

THE NPT'S CHALLENGE TO ISRAEL

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Calls for Israel to end its policy of nuclear ambiguity and join the Nuclear Non-proliferation Treaty are certainly not new or unprecedented. Demands for the Jewish state to join the NPT have been voiced throughout the Middle East ever since the treaty came into force in 1970. Israel's policy of ambiguity in the nuclear realm similarly has often been the target of complaints from Arab states. As long ago as the early 1990s, the convening of the Arms Control and Regional Security (ACRS) working group as part of the multi-lateral track of the Madrid peace process created a formal framework for Arab states to increase pressure on Israel on the nuclear issue.

Over the past year, however, there has been a new peak in both the frequency and intensity of rhetoric intended to pressure Israel to join the NPT. This has emerged against the backdrop of efforts to prevent Iran from moving toward a military nuclear capability, and the idea that all Middle East states should be treated equally in the nuclear realm. This trend culminated in the May 2010 NPT Review Conference, or RevCon, which produced a final document that singled out Israel, and called for a conference on the creation of a Weapons of Mass Destruction Free Zone (WMDFZ) for the region in two years.

A claim of double standards

In both conceptual and practical terms, Israel's policy of ambiguity and the



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question of accession to the NPT are actually two distinct issues. Ending ambiguity relates solely to the question of Israel's openness about its nuclear policy. As such, putting an end to this policy could simply mean that Israel would adopt an open, rather than secret, nuclear stance. Indeed, this is what the few advocates of this position in the Israeli public debate seem to be referring to when they call for discontinuing an approach they claim isn't fooling anyone. Whether based on the belief that secrecy is something that should be shunned on moral grounds, or an assessment that Israel could gain more in practical terms by adopting an Indian/Pakistani approach, these commentators aren't advocating that Israel give up its nuclear option.¹

But when similar calls come from other states in the Middle East, the implication is very different. Those demanding that Israel increase transparency and end its so-called nuclear "deception" invariably couple this with a call for Israel to join the NPT. Of course, the only way for Israel (or any of the other states outside the treaty) to join the NPT is as a non-nuclear weapon state; therefore the call for Israel to join the NPT is necessarily a call for Israel to disarm itself of whatever nuclear capability it is assumed to have. The conflation of the two conceptually distinct messages underscores that the parties voicing them have little interest in transparency as such, nor are they seeking a confidence-building measure and/or a means to enhance the extent of Israel's cooperation with the international community. Rather, they consider the removal of ambiguity a move that will significantly boost their case that Israel must join the NPT—and of course disarm.²

A major impetus for the greater attention that has been directed of late toward Israel's ambiguous nuclear posture is the intensifying international discussion over the best means for stopping Iran's march to the bomb. The argument that has increasingly been made is quite straightforward: why is so much pressure directed at Iran when it is not even a nuclear state, whereas nuclear Israel is allowed to escape international scrutiny and pressure? Simply put, why is one state allowed what another is denied?

At the official level, the most clear-cut statements in this vein are coming from three states in the Middle East: Egypt, Turkey, and of course Iran itself. But the trend is creeping more and more into the unofficial public debate in the West as well: in media commentary, at professional conferences and meetings, and other unofficial forums. With the prospects for stopping Iran looking less and less favorable, it is not surprising that some attempts are being made to divert attention in other directions, perhaps as a means of minimizing the sense of impending failure.

This shift of focus to Israel has dovetailed over the past year with an additional development that has also encouraged greater attention to Israel's assumed nuclear capability, albeit inadvertently: U.S. President Barack Obama's nuclear disarmament agenda. The new American approach to nuclear arms control—presented by Mr. Obama in April 2009, in a speech delivered in Prague—underscores an across-the-board nuclear disarmament logic, which has had the side-effect of strengthening the hand of those who would argue that Iran and Israel can and should be placed on equal footing in the nuclear realm, and vis-à-vis NPT obligations.

Atomic inequality

The “equality norm” being promoted as the primary justification for increasing pressure on Israel deserves closer scrutiny. There are good reasons to dismiss attempts to equate Israel and Iran in the nuclear realm. At the most basic level, Iran is a member of the NPT that took upon itself an obligation to remain non-nuclear, whereas Israel made the choice to remain outside the treaty, which it believes cannot address its unique security concerns.

Moreover, Israel and Iran are different in some very important respects. They have vastly different records of behavior toward their domestic populations, as well as in the regional and international spheres. The very fact that the focus is on nuclear weapons cannot justify discounting these differences in favor of a position that advocates treating them as virtually identical entities. These differences matter.

The argument for a differential approach gains additional strength from the fact that Iran is specifically threatening Israel in a manner that goes to the latter’s very existence as a legitimate state. Ignoring the fact that there is no basis for conflict between the two states, territorial or otherwise, the Islamic Republic of Iran in 1979 declared Israel its mortal enemy. It proceeded to direct the most malicious rhetoric toward Israel, including repeated denials of its right to exist. In fact, these threats underscore the basic rationale for Israel’s nuclear deterrent: an insurance policy against threats to its very existence.

Indeed, the grounds for challenging the idea of “equality,” and advocating a differential approach to Israel and Iran, can actually be traced to the conceptual roots of the NPT itself. At its inception, the NPT legitimized two

important normative values: “equality” and the “right of self-defense.” With regard to the former, even though the NPT enshrines a basic *inequality* among states by defining two categories of members—nuclear and non-nuclear—it nevertheless underscores the equal *obligation* of all members to work toward the goal of a nuclear-free world. Thus, alongside the commitment of non-nuclear states to maintain their status, nuclear state parties also pledged to work toward disarmament. By leaving the identity of the state outside the boundaries of the treaty, and focusing solely on nuclear weapons as such, the NPT did not create any space for treating one differently from another based on its commitment to nonproliferation and disarmament.

But the rival norm inherent in the NPT alters this picture. To understand the status of the “right of self-defense” under the treaty, one must revisit the reasoning behind the initial decision to base it on two categories of states. The question is why nuclear states were unwilling to immediately disarm, and why non-nuclear states were compensated for remaining non-nuclear—with the offer of cooperation in the civil nuclear realm, a commitment on the part of nuclear states to work toward disarmament, and an exit clause from the treaty in case their “supreme interests” were jeopardized by “extraordinary events.” Henry Sokolski explains that this was because it was recognized and accepted at the time the NPT was formulated that nuclear weapons actually have considerable strategic value. And because all states have an inherent right to self-defense, if a state was willing to compromise this right (by agreeing not to pursue nuclear weapons), it deserved to be compensated.³

Thus security and self-defense are implicitly recognized by the

NPT, and the right of self defense, especially when a state's supreme interests are jeopardized, constitutes a rival value to that of equality. Over the years, however, equality became the dominant norm in NPT discourse, whereas the right of self-defense—though implicitly upheld by the treaty's provisions—was completely sidelined. Still, the enduring importance of the security value of nuclear weapons continues to be reflected in the behavior (if not the rhetoric) of states. Brazil and Argentina, for example, both joined the NPT only relatively late in the game (Argentina in 1995 and Brazil in 1998), after they had resolved their political rivalry. Settling this facet of their relations was a necessary prerequisite for settling the question of their respective nuclear advances. Obama himself, in the context of his Prague disarmament speech, clarified that while this was the vision, the U.S. still views nuclear weapons as vital to its national security for the foreseeable future.

A corrosive quid pro quo

For Israel, however, matters have gotten increasingly complicated over the past year. New and important evidence of the Iranian regime's military nuclear intentions made the situation more and more acute, but a diplomatic solution remained elusive due to Iran's continued rejection of U.S. (and broader "P5+1") diplomatic overtures. At the same time, the Obama administration was expressing strong rhetorical support for the equality norm embedded in the NPT, to the point that it advocated doing more to meet its own disarmament commitments. The implicit message to Israel was that it needed to make at least some minimal concession in the nuclear realm in order to secure the

support of the Arab states for putting more pressure on Iran.

The full impact of the growing insistence on a greater focus on Israel culminated at the 2010 NPT RevCon, with Egypt's massive campaign to pressure the U.S. to accept its Middle East agenda—one which placed specific demands on Israel. Coming on the heels of the "New START" agreement between the U.S. and Russia, as well as Washington's much-publicized Nuclear Security Summit, it was clear that the Obama administration would accept nothing less than a proclaimed success for the RevCon. The stage was set for political blackmail, which was exactly what Egypt was counting on. Cairo explicitly threatened to block consensus on any decision at the RevCon if its Middle East agenda focusing on Israel was not accepted.

The Egyptian threat to bring close to 120 non-aligned states in line with its position presented a clear dilemma for the Obama administration. While not averse to asking Israel for some indication of willingness to broach the nuclear issue, the administration strongly rejected Egypt's agenda aimed at forcing Israel's hand regarding its policy of ambiguity and membership in the NPT. But because of its renewed commitment to disarmament, it found itself trapped by the normative precepts of this approach. The equality norm was especially strong within the framework of NPT discussions. This constrained America's ability to advance arguments about Israel's unique security concerns in order to convince the Egyptians to back down. Ultimately, the U.S. gave in to some (although not all) Egyptian demands, resulting in a final document in which Israel alone was named, Iran was not mentioned, and the idea of a conference on a WMD-free zone in 2012 was included.

But then something interesting happened. Almost immediately after the final document was adopted, official U.S. statements strongly attacked the communiqué for doing what the U.S. had just hours before reluctantly agreed to: singling out Israel and failing to mention Iran. The White House further clarified that the U.S. would object to any steps that would endanger Israel's security.⁴ It was as if the administration were saying: "If we can't challenge the Egyptians from within the RevCon, then we'll step outside the conference and say what we really think." The message of support to Israel, and the commitment to uphold its policy of ambiguity in the nuclear realm, was reiterated and significantly bolstered when Israeli Prime Minister Benjamin Netanyahu met with President Obama in Washington in early July.⁵ Ultimately, the "right of self-defense" norm seemed to carry the day.

Refocusing on Iran

In the final analysis, it would probably be fair to say that the NPT—and its accompanying RevCon documents—are what states make of them. And while the preceding analysis demonstrates the impact of normative precepts on the behavior of states and the outcome of the conference, political positions and commitments of strong actors hold more sway—at least in the short to medium term. So while Egypt was able to make headway at the conference, it is the strength of the U.S. commitment to Israel that will determine whether its "success" translates into something more concrete down the road.

While NPT documents can and do serve as precedents and as platforms for increasing pressure at future RevCons, at present the Obama administration's firm commitment to Israel's

security and to its policy of nuclear ambiguity are more important than what appears in the final document. Here, it's interesting to note that the Arab states take their cues from the U.S., and not necessarily in the manner one might expect. The common wisdom of the Obama administration had been that in order to increase the prospects for gathering a coalition of Arab states against Iran, Arab grievances against Israel would have to be addressed. Yet recent developments give reason to believe that when the U.S. indicated a decrease in its commitment toward Israel's policies—and adopted a harsher approach toward it—it may have been interpreted by Arab states as a green light to press Israel on nuclear matters.

Now that the U.S. has firmly expressed its ongoing commitment to Israel's security and the means by which to ensure it, Arab states might conclude that their message is likely to fall upon deaf ears, resulting in a diminution of pressure. This would be very much in line with the findings of a study of Arab perceptions of Israel's nuclear image which charted both the content and frequency of Arab reactions to Israel's nuclear program from 1960 to the early 1990s.⁶ In that survey, there was a clear dynamic according to which the nuclear issue was purposely "played up" and "played down" in correlation with assessments about whether increasing attention to Israel had a realistic chance of producing results. When it was judged that these efforts were unlikely to engender change, there would be a noticeable decrease in the overall amount of statements and commentary devoted to this issue.

More importantly, and somewhat paradoxically, it could be *this* dynamic—rather than the one whereby the U.S. tries to appear

more even-handed in its nuclear approach—that may stiffen Arab opposition to Iran’s nuclear advances, and decrease the focus on Israel. Indeed, in the weeks following the NPT RevCon, there has been a noticeable increase in concern from Arab states, particularly those in the Gulf, over the Iranian nuclear program. This has included hints of a willingness on the part of Saudi Arabia to turn a blind eye to Israel using Saudi airspace in order to carry out military action against Iran, and a statement attributed to the UAE ambassador to the U.S. that military action against Iran would be preferable to Iran gaining the bomb.⁷ While these media reports were officially denied by the states in question, they are in line with opinions expressed at unofficial levels in at least some of the Gulf states. Moreover, the UAE immediately supported the fourth round of UN sanctions against Iran, and expressed its commitment to do more to adhere. Other reports note an increased level of concern in Egypt and Jordan as well.⁸

But while pressure on Israel to join the NPT is highly unlikely to materialize, the same cannot be said about the idea for a conference on a WMDFZ in the Middle East.⁹ As opposed to the NPT—which focuses solely on the weapons, underscoring the equality norm—a regional process is where the hard realities of inter-state relations in the Middle East can be directly addressed by the participating parties. Taking regional realities into account in arms control efforts is the only way to advance more effective arrangements for the Middle East. It is in this arena that Israel must focus its energies, and concentrate its arms control efforts, in the years ahead.



1. Avner Cohen, for one, often targets the morality issue, whereas others point to the benefits of being an openly declared nuclear state, such as enhanced deterrence. For a collection of positions of Israeli analysts on this issue, see “Should Israel End Nuclear Ambiguity?” *Ynet*, April 15, 2010, and Leslie Susser, “Israel’s Policy of Ambiguity Comes under Fire,” *Jerusalem Post*, May 26, 2010. See also Avner Cohen’s forthcoming book, *The Worst-Kept Secret: Israel’s Bargain with the Bomb* (Columbia University Press, October 2010). It is noteworthy that focusing solely on the secrecy aspect of ambiguity risks ignoring more significant features of Israel’s nuclear policy that are served by ambiguity: namely the restraint and responsibility that Israel has exercised over the years in the nuclear realm and that have become the hallmark of its nuclear deterrent posture.
2. Official U.S. policy, of course, also calls on all states outside the NPT to join the treaty, including Israel. But this policy stems from its position with regard to the treaty, and not to any particular state. Indeed as far as Israel in particular is concerned, additional U.S. statements have clarified repeatedly that regional conditions in the Middle East would have to change dramatically before Israel would be able to consider actually joining.
3. Henry Sokolski, “Taking Proliferation Seriously,” *Policy Review* 121, Oct-Dec 2003, 51-64.
4. See “Obama Slams NPT’s Israel Focus,” *Jerusalem Post*, May 30, 2010.
5. “Obama Backs Israel on Nuclear Conference,” *Agence France-Presse*, July 6, 2010.
6. Ariel E. Levite and Emily B. Landau, *Israel’s Nuclear Image: Arab Perceptions of Israel’s Nuclear Posture* (Tel Aviv: Papyrus Publishing House, 1994), 167-170 (Hebrew).
7. For reference to Saudi Arabia, see: Hugh Tomlinson, “Saudi Arabia Gives Israel Clear Skies to Attack Iranian Nuclear Sites,” *Times of London*, June 12, 2010; for the UAE ambassador’s remark, see Eli Lake, “UAE Diplomat Mulls Hit on Iran’s Nukes,” *Washington Times*, July 6, 2010.
8. On the UAE position re UN sanctions, see Samir Salama, “UAE Tightens Noose on Front Companies,” *Gulf News*, June 21, 2010. On the position of Egypt and Jordan, see Yaakov Katz, “Cairo, Amman Worried about Iran Nukes,” *Jerusalem Post*, July 9, 2010.
9. For some principles that should be applied to this conference, see Emily B. Landau, “A Weapons of Mass Destruction Free Zone in the Middle East: Shaping the Contours of Discussion toward 2012,” Heinrich Boell Stiftung, July 6, 2010, <http://www.boell.de/intlpolitics/security/middle-east-weapon-mass-destruction-free-zone-middle-east-9625.html>.