

Emerging Security Trends and Legitimacy of the Nuclear Non-Proliferation Regime

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Abstract

The contemporary emerging security trends seem destined to marginalising the potential and legitimacy of the nuclear non-proliferation regime. The transformation in the international settings have modified state actors' behaviour at the domestic level and resultantly, states have started orienting themselves to a changed environment contrary to the set non-proliferation norms. This study investigates some pertinent questions: why was the regime created in the first place? What are the problems attached to the regime and how have emerging trends further undermined the scope and role of this regime? Why is the regime important for the future security environment? What could possibly happen if the regime is not made effective with renewed realisable objectives? The study asks why there is an urgent need to establish a stringent norm against proliferation of nuclear weapons and make it consistent with emerging realities. This study concludes that most of the non-proliferation problems from the outset are associated with the structure of this regime and considered as a system level interplay (politics at the level of major powers) due to states' relative interests. Thus, it has been argued that the most powerful component, the linchpin of this regime such as the nuclear non-proliferation treaty (NPT), demands structural revision, thereby reinforcing the remaining arrangements within the regime in the present security order. The revised structure of the regime and states' modified behaviour at the system level will only secure the legitimacy and spirit of this regime.

Keywords: Non-proliferation Regime, NPT, Export Control Regimes, NSG, Nuclear Weapons, Emerging Security Trends

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Introduction

This study endeavours to understand the emerging international trends and their impact on the role and legitimacy of the nuclear non-proliferation regime (NPR). The study builds a holistic approach to understand the original role of the NPR and states' behaviour towards these arrangements in the contemporary changed international environment. The NPR consists of different treaties, protocols and arrangements, which build interaction among states to promote non-proliferation of nuclear weapons, arms control and disarmament. Some of these instruments are more formal such as treaties, conventions and agreements. Others are informal and voluntary arrangements or are in the form of agreed guidelines that participants accept or choose to disregard, as they deem appropriate.

Extensive literature has been produced to understand the structure, role and efficacy of the nuclear non-proliferation regime, the NPT and states' non-proliferation policies in the international security environment. For example, more relevant literature has been contributed by scholars such as Johnson,¹ Mistry,² Lennon,³ Price, Mackby,⁴ Solingen,⁵ Mozley,⁶ Reed,⁷ Mulle,⁸ James A. Russell,⁹ Hymans,¹⁰ Abbasi,¹¹ and others. Nevertheless, there is a dearth of literature to understand the NPR on the basis of a more holistic approach (assessment of all the components) and states' behaviour towards these arrangements and proliferation trends in the changing environment.

Therefore, this study aims at building a fresh debate on the NPR and states' behaviour towards these arrangements in the present environment. Thus, the central argument in this study is that the legitimacy of the nuclear non-proliferation is associated with the states' behaviour at the system level (powerful states). An additional argument is that through a measured approach at the system level, the role of the NPR can be revived, thereby making it more consistent with current realities and to meet the future challenges.

The study first, through the prism of realism, explains the role and structure of the regime and states' response to these institutional

arrangements during and after the Cold War. The study then predicts solutions from the angle of liberalism asking the question how states' behaviour can be modified and the NPR made more consistent.

Conceptual Argument

On the conceptual side, both realism and liberalism generate influential discourse to understand the international relations (IR) discipline and the role of international institutions and regimes in the system. Kenneth Waltz, a leading neo-realist, makes considerable addition to the understanding of the international system, taking guidance from classical realists such as E. R. Carr¹² and H. J. Morgenthau.¹³ Waltz in his *Theory of International Politics* argues that states behave in certain predictable ways and his theory demonstrates that “[s]tructures (system) more or less determine [states’] actions.”¹⁴ For Waltz, ‘in anarchic system, security is the highest end.’¹⁵ Thus, for Waltz, ‘roots of international conflict lie in the clash of interests among states and the absence of supranational agencies for the regulation of the clash of interests.’¹⁶ Within system level analysis, on the role of institutions, Mearsheimer, who proposed the concept of offensive realism,¹⁷ defines international institutions as a set of ‘rules that stipulate the ways in which states should cooperate and compete with each other.’¹⁸ He considers that such rules are typically formulated in international agreements which are embodied in organisations’ functioning by means of their own personnel and budgets.¹⁹ For realists, ‘there is no ultimate sanction to ensure that laws are respected, norms upheld and institutions honoured.’²⁰ Realist and neo-realist theorists argue that ‘states (rational, unitary actors) were primarily concerned with their own survival in the international order, the great powers dominated the system, and anarchy was the key ordering principle that structured states’ behaviour.’²¹ Waltz later produced influential literature to understand nuclear proliferation and non-proliferation in the international system.²²

Neo-liberal institutionalism, which was inspired by taking guidance from the US President Woodrow Wilson’s fourteen points,²³ argues that creation of international organisations and institutions would place relations between states on a firm foundation.²⁴ Neo-liberal approach

articulates that institutions contribute substantially to the world of politics, especially in the area of state cooperation and behaviour.²⁵ They believe that the new pattern of international politics is based on multilateral institutions, which help states see one another through the lens of shared interests. Neo-liberals provide insights to understand the role of multilateral institutional arrangements on security, especially nuclear security, and the constraints international mechanisms impose to oppose and counter threats.

Scholars such as Keohane and Nye maintain that neo-realists neglect the importance of domestic politics and the nature of regimes.²⁶ For neo-liberal or neo-liberal institutionalism, anarchy is the foundation of the international system but cooperation is still possible through the international regimes and institutions. Liberals believe that the international system and peace and stability are not dependent on the balance of power between states but on international law and institutions.²⁷ For neo-liberal scholars, 'institutions are a powerful force for stability and order in a world free of Cold War.'²⁸

At the policy-side, the non-proliferation arrangements were initiated at the system level (by the Super Powers) between the US and the former Soviet Union (now Russia) during the Cold War through negotiations which were somehow successful until 1991. Neo-liberal scholars acknowledge the robustness of the norms against non-proliferation during the Cold War.²⁹ It can be argued that initially a regime was introduced in accordance with liberals' criteria but was practiced on realists' pattern. For example, during the Cold War strategic balance, international system and peace and stability were predominantly dependent on the balance of power between two Super Powers not on international law and institutions. The two bipolar blocs, North Atlantic Treaty Organisation (NATO) and the Warsaw Pact, played considerably important role in placing constraints on states' nuclear behaviour through incentives and alliances. Most of the states were dependent on these power blocs to maximise their influence. Nevertheless, the regime remained fairly weak even during the Cold War as some of the states never joined the treaty and others went nuclear and thus the regime could not establish a permanent normative and criteria-based structure.

After the Cold War the bipolar system transformed into unipolar order. Realists' anarchistic international system, strongly influenced by the globalists, was increasingly dependent on the patterns of integration and interdependence. Globalisation, in fact, shifted the sub-systems or regions into significant trading hubs. More so, power centres gradually started shifting from the West and Europe to Asia. Today, Asia is home to the world's leading dual-use companies. The region is also expected to see the world's most rapid growth of nuclear energy. Thus, in today's integrated order, states are no longer dependent on one or a few centres of power. There are serious concerned about the future role of regime because of states' increased interest in nuclear energy and relatively easy availability of nuclear technology, for uranium enrichment and plutonium reprocessing technology to produce weapons grade material.

Furthermore, we have nine existing nuclear weapons states (NWS) – the US, Russia, the UK, France, China, Israel (an undeclared NWS), India, Pakistan and, North Korea and more than thirty Virtual NWS, which have the potential to acquire weapons' capability fast, including Japan, Germany and South Korea and some other aspirant states.³⁰ Indeed, existing loopholes in the non-proliferation framework, easy access to the scientific knowledge and expanded supply of dual use technology, shifting trends from unipolar to multipolar world order may tempt some states to opt for nuclear weapons option. Based on the above conceptual argument, whereby the world has transformed from realists' pattern to liberals' framework, the question arises as to how the role of the regime can be modified accordingly.

Assessing the Institutional Status and Purpose of the NPR

Why was the NPR created in the first place? What is its institutional structure? The nuclear non-proliferation system has evolved over several decades against the background of changing international environment. After the failure of the Baruch Plan to secure global consensus to restrain the spread of nuclear weapons technology in 1946, the first institutional effort to strengthen norms against proliferation of nuclear material picked momentum. The International Atomic Energy Agency (IAEA) was approved in 1954 and became operational in 1957. The establishment of

the IAEA was initiated as a system level arrangement based on President Eisenhower's address to the UN General Assembly (UNGA) on 8 December 1953. The liberals' assumption of the pivotal role of the international institution loomed large. Guided by liberals, this institution also sought to promote the peaceful uses of nuclear energy and ensure that 'assistance provided by it or at its request, or under its supervision or control is not used in such a way as to further any military purpose'³¹ under the IAEA Statute, Article II.

Nevertheless, the continued Soviet development of advanced nuclear technology and the acquisition of nuclear weapons by Britain (1952) and France (1960) jolted the world. The UN General Assembly also played an active role by adopting Resolution 1378 for General and Complete Disarmament (GCD) in 1959³² and by adding this item to its agenda. After 1960, when the non-aligned states attained a majority in the UNGA, Resolution 1653 containing declaration of the prohibition of the use of nuclear and thermo-nuclear weapons³³ was passed on 24 November 1961 calling for a ban on nuclear weapons and declaring their use as 'contrary to the laws of humanity and as committing a crime against mankind and civilisation.'³⁴ This resolution, therefore, was perceived to be creating a stumbling block for the states' interests. Thus the above resolution was never accepted by NATO countries and it has made no impact on the ground up to this day.

After President Kennedy's prediction in 1963 that "15 to 25 states would obtain nuclear weapons by 1975,"³⁵ the US opened discreet channels of communication with the Soviet Union, the Eighteen-Nation Committee on Disarmament (ENDC)³⁶ and its NATO allies. China exploded its first nuclear device and joined the nuclear club on 16 October 1964. Thus, negotiations on disarmament brought the two superpowers, the US and the Soviet Union, together to draft another arrangement to prohibit further nuclear weapons proliferation. Subsequently, the NPT was finalised and opened for signature in 1968.

The NPT came into force in 1970, with a range of obligations for the NWS and non-nuclear weapon states (NNWS). It was established under the belief that the proliferation of nuclear weapons would enhance the

risks of a nuclear war. The treaty required the NWS not to transfer nuclear weapons or other nuclear explosives or control over such devices or assistance to NNWS (Article I – Pillar I). The treaty envisages the NNWS not to acquire, manufacture or seek assistance in the manufacturing of nuclear weapons or explosive devices³⁷ (Article II). The treaty gives a right for the peaceful uses of nuclear technology without discrimination highlighted under the Article IV (Pillar II), while the NWS were to disarm and subsequently eliminate nuclear weapons (Article VI – Pillar III).

The treaty recognised the inalienable right of all the parties to the treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of the Treaty. Additionally, the treaty gave states parties the right to withdrawal by giving a three month-notice. Finally, the provisions of the treaty, particularly Article VIII, paragraph 3, envisaged a review of the operation of the treaty every five years.³⁸

The NPT assigned to the IAEA the responsibility to administer international safeguards to verify that the NNWS are fulfilling their non-proliferation obligations and facilitate further development of the applications of nuclear energy, especially the NNWS. These legally binding twin responsibilities of the IAEA demonstrate that the NPT represented the foundation for an international regime to establish a codified norm against proliferation of nuclear weapons around the world. The liberals' assumptions that institutions and regimes may help organise and maintain peace³⁹ has some merit in this context as they have faith in the 'robustness of the norms against non-proliferation and its linchpin, the NPT.'⁴⁰

Problems, however, emerged within the structure of this regime when some important informal measures were introduced as an off-shoot of the NPT to reinforce its normative structure (with scant legitimacy) and facilitate coordination among its member states. Since the final text of the NPT had at that point no clear implementation and enforcement strategy for its Article II commitments, multilateral negotiations on nuclear export control resulted in the establishment of two separate mechanisms for dealing with nuclear exports. In 1974, the export control committee known

as Zanger Committee (ZC) was established as an intergovernmental group to coordinate export controls on the nuclear material. Under NPT Article III.2, the ZC focused on safeguarding nuclear exports. Nuclear Suppliers Group (NSG), renamed from its original name London Group, emerged in response to the 1974 Indian nuclear explosions with the purpose of halting further proliferation of nuclear weapons. The aim was to ensure that transfers of nuclear material would not be diverted to unsafeguarded nuclear fuel cycles and nuclear explosive activities. The NSG further elaborated NPT Article III.2 and IV. But the fundamental problem with these arrangements was that they were informal and weak.

However, UN General Assembly resolution 2028, the key document for the initialisation of the NPT, the IAEA safeguards, the Conference on Disarmament (CD)⁴¹ and export control regimes tend to give an important status to the NPT. The purpose of these arrangements was to establish a rule-based mechanism against proliferation of nuclear weapons around the world. A related aim was to create trust among states in order to facilitate cessation of the manufacture of nuclear weapons, liquidation of existing stockpiles, and elimination of national arsenals of nuclear weapons and means of delivery. Moreover, pursuant to the NPT Treaty, complete disarmament under strict and effective control was envisaged.

Since the NPT's inception, its membership, which is currently 190, has added considerable value to the Treaty and this makes liberals' position more relevant. For example, Japan, Taiwan and South Korea abandoned nuclear weapons and joined the NPT while South East Asia, South America and Central Asia declared themselves as Nuclear Weapons Free Zones (NWFZ). Other states such as Ukraine, Belarus, Kazakhstan and South Africa also gave up nuclear weapons and joined the treaty. Libya in particular opened up its facilities to the scrutiny of the US and IAEA in 2003. This empirical evidence, nevertheless, is not a direct consequence of the NPT because it was a voluntary choice of these States and people to remain nuclear free, based on their belief that nuclear weapons caused destruction. However, their decision to join the NPT supports liberals' understanding of international regimes and security institutions in an anarchic world. Despite its successes, the regime failed in achieving its

desired goals, based on its three pillars, which constituted a grand bargain, due to states' behaviour to meet their relative gains at the system level.

Questions here arise about the problems attached to this regime. A question arises as to why violations occur in this institutional arrangement and why states fail to achieve their real objectives. Violations inside the NPR are directly related to some fundamental structural flaws and problems attached to the formation of the NPT, which weaken the disposition of the entire regime.

What are the Loopholes in the Regime?

First, under the NPT, five countries are recognised as NWS while the rest of the treaty's signatories are regarded as NNWS and barred from acquiring nuclear weapons. This 'special' arrangement legitimises the continuous possession of nuclear weapons by five NWS and demands non-acquisition of other non-nuclear states parties, without the *quid pro quo* of disarmament by NNWS. Such an arrangement has raised global criticism against this regime's efficacy and underscores great powers' interests (realists' disposition).

Second, there is a problem of non-universal nature of the NPT within the NPR. From the outset most NPT states adhered, to a greater or lesser extent, to the terms of the NPT, but India, Israel, and Pakistan have never joined the NPT. India exploded nuclear devices first in 1974 and later in 1998 and Pakistan followed suit in 1998. Both declared themselves nuclear weapons states and developed nuclear assets, whilst Israel has maintained the policy of 'nuclear opacity' since 1968. India and Pakistan assert their sovereign right to possess nuclear weapons and have strong reservations towards the NPT, regarding it as a 'discriminatory treaty.'⁴² North Korea withdrew from the NPT in 2003, later tested nuclear devices and built ballistic missile capability.

Third, Article IV has failed to restrict states' access to a full fuel cycle to prevent the diversion of peaceful technology for the development of nuclear weapons. The North Korean behaviour has tested the effectiveness of Article IV. Another issue is that within Article III and IV, the vaguely

defined NSG has been used to give waiver to states to transfer nuclear technology. For example, in September 2008, the US president George W. Bush secured a waiver for India from long-standing international nuclear trade restrictions which were imposed on India after its nuclear tests in 1974.⁴³ Under the NSG waiver, the two states agreed to pursue full civil nuclear energy cooperation thereby finalising the Indo-US nuclear deal. Indian Prime Minister, Manmohan Singh expressed that the NSG waiver “marks the end of India’s decades-long isolation from the nuclear mainstream and of the technology denial regime.”⁴⁴ Arguably, US waiver to India has evidently damaged the essence and spirit of the NPT.

Under the US-India Defense Technology and Trade Initiative (DTTI), the two leaders agreed that their countries would “treat each other at the same level as their closest partners”⁴⁵ on issues including “defense technology transfers, trade, research, co-production, and co-development.”⁴⁶ “The DTTI is poised to increase co-production, co-development and partnership on military-industrial matters”⁴⁷ between the two countries. The two states also decided to increase their bilateral trade five times, from the current \$100bn a year⁴⁸ thus by-passing the non-proliferation norms. The US will also sell additional military hardware to India. States’ interests at the system level are indeed damaging the set institutional norms and making regional politics much more complicated. This would set a discriminatory and a dangerous precedent.

Fourth, no progress has been made in the implementation of Article VI prescribing disarmament by the NWS. The NPT Treaty was indefinitely extended in 1995. The states decided to reinforce the NPT review process, thereby accepting a number of principles and objectives for nuclear non-proliferation and disarmament.⁴⁹ In particular, the NPT extension conference referred to Article VI of the NPT and obligations of the NWS to pursue efforts in good faith towards total elimination of nuclear weapons. Indeed the indefinite extension of the NPT was a major diplomatic success for the NWS but it left the Non-aligned Movement (NAM) countries in frustration because they accepted this decision very reluctantly.⁵⁰ The treaty has achieved nothing up to this date apart from strengthening the status quo at the level of NWS. This has aggravated the ‘crisis of trust’ in the NPT regime.

Fifth, within the NPR, export control regimes, particularly the NSG, are under immense stress because of globalisation which has led to easy exchange and transfer of dual-use technologies. Rapid technological advances – bringing a decrease in the value of old technology and an increase in the supply of discarded technology - have increased the risk of the proliferation of nuclear-related material and technologies. Additionally, rules within the export control regimes have been developed by likeminded states to legitimise their self-interests in realists' anarchic world.

Finally, over the last 35 years, the IAEA safeguards system under the NPT has played a vital role in detecting and curbing the diversion of civil uranium to military usage and verifying states' nuclear facilities. However, these IAEA safeguards confront a number of challenges, such as detecting undeclared nuclear activities and threats from non-state actors. Nuclear fuel making – which is regarded as a right under Article IV creates many problems because verifying enrichment or reprocessing facilities is a difficult task. If the IAEA cannot effectively safeguard nuclear materials needed for civilian purposes, it would find it difficult to prevent 'virtual' NWS from becoming 'actual' NWS. The Additional Protocol, which reinforces the IAEA safeguards but is not universal, aims to address such gaps.

The above problems show the relevance of realists' contention that 'great powers sometimes find institutions, regimes and alliances useful for maintaining or increasing their share of world power.'⁵¹ For them, a regime exists only when they serve powerful states' interest and purpose. Thus, it has been argued that 'a non-proliferation regime was based on great powers cooperation and US leadership to achieve certain goals to prevent states with latent or 'potential' nuclear capabilities from going nuclear.'⁵² The regimes were created, and cooperation was established but norms were not upheld due to some of the states' relative gains and interests that are inescapable realities attached to realists' anarchic world.

These facts powerfully indicate that the entire NPR is widely considered as a 'system in strain'. There are mounting apprehensions about the regime's efficacy as a cordon to the proliferation of nuclear

weapons. Today the regime is under immense pressures as its existing rules do not seem to address non-nuclear weapon states' demands.

Current Trends and the NPR

In the transformed international order, the system level politics has an increased influence on the regional and domestic politics, which has made the NPR even more stressed and difficult to manage. For example, after the Arab spring experience, smaller states have started considering nuclear weapons as a safeguard against aggression.

The past half a century clearly demonstrates North Korean motivation for acquiring the bomb. The Korean Peninsula, surrounded by major powers, had experienced numerous invasions in its history. North Korea's uneasy relations with South Korea, the US military forces stationed in South Korea since the end of the Korean War, the possibility of another US attack are various factors that have influenced the perception of North Korean leaders to develop advanced nuclear weapons system. North Korea has led to perpetual destabilisation of the Korean Peninsula directly threatening South Korea and Japan. North Korea from time to time has been threatening the US and South Korea. Masood Khan believes, 'the US in all probability would consider an attack against South Korea and Japan as an attack against the US because of its bilateral security agreements with them.'⁵³

North Korea has warned, 'it could carry out pre-emptive nuclear strikes against the United States.'⁵⁴ However, presently, North Korea does not appear to pose direct threat to the US because its nuclear-tipped missiles cannot reach the US territory. Many observers are extremely doubtful that North Korea holds real capability to hit the US mainland with a missile. Gen. Curtis Scaparrotti, commander of US Forces in Korea, gave a similar assessment when inquired about whether the Kim regime was capable of marrying the trio of a mobile rocket launcher, a long-range missile, and a miniaturised nuclear warhead? Scaparrotti responded, "They claim they've done that already," but added "he was doubtful of their success"⁵⁵ 'Some of its missiles could, however, hit South Korea or Japan and American forces there.'⁵⁶ Khan said: 'North

Korea has from time to time expressed its intent to transform its technological and missile capability to directly target the US.⁵⁷ Some argue that 'Pyongyang's arsenal could grow from a few bombs to, according to some estimates, as many as 50 by 2016.'⁵⁸

In light of this, the US intends to position Missile Defence System in the Asia Pacific to shoot down Korean missiles. The US and South Korean officials highlight the importance of missile deployment in the Asia Pacific region, whereas Chinese and Russian officials express strong reservations towards this initiative.⁵⁹ This indeed creates more complexities as this defence system may further undermine trust between NWS and NNWS and aggravate an arms race between the US and China.

Iran, as a state party of the NPT, under Article IV has the inalienable right to acquire nuclear technology and material for peaceful purposes. The IAEA confirmed a decade ago that 'Iran has secretly built a uranium-enrichment plant, has expanded its enrichment program and other sensitive nuclear fuel-cycle activities'.⁶⁰ The Iranian response was that it was not pursuing nuclear programme for military purposes.⁶¹ Undoubtedly, empirical record demonstrates that Iran has had a nuclear weapons capability for more than a decade and has decided not to build nuclear weapons.

Article IV does give a right to the IAEA to fully control the nuclear fuel cycle under full-scope safeguards. The Additional Protocol, which Iran has signed but not ratified, gives the IAEA full right to inspect the Iranian undeclared facilities where the Agency suspects nuclear weapons activities are underway.⁶² Within this there seemed two contrary positions: the international community desired to place limits on Iran's enrichment capacity and other elements of its nuclear programme, including the stockpiles of enriched material and the types of new centrifuges that the country is developing; whereas Iran wanted to increase its enrichment capacity in the future to provide fuel for nuclear power reactors it intends to build.

Along with the UNSC, the US and the European Union have imposed a number of tough sanctions on Iran to address its nuclear activities. Iran

for long considered these sanctions as illegitimate and maintains that its nuclear programme was entirely peaceful.⁶³

In June 2006, the P5+1 (US, Russia, UK, France, China and Germany) initiated a proposal for comprehensive negotiations with Iran. The P5+1 talks with Iran has entered into a decisive phase, with an agreement on April 3 this year. The framework agreement between P5+1 and Iran covers the difficult technical parameters.⁶⁴ For example, Iran agrees on: cutting down the number of the Iranian centrifuges from 19,000 to 5,060; limiting its stockpile of LEU from 10,000 kilograms to 300 kilograms; redesigning the Iran's heavy-water reactor placed at Arak, ceasing the Fordow nuclear facility from enriching any uranium thereby transforming it into a research centre.⁶⁵ These are indeed all unexpected developments under the framework agreement. Furthermore, the good news is that the Natanz facility will be the only focus of all the enrichment activities. There it will use only its first generation centrifuges (IR-1) to enrich uranium for ten years thereby leaving the remaining IR 2-8 under the Atomic Energy Agency (IAEA)'s full-scope safeguards system, thus adhering to the Additional Protocol closely. In author's view, this is an encouraging development and productive outcome which mitigates mistrust between the two sides thus, offering Iran a smooth access to the globalised world and international market.

There is enormous pressure the negotiating parties face from both opponents and proponents of the agreement. For example, the Israeli Prime Minister Benjamin Netanyahu, in a speech before the US Congress on March 3, denounced the agreement.⁶⁶ Forty seven US Republican senators on March 9, in a letter addressed to Ayatollah Khamenei advised the Iranian government not to ink any agreement with President Obama's administration without the approval of Congress.⁶⁷

However, this framework deal will provide Iran with relief from sanctions that have sharply hit and reduced its sale of oil and impeded access to the international market and crippled its economic progress. The US and EU proliferation-related sanctions will be lifted after the IAEA verifies that the agreed steps have been practically implemented on transparent grounds. The UNSC resolutions focused on Iran will be lifted

concurrently. Additionally, a transparent procurement channel will be initiated, thereby permitting Iran to get what it needs for civilian nuclear development, thus giving assurances to the opposite side that the material will not be diverted for military purposes. A nuclear Iran would have had domino effect in the region. Thus, the deal appears to have far reaching and stabilising impact on the region. Though, Prime Minister Benjamin Netanyahu of Israel highlighted on April 3 that a deal with Iran poses a grave danger to the region and the world. Along with this many leaders in Arab countries also criticised the deal, which comes amid tensions over Iran's possible involvement in Yemen, Syria, Iraq and Lebanon. Nevertheless, Iran's changed behavior in the shape of this framework deal and agreement have certainly increased the profile and legitimacy of the regime. The IAEA's effectiveness, efficacy and relevance has enhanced considerably. It has revived the spirit of the nuclear non-proliferation treaty as well.

Arguably, any deal with Iran with resulting relief in sanctions indicates a cautious and measured approach in which the responses will be graduated. Thus, normalisation of relations, lifting of sanctions would further bridge gaps and difference between the IAEA and Iran. However, coming months would nevertheless, add a great deal of legal and political squabbling and the practical decision would be indeed tougher than this agreement which we have to wait and see. The months and years ahead are significantly difficult and all the players have to take a measured approach with careful moves to reach a final agreement with subsequent implementation.

The upsetting situation in the Middle East and East Asia is driven by deep rooted, complex rivalries and suspicions. The relations between major powers seem perilous. If the security environment becomes volatile, the nuclear equilibrium could also be disrupted. If North Korea, for instance, becomes even more intransigent, Japan and South Korea may be compelled to revise their nuclear policies.

When it comes to a phased reduction of nuclear weapons and their total elimination the US and Russia agreed under START to reduce their nuclear arsenals on alert over a 10-year period.⁶⁸ President Obama revived

and renewed stalled START negotiations. The New START, which entered into force in February 2011, restricts the two states to 1, 550 operationally deployed weapons, 700 deployed delivery systems and 800 deployed and non-deployed missile launchers and bombers each. All these goals would be achieved by February 2018.⁶⁹ Nevertheless, the two countries still retain thousands of additional warheads for tactical and strategic missions in their possession. This has direct bearing on states at the regional level because the current situation is characterised by both cooperation amongst states and lack of transparency at the system level.

In 2009, in his Prague Speech, President Obama sought the support of the international community to negotiate and conclude a Fissile Material Cut of Treaty (FMCT). Progress on the FMCT within the CD has been stalled for a long time and the negotiations to conclude an FMCT are not moving beyond the 1995 Shannon mandate. The divisive issues related to the structure and scope of the proposed treaty include existing and future stockpiles; production of non-explosive fissile material; and verification, among others. This substantiates realists' standpoint that states have conflicting interests and they will not join the treaties and regimes unless they enhance their security.

Pakistan continues to have serious concerns over FMCT negotiations. It has continuously raised its concerns regarding unequal and higher stockpiles of India and called for including existing stocks of fissile material in the scope of the negotiations. Pakistan believes that India will transform its large fissile material stocks into nuclear weapons.⁷⁰ Munir Akram, Pakistan's CD ambassador in 1998 said, "We believe that a wide disparity in fissile material stockpiles of India and Pakistan could erode the stability of nuclear deterrence."⁷¹ He objected even to the term FMCT, arguing that "the Treaty being described as a Fissile Material 'Cut-off' Treaty" implies only a halt in future production. We cannot endorse the loose abbreviation – FMCT - in any formal description of the Treaty which is to be negotiated by the CD."⁷² He suggested a "fissile material treaty," or FMT instead and a number of other countries and independent analysts also prefer this usage. Thus, this treaty may achieve no progress until its structure and scope are revised to address security interests of all states equally.

With the NPT in distress, another issue related to this debate is the NSG. Due to the rising economic interests more states aspire to adhere to the export control regimes. More states are acquiring additional reactors and connecting to the power grid, particularly, in the Asian region.

This serious issue emerged when George W. Bush's administration forced "the [NSG] to revise its guidelines in order to accommodate the new US policy towards India that reverses more than a quarter of a century of US declaratory policy."⁷³ Nevertheless, being a political arrangement lacking full acceptance and legitimacy, the NSG is under pressure to expand membership outside its defined criteria. The NSG member states clearly laid down the admission criteria of new states in 2001 Aspen Plenary: the new aspirant states should be a party to the NPT and have in force full-scope safeguards with the IAEA. Obviously, India, a non-NPT nuclear state, has not placed its facilities under the IAEA full-scope safeguards and, thus, it is not entitled to the benefits of the NPT membership. It is subject to the NSG rules that forbid nuclear cooperation with states that have unsafeguarded facilities. Besides, India has not signed the Comprehensive Test Ban Treaty (CTBT). Without addressing these issues, expansion in the Group's membership to accommodate India's interests on political grounds would damage the efficacy, spirit and structure of the entire NPR. This would also demonstrate violations inside the regime on realists' criteria, guided by some states' self-interests and relative gains. By adopting selective criterion for the admission of one state, the NSG will undermine its legitimacy and credibility vis-à-vis the NNWS. Thus, Waltz's system level analysis holds front seat here. As a non-NPT state in recent years, India is keen to join the NSG to achieve global support for its civil nuclear deals. Until now, India has signed civil nuclear cooperation agreements with the US, the UK, France, Canada, Argentina, Russia, Kazakhstan, Mongolia, Namibia, South Korea and Australia.

True the NSG has to recognise current realities. In time, the NSG will have to reflect emerging trends in the global nuclear power industry. As agreed in NPT Article IV, the Group by no means will oppose development of peaceful nuclear energy, even as it remains strongly opposed to proliferation. The current guidelines, written in 1978, specify

that supplier states exercise “restraint” in exporting enrichment and reprocessing items. Moreover, the NSG lacks legal legitimacy and an institutional mechanism to address states’ energy demands on the basis of the given criteria.

The NSG members, in search of their geo-strategic interests and trade expansion, exempted India from the existing rules and India escaped the constraints associated with its status, and this makes realists’ interpretation relevant. States’ behaviour at the system level will have far deeper impact on the regional and domestic politics. India and Pakistan are non-NPT nuclear weapon states, which seek to add more reactors to their power grid. Pakistan also seeks membership in the NSG and MTCR, but one guided by a ‘criterion-based approach’, which may create a new mechanism to build nuclear cooperation with these new nuclear weapon states. Such a pragmatic proposition is paramount for Pakistan as it plans to install additional nuclear power plants to generate 8,800 MW of electricity by 2030 and 40,000 MW by 2050 to make up for its power deficiency.⁷⁴

To sum up, the non-proliferation challenges outlined above require immediate focus on strengthening the NPR on the basis of liberal criteria. If the current challenges facing the NPR are not addressed, questions would continue to arise about its legitimacy, inter alia, because of the growing appetite for nuclear energy.

Internationalising and Strengthening the NPR

Regimes work well when cooperation is strengthened, trust grows, and as a consequence uncertainty and fears decrease as highlighted by liberal institutionalists. When states have no trust in the effectiveness of long-term norms and rules, they either cooperate reluctantly or fail to cooperate.

The NPT addresses the central objective of universal and comprehensive disarmament instead of legitimising the continued possession and multiplication of nuclear stockpiles by a few states. A universal treaty may strengthen the NPR; it would command greater respect and address more effectively the question of non-compliance as

was guided by liberals. The treaty's universal goals may be achieved by taking the steps outlined below.

First, there is an urgent need to envisage a new consensus on disarmament, arms control, and non-proliferation under the UN Charter, and in accordance with the principle of 'equal security for all.'⁷⁵ Obviously, this is a demanding task. The balance of rights and obligations should be accepted by all equally not only a few states. This would help in regulating the compliance of all states with the non-proliferation obligations. This may be politically not viable for some states but if the NPR gets legal legitimacy, all states would be bound by uniform criteria and possibilities of violation within the regime would certainly decline. In light of this, there is also need for negative security assurances (NSAs) by the NWS to the NNWS.⁷⁶ The Conference on Disarmament should vigorously pursue this debate which is already on the agenda.

Second, the NPT does not address the potential role of terrorists and individual proliferators. Efforts should continue to be made to ensure the safety and security of nuclear weapons, materials, technologies and facilities worldwide. Measures such as the Cooperative Threat Reduction initiative, the Proliferation Security Initiative (PSI) and UNSC 1540 do not address all the gaps in the NPR.⁷⁷ In this regard, efforts are being made through the Nuclear Security Summit (NSS) process to address the threat of nuclear terrorism and to explore fresh cooperation to prevent the illicit proliferation of nuclear weapons and related material to non-state actors.

Third, the non-NPT states are a reality that cannot be altered. There is an urgent need to recognise the role of non-NPT states in regard to non-proliferation and disarmament standards and obligations. Less restrictive rules for some states and greater demands on the others will exacerbate the crisis of trust in the NPR. The NPT and export control regimes' require a revision of their guidelines and structures to meet emerging challenges.

A new broad formula needs to be defined for *export control policies* that can meet current and future problems. Non-NPT states have a distinct legal persona based on their own security paradigms and imperatives

influenced by globalisation, rise in energy demand, information revolution and changing security constructs.

The NPT could recognise Pakistan and India within the NPR. Israel is in a different category because it enjoys US protection. India and Pakistan are independent sovereign nuclear weapon states. It is unrealistic to expect from them to give up their nuclear weapons. Efforts should, therefore, be made to create an effective and enduring 'criteria based approach' for these states to join the NSG. An additional benefit would be that both the states would continue to respect global non-proliferation norms.

Conclusion

This study shows that most of the non-proliferation problems from the outset are considered as a system level interplay due to states' relative interests and major powers' conduct. The NPT's weak structure, NWS' behaviour (not fulfilling their non-proliferation and disarmament commitments and their influence on the NPR) has a direct bearing on states' behaviour at the domestic level. Resultantly states feel threatened and, in their search or maximisation of security and prevention of external aggression, they are attracted towards the option of nuclear weapons. Such a trend could undermine the NPR altogether.

The inception of the NPT was in the interest of most states, not just the great powers and, as such, cooperation became possible among its parties. Despite the treaty's indefinite extension in 1995, the renunciation of nuclear weapons by some states indicates that the regime has worked in many respects and that cooperation among states has developed. President Kennedy's dire prediction in 1963 has still not come to pass. Most countries have scrapped their programmes and joined the NPT. Thus, it has been argued in this study that cooperation among states through the NPR is one of the most powerful elements of strengthening norms and taboos against possession, proliferation and use of nuclear weapons.

Due to states' hegemonic interests at the system level, cooperation has been imperfect and some states have reconsidered their interests. Nevertheless, the arguments of the neo-liberal school give world leaders

room to look forward from realists' anarchic order and strengthen existing cooperation in order to achieve the NPT's stated goals. Without such regimes, cooperation among states would not be possible; and without international cooperation the world at large will be left on its own.

The argument of the neo-liberal school helps us understand how the behaviour of non- states parties can be changed through institutional cooperation. The NPT itself, as the key pillar of the NPR, can strengthen the role of the IAEA and multilateral export control regimes.

Thus, the NPT can only secure the permanent cooperation of the NNWS if the existing crisis of trust is resolved and discriminatory treatment of non-NPT states is addressed by a measured revision of the framework of the treaty. The implementation of these proposals may enable the world to establish and strengthen agreed norms against the proliferation of nuclear weapons, promote peace, prevent use of nuclear weapons, and support peaceful uses of nuclear technology.

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