The NPT and Nuclear Proliferation: Matching Expectations to Current Realities

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Introduction

There is widespread agreement in the international community today that the global nuclear non-proliferation regime faces a serious challenge: strong suspicions of military nuclear development in non-nuclear weapons states (NNWS) that are parties to the Nuclear Non-Proliferation Treaty (NPT). The centerpiece of the nonproliferation regime, the NPT, has come under criticism that it is ill-equipped to grapple effectively with the clandestine military nuclear programs of determined proliferators. Such deficiencies became apparent following the 1991Gulf War with the case of Iraq, and led to attempts to strengthen the verification capabilities of the IAEA. But today the examples of North Korea and Iran underscore that a determined proliferator can still significantly advance its nuclear program while maintaining its status as party to the NPT.

To enhance the treaty's role in stemming proliferation, analysts and policymakers alike have focused on two modes of action tailored to the NPT: strengthening the treaty's verification mechanisms further in order to heighten its capability to uncover and effectively confront signs of non-compliance on the part of NNWS; and urging the nuclear weapons states (NWS) to give more content to their own commitment to reduce their nuclear arsenals. The US in particular is encouraged to demonstrate leadership both by strengthening its overall commitment to the nonproliferation regime, and by taking a clear stand toward nuclear proliferators who are not parties to the NPT.

However, exclusive investment in the NPT as the recourse to stemming proliferation is insufficient, in light of conflicting messages that are inherent, first and foremost, in the treaty itself regarding the value of nuclear weapons. These mixed signals have given rise to an incongruence between the expectations of the NPT to stem proliferation successfully and its actual capability to do so. It is doubtful if what appears to be a shortcoming of the treaty can be remedied solely through improvements to the NPT, and this has important policy implications for dealing with determined proliferators.

This theme is particularly poignant against the background of recent developments in Iran. The

debate today over nuclear development in Iran is focused on the NPT; the primary direction for seeking a solution to Iran's nuclear aspirations is formulated in terms of securing compliance with the provisions of this treaty and its additional verification measures. The US and Europe differed in past months over whether the case of Iran should be referred to the UN Security Council, or whether Iran should be given one more chance to demonstrate its willingness to comply with and expand its commitments. Yet for both sides, the primary point of reference over the past year has been the NPT. However, understanding the inherent limitations of the NPT in stopping a determined proliferator invites more serious consideration of additional options for managing nuclear proliferation through arms control outside the scope of the global nonproliferation treaty. Most importantly, attention should be directed to incorporating a range of state interests into arms control negotiations and arrangements in a much more focused and serious manner than occurs in the framework of global treaties.

Conceptual Tension in the NPT

The central conceptual tension that plagues the NPT is the co-existence of two distinct messages on the value of nuclear weapons. While the principle of "nuclear weapons are generally bad for the security of states" was clearly the dominant message and rationale for the treaty as a whole, the idea that "nuclear weapons can sometimes be good for security" was legitimized as well.

The most visible expression of this duality is the very fact that the NPT recognized the five NWS as parties in their current status, while all other states that were parties to the treaty committed themselves to remain in a non-nuclear weapon status. However, the tension is more deeply embedded in the provisions of the treaty. In a recent article, Henry Sokolski notes that the diplomats who negotiated the NPT essentially agreed that all nations had *a right* to acquire nuclear weapons to defend themselves.[1] This is the basis for their understanding that if NNWS agreed *not* to exercise this right, they deserved to be compensated accordingly.[2] The exit clause of the NPT is particularly revealing in its recognition of the right of states to withdraw from the treaty if extraordinary events jeopardize their "supreme interests." In other words, the treaty acknowledges that extreme circumstances may require that states exercise their right to defend their national interest through the development of nuclear weapons. As to a potential clash between the principle that nuclear weapons are bad for security and other security interests that might encourage proliferation, the treaty implied that "resolution" would be carried out outside the bounds of the treaty – i.e., with the withdrawal of a NNWS whose supreme interests are not served by continued adherence to the treaty.

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Beyond the provisions of the treaty itself, the message of the positive value of nuclear weapons has been underscored by the attitudes and behavior of NWS over the years. At the level of the superpowers, the US and USSR/Russia have negotiated important and far-reaching bilateral arms reductions, but these were always carried out with an eye to their national security interests through continued nuclear capability. Even the most committed supporters of arms control today recognize that a certain, limited nuclear arsenal will long be deemed necessary by the superpowers for purposes of national security. Some recent discussions in the US advocate integrating nuclear weapons more actively in the national security doctrine. In addition, the US and other states have tended to accept Israel's nuclear deterrent as justified by its unique security situation and the serious threats that it faces.

Expectations vs. International Realities

Although both messages were apparent in the treaty, the initial

expectation was that states would espouse the dominant notion that nuclear weapons are in fact a danger to world security. Ratifying the treaty was expected to signal acceptance of this idea and engender compliance, backed up by safeguards agreements concluded with the IAEA. However, this grand expectation ignored the implications of the conceptual tension inherent in the treaty concerning the value of nuclear weapons. Having skirted the problem by placing a solution to a conflict of interests outside its bounds (through the exit clause), the NPT admits this tension and leaves it unresolved. Furthermore, the necessary conclusion is that the NPT is not equipped to stop a determined proliferator.

Since 1970, the international norm against nuclear weapons was strengthened, and consequently the negative value of nuclear weapons as expressed in the NPT became more commonly accepted. Widespread adherence of the vast majority of states (especially NNWS) to the NPT, additional bilateral arms control agreements signed by the superpowers, the decision of certain states to give up their nuclear option or discontinue nuclear development, the creation of Nuclear Weapons Free Zones, as well as the fact that nuclear weapons were not used by the nuclear weapons states, all worked to reinforce a broad international norm that maintains that nuclear weapons are a source of insecurity in international relations. Significantly, the normative rejection of nuclear weapons that developed was mistakenly attributed almost entirely to the success of the NPT. It was assumed that the treaty was playing an effective role in halting the proliferation attempts of specific states and in stemming the phenomenon of nuclear weapons proliferation. The fact that the NPT was based largely on the good will of states to acquiesce was forgotten, and the limited measures of enforcement via the comprehensive safeguards agreements concluded with the IAEA were elevated in the minds of some to the status of nonproliferation assurances.

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Thus, the gap between continued expectations of the NPT's role in preventing nuclear proliferation and its real ability to confront emerging international realities in the guise of states seeking nuclear capability widened. Similarly, the disillusionment with the NPT today is premised on this somewhat unrealistic expectation that was cultivated over the years, more on the basis of the influence of the international norm of nonproliferation that pervaded than on the real ability of the NPT to effectively confront a determined proliferator.

The extent of the gap today is captured by the following two statements, the first reminding us of what the US anticipated might happen with regard to nuclear development at the time the treaty was being negotiated, and the second representative of the current sense of disillusionment with the NPT, due to its demonstrated inability to stymie determined proliferators:

- "After the NPT, many nations can be expected to take advantage of the terms of the treaty to produce quantities of fissionable material...In this way, various nations will attain a well-developed option on a bomb. A number of nations will be able to detonate a bomb within a year following withdrawal from the treaty; others may even shorten this period."

US Department of State, Policy Planning Council, May 1968[3]

- "The [IAEA report on Iran] is a stunning revelation of how far a country can get in making the bomb while pretending to comply with international inspections."

Gary Milhollin, as quoted in the New York Times, *November 13, 2003*

The assessment from 1968 indicates that at the time of negotiation the expectation was that the NPT would in fact very likely not stop a determined proliferator, and may even enable its proliferation.[4] Thirty-five years later, there are expressions of surprise that the NPT was not able to effect what in fact it was never intended to do.

The pervasive sentiment opposing nuclear weapons did not erase the other, conflicting perception of these weapons, and therefore the tension between them was never squarely addressed and certainly not eliminated. As long as there was no overt conflict between the two messages regarding the value of nuclear weapons, both continued to exist simultaneously on the global scene, with a tolerable degree of friction. Yet this is the basis for the more harsh friction that today starkly exposes the deficiencies of the NPT. And indeed, in developing nuclear weapons, Iran as a treaty member could easily lock into the rationale that when facing severe threats to one's national security, nuclear weapons are not only not necessarily dangerous, but in fact almost essential for ensuring its national security.[5]

Moving Forward

Because the NPT embodies a limiting conceptual duality, it is constrained in its ability to provide a fully effective arms control instrument for dealing with this challenge. Similarly, because the NPT was not designed to resolve the inherent tension, it will be difficult to devise an answer solely in terms of the treaty itself. As a broad-based global treaty, the NPT can establish a broad-based principle/norm, but it is not equipped to deal with more specific security interests and dilemmas that can still motivate states to act.

The ensuing challenge of how to "move forward" may be too late to be put into effect for stopping Iran from becoming a nuclear state. Thus, it must be clear that at this late stage, the implications specifically for Iran may be more in the sense of *managing* the situation if current efforts fail and Iran becomes a nuclear state. But there are important lessons to be learned from this case for dealing with the threat of additional nuclear proliferation.

Any progress must be built on the recognition that the NPT embodies a conceptual dilemma and the resulting corollary – namely, that even a more determined commitment of the NWS to disarmament efforts and a much enhanced verification mechanism will not resolve it. Thus, in addition to international efforts to strengthen significantly the verification mechanisms of the NPT,[6] national security interests must also be considered, and in a much more direct manner. Recognizing that national security interests are inextricably linked to the logic of arms control and disarmament leads to the conclusion that they must be directly addressed in the context of arms control negotiations and agreements.[7] If state interests cannot be seriously addressed within the framework of broad *global* arrangements, these global agreements will have to be more heavily supplemented with *regional* security arrangements. Regional arrangements, with their more limited participation, are much better equipped to take a range of security interests seriously through focused interstate dialogue. The arrangements may consist of different types of arms control measures and security assurances, and may, through ongoing dialogue among the negotiating states, deal with changing international and regional realities on a continual basis.

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These ideas are not new, and were at the heart of the attempt in the early 1990s to pursue a regional security arrangement for the Middle East in the context of the Arms Control and Regional Security working group (ACRS). But they have not been prominent as a means for dealing with the suspected proliferation in Iran. Indeed, setting up a regional arms control dialogue at the present stage may be too late to convince Iran to desist from developing nuclear weapons. Still, it would have a very important role to play as a means of managing the situation in the Middle East if Iran becomes a nuclear state, and in light of threats of additional proliferation in the region. In the meantime, national interests can be integrated into a strategy for dealing with Iran, such as specific incentives and security assurances to be discussed in a more limited multilateral framework, along the

lines of the ideas under consideration for dealing with nuclear weapons development in North Korea.

A final caveat is that the NPT is vulnerable to state interests in another sense as well, from the direction of the international actors who are responsible for making decisions regarding the degree to which NNWS have upheld their commitments, when these states are suspected of noncompliance. As we have seen with Iran in recent months, even when there is broad agreement in the international community that Iran has been secretly developing a nuclear capability with potential military applications, when it comes to the question of enforcement, disagreements have emerged along political lines.

Interpreting the evidence, and the question of the degree to which Iran has demonstrated a willingness to comply, opens up the arena for other states to raise their individual national interests, which may be stronger than any threat they perceive from the nuclear weapons being developed. We see this in the division of opinion between the US and EU states with regard to the question of how to interpret the recent IAEA report on Iran's nuclear activities. And these issues of interpretation of evidence will not disappear, even when more stringent means of verification are in place. By limiting the number of states directly involved in each arms control agreement, regional security arrangements are likely to reduce the negative effect of conflicting interpretations as well. States directly negotiating such arrangements will constitute a "regional security complex,"[8] and are thus more likely to regard indications of nuclear weapons development as being highly relevant to their own security situation.

National security interests must be directly addressed in the context of arms control negotiations at the regional level.

Notes

1. Henry Sokolski, "Taking Proliferation Seriously," *Policy Review* no. 121, October-December 2003, pp. 52-53.
2. According to Sokolski, the compensation for NNWS consists of ensuring access to nuclear technology for peaceful purposes, establishing that the superpowers engage in good faith negotiations to cease their arms race, and securing the option to withdraw from the NPT in the face of extraordinary events.
3. Department of State, Policy Planning Council, "After NPT, What?" May 28, 1968, NSF, Box 26, LBJL; as cited in Avner Cohen, *Israel and the Bomb* (NY: Columbia University Press, 1998), p. 299, and mentioned in Sokolski.
4. Interestingly, Cohen offers this statement as evidence that "the expectation in early 1968 that Israel would eventually sign the NPT was not unreasonable or unrealistic," Cohen, p. 299.
5. The value of nuclear weapons as a means for ensuring security is conceived of primarily in the sense of deterrence, not actual use, but this is still a strong counter-message to the equation "nuclear weapons = insecurity."
6. For a comprehensive proposal, see Ephraim Asculai, *Rethinking the Nuclear Non-Proliferation Regime*, JCSS, forthcoming.
7. Scholars who focus on the nature of the nonproliferation regime make mention of the fact that one important feature of the regime is the interest of states in maintaining it (see, for example, Joseph S. Nye, who refers to the impact of "the calculated self-interest of many nonweapons states in forgoing nuclear weapons," in "NPT: The Logic of Inequality," *Foreign Policy*, no. 59, Summer 1985, pp. 123-4). However, the self-interest that Nye refers to was basically assumed for most states, rather than integrated into focused negotiations. What is advocated here is to incorporate into arms control negotiations a range of state interests, in a much more focused and serious manner. (For the NPT, other national interests come into the treaty only at the point of exit.)
8. This concept has been developed by Ole Waever and Barry Buzan in "An Inter-Regional Analysis: NATO's New Strategic Concept and the Theory of Security Complexes" in Sven Behrendt and Christian-Peter Hanelt (eds.) *Bound to Cooperate – Europe and the Middle East* (Gutersloh: Bertelsmann Foundation Publishers, 2000), pp. 55-106. See also Patrick M. Morgan, "Regional Security Complexes and Regional Orders" in David A. Lake and Patrick M. Morgan (eds.) *Regional Orders: Building Security in a New World* (University Park, PA: Pennsylvania State University Press, 1997).