

# Peace and law in the South Pacific

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*The cold war in Europe may be ending but the South Pacific is still highly militarised.*

The Pacific Ocean occupies a third of the globe. It has become one of the most militarised regions of the world. The Cold War is ending for the rest of the planet, but there has been a delay in this region benefiting fully from the 'peace dividend'.

The object of this article is to review the treaties affecting peace in the South Pacific. (The North Pacific has a different mixture of treaties and so is not covered by this article.)

The link running through this survey is that the South Pacific has been on the margins of international disarmament considerations but it has had some key military features.

## United Nations Charter

The UN has 178 member-nations. It is the largest international organisation in world history.

All member-nations have to ratify the UN Charter (established in 1945). Two UN Charter principles are that all member-nations shall settle their disputes by peaceful means in such a way that international peace, security and justice are not endangered, and that member-nations shall refrain in their international relations from the threat or use of force. The 1985 French destruction of the Greenpeace 'Rainbow Warrior' in Auckland Harbour violated those principles — it was the first act of political terrorism in New Zealand history. France managed to extricate the two agents caught in New Zealand by threatening to stop New Zealand exports to the European Community.

The 'Rainbow Warrior' had intended to monitor French nuclear tests. French nuclear tests began in the South Pacific in May 1966; Algeria had gained independence and so France had to stop testing in the Sahara. The testing in the atmosphere gave rise to complaints from South Pacific nations about radioactive fall-out. In 1973, Australia, New Zealand and Fiji complained to the International Court of Justice about the testing. France decided to boycott the

ICJ and said that it would ignore the ICJ's ruling. It did, however, decide to stop atmospheric testing and only henceforth test underground. (Underground testing may have stopped the radioactive fall-out but it is destroying the atoll and polluting the sea — this was to be checked by the 'Rainbow Warrior' on its fateful voyage.)

Another principal organ of the UN is the Security Council. This is designed to operate day or night to handle threats to international peace and security. But this would have been of no use to New Zealand. Any resolution would have been blocked by France, which, as one of the Security Council's five 'permanent members' has the power of veto.

## Nuclear Non-Proliferation Treaty (NPT)

The NPT was finalised in 1968, at a time when there were five nuclear-weapon nations (US, USSR, UK, France and China). It came into force in 1970. It will run until 1995, when a conference of nations bound by it will decide whether the NPT will be wound up, continued indefinitely or continued for a set period. It was written at a time when there was speculation that another 20 or 30 nations could acquire nuclear weapons ('horizontal proliferation').

The NPT provides a neat formula for unfriendly nations to challenge each other not to acquire nuclear weapons: we won't if you don't. Nations with nuclear weapons (these were the US, USSR and UK since France and China boycotted the NPT) agreed not to transfer nuclear weapons to a nation without them. Nations without them agreed not to manufacture or import them.

The predictions of 25 years ago were wrong: far fewer additional nations have acquired nuclear weapons than was predicted. Almost all the world's nations have now accepted the NPT — the main exceptions being India and Pakistan. Among the recent additions are France and China — an indication of the changed international political environment. There is no prospect of horizontal proliferation in the South Pacific.

The NPT also contains an obligation on nuclear-weapon nations (basically the US and what used to be the USSR, which have 95% of the world's nuclear weapons) to end 'vertical proliferation', that is, ending their own acquisition of still more nuclear weapons. They have been obliged to work towards disarmament. One of the main problems for the NPT was the failure of the US and USSR to honour their commitments.

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At last, there has been some progress. The 1987 Intermediate Nuclear Forces (INF) Treaty, which is the first ever nuclear disarmament treaty, is resulting in the scrapping of an entire category of nuclear weapons. More recently, progress has been made in negotiating a reduction in the long-range (intercontinental) weapons.

### Biological Warfare (BW) Convention

Biological warfare consists of taking a germ out of nature (like anthrax or smallpox) and spreading it among the enemy. The 1972 Biological Warfare Treaty entered into force in 1975. The treaty bans the development, production and deployment of biological weapons. It was the first disarmament treaty since 1945 (that is, it required an existing category of weapons to be destroyed). The treaty has been widely ratified and (except for Iraq), there has been little evidence of BW research.

The military do not like BW. The impetus for BW research has come from scientists and politicians. BW is unsatisfactory from a military point of view because once anthrax, for example, is used, it can spread easily and quickly — including to one's own side.

### Chemical Warfare (CW)

The use of chemical (gas) warfare is prohibited by the 1925 Geneva Protocol. The treaty is weak in that it does not prohibit the development and deployment of chemical weapons, there is some doubt as to which forms of chemical weapons are covered by the treaty, and the treaty bans the use of chemical weapons only in respect of other nations which are themselves parties to the treaty.

Attempts have been made during the past two decades to create a more substantial treaty dealing with the weaknesses of the 1925 Geneva Protocol, such as having a system of international verification to ensure that nations are, in fact, keeping their obligations. Substantial progress has been made and the treaty may be ready for signature by the end of 1992.

Australia in particular has taken an active role. For example, a basic problem of verification is that chemical weapons are easy to make; they could be made in the average home kitchen. (But as Iraq found in the 1991 Gulf conflict, it is much more difficult to create a delivery system to send them from one nation to another.) Australia arranged for a joint government-industry inspec-

tion project to work out the details of just how an inspection team could check on (say) fertiliser or cosmetic factories to ensure that they were not also secretly making chemical weapons.

The bad news concerns how and where the existing chemical weapon stockpiles are to be destroyed. In 1990, the US responded to opposition in West Germany over the continued deployment there of 102 000 nerve gas shells, by deciding to destroy the weapons before the new treaty was finished. Owing to opposition from West German and US community groups, the weapons could not be destroyed in West Germany or the US.

The US decided on the Johnston Atoll, 1300 km south-west of Hawaii. South Pacific nations and environment groups opposed the transportation of the weapons 10 000 km away. However, the shells arrived at the Johnston Atoll Chemical Disposal System (JACADS) late in 1990. They are now being destroyed but JACADS has had some technical problems. Meanwhile, the US is still having to develop other sites (probably on the US mainland) to destroy its weapons because there are other stockpiles elsewhere.

### South Pacific Nuclear Free Zone Treaty (SPNFZ)

This treaty was drafted under the auspices of the South Pacific Forum (consisting of the region's independent nations). This is the only arms control treaty specifically covering the South Pacific. It was signed in 1985 and entered into force in 1986.

The treaty states that a South Pacific nation which becomes a party will not manufacture or acquire any nuclear weapon; there should be no testing of nuclear weapons in the South Pacific; there should be no stationing of nuclear weapons in the territories of the participating nations; and nuclear activities in the region (including the export of nuclear material) should be conducted under strict safeguards to ensure exclusively peaceful use. South Pacific nations retain their sovereign rights to decide for themselves such questions as access to their ports and airfields of vessels or aircraft of other nations. International law regarding the freedom of the seas is fully respected. The performance of obligations by parties is verifiable by international safeguards.

The treaty has three protocols (in effect mini-treaties), whereby nations outside the treaty's geographical scope

can help make it effective. The first protocol is directed at the nations with colonies in the region (US, UK and France) and enables them — if they choose to do so — to apply the treaty's key provisions to their colonies. The other two protocols are both directed at the five nuclear-weapon nations. They are invited, under the second protocol, not to use or threaten to use nuclear devices against parties to the treaty. Under the third protocol they are invited not to test nuclear weapons within the zone.

The treaty complements two similar treaties. The treaty's eastern edge is the western boundary of the Latin American Zone (Treaty of Tlatelolco) and its southern edge adjoins the Antarctic Zone.

The treaty was drawn up at the height of Cold War II and so was one of the few arms control treaties in the early 1980s.

On the other hand, the treaty was not as strict as some people would have liked, such as creating a total ban on the transport and deployment of nuclear weapons in the zone. The treaty was weakened to try to gain US acceptance. France has ignored the three protocols. The US and UK have been in a dilemma: whether to support the South Pacific nations or France. They have opted to side with France. All three have refused to sign the three protocols. (By contrast, the USSR and China accepted the two protocols they are eligible to sign.)

### Military agreements

Military agreements constitute another branch of international law. As with disarmament and arms control agreements, these treaties are either bilateral (between two nations) or multilateral (between three or more nations).

The US — which is easily the most important military power in the region — has bilateral treaties with many of its allies in the region. The treaties are often of some 'mutual defence' arrangement in which pledges (by their very nature only of a vague kind) are made to assist each nation in the event of an armed attack.

Since no nation may station its forces on the soil of any other nation (except for unusual — often wartime — temporary conditions), the US has had to create a web of bilateral treaties. All of its bases are covered by separate agreements (the Philippines Bases treaty being a recent controversial example).

All of its forces have to be covered by a 'status of forces' agreement (for example, how a US service person is to be tried if he or she murders a citizen of the host nation). There are also agreements between governments regarding the sale of military equipment.

A complicating factor for maritime nations is the 1982 UN law of the sea treaty. This has standardised the width of the territorial sea (12 miles) and created a new zone: an exclusive economic zone stretching out beyond the territorial sea for up to 188 miles. The US, at the last moment, refused to sign the treaty, but all the South Pacific nations are in the process of ratifying it. These nations are therefore expanding their areas of maritime control and have even impounded US civilian fishing vessels. These zones cannot be used to exclude foreign military vessels — a fact recognised by the SPNFZ treaty.

### South-East Asia Treaty Organisation (SEATO)

SEATO was part of the US fashion in the late 1940s/early 1950s to create regional military alliances to encircle the USSR. The major multilateral treaties were the North Atlantic Treaty Organisation (NATO), Central Treaty Organisation consisting of the US, UK, Iran, Pakistan and Turkey (CENTO) and SEATO. Only NATO remains in force. It is now one of the longest-lasting alliances in world history. But with the ending of the Cold War, it is having difficulty justifying its continued existence.

The 1954 SEATO treaty came into force in 1955. It contained Australia, France, New Zealand, Pakistan, Philippines, Thailand, the UK and US. The idea of 'united action' in south-east Asia arose as a reaction to the French expulsion from Indo-China and the perceived 'domino effect', whereby Asian nations would succumb to internal or external communist control.

NATO is unusual because of the extent to which the forces of member-nations are integrated and have standardised equipment. SEATO (and CENTO) never acquired that status. Indeed, the participating nations were united only in their opposition to communism and had few other features in common. For example, SEATO nations could not agree if this treaty justified their entry into the Vietnam conflict from 1961 onwards (half of the SEATO nations refused to supply troops for the conflict). The relevance of SEATO gradually eroded away since it had no clear military role.

### Pacific Security Treaty (ANZUS)

The 1951 treaty, better known from the initials of its three member-nations (Australia, New Zealand and US), came into effect in 1952. Its creation was an Australian initiative in response to the US's negotiating the 1951 Japanese Peace Treaty. Having fought Japan, Australia wanted an assurance that Japan would not return to militarism once the US withdrew its occupation forces.

The treaty represents about as much as Australia could gain and the US was willing to concede. It is far less than the NATO treaty, in that the security assurances in the event of an armed attack are vague. There is no specific guarantee of help — nations learned from World War I's outbreak (when nations tumbled into the conflict) that it is dangerous to give automatic guarantees to aid others when they are attacked.

The treaty has worn well. It has lasted longer than most other treaties of the same vintage. In the mid-1980s, the New Zealand Labour Government decided to exclude visiting nuclear warships from its ports. The US declared the treaty 'inoperative'. The new Government in New Zealand, recognising the popularity of its predecessor's policy, has not overturned it but it is trying to find a way of reviving ANZUS.

ANZUS has reassured Australia that it has a great and powerful friend to replace the UK. ANZUS has suited the US since the 'ANZUS spirit' has provided a foundation for treaties covering the installation of US bases ('joint facilities') in Australia. Indeed, the relationship has blossomed to such an extent that the ANZUS treaty itself could disappear overnight and no-one would notice it — the more specific treaties could exist without it.

### UKUSA

One such agreement is the secret 1947 UKUSA Treaty (whose existence was not revealed for three decades). This facilitates co-operation between the intelligence services of the UK, US, Australia, Canada and New Zealand. The extent to which intelligence sharing goes on is still unclear. Despite the 'inoperative' ANZUS treaty, it appears that the New Zealand intelligence service is still co-operating within the agreement. Politicians come and go but intelligence services remain.

### Conclusion

The ending of the Cold War and the disappearance of the USSR have not resulted in an outbreak of peace in the

South Pacific. Western military forces are still deployed in the region. In contrast to all the upheavals in eastern Europe since 'the fall of the wall', there have been only two small moves in the South Pacific's demilitarisation: the US withdrawal from its bases in the Philippines (with the prospect of increased US naval presence at Singapore) and the April 1992 French decision to stop nuclear testing for a year. The South Pacific is still not pacific.

*Continued from p. 175*

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