

AN ASSESSMENT OF NPT REVIEW CONFERENCE, 2015: EXPECTATIONS, OBLIGATIONS, DILEMMAS AND OPPORTUNITIES

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AN OVERVIEW OF THE DEBATES AND DEVELOPMENTS

In the three years prior to every quinquennial nuclear Non-Proliferation Treaty (NPT) Review Conference (RevCon), state parties hold preparatory meetings to finalise an agenda for the conference. These Preparatory Committee (PrepCom) meetings comprise a platform to facilitate discussion on various issues through a number of working papers, statements, and summaries and reports. While the final outcome of the PrepCom, known as the final summary statement is non-binding in nature, it is useful in setting the direction for the upcoming RevCon. This paper analyses the NPT in the wake of the RevCon to highlight some of the challenges this pillar of non-proliferation faces in contemporary times.

In preparation for the 2015 RevCon, the three PrepComs—in 2012 (Vienna), 2013 (Geneva), and 2014 (New York)—deliberated on diversified issues. The final NPT PrepCom concluded in May 2014. It did not reach a consensus on the final recommendations but released a working paper of sorts. The working paper was prepared by Ambassador Enrique Roman-

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The Preamble of the treaty text could be viewed as an expression of the desire of the NWS to create conditions for effective arms control. As directed by the Preamble, the NPT parties, especially the P-5, could be viewed as having the responsibility to "...ease international tensions by strengthening the trust between them, such that cessation of nuclear weapons can be brought about...

Morey of Peru, highlights of which included the previous year's PrepCom's rhetoric on Article 6 of the NPT. However, given the inability of the PrepComs to really seize the initiative, nothing dramatic was expected out of the RevCon. And so it was.

NPT as the Nuclear Non-Proliferation Stalwart?

A cursory scan of the Articles of the NPT is sufficient to assess the essence and role of the treaty in combating threats to nuclear security. The NPT stands as recognition of the fact that a nuclear war will be the devastation of mankind and that the proliferation of nuclear weapons enhances the chances of a nuclear war. It is for these purposes that the NPT seeks to prevent the

wider spread of nuclear weapons. It does encourage, however, the promotion of nuclear energy for peaceful research and development under the framework of the International Atomic Energy Agency (IAEA) safeguards. The privilege of using nuclear equipment, materials, etc is limited to the parties to the NPT, defined by the law as Nuclear Weapon States (NWS) and Non-Nuclear Weapon States (NNWS). The NPT's privileged NWS are also the only five countries that are allowed to legally hold nuclear weapons.

In theory, ten Articles of the NPT govern the grand strategy towards achieving three objectives: (i) promotion of nuclear energy for peaceful purposes; (ii) prevention of the spread of nuclear weapons/technology/equipment/materials for military use; (iii) pursuit of universal nuclear disarmament.

In addition, the Preamble of the treaty text could be viewed as an expression of the desire of the NWS to create conditions for effective arms control. As directed by the Preamble, the NPT parties, especially the P-5,

could be viewed as having the responsibility to "...ease international tensions by strengthening the trust between them, such that cessation of nuclear weapons can be brought about..."¹

In fact, in the introduction to the NPT, to guide the prevention of vertical nuclear proliferation, NPT parties are also advised to abstain from signalling nuclear threats in their international relations. The treaty, in principle, guides the NPT members to promote and practically move towards the goal of disarmament. Further, it also directs the state parties towards the, "...liquidation of all their existing stockpiles, and elimination from national arsenals of nuclear weapons and the means of their delivery ..."²

In the realm of horizontal proliferation too, the treaty strictly invalidates nuclear "assistance", "encouragement", or "transfer" (direct or indirect) of a military nature by one country to another. This is the first Article of the NPT under which the supplier country is prohibited from sharing nuclear technology for military use. The recipient country, on the other hand, is also legally bound by the undertaking in Article 2 of the treaty to not *receive, or seek* assistance in terms of nuclear technology, equipment, materials, etc for military use.

To prevent the diversion of dual use technology into the military programme, the NNWS are kept under IAEA safeguards for verification purposes so that the unlawful spread of nuclear technology in any form (from one state to another) may be prevented. Safeguards under Article 3 are applied on all peaceful nuclear activities of a state occurring within the

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1. "Treaty on the Non-Proliferation of Nuclear Weapons, NPT Treaty Text", IAEA Information Circular , INFCIRC/140, April 22, 1970, p. 2, available at <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1970/infcirc140.pdf>. Accessed February 12, 2015.

2. Ibid.

state territory. Article 3 of the NPT can be considered as among the most significant Articles of the treaty as it categorically states, *"Unless it is subjected under the IAEA Safeguards, the state parties to the NPT are prohibited to provide even the source or equipment source of special fissionable materials..."* Safeguards required by Article 3 are to be implemented in such a manner that the *"... economic and technological development and international cooperation by the NPT countries in the field of peaceful should not be hampered...."*³.

It is noteworthy that the subsequent Article 4 of the treaty provides the *"...inalienable right of the parties to develop, research, produce and use of nuclear energy for peaceful purposes without any discrimination..."* Finally, Article 6 of the Treaty links the promotion of peaceful nuclear energy with the goal of disarmament. Under this Article, each state party agrees to pursue general and complete disarmament.

In short, one can argue that Articles 3, 4 and 6 of the NPT are responsible for maintaining the integrity of the treaty. They comprise the official guidelines under which each member is accountable to promote and use nuclear energy for peaceful purposes only, equally share the benefits of nuclear energy, and help lead to disarmament.

It is ironical that these objectives are viewed as the least effective in terms of their functionality in the present times. For instance, the objective of Article 3, of preventing the diversion of nuclear material and technology from a civilian nuclear weapons programme, has come under attack after the alleged Iranian nuclear weapons related activity. China's ongoing help to Pakistan's nuclear programme, despite the latter not being an NPT member, is also a violation of the treaty. Likewise, Article 4 provides for the inalienable right to nuclear energy of each state party, yet the tendency to restrict a country's right to the full fuel cycle through bilateral cooperation agreements prevails. US export laws prohibit enrichment technology cooperation. Furthermore, Article 6 of the treaty, responsible for promoting disarmament, has become more rhetoric than action.

Given the above, it is evident that the NPT has not been able to deliver effectively on three of its most important objectives. While an argument in

3. Ibid.

its favour can be made in that not many countries have been able to acquire a nuclear weapons capability since the treaty came into force, it cannot be overlooked that as more countries opt for nuclear power in the future, this partial incompetency of the NPT might develop into a more complex issue. Hence, the time is now ripe to find innovative ways to iron out these evolving issues into a future direction of the NPT's objectives.

NPT RevCon, 2015: Appropriate Timing

The timing of the NPT RevCon, 2015, could not have been more appropriate and immediate to the near and long-term nuclear security threats. Some of these issues stand out. The RevCon took place at the time when P5+1–Iran negotiations were on an upswing, and North Korea's suspected development of a miniaturised nuclear warhead for its KN-08 Inter-Continental Ballistic Missile (ICBM)⁴ had been reported. The US-Russia nuclear relations had taken a downturn. The US and North Atlantic Treaty Organisation (NATO) remained more committed to a robust missile defence with its deployment in Romania, Turkey and Poland in the near foreseeable future⁵

CONTEMPORARY CHALLENGES HAUNTING THE NPT

In the 1990s, a period often referred to as the beginning of the second nuclear age, the second PrepCom of the NPT ended, ironically, two days before the Indian Peaceful Nuclear Explosions (PNEs) in 1998. Experts have

4. Anthony Capaccio, "North Korea Can Miniaturize a Nuclear Weapon, U.S. Says", *Bloomberg*, April 8, 2015, available at <http://www.bloomberg.com/news/articles/2015-04-07/n-korea-can-mount-miniature-nuclear-weapon-u-s-admiral-says>. Accessed on April 8, 2015.

5. The US' funding for completing work on the missile defence base at Devesulu in Romania continues, at a cost of \$169 million for construction and \$164.089 million over FY16-18 for procurement of Aegis Ashore for Poland. In addition, the Obama Administration has also requested for \$559 million for procurement of Aegis ballistic missile defence by the end of FY 2016. For details, see Frank A. Rose, "International Security and Missile Defense," Remarks at the Romania-American University/National School of Politics and Administration Bucharest, Romania, US Bureau of Arms Control, Verification and Compliance, US Department of State, March 30, 2015. Available at <http://www.state.gov/t/avc/rls/2015/239988.htm>. Accessed on April 2, 2015.

argued that a new era of nuclear weapons proliferation⁶ (horizontal) had begun. Increasing proliferation threats were foreseen from nuclear black markets. In the contemporary times, the NPT is facing mainly two kinds of challenges: from outsiders and insiders.

The Non-NPT Challengers: Outsiders

Non-proliferation proponents have looked at the treaty as being challenged from *Outside, Within, Below and Above*.⁷ From the outside, nuclear weapons related developments in Pakistan, India, and Israel continue to question the nuclear non-proliferation regime's worth. They are referred to as outliers and every NPT RevCon has made calls for universalisation of the treaty, asking the three to join it as NNWS. This is hardly plausible. In 2008, an exception was made for India to accommodate it into the regime for its good non-proliferation record and responsible behaviour. Since then, Pakistan has made demands for similar accommodation. But, at present, Pakistan is heavily investing in the nurturing of its tactical nuclear weapons (without a corresponding operative and functioning doctrine). Pakistan, with a steady proliferation record, should not be allowed by the international community to join the nuclear regime as a nuclear weapon state. But the challenge then remains as to how to check its future proliferation activities? What innovations could be incorporated into the working of the regime to keep a check on an outsider state's activities affecting the sanctity of the treaty? In this context it is, thus, important to find answers as to how to align Pakistan towards a non-proliferation agenda, especially when it has already made its position clear on measures such as the Comprehensive Test Ban Treaty (CTBT) and Fissile Material Cut Off Treaty (FMCT).

The status of Israel's nuclear weapons, despite its policy of opacity, is estimated at 80 nuclear warheads with delivery capability by aircraft and sea-based launched cruise missiles. One of the components of this 'outside challenge' has done more harm to the NPT's prospects of a

6. Bhumitra Chakma, "Pakistan's Nuclear Weapons Programme" cited in Olav Njolstad, ed., *Nuclear Non-Proliferation and International Order: Challenges to the NPT* (London, New York: Routledge, 2011), p.33.

7. Njolstad, Ibid.

Nuclear Weapon Free Zone (NWFZ) in the Middle East. One must recognise that with the exception of Israel, all countries in the region are part of the NPT. As long as the neighbours feel threatened by the presence of Israeli nuclear capability in the Middle East, the process of an NWFZ might not see the light of day. It is known that Israel was the first state in the Middle East to have developed a large scale nuclear weapon programme. Even though Israel has maintained that it would not be the first country to introduce nuclear weapons into the Middle East region, its policy of nuclear opacity has long-term implications for the region's stability. Moreover, because the possession of nuclear weapons capability is viewed as the only "life insurance policy"⁸ against its threat perceptions by the influential Israeli elite, any diffusion of this core security instrument is not to likely.

The NPT Challengers: Insiders

Growing Importance of Nuclear Weapons: A Critique of the P-5

As mentioned earlier, the NPT has also been challenged by the insiders, through nuclear weapon development. In recent years, credible nuclear deterrence is being enhanced by all the P-5 countries. The United States is engaged in its nuclear weapons overhaul. The Russian Federation too has a major nuclear modernisation programme underway which includes nuclear delivery systems, warheads and production facilities. Another powerful P-5, China too is pursuing its BMD programme by modernising its land-based ballistic missiles. The nuclear weapons strategic developments in France and the UK too are inching towards modernisation. Both countries have sea-based deterrence as the centre of their nuclear strategy. France is currently upgrading its nuclear submarines and this is expected to be completed by 2018. The UK plans to retain its submarine nuclear deterrent force for an indefinite future. According to a 2010 British Strategic Defence

8. Ramesh Thakur and Gareth Evans, "Nuclear Weapons: The State of Play," Centre for Nuclear Non-Proliferation and Disarmament, Crawford School of Public Policy, Australian National University, 2013. Available at <https://cnnd.anu.edu.au/files/2013/state-of-play-report/Nuclear-Weapons-The-State-of-Play.pdf>. Accessed on July 28, 2015.

In the United States, renewed support for the movement of nuclear disarmament was evident after President Obama launched his Prague Agenda. However, two alternative arguments against his disarmament movement have emerged lately. Critics disapprove of this objective on the basis of its impracticality. It is argued that because the ultimate goal is “not feasible,” “it is, therefore, dishonest to hold out a hope that it can be achieved.”

and Security Review, there is a plan in place for reducing the size of the British nuclear arsenal from 160 to 120 (operational stockpile) and from 220 nuclear warheads to 180 (from the total size of the nuclear stockpile, including non-deployed) by the mid-2020s.⁹

All the P-5 countries retain a key role for nuclear weapons in their national security strategies. This further complicates the process of effective negotiation of the non-proliferation objectives at the NPT RevCons. As long as nuclear weapons and their threats and even presence continue to shape or influence international political gains for a country, especially the P-5, any progress on the ultimate goal of the NPT (leading the world into disarmament) would be difficult. It would be practically impossible to convince the outliers such as

India to accede to the treaty because of the unfinished pledge of the P-5 on nuclear disarmament. It is noteworthy to mention here that the NPT offers a “balance of mutual responsibilities and obligations”¹⁰ between the NWS and NNWS members.

This balance is the double bargain of the NPT suggested by the eight non-aligned members of the Eighteen Nation Disarmament Committee (ENDC) in the year 1965. It is worth mentioning here that the NWS haven't delivered qualitatively on their commitment as today, the combined number of the stockpiles of their nuclear warheads remains high, at approximately

9. Shanon N. Kile and Hans M. Kristensen, “British Nuclear Forces”, and Philip Schell and Hans M. Kristensen, “French Nuclear Forces”, *SIPRI Yearbook 2013: Armaments, Disarmament and International Security*, 2013, pp. 300-303 and pp. 303-304 respectively.

10. David Hollaway, “The US and the NPT: Double Bargain”, cited in Njolstad, ed., n.6.

16,075¹¹ nuclear weapons.

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Another school of thought in the US has opposed President Obama’s move to a nuclear weapon free world on the ground that such a step would eventually compel many states, especially those under the current nuclear umbrella of the US, to fend for themselves. If the US, in due course of time, were to move to deep reductions and, finally, to elimination of nuclear weapons, then the US allies, that have benefitted from the policy of extended deterrence, are most likely to seek nuclear weapons of their own. Futter and Zala have elaborated this line of argument in their article titled, “Advanced US Conventional Weapons and Nuclear Disarmament: Why The Obama Plan Won’t Work”.

The authors argue that President Obama’s strategy of increasing the role of advanced conventional weaponry in the US national security strategy in order to reinvigorate the global nuclear disarmament agenda is fundamentally flawed. President Obama’s strategy towards a world free of nuclear weapons involves two components: (1) to reduce the salience and centrality of nuclear weapons in the current defence posture; and (2) to

Although the initiative of gaining superiority in the conventional defence posture has been continuing from the previous Bush Administration, its rationale by the Obama Administration has been linked to disarmament.

11. World Nuclear Stockpile Report, *The Ploughshare Fund*, updated August 28, 2015. Available at <http://www.ploughshares.org/world-nuclear-stockpile-report>. Accessed on April, 11, 2015.

12. *Ibid.*, p. 161.

mitigate the fallouts of the nuclear reductions on the US nuclear posture. President Obama is attempting to place far greater reliance upon advanced conventional capabilities.¹³ This is being done in order to facilitate domestic conditions that would favour US nuclear reductions. This would likely be a signal to the allies of the US' security assurances through advanced conventional weaponry. It is interesting to note that although the initiative of gaining superiority in the conventional defence posture has been continuing from the previous Bush Administration, its rationale by the Obama Administration has been linked to disarmament.

President Obama's BMD development in exchange of disarmament is likely to backfire as *"existing conventional imbalances will magnify the US power"*. This is likely to make the US' rivals feel more vulnerable. To elucidate further, in a disarmed world, *"the US conventional power projection would likely increase a concern that it may be used to intimidate, attack or overthrow a regime."*¹⁴ Moreover, the significance of President Obama's BMD for the nuclear disarmament agenda appears to be conspicuous, as his support to BMD development with regard to funding has surpassed that of the Administrations of Ronald Reagan, George H. Bush and Bill Clinton.

The idea of effective deterrence through conventional weaponry and BMD advancement in order to convince the sceptics, according to Futter and Zala, is likely to backfire. This stands true if one evaluates the present tensions in the US-Russia nuclear dynamics. Because both the US and Russia, even today, remain at the heart of each other's security thinking when it comes to nuclear issues, any BMD development on either side is likely to trigger an equal response. In this manner, the agenda of disarmament would produce unintended consequences as it would destabilise the strategic stability between two key world powers. Moreover, it would appear less likely that states would accept a situation wherein maintenance of stability would be conditioned to the advanced conventional weaponry – in which

13. Andrew Futter and Benjamin Zala, "Advanced US Conventional Weapons and Nuclear Disarmament: Why The Obama Plan Won't Work," *Non-Proliferation Review*, vol.20, no.1, pp. 107-122.

14. Ibid.

only the US maintains an edge at present.

Moreover, the US' conventional strength enhanced to its optimum might appear to work in countering threats from smaller states like Iran and North Korea, but in truth is likely to shape their nuclear ambitions. Because nuclear weapons are viewed as "great equalizers" to the US conventional superiority, the asymmetric equation of military capability would likely work as an impetus towards the acquisition of nuclear weapons by the smaller countries.¹⁵

However, in this manner, the US might not been able to deliver on its special responsibility to promote disarmament. As the first country to build and drop the nuclear bomb, the US' leadership role has often been cited in creating a nuclear weapon free world. While President Obama may have tried to initiate the leadership through his Prague Agenda, it has not won the hearts of sceptics worldwide, resulting in mistrust of his disarmament agenda. This disenchantment of states outside the NPT and even the member states has become counter-productive to the 'double bargain' of the treaty.

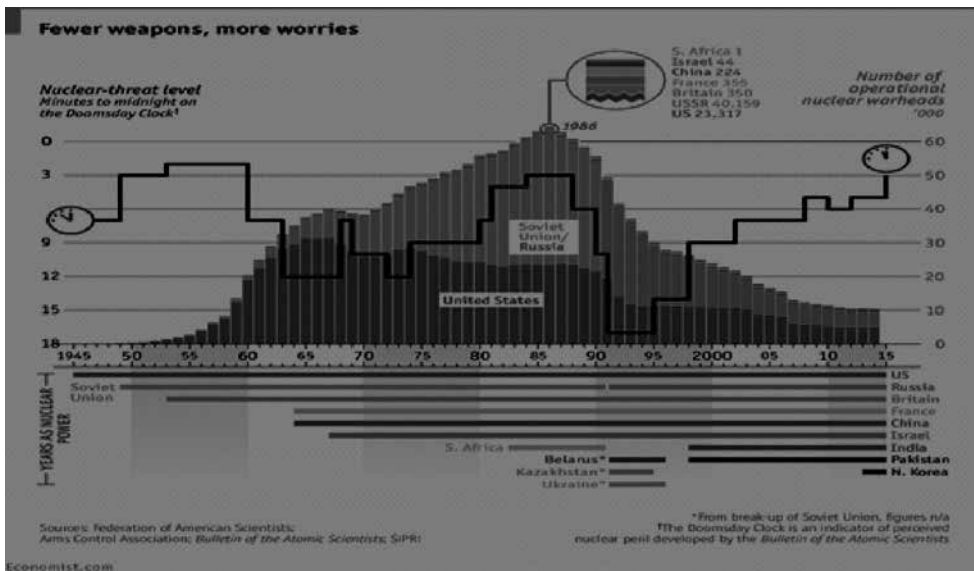
One of the members of the P-5 itself has been more vocal in conveying its disillusionment with the US agenda. While China in principle views the possession of nuclear weapons as immoral in human society, it nevertheless aspires to match the nuclear capability of the US, as it seeks to prevent any nuclear blackmail by its enemies. China has often cited the incidents of intimidation by President Truman and President Eisenhower in 1950 and 1953 as the rationale for its possession of nuclear weapons. Furthermore, many Chinese experts have argued that in the present time, the US BMD system is without a doubt, the single most important factor in influencing China's need to maintain a nuclear balance by strengthening its nuclear deterrence capability.

On the other hand, China itself is a cause of concern due to its rising nuclear arsenal and its lack of contribution to the multilateral forum promoting disarmament. China has taken no steps in support of any initiative in nuclear disarmament. A diagram published in *The Economist* magazine

15. Ibid.

presents a comprehensive picture of the current nuclear capability possessed by all the states, within and outside the NPT (see Fig 1). The diagram clearly illustrates the P-5 leading the race in possessing the highest number of nuclear weapons. In this context, the Revlon outcome only replicated the previous calls of nuclear arsenal reduction measures for the NWS.

Fig 1: Fewer Weapons, More Worries



NUCLEAR ENERGY PROMOTION VS NON-PROLIFERATION: THE CASE OF IRAN

In order to facilitate safe promotion of nuclear energy without the risk of clandestine diversion into a weapons programme, the acceptance by all the NNWS of an *Additional Protocol* since the 2005 Revcon has been viewed as a prerequisite for the supply of nuclear material, equipment and technologies. Over the years, initiatives such as the Global Threat Reduction Initiative (GTRI) along with the national and international export control mechanisms for nuclear materials have been added as mandatory. This is an important issue as the protection of the inalienable right of the member states (NNWS) to develop their nuclear energy programmes for peaceful purposes not only gets reaffirmed with every

Revcon, but also because it bears direct linkages to the three main important Articles of the NPT .

On matters relating to nuclear energy, the Action Plan of the NPT-2010 reminded the state parties about their obligation to ensure that their nuclear-related exports do not directly or indirectly assist the development of nuclear weapons. The parties were also reminded to ensure nuclear export transparency. The NPT RevCon took place on the sidelines of the P5+1 – Iranian nuclear talks.

It was expected that the issues of granting of enrichment rights to Iran vis-a-vis nuclear energy promotion and the risk of diversion would be debated at the RevCon. However, Iran's presence at the RevCon did not amount to much. It did not even deliver a national statement at the general debate, and focussed more upon the P5+1 talks, as the deadline for a comprehensive agreement approached. The issue of nuclear energy promotion with non-proliferation guarantees was reduced to an affirmation on strengthening transparency in export control policies.

NPT WITHDRAWAL ISSUE: NORTH KOREA

According to Article 10 of the NPT, a state has the sovereign right to withdraw from the treaty. It can withdraw from it after giving a three months notice to the UN Security Council (UNSC), with a condition stating that “*extraordinary events*” may jeopardise its supreme national interest. To preserve the treaty's universality, the depositaries of the NPT (Russia, the UK and the US) are supposed to undertake diplomatic efforts to prevent the withdrawal.

However, when North Korea gave advance notification on its withdrawal from the NPT in the year 1993, the P-5, the legal guardians of the treaty, did little to prevent the treaty from losing its member. While there was pressure on North Korea to accept with immediate effect the IAEA safeguards/ verification, the P-5 could not go beyond a minor reprimand. It became clear later that China could not be persuaded to join the other P-5 members of the

In fact, the NWFZ issue garnered the most interest and raised the most controversy at the 2015 NPT Review Conference. On the final day of the conference, consensus for the full draft of the RevCon final document was not secured due to the dispute over the Weapons of Mass Destruction Free Zone (WMDFZ).

UNSC in taking action against North Korea.¹⁶

One may argue that these negotiations led to the Agreed Framework of 1994 between the two countries. However, the North Korean proliferation problem still haunts the efficacy of the nuclear non-proliferation regime. Once again, in 2003, the North Korean notice to the UNSC did not invite any concrete action on the withdrawal issue. What exactly delayed the response of the P-5 in taking up appropriate measures cannot be known with certainty as the US-China discussions were not made public. No amount of counter-factuals can actually provide an insight on why the UNSC did not intervene on the basis of its “... *threat to peace...*” from the UN Charter to prevent North Korea’s withdrawal from the NPT as this could have been read as having security implications. The problem lies in the very fact that the NPT itself gives the right to withdraw under exceptional circumstances which are not defined.

It has been more than a decade since the first time (2003) a country withdrew from the NPT. While in the immediate PrepCom for the RevCon (2015), the issue was avoided, in the 2004 PrepCom, France and Germany proposed that a withdrawing country ought to give up its nuclear materials and its right to their use, and should still be accountable for the breaches and acts of non-compliance. The issue of withdrawal from the NPT remains a debatable point as the North Korean issue has only become more difficult to resolve over time. The final draft document remained silent on the issue of north Korean withdrawal.

16. George Bunn and John Rhinelander, “The Right to Withdraw from the NPT: Article X is Not Unconditional”, *Acronym Institute*, May 1, 2005, at www.acronym.org.uk/dd/dd79/79gbjr.htm. Accessed on March 30, 2015.

THE MIDDLE EAST NWFZ

The last RevCon had put emphasis on the negotiations over the establishment of the NWFZ in the Middle East by delivering the “practical steps” towards the implementation of the 1995 UN Resolution on the Middle East NWFZ.¹⁷ However, progress on the agenda in the subsequent years has remained low. The subject of an NWFZ was expected to invite discussions in the RevCon, 2015. Since 1995, a conference on the Resolution on the Middle East NWFZ had been planned for 2012. Prior to the RevCon, it was anticipated that this issue would generate a lot of focussed attention as Egypt’s disappointment with the process was revealed when it boycotted it in 2012. Pessimism has surrounded this process from the outset.

The RevCon revealed exactly that. In fact, the NWFZ issue garnered the most interest and raised the most controversy at the 2015 NPT Review Conference. On the final day of the conference, consensus for the full draft of the RevCon final document was not secured due to the dispute over the Weapons of Mass Destruction Free Zone (WMDFZ) Conference: it was on this basis that the US, joined by Britain and Canada, withheld support for the document.¹⁸ All the three countries opposed an agreement that enjoyed the support of 188 member states. The US specifically opposed Egypt’s suggestion of holding a regional conference on banning nuclear weapons by 2016 – with or without Israel. The RevCon finally concluded without any clearly defined path to the issue of an NWFZ in the Middle East.

17. 2014 NPT PrepCom: Day 10, Recommendations to the 2015 NPT Review Conference”. Available at <http://www.sipri.org/research/disarmament/2014-npt-prepcom/day-10>, Accessed on March 19, 2015; and “2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons”, NPT/CONF.2010/50 (Vol. I), 2010). Accessed on March 22, 2015 at <http://www.un.org/en/conf/npt/2010/>; and “NPT Action Plan Monitoring Report March 2014”, section on “Developments Regarding a Potential Weapon of Mass Destruction Free Zone in the Middle East (MEWMDFZ)”. Available at: www.gcsp.ch/content/download/8886/105587/download. Accessed on March 23, 2015,

18. Emily B. Landau and Shimon Stein, “2015 NPT RevCon: WMDFZ Conference Off the Table, for Now”, *INSS Insight* no. 705, June 3, 2015, available at <http://www.inss.org.il/index.aspx?id=4538&articleid=9716>. Accessed on June 25, 2015

Simply put, the HINW views nuclear weapons possession as catastrophic to humanity. The HINW approach is an effort from civil society to bridge the rift between the P-5 and NPT parties on the lack of progress on disarmament.

“SOFTER ISSUES” IN THE NPT

Humanitarian Impact of Nuclear Weapons

Although a relatively new issue, the scope for debating the impact of nuclear weapons on humanitarian grounds could be linked partly with the Preamble of the treaty text that states “...undertake effective measures in the direction of nuclear disarmament...” Furthermore, disarmament as an objective has been made mandatory as agreed to by the P-5 under Article 6, that directs each state party to have “good faith negotiations” towards the termination of an arms race and also take measures towards “general and complete disarmament”. The Humanitarian Impact of Nuclear Weapons (HINW) as a concept argues for delegitimising the possession of nuclear weapons by any country on the basis that nuclear weapons severely impact all humankind. Simply put, the HINW views nuclear weapons possession as catastrophic to humanity. The HINW approach is an effort from civil society [the International Campaign to Abolish Nuclear Weapons (ICAN), International Physicians to Prevent Nuclear War (IPPNW), etc] to bridge the rift between the P-5 and NPT parties on the lack of progress on disarmament.

Two years ago (2013), representatives from 127 countries gathered at Oslo to discuss the HINW by exploring three key issues: (a) the immediate humanitarian impact of a nuclear weapon detonation; (b) the wider impact and longer-term consequences; and, finally, (c) the humanitarian preparedness and response capacity. The Oslo Conference was joined by representatives from political offices and international Non-Governmental Organisations (NGOs) such as the Norwegian foreign minister, the president of the International Committee of the Red Cross (ICRC) and the UN High Commissioner for Refugees (UNHCR). Since 2013, the follow up on the HINW approach was conducted by a conference in Mexico (2014) and Vienna (2014). Within two years, the HINW approach has been able to motivate a

number of countries on the urgent need towards action on banning nuclear weapons. While the first HINW conference was boycotted by the P-5, the subsequent conferences have been able to put pressure by way of, at least, having initiated a discussion on the humanitarian approach.

What has HINW Achieved?: The recent HINW conference in Vienna (2014) was again attended by 158 state representatives. Significant endorsements of the HINW approach were put forward by Pope Francis and the UN general secretary. The HINW conference addressed the humanitarian consequences of nuclear weapons on a range of issues such as human health, environment, agriculture and food security, migration and the economy, as well as the risks and likelihood of the authorised or unauthorised use of nuclear weapons, international response capabilities, etc.¹⁹

Interestingly, two Ambassadors, Libran Cabactulan (permanent representative of the Philippines to the UN) and Axel Marschik (Austrian ambassador to the EU Political and Security Committee), who had participated in the previous (2010) NPT RevCon, expressed the urgent need for all states at all times to comply with the applicable international law, including international humanitarian law. The HINW approach has indeed initiated the discourse on the subject of disarmament through the lens of humanity. At the Vienna Conference (2014), 45 governments explicitly called for further multilateral negotiations to prohibit nuclear weapons and even called for “the commitment of states and civil society to reach new international standards and norms, through a legally binding instrument”.²⁰

As 2015 also marks the 70th anniversary of the use of nuclear weapons in Hiroshima and Nagasaki, the NPT RevCon, 2015, was expected to have major deliberations on this issue. It was expected that this RevCon

19. “Report and Summary of Findings of the Conference, Vienna Conference on the Humanitarian Impact of Nuclear Weapons, Europe Integration Foreign Affairs”, Federal Ministry Republic of Austria, December 8-9, 2014, available at http://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Abruestung/HINW14/HINW14_Chair_s_Summary.pdf, Accessed on March 31, 2015.

20. Rebecca Johnson “The Austrian Pledge To Ban Nuclear Weapons”, *Open Democracy*, December 15, 2014 available at <https://www.opendemocracy.net/5050/rebecca-johnson/austrian-pledge-to-ban-nuclear-weapons>. Accessed on April 24, 2015.

would deliberate upon the next steps towards nuclear disarmament, by incorporating the HINW approach.

In fact, the three consequent HINW conferences had resulted in the 'Austrian Pledge.' As an outcome of the Vienna HINW Conference, the Austrian pledge was supposed to be put forward as an input to the NPT RevCon 2015. In this context, Austria was expected to initiate and put pressure on the NPT state parties to renew their commitments towards Article 6 of the NPT in relation to the human security aspect. Specific action on the identification of effective measures in order to legally promote the elimination of nuclear weapons were expected.²¹

It is worth mentioning that by March 2015, two months before the Review Conference, 61 countries had already signed the Austrian Pledge.²² Clearly a consensus of some sort was gained outside of the P-5 on key issues: (a) the approach concerning the total elimination of nuclear weapons is the most effective way to prevent their use; (b) the scope, scale and interrelationship of the humanitarian consequences caused by a nuclear weapon detonation are catastrophic and more complex than commonly understood; thus, an urgent framework is required; (c) all the NWS must take concrete interim measures to reduce the risk of nuclear weapon detonations, including reducing the operational status of nuclear weapons and moving nuclear weapons away from deployment into storage, including the effort towards the diminishing the role of nuclear weapons in military doctrines.²³

Additionally, the HINW approach had generated a widely accepted certainty that there is no state/ international body / mechanism that can adequately address the immediate humanitarian emergency caused by nuclear weapons. The least that the HINW approach had achieved was the initiation of an urgent policy-based discourse on the elimination of nuclear

21. Austrian Pledge, Federal Ministry of the Republic of Austria, December 8-9, 2014, available at http://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Abruestung/HINW14/HINW14_Austrian_Pledge.pdf. Accessed on March 31, 2015.

22. For a detailed list of the countries that have signed the Austrian Pledge, see <http://www.icanw.org/pledge/>

23. Parliamentary Debate on the NPT, "Nuclear Non-Proliferation Treaty Review Conference", March 9, 2015, ICAN- UK, available at <http://Uk.Icanw.Org/Action/Parliamentary-Debate-On-The-Npt-March-9-2015/>. Accessed on July, 28 2015.

weapons. While in the last RevCon, 2010, the humanitarian approach was only mentioned in the final document and the working paper to the RevCon submitted by the Non-Aligned Movement (NAM) countries, a momentum in support of the treaty to ban and eliminate nuclear weapons had begun. However, the issue of disarmament was not even discussed through the HINW approach at the RevCon, which had garnered a lot of attention in the run-up to the NPT.

Nuclear Safety and Security: Renewed Attention

Since the 2011 Fukushima accident, the issue of nuclear safety once again invited renewed attention in the current NPT discourse. Newer mechanisms such as the Convention on the Physical Protection of Nuclear Material (CPPNM) have evolved in the recent years that promote the objective of nuclear safety. As continuation of the 2005 agenda, once again, the NPT was expected to urge for stronger compliance to the CPPNM. More so, because the agenda of nuclear security had already been carried forward by President Obama's nuclear security summit. As the last National Security Strategy (NSS) is also scheduled to take place next year (2016), nuclear safety under the aegis of maintenance of nuclear security was expected to be deliberated at the RevCon, 2015. A discussion on the Convention on the Physical Protection of Nuclear Materials (1979), International Convention on the Suppression of Acts of Nuclear Terrorism (2005), and Global Initiative on Combating Nuclear Terrorism (GICNT) was viewed by the NPT RevCon, 2015, as an important element for the nuclear security architecture. The RevCon reiterated the state's responsibility for the maintenance of nuclear security and called upon all states to achieve highest standards of nuclear safety in accordance with IAEA goals. It reiterated the actions adopted in the previous nuclear security summits.

CONCLUSION

This year too, the RevCon remained a continuation of the last RevCon's agenda such as reaffirmations on actualising the CTBT's entry into force, promotion of the NPT's universal adherence, strengthening of the IAEA's competency and universalisation of the Additional Protocol, etc. The

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incomplete goal of an NWFZ in the Middle East is likely to haunt the discussions post the RevCon. Similarly, issues concerning North Korea's ballistic missile testing that needed urgent attention were also evaded. Despite a general consensus during the 2012 PrepCom, the P-5 had not been able to prevent North Korea from progressing on the path to acquiring nuclear weapons. In 2013, the North Korean crisis revealed the NPT's vulnerability. The vulnerability continues today as a solution to withdrawal is still pending.

In the earlier PrepComs and RevCons, new approaches to disarmament were added. As many as 80 countries, including the Vienna Group of 10 supported South Africa's call on the humanitarian impact of nuclear weapons that emphasised on an approach to negate the indiscriminate, unacceptable harm caused by nuclear weapons to socio-economic development. However, the continuous weapons modernisation programmes by the NWS and the stalemate in the FMCT reflect unfulfilled disarmament obligations. While the New START could be seen as a step towards the objective of disarmament by the most nuclear loaded P-5, it is also inadequate, as it allows modernisation and still provides scope for undeployed strategic or tactical nuclear weapons. This hinders the universal and unconditional progress of disarmament.²⁴

Twenty-five years after the NPT became a norm building institution, the NPT Conference in (1995) extended the treaty for an indefinite period along with a once in five years review on the working of the NPT. The idea of a five-year report card was supposed to take forward in 'practice' the objectives of the NPT. While the treaty has been able to sustain itself over the last four and half decades as the only legal blueprint for comprehensive,

24. "Hina Pandey, "In-Between the Prepcoms & Recons: Expectations from the Upcoming NPT Revcon 2015", *In-Focus*, 2014, CAPS, available at http://capsindia.org/files/documents/CAPS_Infocus_HP_4.pdf. Accessed on July 28, 2015.

peaceful nuclear energy promotion under international verification, some exceptional cases, such as North Korea and Iran, etc (as NPT members) have haunted the efficacy of the treaty. Sceptics have also questioned whether the treaty actually prevents the diversion of dual use technology.

Over a period of time, the gaps in the treaty have also been exposed as significant weaknesses. The incorrigible dilemma over the withdrawal issues, the lack in the treaty's mechanism to fight nuclear terrorism, the NPT's lack of innovation and mandate in dealing with the challenges outside the treaty, all cast a shadow on every RevCon's consensus. This is significant as the Revcon is the only conference that is supposed to produce a final document based on unanimous agreement upon critical non-proliferation issues. It appears that the NPT Revcons have moved from 13 practical steps to 64 steps of the "Action Plan" but without much progress. Every five years, more layers and approaches get added to the NPT Revcons, which only generate discussions

The usefulness of the atomic bomb to the strategic thinkers and practitioners in international politics is manifold. Nuclear weapons capability has been viewed as a way to elevate prestige in international politics, influence geo-political equations and also as an instrument to counter power symmetry. All this lends support to the notion that nuclear weapons capability has utility in international politics. It is because of this use of nuclear weapons in influencing power politics that the P-5 insist on retaining nuclear weapons. This understanding of the P-5 contradicts

India has recently signed the Additional Protocol of the IAEA safeguards, furthering its non-proliferation commitment a step ahead; however, this does not seem to have registered in the current non-proliferation debate. In fact, in recent years, the nuclear non-proliferation literature has closely observed the nuclear weapons related developments in South Asia and remarked that the two nuclear tests in South Asia (1998) initiated a proliferation chain reaction from countries such as North Korea and Iran.

the dual bargain of the NPT. Furthermore, since the RevCon took place at a time when there was more awareness and urgency to resolve pending issues, it should have been viewed as an opportunity towards a fresh start on older issues; but it failed to do so.

In recent times, especially since the US-India civilian nuclear cooperation deal was concluded, the Indian non-proliferation commitments has raised many eyebrows. The doubts of the sceptics have given rise to a generic disappointment that prevails among many supporters of nuclear non-proliferation. It has been often argued that the US' opening up of international civilian nuclear commerce trade to India has done serious damage to the non-proliferation regime. It has resulted in Pakistan asking for a similar exception from the US and China and, thus, has catapulted a disappointment among the NPT.

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In the run-up to the NPT, a strong discourse on the disarmament agenda, especially relating to the humanitarian consequences and expressions such as a ban on the bomb were gaining momentum. A strong voice from the NPT NNWS was also audible. The NNWS claimed that their frustration with the pace of nuclear disarmament was increasing and were critical of the NWS' pursuit of a nuclear weapon free world. While these views made a start in the beginning of the NPT RevCon, with joint statements being released, the release of the first drafts of the Main Committee and Subsidiary Body-1 toned down these narratives.

As argued earlier, the desirability of nuclear disarmament has been shaping the nuclear security discourse since the year 2010; this was accentuated especially after the three conferences on the Humanitarian Impact of Nuclear Weapons (HINW) held in Oslo, Nayarit and Vienna. Furthermore, in the months leading to the NPT RevCon, 2015, the Austrian Pledge has further raised the profile of HINW as a strong rationale for achieving nuclear disarmament. On December 9, 2014, Austria called upon the state parties to the NPT to renew their commitment and take urgent action towards nuclear disarmament. At the Vienna Conference (2014), Austria pledged to facilitate cooperation among the state parties and relevant international stakeholders, including international NGOs in order to “stigmatize, prohibit and eliminate” nuclear weapons. The Austrian Pledge views nuclear weapons as being the “only weapons of mass destruction not yet explicitly prohibited under international law”, and for this purpose, the “Austrian Pledge” was put forward as a commitment by states to fill the unacceptable “legal gap” in order to ban nuclear weapons.²⁵

The Austrian Pledge remains significant as of January 2015, a few months before the RevCon; Austria had sent a ‘*note verbale*’ to the state parties, inviting them to get associated with the pledge. At the time the pledge was announced, Austria already had the support of 158 nations. Significantly, at the beginning of the NPT RevCon, countries such as South Africa and Australia, along with 26 other nations, explicitly supported the Austrian Pledge and the idea of HINW. As a member of the NAM state parties, South Africa reiterated its commitment to attainment of a world free of nuclear weapons; in this context, it fully endorsed the HINW approach to nuclear disarmament and expressed great concerns about the role of the NWS.

More specifically, South Africa explicitly stated that the success of this NPT RevCon would be measured by the extent to which the concerns

25. Austrian Pledge, “The Austrian Pledge: Stigmatize, Prohibit and Eliminate Nuclear Weapons”, ICAN available at <http://www.icanw.org/wp-content/uploads/2015/04/AustrianPledge-ICAN.pdf>. Accessed on July, 28, 2015.

about disarmament are implemented.²⁶ South Africa associated itself with the Austrian Pledge and strongly expressed its opinion against the NWS' possession of nuclear weapons, a sentiment that demanded progress in the reduction and elimination of nuclear weapons, even those stationed outside the NWS' territories.

While the South African voice appeared to be more direct and assertive, the HINW approach towards disarmament was also supported by Belgium along with other European Union (EU) member states.²⁷ The Belgium-EU discourse was more focussed upon supporting nuclear disarmament through the accession of states outside the regime, such as India, Pakistan and Israel. The European view on HINW revolved mainly around its significance and that it needs to be debated upon. No scope of further action was debated at any great length. Additionally, this narrow perspective called for commitment to Article 6 of the NPT by achieving progress on the CTBT and FMCT.

Furthermore, Australia, along with 26 other countries, applauded the Austrian Pledge and stressed on the gravity of risks posed by nuclear accidents. In terms of actions, Australia supported the idea of spreading awareness on HINW and also asked the NWS to make further cuts and de-alert nuclear warheads. Australia insisted that the NWS must further reduce the salience of nuclear weapons in their security strategy. It specifically welcomed a multilateral framework or treaty governing complete disarmament.

In the first joint statement released by the P-5, the objective of nuclear disarmament figured as a part of the package of the three pillars of the NPT, implying that nuclear energy promotion, prevention of non-proliferation and complete disarmament go hand in hand. For the attainment of these

26. South Africa's National Statement on the General Debate at the NPT 2015, http://www.reachingcriticalwill.org/images/documents/Disarmamentfora/npt/revcon2015/statements/29April_SouthAfrica.pdf, and "The Ninth Review of the Parties to The Treaty on the Non-Proliferation of Nuclear Weapons", April 30, 2015, Statement on the Humanitarian Consequences of Nuclear Weapons, Statement by , H.E. Gillian Bird, ambassador and permanent representative of Australia to the United Nations. Accessed on July 28, 2015.

27. 2015 Review Conference of the Parties to the Treaty, on the Non-Proliferation of Nuclear Weapons http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/npt/revcon2015/statements/28April_Belgium.pdf. Accessed on July 28, 2015.

objectives, the P-5 viewed an incremental step by step approach as the only available option. Contradictory to other countries, the P-5 viewed that there was substantial progress on Article 6 of the NPT. Clearly the indication was that more effort towards nuclear disarmament was, thus, expected from the NNWS. Though, the P-5 did not categorically mention the status of India, Pakistan and Israel, an effective disarmament measure was viewed through the ratification of the CTBT and FMCT. The P-5, in their support to nuclear disarmament, reaffirmed their moratoria on nuclear testing and encouraged the implementation of Nuclear Weapon Free Zones in Southeast Asia, the Middle East and Central Asia.

While the NWS' expectations towards achievement of nuclear disarmament relied on the NNWS and non- NPT members, the P-5 states made it a point to express their conformity with their nuclear forces' commitment towards their security requirements.²⁸

A few days before the closing of the NPT (May 8, 2015), the chairs of the committees and subsidiary bodies at the ongoing NPT Review Conference released the first draft of the outcome document. On the theme of nuclear disarmament, two draft documents have been put forward from the Main Committee-I, and Subsidiary Body-I. It must be recognised that Main Committee-I looks at the review of the implementation of the

The new draft released from Subsidiary Body-1 significantly weakened the ongoing debate over the RevCon's outcome on nuclear disarmament. It eliminated the demand, made by 159 NPT states parties. It instead focussed on the nearly 70-year-old record of non-use of nuclear weapons. The new draft also cynically removed the reference to the importance of recognising the voices of survivors of nuclear weapons.

28. "Statement by the People's Republic of China, France, The Russian Federation, The United Kingdom of Great Britain And Northern Ireland, and the United States of America to the 2015 Treaty on the Non-Proliferation of Nuclear Weapons Review Conference", Available at http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/npt/revcon2015/statements/30April_UKJoint.pdf. Accessed on July 28, 2015.

NPT and Subsidiary Body-I is responsible for taking a view on forward looking action.

The new draft released from Subsidiary Body-1 significantly weakened the ongoing debate over the RevCon's outcome on nuclear disarmament. It eliminated the demand, made by 159 NPT states parties that "it is in the interest of the very survival of humanity that nuclear weapons never be used again under any circumstances." It instead focussed on the nearly 70-year-old record of non-use of nuclear weapons. The new draft also cynically removed the reference to the importance of recognising the voices of survivors of nuclear weapons. Overall, the new draft continued to frame the legal framework for a nuclear weapon free world as a longer-term goal but did not contain any serious or concrete commitments to move towards it.²⁹

Creating conditions for disarmament requires communication between the most significant nuclear actors (US, Russia) and their bilateral efforts; however, the new draft also weakened the calls on Russia and the US for further reductions. It weakened the language against modernisation. The call on states to abandon first use policies in security doctrines has also been removed. This would further upset any progress ever going to be made on nuclear disarmament in the future. It is an indication that the NWS will not amend their nuclear doctrines or policies in the pursuit of nuclear disarmament. Hence, before any substantial progress can take place, the pending issues need to be sorted. The dilemma over the right to enrichment under the NPT and the stalemate on nuclear disarmament as tied to only vertical non-proliferation commitments by the P-5 have to be resolved. And, finally, even as the agenda almost seemed to be set, the NPT 2015 RevCon was not able to adopt a final document with consensus.

29. Editorial: The global injustice of nuclear weapons, Ray Acheson, *Reaching Critical Will*, May 13, 2015, vol. 13, no. 9. Available at <http://www.reachingcriticalwill.org/disarmament-fora/npt/2015/nir/9905-13-may-2015-vol-13-no-9>. Accessed on May 15, 2015.