

Review

North Korea's nuclear program and the treaty on the non-proliferation of nuclear weapons: The controversy and its implications

Assefa Le-ake Gebru

Mekelle University, Department of Political Science and Strategic Studies, Ethiopia.

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This study critically examines the trend in non-compliance of the NPT, its lack of effectiveness in deterrence and consistent behavior both among compliance and noncompliance states to identify what constitutes construes, and at times justifies the trend. That is, based on the established NPT norms, the study inquired to indicate what the decade's long diplomatic, military and media ramble constitutes in the reconstitution of global normative framework. The study shows both theoretically and empirically indefensible irrationality at the heart of the NPT-North Korea nuclear issue neither the selfish pursuit of national interest nor the avowal for global peace and security gives credence to. This holds more true to the NPT leading protagonist USA than the nuclear pariah state of North Korea. The central theme is based on by four major confounded propositions; these are the anachronistic nature of the NPT and IAEA, the irrationality of rational choice based behavior of actors, the growing potency of regional actors pragmatic strategies and North Korea's success to maneuver and, not least, outmaneuver of the effort of the regime and powerful member states resorting to eclectic strategies. Consequently, the NPT regime and the appeal for compliance have lost the moral power of commanding member states indicating grave epicenter that might be considered beyond the North Korean episode. Thus, the study corroborates with Nina Tannenwald's call for, the need to reconstitute the decadent normative regime of NPT, creating (making) nuclear taboo in essence; but, it departs from Tannenwald's circular argument recommending the problem as solution. It instead strongly argues that the North Korean example constitutes is that the normative framework of NPT's rightness, the power and rationality of rational choices and deterrence significantly perverted indicating the imperative for normative reconstitution of Cold War norms and replacement by new framework approximating current global reality and envisaging the horizon of future dynamics. Therefore, calls for rethinking beyond theoretical purviews materialist, rationalist and consequential conception pertaining to the nuclear issue. Methodologically, it is a meta-theory study employing interpretive design; source of data is exclusively based on desktop review of secondary data sources academic literature, statute, policy and regulatory documents of the NPT, IAEA, UNSC and member states, media and electronic dispatches as well as news outlets.

Key words: UNSC, NPT, IAEA, North Korea and USA.

INTRODUCTION

The post-modern world has been suffering multi-dimensional changes and transformations affecting the nature of states, their population, and their relations;

hence, recasting the organization of global diplomacy, global and regional peace and security architecture. Yet, not everything has undergone changes. One such a case

that has continued from the Cold War zombie view of nuclear arms race is the violation of NPT. Despite its craving effort, as a global norm and institutional framework, the operation of the Non Proliferation regime is violated by the behavior of actors. Now a days, the North Korean state has occupied print and electronic media headlines, attention of the United Nations Security Council, the IAEA Board of Governors and the General Conference; academics, diplomats, global security and IAEA experts and negotiators; indeed, the security concern and anxiety of governments and peoples in and out of the Korean Peninsula, because, at face value, the North Korean state has continued compromising and at last violating the global norm established by the NPT. Indeed, it has withdrawn after it has become a weapon state.

Despite continued diplomatic efforts, annual military drills and showdowns, the NPT regime and the global community has not deterred North Korea from pursuing and materializing its nuclear ambitions. Many academics have made thorough thought about how did an oppressive state considered by the world having no democratic record to its name at all and illegitimate at home, isolated from the world, commanding a million man army and sustained to be a world nuclear pariah state. Here, volumes are written about the conditions allowing it to repeatedly violate NPT norm and undermining IAEA efforts and slammed ample UNSC resolutions.

Often explanations ranging from the regional and regime type based analyses, through the anarchic nature of the international system and multi-polar Post-Cold War world up to the unrepresentative nature of UNSC and domination big powers playing double standard norms are provided. These explanations offered a lot to our contemporary understanding of the North Korean nuclear problem. Not less did these studies make much focus on the empirical dimensions, leaving the impact of the case on the normative and philosophical assumptions of and the rationale for NPT unaddressed; there is a tendency to assume this part of the problem *a priori* and analyze incongruities. Provided the fast track of change and transformation the world has been undergoing the last two decades, the paradox behind the overall NPT's lack of success despite effort made by the international community and the act of states like North Korea are indicative of the need to consider the normative construction.

Two points are worth noting; one, had there not been a problem deserving investigation at the normative level, however anarchic the world state system may be, it is not

full chaotic enough to get one rouge state behave in accordance with acceptable global norms. Second, still there are instances of working systems within the existing global system. This study is informed by this paradoxical exceptionalism and critically examines how the hitherto developments have affected the normative and operational legitimacy of NPT. Therefore, the study is an attempt of examining the normative and empirical (does it have any longer) validity of the regime using the North Korean nuclear issue as vintage point.

The study pays no particular homage to any theory or ideological framework; because the author suspect part of the problem could be the theoretical and conceptual frames we understand the problem with. Hence, it is a meta-theory study based on secondary data; the design and epistemological paradigm of the study falls within using social constructivist or social constructivism as paradigm in order to reconstruct a new understanding out of hitherto held assumptions and data. Hence, it attempts to create new way of looking (meaning) the issue out of often seen but overlooked old facts.

Nuclear weapons and arms control: An overview

The Second World War has marked the beginning of the nuclear age which chronicles the development of the nuclear weapons known as atomic bombs possessing enormous destructive potential, as both Hiroshima and Nagasaki has been bombed by the United States in August of 1945. It was a new weapon of unusual destructive power and qualitatively it was unlike any other weapons in history (Vadney, 1987:43). This has demonstrated not only the destructive power of atomic bombs, but also American superiority in the military field. America's superiority was broken later when the USSR detonated an atomic bomb of similar destructible power in 1949, followed by the UK in 1952, France in 1960 and China in 1964 (Nogee and Robert, 1992:4 & 301). The proliferation of nuclear weapons in both the West and the East block was the result of the then zombie view of nuclear arms race between these two rival blocks, as guided by the logic of Cold War politics. Thus, be it advertent or inadvertent, security dilemma and the threat of nuclear war remains to be the main concern of the international community in the late 1950s and early 1960s. This has demanded plausible international measure to stabilize the issue and it was for this reason that different negotiations in between the two super powers, along with their allies, have been taken place. This is true especially after the 1962 Cuban missile crisis,

*Corresponding author. E-mail: visitassie@yahoo.com; visitassie2@gmail.com. Tel: +251 914723530.

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which brought the major powers to the brink of global thermonuclear war (Nicholson, 2002:141).

Since then, the USSR, now Russia and the United States have opened a series of negotiations aimed at limiting the threat posed by possible nuclear war. It was finally resulted to the conclusion of the NPT regime in 1968. According to Nicholson, it was when the superpower states have approached to the brink of nuclear war that they recognize the need for new modalities of communication thereby deter future crisis. In lieu of this, the arms control regime (the NPT) has come into being (Ibid).

Foundations of the NPT and rights and obligations of states parties

The Treaty on the Non-proliferation of Nuclear Weapons was signed in July 1st 1968 and came into effect in 1970. It sought to control the spread and use of nuclear technology for the manufacture of nuclear weapons. This is clearly stipulated in the preamble of the treaty that reads:

Considering the devastation that would be visited up on all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples . . . [That the treaty was concluded]

It is cogent and bright to argue that the NPT, as an international regime, was concluded upon the will of different states with the idealist assumption of creating norms and rules binding upon all member states. The different articles enshrined in the treaty text are basic principles and norms that reflect the rights and obligations of states parties as binding for all. According to article I and II of the NPT document, the main objective of the treaty is to stop the further spread of nuclear weapons and to provide security for non-nuclear weapon states (NNWS), which have given up the nuclear option. This shows the obligation of nuclear weapon states (NWS) to refrain from giving control of those weapons to others and from transmitting information and nuclear technology for their manufactures to states that do not possess them. Besides signatories without nuclear weapons also agreed not to receive or manufacture them. According to article VI each of the parties to the treaty should undertake to pursue negotiations in good faith on effective measures relating to the eventual disarmament of nuclear weapons.

This shows the NPT is established with the objective of controlling nuclear weapons proliferation and arms control that ultimately aimed at reaching the disarmament of nuclear weapons globally, but without the necessary mechanism and the timeframe to carry out this process. This is an important limitation that this treaty has to fulfill

its role in the field of nuclear disarmament. However, it should be noted that the use of nuclear energy for civilian purpose is allowed for all states parties. This is in line with the provision of article IV (I) that stipulated any state party has the inalienable right to develop research, production and use of nuclear energy for peaceful purposes provided that it is subject to the safeguards and inspections of the IAEA in accordance to article III(I) of the treaty document. The rationale behind is to prevent diversion of nuclear energy from peaceful uses to nuclear weapons or other explosive devices. It is under such legal rights and obligations that 190 states have signed / and accede to the Treaty on Non-proliferation of Nuclear Weapons.

When it comes to practice the regime looks incapable of deterring non-compliance. North Korea's Nuclear ambition is a case in point. In line with this, Paul Joseph Watson has the following to say:

In late 2002, North Korea carried out its threat to remove UN seals and dismantle monitoring cameras at a laboratory used to produce weapons-grade plutonium. In January 2003 the country withdrew from the Nuclear Non-Proliferation Treaty (NPT), which seeks to control the spread of nuclear technology. The country threatened countless times to utilize its nuclear arsenal, which is already vast according to many experts (Watson, 2003).

The point to divulge at this juncture is the mismatch between the initial imperative for the institutionalization of the NPT regime which was based on realist *real-Politik* considerations and the normative structure meant for its enforcement which was idealist in nature. To elaborate this point, while the need for NPT regime was meant to garner states behavior towards compliance in the real world the institutional arrangement and scale of power vested on it appears to assume not the hurdles of real life experience but the idealist assumption of performance of treaty obligations in good faith. Thus, the diagnosis and prescription are mismatched and incongruent with the prognosis of NPT regime¹.

¹This genesis of NPT is a point to make early reflection. Nonetheless, an international instrument that emerged from the context of global balance of power struggle and informed by real *politik* considerations of the cold war from the outset missed the hurdles of its observance are to be hatched from the womb that bore it; that operational and technical issues like the what underlies and the how to determine *peaceful and civilian purpose* are not immune to real *politik* considerations and power calculus disavowed in favor of idealist utopia; that an instrument that envisioned nuclear free world in the horizon of the future, in the manner of the ancient philosopher who blindly spilled his stew gazing at the limitless space, left such a matter highly embedded in might to the rescue of either technical experts or idealist ethos. The discursive utility of global peace and security promoted by nuclear club members to its predicament may be taken for an indicator of the growing chasm between the ideological disavowal and pragmatic commitment they pursued; that is the regime could have long availed itself of the experience to depart itself from both hapless passivity against brute pragmatism and meaningless idealist verbatim; and in effect, to reorganize and transform it based on meta idealist and reality binary or even a mixture of both conceptions.

This reminds students of international relations the mystery behind the success of Henry Kissinger the architect of Cold War diplomacy and international relations; Kissinger responding to whether realist or idealist ideology guides his and in general the success of US diplomacy, he boldly disclosed the binary division has never been a consideration in the history of US diplomacy; but pragmatic political considerations required by the age, not the least, despite the avowal to and disavowal against one or the other ideological ternate, utilizing poetic mixture of both (Kissinger, 2001). Moreover, as discussed in details below, the regime seemed to have failed to foresee future emergent behaviors and interests of non-nuclear states contingent to the transformation of global security needs. The above point can be elucidated from the haphazard state behavior with regard to NPT with the transformation of global power interplay and a campaigning transformation of global security needs (from Collective security to the new global security paradigm) during the end of the Cold War era. These points are reflected in the legal mandates characterizing the International Atomic Energy Agency.

Legal foundations of the international atomic energy agency

The IAEA was set up by the unanimous resolution of the UN in 1957 to help nations develop energy for peaceful purposes (Baylis and Ranger, 1992:182). The three main pillars underpinning the IAEA's mission are safety and security, science and technology, and safeguards and verification of nuclear energies. Allied to this role, later after the conclusion of the NPT, is the administration of safeguards arrangements to provide assurance to the international community that individual countries are honoring their commitments under the NPT treaty. The IAEA has provisions to safeguard materials in civil reactors and facilities to verify the accuracy of documentation supplied to it. And hence, under the terms of the NPT document article III (ii), it has the right to monitor and inspect the nuclear reactor installations of the signatory states. The inspections are designed to verify compliances with the terms of the treaty under which the states pledged not to develop nuclear weapons as a by-product of civil-power program (Karp, 1992:88).

The IAEA, as an independent international organization related to the UN systems, is regulated by special arrangement. In terms of its statute, it reports annually to the UNGA and when appropriate, to the UNSC regarding non-compliance with the assumed nuclear use for civilian purpose. Hence, the effectiveness of the IAEA in its safeguards program is instrumental in the implementation of the NPT terms thereby check compliance.

The last point is worth reiterating. Given the anarchic nature of the international system and the complex task of safeguarding and verification of nuclear energies, the

mandate given to the IAEA is gigantic. Hence; its success-failure story depends on how it pays attention to balance the desired goodfaith and coercive diplomacy via the UNSC. In this regard the IAEA has good record of neither controlling club member behavior nor deterring new nuclear aspirant states from emerging into the international scene.

Therefore, the main discussion on North Korea's Nuclear Program in the following sections is presented in lieu of the above background as the unique regional and sub-regional contexts of the Korean Peninsula as well as the subjective conditions defining the interest and behavior of the North Korean state. Indeed, the usual US-Russia show down and bulling around the dynamics and tempo of proliferation of our time are the continued epicenters (global infrastructures of proliferation) from which new NPT crisis episodes emerge and are often embedded in. Thus, the subsequent discussion also takes note of this uncomfoting reality in explaining the security dilemma surrounding the NPT in general and North Korean nuclear program in particular.

North Korea's nuclear program: Trends and the controversy

The history of North Korea's nuclear weapons program dates back to the 1960's due to its security concerns in the region. i.e. in fear of the anxiety of strong alliance between Japan and South Korea along with the US, following the 1965 diplomatic relations between Japan and its rival South Korea (Pike, 2007:6). Under such perceived and probably actual threat North Korea attempts to attain nuclear weapons to become militarily self-reliant and secure in the region. It was also a period during which the DPRK government was committed itself to what is called 'all-fortressization', which was the beginning of the hyper militarized North Korea of today (ibid). Hence in the mid 1960's DPRK established a large scale atomic energy research complex in Yonghyon and under the cooperation agreement concluded between the USSR and the DPRK another nuclear research center was constructed near the small town of Yongbyon. Besides, DPRK has trained specialists from students who had studied in the Soviet Union of the time (ibid).

In the 1980s, focusing on practical uses of nuclear energy and the completion of a nuclear weapon development systems, North Korea began to operate facilities for uranium fabrication and conversion. It began construction of a 200 MWe nuclear reactor and reprocessing facilities in Taechon and Yongbyon respectively and conducted high-explosive detonation (Online News Hour may 2, 2005). Notwithstanding its ratification of the statutes of the IAEA in 1974 and withdrawal in 1994, North Korea did not accede to the Treaty on the Non-proliferation of Nuclear Weapons until 1985. Had it not been for the strong international

pressure exerted on it North Korean might keep on its truck record going ahead. Even under such circumstances it has long resisted to be abided by its safeguards agreement and suspected of having extracted enough plutonium from its research reactor built 90 km north of Pyongyang (The Washington Post, July 1990).

In addition, the Washington post reported that new satellite photographs showed the presence in Yongbyon of a structure which could possibly be used to separate plutonium from nuclear fuel (ibid). Here comes the need for the involvement of the IAEA to verify its intention. Accordingly, in February 1993, the agency, for the first time, officially requested a special inspection of two key nuclear waste sites, but North Korea refused the inspection and submitted its withdrawal from the constellation. Barry Buzan has it that: In March 1994 things reached crisis point when the IAEA declared North Korea to be in non-compliance with its NPT obligations, and North Korea withdrew from the IAEA. North Korea threatened war in response to sanctions, and the USA reinforced its military presence in South Korea (Buzan and Wæver, 2003).

This has resulted to a heightened tension with the US and other advocates of the NPT till mid of 1994, though it begun to ease after the conclusion of the 1994 US-North Korea Agreed Framework, which froze North Korea's plutonium based nuclear power program (Cirincone, 2002: 247). However, different reports about the clandestine nature of its uranium enrichment program and its further disagreement with the IAEA compounded with the eventual expulsion of the inspectors brought the phase to an end.

An intervention by Jimmy Carter broke the move towards confrontation, and initiated the negotiations that led to the formation of the Korean Energy Development Organization (KEDO) and to a deal in which North Korea traded suspension of its nuclear program, and reopening to international inspection, in return for oil supplies, two light water reactors, and normal diplomatic relations with the United States (Buzan and Wæver, 2003).

Here, the fundamental principle of treaty law, with the obvious proposition that states "treaties are binding upon parties to the treaties and must be performed in good faith" (Shaw, 2003:811) has been clearly disregarded and violated. Since North Korea's decision to withdraw from the treaty South Korea, US, Japan, Russia and China have involved through the so-called Six-Party Talks negotiations to bring North Korea back into full compliance with the IAEA safeguards agreement, however, the negotiations has failed until today to succeed in its efforts (Manning, 2006:3). Consequently, it kicked out the inspectors of the IAEA, the UN nuclear watch dog, and restarted the nuclear reactor that had been frozen under the 1994 agreed Framework. It was for this reason that the Board of Governors of the IAEA

has adopted a resolution on 6th January 2003 calling on North Korea to comply with its safeguards agreement and readmit the inspectors. The resolution also affirmed that unless it fully cooperates with the agency, the DPRK will be in further noncompliance with its safeguards agreement (IAEA Board of Governors resolution GOV/2003/3).

Despite this resolution, North Korea has officially announced its withdrawal from the NPT in its letter dated January 10, 2003 to the UNSC stating that its withdrawal "will come into force automatically and immediately". North Korea, addressing the UNSC and to the NPT states parties, stated that despite its withdrawal from the treaty that it has "no intension of making nuclear weapons" and its activities "will be confined only to power production and other peaceful purposes" (ibid). Controversially enough the letter also claims that its withdrawal is in a reaction to its inclusion in the so called "axis of evil" and being targeted by the United States preemptive strike policy. Following this announcement the IAEA Board of Governors had reported to the UNSC on 12 February 2003 requesting the Security Council's involvement to the non-compliance of North Korea (Report by the Director General of the IAEA-GOV/2003/4).

But before any official resolution or action of the UNSC, North Korea has replied that "any sanction imposed by the UNSC would be considered as a declaration of war". And again in 2005 for the first time North Korea has officially stated that it has possessed nuclear weapons (New York Times, Feb 10, 2005). And on July 5, 2006 it reportedly fired at least seven separate missiles with in its two rounds of missile tests. After three months, in October 9, 2006 the government, through its foreign minister issued an announcement that it has successfully conducted a nuclear test for the first time describing them as "successful and part of regular military drills to strengthen self-defense" insisting that it has the legal rights to do so (New York Times December 27,2006). Though declared after its withdrawal from the NPT, practically much of it has been done earlier, marking the weakness of the NPT to deter non-compliance. This has multiple implications on the legitimacy of the NPT and on the future ebb and flow involved in it, which is the focus of the subsequent part.

Implications on the ebb and flow of the nuclear crisis

Treaties involve a contractual obligation for the parties concerned and hence create law for all parties agreeing to the terms of the treaty. The NPT for example, is an agreement based on the expression of enlightened self-interest of countries insisting that all parties to the agreement follow crucial non-proliferation rules, which are clearly stipulated in the treaty document. Thus, in principle the NPT has created norms, standards of conduct and rules, which are theoretically binding to all

members. Thus, the Treaty on the Non-proliferation of Nuclear Weapons is expected to create conducive atmosphere in which countries will get secured from the threat of nuclear wars by controlling the dangers of spreading of nuclear weapons. However, even though it is concluded under such assumption its norms and standards of conduct have gained less success in restricting the behavior of its members by enforcing its pillar principles to gain compliance with its norms and standards. North Korea, for example, signed the treaty in 1985 as a condition for the supply of nuclear power station by the USSR with the purpose of civilian use in accordance to article IV of the treaty document, but it failed to sign the safeguards agreement with the IAEA until 1992. There are other cases where safeguards agreements were adopted a few years later of the ratification of the IAEA statute by these states. This is partly indicative of states behavior to sign treaties only if it is consistent to their narrow national self-interest. Even after it became member of the IAEA, North Korea was not able to respect the safeguards agreement for verification and nothing has happened that jeopardizes its national interest other than the series of privileged negotiations by the United States and other powers.

In addition, the 1994 Agreed framework was designed to bring North Korea back into its full compliance with the IAEA in which the agency was entrusted to verify the implementation of this agreement. Yet, it has violated its safeguards agreement and resumed its nuclear development program expelling all inspectors of the agency out of the country². This was reported to the UNSC via the Agency however it has continued on its path.

This was mainly because of the inability of the UNSC to perform its enforcement responsibilities under the charter (Report of the UN-Secretary General, May 9, 2002) and the lack of enforcement mechanism on the part of the NPT regime to deter non-compliance. Thus, the NPT is enforced in a technical sense, but without force as a regulatory regime among those countries that defies accepting compliance.

It is obvious fact that treaties are at the core of international law if properly agreed upon several sovereign states, and then its violation is regarded as violation of international law. It is a truism that international law lacks the police functions that are found in domestic legal systems; hence, it is a system that relies largely up on self-help when it comes to enforcement. Thus, it is cogent to argue that though treaties are the most important and reliable source of international law, they bear a close resemblance to

international contracts in a superficial manner with a nature of their own reflecting the character of the international system (Shaw, 2003: 89).

States act in their self-interest and break agreed upon treaties, if deemed required and at times such violations go unpunished. Here, the case is apparent in the case of North Korea's non-compliance and the incapability of the NPT regime. Under such international system Seitz (1996: 297) has made the right observation i.e.

The NPT can't pull the disarmament cart or even the anti-proliferation cart it can't pull the foreign policy cart, the regional security cart or the international security cart. . . as a crippled donkey can't pull any kind of cart, no matter how hard it is bitten, perhaps it is time to retire the tired and over worked donkey.

Nevertheless, to whatsoever extent tyrannical and inconsiderate to the safety and security of their people nuclear state leaders like Kim may be, but their acts do also constitute basic human security needs to fulfill, which they cannot do remaining for long pariah. The US and the UNSC agencies have failed to take note of these dimension of human security needs of states as organized human societies, which could have been put to the utility of NPT compliance many counts.

First, these considerations are better noted by the most threaten neighboring states than the leading protagonist of the NPT, the US and its northern allies in the UNSC that made to push desperate regimes to the fringe of collapse that in turn gave license to cling to proliferation as the last line of retreat. The cautious and sometimes narrow interest based swearing on the part of South Korea and China by refreshing tread ties in the middle of tense situation in the 2006 was not a novice effort to make the North behave properly than a de-escalation strategy of the potential harm of pushing a despairing regime (Economist, 2006).

Second, where these considerations seemed to be noted, more often than not negotiations were allowed to yield in to rewarding the act of nuclear blackmailing, here, the Kim regime is good at manipulating. For instance, a regional analyst noted the nuclear blackmailing behavior of the regime in the years preceding its public disclosure of being a nuclear weapon state to have contributed to the continuity of the crisis; and indicated that the neighboring states are far unwilling to accept this behavior than the US. Furthermore, the politics of nuclear blackmailing appeared to divide America's effort of forging strong coalition in the south. The economist magazine, of the month May, cover story depicting Kim with mushroom cloud correctly articulated the dilemma of regional actors as,

However, this unanimity may not last. America would like to step up economic pressure on the North, but the wretched place is at starving-point already. Neither the

²The inspectors have the obligation to report such violations to the IAEA Board of Governors, with a power to take action against violators like imposing economic sanctions or referring them to the UNSC for further harsher actions like the use of force, but in practice regardless of the reports nothing has detracted North Korea from its will and action.

Chinese nor the South Korea would welcome a total collapse, or the refugees such a collapse would surely bring. There is, moreover, little agreement over the price worth paying to induce Mr. Kim to take the inspectors back and put his plutonium and uranium under lock and key. The Americans are probably less inclined than are the nearer neighbors to give in to nuclear blackmail in return for a quiet life. It is not even clear that Mr. Kim would be content for his blackmail to succeed (economist, 2003).

Third, the regional and global implications were of far wider consequentiality than the fear induced in the immediate neighborhood. This was seen in the overlap and complications created by America's preparation to invade Iraq in the name of disarmament of WMDs as well as the coming of Pakistan to the spot light of proliferation (Economist, 2003).

Fourth, the double standard and ethical hypocrisy of the West involved in the calibration of nuclear weapon states differently in addition to denuding the moral superiority of the norm vital for the performance of international obligations in the good faith by defiant actors, but also sets other states under the NPT obligation transfixed by the spell of radical realism and promoting national interest: scavenge from the crisis. This is evident from President George Bush's preparation to get India's nuclear (though obtained out of the NPT framework) the blessing of the senate while it simultaneously was launching offensive pressure and coercive diplomacy against North Korea (Waltz, 2006).

The Bush government popular labeling of Iraq, Iran and North Korea—as “an axis of evil” and declaration that the United States “will not permit the world's most dangerous regimes to threaten us with the world's most destructive weapons” have raised the eyebrow of many critics. According to feature articles writer of the economist have critiqued President George Bush's attempt to put on 'brave face by attempting to make wars at multiple fronts. The author makes mention of North Korea's critical advance in delivery of fuel rods to the plutonium reactor at Pyongyang and subsequent expulsion of IAEA inspectors to have been conditioned by Washington's adventurous zeal waging war with Iraq in the name of disarming WMD. However, US policy did succeed neither in Iraq or escaped from embarrassment caused by resorting to soft strategies in North Korea after the Iraqi fiasco (Economist, 2003).

This behavior of US is important in understanding the challenges of NPT on three counts; first, despite the rhetoric for preemptive measures the sharp turn to diplomacy although pragmatic as it might seem was done unilaterally making a global issue the burden of USA. Second, it appeared inconsistent pursuit by a state's initiative that, as coming events have shown, hardly succeed to gain the support of its committed allies like South Korea and Japan full heartedly. Third, it gave North Korea the chance to easily shift gears only to buy time

and complicate matters worse.

The North Korean government has developed meticulous maneuvering of being bribed out of crisis it created as it did during the Clinton period in 1994 that nuclear blackmailing paid it well. This, along with other problems, in turn caused problem on US effort of forging strong alliance in the Peninsula. Even though the North during the time didn't succeed in putting enough wedges to cause wide differences among Russia, China and the US, nevertheless, US's own making has made it certainty in its southern alliance.

Accordingly, diplomatic analysts similarly warned against too much assuming on the side of US foreign policy assessment of the need of North Korea as depicted below:

If serial nuclear blackmail were to succeed in North Korea, other countries can be expected to take note. And Mr. Kim will himself take note if, against all the odds, the distraction of North Korea lets Saddam Hussein wriggle free yet again. In more ways than seemed possible before Christmas, the credibility of Mr. Bush's foreign policy is now on the line (Ibid).

Moreover, even its neighbors the south and China do not want the full collapse of the north due to the immense regional humanitarian repercussions which they do not afford to bear on them (Economist, 2003). The US initiative shared by firms from other Nuclear Supplier States (are 45 and USA is one) to trade in nuclear with India in 2005 was in transgression of the nuclear trade ban adopted in 1992 by the 45-member Nuclear Suppliers Group (NSG) (WMD, 2007:31). The message it sent to the world with regard to measures against North Korea by USA and other NSG is that it is for all purposes and utilities presumed hypocritical.

The analysis from US Defense Threat Reduction Agency has made the double standard response of the international media and the west as depicted in the text below.

Despite concerns regarding the arms race in South Asia, official reactions to Indian missile tests have been sparse and coverage in the international media has been generally limited to factual reporting of the event. Reaction to the first attempted test of the Agni-III in July 2006 was somewhat different. At that time, the primary criticism was that India's test followed too closely after the far more provocative missile tests conducted by North Korea on July 5, 2006, and complicated international efforts to condemn and respond to that development (WMD, 2007:42)(underline added).

The condemnation of India's act, boldly underline in the above text, was not based on genuine adherence to NPT principle rather than real international politics that it might not have appeared had it not been for the chromos of North Korea. Among other complex matters, flagrant acts of double standard measures could be taken as one reason for noncompliance of the initiatives that has been

reinforced by a series of UN Security Council Resolutions adopted in 2006 and early 2007. The similar fate faced by the highly propagated effectiveness of financial control adopted by UN Security Council Resolution 1540, in April 2004, which requires all states to implement financial, export, and other controls in order to curb illicit trafficking in WMD and related delivery systems (WMD, 2007:2) confounds the above assertion.

The effect in the Korean peninsula not only nuclear weapons but also hydroelectric dams have been water bombs inducing security concerns (Chira, 1986); such open inconsistency in the implementation of UNSC resolutions and the NPT regime have added sense of helplessness and haplessness to the region with regional ramifications. From the 'Greater East Asia' perspective the complex security dilemma involving China, the two Koreas and Japan, according to Barry et al. 'contained a strong regional thread that was independent of the Cold War' politics (Buzan and Wæver, 2003:132) that resurfaces along with ill-handled NPT strategies underlying the securitization of Japan and the region at large.

Viewed from the precarious power of deterrence in the Post-Cold War era, the inability of the regime to command the behavior of not only noncompliant nuclear states but also NSG members is indicative of the need for recapitulating the conception and use of deterrence as NPT tool. Still more is the continued act of the US in supporting the fear it avows to end. Watson precisely extorted it as, 'Every other month the media report on how the U.S. continues to transfer highly sensitive material to North Korea, all the while fear mongering about how it's not a matter of if but when a city gets nuked' (Watson, 2003:55).

One among others is the supply of Light Water Reactors (LWRs) by the US clinging to unscientific view that it couldn't be used to make nuclear bombs. But experts like Henry Sokolski, head of the Non-proliferation Policy Education Centre in Washington, timely warned against it.

LWRs could be used to produce dozens of bombs' worth of weapons-grade plutonium in both North Korea and Iran. This is true of all LWRs- depressing fact U.S. policymakers have managed to block out. "These reactors are like all reactors, they have the potential to make weapons. So you might end up supplying the worst nuclear violator with the means to acquire the very weapons we're trying to prevent it acquiring (Sokoloski quoted in Watson, 2003:56).

Sadly enough this has been confirmed by the best minds of nuclear science³ in the US who cautioned against

³According to Paul Joseph Watson, these were 'the renowned nuclear scientists Dr. Victor Gilinsky, a former Member of the Nuclear Regulatory Commission during the Ford and Carter administrations and former head of the Physical Sciences Department at the RAND Corporation, and Dr. William R. Graham, a former Science Advisor to President Reagan and Deputy Administrator of NASA.'

providing LWRs saying "The light water reactors could produce about 500 kilograms of plutonium annually. They are so much larger than the facilities North Korea stopped building, they will actually produce more plutonium than the gas graphite plants they will replace" (Watson, 2003:57). Confounding Sokolski's testimony is the statement of state department in urging Russia to stop supplying LWRs to Iran for fear of developing the much dreaded bomb as 'United States has "consistently urged Russia to cease all [nuclear] cooperation with Iran, including its assistance to the light water reactor at Busher' (Watson, 2003:57).

The above instances constituted the lunacy of leading protagonist of the NPT regime. For deterrence to consistently fail what bigger reason there can be to abandon expectations and hopes of compliance to NPT by North Korea and other nuclear aspirant states. In this regard, the Chinese nonproliferation policy of no first use, minimum deterrence, peaceful resolution of and not coercive approach to nuclear crisis along with security assurance to nonnuclear weapons states and nuclear weapon states, nuclear disarmament, opposition to Ballistic Missile Defense (BMD) systems and respect for the right of peaceful development of energy remains incomparably consistent and stable position ever since the first day of testing its nuclear weapons to date (Qingguo, 2008:87-90). With regard to its firmness against use or threat of it has been clearly stipulated in its National Defense White Paper in 1998 that,

From the first day it possessed nuclear weapons, China has solemnly declared its determination not to be the first to use such weapons at any time and in any circumstances, and later undertook unconditionally not to use or threaten to use nuclear weapons against nonnuclear weapon states or nuclear weapon-free zones (Qingguo, 2008:87-90).

Despite certain diplomatic wrangles accompanying the ebbs of North Korean nuclear crisis, the Chinese policy appears to be NPT friendly and more favorable to than the inconsistent and Hippocratic policies of the leading protagonists to model after.

DISCUSSION

The policy and practices of NPT in general and on the North Korean issue in particular is mired with multi-level problems associated with the constitutive and institutive nature of the NPT regime, IAEA and the UNSC system, global configuration of power, unique regional features of the Korean Peninsula and policies of major NWS actors. Not the least, on the nature of the North-Korean state and its regime type.

However, none of them provides us with reasonable explanation to why actors behave as they do in the name

of, at least in principle, compliance to the NPT, but end up in furthering in action or by setting the conditions for noncompliance. Or at best they end up in the least preferable of choices otherwise in passive resignation while their active roles are required. To set the discussion in perspective, let's situate it on the philosophical discourses surrounding nuclear weapons. Because at least tentatively we are to assume that the behaviors of actors, in one or another way, should fall within the analytical purview of contemporary thinking.

One of the principles of NPT is deterrence; state's like USA and its allies while consistently failing to deter the North Korean regime from its progress and at times in a way that furthers its progress pursue both the soft and hard ways. In the case of the US it went to the level of burgeoning its weaponization capabilities in place of the opposite as can be seen from the supply of LWRs to North Korea; yet, the same potential act by Russia to Iran set US alarm against it. One may attempt to explain the tautological trap venture desperately with power *politik*, national interests and related realist conceptions. This could apply to the double standard nature of behaviors, however, it does not hold to the rationalist assumptions (of making best or least harmful choices) this category of explanation is embedded in that could justify measures like the tightening of its diplomatic and embargo grips on North Korea a regime, which in turn does not meaningfully recoil in the face of the suffering of millions of its people; still more, what goals such behavior serve leave alone to get solid global alliance is either reluctantly seen or opposed by its best allies and an arch enemy of North Korea in the region, the South Korean and Japan?

The behavior of its allies in the region may be explained by resort to de-escalation from the worst possible scenario of nuclear attack and gradual hope of getting it to acceptable global norm by not provoking in to the opposite; though, unfortunately, the regime disappointed them committing itself against their expectations, nevertheless, its intransigency to pursue its nuclear program has involved an eclectic approach of subtle nuclear blackmailing, which rarely failed to be rewarded in lump sum, mediation and use of force. The humanitarian crisis of its people notwithstanding, its pariah behavior serves more than military, economic and political utilities. Even the least preferable or irrational choices of confronting a far higher power like the US and its allies with the threat of nuking their cities can be taken for North Korea's irrational rationality of forestalling the only state with the history of using nuclear bomb by desperately acting in the Cold War logic of mutually assured destruction; this seemed to have served its goal of keeping the North Korean sense of order out of chaos it causes. Apparently, such episodes often accompanied by aggressive non-military unilateral and multilateral coercions cause resistance to America's diplomatic bullying, unsettling concern of its undue influence and

anxiety from the potential of domestic intervention by actors far away from the region.

The unfavorable Russia-China response to most of US and UNSC initiatives on grounds of tangible and symbolic values and interests are cases for this point. In effect, in addition to creating enemies to the US and at least non-enemies to North Korea, it opens platforms for negotiation that, though not always, does not either significantly change or punish its rouge behavior or preclude it from benefiting from its weaknesses; because as mechanism of de-escalation and part of the unobserved promise of compliance to normalization. North Korea often gains the dividends of nuclear blackmailing which unless abandoning its program it would not have gained otherwise.

Inversely, to apply the same logic to America and its allies may not be totally erroneous. Considering the possibility of being nuked by a desperate regime inconsiderate of the pain of its own people, let alone arch enemies, it publicly vowed to destroy and considered by US and its allies as a system of pathological psychopaths, it might be taken for the rational for deterring ultimate distraction. However, this is based on theoretical assumptions and empirical grounds of potential use of nuclear weapons; on both counts the burden of proof and comparative guilt heavily points at the US than any other state.

On the theoretical level, the assumptions of the 'irrational use' by irresponsible actors and the military utility theories of nuclear weapons holding the 'lack of utility', 'non-rational' and the non-deterrence theories *citrus paribus* because the later three theoretical assumptions are both in this and overall context inappropriate to explain behavior of states not carry sound theoretical and normative values. To give clarity to the opposite variants pertinent to the discussion at hand, briefly discussing their corresponding major tenets is relevant in understanding the predicaments of NPT.

To begin from the extreme ethical and epistemological argument against NPT (non-governance) is the non-deterrence argument often predicated to the poetic verbatim of the philosopher Max Black 'there is no need for rules prohibiting cats from barking.' The assumption is that states are too rational enough to use the annihilating power of nuclear weapons and as the cats do not bark and should be told not, nuclear states do not need rules of deterrence to guide their behavior (Qingguo, 2008:87-90).

On the other side of the continuum is the 'lack of utility argument against deterrence that underscores nuclear weapons could be used, but are not rational choices for war is goal and target oriented; they argue that the indiscriminate nature, the material and bureaucratic problems of using strategic nuclear weapons in war to be against or short of the logic and purpose of war; hence, nuclear deterrence is not required for there are more

effective and rational choices than them that tells why many states do not use them (Ibid). However, both arguments are historically unfounded and theoretically flawed for they fail to explain experiences of use of neither nuclear weapons nor possessing them without use.

According to Tannenwald, the only way out for both is the 'non-rational' argument for acquisition of unusable weapons or/and non-rationality of failing to use usable nuclear weapons. In either way it contradicts the rationality assumption it claims to promote (Tannenwald, 2007:41). To set it in context, the US-North Korea tension and non-compliance of the NPT means the nuclear powers, the US and North Korea in particular are either collecting unusable weapons (used for non-national reasons) or are (non-nationally) keeping idle usable nuclear stockpiles that could have ended the whole problem. To take it a bit further than Tannenwald, it means the inconsistency of leading protagonist of the NPT and the non-compliance of North Korea are mere bluff about using threat of inefficient power and very efficient nuclear weapon for deterrence only. So, in this line of argument, we are to assume other reasons closing the slightest possibility of happening to non-rationality.

Tannenwald's critical observation is that, the rationalist perview "risks falling into the tautological trap of inferring lack of utility from the fact that the weapons were not used and then using that 'lack of utility' to explain non-use. This would be an example of 'revealed preferences,' but behavior ought not to be used to reveal preferences." At best, it means there is very narrow possibility of using it. Tannenwald argued that such considerations are only excluded to military utility consideration (which are not always wrong), but also political and normative issues involved (Tannenwald, 2007:42).

Nonetheless, if not by resorting to absolute world of irrationality, other than hypocrisy, the political moves and the normative disavowals of NPT major protagonist for the compliance of NPT are often brandished by transgressing it. So does the task of explaining the NPT regime from this vintage point of view. Hence, not the normative world peace but narrow interests not capable of galvanizing compliance of even allies to NPT objectives.

The inacceptability of risking a damage (subjective as it might be objective to immensity of nuclear weapons) in the eye of parties (as victim or perpetrator) constituting unique case of security dilemma is less fragile point of reflection to return. That is, the irrationality and military utility argument underpinning an assessment of imminent and present danger of strategic nuclear weapon attack.

Tragically, on both the irrationality argument that underscores the imperative for observance of NPT on account of risking nuclear attack by irrational actors and on accounts of the argument that nuclear weapons do have actual military utility, the accusation finger points to the United States. This accounts to the fact that USA is the only country in setting historical precedent for using

nuclear weapons; so does the potential to use it in action. According to Tannenwald, the US has always kept the chance of using strategic nuclear weapons and are considered for tactical utility even after Hiroshima and Nagasaki. They remind us that 'the military utility of nuclear weapons – to relieve the siege of the Marine garrison at KheSanh in early 1968 and Den Bien Fu fiasco [had it not been] aborted quickly in a public relations nightmare (Tannenwald, 2007:222).⁴

Even though no country is supposed to promote compliance to non-use at the slightest risk of endangering its society losing, the precarious position of the US on the above two counts and its declared chance of preemptive measure against North Korea could not make even its genuine commitments to be credible in the eye of the world; that, in effect, adds to the dominant tendency to compromise the normative framework of the NPT and the chance of envisioning rational decision making. On the other hand, making the inference that countries will not use nuclear weapons and have no utility from the fact that they have not used it yet except USA is illogical to govern behavior of states; hence, decision makers facing fear of nuclear attack are left with narrow possibility of making rational choices (Ibid).

Therefore, the normative weight of making a case for the observance of the NPT appears to be highly virulent and erratic hardly acceptable by actors anticipating an attack from a declared enemy. However, from the discussion of the North Korean case a crucial point to observe does apply not only at the empirical and practical level, but also at the normative construction of NPT. On account of such 'unresolved anomalies' in being able to deter a potential nuclear state as rational choice and the materialist nature of the 'lack of utility' and non-deterrence theories has made Nina Tannenwald to ponder on another far higher normative platform, namely the imperative for creating nuclear taboo (Tannenwald, 2007: 40-43). Although Tannenwald's proposition of turning nuclear weapon global an object of obscurity is so optimistic and deserved appreciation, nevertheless, it is proposing the problem which is not being able to make nuclear a taboo for a solution. Yet, this is indicative of the fact that the normative value of NPT has reached a dead end and the imperative to rethinking old values.

⁴Nina Tannenwald, by examining Vietnam War period documents and memoirs (of McNamara, In Retrospect, pp. 160–61, 275. Walt Rostow Papers, Tom Johnson Papers, LBJL. Memo to General Wheeler from Robert N. Ginsburgh, January 31, 1968, NSF, Walt Rostow Papers, Box 7, LBJL.125 Memo from Walt Rostow to President Johnson, February 3, 1968. NSF, Rostow, Box 7, LBJL. General Wheeler to General Westmoreland and Admiral Sharp (JCS 01154), February 1, 1968, NS Files, NSC Histories, "March 31st Speech, Volume 2," Box 47, LBJL.) strongly showed that the use of strategic nuclear weapons has been part of USA's military strategies long after Hiroshima. Perhaps, the US disavowal of the military utility argument in its police and exaggerated assessment of nuclear threat by irresponsible actors could be explained by its historical precedence and readiness to use as last resort.

Conclusion

The NPT, as a corner stone for non-proliferation efforts has legitimized the possession of nuclear weapons by five powers while denying the capability altogether to every other states, at least until the hypothetical movement in history that the five NWS decide to go non-nuclear. It was under such "the five vs the rest" formula that the NPT has been signed by a large number of states. However, it has not succeeded in halting the spread of nuclear weapons and it has not served as a confidence building measure, which is contrary to its theoretical and legal foundations. This is mainly because states are not committed more for treaties than their own narrow national interests. This is contrary to the generally accepted rule of *pacta-sunt-servanda*. Yet, this is only the tip of the ice berg.

It is natural for states to pursue their national interest, as a result when a state considers international treaties as a challenge to attain its foreign policy objective, then it will attempt to undermine it in her best interest. This is clearly shown from North Korea's non-compliance and its withdrawal from the NPT, as the first country ever to withdraw. But paradoxically enough, North Korea has tried to justify that its action is not against the internationally agreed norms which are enshrined in the NPT document. This behavior is the discursive disavowal repeatedly overtly violated by complying and non-complying states. A norm equally manipulated and ridiculed by states claiming or masquerading superior moral ground that in turn progressively depreciated the normative and practical worth of according global norms. Of course, the discursive utility itself points to a point of optimism to ponder about; that provided new global norm representative of contemporary world reality and that envisioned the future is reconstituted, the world state system is not incapable of observing norms; that a norm that could effectively be used by states as not only as regulatory structure, but also as the cognitive framework to predict each other's behavior would bring the nuclear security dilemma of states in to the vanishing landscape of rational choice.

The nuclear issue in general and the NPT and the North Korean unsettling conflict in particular shows both theoretically and empirically indefensible irrationality at the heart the normative framework of the NPT. For many academics, the NPT-North Korea nuclear issue has become hard to make sense neither from the selfish pursuit of national interest nor the avowal for global peace and security or to give credence to moral claims. In light of the weight of global responsibility the US assigns to itself and the responsibility thereof, this holds more true to the NPT major protagonist USA than the nuclear pariah state of North Korea. The inconsistency, bullying, manipulation, wars of aggression, giving into nuclear blackmail and even nihilistic supply of SWRs to

North Korea have reduced the legitimacy of the NPT regime. This is true basically along with the moral decadence of its alleged global mission of furthering the frontiers of freedom, justice and global peace and security.

Also, from this the following premature hypothesis can be made; that norms highly propagated for moral superiority and global vitality by a violating big power runs the risk of subjecting it to the ridicule of aggrieved lesser powers; even those who might have the will to compliance may not be able to resist the temptation of violating it; moreso when there is an imagined or actual symbolic or tangible gain with it; or the possibility of reducing damage. This should not mislead one to assume a rational choice, as per the norm of the NPT, for it is rather its negation that constitutes one feature contemporary normative crisis. In short, the central theme can be set in to four major propositions not easy to refute in the face of contemporary state of affairs.

First, the anachronistic nature of the NPT and IAEA assumptions and constellations tailored to Cold War has rigidified the regime and made it a snake sealed in its dry skin; not adaptive to realities of the constant flux of Post-Cold War world. Hence, states are tempted to tend to try cognitive structures that may serve their interest best masquerading compliance to acceptable global norms. This underlies the gradually mutation and pervasion of declared commitments and well intentioned strategies in to the affirmation of their negations

Second, the legitimacy and binding power of the NPT is further denuded as much by the interplay of emergent regional peace and security dynamics and international real politics as the NPT leading protagonist, relevant to mention are, for instance, the inconsistency, double standard and irrationality, verging Orwellian double think, of NPT proponent states like the US; the latter and its allies behaving contrary to universal common sense and rational choice, contributed to the intransigency of the North Korean state.

Third, and the pragmatic and de-escalation oriented role of far and near regional actors of the Korean peninsula at the unilateral, bilateral and multilateral platforms have stabilizing effect as well as reduced the moral legitimacy of the regime; this owes explanation to the unpleasant fact that even the most affected states like South Korea do not always buy the practical commitment and fall under the dictate of NPT norms. Inversely, let alone states well placed in global diplomacy, even isolated nuclear pariah states like North Korea are not devoid of helping hands in their dark hours (the case in point is China and Russia); even threatened foes like South Korea and Japan may recoil to passivity calculating risk reduction in favor of most dreaded enemy.

Fourth, consequently, North Korea's maneuver and, not least, outmaneuver of the effort of the regime and powerful member states resorting from escalatory

measures to nuclear blackmailing, via de-escalation to negotiation or escalation is rendered pragmatic with all its odd.

In effect, the NPT regime, and the appeal for compliance has lost the moral power of commanding member states indicating grave epicenter that might be considered beyond the North Korean episode. Lastly, the study corroborates with Nina Tannenwald's (2007) call for, the need to reconstitute the decadent normative regime of NPT by, creating (making) nuclear taboo; and it strongly argues that the North Korean example constitutes is that the normative framework of NPT's rightness, the power and rationality of deterrence significantly perverted indicating reconstitution by new framework approximating current global reality.

Conflict of Interests

The author has not declared any conflict of interests.

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