

Nature and Consequences of the Obligations of NPT Members in the light of the Strong Performance of the Islamic Republic of Iran

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Abstract

The ultimate goal of this study was to evaluate the nature and consequences obligations of its Member OF N.P. T, in the light of Iran's performance. To carry out reciprocal obligations Iran and the International Atomic Energy Agency, the requirement that each party is committed to its obligations. But enthusiasm agency to develop new obligations, get more information and exercising control over Iran's nuclear program has been expanded. The same one important factor was the uncertainty of Iran to the Agency. The results show that the NPT right, inalienable nuclear right is known. "Attribute" inalienable and legal consequences of this statement to follow. Many actions of member states and non-members; in the absence of enrichment and reliance on foreign sources, does not necessarily mean weakness or passivity they accept the obligation of the host governments do not impose commitments, But how, despite the fact that different countries have the right, in the implementation of the rights and interests of decisions and behave according to higher materials. This behaviour has caused performance to the detriment of countries like Iran are developing countries also insist on implementing its own right, takes shape However, in the speech and statements may express a different view. . However, this studies Lesson 3 chapters. In the second chapter, the basic fundamentals of research, study and analysis, And in the third quarter, into the topic and also to analyze the situation and its liabilities.N.P.T the rights and challenges for members and detailed look at Iran's rights, The method of data collection for the library and taking notes and analytical research method is descriptive and qualitative analysis.

Keywords: N.P.T Legal, Iran's nuclear rights, nuclear obligations, the Security Council

Introduction:

Weapons of mass destruction are one of the most important global threats to international peace and security, the legal approach in the international arena seeks to ban the use of weapons in armed conflict. Historical evidence shows that the use of these weapons (chemical, biological and nuclear) has made the greatest tragedies of humanity; in the meantime, Iran in the composed war has been one of the biggest victims of these attacks. The use of sanctions has been as a tool to control the countries which according to some other countries have violated international criteria defined by them. NPT is an agreement signed in 1968 by Great Britain, the United States, the Soviet Union and 60 other nations in order to limit nuclear weapons. The ratification of the treaty is on the basis of Resolution 2373 of UN General Assembly in 1970. NPT treaty was implemented from 1970 to 1995 for 25 years and was extended indefinitely in 1995. The NPT member states put the monitoring and controlling of nuclear activities on the International Atomic Energy Agency. In fact, this treaty is a compromise between the nuclear and non-nuclear powers, so that non-nuclear states have pledged not to attempt to produce a nuclear bomb; but the countries with nuclear technology while trying to eliminate nuclear weapons were obliged to put the nuclear facilities at the disposal of non-nuclear states for peaceful uses. NPT Treaty stipulates that there should not be any barrier to access to peaceful nuclear technology by the signatories of the Treaty. Agency duty is to monitor the correct implementation of the provisions of the treaty by the members. According to Article 3, each Member State without nuclear weapons committed in an agreement In accordance with the Statute of the International Atomic Energy Agency and signed by the agency's system security measures, the guarantees required to accept. The NPT is a discriminatory treaty in which, the rights and obligations of inequality between the two groups of countries possessing nuclear weapons and nuclear-free technology is established. According to articles 2 and 3 of the treaty, Iran disclaimed having nuclear weapons and has accepted International Atomic Energy Agency control on all its nuclear activities. In contrast, countries possessing nuclear technology have approved transfer of technology and nuclear facilities for peaceful purposes. Realistic analysis of NPT provisions and nuclear weapon states' procedures show that the transfer of nuclear technology to non-owner ones is a function of the main aim of the treaty, namely nuclear proliferation. It is a strange case that if a country is not a party to the NPT, there is nothing to its access to the nuclear bomb; but if it is an NPT member, it is placed under pressure. Although the NPT does not prohibit uranium enrichment in absolute terms, but by depriving non-nuclear states from operating in non-peaceful path, by Imposing IAEA control on nuclear activities of non-nuclear technology holders virtually through the regulatory system, creates obstacles to enrichment. In the framework of the NPT, Iran is not obliged to suspend uranium enrichment activities. On the other hand, judging about the usefulness of Iran's nuclear activities is the responsibility of International Atomic Energy Agency. Agency by stressing it's monitoring and using the complexity of the technical aspects of monitoring nuclear activity and using literature that is legally located on the border between advice and as sees enrichment suspension as the sign of Iran's good faith and seriousness to win the confidence of the international community. That matter that Iran accepts suspending uranium enrichment voluntarily or be forced to do it, returns to the NPT. If the text of the regulations should be followed, Iran and any other country that is committed to the NPT and allows IAEA inspection, it cannot be forced to suspend uranium enrichment. In particular, if the inspectors did not find the evidence suggesting that Iran is trying to build nuclear weapons.

Research purposes:

- 1- Analyzing the nature and effects of NPT members' commitments in the light of the Islamic Republic of Iran.
- 2- Understanding the changes in the objectives and modalities of the Statute of the Treaty on the Non-Proliferation of Nuclear Weapons and its impact on the obligations and Iran's membership since its establishment.
- 3- Study of factors influencing the legal approach to the Treaty on the Non-Proliferation of Nuclear Weapons regarding Iran and some other members.

Research questions:

The main question:

Is the nature and consequences of the obligations of States Parties to the NPT, coherent with Iran's performance?

The secondary questions:

- 1- Does the apparent and real objectives of nuclear non-proliferation treaty shows significant deviations from the Constitution?
- 2- Does the performance of some of the powers of the Treaty, has had a significant impact on NPT non-legal performance?

Literature Review:

Mahmoudi (2011) in an article titled role of safeguards agreements in strengthening the backbones of the Treaty on the Non Proliferation of Nuclear Weapons (NPT) believes that Agency began the activities of its safeguards on very limited nuclear activities of the member states of these agreements by setting two documents But given the poor performance of these two documents, the international community came up with a new plan to introduce the non-proliferation of nuclear weapons. These efforts led to the signing of the disbarment Agreement that is the nuclear non-proliferation treaty in 1967. This system has placed two regimes inside itself, the regime of nuclear weapons and the regime governing the behavior of countries that do not have these weapons. Recent governments have been obliged to overlook its sovereign rights in the education and development of nuclear weapons and they accept the IAEA's Safeguards on nuclear activities. Myrkhalyly (2013) in an article entitled "Treaty on the Non-Proliferation of Nuclear Weapons and its impact on the international system" believes that in the era of nuclear arms control, the most efficient regime is the nuclear nonproliferation regime or NPT. According to the nonproliferation regime, non-nuclear states refrain from directly or indirectly transferring nuclear weapons or other nuclear explosive devices. They have not built other nuclear explosive devices and have not accepted any help in this regard. Of course, the above regime is selector for the mechanism to monitor the implementation of the Treaty, So as, NPT has selected the International Atomic Energy Agency (IAEA) as the competent authority, responsible for inspections, guaranteeing and assuring of the government's commitment to prevent the diversion of nuclear materials and related equipment to non-peaceful and military purposes to make the goals and aspirations of the Treaty in the field of non-proliferation of nuclear weapons and

promoting global nuclear security a reality with advanced technical tools along with assisting members . Our research also focuses on the other technical and legal aspects of NPT to be matched in accordance with Iran's obligations and other members.

Concepts:

1-Definition of NPT

NPT "(NPT) is one of the political terms frequently used in the political and media circles of the world. NPT is the acronym of "nuclear non-proliferation treaty" (Soleimanzadeh, 2014, 13).

2- Right in private law

According to all definitions of the right, it could be said that in private law the right means dominance, authority or privilege that is granted to a person over something or someone else by law. The person is classified as either natural person or legal person. This is considered as a generic definition of right. (Bahrami, 1998, 12).

3-Limitation and Waiver of the Right

The right per se is considered to be a constructive concept. Right owns provisions that may cause it to be contingent or definite, future or present, permanent or temporary and stable or unstable. These provisions either relate to the time of performance of the right or with the stability and the inconsistency of the right. (Ibid, 13)

Thus, the relation between these provisions and right is extrinsic, not inherent and it is more linked to the right performance rather than the right by itself. Hence, if a right transmits to another right due to the credit of any of these provisions or if any legal consideration applied to this right, this transmission has no impact on the nature of right.

4- International Law of Mass Destruction Weapons

In the relations between the states, the right of legal prohibitions on the use of these weapons is called international law of weapons of mass destruction .Weapons of mass destruction include nuclear weapons, bacteriological and chemical weapons known as A.B.C, N.B.C or R.B.C. (Soleimanzadeh, 2014, 4).

5- Nuclear weapons

Since the definition of nuclear weapons has not been given in the only document with global size that is the nuclear Non-Proliferation Treaty in 1968, to define these weapons the index of Paris Agreement Protocol is commonly cited. As defined in this document, nuclear weapons are the "weapons that nuclear explosives or radioactive isotopes are used in their manufacturing and the explosion or other nuclear changes of which is capable of destruction or poisoning vary widely in level."

6- Biological weapons

A definition is not provided in the 1972 Convention on the Non-Proliferation of Biological Weapons on the production and stockpiling of bacteriological (biological) and toxic weapons and their destruction, but experts also agree on the definition of "any biological material whose effect is depending on the

proliferation in target organism and used in war to cause illness or death in humans, animals and plants. "(Akhavan, 2014, 5).

Nuclear rights under the NPT:

Basics of nuclear energy

America Energy Organization said in a report that research in the field of nuclear energy (Fission and fusion) with 67 trillion dollars has most of the investigations related to the energy sector in the countries of the world. IAEA member states have spent amounting to US \$ 133 billion expenditure on research, development and prototype projects in the energy sector between 1987 and 2002.

Most cost is related to the nuclear Fission with \$ 53 trillion and the budget allocated to the renewable energy sector equals to 21 trillion dollars.

This energy can come from two sources. One is fusion-fission of heavy atoms and the other nuclei fusion style of light atoms (Madanian, 2012, 12).

The peaceful uses of nuclear science and technology:

A: Using the energy from the fission of uranium or plutonium in nuclear reactors to generate electricity or fresh sea water;

(B) The use of radioisotopes in medicine, industry and agriculture;

(C) the use of radiation caused by nuclear processes in medicine, industry and agriculture, metals testing standards, archaeological research, measuring the thickness of plates and fibers;

D) The use of isotope and radiation caused by nuclear processes to improve food products, food storage, and to determine groundwater resources, Sterilization of resources and medical products, hormonal analysis, industrial processes control and environmental contamination analysis;

(E) Production of food products with more fertility;

F) The production of varieties resistant to pests and drought;

(G) Efficient use of water resources and collecting them

H: controlling pest eradication, preventing product spoilage during storage;

(I) Application of nuclear techniques in medical science and is more popular and public than other sectors. Imaging, diagnosis, prediction and treatment of diseases resulting from irradiation and radioisotopes;

A: facilitate underground mining operations and oil and gas exploration, detecting leaks of fluids in pipes and tanks to determine the corrosion of metals, accurate measurement of caliper, Thickness and surface surveys, determining the exhaustion of internal membranes of industrial furnaces, the interaction of radiation with materials to optimize their performance in the industry (Solaymanzadeh, 2014, 6).

Legal and juridical analysis of Weapons of Mass Destruction:

With a brief tenure in the history of human societies we find that the emergence and spread of weapons has nothing but enhancing the hostile relations between states. War is a typical hostile relationship between governments in which the belligerent parties resort to a variety of weapons to reach their own purposes. The nature of the weapons used during the war is varied. Conventional weapons were used primarily to overcome the enemy in conventional warfare. Concurrent with the development of science in

different fields and the emergence of new technologies, weapon making developed and changed the nature of war. The destructive power and devastating destruction of today's weapons is not explainable so that the use of this type of weapons can even destroy the planet. An obvious example of this type of weapons is mass destruction nuclear weapons, weapons that are now the biggest threat to humanity.

Although, at first it seemed that rights cannot be entered into the use of weapons, but gradually and with the efforts of the international community, international law could also enter this field to create and apply restrictions or prohibitions. Today, with the collapse of the bipolar system that leverages the balance of power in the world, proliferation of weapons of mass destruction has become one of the biggest challenges of the new era. With the terrorist attacks on September 11, 2001 in the United States, the international community was faced with another danger, i.e. terrorist groups acquiring weapons of mass destruction. On the other, hand the traditional system of non-proliferation of mass destruction, in dealing with new phenomena such as easier access to information and technology and cheaper access to weapons of mass destruction by non-state actors has some shortcomings. (Sharyatzadeh, 2010, 7).

Mass destruction weapons

Their destructive power and their purposes are two factors for the diagnosis of these weapons. According to the second criterion, in essence, they are used to destroy largely and cannot be limited to certain goals. Weapons of mass destruction must be defined in a way that involve atomic explosive weapons, weapons with radioactive substances, Chemical and biological weapons and all weapons that are produced in the future and are similar in terms of degradation effects. Unfortunately, except for chemical weapons, treaty definition of two other weapons does not exist. This defect occurs not out of desire but because of the United States and the Soviet Union tendency. Because these two states that have a major role in relevant international arrangements, have tended to avoid exact definitions and formats (Akhavan, 2014, 4). The risk of nuclear proliferation is bilateral. First, proliferation of these weapons by nuclear powers and other dissemination and transfer of the weapons to non-nuclear states, resulting in the global proliferation and spread and thus makes the vertical and horizontal extending meaningful. Chemical and biological weapons have a common feature. Their side effects cannot be predicted and civilians are more vulnerable than military against them. The first time that Germany used chemical weapons in 1915, the international community has unanimously condemned the action. And therefore, when signing the Treaty of Versailles in 1919, it was decided in Article 17 that: "Using suffocating gases, toxic liquids and the like, all the same it is forbidden." (GhasempourAnaraki, 2015, 12).

Views of Islam on Weapons of Mass Destruction

According to Islam, production and use of weapons of mass destruction, not only recommended but it is condemned, forbidden and religiously banned. Albeit, all or the majority of evidences indicate the prevention of use of weapons of mass destruction, but obviously manufacturing such a weapon which its use is religiously forbidden and causes public treasury spoliation, brings pessimism and discredit upon Islamic state, is definitely categorized under the same proofs and rules. But, the evidences of Islamic Jurisprudence in this view are as follows .

Assessing the Weapons of Mass Destruction According to the Islamic Jurisprudence

Some Shiite jurists believe that there is a close relationship between the concept of terrorism and threat and intimidation (terrorization). They are of the opinion that defines terror as; "Any act intended to inhuman targets and corruption, which involves threatening security, underlying oppression, limiting legitimate human rights and causing deprivation of peace". (Hosseini, 2010, 101).

It is worth to mention that, threat and intimidation in this definition could be emerged in various forms such as in the form of nuclear and bacteriological weapons, insanity strategies just as Star War, military treaties and establishing the suppressor regimes for instance Israeli regime that is known as a serious threat not only to the Middle East but to the whole world. There are some firm historical documents in Shiite Jurisprudence demonstrating the Shiite religious leaders have announced that any use of weapons and tools causing mass destruction of human beings, killing live creatures and leading to environmental damage (for example poisoning the enemies' water sources) is forbidden since ten centuries ago. Although, "unconventional and mass destruction weapons" were not existed in the past and they are considered as current questions, but there is a set of Islamic general principles relevant to this question that is known as a basis for juristic opinions of religious scholars. (Ibid, 102).

Iran's nuclear rights and related issues:

1- Overview of nuclear rights in international law

International Court of Justice in its advisory opinion in the case of the legitimacy of the use or threat of the use of nuclear weapons has clarified almost implicitly the right or jurisdiction of the states including the nuclear right. In this decision, the Court stated:

"In Customary or conventional international law, no rule authorized explicitly the threat to use nuclear weapons, although no comprehensive rules on the prohibition of the threat to use such weapons are there (GharybAbady, 1996, 17).

The Court finally dismissed the use or threat of use of nuclear weapons as illegitimate. So, given that possessing peaceful nuclear energy production and its components and accessories is not prohibited by any rule of international law, all countries, including the members of the NPT and otherwise enjoy this right and its details such as enrichment, etc. on this basis it can be generally stated that in the international system the right is the acts or omissions of states as far as the rules of international law does not prohibit it or permit it to be.

NPT has considered the nuclear right an inalienable right. In accordance with Article 4 of the treaty, "Nothing in this Treaty shall be interpreted in such a way that the inalienable right of all States Parties to the Treaty be affected ... The attribute "inalienable" leads to legal consequences arising from this statement. First, applying this concept means that once established, countries will have the capacity to possess peaceful nuclear energy production, because these rights accompany a person and in this case a state from the birth to death. Second, nuclear Non-Proliferation Treaty doesn't make the nuclear right, or in other words, it cannot create this right but the treaty is a "confession" to the right and there is evidence of.

It always exists and international law strictly regulated and bounded its implementation. Thirdly, inalienable nuclear right cannot be denied of a country except in non-general cases, and in complications and constraints of the country with its consent. So that in Article 3, the aim of the Safeguards Agreement is to strictly inspect and prevent the diversion of nuclear program. Thus, referring to the NPT as the origin

of the right of countries to possess nuclear program is not entirely accurate. Accordingly, the countries that are not members of the NPT have as well as the right to possess nuclear program and with assuming the abolition of the treaty, all countries will have the right and they will not eliminate their nuclear program. As a result, we can say that the peaceful nuclear right is the immutable right for countries to any production and utilization of nuclear energy for peaceful purposes.

2- The nuclear right in related treaties

To understand the framework of NPT members' right including Iran or any other country, we need to pay attention to three main treaties on nuclear issue, that is, the Non-Proliferation Treaty, or NPT, the IAEA Statute and the Safeguards Agreement between Iran and the IAEA at the same time. As far as the use and production of nuclear energy for peaceful purposes is concerned, NPT does not discriminate the countries with nuclear weapons from those without them. All States Parties to the treaty, including the nuclear-weapon states and others, have similar rights including the equal right to nuclear activities for peaceful purposes. Under paragraph 1 of Article 4 of the NPT "Nothing in this Treaty shall be interpreted in such a way that affects the inalienable right of all Parties to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Article 1 and 2 the treaty." As can be seen, the term "right of all Member States" is used, in addition, mentioning the requirement to comply with Article 1 of this paragraph oversees the nuclear-weapon states and non-nuclear weapon states is related to Article 2. As a result, considering Iran's nuclear issue it must be said that under the NPT, the Islamic Republic of Iran and the P5 + 1 have equal rights on the operation and peaceful activities associated with this operation, and as noted above, these rights include all rights and activities related to nuclear right including uranium enrichment, as far as diversion for nuclear weapons or nuclear explosive devices production for military purposes has not been done.

According to paragraph 1 of Article 3 of Non-Proliferation Treaty, member countries will sign agreements with the IAEA modular. According to this paragraph "... modular measures under the Treaty in respect of raw materials or special fissionable material if they are processed, or are used in main nuclear facilities or out of them, will be the presenters. So, under this Article, production and processing of fissile materials by other non- nuclear countries could be done, but should be placed under IAEA safeguards.

However, Article 20 of the Agency Statute has defined this term. In accordance with paragraph 1 of this Article "special fissionable material include plutonium-239, uranium-233, uranium enriched in the isotopes 235 or 233 Or any material that has one or more of these or other fissile material that is frequently determined by the Board of Governors of the IAEA "

In accordance with paragraph 3 of this Article, the raw material consist of "uranium containing the isotopes created in nature, depleted uranium to isotope 235, thorium or any of the ingredients in the form of metal, alloy, chemical compound or concentrate or any other material containing one or more of these materials that will be determined by the IAEA Board of Governors." As the operational steps of these treaties have done the details of nuclear rights of NPT member states have stated more clearly." (Eyvazi, 2013).

The legitimacy or illegitimacy of unilateral sanctions in international law:

Today, the use of sanctions has become as a tool to control the countries, which according to some other countries have violated international criteria defined by them. These countries often have seized upon a violation of international norms as the justification for these restrictions. And the best justification in this regard could be achieving or trying to acquire weapons of mass destruction. Preventing the spread of weapons of mass destruction is rapidly expanding and evolving. And yet, if the country in violation of the NPT is a more important threat to major powers, especially Europe and America, the possibility of sanctions in the event of negligence on the Non-Proliferation is higher and non-allies will be banned more than allies (Eyvazi, 2013, 3).

Checking terms of bar jam agreement between Iran and the 5 + 1:

Under this deal, Iran will purge its medium enriched uranium stockpile and cuts low enriched uranium storage up to 98 percent and reduces about two-thirds of centrifuges at least for 15 years. For 15 years, Iran has agreed not to enrich uranium more than 3. 67% or does not make heavy water reactors or any new uranium enrichment facility. Uranium enrichment activities will be limited for 10 years in a single building that uses first-generation centrifuges. As well as, under International Atomic Energy Agency Additional Protocol to avoid the risks of nuclear weapons proliferation other facilities will be turned. The International Atomic Energy Agency (IAEA) will have regular access to Iran's nuclear installations for monitoring and verifying implementation of agreements by Iran. As a result of this agreement that comes to sustainable certification by its loyalties, Iran will come out of the United Nations Security Council, Europe and the United States sanctions. With the nuclear deal, Iran's nuclear program ended twelve years of confusion and in Day 27th, 1394 (17 January 2016), Bar jam implemented and nuclear sanctions against Iran has been cancelled.

Conclusion:

1- Apparently, the reasons that Iran is not willing to join and commit to the Comprehensive Test-Ban Treaty (CTBT), are independent national security considerations such as being cautious about not to increase the international obligations of the country in arms control and disarmament (more than what we have already committed to), preserving the internal affairs of the country from foreign intervention and keeping the territorial scope (on the ground, beneath the Earth, under the territory waters and above the atmosphere) from extra-sensitive systems establishment "monitoring the environment" that these are some of the considerations .

2- It seems even if Iran ratifies and finally commits to the CTBT, according to the security, strategic and geopolitical environment realities of the region, it is highly unlikely to persuade any of the power states with nuclear weapon to agree to disarmament. Therefore, the dream of "Middle East with no nuclear weapon " to come true, we can assume two main stages. First, to disarm the nuclear weapon powers and, second, to control the development, and to prevent new capability developments in this regard.

3- In order to perform bilateral obligations of Iran and the International Atomic Energy Agency (IAEA), it is necessary for both parties to be obliged to their commitments. But, the Agency's enthusiasm has been more on drafting new obligations, receiving more information and enforcing wider supervision on Iran's

nuclear plan rather than considering Iran's right to its privacy to nuclear information. This issue turned into one of the significant reasons for a lack of trust in the Agency.

4- The NPT Treaty has considered the nuclear right as an inalienable right. In accordance to Article 4 of this Treaty; "Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to" The adjective "inalienable" carries the legal consequences of this phrase.

5- The course of actions many member and non-member states to the NPT have taken in non-enrichment and relying on foreign sources, does not necessarily indicate to their weakness or passivity in accepting the obligations imposed. It actually remarks that, while owing the right, how different states make decisions and act in performing these rights according to the great public and national interests. This act induced the conducts of the states to cause damage to countries like Iran that are persisting on enforcing their right. Although, they may express another opinion by word or by issuing declaration in this regard .

6- The Security Council (SC), although, without any firm legal basis in all cases, by virtue of its competence in preserving international security and peace, can cause exceptional limitation on implementing nuclear right or even spoliation of this right. The Council's measures that were taken in relation to Iraq and intervening in its sovereignty matters is firm evidence in this regard. So, the first priority in foreign policy of states is to abstain from referring any of their relevant matter to the Security Council to make decisions under chapter seven. The most complicated and difficult question is that, in case the SC enters to such cases, the intended state can take the matter out of the SC's agenda and rectitude it to the normal situation, again. The Nuclear Negotiation P5+1 in Geneva and the next round in Vienna should be analyzed in relation to these circumstances .

7- If Iran, in respect of NPT rules, within treaties making with other states, waives some of its sovereignty privileges, respecting these sorts of limitations is not equal to giving up upon Iran's sovereignty, but establishing these confinements means the exact exercise of sovereignty. Thus, in nuclear negotiations if the state could reach to an agreement with other countries and is obliged to this commitment, this circumstance indicates that Iran is exercising its sovereignty and not waving it. Indeed, the state acquires more privileges (just like the recent agreement with P5+1) in comparison with withdrawing its right.

Suggestions:

1. Delivering the investigative work on comparing Persian Gulf states obligations to NPT and Iran.
2. Reviewing legal strategies in preventing the re-referring of the Iranian nuclear dossier to the council.
3. Analysis of Iran's obligations to stabilize bar jam.

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