

11-5-2019

Nuclear Ban Treaty and the Southern Asian 'Nuclear Troika'

Sitakanta Mishra

Pandit Deendayal Petroleum University

Follow this and additional works at: <https://trace.tennessee.edu/ijns>



Part of the [Other Arts and Humanities Commons](#)

Recommended Citation

Mishra, Sitakanta (2019) "Nuclear Ban Treaty and the Southern Asian 'Nuclear Troika'," *International Journal of Nuclear Security*. Vol. 5: No. 1, Article 5.

<https://doi.org/10.7290/ijns050105>

Available at: <https://trace.tennessee.edu/ijns/vol5/iss1/5>

This article is brought to you freely and openly by Volunteer, Open-access, Library-hosted Journals (VOL Journals), published in partnership with The University of Tennessee (UT) University Libraries. This article has been accepted for inclusion in International Journal of Nuclear Security by an authorized editor. For more information, please visit <https://trace.tennessee.edu/ijns>.

Nuclear Ban Treaty and the Southern Asian 'Nuclear Troika'

Cover Page Footnote

The author sincerely acknowledges and thanks the anonymous peer reviewers for their valuable suggestions.

Nuclear Ban Treaty and the Southern Asian “Nuclear Troika”

Sitakanta Mishra

Assistant Professor of International Relations, School of Liberal Studies, Pandit Deendayal Petroleum University, Gujarat, India

Abstract

Of late, nuclear weapons, like other weapons of mass destruction, have been multilaterally outlawed. However, the nuclear weapon states—barring North Korea and the sole victim of nuclear weapons, Japan—have remained outside the treaty process. This lack of active involvement in the treaty process exposes a potential hollowness when nuclear weapon states issue the usual clarion call for nuclear disarmament and non-proliferation. This article presents a comparative enquiry into the policy approach of the three nuclear weapon states in Southern Asia—China, India and Pakistan—that proclaim themselves to be ‘responsible’ nuclear states regarding the nuclear Ban Treaty. While China’s stated position seems to be based more on realism than morality, India’s reservations are related to the procedural aspects of the initiative. Pakistan, in line with China’s more realistic considerations, links its stance on the nuclear Ban Treaty with fissile material stockpile, conventional force disparity, and India’s upper hand in this domain. However, one common thread in the positions of the three countries is their assertion that a gradual, step-by-step approach towards nuclear disarmament is necessary. All three countries believe that elimination of nuclear weapons cannot be achieved overnight; instead, it requires sustained global efforts that take the whole picture—strategic vulnerabilities and security deficits of different strategic arenas—into consideration. While China and India propose somewhat interrelated procedures, like the universal no-first use (NFU) treaty, Pakistan’s position seems to be more reactionary. At the end, this study proposes an out-of-the-box suggestion for a tripartite regional NFU treaty as a harbinger for a future universal NFU treaty.

Key Words: *nuclear disarmament, nuclear non-proliferation, WMD, nuclear weapons, Southern Asia, elimination of nuclear weapons, nuclear Ban Treaty*

I. Introduction

The Treaty on the Prohibition of Nuclear Weapons (known as the Nuclear Ban Treaty) was negotiated and adopted at the United Nations conference in July 2017 with 122 votes in favor, one vote against and one abstention [1]. The treaty aims to prohibit states from developing, testing, producing, manufacturing, possessing, transferring, receiving, encouraging, stockpiling, using, or threatening to use nuclear weapons. Though the negotiation of such a treaty could be seen as reaching for “the highest universal ideal of a world peace and justice based on law,”[2] in reality it exposes the hollowness in nuclear weapon states’ traditional clarion call for nuclear disarmament and non-proliferation and illustrates the

persistent obstacles on the path to nuclear-free world. The sole nuclear victim, Japan, along with nuclear weapon states, except North Korea, did not participate in the negotiations. Also, the Southern Asian ‘nuclear troika’—China, India and Pakistan—who proclaim themselves to be “responsible” nuclear weapon states that are “committed to comprehensive, universal, non-discriminatory, verifiable nuclear disarmament in a gradual and incremental way,” did not participate in the negotiation[3], and therefore are not bound by any of the obligations that arise from the treaty.

The question remains as to whether the treaty is capable of affecting the nuclear postures and strategies of the nuclear weapons states and whether it can change the global attitude towards nuclear weapons in general, and of the Southern Asian nuclear neighbors’ strategies in particular, anytime soon.

II. The Nuclear Ban Treaty

Universal criminalization of weapons of mass destruction (WMDs) is one of the keys to eliminating threats to world peace. While criminalization of chemical and biological weapons was long ago achieved, the same has not been the case for nuclear weapons. Many commissions like the Hans Blix Commission, Gareth Evans Commission, Palme Commission, and others have been instituted for arms control and non-proliferation, but no such commission has been tasked to enquire into and falsify the perceived utility of nuclear weapons and suggest how they can be delegitimized. The International Campaign to Abolish Nuclear Weapons (ICAN), a coalition of non-governmental organizations in one hundred countries, strived to draw attention to the catastrophic ‘humanitarian consequences’ of any use of nuclear weapons and made ground-breaking efforts, culminating in a treaty-based prohibition on such weapons. Launched in Melbourne in April 2007 and modelled on the International Campaign to Ban Landmines (ICBL), the ICAN won the Nobel Peace Prize in 2017 in recognition of its lead role in mobilizing civil society and like-minded governments and transforming anti-nuclear movements into coalitions of change.

Increased global focus on adopting a humanitarian-based approach with respect to nuclear disarmament has been witnessed since 2010. But the question on the legality of nuclear weapons can be traced to the advisory opinion and judgements made by the International Court of Justice (ICJ) on the request made by the UN General Assembly on July 8th, 1996. The Court unanimously ruled that the use of nuclear weapons must be compatible with the principles and rules of international humanitarian law (IHL). However, the Court concluded “that the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law” but could not “conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defense, in which the very survival of a State would be at stake.”[4] Therefore, the Court’s conclusion on the legality of the use, or threat of use, of nuclear weapons in the context of international humanitarian law was split, and the Court could not conclude that their use would be unlawful in all circumstances. It has taken more than one and a half decades since then to arrive at the conclusion that the very possibility of nuclear war is unacceptable, especially because of the known humanitarian consequences of their use.

In March 2013, representatives of 130 countries gathered to assess the catastrophic humanitarian consequences of nuclear war. After two rounds of negotiations, first in March then June–July of 2017, the text of the treaty was adopted. As usual, the five NPT nuclear weapon states, other nuclear weapon states, and the European and Asian countries that are under the US’s nuclear umbrella boycotted the initiative with the view that it distracted attention from other disarmament activities. The nuclear weapon states supposed to take effective measures on nuclear disarmament at an early date as prescribed by NPT but, as Ramesh Thakur observes, “Within the security paradigm, nuclear weapons are national assets for the possessor countries individually. In the nuclear Ban Treaty’s humanitarian reframing, they are a collective international hazard. The step-by-step approach adopts a transactional strategy to move incrementally

without disturbing the existing security order. The ban treaty's transformative approach transcends the limitations imposed by national and international security arguments." [5]

The nuclear Ban Treaty, therefore, is considered 'a circuit breaker' in the search for a dependable, rules-based security order and is understood to be outside the limits of what the nuclear-armed countries are prepared to accept [5]. The central idea that dispossession of nuclear weapons would remove the possibility of their future use needs further introspection. If countries view nuclear weapons as instruments of war and the ultimate guarantors of security, the perception of the utility of nuclear weapons will remain, and the chances of proliferation will not be eliminated. According to K. Subrahmaniam, the world first needs to ask the question: can a nuclear war be fought to win a meaningful military victory? To him, once a nuclear war starts, it will get out of control easily. Once the first weapon is fired, the other side will retaliate. Each side will be under tremendous compulsion either to use their weapons or lose them; therefore, both sides will fire all that they have at once, leading to total devastation on both sides. Who wins over whom? As a starting point, serious thought should be given to the fact that a nuclear war cannot be fought meaningfully in a military sense. Meanwhile, the world should advocate for a universal no-first use (NFU) of nuclear weapons as the catalyst for their delegitimization and elimination of chemical weapons. Only the realization that a nuclear war cannot be fought to win a meaningful military victory will take the world towards de-legitimization of nuclear weapons [6]. De-legitimization is a necessary step towards elimination; but will the nuclear weapons states come forward first to reduce the importance of nuclear weapons in their national security strategy? It seems unlikely.

The idea of the nuclear Ban Treaty, therefore, emerged out of the exasperation of the non-nuclear weapon states (NNWS) concerning a half-hearted, multilateral, piecemeal disarmament approach. The 'grand bargain' between the 'haves' and 'have-nots' under the NPT was that the NNWS would commit to forgo their nuclear weapons choice in return for their access to nuclear technology for peaceful purposes; meanwhile, the NWS, in good faith, would move towards gradual elimination of their arsenals. Ever since, many disciplinary actions have been taken against nations for proliferation misconduct, while NWS have modernized their weapons and delivery systems without any hindrance. For example, the 2014 US Congressional Budget Office (CBO) plan allocated \$355 billion to spend over the next 10 years to upgrade and develop a new generation of nuclear weapons. This is, in reality, a violation of "the affirmative obligation posited by the NPT". Since the end of Cold War, though an overall reduction in the number of nuclear warheads has been achieved, the importance of nuclear weapons in national security strategies nevertheless remains intact; moreover, the warheads have become more technologically sophisticated and lethal. According to a recent report, the new nuclear posture review (NPR) prepared by the Pentagon is "significantly more hawkish" than previous reviews and envisages a modified version of the Trident D5 submarine-launched missiles with only part of their normal warhead, with the intention of deterring Russia from using tactical warheads in a conflict in Eastern Europe [7]. In addition, the US will start work on reintroducing a sea-launched nuclear cruise missile as a counter to a new ground-launched cruise missile the US has accused Russia of developing in violation of the 1987 INF treaty [7].

Nevertheless, the nuclear Ban Treaty, arguably, [8] intends to bridge an existing gap in the international law for which nuclear weapons could not be outlawed the way other WMDs (biological and chemical weapons) had been. There exists no international legal regime to declare nuclear weapons illegal. The nuclear Ban Treaty is the first such legal instrument to pronounce all the 'nuclear-haves' as illegal possessors of banned weapons. Though the treaty put pressure on NWS to move further towards nuclear disarmament, the practical legal impact the treaty has on them is not difficult to fathom.

The treaty prohibits any connection whatsoever with the weaponry by way of possession, deployment, testing, transfer, storage, and production [Article 1(a)] [1]. Article 1 of the treaty deals with "Prohibitions" in totality for the signatories, which has larger implications for all three categories of

nations from a nuclear weapons point of view: NNWS, NWS and the crypto nuclear states [9]. Article 1 explicitly says:

Each State Party undertakes never under any circumstances to:[8]

- a) Develop, test, produce, manufacture, otherwise acquire, possess or stockpile nuclear weapons or other nuclear explosive devices;
- b) Transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly or indirectly;
- c) Receive the transfer of or control over nuclear weapons or other nuclear explosive devices directly or indirectly;
- d) Use or threaten to use nuclear weapons or other nuclear explosive devices;
- e) Assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Treaty;
- f) Seek or receive any assistance, in any way, from anyone to engage in any activity prohibited to a State Party under this Treaty;
- g) Allow any stationing, installation or deployment of any nuclear weapons or other nuclear explosive devices in its territory or at any place under its jurisdiction or control.

The seven sub-clauses of Article 1 leave no space for the three categories of countries to enjoy, propagate or extend the utility of nuclear weapons in any manner. Therefore, Richard Falk, a Professor Emeritus of International Law in Princeton University, considers the nuclear Ban “Treaty is significant beyond the prohibition. It can and should be interpreted as *a frontal rejection of the geopolitical approach to nuclearism*, and its contention that the retention and development of nuclear weapons is a proven necessity given the way international society is organized.”[10] As expected, the NATO triangle—France, the United Kingdom, and the United States, three of the five veto powers in the Security Council—was angered by its inability to prevent such a treaty venture and went to the extreme of issuing a Joint Statement of denunciation: “We do not intend to sign, ratify or ever become party to it. Therefore, there will be no change in the legal obligations on our countries with respect to nuclear weapons.”[3] But what was intriguing was the stand of several countries who had in the past lobbied against nuclear weapons with great passion, such as India, Japan, and China. They all were not only absent, but also opposed the treaty process and prohibition. This *posture of undisguised opposition* to this UN sponsored undertaking must be taken extremely seriously.[10]

The sections that follow delve into the postures of the Southern Asian ‘nuclear troika’—China, India and Pakistan—which have strongly opposed the treaty process, though traditionally they have advocated for treaty-based, time-bound, verifiable nuclear disarmament. And overall, how would their stance, along with opposition from the P-5, impact the overall outcome of the initiative? Zia Mian opines that “this will require new kinds of official and public engagement with weapons states and opens the door for new kinds of transnational citizen diplomacy on disarmament”. Will this lead to “a new disarmament politics” as the treaty “requires the members to make the treaty part of their political engagement with the NWS”?[2]

III. Positions of the ‘Nuclear Troika’

In the run-up to the nuclear Ban Treaty, the three Southern Asian nuclear weapon states each stated official positions that justified their respective non-participation in the treaty; they did not participate in formal UN negotiations, but voiced their opinions in outside venues, like at the Plenary of the Conference on Disarmament (CD), a forum that they argued was appropriate for this initiative. Interestingly, domestic anti-nuclear civil society groups in each country expressed only muted criticisms to the stands taken by the three states. Just one statement issued by the Coalition for Nuclear Disarmament and Peace (CNDP) in India criticized India’s refusal to join the UN negotiations. Civil society movements in these countries

are not strong enough to compel their decision makers to make reductions or to halt nuclear weapons programs. It can be seen that moral pressure is not a guiding factor in Chinese, Indian and Pakistani decision-making on national security. The logic of a nuclear Ban Treaty, which relies on generating such pressure, applies to countries where there is a direct connection between activism and the making of nuclear policy.

Specifically, the impact of the ICAN movement on the three countries approach towards the nuclear weapons ban is close to zero. The anti-nuclear movements and sentiment in all three countries is confined to academic writings and intellectual debates. The three countries have also denounced voting in favor of a resolution brought in by ICAN. The ICAN official website states:[9]

1. **China**, which possesses approximately 260 nuclear weapons, did not participate in the negotiation of the UN Treaty on the Prohibition of Nuclear Weapons. It abstained from voting on the UN General Assembly resolution in 2016 that established the mandate for nations to negotiate the treaty. Although it regularly declares its support for the prohibition and elimination of nuclear weapons, its true commitment to nuclear disarmament remains in serious doubt. It has failed to fulfill its legally binding disarmament obligations under the NPT.
2. **India**, which possesses approximately 110 to 120 nuclear weapons, did not participate in the negotiation of the UN Treaty on the Prohibition of Nuclear Weapons. It abstained from voting on the UN General Assembly resolution in 2016 that established the mandate for nations to negotiate the treaty. Although it regularly declares its support for the prohibition and elimination of nuclear weapons, its true commitment to nuclear disarmament remains in serious doubt.
3. **Pakistan**, which possesses approximately 120 to 130 nuclear weapons, did not participate in the negotiation of the UN Treaty on the Prohibition of Nuclear Weapons. It abstained from voting on the UN General Assembly resolution in 2016 that established the mandate for nations to negotiate the treaty. Although it regularly declares its support for the prohibition and elimination of nuclear weapons, its true commitment to nuclear disarmament remains in serious doubt.

As far as the global arena is concerned, the multilateral ban initiative garnered overwhelming support in the UN General Assembly but divided the world into two opposing groups—those who depend on nuclear weapons, and those who want to eliminate them—exposing the hollowness in the call for nuclear disarmament under the NPT prior to the existence of the nuclear Ban Treaty. The treaty, issued under the authority of the ‘international community’ through the UN, raised the hope that nuclear-armed democracies and their allies would maintain certain restraints mandated by the treaty, though it seems unlikely that these powers will do so in the foreseeable future.

The positions of China, India and Pakistan attract international attention because they have often advanced ‘complete disarmament’ and ‘eventual elimination of nuclear weapons’ arguments on moral grounds. India especially crossed the Rubicon when the world community turned a blind eye on its proposal in 1988 in the United Nations General Assembly (UNGA), known as Rajiv Gandhi Action Plan, for a time-bound, non-discriminatory nuclear non-proliferation/disarmament regime. What, then, is lacking in the nuclear Ban Treaty framework which makes these three countries hesitant to be part of the initiative?

A. China’s Compatibility

Reports reveal that China initially had a positive approach towards the treaty process and considered joining the talks. China also had talks with the four other major states possessing nuclear weapons regarding the matter.[11] China reportedly consulted with envoys of countries promoting the enactment of the nuclear Ban Treaty in its representative office in Geneva about the outlook for the negotiations. China also asked those envoys what possible influence Beijing would have if it were to join the talks. In the vote in December 2016 for the UN resolution to convene negotiations on the treaty prohibiting nuclear

weapons, China abstained while the United States, Britain, France and Russia along with Japan voted against it. However, China is argued to be the most responsive of the five NWS towards the treaty.

The Spokesperson of the Chinese Foreign Ministry, Hua Chunying, stated on March 20, 2017 that the Chinese goal of a “final comprehensive ban on and total destruction of nuclear weapons” was “fundamentally in line with the purposes of negotiations on the nuclear weapons ban treaty”.^[12] China shares much of the spirit behind the treaty but it is unacceptable to China in its present form; as China possesses and stockpiles nuclear weapons and has adopted second-strike posture, it cannot adhere to the core prohibitions of the nuclear Ban Treaty. China also believes that “disarmament cannot be achieved overnight and must be pressed ahead in a gradual and incremental way following the principle of safeguarding global strategic stability and compromising the security of no country.”^[13] Therefore, China is attempting to maintain the current international arms control and disarmament regime while moving toward nuclear disarmament in a gradual and incremental way. This approach demonstrates China's responsible attitude towards maintaining global strategic balance and stability. In a sense, similar to US positions on the treaty, China views the treaty as divorced from the prevailing security-environment realities, which are based on a nuclear deterrence strategy; therefore, the “Treaty will make the world more dangerous, not safer.”^[14]

But the claim that the Ban Treaty is compatible with Chinese policy goals—if certain provisions were made—needs to be taken with a pinch of salt. The prohibition of the threat of use of nuclear weapons provided in Article 1(d) of the treaty presents a significant point of overlap between Chinese position and the NBT. Undoubtedly, China is the sole nuclear weapon state with an unconditional NFU policy. It believes that the ‘sole purpose’ of nuclear weapons is to deter nuclear attacks. But Tong Zhao, a fellow at the Carnegie–Tsinghua Center for Global Policy in Beijing, points to the “difference between an NFU policy and a prohibition on threat of use. Even with NFU posture, China threatens to use nuclear weapons against nuclear weapon states” if Beijing is attacked with nuclear weapons.^[15] Also, “there appears to have been increasing discontent with this policy from within China’s analytical community on nuclear policy and strategy in recent years. ... Chinese analysts have also suggested that China abandon NFU in a number of threatening scenarios.”^[16] In January 1994, China formally presented a draft text of the Treaty on the NFU of Nuclear Weapons to the other four nuclear weapon states, but no result followed. The US, especially, was not warm towards China’s proposal of de-targeting; the US believed de-targeting was not verifiable and intentions could change overnight.^[17]

Any move towards a global NFU treaty, or at least a positive gesture towards this idea, by the other four NWS could have been a motivating factor for China to be part of the nuclear Ban Treaty negotiations. As this is unlikely to happen, it remains to be seen how long China will stick to its moral position when other NWS are adamant in their positions. Like it or not, China’s nuclear forces have undergone significant transformations in recent years. Therefore, it would be prudent to consider that China might resort to the positions adopted by Russia or the United States in the future if its domestic “anti-NFU view begins to have great popular support within the PLA, if China develops a more grim view of its regional security environment, or if China believes that its economy is sufficient to support a more robust nuclear capability....”^[16] More importantly—to consider a hypothetical scenario—would China be hesitant to use nuclear weapons on Arunachal Pradesh or Sikkim, which it considers its own territory, in the case of a future China-India war?

B. Unconvinced India

In 2016, India abstained from both the First Committee and the UN General Assembly voting on the resolution calling for the negotiation of a legally binding instrument to ban nuclear weapons. India explained its decision to abstain by saying that it was “not convinced” the conference would “address [the] longstanding expectation of the international community for a comprehensive instrument on nuclear disarmament”.^[18]

The negotiation of the legally binding instrument to ban nuclear weapons, leading to their total elimination, has been seriously observed by India. India initially supported the commencement of negotiations in the CD on a Comprehensive Nuclear Weapons Convention,[19] emphasizing its view that the UN was the “right place” to pursue the goal of elimination of nuclear weapons, but India later boycotted the negotiations in March 2017.[20]

In March 2017, India announced its decision to boycott the negotiations as they had been envisaged. India’s permanent representative to the UN’s CD, Amandeep Singh Gill, argued that the decision had not been easy, but pointed out that the UN body (i.e., the CD, not any other platform) was the “right place” to pursue the goal of elimination of nuclear weapons, as it had the mandate, membership, and the rules. As India did not participate in the negotiations leading to the adoption of the Treaty, it cannot be a party to the treaty, and shall not be bound by any of the obligations that may arise from it. India abstained from the resolution and provided a detailed Explanation of Vote. India further expressed its position on the issue of its non-participation in these negotiations at a Plenary of the Conference on Disarmament on March 28th, 2017, in which the MEA spokesperson stated, “India supports the commencement of negotiations on a comprehensive Nuclear Weapons Convention in the CD, which is the world’s single multilateral disarmament negotiation forum working on the basis of consensus.”[21]

In his statement in the First Committee of the General Assembly, Ambassador Amandeep Singh Gill, India’s Permanent Representative to the CD in Geneva, said:[22]

India remains committed to universal, non-discriminatory and verifiable nuclear disarmament and to multilateralism in pursuit of that goal. Our position has been firm and consistent over the years. We support the proposal for the negotiation of a Comprehensive Nuclear Weapons Convention in the CD. ... On behalf of the sponsors, India would like to present two draft resolutions under this cluster. The first, on a ‘Convention on the Prohibition of the Use of Nuclear Weapons’, was first introduced in 1982 and is one of the long-standing resolutions in the First Committee. It reflects our belief that a legally binding instrument prohibiting the use or threat of use of nuclear weapons negotiated in the CD with the participation of all nuclear weapons possessing states will contribute to the process of the step-by-step de-legitimization of nuclear weapons.

As such, it is firmly anchored in the humanitarian tradition of nuclear disarmament. We urge those states which continue to vote against this resolution to reconsider their position to bring it in line with their professed support for the prohibition of nuclear weapons.

The second draft resolution on ‘Reducing Nuclear Danger’, highlights the need for a review of nuclear doctrines and the need for steps to reduce the risk of unintentional or accidental use of nuclear weapons, including through de-alerting and de-targeting of nuclear weapons. We welcome the greater resonance in the international community on the objectives of this resolution of avoiding unintentional or accidental use of nuclear weapons.[22]

India’s apprehension regarding the effectiveness of the nuclear Ban Treaty is warranted, as none of the nuclear weapon states are party to it. However, “as in the past, India remains ready to work with the signatories to the treaty for progress in multilateral forums on the shared goal of the global elimination of nuclear weapons.”[22] Even though it did not participate in the nuclear Ban Treaty negotiation process, New Delhi is committed “to the goal of a nuclear weapons free world through a step-by-step process” which should be negotiated in the CD. But “India believes that this Treaty in no way constitutes or contributes to the development of any customary international law.”[20]

India rests its argument on the procedural aspects of the global effort that would be necessary to eliminate the nuclear weapons. For India, there would be “three pillars” of a multilateral framework to eliminate nuclear weapons: “universal prohibition, complete elimination and international verification.” As far as its advocacy for a step-by-step approach is concerned, D.B. Venkatesh Varma, an arms control expert and India’s ambassador to Spain, listed three steps for reducing the military utility of nuclear weapons:[23]

- a) Reducing chances of accidental or unauthorized use or their access by terrorists, by doctrinal measures of narrowing the circumstances of their use;
- b) Following by a global treaty that would nail down deterrence as the sole purpose of nuclear weapons until their elimination; and
- c) Forging an international legal instrument that would delegitimize nuclear weapons by prohibiting their use under any circumstances.

Furthermore, he advocates that these steps presume “a universal commitment based on a shared belief that the world can be made safer through nuclear disarmament and not its mirror opposite argument, made, in particular, by the new found devotees of the concept of strategic stability—that puts the onus on the world being first made safe for nuclear disarmament.”[23]

Procedurally, as K. Subrahmanyam opined, nuclear disarmament pundits, in their pursuit of universal nuclear disarmament and delegitimization of nuclear weapons, must draw lessons from the process and rationale behind the NFU agreement of Chemical Weapons (Geneva Protocol of 1925) leading to eventual elimination of chemical weapons (in the 1993 Convention). After the promulgation of the Geneva Protocol, chemical weapons were used but ultimately the conclusion was that chemical weapons could only kill people; they did not help win a war. The Germans used them, and the Allies retaliated. Saddam Hussein used them against Iran, and the Iranians retaliated. When it came to WWII, though, gas masks were distributed widely in case chemical weapons were used and neither side used them. Largely, by that time, both sides were convinced that if one side used chemical weapons, there would be certain retaliation. That was the basic reason why nations agreed to NFU of chemical weapons, and, finally, in 1993, agreed to adopt the Chemical Weapons Convention.[6] It took 68 years to move from the NFU to the total elimination stage.

A similarly detailed rationale can be provided to propagate widely the idea of the uselessness of nuclear weapons, and advocate for a universal NFU of nuclear weapons, which would ultimately lead to their de-legitimization and elimination, as it did with chemical weapons. This should be the step by step, or gradual, process that India believes in. According to K. Subrahmaniam, many commissions have been constituted for arms control, non-proliferation, etc., but no commission has ever been tasked to enquire into the question of whether a nuclear war could be fought to win a meaningful military victory. Only such a realization—that nuclear war cannot be waged to win a meaningful military victory—will take the world towards de-legitimization of nuclear weapons. De-legitimization, supported by a universal NFU treaty, is a necessary step leading towards elimination.[6]

C. Cautious Pakistan

Pakistan’s position and concerns regarding the nuclear Ban Treaty go beyond the issue of disarmament. The anchor of Pakistan’s nuclear strategy is India. Secondly, Pakistan sees grave implications of the nuclear Ban Treaty for its position on the Fissile Material Cut-Off Treaty (FMCT). For that matter, the negotiation of a nuclear Ban Treaty in UNGA sets a ‘dangerous precedent’ which could lead to the FMCT being negotiated out of CD.[24] Pakistan has had strong reservations from the start of the negotiations on the ground that the FMCT, which only bans future production of fissile material without taking into

account the existing stockpiles, would freeze the existing asymmetries in fissile material holdings, thus putting Pakistan at a permanent disadvantage and compromising its interests. Thirdly, the Pakistani diplomatic community has strong reservations regarding any drive towards banning the nuclear bomb that fails to take into account the disparities in conventional armament and military balance of forces.[25] Any disarmament negotiation should be carried out with balanced reductions of armed forces and conventional armaments in mind based on the principle of undiminished security of all parties and with a view to promoting stability at the lower levels.

As far as the nuclear Ban Treaty is concerned, Pakistan does not consider itself bound by any of the obligations enshrined in the treaty. Foreign Office Spokesperson Nafees Zakaria said in a statement that the treaty neither formed a part of, nor contributed to, the development of customary international law in any manner. However, Pakistan is committed to nuclear disarmament, and the goal of a nuclear weapons free world “through the conclusion of a universal, verifiable and non-discriminatory, comprehensive convention” on nuclear weapons which would take security interests of every country into account. Similarly, it considers the Geneva-based CD the most ideal forum for concluding such a convention.

Further, Zakaria said, “Pakistan believes that this cardinal objective can only be achieved as a cooperative and universally agreed upon undertaking, through a consensus-based process involving all the relevant stakeholders, which results in equal and undiminished, if not increased security for all States. It is indispensable for any initiative on nuclear disarmament to consider the vital security consideration of each and every State. ... Treaties that do not fully take on board the interests of all stakeholders fail to achieve their objectives. Pakistan, therefore, like all the other nuclear-armed states, did not take part in its negotiation and cannot become a party to this treaty.”

IV. A Comparison

The difference between the positions taken by the three countries on the nuclear Ban Treaty seems to be based more on semantics than substance. Undoubtedly all of them have observed and taken the initiative seriously. They expressed their official positions straightforwardly, probably in anticipation of the likely negative stance taken by the other dominant nuclear weapon states—especially when the US remained unenthusiastic and Japan remained quiet. It has been clear since the beginning that such a framework would not cast any lasting impression when the draftsmen of the problem were not likely to be part of the attempted solution. There seem to have evolved, by design or by default, a tacit understanding, through consultations among all the NWS (including India and Pakistan) and their protectorates, that a common stance should be taken, even before the relevant countries arrived at their stated positions.

China’s stated position seem to be based more on realism as it points to the not-well-planned strategic upheaval the Ban Treaty would cause. As the contemporary security discourse is built around the concept of nuclear deterrence, dismantling the discourse without addressing the strategic concerns would make the world more dangerous than before. As a rising superpower that perceives a substantial rivalry with the US, China could not unilaterally adopt the path of nuclear abstinence.

India, on the other hand, bases its reservations on the procedural aspects of the initiative. Instead of the General Assembly, India argues, the CD is the appropriate forum for such negotiations. Moreover, its stance on the treaty is certainly a continuation of its traditional position on nuclear non-proliferation and disarmament issues, as it continues to advocate for a gradual, step-by-step and time-bound disarmament process. Similar to China’s views, India believes that nuclear disarmament cannot be achieved overnight. Moreover, as China proposed to other NWS, India advocates for a global NFU treaty, which would culminate in an understanding that nuclear weapons do not help to change the alignment of the battlefield in the case of a nuclear exchange and are therefore useless. The chemical weapons banning process should be the guide. Moreover, suffice it say, the perceived utility of nuclear weapons in India’s strategic

calculations remains strong and that perception is unlikely to change soon, as long as other powers possess nuclear weapons.

Pakistan, in line with China's strategic and realistic consideration, links the issue to the fissile material cut-off, and the disparity in conventional forces, especially regarding India's upper hand in this domain. Pakistan's strategic vulnerability vis-a-vis India clearly reflects in its approach towards the nuclear Ban Treaty. In addition, similar to India, Islamabad views CD as the appropriate forum for such negotiations. Therefore, Pakistan's position on the treaty seems to encompass a broader horizon with the blending of both Chinese and Indian stances in addition to its own strategic concerns.

V. Regional NFU Imperative

The Southern Asian strategic environment is defined by uncertainty, and there is a need for flexibility in order to maintain strategic stability. For example, to counterbalance India's superiority in conventional forces, Pakistan has introduced the tactical nuclear weapons (TNWs) and often resorts to nuclear brinkmanship. The domestic debate is unfolding in India for a shift of India's NFU pledge with the aim of maintaining strategic balance in the region. On the other hand, though China has pronounced NFU, in recent years there has been some ambiguity in its stance, especially vis-à-vis Taiwan. Therefore, the imperatives and visions of maintaining strategic stability by all three countries suggest serious challenges for the future of arms control and disarmament in the region.

Besides the differences, one common thread in the positions of China, India and Pakistan is their assertion that a graduated, step-by-step approach towards nuclear disarmament is necessary. All of them believe that elimination of nuclear weapons cannot be achieved at once; instead, it would require sustained global effort that would take into consideration the strategic vulnerabilities and security deficits in strategic calculations. While China and India provide somewhat alternative procedures like the universal NFU treaty, Pakistan's position seems to be only a negative reaction with no prescription for the nuclear Ban Treaty.

Though possibly farfetched, the question remains: could a tripartite NFU treaty in Southern Asia be the harbinger which may eventually lead to the goal for a universal NFU treaty? As China has already proposed such a treaty among the P-5, and India has similar opinions, it would not be difficult to convince Pakistan to agree for a regional NFU treaty by amicably addressing its India-threat concerns. Any follow up initiative by the Southern Asian troika in this regard would test the sincerity of their calls for an unbiased, time-bound goal of nuclear disarmament, which they have each advanced since the existence of nuclear weapons.

VI. Works Cited

1. United Nations General Assembly, United Nations Conference to Negotiate a Legally Binding Instrument to Prohibit Nuclear Weapons, Leading Towards their Total Elimination (2017).
2. Z. Mian, After the Nuclear Weapons Ban Treaty: A New Disarmament Politics. *Bull. At. Sci.* (2017), (available at <https://thebulletin.org/2017/07/after-the-nuclear-weapons-ban-treaty-a-new-disarmament-politics/>).
3. United Nations, Joint Press Statement from the Permanent Representatives to the United Nations of the United States, United Kingdom, and France Following the Adoption. U. S. Mission U. N. (2017), (available at <https://usun.usmission.gov/joint-press-statement-from-the-permanent-representatives-to-the-united-nations-of-the-united-states-united-kingdom-and-france-following-the-adoption/>).

4. International Court of Justice, Legality of the Threat or Use of Nuclear Weapons (1996).
5. R. Thakur, Nuclear Arms: Look Ahead to 2018 in Hope, Not Back at 2017 in Anger. *Jpn. Times* (2018), (available at <https://www.japantimes.co.jp/opinion/2018/01/09/commentary/world-commentary/nuclear-arms-look-ahead-2018-hope-not-back-2017-anger/>).
6. K. Subrahmanyam, Prospects for a Nuclear-Weapons-Free World. *Indian Foreign Affairs J.* **5**, 172–180 (2010).
7. J. Borger, US to Loosen Nuclear Weapons Constraints and Develop More “Usable” Warheads. *The Guardian* (2018), (available at <https://www.theguardian.com/us-news/2018/jan/09/us-to-loosen-nuclear-weapons-policy-and-develop-more-usable-warheads>).
8. P. Izewicz, The Nuclear Ban Treaty and Its Possible Ramifications. *Int. Inst. Strateg. Stud.* (2016).
9. International Campaign to Abolish Nuclear Weapons, Positions on the Treaty. *Why Ban* (2019), (available at <http://www.icanw.org/why-a-ban/positions/>).
10. R. Falk, Challenging Nuclearism: The Nuclear Ban Treaty Assessed.
11. China Mulls Joining U.N. Talks on Treaty to Ban Nuclear Weapons. *Jpn. Times Online* (2017), (available at <https://www.japantimes.co.jp/news/2017/02/16/asia-pacific/china-mulls-joining-u-n-talks-treaty-ban-nuclear-weapons/>).
12. Ministry of Foreign Affairs of the People’s Republic of China, Foreign Ministry Spokesperson Hua Chunying’s Regular Press Conference on March 20 (2019), (available at https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/t1447146.shtml).
13. CCTV News English, China Not to Attend Nuclear Weapon Ban Treaty Negotiation (2019), (available at <http://english.cctv.com/2017/03/22/ARTIAu6iYs98NqrGMPRBtQCC170322.shtml>).
14. P. Fabricius, Nuclear Ban: Treaty Will Make the World More Dangerous, Not Safer –US. *Dly. Maverick* (2019), (available at <https://www.dailymaverick.co.za/article/2017-09-13-nuclear-ban-treaty-will-make-the-world-more-dangerous-not-safer-us/>).
15. T. Z. Wang Raymond, China and the Nuclear Weapons Prohibition Treaty. *Carnegie-Tsinghua Cent. Glob. Policy* (2019), (available at <https://carnegietsinghua.org/2017/09/21/china-and-nuclear-weapons-prohibition-treaty-pub-73488>).
16. N. Li, China’s Evolving Nuclear Strategy: Will China Drop “No First Use?” *China Brief.* **18** (2018) (available at <https://jamestown.org/program/chinas-evolving-nuclear-strategy-will-china-drop-no-first-use/>).
17. B. Zhou, New Consideration of China’s No-First-Use of Nuclear Weapons Is Needed. *China-US Focus* (2016), (available at <https://www.chinausfocus.com/peace-security/new-consideration-of-chinas-no-first-use-of-nuclear-weapons-is-needed>).

18. India Abstains from Voting on Nuclear Weapons Ban at UN. Deccan Chron. (2016), (available at <https://www.deccanchronicle.com/world/america/291016/india-abstains-from-voting-on-nuclear-weapons-ban-at-un.html>).
19. D. B. Venkatesh Varma, Explanation of Vote by India on First Committee Resolution L.41 (Permanent Mission of India to the UN, 2016; <https://www.pminewyork.gov.in/pdf/uploadpdf/11897Eov%20on%20L.41.pdf>).
20. Statement by Ambassador Amandeep Singh Gill, Permanent Representative of India to the Conference on Disarmament (Ministry of External Affairs, Government of India, New York, 2017; <http://meaindia.nic.in/cdgeneva/?pdf6441?000>).
21. Response by the Official Spokesperson to a Media Query Regarding India's View on the Treaty to Ban Nuclear Weapons (Ministry of External Affairs, Government of India, New Delhi, 2017; <https://www.mea.gov.in/media-briefings.htm?dtl/28628>).
22. Statement by Ambassador Amandeep Singh Gill, Permanent Representative of India to the Conference on Disarmament during the thematic discussion on the nuclear weapons cluster of the First Committee of the General Assembly (Permanent Mission of India to the UN, 2017; <http://meaindia.nic.in/cdgeneva/?6452?000>).
23. Nuclear Ban Treaty Doesn't Contribute to Customary International Law: India. The Wire (2019), (available at https://thewire.in/159057/nuclear-ban-treaty-customary-law/?mkt_tok=).
24. Nuclear Ban Treaty: Pakistan Advised Caution. DAWN.COM (2017), (available at <https://www.dawn.com/news/1327257>).
25. C. M. Leah, S. Sial Aman, Nuclear Ban Treaty: a Pakistani Perspective. Express Trib. (2017), (available at <https://tribune.com.pk/story/1381947/nuclear-ban-treaty-pakistani-perspective/>).