

Pakistan and the International Nuclear Order

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The evolution of nuclear order can be traced back to the advent of nuclear weapons, which led to a realization of the intensity with which nuclear energy could impact upon the lives of human beings. William Walker defined Nuclear Order in his book, *A Perpetual Menace: Nuclear Weapons and International Order* as,

“Given the existence of nuclear technology, the international nuclear order entails evolving patterns of thought and activity that serve primary goals of world survival, war avoidance and economic development; and the quest for a tolerable accommodation of pronounced differences in the capabilities, practices, rights and obligations of states.”

Creating an order within the nuclear realm was a strategy devised to save mankind of the disasters unleashed by the creation of nuclear weapons. The goals of the nuclear order which evolved and which exist even today were two-dimensional. The first dimension is concerned with ensuring a global access to nuclear energy for peaceful purposes while the other dimension tries to restrict, limit and check the diversion of available nuclear energy for weapons build-up. Thus the international nuclear order faces an eternal and inherent paradox, promoting access to nuclear energy on the one hand while restricting it to selected states on the other.

However, the biggest challenge to the existing nuclear order has been its discriminatory nature which creates the well-known divide between nuclear haves and have-nots. Apart from this conceptually inherent flaw, the order faces a challenge regarding the three end goals it claims to endeavor achieving. These include non-proliferation, access to nuclear energy for peaceful purposes and disarmament. None of these objectives have been realized, neither are there any prospects in sight which could give hope for their achievement. The task of ensuring global access to nuclear energy for peaceful purposes has been performed in a way relatively better than the other two. But even this area has its own limitations and question marks. In non-proliferation, discriminations saw a zenith. The graphs of horizontal proliferation remained static for some time, but discriminations, lack of assurances, security dilemmas and most importantly ever-rising graphs of vertical proliferation forced a

rise in them too. Lastly the goal of disarmament, an important part of bargain had been dealt with in the most perfunctory manner as evident from the little progress made in this direction.

For a long time, the Nuclear Non-Proliferation Treaty (NPT) was considered an effective regime for guarding against nuclear proliferation (which essentially involves the diversion of nuclear fuel for power to weapons grade fissile material). The Treaty provides for IAEA inspection of nuclear power facilities in adherent states and thus stops them from acquiring nuclear weapons capability. The first half of the 90s saw the voluntary renunciation of nuclear programs geared to weapons capability by Argentina and Brazil and later South Africa, and the termination of nuclear programs in the Ukraine, Kazakhstan, and Byloe Russia. The NPT Review Conference in 1995 was an upbeat, self congratulatory meeting, in which the NPT was given a permanent lease of life.

However, the nuclear tests conducted by India and later Pakistan in 1998 cast a pall of gloom on the NPT Review Conference in 2000. Then, in the very first few years of the new century, some NPT signatory states were found to be in violation of their obligation of abstaining from any steps leading to weapons development: North Korea, Libya, which confessed and came out clean, and Iran, where traces of enriched uranium were found on imported centrifuges, which were unexplained. The NPT regime seemed to be collapsing, as its own members were found to be in violation of its provisions. The NPT Review Conference in 2005, held in New York, in which I was the Pakistan Observer, met for a month, took more than two weeks to even agree on an agenda, and ended without an agreed statement, which had never happened before. The nuclear order, carefully crafted in 1968, much like the Treaty of Versailles of 1919 in the inter-war years, was fraying at the seams and spiralling downward towards possible collapse. As the North Korean and Iranian programs continued eluding international monitoring and inspection, the descent towards collapse seemed to continue unchecked, and many feared, unstoppable. To boot, the entry into force of the Comprehensive Test Ban Treaty (CTBT) decisively blocked by the US Senate, and the FMCT negotiations stalemated, the outlook of global non-proliferation looked bleak. It is this situation that the Obama administration found itself confronted with when it assumed office.

Meanwhile, in the wake of the emerging realities, some elder statesmen in the US had been giving serious thought as to how the imbroglio that had developed could be cleared up. Quite naturally they realized that the root of the problem lay in the original discrimination or unfairness embodied in the NPT. The famous bargain struck between the nuclear weapon states (NWS) and the non-nuclear weapon states (NNWS) in the

negotiations leading to the finalization of the NPT required implementation of both the articles IV and VI, but as it transpired, Article IV has been rigorously implemented and Article VI has been largely ignored.

Realizing that this selective execution of the Treaty was gradually bringing the NPT regime to a collapse, the elder statesmen, Senator Sam Nunn, Former US Secretaries George Shultz, our host today, Secretary William Perry and Mr. Henry Kissinger, wrote a joint article in the Wall Street Journal in January 2007 urging the Administration to go for eventual nuclear disarmament or what they termed as the Nuclear Zero option, in implementation of Article VI of the NPT. They argued that nuclear weapons had outlived, with the end of the Cold War, whatever utility they might have had, “that the various risks associated with their retention by existing powers, and acquisition by new ones, not to mention terrorist actors, meant that the world would be better off without them”. An active debate ensued over the following years, in which the proponents of the Nuclear Zero argument gained general support. This eventually led to President Obama’s Prague speech in 2009, which officially committed the United States to total disarmament in the years to come, through a step-by-step process leading to complete elimination of nuclear weapons.

Obviously, a lot has changed since 1968 when the NPT was drafted. As we look back more than forty five years ago, and glance at the nuclear order that has prevailed over these years, we notice certain glaring shortcomings that characterize the old order:

1. It lacks equity, as the NPT allows only five countries to have nuclear weapons, and disallows the rest of the world from having them.
2. Some important states that remained outside the NPT developed nuclear weapons, thus undermining the entire international non-proliferation regime.
3. In course of time, there have also occurred violations of NPT regulations by signatory states, thus almost depriving the NPT of its legal and moral authority.
4. The old order has not brought about the entry into force of the Comprehensive Test Ban Treaty (CTBT) or meaningful negotiations on the Fissile Material Cut-off Treaty (FMCT), which are both vital adjuncts to the NPT.

In the wake of the angst of the international community, particularly the Western countries, at the collapsing international regime on nuclear non-proliferation on the other, new initiatives and approaches seem to suggest that an emerging nuclear order may eventually take shape. These are:

- The issuance of the US Nuclear Posture Review of 2010, in which the US declared that it would not launch nuclear attacks against non-nuclear weapon states, unless faced with a WMD attack, and announced cuts/reductions in its nuclear and missile development programs.
- The signing of a new US-Russia Start Treaty, reducing their respective arsenals by 30%, to be effected in seven years time, and current negotiations for further reductions.
- A voluntary plan for nations to secure thousands of tons of fissile material now existing in many countries adopted in the Washington Nuclear Security Summit in 2010. By focussing on the safety and security of nuclear technology and material, the Summit effectively relegated the goal of non-proliferation to a lower priority. This was followed by a second Nuclear Summit in Seoul in the spring of 2012. This Summit while renewing the political commitments of the previous one in 2010, deliberated upon the inter-connectedness of Nuclear Safety and Security in the light of the Fukushima disaster in addition to mitigation of the risks of nuclear-radiological terrorism.
- The 2010 NPT Review Conference that ran through a four week session in New York and aimed at the strengthening of the NPT laid greater emphasis on safety and security, and disarmament, rather than on non-proliferation.
- Concurrently, the International Commission on Nuclear Non-Proliferation and Disarmament, headed by former Australian Foreign Minister Gareth Evans and Japanese diplomat Yoriko Kawaguchi, is lobbying internationally for support of a graduated program of global disarmament.

All these events and actions seem to indicate revised thinking in regard to the major issues of nuclear disarmament and non-proliferation, which is likely to result in changes in the nuclear order that now prevails. While the contours of the new order have yet to take shape and form, some likely features that would characterize it could be:

- A degree of flexibility in the rigid non-proliferation regime of old, as has already manifested itself in the Indo-US nuclear deal. The US decision to extend to India extensive nuclear cooperation, under the deal, despite the fact that India did not sign the NPT and developed a nuclear weapons program in open defiance of the non-proliferation principles, was a body blow to the NPT, and demonstrated its virtual obsolescence.
- Greater focus on safety and security of nuclear materials and nuclear technology, to avoid the danger of nuclear terrorism, resulting from nuclear material falling into the hands of non-state actors and terrorist groups.
- Continued serious efforts towards forward movement on global disarmament, both at the level of states and in multi-lateral fora. In this regard, the International Commission on Nuclear Non-Proliferation and Disarmament has published a report entitled “Eliminating Nuclear Threats---A Practical Agenda for Global Policy Makers” which has charted out a full program of action for national governments, and has begun strong advocacy of the issue in multi-lateral events.

Interestingly, for Pakistan these trends carry positive implications. It is well-known that Pakistan has been against the *statusquo* in regard to the existing nuclear order. Whatever flexibility or change takes place in the present unfair and rigid international nuclear regime, Pakistan is bound to benefit.

The Nuclear Security Summits held in 2010 and 2012 seem to have exonerated Pakistan from the earlier stigma of a suspected proliferating state pinned upon it following the exposure of an illicit network trading in nuclear technology and material headed by Dr. A.Q.Khan. The argument that Pakistan has been making that, (a) the government did not know about the clandestine network nor support its activities, and b) it took strong action against Dr. A.Q.Khan and his accomplices and has dismantled the network when it was discovered, finally seems to have been conceded, albeit tacitly. As this was perhaps the principal reason why the US with-held a civilian nuclear deal a la India to Pakistan, it should now look forward to developing a framework for nuclear cooperation with Western countries, particularly the United States. If this were to happen, Pakistan would be able to break out of the present isolation and virtual ostracism that it faces from the international nuclear community.

The great benefit of such a deal would be to open up the possibility of civilian nuclear cooperation with other advanced countries as well, besides of course the United States. Pakistan has already made a request for civilian nuclear cooperation with the US, and

significantly has not been rebuffed in recent interactions. In any case, Pakistan has contracted a civilian nuclear deal with China, which provides for the setting up of two additional nuclear power plants in Pakistan. As China is also a member of the Nuclear Suppliers Group, which does not allow nuclear cooperation with Pakistan as a non-signatory of the NPT, the Chinese decision is akin to the US decision to undertake nuclear cooperation with India. The effect of the China-Pakistan deal could eventually impel the US to accede to Pakistan's request for a civilian nuclear deal.

Pakistan should also expect less pressure on it for signing the NPT. There has been talk in the non-proliferation community of some creative ways to accommodate non-signatory Nuclear Weapon States (NWS) in the NPT, either through associate membership or some kind of adherent status. With less rigidity in regard to the NPT, some movement in this regard may eventually take place.

Pakistan faces the demand of signing the CTBT and moving forward on negotiations for an FMCT, but here too, it can raise its own concerns, before it could oblige. For example, Pakistan can press for a nuclear restraint regime in South Asia, or even a resolution of issues like Kashmir and water sharing with India. At the 2010 Nuclear Security Summit in Washington, Pakistan proposed (a) the setting up of a nuclear restraint regime in South Asia, (b) a balance in conventional forces, and (c) a meaningful conflict resolution mechanism in South Asia. Pakistan maintains that its nuclear weapons program is security driven, and an improvement in the security environment in the region was necessary before it can enter into negotiations regarding a fissile material cut-off treaty. This position has already been taken by Pakistan at the Conference on Disarmament (CD) in Geneva, and is likely to be maintained.

Of course, Pakistan is often blamed as the only state blocking FMCT negotiations and thus undermining the broader nuclear order. However the facts suggest that Pakistan has never acted to promote the dilution of the order, in fact Pakistan has tried in the best possible way to abide by and implement the rules and regulations considered important for maintaining the nuclear order. It tries to follow the standards for nuclear safety and security through national set-ups and organizations such as PNRA, SECDIV and NCA, in addition to introducing the PRPs. Pakistan took considerable steps to deal with the issue of non-state actors in light of the UNSC resolution 1540 by passing the Export Control Act of 2004. Pakistan took strong action to deal with the alleged AQ Khan network in order to conform to international standards.

These actions show Pakistan's commitment to play a constructive role in meeting the goals set by the NPT regime as a responsible nuclear weapon state. Pakistan, having a realization of the significance of regional stability for a stable global nuclear order, had

been proposing the establishment of a Nuclear Weapons Free Zone (NWFZ) in South Asia for more than two decades and now it proposes the establishment of a strategic restraint regime as a more viable option for stability in the region. If Pakistan had the goal of disturbing the nuclear order, it would have considered introducing BMD and other technologies which could destabilize the region. But contrarily, Pakistan believes that the strategic stalemate in the region, in addition to provocative military doctrines and sea based second strike platform, are blocking progress towards meaningful and realistic arms control mechanisms in South Asia. Pakistan can't be blamed as responsible for disturbing the order since it never deliberately violated any of the rules. Pakistan's nuclearization itself was purely security driven and we followed only after India, we did not set the precedent.

Actually, the Indo-US deal can be considered as one of the main blows to the established nuclear order as it presents a classic case of discriminations based on tactical motives made possible only by violating the norms and by giving a legal cover to those violations. The deal shattered the four decades long consensus regarding nuclear order in addition to destabilizing the south Asian deterrence in favor of India. It also nullified the basic principle, championed by US previously and underlying this entire regulatory regime i.e. the principle of withholding cooperation with non-signatories while assisting the NPT adherents in developing civilian nuclear energy.

The amendments in NSG guidelines, US domestic laws and established IAEA safeguards shook the existing order. This NSG waiver allowed India; a non-signatory to NPT, a non-adherent to the IAEA comprehensive safeguards agreement, to import civilian nuclear fuel and technology, which in no case was possible under the original NSG guidelines and so was effected with the help of amendments and introducing a facility specific safeguard agreement. The entire process represents the acceptance of India's defiance of the existing nuclear order, setting a precedent which is probably being followed by North Korea in the current phase. In fact what has set the precedent for a constant disintegration of nuclear order by prompting more states to go nuclear have been the policies of the P5, particularly the US as William Walker has put it, 'Among the foremost challenges to the sustenance and strengthening of the nuclear order is Washington itself'.

The international nuclear order needs to transform itself, to become more flexible in an attempt to overcome its discriminatory nature that is probably becoming a concern for more and more states now. This flexibility is direly needed to integrate states within the order and check proliferation. The outliers need not be alienated since this would multiply their numbers. Efforts are needed to integrate them within the system, by providing them adequate alternatives and assurances. If Pakistan is considered a

spoiler, leaving it aside won't lead to a solution. For ensuring the survival and sustenance of the nuclear order we need to work together: Pakistan would get integrated into this order only when its concerns would be given consideration as a sovereign nation state.

What is also clear is that various possibilities for Pakistan will open up once the old order loses its rigidity and sole focus on nuclear non-proliferation. The approach of heavy sanctions and restrictions on a country like Pakistan, whose "sin" was non-signature of the NPT and the CTBT, and that of developing an indigenous nuclear program, is seriously out of date. Pakistan has long remained "out in the cold", in the phrase of John le Carre, and deserves to come back inside. If that happens, Pakistan would become part of the new nuclear order that comes about in due course of time.

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