

# Hushed Hope - India, the Nuclear Deal, and Nonproliferation

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For quite some time the formerly strained relationship between the United States and India has improved remarkably. This process was made possible by the end of the Cold War which often found both Democracies on different sides of the Iron Curtain. It really took off when US-President Bill Clinton stood firmly on the side of India during the ‘Kargil War’ with Pakistan in 1999. One remaining difference concerned India’s nuclear ambitions, as India has refused to sign the Nuclear Nonproliferation Treaty (NPT) and the Comprehensive Test Ban Treaty (CTBT) and tested nuclear devices in 1974 and 1998. The dispute, however, was resolved in 2008 with the so-called nuclear deal. This agreement re-integrates India into international civil nuclear trade even while India remains outside of the most important institutions of the global nonproliferation (NP) regime.

Almost universally, nonproliferation and arms control experts have deemed the deal as harmful to global efforts in the fields of nuclear nonproliferation, arms control and disarmament. Their case becomes even stronger, as the proponents of the deal mainly presented rather weak arguments that have been easily dismissed by the critics.

With a few notable exceptions, both opponents as well as proponents have, however, overlooked important issues which should influence our evaluation of the deal. As I will argue, it is important to take into account a) the possibility of the deal being a precondition (rather than an actual cause) of an Indian re-evaluation of the global NP regime, b) the dangers for this regime (and international stability in general) that could arise from an unsatisfied India and c) the fact that the reasonable alternatives to the deal are not very compelling.

## **What’s the Deal with U.S.-India Nuclear Cooperation?**

In 2005 the Bush administration arranged a significant adjustment in the American approach towards the problem of India’s nuclear ambitions. For decades the United States had used the stick but suddenly Bush tried the carrot.

He and the Indian Prime Minister Manmohan Singh orchestrated the so-called ‘nuclear deal’, which was initiated with a Joint Statement by Bush and Singh on July 18th 2005<sup>1</sup> and was finally signed in 2008. The premise of the deal is simple: India agrees to have all its civil nuclear facilities safeguarded by the IAEA and, in return, the U.S. resumes civil nuclear cooperation with India.

However, this agreement was met with a great deal of opposition in India as well as the United States. Especially nonproliferation experts objected to the deal as they feared that it would hamper or damage nuclear nonproliferation in several ways.

So what is the deal with the nuclear deal? It puts an end to India’s isolation concerning nuclear trade after almost 35 years.<sup>2</sup> The background of this isolation was India’s first nuclear test in 1974, codenamed ‘Operation Smiling Buddha’.<sup>3</sup> Even though India had never signed the NPT and furthermore declared the test a ‘peaceful nuclear explosion’, the international community was shocked. It was universally assumed that the real reason behind the test was a nuclear weapons program. The United States and Canada were particularly upset, as they had supplied India with nuclear fuel and reactors under the provision that the use of these materials would be strictly

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1 See Kazi (2009); Prime Minister’s Office (2005) and The White House (2005).

2 India was, however, able to take part in some types of nuclear trade.

3 The seminal work on India’s nuclear weapon program remains Perkovich (1999).

restricted to peaceful purposes. As a result, the Nuclear Suppliers Group (NSG) was established. Since 1979 it coordinates export guidelines of the nuclear-exporting countries. These guidelines established among other things that only states whose nuclear facilities are safeguarded by the International Atomic Energy Agency (IAEA) should be receiving nuclear exports.<sup>4</sup> This requirement was not met by India<sup>5</sup> and as a result New Delhi had to rely almost exclusively on indigenous resources for the development of its nuclear program until October 2008.

The nuclear deal modifies this situation.<sup>6</sup> In a bargain, India agreed to label the larger part of its nuclear complex, which is used for electrical power production, as ‘civilian’, and will allow IAEA-safeguards in all civil facilities (fourteen existing thermal power reactors and all future civil reactors and breeders) until 2014. That is, the IAEA will control if the material supplied to India actually stays within the civilian nuclear cycle. On the downside, India’s nuclear weapon program and all associated facilities will remain without safeguards.

The United States, on its part, agreed to relax its own export guidelines in order to enable supplies of technologies and materials for India’s civil nuclear program. Moreover, Washington promised to work inside the NSG to manufacture an ‘India-specific exemption’, that is an exemption rule which takes into account specific Indian interests and needs. The NSG members approved such an exemption in September 2008. Without this approval, the deal would not have been achievable, as the U.S. Congress made it one (of several) conditions for its own approval.<sup>7</sup> As a result of the NSG’s decision, the deal, which started as a bilateral agreement between the United States and India, gained a multilateral dimension as well. That is, not only the United States but also all forty-six NSG member states are now allowed to conduct civil nuclear businesses with India.

### **The Nuclear Deal and Nuclear Nonproliferation**

Principally, three major critical points can be identified that are cited by proponents of nonproliferation: First, there is a fear that a new nuclear arms race could be fostered in South Asia. Second, there is the assumption that the nuclear deal could make global nuclear disarmament efforts less likely, if not impossible. Third, and most importantly, it is argued that the deal damages the nonproliferation regime altogether. Finally, a fourth point could be cited that claims India outmaneuvered the U.S. in the negotiations and achieved all its goals without offering any meaningful concessions in return.<sup>8</sup>

These critical points are well-known and have been discussed extensively elsewhere<sup>9</sup>; I will not reiterate them here. Suffice to say, that while I believe that they are somewhat exaggerated<sup>10</sup>, all in all they should lead us *prima facie* to reject the U.S.-India deal from a nonproliferation perspective, as they are indeed eminent and imminent.

To keep a more optimistic outlook, one must point out positive effects of the deal that could balance or even reverse the critical issues. In the following, I will bring forward some arguments that lead me to the conclusion that such a reversal indeed is present. I will concern myself only

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4 See Nayudu (2009: 160). In 1992 the NSG expanded its requirements and “adopted full scope safeguards as a criterion for exports to non-weapon states”. Leonard Weiss (2007: 429).

5 Before the deal only a small number of facilities in India were subject to IAEA safeguards.

6 See Chari (2009) for a more detailed description of the nuclear deal itself.

7 The associated U.S. legislation is the so-called Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006, GovTrack.us. H.R. 5682--109th Congress, Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006, GovTrack.us (database of federal legislation), [www.govtrack.us/congress/bill.xpd?bill=h109-5682](http://www.govtrack.us/congress/bill.xpd?bill=h109-5682). Accessed on 22.10.2010.

8 I discuss this point in detail in Rauch (2008: 3-4).

9 There are of course other points of criticism outside the realm of arms control and nonproliferation. Most of them are collected in Motz/Milhollin (2006). My discussion takes no side in these questions and is only concerned about the impact of the deal on arms control and disarmament issues. For a broad overview see the following publications: International Herald Tribune (2006: 4); Arms Control Association (2006); Kimball (2008); Mian/Ramana (2006); Kimball/McGoldrick (2007); Weiss (2006). An interesting exception is the former head of the IAEA Mohamed el-Baradei, who praised the deal explicitly in several newspaper interviews, see for example el-Baradei (2006).

10 For my take on the common critique about the deal see Rauch (2008: 3-8, 2009: 6-10).

with arguments that can at least indirectly be associated with questions of nonproliferation and disarmament and will not discuss – for example – economic gains that the deal could foster.

It is important to note that the prospects envisioned here differ profoundly from the nonproliferation benefits usually brought forward by some supporters of the deal. These ‘conventional’ claims include that India would strengthen its export control system because of the deal, while respective legislation in India was underway in any case.<sup>11</sup> Proponents of the deal also make the logically inconsistent argument that the deal was needed to prevent India from acting as a proliferator, while at the same time highlighting India’s exemplary proliferation record that should qualify India for the deal. There is also a voluntary Indian moratorium on nuclear testing in force already. The deal did nothing to bring this about and does nothing to make it permanent. It is also a misrepresentation to claim that India has decided to “place all its civilian nuclear facilities under the same full-scope safeguards required of NPT signatories” (Ganguly 2005, emphasis added) as part of the deal. George Perkovich (2005a: 9) points out that the existence of residual, not safeguarded military facilities effectively obviates full-scope-safeguards. Equally unpromising is the hope by some proponents that increasing the number of safeguards would in turn help to ‘cap’ the Indian nuclear weapon program, as “there is nothing in the agreement that prevents India from making more nuclear weapons” (Weiss 2007: 438). All in all these arguments remain unimpressive from a nonproliferation viewpoint.

The arguments that I will present refrain from offering short-term gains and are rather long-term orientated. The first one highlights possible positive effects of the deal on India’s stance towards the nuclear nonproliferation regime itself. It is followed by an argument – possibly assisting nonproliferation and arms control efforts indirectly – derived from power transition theory which claims that a dissatisfied India could very likely be a troublemaker in the international system and that accommodating India’s wishes today can help stabilizing the world of tomorrow. Finally, I claim that all realistic alternatives to the deal would have produced even worse results.

### **The Deal as a Perception-Modifier**

Nearly all decision makers in India regard the nuclear nonproliferation regime as inherently unfair towards the non-nuclear powers (the so called ‘nuclear apartheid’ argument) but also as specifically hostile towards India. Both sentiments can be better understood once we remove our predominantly Western and nonproliferation-shaded glasses.

India has never signed the NPT and has never agreed in an international treaty to forgo nuclear weapons and testing. Therefore it never, in fact never could have, violated the nonproliferation regime. Yet, India was blamed, shamed and punished in 1974 as well as 1998 when it exploded nuclear devices.<sup>12</sup> Moreover, the nuclear weapon states clearly violate Article VI of the NPT without consequences whatsoever.<sup>13</sup> Even worse, they not only disrespect their own duties according to the contract but also help or turn a blind eye towards proliferating friends such as Pakistan or Israel.

Let us consider the different fragments of the Non-Proliferation-Regime<sup>14</sup>:

In the NPT, five states are recognized as legitimate nuclear powers. Three of these states have caused severe problems to India in the past: China has attacked India in 1962 and still occupies territory that India considers its own. The United States have aligned themselves with India’s arch-rival Pakistan and armed it with weapons that could be used against India (even though they were not intended by the US to be used for this purpose); additionally they threatened India in 1971 by

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11 The United Nations Security Council Resolution 1540 does require all nations (including India) to adhere to strict standards in their export control mechanisms in order to avoid weapon materials falling in the hands of proliferating countries or non-state actors. Center for Nonproliferation Studies (2006: 2); Weiss (2007: 440).

12 The fact that most of the sanctions were withdrawn quite quickly (at least after the 1998) test, does not belittle the initial reaction and the feelings those fueled in India.

13 Leonard Weiss (2007: 451) admits: “In retrospect, the attempt to get India to abandon or roll back its nuclear weapon program in the absence of any movement by the weapon states toward disarmament was politically quixotic”.

14 An overview over the entire regime and its current challenges is given by Franceschini (2008).

sending a nuclear-armed destroyer into India's backyard. Last but not least, Great Britain colonized and oppressed India for almost 200 years.

The CTBT, which outlaws nuclear testing, has not been ratified yet by the United States and China, who have given India the most (nuclear) trouble in the past. Yet, precisely these countries press the hardest for the Indian signature. Furthermore, technological progress allows the nuclear weapon states to continue nuclear development even after the CTBT comes into force. India, on the other hand – lacking the experiences of multiple former tests – will not be able to modernize its weapons once it agrees to a binding test-stop.

The NSG was actually founded as a reaction to the Indian peaceful nuclear explosion in 1974. In this group, the nuclear exporting states have formulated guidelines that should prevent the transfer of nuclear material to countries that might be a proliferation danger. India admittedly is a proliferation danger in that it produces nuclear weapons itself. But once again: It did not violate international law by its actions as it never signed the NPT. Furthermore, even though India dislikes the NP-regime, it has always acted in accord with the principles of nonproliferation. There is no Indian A.Q. Khan and no Indian transfer of sensible technology or materials to friendly states such as Iran.

It is therefore understandable that India is not enthusiastic towards the NP-regime. From this observation it follows logically that the task should be to bridge the gap between India and the NP-regime (Rajagopalan 2008: 2). This is easier said than done, but I believe the nuclear deal can be an important step towards this objective.

True, India fails to disarm and continues to stay outside the NPT, but the implementation of the deal could be conducive to a change of perception in India. New Delhi could start to see that the NP-regime is in fact not opposing Indian interests. India could begin to understand that IAEA inspectors are not mere spies trying to sabotage Indian technological progress and that there is no global or northern conspiracy trying to keep India down and the 'nuclear apartheid' up. One could argue that such a perception change is a remarkably small gain compared to the very manifest drawbacks of the deal, but this would overlook the possibility that this very perception change could become one deciding precondition for making a maximal approximation of India towards the NPT possible, even though it may never sign the treaty. Therefore, even the small steps that are encouraged through the deal are more than mere symbolism. That is, they enable a development where India – certainly not overnight but rather gradually – is drawn ever nearer to, or even socialized into, the virtues of the NP-regime until it finally becomes at least a 'virtual member'.

The safeguards for India's civil nuclear program can assume a similar function, even though critics may deem them as paper tigers, as they are not eligible for all nuclear facilities. This harsh criticism overlooks that these safeguards can allow India to become accustomed to international controls. This is still something that cannot be taken for granted in a country that is very status-conscious and extremely watchful where it suspects dangers for its sovereignty. Yet, such controls will become enormously important once a consensus on complete global nuclear disarmament will be reached. It will then be necessary to control and verify the fissile material in all states. To be credible, this will have to be done by an international agency like the IAEA. A situation in which such a 'material accountancy' conducted by the IAEA is totally uncommon in official and factual nuclear-weapon states is widely recognized as a cumbersome problem on the way to a world free of nuclear weapons.

To sum up: while the dangers associated with the deal are eminent and imminent, its prospects do not lie in immediate gains (and in fact the deal will possibly do a certain damage to the NP-regime) but rather in the opportunity to make India rethink its principled opposition towards the regime. This will certainly not happen overnight and is essentially an unsecured bet on the future, but given India's importance and the damage it could otherwise do the wager could well be worth it.<sup>15</sup>

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15 See Weiss (2007) for the explicit counter-argument that the assumed risks are not worth taking.

One possible objection has to be addressed here. Just as I criticized many deal-opponents for wearing Western and nonproliferation-shaded glasses one could reply that I am in fact wearing curry-shaded glasses and show too much sympathy for India.<sup>16</sup> While I find it hard not to sympathize with a country that has – against all odds and oppositions – kept its political system stable and democratic for sixty years despite extreme poverty, a rather hostile environment and the lack of a powerful ally, I nonetheless have to respectfully disagree. It is not mainly India's merits that lead me to my conclusion but rather India's rising power and the unconvincing alternatives to the deal. I discuss both points in the following sections.

### **Dangers of Dissatisfaction**

The emerging world order will most probably see Europe moving further into the periphery and Asia further to the centre of world politics. New or more precisely returning actors, most notably India and China, are rising to the top of the international system because of their ongoing economic growth.<sup>17</sup> The consequences seem to be clear: China and India will be eye to eye with today's dominant power of the international system, the United States of America. If and how long the United States will be able to remain the sole most powerful and influential nation is all but clear. There is a possibility that China will surpass the United States as the largest economy of the world within the next generation and that India will follow not much later.

Such situations of overtaking or approximation are often associated with conflict or even system-wide wars. In any case that is what Power Transition Theory (PTT) says.<sup>18</sup> Contrary to the admittedly more popular and influential Balance of Power Theory<sup>19</sup>, PTT claims that an equal distribution of power within the international system makes war more not less likely. According to PTT, a system is most stable and peaceful when one power is preponderant. Wars may occur for different reasons but the most bloody and dangerous, system-shaking great power wars do not appear. When, however, new powers are rising and the erstwhile preponderance is giving way to parity between the former predominant power and the rising challenger(s), wars of transition become possible or even likely. This is so because the international system with all its norms, regimes and institutions has been established by the dominant power and its allies. Therefore, they are receiving most of the benefits. That is, these benefits are private rather than public goods.<sup>20</sup> Rising powers are often not represented in the international order and regularly harbor the wish of changing it according to their interests and wishes: 'They consider the international system to be unfair, corrupt, biased, skewed, and dominated by hostile forces.'<sup>21</sup> As the declining state tends to cling to its privileges frantically while the rising power(s) tend to be overly eager to get to their 'place in the sun', violent conflict that escalates into system-wide war is often the consequence.

The theory, however, is not deterministic. It acknowledges that not all power transitions in history have led to war.<sup>22</sup> It is still disputed why some power transitions have progressed peacefully. The majority view within the power transition school sees the main reason in the (dis-)satisfaction of the rising power with the status quo of the international order. The more dissatisfied a rising

16 I thank Olivier Minkwitz, for making me aware of this point and for creating the expression *curry-shaded-glasses* at the 5th ECPR General Conference 10 - 12 September 2009 in Potsdam, where I presented an earlier draft of this paper.

17 The OECD even expects China to become the world's biggest economy by 2015. See [www.nzz.ch/nachrichten/wirtschaft/aktuell/china\\_soll\\_bis\\_2015\\_die\\_usa\\_ueberholen\\_1.695049.html](http://www.nzz.ch/nachrichten/wirtschaft/aktuell/china_soll_bis_2015_die_usa_ueberholen_1.695049.html). For assessments that anticipate the rise of China and India to continue see Winters/Yusuf (2007); Das (2006) and Sutter (2003). For a more pessimistic assessment of India's chances of becoming a great power see Perkovich (2003).

18 The most significant formulation of PTT remains Organski/Kugler (1980). See also Organski (1968); Tammen et al. (2000) and Kugler/Lemke (1996). Similar but not explicitly PTT approaches are used by the Kennedy (1987); Gilpin (1981) and Modelski (1987). T.V. Paul and Mahesh Shankar (2009) bring together the power transition perspective and the nuclear deal.

19 For a contemporary example see Waltz (1979).

20 Tammen et al. (2000: 358) and Lemke (2004).

21 Tammen et al. (2000: 9). One reason may be that rising powers usually emerge only after an international order has been established (Thompson 1996: 167).

22 A prime example is the peaceful transition between the United Kingdom and the United States in the nineteenth century, see Feng Yongpin (2006).



power is, the higher the probability for a violent power transition.<sup>23</sup> Following this logic, the dyads United States/China and United States/India are the most central and critical for the fate of future world order and peace: “If China and India develop as satisfied great powers, then these transitions will occur under peaceful conditions. If they develop with significant grievances against the international system, then these transitions could result in war” (Tammen et al. 2000: 42). The China/India dyad is of great importance as well, but is not likely to produce system-wide conflict, as long as the United States remain the dominant power.

Focusing on nonproliferation issues, China is already fully integrated in the global nonproliferation regime.<sup>24</sup> India, however, as discussed above, remains outside the regime. If its opposition to the NPT and the regime in general continues or even hardens in the future, this will gain more and more significance as India’s power continues to grow. Until now, India has been an outspoken but also rather passive and weak opponent of the NP regime. But even the mere existence of India as a power rising in antagonism to the NP regime could motivate other states to follow this track. It is an open question how the regime could handle the opposition from a more active and powerful dissatisfied India. But it is no question that this could constitute serious challenges for the regime.

If, on the other hand, India’s dissatisfaction is mitigated through the nuclear deal, this could not only spare the regime this critical challenge but could also allay the dangers of system-wide conflict in an era of foreseeable power transitions. Regarded in this light, it would be anticipatory conflict prevention if the nuclear deal could be used as an instrument to lessen India’s dissatisfaction<sup>25</sup> with the NP-regime and the international order.

Even if one is unconvinced, as indeed I am myself that India’s dissatisfaction with the nuclear order will lead to violent conflict; one can still see the need of the struggling and declining West to find an appropriate position towards the rising powers China and India. A number of global governance problems, for example the restructuring of the international economic system after the financial crisis, the climate crisis and the fight against international terrorism, are just not resolvable without the support of New Delhi and Beijing. It is beyond the scope of this paper to formulate a ‘Western’ strategy for the relationship with the rising powers, but it seems clear that it would be a severe mistake to antagonize these powers. Bringing them into multilateral cooperation frameworks and thereby establishing a cooperative world order is both possible and desirable but it is not by any means determined. While working on this noble goal, one should never downplay the possibility of a ‘return of history’ and a re-emergence of the now almost eradicated great power conflicts. Should this happen, an ‘anti-Western’ alliance or even entente of the rising powers would be an unfortunate and unnecessary by-product of the coming power transition. To prevent this, India should be integrated into the international order as deep as possible.

But is it not appeasement to be sympathetic to Indian wishes if this means acting against norms of nonproliferation and against the wishes of other (maybe just less powerful) actors? And is appeasement not the most infamous foreign policy strategy of all?<sup>26</sup> Does history not show that revisionist states ought to be opposed and not rewarded? Could not, contrary to my reasoning, benevolence even feed the revisionism of a rising state instead of saturating it?

Here, it is important to make distinctions: There is a fundamental difference between revisionists with limited and revisionists with unlimited aims. The latter are indeed impossible to saturate and

23 See Abdollahian/Kang (2008); Lemke/Kugler (1996: 22); Organski/Kugler (1980: 23).

24 Frieman, Wendy (1996); Yuan, Jing-Dong (2000); Medeiros, Evan S. (2001). However, it has not always been this way. Even though China was an official nuclear-weapon state according to the NPT, Beijing became member of the IAEA only in 1984 and joined the NPT in 1992.

25 A related argument does not invoke satisfaction per se but so called status inconsistency, that is “[i]f not integrated into the nuclear regime as a recognized nuclear-weapons state and major power, a rising, nuclear capable India is likely to perceive a discrepancy between its self-image and its place in the international order. States in this position are susceptible to ultra-nationalist and revisionist tendencies, growing increasingly defiant of a global order which refuses to recognize their claims” (Paul/Shankar 2007: 114). See also Paul (2007: 850). For the general status inconsistency argument see Midlarsky (1975: 94-96).

26 For a balanced discussion of appeasement see Ripsman/Levy (2008).

satisfy and each concession fuels their hunger (Schweller: 1999). India, however, belongs to the group of revisionists with limited aims. That is, India is undoubtedly dissatisfied with some important aspects especially of the nuclear international order, but it does not oppose it (or the general status quo) unconditionally (Paul/Shankar 2007: 116, Paul/Shankar 2009: 23). India has always criticized the NP-regime and the NPT specifically as discriminatory, but unlike other states (for example Pakistan and North Korea) it never supported the proliferation efforts of other states (Paul 2007: 854, Paul/Shankar 2009: 114).<sup>27</sup> It is therefore principally possible to integrate India into the international order. If that does not happen, a dangerous situation arises: “The damage critics envision to the international nonproliferation regime from the US-India accord pales in comparison to the damage that can be done by India’s actions and rhetoric as a dissatisfied state” (Paul/Shankar 2007: 120).

It would be fortunate and preferable if the existing NP regime offered a framework to deal with rising powers like India. It would be fortunate and preferable if this could be done without breaking or bending the rules and norms to their limits as the nuclear deal does. But unfortunately the NPT is ill-equipped to integrate rising powers like India into the international nonproliferation regime. “International systems and regimes according to the power transition theory are usually structured to serve the interests of those who create them, the dominant powers in the international system” (Paul/Shankar 2009: 29, see also Paul 2007: 856). Like the UN Security Council, the NPT represents the power distribution of a time long gone by, with the five permanent members being the five official nuclear powers as well. So, if it is not possible to restructure the NPT itself in order to give it the necessary flexibility to deal with rising powers, the nuclear deal indeed could be the ‘next best thing’. It is important to note that from this perspective, this should not be seen as an opening of the floodgates. India and China are currently the only powers with the potential to rise to the elite group at the top of the international system (Tammen et al. 2000: 21) and China is already integrated into the NPT. States like Brazil, which are regarded as fellow rising powers and potential great powers are already part of the NPT. Countries like North Korea, Iran, Israel and Pakistan also pose challenges to the NPT but none of them is more than a regional power.<sup>28</sup> That leaves us de facto with India as the only power that needs to be integrated into the NP regime. The anger and frustration that the deal could produce in smaller and middle power which are parties to the NPT should not be underestimated but it pales in comparison with the potential anger and frustration in India. And as Paul and Shankar (2009: 33) rightly conclude: “[K]eeping one-sixth of humanity status inconsistent does not augur well for international order”.

### **Ambivalent Alternatives**

Equally important to discussing risks and prospects of the deal is pointing out the alternatives. Strangely enough, this important task has largely been absent from the debate. It seems to be the general feeling that without the deal the status quo would have continued. Yet this status quo was a) unsatisfying and b) unsustainable.

The alternative to ‘deal’ is of course ‘no deal’<sup>29</sup>, so let us imagine a scenario in which the deal had failed and had not entered into force. Are any arms control benefits to be expected from that? India defied international pressure and isolation since its first nuclear explosion in 1974. It did so

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27 Rajagopalan underlines the point that “India never accepted the idea that nuclear proliferation was legitimate, unlike, for example, China in the 1950s and 1960s” (Rajagopalan 2008: 4). Paul/Shankar (2009: 28) report that it did so, even when it was offered huge rewards for the transfer of nuclear weapons and materials by Libya among others.

28 Tammen et al. (2000: 9) also make the point that most of the excluded and therefore unsatisfied states in any given international system fall into the category of ‘lesser powers’ that cannot effectively challenge the international order.

29 A third potential alternative could have been a *different* deal. In the past I have called for such a deal myself (see Müller/Rauch 2007: 29-33). But today I believe this was never a realistic opportunity but rather wishful thinking on the part of arms control enthusiasts. The debate in India (see below) showed that even the actual deal was nearly defeated for being too intrusive to Indian autonomy and sovereignty. Therefore I do not believe that any Indian government would have survived offering more concessions. See Rauch (2008: 3-4).



when it was relatively weak. Therefore, there is no reason to believe it would have stopped doing so now, when its power is significantly rising. Why should India be expected to change its position by 180 degrees, give up its nuclear weapons and join the NPT as a remorseful sinner? But maybe it is not about that. Maybe a failing of the deal would not have led to a change in Indian politics but would have at least hampered India's nuclear weapon program. It is true that without the deal India could be forced to make a choice between its civil and military nuclear program. Yet it is far from clear if the status-conscious India would really abstain from nuclear weapons in this situation. A halt of the ambitious plan to satisfy up to 25 percent (in contrast to 3 percent now) of its energy needs from nuclear power by 2020 seems more probable.<sup>30</sup> Furthermore, India would probably not stop its aspirations to break its international nuclear isolation; instead it would just change its target. While it is now trying to cooperate with the United States, Washington is not the only plausible partner in this respect. Paris, Beijing or Moscow certainly come to mind (Grossmann 2007: 2). And while there are ample reasons to criticize the politics of the Bush administration, one should keep in mind that it does not seem very plausible that a French-Indian, Chinese-Indian, or Russian-Indian nuclear deal in the aftermath of a failure of the original deal would have offered substantially more. Just remember Russia's politics in the 1990s, when it supplied India several times with sensitive materials, citing loopholes in the NSG guidelines.<sup>31</sup> Or think of China's support for the nuclear program of non-NPT member Pakistan in the 1980s and 1990s.

We can therefore identify three possible scenarios following a failed deal:

1. India continues to be isolated and is forced to make a choice between energy production and military nuclear power.
2. India circumvents this decision by pushing energy production in coal plants and keeps its military nuclear program.
3. India searches for a new partner for civil nuclear cooperation.

To be sure, these scenarios are not mutually exclusive and some kind of mix between them also seems possible. No matter which of them would have taken place, none of them would have advanced a preferable development from a nonproliferation point of view. They could indeed have had an effect to the contrary, by pouring water on the mills of those in India who are convinced that the NP-regime is nothing but an instrument to repress states like India and permanently divide the world into nuclear haves and nuclear have-nots. Thus, a failure of the nuclear deal – at least once negotiations had been set into motion – does indeed seem disadvantageous. But would it at least have been reasonable (from a nonproliferation perspective) if the U.S. had avoided a nuclear deal altogether until a more arms control-friendly government had assumed office in New Delhi (Weiss 2007: 449-452)?

Let us now consider this argument: instructive in this respect, yet often overlooked in Western accounts, is an analysis of the domestic Indian debate about the deal. As one Indian scholar puts it: "Ironically, the problems in getting the nuclear deal 'done' over the intervening years were largely caused not by the American, but the Indian side" (Chari 2009: 2). One can identify two important factions<sup>32</sup> that have agitated against the agreement and that represent opposite sides of the political spectrum. The common denominator of both critical factions is the fear that India's sovereignty is endangered and that the deal could mark the end of an independent Indian foreign policy but there are some distinctive points as well.<sup>33</sup>

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30 Kirit Parikh, a member of the nuclear planning commission, even sees potential to produce up to 35 per cent of India's total energy demands by 2050 (see Mansingh 2009: 181).

31 See Perkovich (2005b: 6); Bidwai (2006) and Wagner (2000).

32 There is also opposition by a part of the nuclear establishment. I won't discuss their critique here, as I am more concerned with specifically political and democratically elected actors. It fits broadly, however, into the critique of fraction one.

33 Kazi (2009: 85-91); Advani (2008a, 2008b), Communist Party of India (Marxist) Polit Bureau (2005a, 2006a), and The Left Parties (2008a). There are of course many arguments in this debate. Some go deep into the details of the nuclear

Faction number one is a group of nuclear ‘hawks’ from the right wing of the BJP and other nationalist parties who believe that India needs an ever bigger nuclear arsenal to become an important great power. This group is quite open about their support for Indian nuclear weapons and fears that the deal will put constraints on Indian nuclear weapon testing, development and armament. The group stresses the fact that

“NDA [National Democratic Alliance, the coalition of the BJP and allied parties that governed India after the 1998 elections / CR] established India as a military power through the Pokhran tests. The UPA [United Progressive Alliance, the coalition of the Indian National Congress and allied parties / CR] surrendered this position by signing the nuclear deal” (Advani 2008c).<sup>34</sup>

Nuclear weapons are seen as necessary for “India to soon become a Major Global Power as one of the poles of a Multi-Polar World” (Advani 2007b). The deal, however, is seen as a means to cap the Indian nuclear weapon program (Advani 2007a)<sup>35</sup>, to prohibit India from future nuclear testing<sup>36</sup> and even to force “India into the NPT through the backdoor” (Advani 2008a), “even though every Indian Prime Minister from Indira Gandhi to Atal Bihari Vajpayee had refused to sign this discriminatory treaty” (Advani 2007b, see also Advani 2008b).

This group therefore is quite explicit in its rejection of nuclear disarmament, arms control and the nonproliferation regime. Like the Left Parties (see below) this faction also fears the subordination of Indian national interests under foreign influences but seems more infuriated by this fact in general than by the fact that the foreign influence originates in the United States.<sup>37</sup>

We can therefore conclude that an exclusive BJP government would also have approached the United States concerning a nuclear deal. It would, however, have pressed even harder for an unequivocal Indian right to conduct further nuclear tests. It would also have ardently opposed all provisions of the deal that could be interpreted as strengthening the nonproliferation regime. Even the Bush administration would probably not have accepted such far-reaching demands. It will remain an unanswerable question whether a BJP government would have then moderated its aims or had rather let the deal die. But the important point for the question of concern here is: under no circumstances would an increased participation by the BJP—by far the largest opposition party—have been instrumental towards making the deal more arms-control friendly. Faction two consists of political actors from the extreme left, who generally loathe a rapprochement with the United States. This is the most common theme undergirding all publications by these parties concerning the deal. The deal is seen as “a complete surrender to the United States and a betrayal of India’s vital interests” (Communist Party of India (Marxist) 2008a) and the policies of the Singh administration are deemed “pro-imperialist” (Communist Party of India (Marxist) Central Committee 2008). An additional common theme is that the deal will “cement this one-sided relationship [with the U.S.]” (Communist Party of India (Marxist) Polit Bureau 2009a, see also 2006b and 2008a). But clearly it is less the “one-sidedness” than a general dislike of a “strategic alliance with the United States” that concerns this group.<sup>38</sup> They are most outspoken on this in an ‘Appeal to the People’ from 2009:

“During the past five years, the Left Parties have played a consistent role in defense of secularism and the economic interests of the people, to protect national sovereignty and to oppose any strategic link up with US imperialism.”<sup>39</sup>

Instead of this they would prefer closer ties with China and, somewhat paradoxically, a staunch commitment to India’s traditional non-alignment strategy.<sup>40</sup>

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deal and related agreements. I cannot offer a comprehensive overview here. Instead I will try to highlight a) the most salient and b) the most arms-control related arguments brought forth by the different groups.

34 See also Bharatiya Janata Party (2009); Advani, Shri L.K. (2008d).

35 See Advani (2007a); Bharatiya Janata Party (2006, 2008); The Hindu (2006).

36 See Advani (2008b, 2008d); Rajnath Singh (2008).

37 Advani (2005, 2006, 2007b, 2008f).

38 See Communist Party of India (Marxist) Polit Bureau (2008b). See also Communist Party of India (Marxist) Polit Bureau (2006c, 2007, 2009a, 2006b), The Left Parties (2007), Communist Party of India (Marxist) (2007, 2009).

39 The Left Parties (2009, emphasis added). See also Communist Party of India (Marxist) Polit Bureau (2009b).

Unlike the critics from the BJP, the Left Parties usually do not emphasize the Indian strategic (nuclear weapon) program and do not claim that the deal would lead to a capping of India's existing nuclear forces.<sup>41</sup> Instead they complain that the deal would signal an end to India's traditional preference for global nuclear disarmament (The Left Parties 2007) and even call for the government to

“renew its commitment towards universal nuclear disarmament as traditionally held by India and enshrined in the New Delhi Declaration, and should initiate measures to convene an International Convention towards this end” (Communist Party of India (Marxist) Polit Bureau 2006c).

They also maintain that they had

“opposed the nuclear weaponisation programme of the BJP-led government ... [and do] not subscribe to the views emanating from those who advocate nuclear weaponisation as a path for India's ‘great power’ status” (Communist Party of India (Marxist) Polit Bureau 2005b).

At the same time, however, they remain firm in their rejection of the global nonproliferation regime, and criticize sharply exactly those provisions of the deal that had been added to ease the anger of the nonproliferation community, such as India and the U.S. working together towards the creation of a Fissile Material Cut-Off Treaty (Communist Party of India (Marxist) Polit Bureau 2006e). This aversion is very clear when they bemoan - concerning the IAEA safeguards in the civilian Indian facilities - that “it [India] will be treated as a Non-Nuclear Weapon State” (The Left Parties 2008b). It becomes even clearer when they bitterly state: “India has become part of the nonproliferation regime which it always held to be discriminatory” (Communist Party of India (Marxist) Polit Bureau 2008c).

We can therefore conclude: If the Left Parties had had their say, the nuclear deal would either not have become possible or would have looked even grimmer from a nonproliferation point of view. That is, all restrictions would have been nullified and no Indian commitment whatsoever would have been accepted. Increased participation of this second domestic group of deal opponents would not have made the deal more arms control-friendly. Chief advocate of the deal was and is the reigning Indian National Congress (INC). Leaders of this party have highlighted the civil gains of the deal which “will result in the generation of more electricity for our farmers and factories, for our towns and villages, for our schools and colleges, and for our homes” (Gandhi 2009, see also Manmohan Singh 2008). But it seems even more important that “India has a new standing in the world, reflected best in the nuclear agreement we have entered into, with the international community on our terms” (Gandhi 2009). The deal is primarily seen as a path ending “India's nuclear isolation, which will pave way for India becoming an economic super-power” (Chidambaram 2008, see also Indian National Congress 2007). They maintain, despite all criticism,

“that the agreements that we negotiate with USA, Russia, France and other nuclear countries will enable us to enter into international trade for civilian use without any interference with our strategic nuclear programme. ... We have not and we will not accept any outside interference or monitoring or supervision of our strategic programme. Our strategic autonomy will never be compromised” (Mukharjee 2008, emphasis added).

But even the INC was valiant in its opposition to linkages between the deal and any kind of arms control agreement (Mansingh 2009: 192). Prime Minister Singh pointed out in his defense of the deal that India's right to conduct another nuclear test whenever it deems such an action necessary has not been compromised and that India's test moratorium stays strictly voluntary.<sup>42</sup> He also seemed to take special pride in the fact that

“[t]he cooperation that the international community is now willing to extend to us for trade in nuclear materials, technologies and equipment for civilian use will be available to us without signing the NPT or the CTBT” (Singh, Manmohan 2008, emphasis added)

40 Mian/Ramana (2006: 85, 96); Weiss (2007: 437); Communist Party of India (Marxist) (2006a, 2006b); Subrahmanyam (2008).

41 They do however maintain that it is an inalienable right of India to decide whether or not to conduct another nuclear test. The Left Parties (2007); Communist Party of India (Marxist) Polit Bureau (2006d, 2006e).

42 Singh, Manmohan (2008), see also: Indian National Congress (2008).

and that the deal “entails no obligations for India to sign CTBT/FMCT” (Indian National Congress 2008). This being said, comparing the relevant political actors in India the INC-led government was clearly the most sympathetic toward arms control and easing the confrontation between India and the global nonproliferation regime. Foreign Minister Pranab Mukharjee reiterated the stance of the party in a parliamentary debate in 2008:

“Yes, I know, as your Party [the BJP] from 1960 talked of nuclear weaponsiation. We did not. We firmly believe and still we believe nuclear weapon is not a weapon to win the battle; nuclear weapon is nothing but total disruption and destruction of the civilization” (Indian National Congress 2007).

The INC was and is proud to picture India “as a responsible nuclear power<sup>43</sup> with an impeccable record in non-proliferation” and therefore entitled “to the same benefits and advantages available to other states with advanced nuclear technology” (Indian National Congress 2006). A resolution on External Security and International Affairs put this most clearly:

“India is not a member of the NPT, but we suo moto fulfil the majority of its conditions including a unilateral moratorium on further nuclear tests. India’s record in the matter of non-proliferation of sensitive technologies is irreproachable” (Indian National Congress 2006).

The INC also made clear: “We ... remain committed to a voluntary, unilateral moratorium on nuclear testing. We are also committed to negotiate on FMCT in the Conference on Disarmament” and it “reaffirms its abiding commitment to nuclear non-proliferation and total nuclear disarmament which is universal and verifiable as was proposed by Rajiv Gandhi at the Special UN Session on Disarmament in 1988” (Indian National Congress 2008).<sup>44</sup> While these determinations may not sound all too credible in the ears of Western nonproliferation experts, it seems clear that all reasonable alternatives to an INC government in the foreseeable future would be even more skeptical concerning measures that could restrict Indian sovereignty and autonomy in nuclear questions.

### **A Plea for Hushed Hope**

A final assessment of the nuclear deal remains a difficult and painful consideration. It is difficult, as both the pro-deal and the contra-deal factions do have important arguments for their case. It is painful, as taking into account the pro arguments forces one to embrace unintended and indeed undesirable collateral developments. The deal therefore is a classical example of a conflict of goals. One has to be clear about this: Even if one sees more chances than risks, as I do, these chances do not come without a price. In this case, the most costly price for bringing India closer towards the NP-regime and hopefully making it more satisfied with the international order as it is starting its rise is the alienation of a substantial number of other states from precisely this regime. Furthermore, while this price is eminent and imminent, the prospects are truly prospective and therefore an unsecured bet on the future. The delicate result is that some states will not only feel treated unfairly from their subjective position but that they really are treated unfairly. This is indeed one of the many dilemmas known all too well by students of international politics.

The judgment of the nuclear deal also depends on the aims and goals that one links it with. If the central goal of the deal was fostering the immediate or at least short-term stability of the nonproliferation regime, as some proponents as well as some critics imply, then it is most definitely a failure, even though some risks for the regime might be exaggerated and others can be mitigated. If the central goal was to make India a docile follower of U.S. strategy in containing

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43 The phrase ‘responsible nuclear power’ is one of the favorite images the INC likes to spread about India. It seems that this *endeavour* has been quite successful: A Google search of the terms ‘responsible nuclear power’ and ‘India’ yields 10500 hits. Substituting India with United States, Great Britain, France, China, Russia, Pakistan, Israel and North Korea only results in fewer than 3500 hits each.

44 This position is not only conveyed in the domestic arena. As recent as in February 2008 Prime Minister Singh made an explicit commitment to the goal of nuclear disarmament at an international conference in Oslo, which was reiterated by a member of the Indian national security council at the 2009 Munich Security Conference.

China, punishing Iran etc., then it is most definitely a failure. If however the deal is seen as a means to help mitigate the anomaly of the strained relationship between the fellow democracies U.S. and India, and if it is also seen as a possibility to increase the satisfaction (or at least decrease the dissatisfaction) of a rising power with the international order, then it becomes much harder to agree with the harsh judgments of the critics.

I do believe that critics of the deal from the nonproliferation community have every right and every reason to be skeptical about the motives and intentions of the Bush administration: Not much can be said about their success in the field of arms control. Quite the opposite, the Anti-Ballistic Missiles (ABM) treaty was terminated, the Strategic Offensive Reduction Treaty (SORT) is rather a 'parody of arms control' than a worthy successor of the Strategic Arms Reduction Talks (START), and the Bush administration generally showed little interest in arms control and disarmament measures. Therefore it is reasonable to be doubtful about the intentions behind the nuclear deal. If, as my arguments suggest, the deal will strengthen rather than weaken nonproliferation in the long run, this is hardly the result of the intentions of the relevant actors and would therefore constitute a case of 'collateral value'. But if, as the saying holds, 'the way to hell is paved with good intentions', then it might also hold true that sometimes the way to heaven is paved with not-so-good intentions. At least some hushed hope that this is indeed the case might be warranted.

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