

ARMS CONTROL AFTER IRAQ

**Normative and
Operational
Challenges**



EDITED BY WAHEGURU PAL SINGH SIDHU AND RAMESH THAKUR

Arms control after Iraq: Normative and operational challenges

Edited by Waheguru Pal Singh Sidhu and Ramesh Thakur



**United Nations
University Press**

TOKYO • NEW YORK • PARIS

Contents

List of figures and tables	viii
List of contributors	ix
1 Managing the nuclear threat after Iraq: Is it time to replace the NPT paradigm?	1
<i>Ramesh Thakur</i>	
Part I: Strategic doctrine, norms of non-proliferation and disarmament, and world order	21
2 The use of force in international politics: Four revolutions	23
<i>Kalevi J. Holsti</i>	
3 From deterrence to compellence: Doctrinal implications of the Iraq crisis	40
<i>Kennedy Graham</i>	
4 “Do as I say, not as I do”: From nuclear non-proliferation to counter-proliferation	57
<i>Rebecca Johnson</i>	
Part II: The centrality of the United Nations in non-proliferation and disarmament?	81

5 The Security Council's role in addressing WMD issues: Assessment and outlook	83
<i>Tsutomu Kono</i>	
6 Dealing with WMD crises: The role of the United Nations in compliance politics	114
<i>Harald Müller</i>	
7 Lessons of UNSCOM and UNMOVIC for WMD non-proliferation, arms control and disarmament	140
<i>Trevor Findlay</i>	
8 Why we got it wrong: Attempting to unravel the truth of bioweapons in Iraq	160
<i>Patricia Lewis</i>	
Part III: Proliferation challenges and international responses in North-east Asia	179
9 Nuclear threat reliance in East Asia	181
<i>Wade L. Huntley</i>	
10 Non-proliferation after 9/11 and beyond: A Japanese perspective	200
<i>Heigo Sato</i>	
Part IV: Proliferation challenges and international responses in the Middle East	221
11 From bomb to fuel! Iran and the question of weapons of mass destruction	223
<i>Jalil Roshandel</i>	
12 Arab perspectives on the question of WMD proliferation in the Middle East	243
<i>Mohammad El-Sayed Selim</i>	
13 An Egyptian perspective	256
<i>Mohamed I. Shaker</i>	
Part V: The permanent five: Part of the problem or devising new solutions?	269

14 An American perspective: The US response to proliferation in weapons of mass destruction	271
<i>Damon Coletta</i>	
15 UK perspectives on WMD proliferation, arms control, disarmament and WMD use by non-state actors	289
<i>John Simpson</i>	
16 Nuclear non-proliferation after Iraq: A French perspective	305
<i>Philippe Errera</i>	
17 Russia's perspectives on the world order and WMD proliferation	323
<i>Andrei Zagorski</i>	
18 China's perspectives on WMD proliferation, arms control, disarmament and related threats from non-state actors	337
<i>Dingli Shen and Jiadong Zhang</i>	
Part VI: The other nuclear powers and the non-proliferation regime	351
19 Nuclear disarmament, nuclear proliferation and WMD proliferation: An Indian perspective	353
<i>Gopalaswami Parthasarathy</i>	
20 Israel's updated perspective on WMD proliferation, arms control, disarmament and related threats from non-state actors	367
<i>Shlomo Brom</i>	
Part VII: Broadening the scope of the non-proliferation regime ..	381
21 Nuclear threats from non-state actors	383
<i>William C. Potter</i>	
22 Managing missiles after Iraq: Going off course	406
<i>Christophe Carle and Waheguru Pal Singh Sidhu</i>	
23 Conclusion: Managing nuclear threats after Iraq	422
<i>Cyrus Samii</i>	
Index	441

Managing the nuclear threat after Iraq: Is it time to replace the NPT paradigm?

Ramesh Thakur

Nuclear arms control is back on the international agenda with a vengeance. It has three interlinked components: non-proliferation, arms control (for example, de-alerting and de-mating) and disarmament (the partial, limited or total abolition of nuclear weapons). According to the High-level Panel on Threats, Challenges and Change, there is a twofold threat of nuclear proliferation. First, some countries, from within the shelter of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), could either develop a full-fledged weapons capability covertly and illegally, or else acquire all the materials and expertise needed for a weapons programme and withdraw from the treaty when they are ready to proceed with weaponization. Second, there is genuine reason to fear an erosion and possible collapse of the whole NPT regime over the longer term.¹ The panel recalls US government fears in 1963 that over the following decades the number of nuclear-weapon states (NWS) would climb to 15–25, while others worried that the number could be as high as 50. Instead, as of 2004 only eight countries are known to have nuclear weapons.² A still greater surprise, historically speaking, is that they have not been used as an instrument of war since Hiroshima and Nagasaki in 1945.

There were two great pillars of the normative edifice for containing the nuclear horror: the doctrines of strategic deterrence, which prevented the use of nuclear weapons among those who had them, and the non-proliferation regime, centred on the NPT, which both outlawed the spread of nuclear weapons to others and imposed a legal obligation on

the NWS to eliminate their own nuclear arsenals through negotiations – their only explicit multilateral disarmament commitment. At the start of the new millennium, both these pillars were at risk of crumbling. Some commentators fear that arms control is at an impasse and disarmament could be reversed. Treaties already negotiated and signed could unravel through non-ratification or breakouts. The testing of nuclear weapons could be resumed. Revelations of a previously unsuspected underground nuclear bazaar run by Abdul Qadeer Khan, the “father” of Pakistan’s bomb, came as quite a shock. There is a lengthening list of proliferation-sensitive “countries of concern”. Iran’s confrontation with the International Atomic Energy Agency (IAEA) could lead it to pull out of the NPT altogether, following the example of North Korea. No one seriously advocates letting market forces triumph in order to level the killing fields for the whole world. A world in which anyone who wanted to and could get nuclear weapons was allowed to do so would be a far more dangerous place for all of us.

The NPT regime

The NPT came into force in 1970 as the centrepiece of the global non-proliferation regime, which codified the international political norm of non-nuclear-weapon status.³ It tries to curb proliferation by a mix of incentives and disincentives. In return for intrusive end-use control over imported nuclear and nuclear-related technology and material, non-NWS were granted access to nuclear technology, components and material on a most-favoured-nation basis.

Proliferation refers to the dispersion of weapons, capabilities and technologies. Weapons can be sought for one or more of six reasons:⁴ deterrence of enemy attack; defence against attack; compulsion of the enemy to one’s preferred course of action; leveraging adversary and great power behaviour;⁵ status; and emulation.

There are eight categories of proliferation-sensitive actors:

- vertically proliferating NWS: those that increased their nuclear stockpiles and upgraded their nuclear lethality from inside the NPT regime, and by doing so undermined the non-proliferation regime and institutionalized international nuclear “apartheid”;⁶
- NPT-irresponsible NWS: those that export nuclear-missile materials, technology and expertise in violation of international treaties, regimes and commitments;
- fragmenting NWS, or NPT splinters: when the old Soviet Union broke up, for instance, we faced the prospect of an additional three NWS

(Belarus, Kazakhstan and Ukraine) – fortunately, they were persuaded to forgo the nuclear option;

- NPT cheats: those that have signed the NPT but are engaged in activities in violation of their obligations;
- threshold NWS: those that do not claim possession of nuclear weapons, have not forsworn the nuclear weapons option, produce significant amounts of nuclear material or equipment, and refuse to accept international control over their material and equipment – with India and Pakistan coming out of the nuclear closet in 1998, and few left to deny Israel’s nuclear weapons capability, the threshold status is in effect obsolete;
- nuclear terrorists: it defies credulity that nuclear weapons and materials can be kept secure in government inventories and never be obtained by any terrorist group – whereas a government’s nuclear capability can be seized and destroyed, it is impossible to capture or kill every single terrorist and his/her last piece of dynamite, Semtex or timing mechanism;
- “virtual” NWS: the flow of enabling technologies, material and expertise in the nuclear power industry can be used, through strategic pre-positioning of materials and personnel, to build a “surge” capacity to upgrade to nuclear weapons within the timeframe of a crisis degenerating into conflict. Thus Ichiro Ozawa of the Japanese Liberal Party warned China not to forget that Japan could easily make 3,000–4,000 nuclear weapons;⁷
- missile proliferators: missiles are an acutely destabilizing form of weaponry because little defence is available against them; armed with biological, chemical or nuclear warheads, they can be lethal.

The specific causes of proliferation are many, diverse and usually rooted in a local security complex. Persuading key problem states to move to a non-nuclear-weapon status requires convincing them that the balance of advantage lies with forswearing the nuclear option. This necessarily includes not just the national security calculus, but also the internal political constellation, the regional security complex and considerations of international equity. The most crucial elements in preventing proliferation are “the creation and maintenance of political and security conditions which are conducive to nonproliferation”.⁸

The barriers against the acquisition, spread and use of nuclear weapons include legal conventions, norms and the fact of their non-use for over 50 years. Norms, not deterrence, have anathematized the use of nuclear weapons as unacceptable, immoral and possibly illegal in any circumstance – even for states that have assimilated them into military arsenals and integrated them into military commands and doctrines. There have been several occasions since 1945 (the United States in Viet Nam; the former Soviet Union in Afghanistan) when nuclear weapons could

have been used without fear of retaliation but were not, even at the price of defeat on the battlefield.⁹

The IAEA is part of the UN system and reports annually to the General Assembly on its work. One of its major functions is to apply safeguards to ensure that nuclear materials and equipment intended for peaceful uses are not diverted to military uses. The safeguards system constitutes the international community's first attempt to establish a control system over an industry of strategic importance. The IAEA is expected not to prevent the misuse of civilian nuclear facilities but to detect possible misuse soon enough to give early warning to the international community. The *ex post facto* revelations of South Africa's acquisition of nuclear weapons in the 1980s, the discovery of the extent of Iraq's pre-1990 clandestine nuclear programme while subject to IAEA safeguards and inspections, the continuing uncertainty over North Korea's nuclear programmes, the confessions by Libya of how advanced its programmes were, the revelations of the existence of an underground supermarket in Pakistan, and the continuing dispute with Iran have cumulatively eroded the IAEA's credibility as an early-warning system.

On the supply side, a major proliferation challenge is the globalization of the arms industry, the flooding of the global arms market and a resulting loosening of supplier constraints. Safeguards are the technical means to verifying compliance with non-proliferation obligations; export control regimes are the technical means to preventing dissemination of proliferation-sensitive materials. The industrial states gradually evolved a regime of technical denial for keeping nuclear weapons capabilities from potential proliferators through IAEA arrangements and export control guidelines. Safeguards provide early warning of possible proliferation. The risk of detection adds an element of deterrence. Export restraints add to the technical difficulty, raise the costs of the nuclear weapons option, compel proliferators to take a more circuitous path, introduce a longer lead-time and so buy time for offending governments to change their mind and the international community to organize a suitable riposte.

The NPT regime also includes a number of treaties restricting nuclear testing. The Partial Test Ban Treaty (1963) outlawed atmospheric, space and underwater nuclear testing. The Threshold Test Ban Treaty (1974) outlawed underground tests of more than 150 kt yield. The elusive goal of a total ban on nuclear testing was seemingly realized in 1996 with the endorsement by the UN General Assembly of the Comprehensive Nuclear-Test-Ban Treaty (CTBT). However, in part due to the rigid entry-into-force provisions of the CTBT,¹⁰ and in part due to changed administrations in Washington and the changed climate of arms control after "9/11", the CTBT is unlikely to enter into force in the foreseeable future. Nor has the world been any more successful in the pursuit of a

non-discriminatory, multilateral and verifiable convention banning the production of fissile material for weapons purposes that would greatly strengthen the non-proliferation regime.

Arms control efforts look too much to the past and are mostly reactive and curative. Nuclear-weapon-free zones are anticipatory and preventive integral components of the mosaic of international action on de-nuclearization and the de-legitimization of the entire edifice of nuclear weapons (possession, testing, deployment, doctrines, strategies and the associated infrastructure of warheads, delivery systems, bases). They help to embed and institutionalize the global non-proliferation norm at the regional level and thus offer a means of extending and reinforcing the NPT. Such zones cover virtually the entire southern hemisphere but are conspicuously scarce north of the equator.¹¹

The nuclear landscape in 2005

The mushroom clouds on the horizon in 2005 appeared to be the darkest in years, although there were some silver linings. In December 2003, Libya entered into a “grand bargain”: in return for a comprehensive dismantling of its WMD (weapons of mass destruction) capabilities, the United Kingdom and the United States agreed to lift sanctions and restore diplomatic relations. The implementation of the agreement was swift, international watchdog agencies started dismantling and destroying Libya’s nuclear-related material and stocks, and Libya joined the CTBT and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention). Moreover, Libya’s disclosures exposed the global underground nuclear black market, led by the Pakistani metallurgist Abdul Qadeer Khan, which supplied sensitive nuclear technology to Iran, Libya and North Korea. Although many questions remained about the full extent of Khan’s network and activities, President Pervez Musharraf pardoned him in exchange for his continued cooperation in rolling up the network. The improvement in the political atmosphere between Pakistan and India was sustained through the transition to a Congress-majority government in New Delhi. The nuclear rivals moved to more responsible nuclear stewardship of their programmes.

Non-state actors were the explicit focus of UN Security Council Resolution 1540. Adopted unanimously in April 2004, it called on all countries to refrain from supporting by any means such actors attempting to acquire, use or transfer nuclear, chemical or biological weapons and their delivery systems, and requires the establishment of domestic controls.

The bad news rather outweighed the good. The Conference on Disar-

mament, established in 1979 as the single multilateral disarmament negotiating forum of the international community, remained immobilized for the ninth year in succession. Washington announced its commitment to negotiate a legally binding fissile material cut-off treaty, but without verification provisions. Space talks remain blocked. Iran sent conflicting messages on compliance with NPT commitments and its pursuit of a nuclear energy programme for peaceful purposes. The Six-Party Talks on the North Korean nuclear programme made no visible progress in keeping North Korea from establishing a fully functioning nuclear weapons programme. East Asia was further rattled with revelations of a series of supposedly “rogue” nuclear experiments by South Korean and Taiwanese scientists. Concerns persist about the potential leakage of “loose nukes” from Russia to terrorists. Worst-case scenarios see terrorists using nuclear or radiological weapons to kill hundreds of thousands of people. As far as we know, however, no terrorist group has the competence to build nuclear weapons. Nor is there any evidence so far to suggest that nuclear weapons have been transferred to terrorist organizations.

The seventh NPT Review Conference in May 2005 ended in complete collapse. It failed to address the vital challenges or to offer practical ideas for preventing the use, acquisition and spread of nuclear weapons. The first half of the conference was dogged by procedural wrangling and the second was rancorous. The exercise ended in acrimony and recriminations over where the primary blame lay for the lost opportunity to bolster the NPT. Most countries concluded that the nuclear powers had no intention of fulfilling their NPT-based disarmament obligations and agreed commitments from the 1995 and 2000 conferences. This had a triple negative effect: it eroded support for US proposals for strengthening the non-proliferation elements of the treaty, it weakened support for strong action against possible Iranian and North Korean transgressions, and it may soften adherence to NPT obligations over the long run.

China continues to modernize its arsenal. The United States has retreated from several arms control and disarmament agreements, including the Anti-Ballistic Missile Treaty, the NPT and the CTBT. It is asserting the right to develop new generations of earth-penetrating, bunker-busting nuclear weapons and battlefield “mini-nukes” and refining the doctrines underpinning the deployment and possible use of nuclear weapons. The bilateral agreement between India and the United States on civilian nuclear cooperation, signed during Prime Minister Manmohan Singh’s visit to Washington on 18 July 2005, proved extremely contentious. Supporters argued that it serves the strategic goals of both countries while also advancing the global non-proliferation agenda more realistically than any conceivable alternative. Opponents countered that the gains were outweighed by the damage to the non-

proliferation cause. Still more disappointment came with the UN World Summit in September 2005. US insistence on dispensing with the NPT pillars of “disarmament, non-proliferation, and the peaceful use of nuclear energy” in favour of a focus solely on preventing the further spread of nuclear weapons gave ample cover for spoilers on the other side. Secretary-General Kofi Annan rightly called the failure to agree on any action on non-proliferation and disarmament “a real disgrace”.

A paradigm shift?

In *The Structure of Scientific Revolutions*, Thomas S. Kuhn outlined the process by which a dominant paradigm in science is replaced by a new paradigm. Normal science is concerned with solving puzzles within a particular framework. In the course of ongoing research, however, anomalies are uncovered that suggest deficiencies in the theory or the existing paradigm and generate auxiliary hypotheses within the dominant paradigm to explain the anomalies. If the old paradigm proves unable to accommodate the anomalies, the pressure grows for a new paradigm to emerge. At this point “the anomalous has become the expected”.¹² Might a similar process be under way (a) with regard to the NPT regime and, more generally still, (b) with regard to the dominant paradigm of the contemporary world order?

The central doctrine underpinning the contemporary Westphalian system holds that sovereign states are equal in effectiveness, status and legitimacy. In reality, states are not of equal worth and significance, either militarily, economically, politically or morally. An important lesson of peace operations is that impartial peacekeeping should not automatically translate into moral equivalence among the conflict parties on the ground. The Brahimi Panel on United Nations Peace Operations noted that, in some cases, local parties consist not of moral equals but of aggressors and victims, and consequently “peacekeepers may not only be operationally justified in using force but morally compelled to do so”.¹³ Can this insight be applied to the nuclear dilemma? It seems counter-intuitive to postulate that, in the eyes of most people and countries, nuclear weapons in the hands of the United Kingdom and North Korea would pose equal risks to international peace and security. The United Nations, resting on the principle of the sovereign equality of member states, is compelled to assert the danger of nuclear weapons per se arising from their uniquely destructive properties. But, if the United Nations is not able or willing to distinguish between regimes with respect to the risks they pose and the threats they constitute, then either it must be reformed and reconfigured to enable such determination, or else we must

accept the reality that concerned countries will make these tough decisions and act on them outside the UN framework. Such countries are not going to imperil their national security through an idealistic faith in the UN system of collective security resting on demonstrably false assumptions.

Since 1968, the symbol of the dominant arms control, disarmament and non-proliferation paradigm has been the NPT regime. Over the course of three decades, however, significant anomalies have accumulated and now weigh down the regime. The question is: are they so insubstantial that they can be accommodated within the NPT regime through reforms and auxiliary agreements, or are they of sufficient number and magnitude that the NPT needs total replacement? They can be grouped into five broad categories: a discrepancy between the legal definition and actual nuclear-weapon status; the dangerous gap in time between the threat of non-proliferation becoming evident and the capacity of the existing international modalities to respond effectively to it; the risks of lumping together biological, chemical and nuclear weapons under the one label of WMD; the tensions between norms and treaties, on the one hand, and compliance mechanisms and enforcement agents, on the other; and the difficulty of encouraging the acquisition of nuclear weapons as the deterrent of choice resulting from efforts at compulsory or pre-emptive disarmament.

Anomaly 1: Legal definition vs. strategic reality

The definition of a nuclear-weapon state is chronological, a function of countries having been nuclear powers before the NPT was signed, rather than analytical or existential. For example, the nuclear arsenals of India, Pakistan and Israel are NPT-illicit – these countries could test, deploy and even use nuclear weapons but they cannot be described as nuclear-weapon states.¹⁴ In principle, the United Kingdom and France could dismantle their nuclear edifice and destroy their nuclear arsenals, but would still count as nuclear-weapon states. This is an Alice-in-Wonderland approach to affairs of deadly seriousness. When legal fiction comes into collision with strategic reality, either the legal fiction gives way or the world becomes a more dangerous place. Moreover, if the gap between strategic reality and the NPT world view is not bridged, in time it is the NPT that will become progressively less credible and relevant. Yet can the NPT definition be opened up for revision through a formal amendment of the treaty, with all the unpredictable consequences regarding the status of existing States Parties? The conceptual fudge is evident in the report of the High-level Panel asking Middle Eastern and South Asian countries to ratify the CTBT and negotiate regional nuclear-

weapon-free zones.¹⁵ Should India, Pakistan and Israel do so as nuclear-weapon states? If so, would this not formalize their nuclear status outside the NPT? Furthermore, why not make the same call to the other five nuclear powers? If not, w(h)ither realism?

Anomaly 2: Fast-paced threats, slow institutional response

The cases of Israel, India and Pakistan show that, decades after the problem arose, the international community is still unable to agree on an appropriate response within the existing NPT framework. In conducting 11 nuclear tests in May 1998, India and Pakistan confronted the world with a dilemma. A moderate response would have been self-negating. The nuclear hawks would have felt vindicated, saying that their country was being treated with respect because it had nuclear weapons. To accept India and Pakistan as nuclear-weapon states would reverse three decades of non-proliferation policy and victimize many countries that signed the NPT and CTBT on the understanding that the number of nuclear-weapon states would be limited to five. On the other hand, a harsh response would have been self-fulfilling. The hawks would have argued that a friendless India that is the target of hostile international attention needs an arsenal of nuclear weapons to defend its interests. Seven years later, trying to revert to the status quo ante in South Asia is as realistic as demanding an immediate timetabled framework for the elimination of all nuclear weapons. For India, Israel and Pakistan, the question is no longer if they are nuclear powers but what kind of nuclear powers they are going to be.

On Iraq, Washington did not help its case for war against Saddam Hussein by issuing a confused mix of motives and explanations. In the resulting “noise” of diplomatic traffic, answers were not forthcoming to two crucial questions: why Iraq, and why now? Any single answer to the first question – such as known/suspected links to terrorism or to weapons of mass destruction – would always complicate attempts to answer the second, since people could instantly counter with more compelling cases of the same pathology.

For instance, whereas evidence of nuclear weapons remained elusive in Iraq, North Korea did almost everything except actually conduct a nuclear test. The glib conclusion drawn by the anti-war lobby, therefore, was that Washington’s inconsistent response to the simultaneous crises showed two things: Iraq did not possess usable nuclear weapons, and North Korea does not have oil. Yet, glibness aside, Washington could have constructed a powerful case for its action on Iraq precisely by linking the two crises. We know that Saddam had pursued the nuclear option in the past, had possessed and used biochemical weapons against his own

people as well as against Iran, and had played a dangerous game of hide and seek with UN weapons inspectors for over a decade. Given that we cannot be certain that North Korea has not already crossed the nuclear threshold, what options are available to the international community for dealing with Pyongyang without causing grave damage to ourselves? The UN Security Council seems barely able to table the North Korean threat for discussion and resolution. Similarly, it would have been impossible to de-fang Saddam of nuclear weapons the day after he acquired and used them – the United Nations is incapable of doing so the day before – hence the American determination to do so instead. Thus the two questions (why Iraq and why now?) can be answered simultaneously and symbiotically.

The reality of contemporary threats – a virtual nuclear weapons capability that can exist inside non-proliferation regimes and be crossed at too short notice for international organizations to be able to react defensively in time, and non-state actors that are outside the jurisdiction and control of multilateral agreements whose signatories are states – means that significant gaps exist in the legal and institutional framework to combat them. If international institutions cannot cope with today's real threats, states will try to do so themselves, either unilaterally or in company with like-minded allies. If military action is strategically necessary and morally justified but not legally permitted, then the existing framework of laws and rules – not the anticipatory military action – is defective.

Recognizing this, a group of like-minded countries has launched a Proliferation Security Initiative (PSI) to interdict illicit air, sea and land cargo linked to WMD. Its premise is that the proliferation of such weapons deserves to be criminalized by the civilized community of nations. The PSI signals a new determination to overcome an unsatisfactory state of affairs through a broad partnership of countries that, using their own national laws and resources, will coordinate actions to halt shipments of dangerous technologies and materiel. Whereas the High-level Panel encouraged all states to join the PSI,¹⁶ the Secretary-General simply welcomes the voluntary initiative.¹⁷

Anomaly 3: Weapons of mass destruction

Nuclear non-proliferation efforts must be viewed within the context of the broader proliferation environment, which in addition to nuclear weapons includes biological, chemical and conventional weapons and their delivery systems. The clandestine nature of all biological and chemical weapon programmes suggests that no prestige value attaches to them. They have been so successfully stigmatized and evoke such universal revulsion that they are not a source of national pride.

Language is not always neutral, and often contains powerful codes of permissible and impermissible behaviour. It is not clear that biological, chemical and nuclear weapons belong in one conceptual category. They differ in their technical features, in the ease with they can be acquired and developed, and in their capacity to cause mass destruction. Treating them as one category of weaponry can distort analysis and produce flawed institutional responses. In the long-lasting and particularly traumatic conflicts in Africa and Asia, the real weapons of mass destruction are small arms and landmines. There is also the danger of mission creep for nuclear weapons. The taboo against nuclear weapons use is so strong that it is difficult to imagine their use other than against enemy nuclear weapons.

The creeping tendency to redefine the mission to counter WMD has three consequences: it lumps together biological, chemical and nuclear weapons in one conceptually fuzzy category; it weakens the nuclear taboo; and it permits the nuclear powers to obfuscate the reality that they are the possessors of the most potent WMD.¹⁸ If nuclear weapons are accepted as having a role in countering biological/chemical warfare, then by what right or logic can we deny a nuclear weapons capability to a country such as Iran that has actually suffered chemical weapons attacks? In other words, mission creep carries the attendant danger of cross-category horizontal proliferation. It also raises a further interesting question: why should there not be a universal nuclear weapons convention banning such weapons, comparable to the biological and chemical weapons conventions?

Anomaly 4: Enforcers as exemplars

The NPT-N5 (the five nuclear powers recognized as such by the NPT) preach nuclear abstinence but do not practise it. It defies history, common sense and logic to believe that a self-selecting group of countries can keep a permanent monopoly on any class of weaponry. Not a single country that had nuclear weapons when the NPT was signed in 1968 has given them up.¹⁹ Moreover, their stockpiles are in defiance of the International Court of Justice's Advisory Opinion of July 1996 of a legal obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament. India and Pakistan breached no international treaty, convention or law by testing. For the five nuclear-weapon states to impose sanctions on the nuclear gatecrashers is akin on this issue to outlaws sitting in judgment, passing sentence and imposing punishment on the law abiding. Such behaviour fuels the politics of grievance and resentment.

There is profound scepticism about the country with the world's most

powerful nuclear weapons using military force to prevent their acquisition by others. By attacking Iraq in defiance of world opinion without UN authorization, Washington exempted itself from the existing normative restraints on the use of military force. Many prudent national security planners around the world will be more attracted than they were before the Iraq war to nuclear weapons for deterring possible attack on their countries in the suddenly harsher jungle of international relations. They may begin to edge away from existing non-proliferation commitments and become interested in nuclear warheads and missiles as leveraging weapons in order to affect the calculus of US decision-making on wars.

The nuclear-weapon states are trapped in the fundamental paradox that, while they justify their own nuclear weapons in national security terms, they seek to deny such weapons to anyone else for reasons of global security. Ultimately, however, the logic of nuclear non-proliferation is inseparable from the logic of nuclear disarmament. Hence the axiom of non-proliferation: as long as any one country has them, others, including terrorist groups, will try their best (or worst) to get them.

For arms control regimes – the infrastructure of sustainable disarmament²⁰ – to be vested with legitimacy, they must incorporate a balance of obligations between the present nuclear haves and have-nots. The urgent requirement now is to put in place an increasing number of verifiable constraints on the policies, practices and arsenals of nuclear-weapon states. The lack of compliance and enforcement of NPT obligations on the nuclear-weapon states de-legitimizes the NPT's normative claims in the eyes of others. The historic and favourable changes in the world strategic situation must be embedded in structures that consolidate, deepen and reinforce the non-proliferation, arms control and disarmament regimes in their normative, technical-denial and compliance-cum-enforcement attributes. All the regimes must be invested with the requisite political will, fiscal means and intelligence support.

Anomaly 5: Utility vs. futility of nuclear weapons

During the Cold War, large numbers of US nuclear warheads were aimed at fixed enemy targets. Under the targeting system called “adaptive planning” based on “offensive deterrence”, Washington would have the option of launching a pre-emptive strike with precision-guided conventional bombs or “special-purpose nuclear weapons” against hostile countries that posed a threat of WMD attack on the United States. Does contemplating and preparing for the use of nuclear weapons with lower yield and reduced fallout constitute a preparatory step too far?

The Nuclear Posture Review has the great merit of trying to reconcile

the reality of nuclear weapons with operational military doctrines. The unique properties of nuclear weapons mean that they will continue to play critical roles. Their military-political utility ranges from assurance of allies and friends to dissuasion of competitors, deterrence of aggressors and defeat of enemies. In the process, however, nuclear weapons have advanced up the ladder of escalation from the weapon of last resort to a weapon of choice, and the underlying defence doctrine has changed from the Cold War's mutual assured destruction to the post-Cold War's unilateral assured destruction. Such doctrinal spread may have unhappy consequences, because the calculus of potential proliferators is bound to change in response to the new US doctrine. It is not possible to convince others of the futility of nuclear weapons when the facts of possession and the doctrines of use prove their utility for a self-selected few. Lowering the threshold of their use weakens the taboo against them, and thus inevitably lowers the normative barriers to nuclear proliferation.

A dramatic deterioration in the security environment hardens the determination of the "rogues" to acquire the most lethal weapons in order to check armed attacks they fear will be launched by the United States. Just as Iraq as a hotbed of terrorism became a consequence more than a cause of war, so proliferation of nuclear weapons may result from that war: some countries will have concluded that only nuclear weapons can deter Washington from unilateral wars of choice. Thus, as Washington throws off the fetters on the unilateral use of force and the universal taboo on nuclear weapons, it strengthens the attraction of nuclear weapons for others while simultaneously weakening the restraining force of global norms and treaties.

But this in itself is now less worrying to Washington. For yet another effect of 9/11 was to change dramatically the focus of concern from universal to differentiated nuclear proliferation. Previously, the NPT was the centrepiece and embodiment of the non-proliferation norm. Now the US concern may be not so much the NPT as the relations of the proliferators with Washington. US-friendly countries such as Israel have never evoked outrage over their nuclear weapons programmes. The failure to confront Israel's nuclear weapons increasingly complicates efforts to address nuclear concerns by others in the region. Since 9/11, even India and Pakistan have been lifted out of the ranks of countries of concern (with Pakistan being designated a major non-NATO ally) in favour of concentrated attacks on the axis of evil countries – that is, US-hostile proliferators. And of course the concern is no longer limited to state proliferators, but extends much more broadly to non-state groups and individuals as well, especially those who might some day contemplate acts of nuclear terrorism.

In turn this changes the basis of world order as we know it. And that might be the most profound and long-lasting significance of 9/11, which may indeed have changed the world and tipped us into a post-Westphalian world. US policy is full of contradictions within the Westphalian paradigm. How can the most prominent dissident in many global norms and regimes claim to be the world's most powerful enforcer of global norms and regimes, including non-proliferation? How can the most vocal critic of the very notion of an international community anoint itself the international community's sheriff?

The answer lies in a conception of world order rooted outside the framework of Westphalian sovereign equality. This also explains why some of today's most potent threats come not from the conquering states within the Westphalian paradigm but from failing states outside it. In effect, President Bush is saying that the gap between the fiction of legal equality and the reality of power preponderance has stretched beyond breaking point. Washington is no longer bound by such fiction. The Bush administration insists that the United States will remain as fundamentally trustworthy, balanced and responsible a custodian of world order as before – but of a post-Westphalian order centred on the United States. Other countries and leaders must pay their respects to Washington as the new imperial centre, or else Washington will make them pay for their disrespect.

Outline of the book

Can the International Atomic Energy Agency be transformed from an inspectorate into an international nuclear police force? Or even an international nuclear-ready reaction force, equipped, tasked and prepared to destroy unauthorized nuclear facilities by force? Alternatively, now that we know just how well the UN inspection machinery (UN Special Commission/UN Monitoring, Verification and Inspection Commission) worked in containing Saddam Hussein's nuclear ambitions, could they be transformed from ad hoc to standing institutions? The success of such ventures cannot be guaranteed, and they are high risk too in terms of precipitating conventional and nuclear wars and ecological disasters.

These and other questions are discussed and analysed from a variety of perspectives in this book. The key questions include: are the problems we now face old problems (such as those of non-compliance by states members of various regimes) or new problems (such as non-compliance by states not members of various regimes); are the gaps in the international institutions to deal with non-compliance the result of the lack of resources or of a lack of norms; are there lessons to be learned from other reforms,

such as the Brahimi Panel on UN Peace Operations, which challenged the traditional notion of impartiality in peacekeeping? Is a similar norm applicable to non-proliferation? What weaknesses did the Iraq crisis expose in the non-proliferation regimes and in the UN system's role as a central arena for handling proliferation crises? What successful elements of the international community's policies vis-à-vis Iraq should not be forgotten? What are the lessons learned for devising international responses to proliferation challenges in the Middle East and in North-east Asia?

Part I (Chapters 2–4) looks at doctrinal issues regarding the use of force in general and at the implications of a shift in the utility of nuclear weapons from deterrence to compellence, and of an abandonment of the parallel pursuit of nuclear non-proliferation and disarmament in favour solely of non-proliferation. Part II (Chapters 5–8) examines the place and role of the United Nations in attempting to control the spread and use of nuclear weapons. In Parts III (Chapters 9–10) and IV (Chapters 11–13), we discuss the regional dynamics of proliferation concerns in North-east Asia and the Middle East, respectively. Parts V (Chapters 14–18) and VI (Chapters 19–20) look at the policy drivers of the NPT and extra-NPT nuclear powers. Finally, in Part VII (chapters 21–23), we conclude with a range of observations on the threats posed by the possible acquisition of nuclear weapons by non-state actors and by missiles, as well as the state of affairs after the Iraq war.

The three pillars of arms control

The goal of containing the genie of nuclear weapons was unexpectedly successful for three decades from 1968 to 1998, but it has suffered serious setbacks since then. The success rested on three pillars, each of which has been crumbling in the past few years: norms, treaties and coercion.

Norms are socially efficient mechanisms for regulating human behaviour from the family and village to the global setting. In conducting 11 nuclear tests in 1998, India and Pakistan did not violate any treaty they had signed. But they did breach the global anti-nuclear norm and were roundly criticized for doing so. By now they are increasingly being accepted back into the fold as *de facto* nuclear powers, which weakens the anti-nuclear norm still further.

Non-fulfilment of treaty obligations by the nuclear powers weakens the efficacy of the anti-nuclear norm in controlling the threat of proliferation. The five permanent but unelected members of the UN Security Council – the N5 – then have to resort to measures of coercion ranging from diplomatic and economic to military. But relying solely on coercion with little

basis any longer in norms (morality) and treaties (legality) usually turns out to be counter-productive.

A norm cannot control the behaviour of those who reject its moral status. India had argued for decades that the most serious breaches of the anti-nuclear norm were being committed by the five nuclear powers, which simply disregarded their disarmament obligations under the NPT. Of late, Washington has engaged in a systematic belittling, denigrating and hollowing out of a series of arms control and disarmament agreements. Arguably, it has also been engaged in a similar frontal assault on the principle of global norms – from arms control, climate change and international criminal justice to conventions against torture and for the rights of children and planned parenthood. In doing so, Washington contributes to a worsening of the proliferation challenge by weakening the behaviour-regulating force of global norms.

Precisely because multilateral agreements are negotiated outcomes, they are typically imperfect bargains, reflecting the compromises that all sides had to make in the interests of getting an agreement that meets the minimum concerns of all parties while falling short of their maximum ambitions. Australia helped to broker the CTBT in the belief that technical improvements through continued nuclear testing were subordinate to the risks of nuclear proliferation if testing was not terminated. Canada was the catalyst for the ban on antipersonnel landmines because their marginal military utility is outweighed by their humanitarian carnage.

While the CTBT and the NPT, along with the chemical and biological weapons conventions, the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (the Ottawa Treaty) and other international instruments, raise the threshold of proliferation and use, they simultaneously lower the bar to collective international responses for ensuring regime compliance. They thus lower the threat, reduce the need for counter-proliferation preparation and strategies, and promote norms of acceptable international behaviour. In signing international arms control treaties, states accept binding obligations. If a state should seek to acquire nuclear weapons, NPT obligations give us significant leverage first to hold it to a legal contract, and second, if that is ignored, to fashion a collective response to non-compliance. It is far easier to form coalitions of the willing from those angered by non-compliance with international treaties and global norms – which is a good working definition of a rogue state.

Of course, no arms control regime can provide foolproof assurance against cheating. But the key issue, as in all aspects of life, is risk management. We do not stop driving or flying because of the risk of accidents. Rather, we take reasonable precautions, institute safety procedures, en-

sure minimum skills through approved testing procedures and set in place mechanisms and people for catching and punishing the violators of the collective norms of driving and flying. There is no country in which people do not violate traffic laws and seek to evade detection. Some even succeed. It would be as irresponsible as it would be irrational to conclude that driving licence requirements and traffic codes should therefore be thrown out in favour of a free-for-all on the nation's roads.

Some states and groups will surely try to cheat on their international obligations. But the verification and monitoring mechanisms built into arms control regimes give us a higher chance of catching them out in their efforts to cheat. The risk of detection acts as a deterrent against cheating, and the risk of being branded a cheat adds an element of compliance. The United States can leverage its hard and soft power assets to hold signatories to their international treaty obligations. If these are violated, the United States can leverage the same set of assets to forge coalitions of the willing, as in the Persian Gulf, Kosovo and Afghanistan wars over the past decade. The world needs American muscle and leadership on the side of the law-abiding.

In sum, there was great merit in relying on an integrated strategy of norms, treaties and coercion to keep the threat of nuclear proliferation in check. The NPT is tied to a frozen international power structure decades out of date, and it has become dangerously fragile. The road to the nuclear-free destination includes deep reductions in nuclear arsenals; further constraints on the extra-territorial deployment of nuclear weapons; the entry into force of the CTBT; a ban on missile test flights and the production of fissile materials; a pre-emptive ban on the nuclear militarization of outer space; and the de-alerting and de-mating of nuclear forces, warheads and missiles.

Confronted with a world that cannot be changed, reasonable people adapt and accommodate. Yet the turning points of history and progress in human civilization have come from those who set out to change the world instead. The only guarantee against the threat of nuclear war is the complete elimination of nuclear weapons. In most contexts, a step-by-step approach is the best policy, but such caution can be fatal if the need is to cross a chasm. In the case of nuclear weapons, the chasm over which we must leap is the belief that world security can rest on weapons of total insecurity. Such scenarios provoke dismissive comments from so-called "realists". *Realistically* speaking, what other option is there? A rollback to the pre-1998 status quo, in the name of realism? Unchecked proliferation? Rearmament? As with Winston Churchill's famous aphorism on democracy, the abolitionist option may well be unrealistic; all other conceivable options are even less realistic as strategies for our common security and survival.

Notes

1. High-level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility*, UN Doc. A/59/565 (New York: United Nations, December 2004), para. 108.
2. *Ibid.*, para. 110.
3. I use the term “regime” loosely to refer to norms, rules and behaviour around which actor expectations converge in the issue-area of non-proliferation even in the absence of formal international organization. The non-proliferation regime includes the norms of international nuclear behaviour and the network of international treaties, institutions, export controls and nuclear trade agreements.
4. This is developed more fully in Ramesh Thakur, “Arms Control, Disarmament, and Non-Proliferation: A Political Perspective”, in Jeffrey A. Larsen and Thomas D. Miller, eds, *Arms Control in the Asia-Pacific Region* (Colorado Springs: USAF Institute for National Security Studies, US Air Force Academy, 1999), pp. 39–61.
5. Many of the newer proliferating materials and processes are “leveraging” technologies that allow poorer countries to offset high-technology advantages. By demonstrating the acquisition of just a few key capabilities, developing countries can affect the perceptions and alter the decision calculus of diplomacy and war of the advanced military powers.
6. The use of the emotive word “apartheid” by critics of the NPT entails entirely negative connotations. Apartheid referred to a system in which a minority imposed its order on a majority by coercion. The NPT has been signed by a majority of the world’s countries exercising their free choice.
7. *Japan Times*, 6 April 2002.
8. Hans Blix (then Director General of the IAEA), “Strengthening the NPT and the Nuclear Non-Proliferation Regime”, *Disarmament: A Periodic Review by the United Nations*, Vol. 16, No. 2 (1993), p. 5.
9. See Nina Tannenwald, “The Nuclear Taboo: The United States and the Normative Basis of Nuclear Non-Use”, *International Organization*, Vol. 53 (Summer 1999), pp. 433–468.
10. China joined the NPT regime in March 1992, followed by France in August, thereby bringing all five known nuclear-weapon states within the NPT fold. If analogous clauses had been written into the NPT, that treaty would never have entered into force.
11. See Ramesh Thakur, ed., *Nuclear Weapons-Free Zones* (London/New York: Macmillan and St. Martin’s Press, 1998).
12. Thomas S. Kuhn, *The Structure of Scientific Revolutions* (Chicago: University of Chicago Press, 1962), p. 53.
13. *Report of the Panel on United Nations Peace Operations*, UN Doc. A/55/305–S/2000/809, 21 August 2000, para. 50.
14. The official UN formulation is that India and Pakistan are “non-NPT States that have conducted tests of nuclear devices”. India describes itself as a declared possessor of nuclear weapons. See W. P. S. Sidhu, “India’s Nuclear Use Doctrine”, in Peter R. Lavoy, Scott Sagan and James J. Wirtz, eds, *Planning the Unthinkable: New Proliferators and the Use of Weapons of Mass Destruction* (Ithaca, NY: Cornell University Press, 2000), pp. 125–157; and Ramesh Thakur, “The South Asian Nuclear Challenge”, in John Baylis and Robert O’Neill, eds, *Alternative Nuclear Futures: The Role of Nuclear Weapons in the Post-Cold War World* (Oxford: Oxford University Press, 2000), pp. 101–124.
15. High-level Panel, *A More Secure World*, para. 124.
16. *Ibid.*, para. 132.
17. Kofi Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All. Report of the Secretary-General*, UN Doc. A/59/2005 (New York: United Nations, 21 March 2005), para. 100.

18. The WMD issue was further clouded (no pun intended) with confirmation that US forces had used white phosphorus during their assault on Fallujah in November 2004. As the *New York Times* argued in an editorial, “U.S. demands for counter-proliferation efforts and international arms control ring a bit hollow when the United States refuses to give up white phosphorus, not to mention cluster bombs and land mines” – “Shake and bake” (the “unsettling military name” given to white phosphorus), *International Herald Tribune*, 30 November 2005.
19. The renunciations by Belarus, Kazakhstan and Ukraine after the breakup of the former Soviet Union do not alter the substantive claim, insofar as, for this purpose, the successor state is Russia.
20. See Ramesh Thakur, “Sustainable Disarmament”, in Carl Ungerer and Marianne Hanson, eds, *The Politics of Nuclear Non-Proliferation* (St Leonards: Allen & Unwin Australia, 2001), pp. 11–30.

© United Nations University, 2006

The views expressed in this publication are those of the authors and do not necessarily reflect the views of the United Nations University.

United Nations University Press
United Nations University, 53-70, Jingumae 5-chome,
Shibuya-ku, Tokyo 150-8925, Japan
Tel: +81-3-3499-2811 Fax: +81-3-3406-7345
E-mail: sales@hq.unu.edu general enquiries: press@hq.unu.edu
<http://www.unu.edu>

United Nations University at the United Nations, New York
2 United Nations Plaza, Room DC2-2062, New York, NY 10017, USA
Tel: +1-212-963-6387 Fax: +1-212-371-9454
E-mail: unuona@ony.unu.edu

United Nations University Press is the publishing division of the United Nations University.

Cover design by Rebecca S. Neimark, Twenty-Six Letters
Cover photograph of Hiroshima Dome reproduced by kind permission of John Hobson ©.
www.johnhobsonphotography.co.uk

Printed in Hong Kong

UNUP-1131

92-808-1131-2

Library of Congress Cataloging-in-Publication Data

Arms control after Iraq : normative and operational challenges / edited by
Waheguru Pal Singh Sidhu and Ramesh Thakur
p. cm.

Includes bibliographical references and index.

ISBN-13: 978-9280811315 (pbk.)

ISBN-10: 9280811312 (pbk.)

1. Nuclear nonproliferation. 2. Arms control. I. Sidhu, Waheguru Pal Singh.
II. Thakur, Ramesh Chandra, 1948–

JZ5675.A74 2006

327.1'74—dc22

2006020917

Arms Control After Iraq: Normative and Operational Challenges

Edited by Waheguru Pal Singh Sidhu and Ramesh Thakur

Contributors:

Ramesh Thakur
Kalevi J. Holsti
Kennedy Graham
Rebecca Johnson
Tutomu Kono
Harald Miller
Trevor Findlay
Patricia Lewis
Wade L. Huntley
Heigo Sato
Jalil Roshandel
Mohammad El-Sayed

The stated reason for invading Iraq was its alleged clandestine pursuit of weapons of mass destruction in defiance of UN resolutions. Even though the allegation was proven false, the international community remains preoccupied with the threat of the proliferation and use of such terrible weapons. This has three interlinked components: non-proliferation, arms control and disarmament. Some countries, from within the shelter of the NPT, could either develop a full-fledged weapons capability, covertly and illegally, or else acquire all the materials and expertise needed for a weapons programme and withdraw from the treaty when they are ready to proceed with weaponization.

There is good reason to fear the erosion and possible collapse of the whole NPT regime over the longer term: treaties already negotiated and signed could unravel through non-ratification or breakouts; the testing of nuclear weapons could be resumed; and there is a lengthening list of proliferation-sensitive countries of concern. Both the 2004 NPT Review Conference and the UN World Summit in 2005 failed to address the urgent challenge of arms control.

The questions discussed in this book include doctrinal issues regarding the use of force in general; the implications of a shift in the utility of nuclear weapons from deterrence to compellence and of a focus on non-proliferation to the neglect of disarmament; the place and role of the United Nations in controlling the spread and use of WMD; the regional dynamics of proliferation concerns in North-east Asia and the Middle East; the policy drivers of the NPT and extra-NPT nuclear powers; and the threats posed by the possible acquisition of nuclear weapons and missiles by non-state actors.

Waheguru Pal Singh Sidhu is a Faculty Member at the Geneva Centre for Security Policy, Switzerland.

Ramesh Thakur is the Senior Vice-Rector of the United Nations University, Japan, and an Assistant Secretary-General of the United Nations.

Order from:

Book information:

ISBN 92-808-1131-2;
460pp; US\$45.00



**United Nations
University Press**

53-70, Jingumae 5-chome, Shibuya-ku, Tokyo 150-8925, Japan
Tel +81-3-3499-2811; Fax +81-3-3406-7345
E-mail: sales@hq.unu.edu; <http://www.unu.edu>