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Behind the veil of good intentions: Power analysis of the nuclear non-proliferation regime

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Advocates and critics of nuclear weapons obviously differ in their views about the desirability of nuclear abolition. However, they largely share the conviction that the spread of nuclear weapons ought to be prevented. Dissenting voices are rare (Waltz 1981; 2012). They represent the exception, which effectively confirms the prevailing norm of non-proliferation (Gavin 2012). The acceptance of the need to stem the proliferation of nuclear weapons is even more prevalent among policy practitioners. Especially since the end of the Cold War, the advocacy of nuclear proliferation, real or imagined, has been reserved only for the special kind of pariahs, the likes of Iraq's Saddam Hussein, Libya's Muammar Gaddafi, or North Korea's Kim Jong-un.

The nuclear non-proliferation regime, as with a number of other regimes covered in this volume, is primarily driven by the twin objectives to prohibit and prevent. While there is practically universal agreement as far as *prevention* is concerned, the same cannot be said of *prohibition*. The cornerstone of the non-proliferation regime, the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), actually allows for legitimate, if in theory not infinite, ownership of nuclear weapons. The inequality among the signatories which it formalizes did not come into existence with the treaty itself. The NPT merely reflected the underlying power dynamics and realities at the time when it was drafted and entered into force. The countries which it recognizes as nuclear weapon states had developed and tested the bomb well before the treaty. In other words, the gap in the material capabilities between the states with the bomb and those without it existed irrespective of the international agreement central to this specific regime. What the treaty did bring about, in terms of power, was to confer a special status upon the already materially preponderant states. This readily apparent and frequently derided inequality has been a source of international tension ever since. Yet, it would be rather naïve and unsatisfactory to conclude that this is the only or even the predominant way in which power operates in the non-proliferation regime. Far more is at stake and the flows of power are not always running in the direction that might be expected if only material factors were taken into account.

This article examines the variety of operations of power within the non-proliferation regime. It does so in order to better understand what makes the regime work and how. It also seeks to provide a critical analysis of how such operations of power influence the prospects of achieving the regime's two fundamental goals – nuclear non-proliferation and abolition. The article takes its lead from Susan

Strange's piercing critique of the concept "regime" and of its use in the study of international relations. More than three decades ago, just as the regime analysis was firmly entrenching itself within the field, Strange argued that one of the main problems with this concept is the way in which it 'distort[s] reality implying an exaggerated measure of predictability and order in the system' (1982, p. 487). Instead of the surface of agreements, she implored, scholars should look at the numerous and dynamic bargains on which regimes are based. Such bargains reflect the operations of power inherent to the given issue area. Following Strange's suggestion, this article uses the central research question informing this volume – how does power operate in international regimes? – to examine various bargains underpinning the efforts to combat the spread of nuclear weapons, control fissile materials, and limit the movement of nuclear technology that can potentially be deployed for military uses.

From the perspective outlined by Strange, the bargains that need to be examined in the nuclear non-proliferation regime are not of the kind typically invoked by the proponents of the non-proliferation regime. In their rendition, the "grand bargain" of the NPT was struck between the nuclear "haves" and the nuclear "have-nots" (Weiss 2003; Daley 2010). While this can be interpreted with various degrees of nuance, the conventional understanding of the grand bargain ultimately boils down to the proposition that the non-nuclear weapon states gave up the possibility of possessing nuclear arms in exchange for civil nuclear assistance and the promise by the nuclear weapon states that they would engage in negotiations leading towards nuclear disarmament. I term this bargain, to the extent that it has now become firmly entrenched in the standard accounts of and discussions about the future of the NPT, the veil of good intentions. It gives the impression that the central building bloc of the non-proliferation regime was a trade-off between two ostensibly unobjectionable objectives: stopping the spread of nuclear weapons on the one hand and the achievement of nuclear disarmament on the other. The standard notion of the grand bargain does admit that some power disparity was involved in the making of the NPT, but it was eventually settled and the main issue which remains to be solved is for all the parties to live up to their end of what was initially negotiated. Such a view is not only historically static, because it reduces the treaty and the regime as a whole to a mere problem of implementation of what was once agreed, but it also leaves power in its various forms and operations out of analysis. It is based exclusively on the notion of power whereby an actor can force another actor to do something they would otherwise not do.

Instead, the article argues, a power analysis of the non-proliferation regime should look behind the veil of good intentions. For as Michael Cox has pointed out, 'an international relations that denies the notion of a past, or takes no interest in power, is hardly likely to come up

with any major discoveries' (Cox 2016, p. lxxiv). The article therefore aims to capture different bargains in which various forms of power delineated by Michael Barnett and Raymond Duvall (2005) operate. The following bargains need to be analysed to grasp the operations of power in the non-proliferation regime. First, the U.S.-Soviet bargain which gave rise to the non-proliferation regime and the American power preponderance that has maintained it since the end of the Cold War (structural power); second, diplomacy and the use of force aimed at restricting or preventing access to nuclear materials and technology (compulsory power); third, bargaining venues contesting the aims of the non-proliferation regime and its technical maintenance (institutional power); and fourth, the creation of a particular hierarchies of states, ideas about the world order and the role of nuclear weapons in it (productive power).

The article focuses on the nuclear non-proliferation regime broadly conceived. It encompasses more than merely the Non-Proliferation Treaty and includes also efforts to ban or regulate nuclear weapons testing (Comprehensive Test Ban Treaty); fissile material production (Fissile Material Cut-off Treaty); regional presence of nuclear weapons (nuclear weapons-free zones); and civil nuclear cooperation (the Nuclear Suppliers Group). The broad understanding of the non-proliferation regime allows for capturing the different forms of power and their operation across the spectrum of bargains ostensibly designed to curb the proliferation of nuclear weapons. The article argues that from such a perspective a common denominator of how power operates within the non-proliferation regime can be discerned. It is, namely, a struggle to maintain or undermine the unequal distribution of material capabilities and the ensuing standing that both lie at the heart of the non-proliferation regime. The different operations of power are resources on which the competing actors can draw when trying to achieve their respective goals.

The non-proliferation regime and structural power

Two historical arrangements of structural distribution of power within the international system have been crucial for the formation and maintenance of the non-proliferation regime. First, it is a product of the rise of the United States and the Soviet Union to the position of superpowers during the Cold War. Second, the unprecedented structural predominance, which the United States has enjoyed since the end of the Cold War, has ensured not only the regime's continued existence but also its expansion after the Soviet Union's demise.

While few would deny the effects of these two structural arrangements on the regime, various accounts understate their importance in favour of explanations that stress the wider international context shaping the regime's formation (Shaker 1980; Scharfstetter and Twigge 2004) and

contributing to its persistence (Simpson and Howlett 1994; Rauf and Johnson 1995). This view was best expressed by William Walker who, acknowledging the part played by the United States and the Soviet Union, also argued that the key moves leading to the formation of the non-proliferation regime in the 1960s and 1970s were based on the recognition of ‘the project’s intrinsic universalism’ (Walker 2007, p. 436; see also Walker 2012, pp. 63-85). In other words, structural distribution of power was accompanied by shared norms and rules that established *both* restraint and legitimacy.

Such a reading of the non-proliferation regime is appealing for two reasons. First, it downplays the effects of structural power on international order and opens up the space for rational and moral arguments that, in theory, all states can make in the face of the overwhelming material superiority enjoyed by the superpowers. Second, and perhaps more importantly, it offers the grounds to believe that the regime is not dependent on a historically specific structural distribution of power. Unlike regimes that may have collapsed in the past, because the underlying balance of power had changed (e.g. the concert of Europe in the 19th century), the supposedly shared norms of restraint and legitimacy offer a possibility that the non-proliferation regime would continue to exist even if the structural distribution of power were to change. As argued by Hedley Bull, the key to avoiding the two pitfalls of nuclear annihilation and/or the rapid spread of nuclear weapons during the Cold War was the conscious cultivation of restraint and self-restraint among states (Bull 1977; Ruzicka 2017).

Appealing though this reading may be, it was not shared by many of those who observed the key moves leading towards the establishment of the non-proliferation regime in the 1960s. Instead, they noted the decisive role played by the newly found understanding between the Soviet Union and the United States. Their shared outlook paved the way to the Partial Test Ban Treaty (1963) and eventually the NPT (1968). Commenting on the draft of the NPT just as the treaty was opened for signature, David Vital complained about ‘the incapacity of the minor Powers to induce the greater Powers to deal with a matter which is of overwhelming concern to us all’ (Vital 1968, p. 432). He also made it clear that rejecting the treaty was not an option because it carried ‘the full weight of Russian and American support’ (Vital 1968, p. 419). A few years later Alva Myrdal, the Swedish politician and participant in nuclear disarmament and non-proliferation negotiations, decried the NPT as a ‘clever design’ functioning ‘as a seal on the superpowers’ hegemonic world policy’ (Myrdal 1976, p. 168).

Recent historiography on the formation of the non-proliferation regime, which has benefitted from access to previously unavailable archival materials, further confirms these observations. It has shown how the superpowers first began to *de facto* enforce non-proliferation within their respective spheres of influence and simultaneously came

to realize that their unique global standing could be mutually reinforced by forging a wider non-proliferation regime (Gavin 2010). This understanding set the stage for the superpower collusion. By the 1960s, especially in the United States, 'non-proliferation advocates now insisted that proliferation *anywhere* in the world would severely endanger US strategic interests' (Popp 2014, p. 198). Although not as openly expressed, the sentiment was much the same in the Soviet Union.

Central to the superpowers' nuclear collusion – Bruce Russett merely expressed the commonly held view when he wrote that 'the nonproliferation arena has consistently marked the high point of Soviet-U.S. cooperation on arms control' (Russett 1989, p. 189) - were concerns about the maintenance of the structural distribution of power. Following China's successful nuclear test in 1964 (providing a potent cautionary tale for both superpowers), the key worry arose with regard to the Federal Republic of Germany, but it also encompassed regional powers with nuclear ambitions around the globe. The drive to uphold the status quo led to the situation where 'by the mid-1960s, the goal of non-proliferation at times made the Soviets and Americans less ideological rivals than realistic partners in what often appeared to be a concert or condominium' (Gavin 2010, p. 416). Eventually, their joint pressure led to West Germany signing and ratifying the NPT in 1975.

Even though the pressure applied by the superpowers was crucial in the making of the regime, the bipolarity of the Cold War gave a number of states room to manoeuvre by constructing a path between them (Craig and Ruzicka forthcoming). France and China, two of the five recognized nuclear powers under the NPT, chose to stay outside of the treaty, but did participate in other institutions of the non-proliferation regime such as the International Atomic Energy Agency (IAEA). The same applied to several countries that either harboured nuclear ambitions or at least had the potential to build the bomb. This concerned eventual nuclear powers such as India, Pakistan or South Africa, but also states like Argentina or Brazil. A trait that this group of countries had in common was their relatively peripheral status to the Cold War. In other words, they did not have to deal with the superpowers' demands in the same way as Germany, Italy, or Japan did.

The change in the structural distribution of power following the Soviet Union's collapse did not mean the end of the non-proliferation regime, even though such concerns were articulated (Roberts 1993; Simpson 1994). On the contrary, the United States' unprecedented supremacy made the regime truly global, because policy-makers in Washington, much like their predecessors in the 1960s, were fully aware that the spread of nuclear weapons posed the most significant challenge to their country's unmatched position. The key features of the politics of

nuclear proliferation became quickly apparent in the early 1990s (Mutimer 1997, 1998). As Barry Schneider put it, 'the near-miss in Desert Storm and the threat posed by North Korea have spurred U.S. leaders to set a higher priority on non-proliferation and counter-proliferation policies.' At the same time, 'other nations have drawn another conclusion from the experience of the 1990-91 Gulf War: no nation should tangle with the United States with purely conventional forces (Schneider 1994, p. 227).

By the time the delegates at the 1995 NPT Review Conference reached the decision to extend the treaty indefinitely, many of the Cold War holdout states had joined the treaty or, like Brazil, would do so shortly thereafter. In the era of American power preponderance, there was nowhere to hide, no course between the superpowers to chart unless a state was a nuclear power. Today, only four states (India, Israel, North Korea, and Pakistan) that have developed their own nuclear arsenals since the treaty has entered the force in 1970 can afford to stand outside the regime. Ironically, the first state to feel the brunt of the American power in the post-Cold War era, Iraq, did not heed the lesson articulated by Schneider and was ultimately subject to the first war launched with non-proliferation as a key justification for the U.S.-led conquest of 2003.

To sum up, structural power has played a key role in the establishment and maintenance of the non-proliferation regime. It is quite remarkable how the regime, which came into existence and took shape on the basis of what used to be criticized as the superpower collusion and which saw an unprecedented expansion and solidification with the onset of the U.S. primacy in the 1990s, has come to be deemed indispensable for global security. This is the case not only in the United States, but also, and perhaps even more so, among the vast majority of the NPT signatories that have agreed to accept a materially inferior position. The regime's most ardent proponents are either not aware or tend to forget the power bargains that brought it about and which hardened it in the post-Cold War era.

Compulsory power – deterrence, coercive diplomacy, and war

The structural distribution of power could not, however, by itself create and sustain the regime. Compulsory power as the use of force, threatened or actual, has been the regime's indispensable feature, because it has transmitted the latent potential of structural power (along with the norms and preferences accompanying it) into actual policy choices and behaviour. Compulsory power has taken three main forms, ranging from the relatively stable and non-violent (though certainly not benign in its potential results) deterrence, over the pressures of coercive diplomacy, to the outright military combat. Each of these forms of compulsory power has at one point or another, and

sometimes simultaneously, ensured that the regime's dominant norm against the spread of nuclear weapons would be upheld.

Realization that deterrence will play a crucial role in the nuclear age came early as both observers and practitioners quickly concluded that no defence against a nuclear attack was possible (Brodie 1946). An enemy could only be deterred from launching such an attack by the threat of an equivalent retaliation (Herz 1959; Freedman 1981, pp. 40-44). The practice of deterrence has had a direct impact upon the formation and operation of the non-proliferation regime. It led to the build-up of the superpowers' nuclear arsenals and the ensuing series of stand-offs, which culminated in the Cuban missile crisis in 1962. Taking the world to the brink of nuclear annihilation made plain the instability that the spread of nuclear weapons could produce. In the words of William Walker, the crises 'fostered the view in Washington, Moscow and other capitals that security and survival could henceforth only be achieved through greater practice and institutionalization of restraint' (Walker 2012, p. 64). The non-proliferation regime, broadly conceived, provided elements of such restraint.

Much as the superpowers came to recognize that they had to manage their encounters more carefully, the crises in their mutual relationship also alerted them particularly strongly to the dangers of the spread of nuclear weapons. If, as a result of deterrence-based policies, things could have gone horribly wrong in interactions involving merely two states which constantly kept an eye on each other, the growing number of nuclear actors would have vastly expanded the scope for miscalculation (Jervis 1989). Even more importantly, with China's ascent among the nuclear-armed states, it became obvious that the logic of deterrence could be used against the superpowers themselves. In other words, the superpowers concluded that the stability of international order, no matter how confrontational their bilateral dealings may have been, required that the actual number of relationships based on nuclear deterrence be limited. This would both reduce the scope for nuclear crises and, crucially, preserve the structural distribution of power favouring the superpowers.

Exercising compulsory power in the form of a constant threat to use nuclear weapons was a crucial element in the effort to stop nuclear proliferation. If the individual member states of the respective alliance blocs, with the exception of the United Kingdom and France in the NATO alliance, were not allowed to possess their own nuclear capacity, how was their security to be ensured in the nuclear world? The promise to defend one's allies by the nuclear means, the so-called nuclear umbrella, provided reassurance they asked for in the face of a nuclear threat posed by the other side. This system of extended deterrence was the flip side of the superpowers' enforcement of nuclear non-proliferation within their respective alliance blocs. Whether the promise would have been fulfilled or not, whether the

superpowers would have risked their own territory or not, was beside the point. The deployment of superpowers' nuclear arsenals created the need for extended deterrence and simultaneously delivered it, thus helping to prevent the spread of nuclear weapons. It gave the superpower collusion yet another dimension. The existence of Russian nuclear weapons after the collapse of the Soviet Union changed very little in this regard. NATO has continued to bill itself as a nuclear alliance.

Compulsory power in the non-proliferation regime goes well beyond the use of extended nuclear deterrence, the extent of which ultimately rests on the reach of alliance commitments. What about those states which have no nuclear protector to rely upon? During the Cold War they were exposed to strong diplomatic pressure, such as when the United States tried to prevent Brazil from going ahead with its 1975 civil nuclear deal with West Germany that was perceived to have a hidden military dimension (Lowrance 1976; Gray 2012). But the superpower competition did limit such pressures because of concerns about the overall balance of power. This was evident from the number of countries in the non-aligned movement actively pursuing nuclear weapons programs, with some of them (India, Pakistan) eventually doing so successfully.

The use of coercive diplomacy grew rapidly with the onset of the American primacy in the 1990s. Increasingly, direct military action accompanied it. The first Gulf War concluded with the imposition of a robust inspection regime, forged within the United Nations Security Council, designed to dismantle Iraq's nuclear infrastructure. Occasional use of air strikes backed the sanctions regime throughout the rest of the decade. When this regime of coercion appeared unsatisfactory, proliferation concerns provided a convenient rationale for the second Gulf War. Coercive diplomacy and the example of military intervention in Iraq also nudged Libya to negotiate the dismantlement of its rudimentary nuclear program in 2003.

Direct use of force was on full display when the 2007 Israeli air strike destroyed a clandestine nuclear facility in Syria, which was under construction probably with North Korean technical and Iranian financial assistance. The United States was well aware of the Israeli mission and may have given tacit approval to it. Leonard Spector and Avner Cohen highlighted as notable 'the near total lack of international comment or criticism of Israel's action' (Spector and Cohen 2008, p. 15). But truly remarkable was the fact that a state which remains outside of the NPT, and is often criticized for abstaining from this linchpin of the non-proliferation regime, used violence to enforce the non-proliferation norm and thus helped to prop up the wider regime. In doing so, it obviously disregarded various institutional channels, such as the IAEA or the UN Security Council,

that were open to it and the use of which it supported in relation to the Iranian nuclear programme.

In the Iranian case, the full repertoire of coercive diplomacy came into play. The IAEA's initial findings about Iran's failure to report some of its nuclear activities were revealed in 2003. Subsequently, when the IAEA reported Iran to the UN Security Council, these discoveries led to several rounds of sanctions imposed by the Security Council. The United States and its allies further augmented the sanctions regime against Iran. These tools of coercive diplomacy were accompanied by repeated threats of the use of force, especially by the United States and Israel. While the dispute was eventually resolved through negotiations culminating in the 2015 Joint Comprehensive Plan of Action (better known as the Iran nuclear deal), compulsory power, which put Iran under a considerable amount of pressure, was undoubtedly a crucial part of the diplomatic settlement.

If part of the reason for the increased reliance upon compulsory power since the end of the Cold War has been the relative freedom to do so, the period has also shown the limits of such power. This was most apparent in the case of North Korea, but the other three states (India, Israel, Pakistan) remaining outside the NPT provide good illustrations as well. All three were able to hold on to their nuclear weapons programs because they made decisive progress (with varying degrees of assistance from the existing nuclear powers) during the Cold War. The 1998 India-Pakistan nuclear tests were mere culminations of long trajectories (Khan 2012; Perkovich 2001).

North Korea, on the other hand, despite engaging in nuclear research for decades, only began to seriously develop its nuclear capability in the late 1980s (Pollack 2011). Throughout the 1990s, it managed to evade (mostly U.S.) pressure by relying on a combination of diplomacy, deceit and conventional deterrence. All of this came at a terrible cost to its own population, but from the point of view of the ruling regime reached a successful end with the construction of the bomb and its eventual testing in 2006. Despite subsequent efforts, coercive diplomacy has failed and the possession of a nuclear deterrent, if only in a rather basic form thus far, has made the prospect of the use of force against North Korea unlikely and certainly raised the threshold for doing so. It remains a question to what extent the failure to prevent North Korea from going nuclear was a by-product of China's desire to soft-balance against the United States (Pape 2005) and to what degree it was made possible by the flaws inherent to the institutions of the non-proliferation regime. What remains indisputable, is the fact that the increased reliance upon and the use of compulsory power in the maintenance of the non-proliferation regime have driven up the price of resistance considerably.

Institutional power – maintenance and contestation

The non-proliferation regime consists of a number of different institutions. These have been crucial not only for its maintenance, because they provide for ‘implicit and explicit principles, norms, rules, and decision-making procedures around which actors’ expectations converge’ (Krasner 1983, p. 2) and venues where various forms of control can be exercised, but also for sites where contestation over the regime’s goals can take place. One indicator of how power operates within the non-proliferation regime is therefore the extent to which actors are able to shape and/or defy expectations, which characterize it at a given point in time. As Andrew Hurrell argued, ‘for powerful states the choice is often not between institutions and no institutions, but rather which institutions offer the best tradeoff between effectiveness on the one hand and the maximization of control and self-insulation on the other’ (Hurrell 2005). Creating, privileging, suppressing or ignoring institutional settings plays a key part in the dual process of regime maintenance and contestation. This section examines operations of institutional power with regard to the aims of the non-proliferation regime and the technological requirements of its preservation. It shows how different institutions, both formal and informal, have come to prominence depending on the changing preferences of actors and their relative power. While these processes of institutional ebbs and flows tend to favour powerful states, they have also presented opportunities to absorb and contain some of the dissatisfaction on the part of weaker actors.

The International Atomic Energy Agency has been a good example of the workings of institutional power in the non-proliferation regime. Founded in 1957 in response to the growing demands to share the promise of civil nuclear energy internationally, policy-makers in the United States agreed with those in the Soviet Union that the agency could usefully serve ‘as a means of controlling the operations of smaller powers’ (Schrafstetter and Twigge 2004, p. 74; see also Holloway 2016; Roehrlich 2016). The potential beneficiaries of civil nuclear assistance, including European countries assembled in Euratom, resisted robust safeguard provisions, but without safeguards there would have been no nuclear sharing. The ensuing result of the negotiations partly evaded the issue by pushing resolution of many of the precise details into the future. Slightly over a decade later, in 1968, the terms of the Non-Proliferation Treaty reaffirmed the IAEA’s role concerning the safeguards provisions and their monitoring. Crucially, Article III of the NPT stipulates the obligation of the non-nuclear weapon signatories ‘to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency’ and mandates that they must negotiate such an agreement ‘to meet the requirements of this Article’. The nuclear weapon states are subject to

no such provision, because they have already mastered the technology, of course.

Even though the IAEA's task is to ensure the peaceful use of nuclear technology, it cannot enforce compliance. That role is reserved to the UN Security Council to which the IAEA's Board of Governors can refer states that the organization finds to be in non-compliance with safeguards provisions. This enforcement mechanism was used, for instance, to introduce the UN sanctions against Iran in the 2006-16 period. On the other hand, earlier in the century, when the IAEA findings did not fit with the preconceived notions of the George W. Bush administration about Iraq's nuclear programme, the United States dismissed its conclusions and did not hesitate to sidestep the agency by going directly to the UN Security Council. These two instances are useful reminders of how the IAEA may serve the interests of powerful states, but also how they may choose to disregard it when expedient to do so.

The United States and the Soviet Union initially enjoyed strong advantages in the provision of civil nuclear energy technology. This led to 'hierarchical politico-military' as well as 'hierarchical politico-industrial relationships' (Walker 2012, p. 89). However, only the Soviet Union managed to maintain this position within its sphere of influence. The Indian nuclear explosion of 1974, facilitated by materials and technologies obtained from Canada and the United States that were under no international safeguards, showed fully the potential consequences of civil nuclear exports. When Albert Wohlstetter warned that the technology transfers would result in 'spreading the bomb without quite breaking the rules' (Wohlstetter 1976-7), he captured the worry that came to grip American policy-makers.

The reaction came in the form of various domestic and international restrictions on exports (Mutimer, 1998; Walker 2012, pp. 92-94). Building exclusive institutions such as the Zangger Committee or the Nuclear Suppliers Group (NSG), which brought together the potential suppliers, was central to this effort. These institutions have served formally and informally in the processes of controlling exports and ensuring that potential recipients of nuclear technology are signatories of the NPT, and thus covered by the IAEA monitoring of safeguards agreements. Nevertheless, the 2005 nuclear deal between the United States and India demonstrated that exceptions could be made, when the dominant state in the international system so wished. The United States convinced other members of the NSG to allow for nuclear exports to India despite its refusal to join the NPT. George Perkovich argued that the balance of power concerns, not the question of nuclear proliferation, were a key factor informing American decision-making: 'The friendliness of India toward the United States was more important than its nuclear policy, period, especially insofar

as it could help constrain China's future power' (Perkovich 2010, p. 23). In short, the deal, as well as the Obama administrations' efforts to pave the way for India's NSG membership, showed how tightening - as well as relaxing - nuclear exports could both be compatible with the pursuit of advantageous international position. The United States used institutional power with a view towards the structural distribution of power within the international system.

The India deal exacerbated the cries about inequality that grew louder among the critics of the non-proliferation regime in the 1990s, reaching a fever pitch in the first decade of the 21st century (Walker 2007). The increasing institutionalization of non-proliferation meetings as an endless process, itself part of the wider non-proliferation complex (Craig and Ruzicka 2013), have played an important role in neutralizing much of this critique. Such meetings provide opportunities to vent spleen, rather than achieving much in terms of tangible results on either non-proliferation or disarmament.

The expansion of institutional venues within the non-proliferation regime can be traced to the preparations for the 1995 Review Conference of the NPT, which was to decide on the treaty's continued existence. However, it was in the wake of the indefinite extension of the NPT when they truly took off. The 1995 extension package included the so-called enhanced review process with annual preparatory meetings. It paved the ground for the Comprehensive Test Ban Treaty (CTBT), which has yet to enter force but has already spawned the CTBT Organization. It charted out the elusive goal of the Middle East nuclear weapons-free zone unsuccessfully pursued by diplomats ever since then. A Fissile Material Cut-Off Treaty has proven to be similarly elusive. Symptomatically, the most ambitious recent efforts to change the global course on the existence of nuclear weapons, the Humanitarian Initiative and the ensuing nuclear ban negotiations, have been discussed within the UN-established Open-Ended Working Group on Nuclear Disarmament. To expect groundbreaking results from these institutions would defy past experience (see, for instance, outcomes of efforts by the Canberra Commission or the Global Zero), yet they continue to be valued, because they "keep the ball rolling" by sustaining ongoing discussions focused on nuclear non-proliferation and disarmament. They also allow state and non-state actors to voice their frustrations with the nuclear weapon states, challenge perceived injustice, and maintain spaces for resistance.

The release valve function of institutions within the non-proliferation regime has come at a steep price, however. As Campbell Craig and Jan Ruzicka (2013) have argued, the institutionalization of the nonproliferation complex has failed to move the world towards tangible solutions of the problem of nuclear weapons. Moreover, the nonproliferation complex has provided ready-made justifications for the use of force and other forms of compulsory power by the

predominant states. In the post-Cold War period, the condition of unipolarity has turned the institutions of the non-proliferation regime into a primary example of a great-power co-optation of an international regime (Craig and Ruzicka forthcoming). The range of institutions allows for voicing criticism and formulation of demands. However, the main outcome of their existence, the actual strengthening of the regime, has enabled great powers' control over non-proliferation, much like the United States and the Soviet Union envisaged more than half a century ago.

Productive power – hierarchies, orders, and the states system

The most obvious manifestation of productive power within the non-proliferation regime has been the creation and entrenchment of various hierarchies of states (“haves” and “have nots”; protectors and protected; responsible powers). Hand in hand with these hierarchies, has come the preservation of a specific world order and alongside it the states system. In the long run, these operations of power in the regime may prove to be the most lasting and have the most significant effects, because they help to constitute the world within which international politics takes place.

By preventing the horizontal spread of nuclear weapons, the non-proliferation regime has exacerbated the distinction that has arisen with the invention of the bomb. Nuclear weapons have ‘emphasised the hierarchical dimension of international society, creating a new category of “have” and “have not” states’ (Clark 1989, p. 192). Importantly, the regime did not cause this distinction, but it has endowed it with legitimacy by recognizing (in Article IX of the NPT) certain states as nuclear weapon states. Other states have since come to acquire nuclear weapons, but short of the highly unlikely revision of the NPT or drafting of a new international agreement, their possession will not receive the same recognition as that of the first five nuclear powers. The semantic distinction between the nuclear weapon states and the nuclear-armed states is the expression reinforcing the difference produced by the very existence of the non-proliferation norm. While all these states may be on an equal material footing when it comes to possessing nuclear weapons, they certainly are not in terms of their hierarchical ordering, which has further implications for their differentiated treatment (for instance by the Nuclear Suppliers Group) in the global order.

The non-proliferation regime has also produced particular dependencies, such as when states rely upon extended nuclear deterrence. Arrangements like that ensure an elevated status for some states (the nuclear protectors) and subordination of others (the protected). They also increase the chance of continued existence of nuclear weapons. In addition to contributing to one's own security,

nuclear possession can be further justified by pointing out obligations towards others who have come to depend on it. Whether the dependence is real or imposed hardly matters, because holding on to nuclear weapons becomes more than a selfish act. Protecting others endows the possession with the veneer of benevolence, making it less likely that nuclear disarmament could happen. If the nuclear protectors are to live up to their commitments, they have to retain nuclear ownership. Such reliance increases the value of nuclear possession since other countries rely on it, and that in turn drives up the dependence. During the Cold War, the cases of West Germany and Japan provided suitable illustrations. It was impossible to allow them to develop nuclear weapons (and in some corners that perspective continues to resonate to this day), but at the same time it was impossible not to offer them the protection of extended deterrence. In the post-Cold War era, the case in point has been the repeated insistence by the members of the NATO alliance that it is a nuclear alliance. Reaffirmation of NATO's nuclear status serves both to tie in the United States as the nuclear protector and to implicate its European allies, the protected, who cannot disown nuclear weapons (as their evasive approach to the Humanitarian Initiative and the nuclear ban proves fully). All this happens under the label of nuclear burden sharing.

While the previous two hierarchies are clear-cut (a state either has or does not have nuclear weapons, it either provides or receives extended nuclear deterrence), the third type of hierarchy the non-proliferation regime has produced is more ambiguous. It concerns the notion of responsibility in relation to the nuclear ownership and comes in two forms. First, it can express the belief that the nuclear weapon states have a special responsibility to maintain international order (Bull 1977; Bukovansky et al 2012). In the specific case of nuclear proliferation, they have acquired the privilege of a recognized ownership of the bomb, but have to wield it responsibly (Bull 1980). That means exercising the necessary self- and mutual restraint to avoid a nuclear war and preventing the spread of the bomb to additional countries. A problem obviously arises with those states, whose nuclear ownership has not been similarly recognized. The heated debates surrounding the preferential treatment India received from the Nuclear Suppliers Group encapsulated this problem very well. To justify the exemption from the existing rules, it had to be repeatedly emphasised that India has long acted as a responsible nuclear state. Nevertheless, these claims only pertained to the exemption, not India's nuclear arsenal. Moreover, despite the denial to recognize the nuclear possession of states like India, there is still the expectation that they should act in ways that define responsible nuclear behaviour, but with none of the rights enjoyed by the recognized nuclear weapon states. To these nuclear powers, which have acquired the bomb for their own particular reasons, such notion of responsibility is not only unacceptable, but also absurd and

hypocritical. They simply reject the hierarchy of states underpinning it, even if it means they incur various costs for doing so.

The second notion of responsibility is open to the much wider group of states that can prove their sense of responsibility by forsaking nuclear weapons or even the potential means of making them. It is based on the belief that a truly responsible action is to renounce nuclear weapons altogether. States, which gave up existing nuclear arsenals – Belarus, Kazakhstan, South African and Ukraine – are held up as role models worthy of emulation particularly by other nuclear-armed states, though not by the recognized nuclear weapon states. Next in the pecking order are those states, which once had the nuclear ambition, but never achieved it and came to embrace the non-proliferation regime (for example Argentina and Brazil). The commitment to the regime is the real test of responsibility. Those states that did not fulfil their nuclear weapons desires but were seen as barely committed to or actually cheating on the regime (Iraq, Libya, Iran, for instance) have faced persistent doubts about their actions. Other states can demonstrate their sense of responsibility by participating in such institutions as Nuclear Security Summits and helping the nuclear weapon states to maintain the regime.

The two notions of responsibility lead to a paradoxical outcome. In theory, all countries, even nuclear weapon states spending tens of billions dollars to upgrade their nuclear arsenals, can claim to be acting responsibly when it comes to nuclear weapons. This is so, because in practice their responsibilities are hierarchically differentiated. The differentiation is a product of what place a state has been able to assume or been assigned in relation to the non-proliferation norm. It stems from and serves to maintain a specific world order. While in many cases this ordering has led to states forsaking the bomb, Itty Abraham has shown how dissatisfaction with one's position has also shaped some countries' decisions to go nuclear (Abraham 2009). Similarly, Shampa Biswas has argued the non-proliferation regime 'exists, not because it effectively solves the "problem of nuclear weapons," but because it also helps to constitute a certain rendition of the problem of nuclear weapons that serves a global ordering function' (Biswas 2014, p. 74). In short, the non-proliferation norm is one of the most powerful norms underpinning the current global order, though not in the sense that many of its proponents, driven by good intentions to prevent nuclear annihilation, believe.

Finally, besides entrenching a specific international order, non-proliferation has been one of the key elements in preserving the states system, even though some, like Hedley Bull, have viewed the spread of nuclear weapons as a factor which has prevented the imposition of a world government by any single great power (Bull 1977, 263). By helping to slow down the spread of nuclear weapons, the non-

proliferation regime has contributed to lowering the danger of actual physical destruction on a scale that would mean the de facto end of the interstate system. States have played a crucial role in shaping, maintaining, and enforcing the bargains and norms of the non-proliferation regime. The regime has reinforced state control over the legitimate use of violence. As Bruce Russett wrote just as the Cold War was nearing its end, and the accompanying state disintegration was about to begin, allowing 'nuclear proliferation into the hands of nonstate actors would erode the basis for state hegemony over national societies' (Russett 1989, p. 190). This is precisely why, Serhii Plokhyy has argued, the George Bush administration tried to desperately prevent the breakup of the Soviet Union in 1991 (Plokhyy 2015). While that attempt proved futile, the full recognition of sovereignty of the newly independent states (except for Russia), which inherited some of the Soviet nuclear weapons, was eventually predicated on renunciation of their nuclear possession. This repudiation of nuclear arsenals took place within the parameters of the non-proliferation regime. Living up to the non-proliferation norm produced the condition of existence within the states system, further strengthening both.

Conclusion

The core of Susan Strange's critique of regime theory was that by focusing on principles, norms, rules and procedures it neglected the power bargains that underpin international regimes. In this, she echoed a broader point raised by Judith Shklar in her rejection of legalism in politics. Shklar stressed that 'the essential mark of politics is power' but 'unless it is placed within a specific historical situation it is completely unimaginable' (Shklar 1986, p. 125). This article is an attempt to understand the operations of power within the non-proliferation regime in their various historical settings, so that they do not remain unimaginable.

Paying attention to the dynamic bargains as they changed over time shows the workings of structural, compulsory, institutional and productive power. What connects them is the simultaneous struggle to preserve and do away with the unequal distribution of material capabilities and status recognition. The ability to wield the non-proliferation norm, the chief product of the regime, defines the art of this contestation. Invoking this norm allows states to raise a range of demands, which are frequently contradictory. The success of the nuclear weapon states has stemmed from the creation of the belief that non-proliferation is the unquestionable good. It is the right thing to do. There are many good reasons, practical as well as moral, to support such a conclusion. Nevertheless, no matter what these reasons may be, the non-proliferation norm means non-acquisition, before it means disarmament. It is therefore important to realize that

the belief in non-proliferation functions as a veil of good intentions, obscuring assorted power bargains upholding the regime. So long as this continues to be the case, the nuclear weapon states will continue to have the upper hand. This is not due to their material preponderance but, rather, their superior ability to wield the non-proliferation norm.

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