

**Democracies Violating Commitments: US and the Usage of Nuclear
Weapons against Non-Nuclear States**

Saira Khan
University of British Columbia
(Draft: please do not quote)

Paper prepared for presentation at the International Studies Association (ISA) Annual
Convention in San Francisco, March 26-30, 2008.

Introduction

Governments accountable to people for their choices are generally more responsible compared to the dictatorial ones. Thus, democratic states are unlikely to violate their formal commitments. However, a democratic United States has repeatedly violated commitments, making treaties and bilateral commitments less meaningful and the weaker states more insecure in the world. While the US has agreed not to use nuclear weapons against non-nuclear states as part of its Nuclear Non-proliferation Treaty (NPT) commitment, it is the first country in the world to announce its intention to develop and use bunker-busting and earth-penetrating nuclear weapons against states suspected of assisting terrorists and developing weapons of mass destruction (WMD) clandestinely and the terrorists. What explains this irresponsible decision of the US? I argue that democratic states are likely to break such commitments because they can manipulate or ignore public opinion when they face national security threats. In extraordinary security situations, democracies act like non-democracies because they are often allowed by the Constitution to act without the approval of the people's representatives in the government. Also, people in the democratic states may be inclined to uproot terrorism with the most effective weapon, like nuclear weapons, at the shortest possible time. A combination of these factors enables the US to break its commitments for the sake of its national security concerns. Unless the US proves that democracies are responsible states in terms of commitments, it is unlikely for democracy to be attractive to many non-democratic states and smaller states that are anti-US may have more reasons to consider acquiring nuclear weapons.

The paper is structured in the following manner: The first section discusses the major attributes of democracies and what makes them responsible actors in world politics. Here, focus is on democracy-peace argument, which has its roots in accountability and rational policy arguments. The second section demonstrates that democracies may not always be responsible actors. The section elucidates that democracies may act responsibly when issues are non-security-related and may be less responsible actors or may not live up to their democratic commitments when security issues are at stake. This also means that democracies may act like dictators in the realm of foreign policies in general and international security policies in particular. It portrays that under extreme security threats, democracies are equally irresponsible as non-democracies. They turn into irresponsible actors if they have to for protecting their states' national security concerns. Thus, a linkage between democratic violation of treaty commitments and national security issues is developed. The third section looks at United States as a great democracy which, unfortunately, often acts irresponsibly and breaks treaty commitments if and where necessary. In particular, this section focuses on the United States' decision to use nuclear weapons against non-nuclear weapon states, a policy that violates American commitment not to attack non-nuclear states as part of the NPT. The fourth section summarizes the paper, draws policy implications, and provides some policy recommendations.

Democracies as Responsible Actors

Democracy, which has its roots in liberalism, is the best political institution in the world because it respects people by giving them freedom—freedom of speech, religion, association, press, and right to vote, among others. In a democracy, people have their say in the political process of the country. It is a government of the people, by the people, and for the people—in Abraham Lincoln’s phrase. The citizens have their representatives in the government who have impacts on policy-making and who take peoples’ voices into consideration while approving or disapproving policies. A democratic state is a rational and prudent actor. It takes its citizen’s interests into consideration in making policies and, consequently, it is unlikely to undertake aggressive foreign policies. Immanuel Kant offers the best explanation why democracies are unlikely to take aggressive foreign policies. In his famous *Perpetual Peace* written in 1795, he predicts the ever-widening pacification of the liberal pacific union. He argues that once the aggressive interests of the absolutist regimes are domesticated and when the practice of respect for individual rights is embedded in republican governments, wars would seem as disasters to the people’s welfare. The primary reasons are: “If the consent of the citizens is required in order to decide that war should be declared (and in this situation it cannot but be the case), nothing is more natural than that they would be very cautious in commencing such a poor game, decreeing for themselves all the calamities of war. Among the latter would be: having to fight, having to pay the costs of war from their own resources, having painfully to repair the devastation war leaves behind, and, to fill up the measure of evils, load themselves with a heavy national debt that would embitter peace itself and that can never be liquidated on account of constant wars in the future.”¹ This explanation offers two key points that need to be highlighted for a better understanding of what makes democracies different from non-democracies in making war plans. The central points are: democracies require consents of the citizens in making war decisions and citizens are cautious in making those choices because they are the ones who have to face the consequences of a war. The key word in all of this is ‘caution,’ which means that actors are rational and cost-benefit calculators. It also means that because democracies represent their citizens and require the consent of their citizens in making policies, they tend to be responsible actors. They are accountable to their citizens for their actions and this accountability factor makes them responsible actors in the domestic realm. Interestingly, it is argued that because democracies learn to respect people at home, they also respect states that do the same in their own countries. In interstate relations, democracies respect each other and, consequently, they form a pacific union.

A well-known theory, or perhaps the only law, in International Relations is that democracies do not fight each other. Today American initiative to proliferate democracy in different parts of the world in general and Middle East in particular is based on the belief that freedom is connected to peace. At the National Endowment for Democracy in fall of 2003, President George W. Bush argued that the US has an interest in political freedom in the Middle East because it is the absence of freedom that denies people peaceful paths for expressing dissents, which in turn drives them toward violent

¹ Immanuel Kant, “Perpetual Peace,” in Peter Gay, ed., *The Enlightenment*, (New York: Simon & Schuster, 1974), pp.790-92.

alternatives.² The democratic peace argument creates a direct linkage between peoples' representatives and peace. The primary premise is that people are inherently peaceful. Where people are given the right to choose their government, peace is likely to prevail in foreign policies because policies reflect peoples' choices. The government turns into a responsible actor due to the accountability factor in the political process. There are checks and balances in a democratic process, which make governments cautious and prudent; reckless behavior is not expected. This is not to say that democracies will not wage wars. Hedley Bull argued in 1977 that democracies may need to wage war as a last institutional mechanism to maintain the order of the international societies of states.³ Perhaps the war on Iraq was waged in 2003 by the US, a preponderant power, because it acted as the manager of the international societal order that was created by liberal states, which shared similar values and ideals. The point here is not to argue against this line of thinking or to discuss the strength of the democracy-peace argument or to understand why democratic citizens do not deter their governments to wage wars against non-democracies or to question why are democracies sometimes as or more aggressive than non-democracies—although they are all salient questions that can be raised against the democratic-peace theory. The intention is to contend that even democracies that follow citizens' rule often act irresponsibly. When and under what conditions that is likely to happen is discussed in the following section.

Democracies as Irresponsible Actors

What follows from the previous section is that democracies are responsible and peaceful actors and, consequently, a proliferation of democracy is expected to make the world a better place. However, it is important to question: when are democracies responsible actors and under what conditions do they change their democratic procedures and turn into irresponsible, non-democratic actors? While in most cases democracies act according to the opinions of the people and act responsibly, in the realm of foreign policies in general and security policies in particular, democracies often act as non-democracies. This has little to do with democracies not wanting to live up to the expectations of the citizens, but more to do with them wanting to protect and uphold their security interests. To keep citizens safe from violent acts of aggression by other state or non-state actors, a democracy takes measures that are often undemocratic.

In a lot of times, a democratic Constitution gives the leadership the power to take extra-ordinary measures where security issues are at stake, as in the case of the United States, which is the strongest democracy in the world. In some other cases the leader takes power in his hand to pursue foreign policy objectives that will protect the country from external aggression today or in the future. The US Congress is often quiescent when the president takes military action on its own or when he decides to violate Treaty commitments. Interestingly, this has little to do with which party is in power. In America, Democrats and the Republicans have been equally irresponsible and acted as non-democratic leaders when measures had to be taken to address security concerns. President

² See, Samuel Berger, "Foreign Policy for a Democratic President," *Foreign Affairs*, May-June 2004.

³ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, (New York: Columbia University Press, 1977).

Bill Clinton's 1998 strikes against Sudan and Afghanistan are cases in point. The US president's power after the 9/11 attacks has been extraordinary in the realm of security relations. Thus, two important points must be considered: that a president may have extreme power in security issues as part of his Constitutional rights and that a president may simply take matters in his own hand to protect the national security of the country, ignoring the views of the people's representatives. This is about the process how a democratic leader acts unilaterally, meaning what allows him to act that way. Here the point is to show whether the leader is given the power by the people/Congress or not when he makes security-related choices on his own. This is, thus, a matter of domestic political process. However, in the foreign policy realm a democratic president often acts irresponsibly. Here, it is not a question of whether or not the president uses the democratic process in making policies, it is rather a question of why he behaves irresponsibly and often acts more like a dictator who is not accountable to his people and who acts recklessly in the international realm.

In a democratic process, especially in the US, the president has extra-ordinary power to take actions on his own in case of national emergencies which include military security crises and conflicts. The US Constitution bestows special power on the president to make laws on his own and to act unilaterally without the approval of the Congress. The Constitution is ambiguous on the nature and scope of presidential power and authority and the presidents take advantage of this ambiguity. For example, it endows the president with the 'executive power' and gives him the responsibility to take care that laws are faithfully executed, but it does not say what any of this specifically means. This ambiguity "provides the opportunity for the exercise of a residuum of unenumerated power."⁴ Consequently, presidents lay claim to what may not be granted to them. The presidential power of unilateral action derives its strength from this ambiguity of the Constitution. The presidents have the desire "to push this ambiguity relentlessly to expand their own powers"⁵ and neither the Congress nor the Courts are likely or able to stop them because of the Constitution's ambiguity. Consequently, some form of 'presidential imperialism' follows. The American president has the formal capacity for taking unilateral action and with that he makes laws for the country. This is done often through executive orders and sometimes through "proclamations or executive agreements or national security directives. But whatever vehicles they may choose, the end result is that presidents can and do make new laws—and thus shift existing status quo—without the consent of Congress."⁶ Interestingly, he is still acting constitutionally because of the vagueness of the contract.

The president can also take law in his own hands without the support of Congress. He is not Congress' agent or a subordinate, which creates a situation where the Congress cannot hire him, fire him, or structure his power the way it wants and from a control

⁴ Richard Pious, *The American Presidency*, (New York: Basic Books, 1979), p.38.

⁵ Terry M. Moe and William G. Howell, "The Presidential Power of Unilateral Action," *Journal of Law, Economics, and Organization*, vol 15, no.1, 1999, p.132.

⁶ Terry M. Moe and William G. Howell, "The Presidential Power of Unilateral Action," *Journal of Law, Economics, and Organization*, vol 15, no.1, 1999, p.133.

standpoint, it “is a nightmare come true.”⁷ However, this does not mean that the president will perform functions that will require firing him. This simply means that there is absence of effective control over the power that the president enjoys. The presidents have the responsibility to take whatever steps must be taken to promote the best interests of the country. However, if undemocratic processes need to be used in the domestic realm, it is generally used in connection with national security interests. For example, weeks after the 9/11 attacks, the Bush administration laid out a vision of “sweeping executive power,” intended to give the president authority “to take whatever actions he deems appropriate to pre-empt or respond to terrorist threats from new quarters, whether or not they can be linked to the specific terrorist incidents”⁸ that US faced in September of 2001. To pursue this goal, Bush has repeatedly made efforts to expand his power, often secretly, and sidelined both Congress and the Judiciary.⁹ Additionally, the administration has fired and demoted career staffers who disagree with the administration’s political goals.¹⁰ The president, in pursuit of terrorists, had secretly authorized the National Security Agency to eavesdrop on America’s citizens without first obtaining a warrant from the Foreign Intelligence Surveillance Court, which is a requirement of the Federal Law.¹¹ Essentially, through a collection of non-public laws and secret and “unaccountable institutions” the present administration has developed “a secret presidency run by classified presidential decisions and orders about national security.”¹² American political system of democracy perhaps failed when the Patriot Act I¹³ was introduced about 45 days after the 9/11 attacks with which the government has the power to access citizen’s tax records, medical files, to break into their homes and conduct secret searches, and others—which all threaten the fundamental freedoms that Americans boast of enjoying. This is “American imperialism” in domestic realm because it erodes constitutional protections of the Americans.

One striking point is that the presidents are more assertive in exercising their powers of unilateral action in foreign policy and this is a more attractive arena than domestic policy for the purpose of demonstrating their leadership. As commander-in-chief they promote their power in that realm. It is argued that over the years “the inclination of Congress to make broad delegations to presidents has been even more pronounced in foreign policy than in domestic policy. The reasons are straightforward and probably unavoidable, having to do with the need for expertise, continuity, speed, flexibility, and so on, especially in an age of interdependence, complexity, and nuclear technology.”¹⁴ Also, during emergencies and wars, they exert their power more in the

⁷Terry M. Moe and William G. Howell, “The Presidential Power of Unilateral Action,” *Journal of Law, Economics, and Organization*, vol 15, no.1, 1999, p.143.

⁸ Michiko Kakutani, “Book Review: Unchecked and Unbalanced,” *The New York Times*, July 6, 2007.

⁹ Frederick A. O. Schwarz Jr. and Aziz Z. Huq, *Unchecked and Unbalanced: Presidential Power in a Time of Terror*, (New York: The New Press, 2008).

¹⁰ *Boston Globe*, July 23, 2006.

¹¹ Jane Mayer, “The Hidden power,” *The New Yorker*, July 3, 2006.

¹² Frederick A. O. Schwarz Jr. and Aziz Z. Huq, *Unchecked and Unbalanced: Presidential Power in a Time of Terror*, (New York: The New Press, 2008).

¹³ USA Patriot Act, www.whitehouse.gov/infocus/patriotact/

¹⁴ Terry M. Moe and William G. Howell, “The Presidential Power of Unilateral Action,” *Journal of Law, Economics, and Organization*, vol 15, no.1, 1999, p.161.

foreign policy realm. The need for secrecy also makes the role of the president powerful here. The Central Intelligence Agency (CIA) and other intelligence organizations have been controlled by the president and they have been used by the presidents to promote their interests in the world.¹⁵ The role of Congress did not come into play.

Democracy is appreciated as the best political institution because it promotes peace, which is a function of citizen's role in the political process of the country. However, war, which jeopardizes peace, is often waged by democratic leaders without the consent of citizens' representatives—Congress in the US case. Interestingly, all war decisions by the US since the Second World War were taken by the president and the Congress has never declared a single war since then. The country has been engaged in protracted wars in Korea and Vietnam, a short war in the Persian Gulf, and a number of conflicts such as invasions of Panama and Granada and the bombings of Libya—which were all exercises of presidents from the beginning to the end, with Congress playing a secondary role.¹⁶ While the War Powers Resolution was passed by Congress in 1973 for the president to get congressional authorization before committing troops and waging wars, Reagan invaded Granada and bombed Libya and Bush invaded Panama without paying any attention to this Resolution. Similarly Clinton did not use the Resolution before committing troops in Haiti, Somalia, or Bosnia. It is also interesting to note that even though the former Bush did take congressional approval for the Gulf War, he did so after troops, planes, and ships were already sent to the Middle East—meaning when the nation was ready to fight a war and when the Congress had no choice but to accept it.¹⁷ Given this, how is a democratic government different from a non-democratic one in war or security-related decisions? The point is simple: when national security interests are at stake, a democracy and non-democracy act in similar ways. A democratic president's first objective is to keep the citizens safe and in order to fulfill that goal he exercises his power as president to do what has to be done under the circumstances, with or without the consent of the Congress. If war has to be waged for the national interest of the country, that is what has to be done, whether or not people approve. Where quick action is needed, there is more reason for the president to exert his special power and take decisions unilaterally. Similarly, when security decisions need to be taken secretly, the legislative body is often kept in the dark. Where debate is expected and special security decisions need to be taken, the president acts like a non-democratic leader and pays less attention to taking the approval of the people.

Issues determine roles of the citizens in the political process. Where issues are related to security of a nation, it is more likely for the president to take unilateral action. Where issues are non-controversial or low key/politics, it is more likely for them to be discussed in the Legislative Assembly. This also means that the usage of presidential powers is generally issue-specific. Democratic governments make undemocratic

¹⁵ Joel Fleishman and Arthur Aufses, "Law and Orders: The Problem of Presidential Legislation," *Law and Contemporary Problems*, 40, 1976, pp.1-45.

¹⁶ Louis Fisher, *Constitutional Conflicts between Congress and the President*, fourth edition, (Kansas: University Press of Kansas, 1997).

¹⁷ Terry M. Moe and William G. Howell, "The Presidential Power of Unilateral Action," *Journal of Law, Economics, and Organization*, vol 15, no.1, 1999, p.169.

decisions mostly with regard to issues that are security-related. Under such circumstances they act as actors who are not accountable to their people and, consequently, they often make irresponsible decisions. The point to note here is that democracies can act as irresponsibly as non-democracies when their national security interests are at stake. They violate norms that they are required to follow in the domestic realm before waging wars or committing troops.

An extension of the above point is that because democracies sometimes tend to violate norms at the domestic realm they also tend to violate norms at the international realms. Again, this is mostly when their national security interests are not satisfied by staying within the parameters of a Treaty in question. For as long as joining a Treaty and living up to the commitments of the Treaty do not jeopardize the nation's security, a democratic country does not violate the commitments made by it. However, as soon as it feels that staying in a Treaty is detrimental to its national interests, a democratic state does not hesitate to move out of it or break its commitment as a Treaty member. Here, it acts like an irresponsible and non-democratic state or sometimes even worse than that. The power of a democracy lies in the fact that democracies are responsible actors and do not violate norms domestically and internationally because democratic decisions come from discussions and debates and a leader is not able to make decisions on his own, in which case reckless decisions may ensue. Costs, benefits, and feasibility and ramifications of implementing a policy are all discussed before policies are made and there lies the strength of a decision that comes from a democracy. Although it is expected that democracies are responsible actors in the world, often it is just the opposite, especially in the security realm. The greatest democracy in the world, the United States, has not only acted undemocratically at home in making war decisions, as stated in this section, it has also violated its commitments pertaining to Treaties and decided to act like irresponsible actors in the international realm, closing difference between a democratic and non-democratic actor, which is discussed in the next section.

Democratic US Acting Irresponsibly

America is not only the undisputed leader of the world, but also stands tall as a democratic state. However, as stated in the previous section, it has not acted as democratically as it projects to have. In the domestic realm it has often not used the democratic process to make decisions, especially in relation to foreign and security policies, and thus acted irresponsibly. Interestingly, in the international realm it has tarnished its image as a responsible democratic actor. This has been more apparent since the terrorist attacks on the US in September 2001, which coincided with the new Bush administration's taking over of the White House. The terrorist attacks of 9/11 instilled fear in the American society and created a new security environment in the world. The US as the preponderant power of the world had to maintain order and stability that the international society of states created. However, it was more important for the US to protect its citizens from similar terrorist attacks in the future. Consequently, combating terrorism became the primary goal of the US. With this aim, America made friends and allies who were dictatorial or democratic states as long as they supported this cause. Non-democratic countries like Pakistan and Iran supported and helped the US in its war on

terror. Afghanistan was the primary target state because the mastermind of the principal terrorist organization Al Qaeda, Bin Laden, and his associates had safe haven there and were operating from there. Pakistan, a non-democratic country that tested its nuclear weapons in 1998 and did not join the NPT, became an important player in America's war on terror. Washington's main aim was to uproot terrorism and some of these terrorists were aided by Pakistan's radical elements and had their roots in Pakistan, which needed to be eliminated. Thus, the help of Pakistani government was required.

Responding to terrorism with the usage of different effective mechanisms became pertinent. Most important among them were launching preemptive strikes, sanctioning states that supported terrorists, creating new protective measures to keep Americans safe at home by enacting new laws and creating new Department—the Homeland Security—and continuing to build the missile shield to protect America from rogue states' missile attacks. Rogue states were factored into this calculation because it was believed that rogue states had connections with the terrorist organizations. Iran and Iraq were the two important rogues with terrorist connections. Thus, in addition to imposing harsh sanctions on these states through the United Nations and unilaterally, the US decided to build new nuclear weapons to strike countries that were anti-western, non-democracies, building nuclear weapons and missiles clandestinely, and had connections with the terrorists. The Nuclear Posture Review (NPR) was presented, which highlighted America's need for offensive and usable nuclear weapons. Before discussing the Review and its implications and also America's plan to strike Iraq and Iran, among other states, for their connections with terrorists and for building weapons of mass destruction and how that decision violates America's commitments to non-nuclear NPT states, it is important to state that by 2002, rogue states turned into Axis of Evil states and their numbers shrunk from five—Iran, Iraq, North Korea, Libya, and Syria—to three—Iran, Iraq, and North Korea. By 2003, the United States attacked Iraq based on its understanding that Baghdad had terrorist connections and was building weapons of mass destruction including nuclear weapons. Although the US did not use new nuclear forces in Iraq, or did not have to, it may still use these weapons against Iran, another rogue/evil state, since, according to Washington, Tehran is building nuclear weapons covertly.

The Nuclear Posture Review and its implications for the NPT need to be discussed. In January 2002, the US Department of Defense gave unclassified briefings of portions of the classified NPR. Some sections of the classified version also became known to public because they were flashed in newspapers as a result of an apparent leak. The NPR of 2002, which the administration reiterated in 2006, lays out new directions for America's nuclear forces for the next decade and beyond to address new security environment. It calls for a 'New Triad' incorporating new offensive nuclear and conventional strike force systems, ballistic missile defenses, and a fresh nuclear weapons infrastructure. Some of the most salient aspects of the NPR include nuclear weapons reductions, requirements, and defense policy goals. As for nuclear weapons reduction, the NPR states, "The goal of reducing, over the next decade, the US operationally deployed strategic nuclear force to the range of between 1,700 and 2,200 warheads provides a degree of flexibility necessary to accommodate changes in the security environment that

could affect US nuclear requirements.”¹⁸ With regard to the requirements and expanding the role of nuclear weapons the NPR states, “In setting requirements for nuclear strike capabilities, distinctions can be made among the contingencies for which the United States must be prepared. Contingencies can be categorized as immediate, potential or unexpected.”¹⁹ To illustrate which countries could be target states of the US, the NPR states, “North Korea, Iraq, Iran, Syria, and Libya are among the countries that could be involved in immediate, potential, or unexpected contingencies. All have longstanding hostility toward the United States and its security partners; North Korea and Iraq in particular have been chronic military concerns. All sponsor or harbor terrorists, and all have WMD [weapons of mass destruction] and missile programs.”²⁰ The Bush administration has already started down this road by announcing its preemptive strike policy which was incorporated into the National Security Strategy (NSS) of the United States in fall 2002. The National Strategy to Combat Weapons of Mass Destruction (NSWMD) which was issued in December 2002 notes that WMD in the hands of state and non-state actors pose the greatest threat to US national security and that an effective strategy to combat them is an integral component of the NSS of the US.²¹ NPR, NSS, and NSWMD comprise the new US nuclear posture. The NPR also discusses “defeating hard and deeply buried targets” (HDBT) and states, “Nuclear weapons could be employed against targets able to withstand non-nuclear attack, (for example, deep underground bunkers or bio-weapon facilities).”²² Defeating HDBT became an important mission of the Bush administration within the context of the terrorist attacks and also to justify the development and deployment of new nuclear weapons in an otherwise calm post-cold war world.

The Bush administration’s decision to develop and deploy new nuclear weapons poses the greatest threat to the NPT, the only security regime with almost universal membership, which is maintained to attain a non-proliferated world—one of Washington’s principal goals in the post-cold war world. The US’ attempts to develop new and usable nuclear weapons and its decision not to rule out their use against non-nuclear states raises doubts about Washington’s commitment with respect to ensuring a decreasing role for nuclear weapons in the realm of security. Additionally and more importantly, its threat to use nuclear weapons against non-nuclear states runs contrary to the commitments that were given by the nuclear states in the context of the NPT to the non-nuclear states. America, along with four other nuclear states, gave “negative security assurances” to the non-nuclear member states of the NPT that they will not strike them with nuclear weapons. With the decision to attack rogue states with nuclear weapons or even terrorist bunkers in Afghanistan, Washington violates its most important commitment to the smaller states in the NPT and acts irresponsibly. This portrays the extent to which even democratic states can go to protect their security interests. It also violates one of the principal commitments nuclear states made with respect to

¹⁸See, Defense Link, US Department of Defense: www.defenselink.mil/news/Jan2002.d/20020109npr.pdf

¹⁹See, Defense Link, US Department of Defense: www.defenselink.mil/news/Jan2002.d/20020109npr.pdf

²⁰ See, Defense Link, US Department of Defense: www.defenselink.mil/news/Jan2002.d/20020109npr.pdf

²¹ US Office of the President, National Strategy to Combat Weapons of Mass Destruction, The White House, December 2002, <http://www.whitehouse.gov/news/releases/2002/12/WMDStrategy.pdf>

²² See, Defense Link, US Department of Defense: www.defenselink.mil/news/Jan2002.d/20020109npr.pdf

disarmament and arms control. By introducing new nuclear weapons and incorporating usable nuclear forces into the defense infrastructure, Washington is projecting the salience of nuclear weapons in today's world. Additionally, the new nuclear forces would require additional testing and that would violate the Bush administration's decision to uphold test-ban moratorium while refusing to ratify the Comprehensive Test Ban Treaty (CTBT). According to the NPR, maintaining the moratorium may not be possible for an indefinite period, which undermines the basic tenet of CTBT.

Before discussing US' violation of commitments, it is important to discuss NPT and its main clauses to highlight which commitments have been violated and whether or not they have been violated. The Nuclear Nonproliferation Treaty is an international security treaty that limits the spread of nuclear weapons, that was opened for signature in 1968, entered into force in 1970, and that has 189 members today. It is one the largest security regimes of the world which intends to maintain order through the reduction of nuclear forces in the world. The United States, United Kingdom, France, Russia, and China are nuclear weapons states of the Treaty and all other members are non-nuclear states. India, Pakistan, Israel, and North Korea are non-members at the moment. The first three did not sign the Treaty because of their security requirements and North Korea signed, ratified, and violated it, and later withdrew from the Treaty. Two of the significant aspects of the NPT must be highlighted within the context of US' commitments to the Treaty and violations. As for the possession of nuclear weapons, Article VI states that nuclear states must pursue "negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament," and towards a "Treaty on general and complete disarmament under strict and effective international control."²³ With regard to the usage of nuclear weapons by the nuclear states, as Part of their NPT commitments, the five nuclear states have made special undertakings not to use their nuclear weapons against a non-nuclear weapon state, except in response to a nuclear attack, or a conventional attack in alliance with a nuclear weapon state.²⁴

There are a number of interrelated points that require discussion within the context of NPR and implications for NPT: that the role and salience of nuclear weapons have been uplifted; that disarmament commitment has been violated; that the commitment of no nuclear strikes against non-nuclear states has been lifted. The NPR asserts a permanent role of nuclear weapons and makes it a permanent element in America's military policy. This goes against the goal of the NPT and demonstrates how little US honors this security regime. It not only highlights the role for nuclear weapons, but also undermines nuclear taboo that was practiced since US used nuclear weapons in Hiroshima and Nagasaki. According to Nina Tannenwald, taboo refers to a powerful *de facto* prohibition against the first use of nuclear weapons which has developed in the world since the first use of nuclear weapons in 1945 and has "stigmatized nuclear weapons" as unacceptable weapons of mass destruction.²⁵ Once the US changes its

²³ Treaty on the Non-Proliferation of Nuclear Weapons, <http://disarmament.un.org/wmd/npt/>

²⁴ Treaty on the Non-Proliferation of Nuclear Weapons, <http://disarmament.un.org/wmd/npt/>

²⁵ Nina Tannenwald, *Nuclear Taboo: The United States and the Non-Use of Nuclear Weapons Since 1945*, (Cambridge: Cambridge University Press, 2008).

nuclear posture and decides to use them for preemption instead of maintaining them for deterrence, they become usable weapons and the taboo that prevailed for a protracted period is undermined. With the Bush administration's decision to use nuclear weapons against target states that threaten or use chemical, nuclear, or biological weapons against the US or its allies,²⁶ nuclear weapons become more salient and their fungibility is highlighted. Unfortunately, President Bush mentioned the importance of preemption even before NPR came to the forefront and perhaps NPR was a response to Bush's call for nuclear preemption. In 2001 Bush stated, "Deterrence can no longer be based solely on the threat of nuclear retaliation."²⁷ That had much to do with the development of the new security environment where threats, agents posing threats, and strategies employed by them are all different. Security experts defend US' decision on the ground that "the inability of disarmament institutions and agreements to stop the proliferation of significant chemical, biological, and nuclear capabilities—not the NPR itself—lies at the heart of the debate about negative security assurances. The negative security assurances offered by the United States were made in the context of the NPT to foster nonproliferation efforts and to reward states that agreed not to acquire nuclear weapons and in a more general sense for abiding by international norms against using nuclear, chemical, or biological weapons on the battlefield."²⁸ The point is that states that violate these norms should not be awarded negative security assurances. The point is significant because rewards should only be expected by states that live up to their part of the commitment to a Treaty. There is a significant problem with this proposition. For example, Bush believed that Iraq and North Korea were developing nuclear weapons clandestinely. It was argued that Iraq and North Korea were not in "good standing" when it came to their obligations under the Treaty.²⁹ While based on this idea the United States launched a war on Iraq in March 2003, it could not obtain a single weapon of mass destruction in the country. It is true that nuclear weapons were not used in the war, but the administration considered using them, the bunker-busters, because of its suspicion that Iraq was secretly building WMDs.³⁰ If it had actually preempted a nuclear strike on Iraq, that would have been a grave mistake not only because of the usage of these devastating weapons, but for the fact that Iraq, in reality, did not possess nuclear, biological, or chemical weapons. In fact if suspicions are there, the first task for the US should be to get accurate information about the target state's WMD capability or violation of the Treaty commitment. Wolfgang Panofsky states that the administration has focused on addressing threats that either no longer exist or never required a nuclear response.³¹ Instead of doing that, US itself violates the Treaty and makes its targets more aggression-prone. The reliance of the world's greatest democracy, the United States, on

²⁶ Walter Pincus, "US Nuclear Arms Stance Modified by Policy Study: Preemptive Strike Becomes an Option," *Washington Post*, March 23, 2002.

²⁷ Office of the Press Secretary, The White House, "Remarks by the President to Students and Faculty at National Defense University," Washington D.C., May 1, 2001, <http://www.whitehouse.gov/news/releases/2001/05/20010501-10.html>.

²⁸ James A. Russell and James J. Wirtz, "Negative Security Assurances and the Nuclear Posture Review," *Strategic Insights*, vol.1, issue 5, July 2002.

²⁹ James A. Russell and James J. Wirtz, "Negative Security Assurances and the Nuclear Posture Review," *Strategic Insights*, vol.1, issue 5, July 2002.

³⁰ Naila Bolus, "Bush's War on (or with?) Nuclear Weapons," *San Francisco Chronicle*, March 16, 2003.

³¹ Wolfgang K. H. Panofsky, "Nuclear Insecurity," *Foreign Affairs*, September/October 2007.

nuclear weapons and the “expansion of nuclear missions” can very naturally propel other states to acquire these devastating weapons,³² something the US refuses to understand.

The US has also contemplated attacking Iran for the suspicion that it is developing nuclear weapons. Iran is a signatory of the NPT and as of 2006 resumed developing uranium enrichment program. While Iran claims that its nuclear program is exclusively for civilian energy purposes, which is permitted under article IV of the NPT, the United States and some of its allies have been increasingly of the opinion that Iran’s program is structured for a dual purpose. Even the European intelligence and the International Atomic Energy Agency (IAEA) agreed that Iran is intent on developing the bombs. Iran has been a signatory to the NPT since 1968 which allows it to enrich uranium for civilian fuel programs only. However, from 2000-02, for 18 months Iran concealed its enrichment activities from the IAEA inspectors, making the international community more suspicious of its real intentions pertaining to the enrichment programs. For an extended period it failed to meet with its safeguard obligations with the IAEA and the US contends that Iran violated article II and III of the NPT, which prohibits nuclear weapon states to transfer these weapons or components to non-nuclear weapon states and non-nuclear states to receive them in any manner respectively. In April 2006, Iran’s controversial President Mahmoud Ahmedinejad announced that Iran joined “the club of nuclear countries” by mastering the entire nuclear fuel cycle and being able to enrich uranium for power stations.³³ The concern of the US is that if Iran can master enrichment to fuel grade, it can master enrichment to weapons grade because the processes of mastering are the same. Estimates on how long it would take for Iran to make a nuclear bomb range from a couple of years to a decade. According to the Institute of Strategic Studies, Iran will be able to produce enough nuclear materials in three years. Just as there is disagreement between the US and its allies on the time that will be required for Iran to produce nuclear weapons, there is also disagreement between them with regard to what measures—diplomacy, sanctions, or military action—should be taken to prevent the country from acquiring the devastating weapons. Seymour Hersh wrote in 2006 that although publicly the Bush Administration is focusing on diplomacy to resolve the issue, covertly it is planning a military attack on the country to not only crush its nuclear weapons program, but also to change the regime in power.³⁴

Iran fit perfectly within the new nuclear posture framework of the United States that laid out details of which countries need to be attacked preemptively with nuclear weapons and why. Both the NPR and NSWMD promise to respond to a WMD threat with nuclear weapons. Iran has been identified as an Axis of Evil state that was clandestinely building nuclear weapons and that was hostile towards US, its interests, and its allies. The bipartisan 9/11 Commission also determined that Iran has connections with Al Qaeda. The fact that Iran had been declared in noncompliance with the NPT made it

³² Michael May, “What are Nuclear Weapons For?,” *Forum On Physics & Society of the American Physical Society*, vol.36, no.4, October 2007; David L. Hobson, “Forward Thinking on Nuclear Policy,” *Washington Times*, January 10, 2005.

³³ “Iran’s Nuclear Program,” *Guardian*, April 28, 2006.

³⁴ Seymour M. Hersh, “The Iran Plans: Would President Bush go to War to stop Iran from getting the Bomb?,” *The New Yorker*, April 17, 2006.

legal for the US to use nuclear weapons against Iran. Prior to the revelation of the new intelligence report in December 2007 that Iran had actually capped its nuclear weapons program in 2003³⁵ the Bush administration was seriously contemplating a preemptive war against Iran with the usage of nuclear weapons.

Interestingly, Iran and Egypt were two key states that were against the indefinite renewal of NPT in 1995. To get them to support NPT's indefinite extension, during this intensive negotiation period prior to the NPT extension, the US reiterated its negative security assurance to the non-nuclear weapon states in 1995. The text of the 1995 negative security assurance of the US reads: "The United States reaffirms that it will not use nuclear weapons against non-nuclear weapon states parties to the Treaty on the non-proliferation of nuclear weapons except in the case of an invasion or any other attack on the United States, its territories, its armed forces or other troops, its allies, or on a state towards which it has a security commitment, carried out or sustained by such a non-nuclear weapon state in association or alliance with a nuclear weapon state."³⁶ Additionally, with respect to security assurance within the NPT it was concluded in 1995 that "...further steps should be considered to assure the non-nuclear weapon states party to the Treaty against the use or threat of use of nuclear weapons. These steps could take the form of an internationally legally binding instrument."³⁷ What is more intriguing is that the 1995 NPT extension also notes that "attacks or threats of attack on nuclear facilities devoted to peaceful purposes jeopardize nuclear safety and raise serious concerns regarding the application of international law on the use of force in such cases, which could warrant appropriate action in accordance with the provisions of the Charter of the United Nations."³⁸ Given this, no responsible state, not to speak of the US which is a democracy—consequently a responsible actor—should contemplate launching a nuclear attack on a non-nuclear state. However, instead of abiding by these norms and respecting its own commitments, the US has decided to break the commitments, ignoring the ramifications of its decision for the Treaty or legal norms there.

The 9/11 attacks have changed the global security climate in general and US security predicaments in particular. It is in a state of paranoia and is always looking for a reason to suspect state actors as terrorism-sponsors. With the change of threats and agents in world politics, it has been argued that the laws governing state actions prior to this attack are also non-functional or inapplicable. Thus, in the aftermath of the 9/11 attacks, Bush stated that none of the provisions of the Geneva Accords apply to the conflicts the US faces with Al Qaeda in Afghanistan or elsewhere throughout the world.³⁹ If this is how the US president feels, how can one expect the country to respect its international treaty commitments? However, American Congress will be liable if there is a nuclear strike on Iran since America is a democracy and Congress is also responsible for any action Washington decides to undertake.

³⁵ "US Report: Iran Stopped Nuclear Weapons Work in 2003," *CNN*, December 3, 2007.

³⁶ <http://disarmament.un.org/wmd/npt/1995dec2.htm>; S/1995/263

³⁷ <http://disarmament.un.org/wmd/npt/1995dec2.htm>; NPT/CONF.1995/32(Part I), Annex

³⁸ <http://disarmament.un.org/wmd/npt/1995dec2.htm>; NPT/CONF.1995/32(Part I), Annex

³⁹ Michiko Kakutani, "Book Review: Unchecked and Unbalanced," *The New York Times*, July 6, 2007.

The unfortunate side of US democracy is that national security decisions are most often taken by the president. While Congress remains an active player in the political process of the country, it turns into a muted actor or an actor that abides by the president's decisions when national security is at stake. For the best interest of the country the US Congress allows the president to deal with such matters if and where necessary, as stated before. Given Bush's sweeping power as commander-in-chief, it is not even clear if he would feel the necessity of going to the Congress for striking Iran.⁴⁰ Congress has the responsibility to vote on war decisions, under Article One of the US Constitution. The Congress abdicated that responsibility once in October 2002 when it voted to authorize President Bush to use force against Iraq in 2003, something that the Congress members still feel they would not have done if they did not think that the president would negotiate first. This allowed America to wage a war on Iraq and tarnish its image in the eyes of the world. On May 6th of 2004 the House of Representatives once again authorized the president to use "any and all appropriate means" to prevent Iran from acquiring nuclear weapons. The phrase "any and all appropriate means" is vague and unclear, but it gives the president the right to use nuclear weapons should he decide to do so. Why does the Congress do so when it understands that they are accountable to the American people and that any crime committed by America will be considered a crime committed by them too? Why does the Congress not enact a law to outlaw the usage of nuclear weapons against non-nuclear states? How can a president say that he may have US bases in Iraq without taking the approval of the Congress? The answers lie in the fact that democratic process is used mostly in domestic political decisions or foreign decisions that are not security-related or that which have less to do with national security interests. The US Congress may be able to regulate the armed forces, but cannot manage the conduct of war, which the president as commander-in-chief has the power to do. It is believed that security experts, defense analysts or strategists, and the president can best decide such matters and thus, the president is given sweeping power to make security or war-related choices.

Conclusion

The paper investigates why responsible democracies, such as the US, violate Treaty commitments. It argues that when national security interests are at stake, democracies act as irresponsibly as non-democracies where presidents have the power to make war or crises decisions and the United State's decision to use nuclear weapons against non-nuclear weapon states if they were suspected of acquiring WMD, which goes against its NTP commitment, has been a function of that. The 9/11 attacks created an environment where the presidential power has been strengthened and that gave him the right to determine the enemies and combating mechanisms. The proposal to use nuclear weapons came within this framework, which may have been undemocratic, but which nonetheless was a decision even the American Congress indirectly approved. While the US has not launched a preemptive attack with nuclear weapons against Iraq and has not finally decided on doing the same against Iran, it nonetheless has the power to do so and act like an irresponsible player in world politics. The proposal and discussion to attack

⁴⁰ "Antiwar Petition and Talking Points on Iran," *Peace Journal*, April 12, 2006.

Iran with nuclear weapons, which violates America's NPT commitment, speak volumes about US acting as any other irresponsible state in the international realm.

Following are some policy implications and recommendations of the paper:

The democracy-peace theory needs to explain under what conditions democracies act undemocratically and irresponsibly. The theory seems powerful where security interests are not at stake. Democracies act as irresponsibly as non-democracies when it comes to protecting their national security interests.

If the United States wants democracy to be embraced by non-democracies, it has to act like a responsible democracy and make the political process of democracy likeable and attractive to states that have not had the taste of liberalism in the political realm.

If nuclear proliferation is to be stopped, it is important for the US to devalue these weapons and prove to the non-nuclear states that a non-nuclear world is better than a nuclear world. This can be accomplished only if the US itself makes nuclear weapons less salient in its force structure. The NPR is a wrong signal in that direction.

Additionally, for nonproliferation aims and to strengthen NPT, the US must focus on disarmament and move towards that direction. Instead of making new nuclear weapons, it must eliminate the nuclear weapons that are in its possession and encourage other nuclear states to move along the same lines.