

# **Norm Contestation and Power Dynamics in the Nuclear Non-Proliferation Regime**

*The India-US Nuclear Deal*

By

**Saira Bano**

**Norm Contestation and Power Dynamics in the Nuclear Non-Proliferation Regime: The India-US Nuclear Deal**

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For my daughters, Maida Azhar and Soha Azhar—  
anchors of my world.

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## List of Abbreviations

AB	Anti-Ballistic Missile
CD	Conference on Disarmament
CIRUS	Canada India Research U.S. (nuclear reactor)
CRS	Congress Research Service
CTBT	Comprehensive Test Ban Treaty
DAE	Department of Atomic Energy
DoD	Department of Defence
ENDC	Eighteen Nation Disarmament Committee
FMCT	Fissile Material Cut-off Treaty
IAEA	International Atomic Energy Agency
ITE	International Thermonuclear Experimental Reactor
NSSP	Next Steps on Strategic Partnership
LTBT	Limited Test Ban Treaty
MEA	Ministry of External Affairs
MTCR	Missile Technology Control Regime
NNPA	Nuclear Non-proliferation Act of 1978
NPR	Nuclear Non-Proliferation Regime
NPT	Nuclear Non-Proliferation Treaty
NSG	Nuclear Suppliers Group
NWS	Nuclear Weapon States
NNWS	Non-Nuclear Weapon States

PNE	Peaceful Nuclear Explosion
START	Strategic Arms Reduction Treaty
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
U.S.	United States
WMD	Weapons of Mass Destruction

# Chapter One

## Introduction

While constructivists show that norms are constituted and contested through discourse and realists stress the role of material and institutional power, existing scholarship still lack a mechanism-rich account of how unequal power actually determines what indeterminate rules come to mean in practice. The project advances a realist-constructivism synthesis to explain when great powers can successfully redefine normative meaning and when existing orders constrain them, specifying mechanisms such as strategic reinterpretation and rhetorical justification, forum shopping across institutions, crisis timing, and leverage embedded in voting rules and organizational design. The rationale is threefold: theoretically, the study integrates insights on norm contestation with concrete pathways linking power asymmetries to norm change or stabilization; empirically, it provides a tractable framework for analyzing high-stakes arenas like the nuclear nonproliferation regime; and for policy, it clarifies how legitimacy and multilateral consent are assembled—or fail—so practitioners can better navigate the tension between flexibility and credibility in rule-based orders. The India–U.S. nuclear deal serves as a focused illustration of these dynamics, showing both the reach and limits of power under normative constraint.

The global nuclear non-proliferation regime rests on the Non-Proliferation Treaty (NPT), which enjoys near-universal membership but excludes four nuclear-armed states—India, Pakistan, Israel, and

North Korea.<sup>1</sup> The NPT codified a bargain: Non-Nuclear-Weapon States (NNWS) agreed not to acquire nuclear weapons in exchange for access to peaceful nuclear technology under International Atomic Energy Agency (IAEA) safeguards, while Nuclear-Weapon States (NWS) pledged to pursue disarmament. Because the outliers possess nuclear arsenals and refuse to join as non-nuclear-weapon states, and because the treaty is difficult to amend (and was extended indefinitely in 1995), their integration poses a persistent dilemma. Against this backdrop, the India–U.S. civil nuclear agreement sought to draw India—framed as a “responsible” nuclear state—closer to the regime without NPT accession.<sup>2</sup> The United States pursued a tailored exemption to enable nuclear commerce with India while discouraging similar arrangements for other non-NPT states, creating tension by making India the only nuclear-armed outlier to enjoy full access to nuclear energy markets alongside an independent weapons program.

Critics argue the deal undermines the NPT by weakening incentives for non-nuclear-weapon states to remain within its constraints and by signaling to states such as North Korea that nuclear defiance may eventually be accommodated. They also contend that international fuel supply for India’s safeguarded civilian reactors frees scarce domestic uranium for its unsafeguarded military program, potentially easing arsenal expansion.<sup>3</sup> Advocates counter that decades of sanctions failed to reverse India’s nuclear status and that a conditional accommodation better aligns India with non-proliferation practices,

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<sup>1</sup> India, Pakistan and Israel have never signed the treaty. North Korea signed the treaty but withdrew from it and conducted nuclear tests in 2006.

<sup>2</sup> Nicholas Burns, “America’s Strategic Opportunity with India”, *Foreign Affairs*, Vol. 86, Nov/Dec, 2007; Ashley Tellis, Testimony for “U.S.-India Atomic Energy Cooperation: Strategic and Nonproliferation Implications”, Senate Foreign Relations Committee, Washington, D.C., April 26, 2006.

<sup>3</sup> George Perkovich, “Faulty Promises: The U.S.-India Nuclear Deal”, *Policy Outlook*, No. 21, 2005



advances clean-energy and commercial objectives, and serves U.S. strategy by elevating India's role as a counterweight to China. On this view, the agreement strengthens the broader regime by binding India to safeguards and norms short of NPT membership.<sup>4</sup> Evaluating these competing claims requires assessing how the deal altered core expectations, norms, and rules of the non-proliferation regime—and whether its tailored exceptions reinforced or eroded the regime's integrity.

Adopting Kratochwil and Ruggie's view of regimes as "principled and shared understandings of desirable and acceptable forms of social behavior,"<sup>5</sup> this study examines shifts in nonproliferation and disarmament norms through a norm-contestation framework and a realist-constructivist lens that recenters power in meaning-making. It analyzes how unequal capacities to argue, persuade, and sanction enabled the United States to strategically reinterpret rules to secure an India-specific accommodation, and how other regime members have accepted, resisted, or bracketed those claims. The inquiry assesses whether the agreement reconfigured core expectations and to what extent Washington has ring-fenced the change as India-only rather than setting a precedent, drawing on mechanisms such as rhetorical justification, institutional forum shopping, and crisis timing to evaluate diffusion versus containment.

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<sup>4</sup> T. V. Paul and Mahesh Shanker, "Why the U.S.-India Nuclear Accord is a Good Deal", *Survival*, Vol. 49, No. 4, 2007.

<sup>5</sup> Friedrich Kratochwil and John Gerard Ruggie, "International Organization: A State of the Art or an Art of the State", *International Organization*, Vol. 40, No. 4, 1986. P. 764.

## **Key Non-Proliferation and Disarmament Norms**

The India–U.S. civil nuclear deal challenges core norms of the nuclear non-proliferation regime centered on the NPT’s bargain: nuclear-weapon states (NWS) commit to gradual disarmament and share peaceful nuclear technology under IAEA oversight, while non-nuclear-weapon states (NNWS) forgo weapons and accept safeguards. This study focuses on two linked norms—nuclear trade under safeguards and nuclear disarmament—to assess how far the deal reconfigures expectations. On nuclear trade, India now receives NPT-like benefits without NPT accession, aided by a Nuclear Suppliers Group (NSG) waiver that departed from the guideline requiring IAEA full-scope safeguards for exports; New Delhi has sought access to sensitive enrichment and reprocessing (ENR) technologies despite post-waiver restrictions aimed at limiting such transfers to NPT parties, while the United States has tried to frame these accommodations as strictly India-specific to avoid broader precedents. On disarmament, India has voiced support for measures such as the CTBT and FMCT, yet whether this alignment has produced tangible progress—or instead freed domestic uranium and other capacities that could enable growth in India’s arsenal—remains an open question. In short, the deal foregrounds contested meanings of “acceptable” behavior under the regime, testing the durability of norms governing safeguarded trade (full-scope safeguards, Additional Protocol practices, NSG rules, ENR access) and disarmament (test bans, fissile-material cut-offs), and raising the central empirical issue of whether the normative shift has been effectively ring-fenced to India or has diffused more widely.

## Nuclear Trade Norms

Full-scope safeguards (FSS) require IAEA comprehensive safeguards on all nuclear activities as a condition of supply to NNWS. Although the NPT does not explicitly forbid transfers to non-signatories, the Nuclear Suppliers Group (NSG) adopted the FSS condition in 1992 after the Iraq revelations,<sup>6</sup> and the 1995 NPT Review Conference endorsed it—effectively rendering non-NPT states such as India, Pakistan, and Israel ineligible for nuclear trade with NSG members.<sup>7</sup> That baseline shifted on September 6, 2008, when the NSG granted India an exemption from its FSS guideline, permitting nuclear commerce with a non-NPT state for the first time. While 191 NNWS have, despite security pressures, upheld their side of the NPT bargain by forgoing weapons in exchange for peaceful nuclear cooperation under safeguards, critics argue the India–U.S. deal sets a dangerous precedent by enabling trade without full-scope safeguards, potentially signaling that nuclear defiance may be accommodated after a period of sanctions. This study assesses the agreement’s impact on the NPT’s core bargain and FSS norms—as well as on NSG credibility and the NPT’s attractiveness—by analyzing policies and statements of non-NPT states since the 2005 deal framework, outcomes of NPT Review Conferences, and statements by NSG members in their meetings.

The Additional Protocol (AP) to IAEA safeguards, codified in INFCIRC/540, is a supplementary legal instrument that expands verification authorities and information requirements to better detect clandestine nuclear activities; though voluntary to adopt, once signed it is legally binding, and 153 states have done so. By granting broader

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<sup>6</sup> “The NSG Guidelines”, *The Nuclear Suppliers Group*.

<sup>7</sup> See especially Section 12 of doc. NPT/CONF.1995/L.5 of the 1995 Review Extension Conference of NPT Parties.

access and reporting, the AP enables more credible assurances of the absence of undeclared nuclear material and activities; without it, such assurances are limited. Reflecting this logic, the Nuclear Suppliers Group (NSG) has made AP adherence a condition for new nuclear supply. In the India–U.S. case, the 2006 Hyde Act required India to negotiate an AP consistent with IAEA principles for its civilian program, and in 2009 the IAEA approved an India-specific AP providing enhanced access to safeguarded civilian facilities. Critics contend India’s tailored AP imposes fewer information-sharing obligations than many counterparts, potentially setting a problematic precedent for states such as Pakistan and Brazil. This study evaluates whether India’s AP weakens or strengthens nonproliferation by systematically comparing its provisions to those accepted by nuclear-weapon states (NWS) and non-nuclear-weapon states (NNWS), identifying areas where India’s AP is narrower than NWS protocols and whether it is more or less restrictive than NNWS versions, to judge if it undermines norms or advances the AP’s universalization.

Enrichment and reprocessing (ENR) technologies are intrinsically dual-use, capable of producing both reactor fuel and weapons-grade fissile material, which complicates IAEA detection of undeclared activities and heightens risks of state-level proliferation and illicit trafficking. Although Article IV of the NPT recognizes an “inalienable right” to peaceful nuclear energy, persistent proliferation concerns have driven efforts to restrain the spread of ENR as a core element of nonproliferation policy.<sup>8</sup> Following revelations about the A.Q. Khan network,<sup>9</sup> President George W. Bush (February 11, 2004) urged the Nuclear Suppliers Group (NSG) to deny ENR transfers to states

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<sup>8</sup> Treaty on the Non-Proliferation of Nuclear Weapons

<sup>9</sup> Fred McGoldrick, “The U.S.-UAE Peaceful Nuclear Cooperation: Gold Standard or Fool’s Gold”, *Policy Perspectives*, November 30, 2010. P. 1.

lacking full-scale, functioning plants and to provide reliable fuel supply to states that forgo ENR and adopt the IAEA Additional Protocol.<sup>10</sup> Several NSG members resisted categorical limits as discriminatory and potentially inconsistent with Article IV, delaying consensus; by 2011 the NSG adopted strengthened, criteria-based guidelines that in practice confined sensitive ENR exports largely to NPT parties meeting stringent conditions. India, however—armed with a 2008 NSG waiver enabling nuclear trade despite its non-NPT status—has sought access to ENR capabilities and later NSG membership, raising this study’s central questions: do India’s efforts erode or recalibrate the emergent ENR-restriction norm, and how do the waiver and potential membership reshape expectations about ENR availability to non-NPT states?

To assess the impact of India’s NSG waiver on the ENR-restriction norm, this study traces substantive changes across successive waiver drafts, analyzes member-state statements on ENR guidelines alongside informal understandings about exports to India and New Delhi’s responses, and reviews NSG deliberations on India’s membership bid. Triangulating these sources, it evaluates whether the waiver and ensuing diplomacy diluted, preserved, or recalibrated the ENR norm.

## **Disarmament Norms**

The Comprehensive Test Ban Treaty (CTBT) emerged from mounting concern over the superpower arms race and atmospheric testing. After Jawaharlal Nehru’s 1954 call for a total ban,<sup>11</sup> the Limited Test Ban Treaty of 1963 prohibited tests except underground, and post–

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<sup>10</sup> “President Announces New Measures to Counter the Threat of WMD,” February 11, 2004,

<sup>11</sup> Prime Minister Jawaharlal Nehru Statement in the Lok Sabha, April 02, 1954.

Cold War momentum revived the push for a comprehensive ban.<sup>12</sup> At the 1995 NPT Extension Conference, nuclear-weapon states pledged to conclude the CTBT by 1996, yet the treaty still has not entered into force because it requires ratification by a designated group of 44 states. Several—among them China and the United States—have signed but not ratified; India, Pakistan, and North Korea have not signed. India blocked consensus in 1996, judging the CTBT an instrument against horizontal proliferation rather than a serious disarmament measure, and conducted underground tests with Pakistan in May 1998. The strong international backlash—including UN Security Council Resolution 1172—underscored the salience of the test-ban norm.<sup>13</sup> Although India has observed a unilateral moratorium since 1998, the U.S. Senate's refusal to ratify in 1999 reduced incentives for New Delhi to reconsider; later efforts by the Obama administration to secure U.S. ratification stalled, leaving any future U.S. move likely to increase pressure on India while its domestic debate remains unresolved.

Against this backdrop, the India–U.S. civil nuclear deal may alter the costs and constraints shaping India's testing calculus. Access to international fuel markets and the possibility of stockpiling could cushion the economic effects of renewed tests, while commercial interests might dilute suppliers' appetite for sanctions; at the same time, deeper integration into global nuclear commerce could heighten India's stake in restraint. India's commitment in the deal is limited to maintaining its unilateral moratorium, not to signing the CTBT. This study evaluates the agreement's implications for the test-ban norm through close reading of the India–U.S. cooperation agreement, the Hyde Act, and the India–Japan nuclear accord; analysis of NSG

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<sup>12</sup> Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, U.S. Department of State.

<sup>13</sup> United Nations Security Council, "Resolution 1172" (S/RES/1172), 1998.

debates and member statements concerning potential Indian tests and CTBT adherence; and assessment of India's domestic discourse on further testing, to determine whether the arrangement lowers the barriers to testing or reinforces normative and material constraints.

The Fissile Material Cut-off Treaty (FMCT) is a proposed ban on producing fissile material for weapons, and under the India–U.S. deal New Delhi pledged to actively support negotiations even though, unlike the nuclear-weapon states observing a production moratorium pending a treaty, it has made no such pledge. Control of fissile materials has been pursued since the Acheson–Lilienthal Report and Baruch Plan, with post–Cold War efforts crystallizing in UNGA Resolution 48/75L (1993) calling for a non-discriminatory, multilateral, and effectively verifiable treaty. Although the Conference on Disarmament formed an ad hoc committee, divergent views—compounded by the 2004 U.S. opposition to robust verification—have stalled talks.<sup>14</sup> Treating the FMCT as a norm in emergence, this study evaluates whether India's declared support meaningfully strengthens that norm and how pivotal India's participation is to launching, shaping, and verifying a future agreement.

This study assesses the effect of India's professed support for a fissile-material production ban by analyzing the negotiation record of the India–U.S. nuclear deal, U.S. congressional debates over the Hyde Act, NSG deliberations on the 2008 waiver, India's IAEA safeguards agreement, Pakistan's blockage of FMCT talks at the CD, member-state concerns, and India's domestic discourse on stockpiling—

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<sup>14</sup> Annette Schaper and Morten Bremer Moerli, "The Fissile Material Cut-off Treaty as a nuclear security policy driver", in Morten Bremer Moerli and Sverre Lodgaard, ed., *Nuclear Proliferation and International Security*, (London: Routledge, 2007), p. 234.

together indicating whether New Delhi's stance advances, dilutes, or instrumentalizes the emerging FMCT norm. This study assesses the deal's implications for non-proliferation and disarmament norms through close analysis of the India–U.S. cooperation agreement,<sup>15</sup> the Hyde Act,<sup>16</sup> the NSG waiver,<sup>17</sup> the IAEA–India safeguards agreement,<sup>18</sup> the NPT Review Conferences, NSG deliberations, the India–U.S. reprocessing arrangement,<sup>19</sup> and related official statements, testimonies, and press releases. It triangulates these materials with secondary scholarship for context. Substantively, the agreement's provisions served U.S. objectives vis-à-vis India but have been criticized as contravening the long-standing policy of non-acquiescence to new nuclear-weapon states—repeatedly affirmed at NPT Review Conferences, in NSG practice, and in a 2009 UN Security Council resolution. Developments since the 2005 framework, including parallel demands from Pakistan, Israel, and North Korea, NNWS reservations aired at the NPT Review Conferences, and subsequent NSG debates, provide empirical leverage to gauge the deal's actual effects and the extent to which the United States has contained undesired normative drift.

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<sup>15</sup> India, Ministry of External Affairs, (2007). "Text of the Indo-U.S. Nuclear Agreement."

<sup>16</sup> U.S. Government Printing Office, (2006). "The Text of Hyde Act."

<sup>17</sup> Nuclear Suppliers Group. "Text of U.S. NSG Proposal on India", *Carnegie Endowment for International Peace*, August 13, 2008.

<sup>18</sup> IAEA, "Agreement between the Government of India and the International Atomic Energy Agency for the Application of Safeguards to Civilian Nuclear Facilities," International Atomic Energy Agency, INFCIRC/754/Add.2, July 9, 2008.

<sup>19</sup> India, Department of Atomic Energy (DAE) India, "India-U.S. Civilian Nuclear Cooperation-Reprocessing Agreement", 2010.



## Plan of the Book

Aside from this chapter, the study proceeds in six chapters. Chapter two lays out the theoretical framework—a norm-contestation, realist-constructivism account of how power shapes the meaning of regime rules—and the research design. This chapter equips the reader with the conceptual tools and case-selection logic used throughout. Chapter three examines India's relationship with the nuclear non-proliferation regime. It traces India's participation in the NPT negotiations, its subsequent refusal to sign a treaty it deemed discriminatory, and its longstanding critique that nuclear-weapon states face no time-bound disarmament obligations while non-nuclear-weapon states must forgo nuclear arms. India's decision not to join the NPT led to its exclusion from NPT-derived forums. The chapter sets out India's perspective on non-proliferation and disarmament norms. Chapter four dissects the India–U.S. civil nuclear agreement, detailing its provisions, the obligations on both sides, and the main lines of support and criticism. The aim is to clarify the empirical stakes and identify the specific claims about norms and exceptions that the later chapters test.

Chapter five analyzes India-specific IAEA safeguards and the Additional Protocol, benchmarking them against arrangements for nuclear-weapon states and assessing implications for full-scope safeguards and AP norms under India's separation plan. Chapter six examines the contents of the India-specific NSG waiver. How the waiver text evolved and how the changes occurred in the four texts of the waiver draft. The detailed study of the waiver negotiations demonstrates how India's resistance to accept more non-proliferation conditions other than those it already agreed in the 2005 joint statement and insistence of the like-minded states in the NSG to include stronger non-proliferation conditions created a deadlock, but

at the end the like-minded countries acceded under U.S. pressure. This chapter analyzes how the issues related to the non-proliferation regime norms were handled in the NSG waiver and what it implies for India's membership and the regime norms. Chapter seven concludes that although the deal fell short of imposing stronger non-proliferation conditions, it pulled India further into global nuclear governance, raising its stakes in compliance and thereby strengthening—while recalibrating—the regime. The brief explanations indicate how each chapter advances the core question: when do tailored exceptions erode norms, and when do they bind rising powers more tightly to them?

## Chapter Two

# Rethinking International Regimes: Norms Contestation Through a Realist Constructivism Lens

International regimes are systems of norms and decision-making procedures which create “shared understanding” of “acceptable form of behavior” in a particular issue area. This study uses norm contestation theory to highlight the dynamic nature of international regimes, as norms are considered as a fundamental part of regimes. Norm contestation theory argues that norms not only have a constitutive dimension, but also a structural dimension. Norms entail a “dual quality” in which they are constructed with discourses, but at the same time structure the discourses that hold their meanings.<sup>1</sup> This approach has broadened the current understanding of norms but has ignored the role of power and consequently cannot fully explain the factors involved in normative change or stability. Critical constructivists assume that all stakeholders have equal capacity for contestation but have failed to take into account the fact that contestation and interpretation by powerful states have different effects as compared to weak states. This study uses norm contestation theory to highlight the dynamic nature of international regimes, as norms are considered as a fundamental part of regimes. This study applies the realist constructivist approach, which explores the interaction of norms and power in the sense that they affect change in

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<sup>1</sup> Antje Wiener, “The Dual Quality of Norms and Governance Beyond the State: Sociological and Normative Approaches to ‘Interaction’”, *Critical Review of International Social and Political Philosophy*, Vol. 10, No. 1, 2007. P. 49.

one another. In norm contestation, the power of an interpreter matters and significantly affects the pattern of normative change. A norm contestation theory in combination with a realist constructivism approach is capable of comprehending norm dynamics of strategic manipulation, reinterpretation or innovation.

This paper is divided into five sections. The first section reviews the definitions of regimes offered by different scholars and the role of norms in these definitions, and adopts Kratchwil and Ruggie's definition of a regime for this study. The second section briefly explains how international norms are conceptualized in international relation theories and how different branches of conventional constructivism view norms as stable and static phenomena. The third section highlights critical constructivism's research on norms contestation to underline the dynamic character of norms. The fourth section offers the realist constructivist approach to emphasize the importance of power in norms contestation, and analyses the benefits of a norms contestation theory in combination with realist constructivism in the study of regimes. The final section concludes by arguing that the proposed approach gives better understanding of norm dynamics by taking into account structure, social context, domestic debates and how material factors affect the outcome. Realist constructivism does not elevate norms over material interests, but rather seeks to understand the complex interactions of these factors. International regimes and their norms enable, shape, and constrain state behavior but also are the result of state political action.

## **Defining International Regimes**

Finding a universally-acceptable definition of international regimes has been daunting and controversial task. John Ruggie introduced the term to the IR discipline in the mid-1970's and defined it as "set of

mutual expectations, rules, and regulations, plans, organizational energies, and financial commitments which has been accepted by a group of states.”<sup>2</sup> Since then, the concept of international regimes has been an important part of international relations theory, but it was criticized regarding its clarity and utility. Susan Strange made a pithy comment when she characterized the study of international regimes as prone to failure because of its “woolliness” and “imprecision”.<sup>3</sup> Friedrich Kratochwil also criticized the concept for being “vague” and called for its conceptual development.<sup>4</sup> In response, many of those favorable to the concept have made attempts to seek clarity at the conceptual level.

Many scholars have defined regimes in terms of patterned behavior of states. Trevor Tate argues that “an international regime is an authoritative arrangement among international actors (states) that facilitates the accomplishment of specific goals through a process involving coordination of expectation and modification of certain behavior patterns.”<sup>5</sup> Puchala and Hopkins state that “a regime exists in every substantive issue area in international relations where there is discernibly patterned behavior. Wherever there is regularity in behavior, some kinds of principles, norms, and rules must exist to account for it.”<sup>6</sup> These definitions overlap in certain common features like issue area and patterned behavior. Defining regimes in terms of

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<sup>2</sup> John Gerard Ruggie, “International Responses to Technology: Concepts and Trends”, *International Organization*, Vol. 29, No. 3, 1975. P. 570.

<sup>3</sup> Susan Strange, “Cave! Hic Dragones: A Critique of Regime Analysis”, *International Organization*, Vol. 36, No. 2, 1982. pp. 484-86.

<sup>4</sup> Friedrich Kratochwil, “The Force of Prescription”, *International Organization*, Vol. 38, No. 4, 1984. P. 685.

<sup>5</sup> Trevor McMorris Tate, “Regime-Building in the Nonproliferation System”, *Journal of Peace Research*, Vol. 27, No. 4, 1990. P. 402.

<sup>6</sup> Donald Puchala and Raymond Hopkins, “International Regimes: Lessons from Inductive Analysis”, *International Organization*, Vol. 36, No. 2, 1982. P. 247.

patterned behavior, however, obscures certain analytical issues such as how regimes constrain, enable, mediate, or change states' behavior.

Stephen Krasner's definition is considered as the standard, with fairly widespread acceptance. He defines international regimes as "implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations." He then proceeds to define each component of a regime. "Principles are beliefs of fact, causation, and rectitude. Norms are standards of behavior defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice."<sup>7</sup> Krasner distinguishes between principles and norms on the one hand and rules and decision-making procedures on the other hand. Principles and norms are defining features of the regime and change in them marks change of the regime itself, while alterations in rules and decision-making procedures can be regarded as adjustments within the regime. Krasner's definition can also help in assessing regime effectiveness, as he argues, "if actual practice is increasingly inconsistent with principles, norms, rules, and procedures, then a regime has weakened."<sup>8</sup> In this way Krasner's definition claims to take into account three kinds of changes: change of regime, change within regime, and changes in regime effectiveness.

Despite – or perhaps because of – its descriptive richness, this standard definition has been criticized for its lack of precise meaning. Critics argue that relationships among the four components – principles, norms, rules and decision-making – are conceptually

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<sup>7</sup> Stephen Krasner, "Structural Causes and Regime Consequences: Regimes as intervening Variable", *International Organization*, Vol. 36, No. 2, 1982. P. 186.

<sup>8</sup> Ibid. P. 188.

ambiguous and in the real world it is difficult to distinguish between them. Oran Young referred to the hierarchy of components as a “list of elements that is hard to differentiate conceptually and that often overlap in real-world situations.”<sup>9</sup> Haggard and Simmons make a similar point by noting that principles “shades off into norms” and “norms, in turn, are difficult to distinguish from rules.”<sup>10</sup>

Krasner’s definition has been criticized by neoliberal institutionalist and constructivist scholars, who in turn offer their own definitions. Robert Keohane defines a regime as “institutions with explicit rules, agreed upon by governments, that pertain to particular sets of issues in international relations.”<sup>11</sup> This definition is straightforward and is less complex. Keohane describes the existence of a regime with reference to the existence of rules only, instead of various other components. In practice, however, Keohane, by singularly focusing on rules and eliminating other elements of regime, makes the concept of regime conceptually thin. Defining international regimes only by explicit rules obscure the implicit understandings or expectations that are important in explaining cooperation.

Oran Young highlighted the dynamic character of regimes. He treats regimes as social institutions, which develop or evolve over time. He argues that Krasner’s “distinction among principles, norms and rules lack intersubjective meaning”<sup>12</sup> and defines international regimes as

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<sup>9</sup> Oran Young, “International Regimes: Toward a New Theory of Institutions”, *World Politics*, Vol. 39, No. 1, 1986. P. 106.

<sup>10</sup> Stephan Haggard and Beth A. Simmons, “Theories of International Regimes”, *International Organization*, Vol. 41, No. 3, 1987. P. 493.

<sup>11</sup> Robert Keohane, “Neo-liberal Institutionalism: A perspective on World Politics”, in Robert Keohane, (ed.) *International Institutions and State Power: Essays in International Relations Theory*, (Boulder, Colorado: Westview Press, 1989), p. 4.

<sup>12</sup> Marc A. Levy, Oran R. Young and Michael Zurn, “The Study of International Regimes,” *European Journal of International Relations*, Vol. 1, No. 3, 1995. P. 273.

“social institutions consisting of agreed upon principles, norms, rules, procedures and programs that govern the interactions of actors in specific issue areas.”<sup>13</sup> For Young, “social institutions are identifiable practices consisting of recognized roles linked by clusters of rules or conventions governing relations among the occupants of these roles.”<sup>14</sup> Young focuses more on the social and ideational aspects of regimes. He notes the tendency to approach international regimes in static terms, arguing, “international regimes do not become static constructs even after they are fully articulated. Rather, they undergo continuous transformations in response to their own inner dynamics as well as to changes in their political, economic, and social environments.”<sup>15</sup> Young’s “institutional bargaining model” is composed of self-interested actors pursuing their joint interests through effective coordination, but he also portrays states as role-players rather than utility-maximizers; this brings his position closer to constructivists.<sup>16</sup>

William Zartman regards an international regime as “a living organism par excellence,” and highlights the limitations of any static representation of regimes.<sup>17</sup> He explores the intersection of regime theory and negotiation theory to make sense of processes through which regimes persist by “maintaining their flexibility, their ability to

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<sup>13</sup> - Ibid. P. 274.

<sup>14</sup> Oran Young, *International Cooperation: Building Regime for Natural Resources and the Environment*, (Ithaca, N.Y.: Cornell University Press, 1989). pp. 12-13.

<sup>15</sup> Oran R. Young, “Regime Dynamics: The Rise and Fall of International Regimes”, *International Organization*, Vol. 36, No. 2, 1982. pp. 290-91.

<sup>16</sup> Andreas Hasenclever, Peter Mayer, and Volker Rittberger, *Theories of International Regimes*, (New York: Cambridge University Press, 1997). pp. 68-69.

<sup>17</sup> William Zartman, “Negotiating the Rapids: The Dynamics of Regime Formation”, in Bertman Spector and William Zartman, (ed.) *Getting it Done: Post-Agreement Negotiation and International Regimes*, (Washington D. C.: United States Institute of Peace, 2003). P. 17.



change in response to varying needs for coordination and problem solving that gave them birth, and their adaptability to the shifting constellations of power and interest among their members.”<sup>18</sup> A regime’s sustainability depends on its ability to adapt and transform and remain vital to the interests of its members. States do not merely comply with regime rules and norms: rather, they adjust those rules and norms according to their changing interests. This evolutionary nature of regimes makes them contested, unstable and continuously adapting. He concludes, “a regime is more than simply ‘rules, norms, regulations and behaviors’...it is the institutionalized effort to shape, monitor, and support these outputs, with the understanding that institutionalization remains inter – and not supranational.”<sup>19</sup> But this approach tends to disregard the normative context, which is also essential to a proper understanding of the regime – and changes in the regime – they underlie. This normative context not only shapes states’ identities and interests but also limits actors’ room to maneuver.

Constructivists focus on the shared social knowledge that shape states’ interests by emphasizing that ideology, social learning and identities affect the propensity of states to cooperate and abide by norms and rules embedded in a regime. Alexander Wendt has suggested that institutions not only reflect the interests of states, but also “transform [their] identities and interests”.<sup>20</sup> The core insight is that “cooperation cannot be completely explained without reference to ideology, the values of actors, the beliefs they hold about the interdependence of issues, and the knowledge available to them about

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<sup>18</sup> Ibid.

<sup>19</sup> Ibid. P. 19.

<sup>20</sup> Alexander Wendt, “Anarchy is what States Make of it: The Social Construction of Power Politics”, *International Organization*, Vol. 46, No. 2, 1992. P. 412.

how they can realize specific goals.”<sup>21</sup> Regimes provide an epistemic function, as they assist in the creation of consensual knowledge as the basis of cooperation.<sup>22</sup> In this way, preferences and interests remain fluid as knowledge changes.

International regimes, according to constructivism, are considered as social structures with the function of creating norms and shared understanding. They never are an objectively given set of principles, norms, rules and procedures. Their function is to construct identities and interests by delineating what are socially acceptable norms, but at the same time actors re-interpret and re-define regimes in response to changing context. For their part, emphasizing the importance of inter-subjective meanings for international cooperation, Kratochwil and Ruggie define international regimes as “principled and shared understandings of desirable and acceptable forms of social behavior.”<sup>23</sup> The inter-subjective basis of regimes highlights the socially acceptable behavior and helps to create stable expectations. Regimes provide legitimation, as regime norms and rules prescribe some behaviors and proscribe others.<sup>24</sup>

The unprecedented surge in the number and scope of international regimes has resulted in increasing overlap across agreements. This phenomenon is called “international regime complexity”, an

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<sup>21</sup> Stephen Haggard and Beth A. Simmons, “Theories of International Regimes”, *International Organization*, Vol. 41, No. 3, 1987. pp. 509-10.

<sup>22</sup> Peter M. Haas “Epistemic Communities” in Joel Krieger ed. *The Oxford Companion to Comparative Politics Vol. 1*, (Oxford: Oxford University Press, 2013). pp. 351-359.

<sup>23</sup> Friedrich Kratochwil and John Gerard Ruggie, “International Organization: A State of the Art or an Art of the State”, *International Organization*, Vol. 40, No. 4, 1986. P. 764.

<sup>24</sup> Ian Hurd, “Myths of Membership: The Politics of Legitimation in UN Security Council Reforms”, *Global Governance*, Vol. 14, No. 2, 2008.

extension of the regime concept in the literature. Raustiala and Victor defined international regime complexity as “an array of partially overlapping and non-hierarchical institutions governing a particular issue area.”<sup>25</sup> In 2009, a symposium in *Perspective on Politics*<sup>26</sup> and in 2013 a special issue of *Global Governance*<sup>27</sup> were published to sharpen the understanding of international regime complexity. There is an academic debate about the positive and negative consequences of regime complexity. Optimists argue that regime complexity provides effective manageable structures, linkages across agreements to increase compliance and new enforcement mechanisms.<sup>28</sup> Pessimists, on the other hand, point out the negative consequences including forum-shopping to avoid inconvenient rules, regime-shifting through creating parallel norms, strategic ambiguity by forming opposite agreements, bounded rationality caused by the complexity, inter-institutional competition that may lead to conflict, and the possibility that complexity may benefit the powerful more than others.<sup>29</sup>

The concept of international regimes is most commonly discussed in the literature of international political economy, human rights, and environmental politics; the concept has expanded to security regimes despite Jervis’ warning in early 1980’s that it is difficult to utilize the concept of regime in the security realm due to the “nature of the

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<sup>25</sup> Kal Raustiala and David G. Victor, “The Regime Complex for Plant Genetic Resources, *International Organization*, Vol. 58, No. 2, 2004. P. 279.

<sup>26</sup> Karen J. Alter and Sophie Meunier, “The Politics of International Regime Complexity”, *Perspectives on Politics*, Vol. 7, No. 1, 2009.

<sup>27</sup> Amandine Orsini, Jean-Frederic Morin, and Oran Young, “Regime Complexes: A Buzz, a Boom, or a Boost for Global Governance”, *Global Governance*, Vol. 19, No. 1, 2013.

<sup>28</sup> Robert O Keohane and David G. Victor, “The Regime Complex for Climate Change”, *Perspectives on Politics*, Vol. 9, No. 1, 2011. pp. 8-9.

<sup>29</sup> Karen J. Alter and Sophie Meunier, “The Politics of International Regime Complexity”, *Perspectives on Politics*, Vol. 7, No. 1, 2009. pp. 16-17.

subject.”<sup>30</sup> Robert Jervis defined security regimes as “principles, rules, and norms that permit nations to be restrained in their behavior in the belief that others will reciprocate.”<sup>31</sup> This definition has focused on the constraining power of security regimes on states’ behavior but ignored how these regimes change, evolve, and adapt to the changing security demands. Harald Muller defined security regimes as “systems of principles, norms, rules and procedures regulating certain aspects of security relationships between states.”<sup>32</sup> Muller argues that a security regime is believed to exist when it affects states’ behavior by “terminating unilateral self-help”.<sup>33</sup> His definition is much like the Krasner’s definition of regime with the addition of the security element.

Much of the literature on security regimes has focused on their formation, their constraints on state behavior, and their ability to enhance transparency to promote peace. Few studies have focused their research to analyze changes in security regimes, particularly in the nuclear non-proliferation regime. It is important to understand how norms change in order to account for the dynamics of regimes. Since the focus of this study is the key non-proliferation and disarmament norms, the Kratochwil and Ruggie’s definition is best suited to examine changes in these norms by taking into account the normative context and the significance of shared inter-subjective meanings. By using this definition I will examine the significance of the India-U.S. nuclear deal for the key non-proliferation and

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<sup>30</sup> Ibid. P. 359.

<sup>31</sup> Ibid. P. 357.

<sup>32</sup> Harald Muller, “The Internationalization of Principles, Norms, and Rules by Governments: The Case of Security Regimes”, in V. Rittberger and O. Mayer, (ed.), *Regime Theory and International Relations*, (Oxford: Oxford University Press, 1993). P. 361.

<sup>33</sup> Ibid.

disarmament norms in order to account for the complex dynamics of the regime. According to this definition regimes are “shared understandings” of “acceptable forms of social behavior.” When the U.S. changed international and domestic norms in order to carve out an India-specific nuclear deal, this was against the existing shared expectations of the nuclear non-proliferation regime. How are this deal and the justification provided by the U.S. for this change being interpreted by the members of the regime? I investigate how far this agreement, by changing fundamental norms of the regime, has transformed that regime. The United States is trying to limit this normative change by making these changes India-specific. How far is the United States successful in limiting this change?

## **International Norms**

How do IR theories conceptualize and define international norms? Rationalist approaches, neorealism and neoliberalism, rely on utility maximization in explaining the role of norms while constructivist approaches point out the normative factors in norm compliance. Conventional constructivism challenges the rationalist approaches by highlighting the normative influences, norm emergence and internalization and explain the variations in the normative influences.

Krasner’s description of international norms as “standards of behavior defined in terms of rights and obligations” is based on a rationalist approach with an emphasis on norms as solutions to international coordination problems among states. This definition does not explain how norms emerge or how they shape and change states’ interests. James March and Johan Olsen have identified two logics of action in explaining the difference between rationalist and constructivist approaches: the logic of consequences and the logic of appropriateness. Following a logic of consequences, rationalist

scholars argue that norms are consequentialist in nature and are designed to solve coordination problems to maximize the utilities of states. States, motivated by utilitarian cost-benefit analysis, observe norms when and because they calculate that the benefits of compliance outweigh the costs.<sup>34</sup> A logic of consequences sees states' interaction as based on rational calculations to maximize self-interests. A logic of appropriateness explains states' behavior as the product of rules and identities, in which political actions are determined not by how to maximize self-interests but by appropriate roles in a given identity.<sup>35</sup>

Both neorealism and neoliberal institutionalism subscribe to rationalism. Neorealists argue that norms "reflect state calculation of self-interest based primarily on the international distribution of power." Hegemonic states create and maintain norms "so that they can maintain their share of world power, or even increase it."<sup>36</sup> Hegemons have the resources and capability to enforce these norms either by providing public goods or by imposing economic and military sanctions. Norms are likely to change with the rise and fall of hegemons.<sup>37</sup>

Neoliberal institutionalism, on the other hand, argues that states may continue to comply with norms even in the absence of hegemonic coercion. States conform to norms because of long-term absolute – as

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<sup>34</sup> Robert Axelrod, "Promoting Norms", in *The Complexity of Cooperation: Agent-Based Models of Competition and Collaboration*, Robert Axelrod, (Princeton, NJ: Princeton University Press, 1997). pp. 40-41.

<sup>35</sup> James March and Johan Olsen, *Rediscovering Institutions: The Organizational Basis of Politics*, (New York: Free Press, 1989). pp. 24-26.

<sup>36</sup> John Mearshiemer, "The False Promise of International Institutions", *International Security*, Vol. 19, No. 3, 1994/5. P. 13.

<sup>37</sup> Robert Gilpin, *The Political Economy of International Relations*, (Princeton: Princeton University Press, 1987). P. 91.