence, affirming a security system that incorporates a morally unacceptable genocidal logic that I have labeled in the past as “nuclearism.”

Throughout the Cold War the central justification for relying on nuclear weapons rested on a doctrine of deterrence, which was deemed superior by national security elites and political leaders to any alternative approach to this weaponry of mass destruction, including disarmament. The continuing objection to disarmament is a supposed vulnerability to cheating. The answer given by advocates of disarmament is that these risks can be reduced to near zero by sophisticated verification and compliance monitoring mechanisms that would be a core part of any phased disarmament process, as well as by conflict resolution procedures and demilitarization that would have to accompany the final stages of nuclear disarmament.

Present nuclear security rests mainly on this faith in deterrence, namely that the threat of retaliation with nuclear weapons would deter their use in an aggressive mode, an approach with the apt acronym of MAD (mutually assured destruction), a

circumstance that seemed to describe the bipolar standoff at the core of the Cold War. Such thinking incorporated the subsidiary idea that for deterrence to work, a retaliatory capability must be perceived as invulnerable to a surprise attack. It also led to a furthermore controversial idea that it was still possible to gain leverage in the geopolitical rivalry during the Cold War by making the retaliatory capability of the adversary seem or actually be vulnerable. This competition led to an interactive defense/offense arms race at incredible expense and with volatile and incalculable risks of provoking a nuclear war by the misinterpretations of threats and vulnerabilities. There were periodic attempts by the deterrence community to reassure society that the likelihood of any use of nuclear weapons was remote because governments respected the informal nuclear taboo that had evolved since the end of World War II and took great precautions to avoid misinterpretations by an adversary.

Many unpalatable aspects of nuclearism were hidden from public scrutiny, including the obscene link between this ultimate weaponry of destruction and the stratification of states in the current world order. The first five states to acquire nuclear weapons also happened to be the five permanent members of the UN Security Council, singled out by the outcome of World War II as states with a right of veto that placed their policies and behavior beyond accountability to the UN Charter or international law. To accord this highest status among sovereign states in the political ranking system of world order sent a message that was understood by political realists around the world that base their sense of worth, status, and security on the existing stratification of hard power capabilities. To be a member of the nuclear club is a kind of satanic symbol of geopolitical potency that unfortunately confers on a few states the highest achievable ranking in the current system of world order.

It is also significant that after some preliminary gestures in the direction of seeking nuclear disarmament, the leading states, headed by the United States, settled for the management of nuclearism. Such management had several features: (1) a reliance on a nonproliferation treaty regime to slow the acquisition of nuclear weapons by additional countries, especially those perceived to have revisionist goals with respect to the established regional and global order; (2) arms control arrangements to limit the costs of maintaining and developing arsenals of nuclear weapons and various measures designed to promote safety and avoid unintended or accidental uses of the weaponry; (3) working against rapid proliferation by extending deterrence to third parties through alliance arrangements, often reinforced by territorial deployments of nuclear weapons; (4) allowing certain states to evade the prohibition on acquiring nuclear weapons while allowing others to gain access by covert means (geopolitics played a role in this management system). In contrast, states perceived in the West as “outlaw states” or “pariah states” encounter sanctions, coercive diplomacy, and threats of attack, and even annihilation if they dare to approach the nuclear threshold.

As the confrontations in recent years with North Korea, Iraq, and Iran have demonstrated, those states that are believed by the main geopolitical managers to endanger the established order are threatened with attack if they seek to acquire a nuclear weapons capability, or even if only suspected of such intentions. In some ways this selectivity is ironic as it is these states that generally can make the strongest deterrent arguments for the acquisition of such weaponry. It seems rather clear that Iraq would not have been attacked in 2003 if it had possessed even a few nuclear weapons and some credible means for their delivery. North Korea has not been attacked as yet, although repeatedly threatened with extreme consequences if it insists on retaining and developing further its nuclear weapons capability. There is a widespread acknowledgment that there is no military solution capable of ridding North Korea of nuclear weapons without incurring unacceptable consequences in the form of extremely devastating retaliatory responses. In other words, even though it is a fundamental precept of international relations that the sovereignty of states is supposed to allow governments to uphold their security by whatever means they choose as long as it doesn't harm others, states that are not perceived as belonging to the upper tier of political actors are made subject to the discipline of the nonproliferation regime. The fact that states may be militarily vulnerable to hostile and powerful neighbors is treated as irrelevant. In other words, the legitimacy of acquisition of nuclear weapons is not related to the security needs of a sovereign state, but to its relative position in the hierarchy of states (e.g. India, Pakistan) or a positive relationship to the grand strategy of geopolitical actors (e.g. Israel).

My writings over the years have proceeded from a different view of the human condition than what has prevailed in the annals of statecraft, the mainstream security consensus, and ethics and practice of geopolitics. I start from a major ontological premise of the fallibility of human reason and the susceptibility of all political arrangements to human error and pathological distortion, and regard nuclear weaponry as a technology of destruction that is not safely manageable by human mechanisms of control over time, and thus should be renounced and eliminated as soon and as safely as possible as a matter of ultimate prudence. This outlook, however, would be asserted even if fundamental considerations of prudence were not present in sufficient strength to counsel most rational minds to abandon the weaponry.

I believe that nuclear weapons should be unconditionally excluded as a policy option on the basis of a nonpacifist ethical imperative against mass killing of civilians. Continued reliance on threats to demolish cities and endanger civilization altogether, likely causing a nuclear famine in the aftermath of a war fought with even a small number of nuclear weapons, is a form of modern barbarism incompatible with any commitment to the sacredness and the biopolitical unity of human experience.

The elimination of nuclear weapons is also necessary if societies are ever to achieve a humane form of global governance. As long as nuclear weapons are

possessed and potentially usable, and their use is subject to secret procedures often controlled by a single person or a small number of persons, who are unrestrained by any meaningful form of accountability, the whole of humanity is implicitly held hostage and potentially subject to blackmail of the most extreme variety. It is not by accident that postapocalyptic and dystopian films and books have become so prevalent since nuclear weapons were first used against Japanese cities in 1945 and reemerge in response to fears generated by international crises or in reaction to leaders who seem impulsive and insensitive to the risks and devastation associated with any use of such a weapon.

My own contrarian approach is based on three interlocked ideas: denuclearization, demilitarization, and disarmament. By large, the writings contained in this volume are devoted to denuclearization with an eye toward demilitarization and disarmament undertaken in a responsible manner and coordinated with other states in such a way as to build confidence and momentum.

The idea of denuclearization rests on the adoption of measures designed to lessen risks associated with nuclear weapons and to create a system of defensive security that does not depend on nuclear weapons. This is easier to operationalize for such geopolitically significant states as the United States, China, and Russia. This approach in its early stages combines such measures as the adoption of a no-first-use posture, as well as taking nuclear weapons off high-alert status. Above all, the denuclearization of geopolitics would entail the prohibition of all threats, direct and indirect, to use nuclear weapons to achieve policy goals. Denuclearization also foregoes all efforts to render vulnerable the retaliatory capabilities of potential adversary states, which implies the pursuit of first-use options. Finally, it limits expenditures to maintenance, foregoing investment in development and modernization of weapons arsenals. At the same time, it connects these denuclearizing moves with credible efforts to explore the feasibility of various forms of nonnuclear disarmament and demilitarization.

Demilitarization is also crucial to ensure that the denuclearization does not make militarism again more attractive to governments and more effective in the shaping of world politics by drastically reducing the risks and fears associated with nuclear weapons. It should be understood and acknowledged that nuclear weapons have made states more cautious in executing aggressive foreign policy initiatives for this reason. It would thus be desirable to couple denuclearizing initiatives with a variety of demilitarizing steps, including strengthening the culture and mechanisms available for the peaceful settlement of disputes and for a disciplined respect for international law. The abolition of the veto in the UN Security Council would be a significant symbolic and substantive move in this direction, signaling a willingness by the most powerful states to adhere to the constraints of international law and to defer to the peace and security procedures of the United Nations. In effect, the sovereign rights of geopolitical actors would need to be reduced to a level of

equivalence with normal sovereign states that invest in military capabilities solely for territorial self-defense.

Disarmament, pertaining to both nuclear and nonnuclear weaponry, would amount to dismantling the war system that has dominated international relations in the modern era. This dominance has changed its form over time, but has persisted despite the advent of weapons of mass destruction, the establishment of the United Nations, and the idea embedded in the UN Charter that force can only be lawfully used by national governments in self-defense in reaction to a prior armed attack. Since 9/11 that notion of limiting war-making to defensive and reactive modes has been abandoned in favor of preemptive and preventive approaches to security. In moving toward a disarming world it would also seem feasible to return counter-insurgency to its pre-9/11 law enforcement paradigm, and no longer as a species of warfare that cannot be accommodated within the modern international law paradigm. There is also the yet unmet challenge of incorporating nonstate political actors into a framework of law to the extent possible.

Underneath these prudential, ethical, and legal arguments is my strong conviction that the human species is experiencing, more or less unconsciously, the first biopolitical challenge in its history. The challenge has not been influentially articulated as yet. The nuclear dimensions of this unprecedented crisis have not been understood from such a perspective. Of course, climate change and other features of the modern world are a major, and more accessible, aspect of this picture because they are not interwoven with deeply inscribed ideologies of national security. These ecologically threatening developments clustered beneath concerns about “climate change” include an extremely dangerous decline in biodiversity. The denuclearizing path to demilitarization and disarmament could free resources and energies needed to make the dawning of the Anthropocene a time of hope and social innovation rather than a period of deepening despair and a continuing frenzy to premise security and stability of ever more elaborate technological fixes.

## A SECOND COMING OF NUCLEAR DANGER

Three recent developments have raised the profile of nuclear weaponry as a central concern, which supersedes the complacency with respect to nuclear dangers that prevailed in the last stages of the Cold War and the two decades or so that followed.

First of all, the twin crises arising from the Trump-induced confrontations with North Korea as a provocative new member of the nuclear club and Iran as a threshold nuclear weapons state. Iran is fiercely and provocatively opposed by the United States, Israel, and Saudi Arabia, imperiling the P5 + 1 Nuclear Agreement negotiated during the Obama presidency and “decertified” by Donald Trump with an admonition to the US Congress to impose harsher sanctions on Iran, itself a violation of the treaty.

Second, with fanfare and determined opposition from the Western nuclear weapons states, 122 countries came together in 2017 to negotiate the UN Treaty on the Prohibition of Nuclear Weapons (BAN Treaty). The proposed treaty comprehensively prohibits reliance on nuclear weapons, with the clear intent of delegitimizing the weaponry unconditionally. Because all nine nuclear states refused to sign the BAN Treaty there now, for the time, exists a clear cleavage in international society between nuclear states and their nuclear dependent allies and the rest of international society. The nuclear states continue to rely on their own nuclear capabilities, the doctrine of deterrence, arms-control agreements to manage risks and costs, and a geopolitically implemented nonproliferation agreement to produce stability and peace on a global level. The nonnuclear states have now for the first time unambiguously opted for prohibition, which would create a political climate supportive of initiating a nuclear disarmament treaty process.

Third, the selection by the Norwegian Nobel Committee of the International Campaign to Abolish Nuclear Weapons (ICAN), the organizing nexus of a coalition of civil society organizations that had promoted the BAN Treaty, as recipient of their 2017 Nobel Peace Prize. Such a prize brought attention, prestige, and credibility to the BAN Treaty, as well as giving strong symbolic global support to the movement of nonnuclear sovereign states and civil society to prohibit the weaponry for *all* states as a matter of international law.

The recipient of the prize lead a coalition of more than 450 civil society groups around the world that was justly credited with spreading an awareness of the dire humanitarian impacts of nuclear weapons and of making the heroic logistical effort to generate grassroots pressure sufficient to allow for the adoption of the BAN Treaty on July 7, 2017. The treaty was officially signed by fifty-three governments of UN member states in September 2017, and will come into force when fifty instruments of ratifications have been deposited at UN Headquarters, which suggests its legal status as a binding document of commitment will soon be realized as signature of the text is almost certain to be followed by ratification.

The most important provision of the BAN Treaty sets forth an unconditional legal prohibition of the weaponry that is notable for its comprehensiveness – the prohibition extending to “developing, testing, producing, manufacturing, possessing, stockpiling and deploying nuclear weapons, transferring or receiving them from others, using or threatening to use them, or allowing any stationing or deployment of nuclear weapons on national territories of signatories, and assisting, encouraging, or inducing any of these prohibited acts.” Each signatory state is obligated to develop legal, administrative, and other measures, including the imposition of penal sanctions, to prevent and suppress activities prohibited by the treaty. It should be understood that the prohibition contributes to the further *delegitimation* of nuclear weapons, but it does nothing directly by way of disarmament or to exert legal pressure on nuclear states and other nonparties to the BAN Treaty.

The BAN Treaty nowhere claims to mandate disarmament except by an extension of the reasoning that if something is prohibited, then it should certainly not be possessed, and the conscientious move would be to seek a prudent way to get rid of the weaponry step by step. In this regard it is notable that none of the nuclear states are expected to be parties to the BAN Treaty, and therefore are under no immediate legal obligation to respect the prohibition or implement its purpose by seeking a disarmament arrangement. A next step for the ICAN coalition might be to have the BAN prohibition declared by the UN General Assembly and other institutions around the world (from cities to the UN System) to be binding on *all* political actors (whether parties to the treaty or not), an expression of what international lawyers call “peremptory norms,” those that are binding and authoritative without treaty membership and cannot be changed by the action of sovereign states. Such norms are part of the wider corpus of customary international law.

Standing in varying postures of opposition to the BAN Treaty are all of the present nuclear states, led by the United States. Indeed, all five permanent members (P5) of the UN Security Council and their allies refused to join in this legal prohibition of nuclear weapons, and to a disturbing degree, seem addicted sustainers of the war system in its most horrific dimension. Their rationale for such a posture can be reduced to the proposition that deterrence, arms control, and nonproliferation are more congenial to these governments than is disarmament. Yet reliance on nuclearism to provide the foundations of responsible global leadership is becoming discrediting, and the BAN Treaty adds weight to this trend.

What the BAN Treaty makes clear is the cleavage between those who want to get rid of the weaponry and regard international law as a crucial step in this process, and those who prefer to take their chances by retaining and even further developing this omnicidal weaponry and then hoping for the best. Leaders like Donald Trump and Kim Jung-un make us aware of how irresponsible it has become to avoid the use of nuclear weapons over time when such unstable and impulsive individuals are only an arm’s reach away from decreeing a nuclear Armageddon. What the Cuban Missile Crisis of 1962 should have taught the world, but didn’t, is that even highly rational governments of the world’s most powerful states can come within a hair’s breadth of launching a nuclear war merely to avoid an appearance of geopolitical weakness (the United States’ initial refusal to remove nuclear missiles deployed in Turkey, even though they were already scheduled for removal due to being obsolete, as it was feared that such a step would be taken as a sign of weakness in its rivalry with the Soviet Union). Further, we now know that it was only the unusual and unexpected willingness of an unheralded Soviet submarine officer to disobey a rogue order to fire off a nuclear missile that then saved the world from a terrifying chain of events.

The nuclear states, governed by political realists, basically have no trust in law or morality when it comes to national security, but continue to place their trust in the hyperrationality of realist management of destructive military power, which in the



nuclear age is epitomized by the arcane doctrinal intricacy of deterrence theory. It is impossible to grasp the essential links between geopolitical ambition and security without understanding the complementary relationship of deterrence and the non-proliferation regime (its geopolitical implementation to avoid the disarmament obligation of Article VI).

In essence, the grandest Faustian bargain of all times is contained within the confines of the Nonproliferation Regime, which is a geopolitical instrument of control, by permanently dividing the world between those that have the bomb and decide who else should be allowed to develop the capability, and those who are without the bomb but also are without any way to secure a world in which no political actor possesses a nuclear weapons option. In a central respect, the issue between the militarized leadership of the nuclear states and the peoples of the world is a question of trust – that is, a matter of geopolitics as practiced versus international law if reliably implemented.

Everything in the human domain is contingent, including even species survival. This makes it rational to be prudent, especially in relation to risks that have no upper limit and could produce massive suffering and devastation far beyond any tragedies of the past. Of course, there are also risks with a world legally committed to prohibiting the possession, threat, and use of nuclear weapons; although if nuclear disarmament were to carry forward the overriding ambition of civil society supporters of the BAN Treaty, it would give rise to a disarming process that would diligently seek to minimize these risks. A world without nuclear weapons would almost certainly be a safer, saner, more humane world than the one we now inhabit, with renewed energies to face a range of other daunting challenges casting shadows that darken prospects for a sustainable human destiny.

Beyond these benign adjustments, moving toward deep nuclear disarmament would move national, regional, and international policy away from the gross immorality of a security system premised on mass destruction of civilian life along with assorted secondary effects of “nuclear terror” and possibly a “nuclear famine” caused by dense smoke blockage of the sun, potentially imperiling the health and survival of every inhabitant of the earth. The dissemination of toxic radiation as far as winds will carry is an inevitable side effect with disastrous consequences, including for future generations. Such an ecocidal gamble is a throw of the dice not only with respect to the human future but also in relation to the habitability of the planet for every living species. As such, it profiles an aggravated form of crimes against nature, which while not codified, involve an extreme form of anthropogenic *hubris*.

It is with these considerations in mind that one reads with consternation the cynical, flippant, and condescending response of *The Economist* to the awarding of the 2017 Nobel Peace Prize to ICAN: “This year’s Nobel peace prize rewards a nice but pointless idea.” Such a choice of words – “nice,” “pointless” – tells it all. What is being expressed is the elite mainstream cynical consensus that it is the height of futility to challenge conventional realist wisdom, that is, the Faustian bargain



mentioned earlier. The challenge is declared futile without even considering the dubious record of geopolitics over the centuries of war upon war, which in the process has deprived humanity of untold resources wasted on generations of deadly weaponry that have inflicted massive suffering and could have been put to many far better and necessary uses.

Of course, the BAN Treaty as an expression of faith in the path of international law and morality radically diverges conceptually and behaviorally from the political path of nuclearism, hard power, and political realism. It will require nothing less than a passionate and determined mobilization of peoples throughout the world to get rid of nuclear weapons and the accompanying deep ideology and political paradigm of nuclearism. This is a far preferable alternative than passively waiting for the occurrence of a traumatizing sequence of events that so jolt political consciousness as to topple the power structures that now shape security policy throughout the world.

What the BAN Treaty achieves, and the Nobel Prize recognizes, is that the cleavage between international law and geopolitics with respect to nuclear weapons is now clear. The BAN Treaty provides likeminded governments and animated citizen pilgrims throughout the world with a roadmap for closing the gap from the side of law and morality. It will be an epic struggle, but now at least there are reasons to be engaged and hopeful, which should itself strengthen the political will of the global community of antinuclear militants. It is helpful to appreciate that the BAN Treaty was achieved despite the strenuous opposition of the geopolitical forces that run the world order system. Just as Jawaharlal Nehru read the outcome of the Russo-Japanese War of 1904–1905 as a decisive sign that European colonialism was vulnerable to national resistance, despite its military inferiority, so let us believe and act as if this occasion of the Nobel Peace Prize is another tipping point in the balance between morality/legality on one side and violent geopolitics on the other.

## BEYOND NUCLEARISM

This collection of writings on the challenges posed by nuclear weapons expresses an abiding belief that their elimination is possible, necessary, and highly desirable. The realist mindset continues to believe the opposite, namely, that the responsible elimination of nuclear weapons is not politically feasible, that it is unnecessary in view of the avoidance of any use of the weaponry since the Nagasaki bomb in 1945, and that the retention of the weaponry by a small number of governments is more desirable than attempting to get rid of the weapons altogether.

On the basis of the ICAN/BAN popular mobilization that has achieved a step toward the further delegitimation of nuclear weaponry and made the alternative of phased and verified nuclear disarmament more widely appreciated, a dynamic of denuclearization has been put in motion. Whether that motion is sustained is an open question. It would seem that if the confrontations with North Korea and Iran

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*Preface by Richard Falk*

can be diplomatically resolved, there will be an occasion to realize that such good fortune cannot be expected to save humanity from a future catastrophe. And of course if these crises do degenerate, causing major regional wars, the message will be even clearer: either denuclearize on an urgent basis or accept a future that cannot be expected to avoid nuclear Armageddon.

## Acknowledgments

This is the second book I have edited that consists of a selection of writings by the international law scholar Richard Falk. In the first, *Revisiting the Vietnam War and International Law: Views and Interpretations of Richard Falk* (Cambridge University Press, 2017), I made the main selections and Richard added two new essays. In this book Richard has made the initial selection. However, in both books it was a joint process.

There is a connection between the two books, and that is the British philosopher and political activist Bertrand Russell (1872–1970), who has close ties to Cambridge University. Russell created the Bertrand Russell Peace Foundation in 1963 and launched the International War Crimes Tribunal on American War Crimes in Vietnam in 1966, which was the first major civil society tribunal. Although controversial at the time, this initiative has influenced and inspired all subsequent civil society tribunals, giving rise in particular to the Permanent Peoples’ Tribunal, headquartered in Rome. It was founded by the Italian jurist and legislator Lelio Basso, who was so impressed by his participation in the Russell tribunal that he wanted to continue the process. Relevant here is the fact that Russell was also a founding member of the Campaign for Nuclear Disarmament (CND) in 1958 and later The Committee of 100, which had a more radical attitude and encouraged civil disobedience in a way that CND did not.

I have been an ardent admirer of Bertrand Russell’s struggle for peace and a more just society ever since I started, in the early 1970s, to read his books that set forth his stimulating ideas concerning religion, philosophy, politics, and more. As I got to know Richard, I soon realized that I had met a person with the same spirit and passion for peace and justice as Lord Russell.

Many recent events have made republishing Richard’s writings on nuclear weapons and nuclear war urgent. This timeliness is dramatized by the UN Treaty on the Prohibition of Nuclear Weapons, which declares the use and possession of nuclear weapons illegal according to international law, and the awarding of the 2017 Nobel Peace Prize to the International Campaign to Abolish Nuclear Weapons (ICAN) –

an NGO dedicated to spreading the message that nuclear weapons must be totally eliminated for the sake of the future of humanity.

I am also thinking of the situation in North Korea and US President Donald Trump's attitude and bellicose language regarding Iran and his decision to repudiate the Intermediate-Range Nuclear Forces Treaty (INF Treaty, the formal treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles). This treaty was a 1987 arms-control agreement between the United States and the Soviet Union (and later its successor state, the Russian Federation). It was signed by US President Ronald Reagan and General Secretary of the Communist Party of the Soviet Union Mikhail Gorbachev on December 8, 1987. The treaty was ratified by the United States Senate on May 27, 1988, and came into force on June 1, 1988. The INF Treaty eliminated all nuclear and conventional missiles, as well as their launchers, with ranges of 500–1,000 kilometers (short-range) and 1,000–5,500 kilometers (intermediate-range).

By May 1991, 2,692 missiles had been eliminated, followed by ten years of on-site verification inspections. On October 20, 2018, claiming Russian noncompliance, US President Donald Trump announced that he was withdrawing the United States from the treaty. Although the scope of the US president's ability to withdraw from Senate-approved treaties without Congressional approval has been called into question, this decision could trigger a new nuclear weapons arms race and increase the risk of a nuclear war and move the Doomsday Clock even closer to midnight. Even before this unwelcome development, there was a growing concern that the continued possession and spread of nuclear capabilities was both too dangerous and unnecessary from the perspective of security.

As with the Vietnam volume I want to extend my gratitude to Professor Emeritus Curt Dahlgren, who has done all the hard work of turning pdfs into word documents, as well as a wonderful job with the layout and the index.

I also want to thank all the copyright holders of the articles in this book for permission to republish without having to pay a penny.

My last thanks goes to Richard, who – ever since I contacted him for the first time in 2011 – has proven to be not only a very good friend but also a repository of knowledge and connections with people in the fields of international law and international relations whom I would otherwise never have known anything about. He has made me feel that I am part of an important project to establish respect for international law, especially by the most powerful states. We both believe that engendering such respect is a vital step to establish a world where peace and justice may prevail.

Richard would also like to acknowledge the lifelong dedication of David Krieger and Robert Jay Lifton to meeting the multiple challenges posed by the advent of nuclear weapons. He believes that collaboration and friendship with each of them over many decades has been a highlight of his professional and personal life.

*Acknowledgments*

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