

A Comparative Study of the Three Principles of NPT From the Perspective of Imami Jurisprudence and International Nuclear Law

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Abstract: This article has been prepared using a descriptive-analytical method and based on the use of primary and secondary sources, referring to numerous books, sources and documents. The advantages and high potential of using nuclear energy increase the enthusiasm of governments to employ this technology in various domestic and international arenas. The problems become apparent when the use of this energy by countries in non-peaceful fields, especially the production of nuclear weapons and their use against other countries, poses a serious threat to international peace and security. This has caused a sharp disagreement between nuclear and non-nuclear countries in the use of this energy to the extent that it has faced restrictions on its peaceful use. To solve this problem and in order to organize and control the nuclear activities of countries; numerous international agreements and treaties have been concluded so far, the most important of which is the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). This treaty is based on three principles; Non-proliferation of nuclear weapons, peaceful use of nuclear energy, and general and complete nuclear disarmament have been concluded. In this study, an attempt is made to examine the Imamiyyah jurisprudence, which includes jurisprudential rulings and evidence, including Quranic verses, jurisprudential rules, and the narrations of religious leaders, regarding the use of energies used by the human race, especially nuclear energy, and the three principles governing the NPT on the one hand, and the recent international treaties and decisions that have been concluded as an interpretation of the NPT and have been defined under the general title of NPT Practic makers on the other hand. Based on the findings of this study, it seems that the foundations of the NPT principles and the Imamiyyah jurisprudential system are in most cases fully compatible, but the NPT Practic makers have acted in most cases in conflict with the principles of the aforementioned treaty.

Keywords: Three principles of the NPT, Imamiyyah jurisprudence, NPT Practic makers.

Introduction: Nuclear energy, as one of the emerging energies, has been able to help improve the quality of life and the well-being and comfort of the people. It is the duty of governments to use this capacity and opportunity appropriately and, given the limited resources of fossil energy and their polluting and unhealthy nature, to localize and replace clean energies, especially nuclear energy. Countries can use nuclear energy, given its extraordinary capabilities, both in peaceful fields, such as electricity generation, medical technologies, agriculture and others, and in non-peaceful fields, such as military uses and the manufacture of nuclear weapons. For this reason, many regulations and treaties have been concluded in the international arena between countries of the world for the peaceful use of nuclear energy and the control and non-proliferation of nuclear weapons, and the Treaty on the Non-Proliferation of Nuclear Weapons is the most important treaty in this regard. The Treaty on the Non-Proliferation of Nuclear Weapons (or NPT for short) consists of a preamble and eleven articles. Which was agreed upon in 1968 by nuclear and most non-nuclear states and entered into force in 1970. This treaty is based on three principles: first - non-proliferation of nuclear weapons, second - peaceful use of nuclear energy, and third - general and complete nuclear disarmament. Most governments are trying to use this energy to develop various areas of their country by joining this treaty and using the assistance of the International Atomic Energy Agency in the field of nuclear technologies. In these circumstances, it is also necessary for Islamic countries to benefit from the capabilities of peaceful use of this energy to meet the needs

of the people of the Islamic community, taking into account the rulings and principles of Islamic law and the fatwas of authoritative jurisprudential authorities, to formulate and implement decisions and regulations appropriate to the requirements and conditions governing international nuclear law. Therefore, in this article, we intend to conduct a comparative study of the three principles contained in the aforementioned treaty in terms of the current regulations and procedures of international nuclear law on the one hand and the permissibility or non-permissibility of the use of this emerging energy based on the principles and principles of Islamic law and Imami jurisprudence on the other.

Nuclear Non-Proliferation Treaty

The Nuclear Non-Proliferation Treaty (NPT) was ratified by the United Nations General Assembly in June 1968. According to this treaty, non-nuclear states undertake not to produce and acquire these weapons (Article 1). Nuclear states also undertake not to transfer such weapons to any state without nuclear weapons and not to provide any assistance in their production (Article 2). According to Article 4 of this treaty, the peaceful use of atomic energy is the inalienable right of all states, and in order to exercise this right, states must first conclude an agreement with the International Atomic Energy Agency in accordance with Article 3 of the treaty to apply the Agency's safeguards monitoring and ensure non-deviation with that state. According to Article 6 of the treaty, nuclear states must take steps to eliminate and disarm nuclear weapons. One of the powers granted to the states parties to the treaty under Article 10 of the treaty is that if a member feels that the provisions of the treaty are in conflict with the domestic interests and concerns of their country, they can withdraw from the treaty.

The initial understanding and vision of this treaty was intended for 25 years and was also limited to this period, but in 1995, a conference was organized with the presence of 175 member states of the treaty to determine the definitive obligation regarding the expiration or extension of the validity of the treaty, which ultimately led these members to permanently extend the Treaty on the Non-Proliferation of Nuclear Weapons.

The Three Principles of the NPT

The NPT is based on three fundamental principles: non-proliferation of nuclear weapons, peaceful use of nuclear energy, and general nuclear disarmament. Below we will explain these three categories:

A. Non-proliferation

"Nuclear proliferation has long been a major concern for international internal security. During the Cold War, this concern was largely – though not exclusively – limited to concerns about the vertical spread of nuclear weapons among states and into the hands of superpowers; after the Cold War, however, the scope of these concerns expanded to include the horizontal spread of nuclear weapons, both to states and to non-state actors who were new holders of nuclear weapons".

The issue of non-proliferation or non-proliferation of nuclear weapons is addressed in Articles 1 and 2 of the NPT, and compliance with this obligation extends to both nuclear-weapon States (subject to Article 1) and non-nuclear-weapon States (subject to Article 2).

Since the end of the Cold War, there have been numerous significant actual or suspected cases of horizontal spread of nuclear weapons and related technologies, including those in Iraq, India, Pakistan, North Korea, Libya, Iran, and Syria. These threats, especially the threat of horizontal proliferation of nuclear weapons, continue to be the talk of government officials and are at the center of a wide range of non-proliferation measures and the effective and active fight against the proliferation of nuclear weapons. In the field of international organizations, the normative field of non-proliferation issues has often been the subject of resolutions of the General Assembly and the Security Council of the United Nations, and of course, the work of the International Atomic Energy Agency and the Informal Group of Nuclear Fuel Suppliers. (Ebrahim Gul and others, 2015, 82-83.) And in the discussion of non-proliferation and proliferation of weapons, we witness the application of procedures by countries, organizations and groups active in the field of nuclear energy towards the interpretation and implementation of the provisions of the NPT, especially its raw materials.

B- Peaceful Use of Nuclear Energy

The use of nuclear energy is not limited to the manufacture and production of bombs and nuclear weapons. Today, this energy and technology are also used in many other peaceful fields such as medicine, agriculture, industry, archaeology, etc. (Reuben Michelson, 1977, 29-68)

The right to peaceful use of nuclear energy was first considered for the states party to the treaty in Article 4 of the NPT. International documents have not provided a clear and explicit definition of the term peaceful use of nuclear energy. Therefore, the role of subsequent practice of governments and other organizations active in the field of nuclear law in defining and interpreting the term peaceful or non-peaceful use of nuclear energy for non-nuclear countries becomes more apparent in the field of implementation. The distinction between peaceful and non-peaceful use of nuclear energy in current international law can be measured by two criteria: First, they must not be used to achieve military goals, and second, they must not be directed towards the production and construction of nuclear weapons and explosive devices (Rezaei Pish-Robat, 2012, 150). The meaning of military goals stated in the Statute of the International Atomic Energy Agency can be interpreted into two types of direct military goals and indirect military goals, according to the description of the initial negotiations in the preparation and regulation of this Statute, as well as the subsequent actions and procedures of the governments. Accordingly, any use of atomic energy for military and war purposes, the construction and use of atomic weapons, as well as any logistical and support measures, including the use of nuclear energy to provide electricity to military barracks or to strengthen the propulsion of warships and military submarines, will in fact be considered a diversion of nuclear energy towards war use and military goals (D.M, 1984, 2).

The Treaty on the Non-Proliferation of Nuclear Weapons has emphasized the second criterion. According to this treaty, the use of nuclear technology is peaceful when it does not lead to the production and construction of nuclear weapons and explosive devices (Rezaei Pish Robat, 2012, 152). Of course, it should be noted that the military use of nuclear energy in cases such as the use of nuclear reactors in the propulsion of military ships and submarines is not covered by the Treaty on the Non-Proliferation of Nuclear Weapons, for this reason, none of the articles of the treaty oppose the use of nuclear energy for peaceful purposes (Mason, Willrich, 1968, 69).

C- Disarmament and nuclear weapons control

Since the first atomic bombs were dropped on the cities of Hiroshima and Nagasaki, it has become clear that the giant has come out of the magic lamp. Since then, the international community has been concerned about how to control this giant and return it to the lamp. (Shafe, 2001, 8)

Article 6 of the NPT deals with the issue of nuclear disarmament, which has been approved for nuclear-weapon states. Nuclear disarmament in a specific sense means the reduction of nuclear weapons of nuclear states, both in terms of quantity and number and in terms of their quality and combat power. The reduction of nuclear weapons may be partial and limited or major and extensive, in which case the issue of complete nuclear disarmament or partial nuclear disarmament is raised. With the development of nuclear weapons, measuring and classifying nuclear weapons is not an easy task and is complicated, in a way that measuring the effectiveness or accuracy of nuclear weapons on the one hand and the power of these weapons in neutralizing the defenses of the opposing force and their resilience on the other hand adds to the complexity of the issue. Considering the geographical scope, nuclear disarmament can be considered related to a specific region or the national territory of a country and based on that, the reduction or elimination of nuclear weapons in the regional and national scope can be demanded. In the field of international law, three concepts have been defined in relation to nuclear disarmament: nuclear disarmament of the losing country, reduction or elimination of nuclear weapons in the national territory of the losing country through an international treaty, and complete elimination of nuclear weapons throughout the world (Azghandi and Roshandel, 2010, 230).

The process of disarmament and nuclear arms control, in line with historical developments, has taken on changes and concepts that are far removed from the initial ideas and assumptions regarding their formation and evolution. In the 1950s, the term "nuclear arms control" was used to explain and justify the conclusion of an international treaty to limit arms races and in comparison with the term "nuclear disarmament". But now it has such a broad meaning that the term "disarmament" and other similar concepts are considered as part of it (Goldblat, 1982, 15). Therefore, the nature and new mechanism of arms control are based on: maintaining stability, trying to reduce or eliminate nuclear weapons, preventing specific military operations using nuclear

weapons, systematizing and legalizing the use of nuclear weapons, prohibiting the movement and transfer of dangerous nuclear devices and equipment, minimizing the possibility of nuclear conflicts, limiting the use of nuclear weapons in military conflicts and providing reassurance between countries through transparency in the use of nuclear weapons (Mathews. and Mc Cormack, 1999, 75).

Currently, the concept of nuclear arms control seems to include all measures taken to stop or reduce and control the activities of countries regarding the maintenance or increase of their nuclear power through the construction of nuclear weapons, in parallel with the elimination of nuclear weapons in the nuclear arsenal or disarmament in the specific sense of the word (Saed, 2007, 40).

The direct goal of the process of disarmament and control of nuclear weapons is to reduce and limit existing stockpiles and prevent the expansion and spread of nuclear weapons in the future and ultimately to destroy and eliminate nuclear weapons. Although this goal is considered as the main goal of the subject of disarmament and control of nuclear weapons, this goal stems from a higher goal, namely; the abolition and cessation of war and the establishment of lasting peace and security in the entire international arena and at all times and moments (Saed, 2007, 39). Therefore, the most important goal of disarmament is to maintain international peace and security. The establishment of lasting peace without disarmament will not become a reality, but rather a situation that is like fire under the ashes, and we can say that peace is armed. In a sense, disarmament is not the ultimate goal, but a means to achieve a more sublime goal, which is the establishment of global security. The security resulting from complete cessation and disarmament will provide the basis for establishing social security and welfare, standardizing the natural and living environment, and removing the shadow of poverty and misery. Under the shelter of establishing peaceful coexistence with mutual understanding and understanding, human societies will become more tolerant and strengthen social relations. (Izghandi and Roshandel, 2010, 231) The three principles of the NPT from the perspective of Imamiyyah jurisprudence

Nuclear energy is one of the newly emerging energies that has no precedent during the lifetime of the Prophet (PBUH) and the pure Imams (PBUH). Therefore, it is natural that there are no verses and narrations in this regard. However, by using the unity of criteria and fixed rulings that are obtained from the hadiths and narrations of that era in terms of their existential philosophy, regarding the sanctity of building nuclear weapons and the non-proliferation and the necessity of collecting nuclear weapons and eliminating them, and instead using nuclear energy for peaceful purposes, we can refer to verses and narrations as well as rules that allow and permit this matter. Including: Quranic verses, jurisprudential rules, narrations, etc.

Quranic verses

First - Prohibition and prohibition of corruption on earth

Verses 205 of Surah Al-Baqarah and 77 of Surah Al-Qassas refer to the prohibition and prohibition of corruption on earth. Based on these verses; the destruction of "plots and offspring" is introduced as an example of corruption, and for this reason, the necessity of the continuation of the human race is dependent on two components: "providing food and continuing to produce offspring". Plots mean agriculture and farming, and humans need to cultivate and plant crops to provide themselves with food, including plant and animal foods. The existence of animals ultimately depends on the existence of plants. Therefore, plots, which are plants and herbs, are the basis for the survival of humans and animals, and for this reason, God Almighty has considered the destroyer and destroyer of plots and offspring on earth as a corrupter on earth (Tabatabayi, 1390, 144). For this reason, the use of weapons of mass destruction, including nuclear weapons, leads to the destruction of all living things, because radioactive rays from nuclear weapons explosions cause severe damage to the environment, especially plants and even aquatic and marine organisms, and not only cause irreparable damage and losses to the current generation, but also to future generations, and will result in genetic complications and disorders such as retardation, limb defects, and others. Nuclear weapons have such a capability that they can wipe out and destroy all human civilizations and all living things on earth (Sa'ed, 2005, 273).

Second - Peacemaking

Verse 25 of Surah Yunus introduces Islam as a peaceful, peace-loving religion based on comfort and security; There are many verses in the Holy Quran on this subject, which show that any action that is in conflict with public comfort and welfare is not acceptable to Islam; a religion that is the standard-bearer and herald of the spread of comfort and security will never seek to produce and use weapons that clearly violate these principles and are known as certain examples of mass killing and disrupting security and comfort throughout the world;

therefore, the production and use of nuclear weapons is prohibited and sanctioned by Islamic law (Hanan and Alawi and Tushoq, 2010, 222-223).

Third - Security and Comfort

The addressee of verse 55 of Surah An-Nur is all Muslims, both men and women, believers and non-believers, but its special addressee is believing men and women, and they are promised that in the not-so-distant future they will have a peaceful society with security and freedom, and they will be given the position of divine caliphs; The religion of Islam will be established on earth and comfort and security will replace their fear (Hanan and Alawi al-Wusuq, *ibid.*, 223).

Fourth - Prohibition of cruel and unjust behavior

Verses 8 and 32 of Surah al-Ma'idah deny cruel, unjust and unjust behavior. From verse 8 of this blessed Surah, it is deduced that the production and use of nuclear weapons is prohibited due to the cruel and unjust effects of such weapons; Because the production of these types of weapons always causes fear and a sense of insecurity in the hearts of innocent nations, and it is obvious that planting seeds of fear and anxiety in the hearts of innocent individuals is pure injustice and cruelty, let alone using such weapons for mass murder and genocide and causing the death of countless innocent people, which is certainly an act of oppression and injustice, while this noble verse has forbidden Muslims from committing any kind of oppressive and unjust acts (Hanan and Alawi Tusooq, *ibid.*, 224).

And according to verse 32 of this surah, the prohibition of killing an innocent person from the perspective of God Almighty is expressed as the prohibition of killing all humans. Therefore, it is natural that destroying the people of a region or country that contains many innocent people will be very displeasing from the perspective of God Almighty and will not be pleasing to God Almighty (Rostami Najafabadi et al., 2010, 106).

Fifth - The Principle of Proportion

Verse 194 of Surah Al-Baqarah indicates the observance of the principle of proportionality and equality in the use of combat weapons in war zones. With the explanation that when in an armed conflict one of the parties to the conflict uses weak or strong weapons, the other party must also use proportional and equal weapons in the said conflict. Not that the weapons are much stronger and more widespread. Therefore, according to this principle and this noble verse, nuclear weapons are in no way considered a proportional weapon, either for defense or for defense, but rather this weapon causes widespread killing and genocide and will cause irreparable damage not only to the country against which it is used, but also to other countries and especially to the human race.

In addition, according to the principle of separation, a difference and distinction must be made between military and civilian personnel, and this principle is in full accordance with this noble verse; Because ordinary people such as women, children, the elderly, the sick, the sick, and others, and on the other hand, living beings, buildings, trees, agricultural lands, and in general the entire environmental cycle must be separated from individuals, equipment, and military capabilities. According to this verse, the use of any type of weaponry that includes all ordinary citizens and military personnel is an example of aggression and excess, and in fact is considered more than the right of passage and is considered forbidden (Rostami Najafa Abadi et al., *ibid.*, 106).

Jurisprudential Rules

First - The rule of the necessity of the principle of contract

It is one of the valid and obligatory rules in Islam and its meaning is that the principle is necessary in all contracts, including property and covenant, unless the permissibility of the contract is proven. Based on this rule, in the field of international nuclear law, every international contract and understanding is mandatory and fulfillment and loyalty to it is inevitable (*ofu bil-aqod*) unless the international contract is illegitimate or against international peace and security. Therefore, the member states of the NPT Treaty, according to this Islamic rule, must be committed and loyal to the provisions of this treaty, especially the three main pillars, namely the commitment to non-proliferation and accumulation of nuclear weapons, the commitment to use energy only in peaceful fields, and the commitment and necessary assistance towards the general and complete nuclear disarmament of the nuclear-weapon state.

Second - The rule of negating the path

The rule of negating the path means that any path that leads to the domination of non-Muslims over Muslims is prohibited. Religious leaders have cited these cases in some cases and have led to the victory of Muslims by citing this rule. The fatwa of the late Ayatollah Mirza Shirazi in 1270 and also the prohibition of capitulation in

1344 by Imam Khomeini (RA) are examples of this jurisprudential rule. In divine revelation and in accordance with the religious rulings, no rule or law has been established in favor of the infidels and to the detriment of Muslims, and whenever such dominance prevails, it is an example of the rule of negating the path, and accordingly, any ruling that is issued is not divine and should not be followed. (Bojanvardi, 2010: 187) Currently, the most attacks are being made on Islam in various political, economic, legal and other dimensions, and the slightest negligence will lead to the domination of non-Muslims over Muslims. The jurisprudential rule of negation of the path is one of the important rules that is more evident in the field of nuclear sciences. In today's world, which is the era of modern technology and technologies, it is superior for societies that have access to these sciences, especially nuclear sciences. Based on this rule, God Almighty has closed the way for non-Muslims to dominate and influence Muslims. Therefore, in the Islamic society, it is necessary to prevent any aspect that leads to their superiority. (Zanjani 508:1420) Therefore, considering this jurisprudential rule, Islamic countries, by committing to observing the two pillars of others. PT (non-proliferation and nuclear disarmament), should use nuclear technology in their service through legal and religious means in order to prevent the weakness and lack of necessary nuclear knowledge in their own countries and prevent the nuclear domination of other countries.

Third - The Rule of No Harm

Among the rules cited that have rational and religious evidence and are validated by various verses and narrations is the rule of no harm. This rule has priority and rule over many other jurisprudential rules such as the rule of arming and the primary jurisprudential rulings. (Ebrahimi Far, 1386: 168) Based on this rule, any harm to oneself and others is forbidden from the perspective of Islam, and based on this rule, even the peaceful use of nuclear energy, if it is accompanied by harm or damage, is not permitted to use and benefit from it, let alone the use of nuclear weapons, which will have catastrophic and irreparable consequences.

Fourth - The Rule of the Minister

The rule expresses the principle of the personal nature of crime and punishment, and it means that the punishment for committing a crime is applied to the perpetrator himself and no one else should be punished in his place; In the same way that after the death of humans and on the Day of Judgment and the Day of Reckoning, no one will be held accountable for the actions and behavior of others. Therefore, when there is no accountability, there will definitely be no punishment, because God Almighty says: (And do not take responsibility for the sins of another person.) No one will bear the responsibility for the sins of another person. In five Surahs of the Holy Quran, the phrase "And do not take responsibility for the sins of another person." According to this rule, in the event of a war between countries and the necessity of using weapons of war in order to defend against an aggressor country, the principle of proportionality and the principle of personal punishment of individuals must be observed. Now it is clear that in the case of catastrophic weapons such as nuclear weapons, whose range of damage is wide and uncontrollable in terms of distinguishing individuals and targets, the use of nuclear weapons is necessarily unlawful and forbidden because in reality, individuals and generations who had no connection or involvement in the conflict are caught in the fire of the wrath of the warring states and are forced to bear the suffering and loss of the fault of others and must endure hardship in which they themselves had no role, but rather must burn in the fire of the sins of other individuals, and this is suppressed and prohibited in the holy law of Islam (Davoodi Limoni and Davodi Limoni, 2005, 69).

Fifth - The Rule of Aggression

This rule is based on the noble verse 194 of Surah Al-Baqarah, which states: "Whoever commits an offense against you, commit an offense against him in the same way as he committed an offense against you." In the case of nuclear weapons, since no correspondence or proportion can be established between the offense and the counter-offensive, therefore, the interpretation of the verse of the word "like" of what happened cannot be expected to be a proportionate and controlled response. Accordingly, this jurisprudential rule prohibits the use of nuclear weapons, which includes the principle of proportionality in weapons of war and the principle of distinction between enemy and non-enemy, aggressor and non-aggressor.

Infallible Traditions

In addition to the Quranic verses and the valid jurisprudential rules mentioned above, a tradition has been narrated from the Infallibles (AS) that has a common criterion with the issue of prohibiting the use of nuclear weapons. It is narrated from the Holy Prophet (PBUH) that the Great Prophet forbade his followers from

spraying poisonous substances and poisoning the places where the polytheists are. (Tusi, 1407 AH, Vol. 6, 143). Although this narration is weak in its documentation, most of the ancient and modern jurists consider it authentic and emphasize the validity of the ruling prohibiting the use of poisonous substances and toxic weapons, including microbial and chemical weapons (Dawudi Limuni and Dawoodi Limuni, 1394, 120-121). Now that the prohibition and sanction of the use of poisonous and harmful substances to humans has been emphasized in the narrations and sayings of the infallibles, it can be concluded that the criteria and criteria for prohibition are not limited to poisonous substances only; rather, by modifying the terms, any type of destructive and destructive weapon of the population was also included in this ruling. Because when toxic substances threaten the life of living beings in all places, whether in water, air or land, it will include the use of other illegal and unknown weapons and weapons that are much more destructive and threatening. Therefore, it is true that in the language of the Holy Prophet (PBUH), the only known substance at that time was toxic substances and the word "poison" is mentioned in the narrations, but this restriction in itself is not relevant, and rather, considering the requirements of the time and technological advances, this ruling can be extended to any type of weapon that causes the killing and massacre of countless ordinary people who are outside military areas; including damage to ordinary citizens of a country, living creatures and plants. Thus, by using the unity of the criteria of the rulings contained in the verses related to the prohibition of destruction and corruption in the land and the ruling on the prohibition of aggression in the Holy Quran, one can firmly believe in the prohibition of spreading war and conflict to civilian areas and among ordinary citizens, and it will not matter whether this destruction and massacre of ordinary and civilian people is through the use of toxic and chemical substances or through the use of nuclear weapons (Rahmani, 2010, 40).

The Three Principles of the NPT from the Perspective of International Nuclear Law

In the field of international nuclear law, decision-making processes and institutions regarding the nuclear activities of countries, both members and non-members of the NPT, have emerged, which directly or indirectly influence the interpretation and implementation of the provisions of this treaty, especially in the area of the three main pillars of the treaty, namely the non-proliferation of nuclear weapons (Articles 2 and 1), the right to peaceful use of nuclear energy (Article 4), and nuclear disarmament (Article 6), and in fact, they create a procedure for the NPT. An important point is that the NPT cannot be implemented in its interpretation and implementation without taking into account these procedure makers. These procedure makers are studied in the form of two general categories: treaty and non-treaty.

Treaty-making procedures

Treaty-making procedures refer to those treaties that are concluded in connection with and in parallel with the provisions of the NPT, especially its three principles, and are formed in strengthening and interpreting the provisions of the NPT, including: treaties on the prohibition of nuclear tests, treaties on the non-deployment of nuclear weapons or treaties on nuclear-weapon-free zones, the 1988 Amended Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, the Treaty on the Prohibition of Nuclear Weapons,

Nuclear Test Ban Treaties

Numerous international treaties have been concluded regarding the prohibition of nuclear tests. According to these international treaties, the states parties to the treaty are obliged to prohibit any type of nuclear tests within the limits specified in the treaty. Among these treaties are; the Partial Nuclear Test Ban Treaty in the Earth's Atmosphere, Outer Space and Underwater, which was adopted in 1963 with the aim of prohibiting any explosion for testing nuclear weapons anywhere other than underground, and the Comprehensive Nuclear-Test-Ban Treaty, which was adopted by the United Nations General Assembly in 1996 as a multilateral treaty. According to Article 5 of the NPT, peaceful nuclear tests are possible for all parties to the treaty without discrimination and taking into account the minimum financial costs. The ultimate goal of concluding international treaties regarding the prohibition of nuclear tests is the non-proliferation of nuclear weapons, and it does not matter whether these tests are for peaceful purposes or not. The Comprehensive Nuclear-Test-Ban Treaty, which was concluded following the NPT, actually came into force in conflict with the provisions of Article 5 of this treaty and was imposed by nuclear-weapon states on non-nuclear-weapon states in a way that

ignored the rights contained therein and, on the other hand, practically did not achieve the claimed goals of concluding this treaty, namely the complete nuclear disarmament of nuclear-weapon states.

Treaties on the Prohibition of the Placement of Nuclear Weapons in Certain Specific Locations

Based on the provisions of these treaties, the placement and deployment of nuclear weapons and equipment in certain areas in the treaty is prohibited. These treaties are also in line with the principles of non-proliferation of nuclear weapons and the peaceful use of nuclear energy of the NPT and consist of several treaties; . The Antarctic Treaty was concluded in 1959, according to which this region of the planet was considered for the peaceful use of nuclear energy. The Treaty on the Procedures for the Investigation and Exploration of Outer Space, Including the Moon and Other Celestial Bodies was concluded in 1967. This treaty obliges the member states to prohibit the deployment of any type of equipment and facilities for the purpose of carrying nuclear weapons or other weapons of mass destruction in outer space, as well as their deployment on other celestial bodies. The Treaty on the Prohibition of the Stationing of Nuclear Weapons in the Deep Sea and on the Ocean Floor was concluded in 1971. According to this treaty, the member states were obliged to prohibit the deployment of nuclear weapons or other weapons of mass destruction in the depths and under the seas and oceans. Finally, treaties related to the prohibition of the deployment of nuclear weapons in inhabited areas have been concluded, which include 4 treaties; The Treaty on the Prohibition of Nuclear Weapons in the South American Region – known as the Treaty of Tlatelolco – which came into force in 1968; the Treaty on the Establishment of Nuclear Weapon-Free Zones in the South Pacific – known as the Treaty of Rarotonga – was concluded in 1985 and entered into force in 1996. This treaty prohibits any use, testing and possession of nuclear weapons within the borders of the Pacific countries; the African Nuclear-Weapon-Free Zone Treaty or the Pelindaba Treaty: This treaty was signed in 1996 and entered into force in 2009; and the Southeast Asian Nuclear-Weapon-Free Zone Treaty, commonly known as the Bangkok Treaty: A nuclear deterrent treaty between the 10 countries of Southeast Asia (ASEAN) was signed in 1995 and entered into force in 1997. The Central Asian Nuclear-Weapon-Free Zone Treaty, also known as the Semipalatinsk Treaty or Semipalatinsk Treaty, is a legally binding commitment for the countries of the Central Asian region (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan) signed in 2006 and entered into force in 2009.

Treaty on the Prohibition of Nuclear Weapons

At the end of the NPT Review Conference in 2010, and in view of the failure to fulfill the obligations of Article 6 of the NPT regarding the need for complete nuclear disarmament and the non-implementation of the thirteen documents that had been approved by the nuclear-weapon states in the review meetings in 2000, the NPT member states issued a declaration expressing their strong concern and opposition to the use of nuclear weapons and their devastating effects on international nuclear and humanitarian law, and emphasized that all states, both nuclear and non-nuclear, must respect and uphold international humanitarian law. With the follow-up of these states in the United Nations and the support of the Secretary-General of the organization, the issue was raised in the United Nations General Assembly, and on December 23, 2016, the General Assembly issued a resolution to draft a Treaty on the Prohibition of Nuclear Weapons. In accordance with this resolution, several rounds of international multilateral negotiations were held on the issue, which were ultimately approved, despite objections. And the strong opposition of nuclear-weapon states The Treaty on the Prohibition of Nuclear Weapons was adopted on July 7, 2017, by 122 votes in favor, one against, and one abstention, at the United Nations headquarters in New York. The treaty will enter into force after the deposit of the fiftieth instrument of ratification.

The Treaty on the Prohibition of Nuclear Weapons is a binding international agreement to prevent nuclear weapons. Compared to the Treaty on the Non-Proliferation of Nuclear Weapons, which imposed only a partial restriction, this treaty, 70 years after the use of nuclear weapons by the United States in Hiroshima, for the first time legally prohibits the possession, production, use or threat of use of nuclear weapons under any circumstances.

According to this treaty, the signatory states shall not develop, test, produce, manufacture, procure, acquire, possess, or stockpile nuclear weapons or nuclear explosive devices or the threat of their use under any

circumstances. According to this treaty, any transfer or use of nuclear weapons or any nuclear explosive device or the threat of their use is prohibited.

According to this treaty, the nuclear-armed states party to this treaty must eliminate their nuclear weapons stockpiles and all related equipment and supplies within a certain period of time. The provisions of this treaty are not binding on states that have refused to sign it.

1988 Amended Convention on Counteracting Acts Dangerous to the Safety of Maritime Navigation

This convention sets broad restrictions on acts that may endanger shipping and maritime safety. The said convention was adopted in 1988, following the attacks that took place in 1985 by Palestinian combat forces on the Italian ship *Lereo*, during a multilateral conference (Mumtaz, 2006, *ibid*). This convention came into effect in 2008.

In fact, this convention guarantees the safety and security of shipping against risky actions by people on board the ship and these actions endanger the safety of the ship's navigation and also cause damage or destruction of property on the ship. The point is that this convention had placed the ship itself in the position of damage and victimization, but it is silent about if a ship threatens and targets naval equipment and installations or the interests of other countries as a weapon.

After the formation of the Proliferation Security Initiative, proponents of this initiative sought to influence it in international treaties and even justified that previous treaties had also agreed with this formation and stated in a way that the acceptance and support of the principles of the initiative had paved the way for changes in previous frameworks related to the initiative. Obviously, the purpose of expressing such arguments is to create an atmosphere that is convergent with the aforementioned initiative. The members of the International Maritime Organization also considered changes in the provisions of the aforementioned convention. Accordingly, the need to amend and change the provisions of the convention was placed on the agenda of the Legal Committee of the Convention. Some governments under the banner of the United States of America and the United Kingdom commissioned a delegation to prepare a revised text for this task. This delegation submitted the results of its studies, along with a proposal for a revised protocol, to the next session of the International Maritime Organization (Hatami, 2010, 132-133).

In addition to its direct impact on the concepts and nature of the legal system for combating terrorism, the aforementioned protocol integrates the legal regime of non-proliferation, complete disarmament, and the acquisition and production of weapons of mass destruction into the fight against terrorism. Therefore, it is clear that this protocol has moved beyond the primary objective and purpose of the 1988 Convention, namely ensuring maritime safety (Mumtaz, 2006, *ibid*.).

Non-treaty mechanisms

This group of mechanisms has mainly been crystallized in the form of political decisions and has been formed by nuclear states and mostly in order to consolidate and strengthen the principle of non-proliferation of nuclear weapons and limit the principle of the right to peaceful use of nuclear energy, including the Zanger Committee, the Nuclear Exporters Group and others:

Zanger Committee

After the nuclear tests of India and the nuclear activities of North Korea, South Africa and Brazil, an institution called the Zanger Committee was formed in 1971. This committee began its work in order to interact and coordinate between nuclear states to monitor and control the nuclear activities of developing countries.

The objectives of the founders of the Zanger Committee were to assist member states in reviewing and clarifying the definitions of special materials and equipment used for the processing and production of fissile materials and to determine the conditions and manner of supply of these materials. In line with the aforementioned objectives, the Committee adopted two understandings in 1972; each of the two understandings defines the manner and manner of export of equipment and materials described in Article (2) 3 of the NPT Treaty. According to the first understanding, the descriptions and definitions regarding special source and fissile materials contained in Article 20 of the Statute of the International Atomic Energy Agency should be redefined

in comparison with Article (2) 3 of the NPT Treaty. The aforementioned understanding also describes the procedures that a member state of the NPT Treaty should follow when exporting such materials to non-nuclear-weapon states and non-member states of the NPT Treaty. The second memorandum contains a list of specially designed items that can be exported if the Agency's safeguards are applied to them, known as the trigger list. This list includes components such as Raptors and their equipment, as well as designs for the reprocessing of nuclear fuel components.

This list is called the trigger list because when exports of the items listed in the memorandum exceed the permitted limits, the Agency's safeguards are automatically implemented (i.e., an increase in exports of listed items, such as a rifle trigger, will trigger the Agency's safeguards). The aforementioned understandings expand on the conditions previously set out in Article 2(3) of the NPT and set out three conditions for the supply of nuclear material:

a) Exports of fissile material or sources, whether directly or indirectly, to non-nuclear-weapon States for the purpose of manufacturing, processing, reprocessing or use in nuclear facilities shall be subject to safeguards, ensuring that they are not directed towards the manufacture of nuclear weapons or other explosive devices and munitions.

b) Exports of fissile material or sources, as well as non-nuclear-weapon equipment and materials, transferred to non-nuclear-weapon States shall be subject to Agency safeguards.

c) Fissile materials or sources and non-nuclear equipment and devices shall not be re-exported to non-nuclear states unless the receiving state accepts safeguards controls on the details of the materials to be re-exported. The member states of the Zanger Committee officially agreed and accepted the aforementioned provisions by issuing multilateral declarations. In this regard, most of the member states of the Zanger Committee requested the Director General of the Agency to inform them of the agreed measures so that other members could join and implement the agreed obligations. The Director General of the Agency took the necessary steps in this regard in 1974 (Hatami, 2010, 144-145.)

Nuclear Suppliers Group

In 1974, the Nuclear Exporters Group or the London Club was formed. This group or club, like the Zanger Committee, is more political in nature and has set its goals under the policies and positions of the member states regarding the expansion of nuclear power and interaction with other countries. The stated goal of this group is to control nuclear weapons and try to minimize the spread of these weapons during the exchange of nuclear knowledge and techniques (Momtaz, 1377, 40-39). The US effort to force Russia to stop nuclear cooperation with Iran is also taking place in light of the decisions of this club.

Since 1991, the meetings of this group have been held annually. Following a meeting held in Helsinki, it was announced that materials and technologies with dual nuclear capabilities are still on the trigger list, and a special working group will continuously monitor the evaluation of information and its exchange between member states.

This group consists of 45 nuclear technology supplier countries, and these members consider themselves obliged to take the following preventive measures and solutions: - Obtain necessary guarantees from non-nuclear countries to prevent them from acquiring dual-use materials and technologies.

-In the event of non-consent from the primary exporters, the sale of yellowcake to third countries should be avoided. Nuclear shipments should be sealed at the origin and destination by Agency inspectors and verified in terms of quantity and quality, and this matter should be reported to the Agency's Safeguards Department as soon as possible.

-Major yellowcake producing states should exercise unified and effective supervision over the export of nuclear materials in coordination with the policies communicated by the Zanger Committee and the Nuclear Suppliers Group. In this regard, the Zanger Committee should prepare a complete list of materials and technologies that have dual capabilities, known as the "trigger list", for the Agency's Safeguards Department (Didgah, 2009, 28).

The Nuclear Exporters Committee and the Nuclear Suppliers Group (London Club) are informal nuclear export control groups. Both groups have lists of items available to non-NPT countries to encourage compliance with the IAEA safeguards rules and thus ensure that these items are not used in the construction of nuclear weapons. On the one hand, the Chain Committee obliges importing countries to place nuclear facilities within the framework of IAEA safeguards, on the other hand, the London Club seeks to accept more limited supplies from non-member countries by exerting pressure (Saed, 2004, 59).

The measures taken by the Zanger Committee, the London Club, and the United States in the field of exporting peaceful nuclear materials and goods, and which created serious obstacles for some governments to use atomic energy for peaceful purposes, are incompatible with the philosophy and spirit of the Treaty on the Non-Proliferation of Nuclear Weapons. It is certainly because of this incompatibility that since the 1970s, many non-nuclear states that are members of the Treaty have considered the actions of the above-mentioned groups to be a violation of Article 4 of the Treaty and have called for their actions to be stopped as soon as possible. (Rezaei Pish-Robat, 2012, 177-178).

Of course, the principle of this group's actions is justified by Article 3, Paragraph 2 of the Treaty on the Non-Proliferation of Nuclear Weapons. The unjustifiability and abuse of the provisions of this paragraph appear when the members of this group impose restrictions based on non-legal considerations and double standards, which are not only not in line with the nuclear non-proliferation regime, but also violate some of its provisions (Article 4 of the Treaty) (Rezaei Pish-Robat, 2012, 160).

Proliferation Security Initiative

This initiative was formed at the suggestion of the United States of America, together with its partners, to create a coalition against the challenges related to the proliferation of weapons of mass destruction. In order to confront the threats arising from the use of weapons of mass destruction that occur outside the jurisdiction and scope of international organizations and treaties (Valencia, 2005, 5).

The starting point of this initiative dates back to 1993, when the United States claimed that a Chinese ship carrying cargo was carrying chemicals that were used in the production of mustard gas and sardine nerve gas. After several days of disagreement and argument, the Chinese government finally agreed to stop the ship for inspection in a Saudi Arabian port. Despite the inspection, no chemicals were found, and the Chinese government requested an apology and compensation for the damage caused by the detention and diversion of the ship (Tempest.R, 1993, 10). However, a few years later, in 2002, US security forces reported that an unflagged ship with the trade name Susan was sailing from a port in North Korea to an unknown destination. The US government immediately requested that the Spanish authorities, using the country's naval forces, seize the ship in the Mediterranean Sea and inspect it to ensure that it was not carrying illegal cargo. Following the seizure, although the crew of the ship tried to destroy the cargo on the deck, Spanish forces immediately managed to board the ship and discovered and seized 15 missiles, 15 warheads, and oxidizer fuel (Ricks T E and Slevin P, 2002).

In 2003, US government officials announced in a statement that as long as weapons of mass destruction are being transported and transferred, the necessary power and facilities must be provided to seize these weapons. Therefore, at this critical moment, by introducing a plan entitled "Weapons of Mass Destruction Proliferation Security Initiative", this government announces its readiness to combat the aforementioned threats.

The United States and some countries, including Poland, have agreed to inspect ships and aircraft suspected of transporting and transferring illegal cargo and to stop the process of unconventional weapons and advanced missile manufacturing technology. And over the past years, they have promoted multilateral cooperation to a high level in order to minimize access to weapons of mass destruction for other countries and to keep their opponents and enemies away from acquiring such weapons (Romano, 1999; 1023).

The founding members of the Security Initiative include the United States of America, the United Kingdom, Germany, Italy, France, Japan, Australia, India, Portugal, Poland and Spain, and later other countries including Turkey, Canada, Denmark, Norway and Singapore became its members. The main goal of establishing the Initiative is to devise coherent and efficient solutions to prevent the transfer and spread of weapons of mass

destruction, which is currently being demanded as one of the major concerns of the international community in the field of global peace and security (Shahbazi, 2015: 56).

Declaration of Prohibition Principles

Eleven member countries of the Proliferation Security Initiative agreed in 2003 during the meeting of this initiative held in Australia, regarding North Korea's activities to develop weapons of mass destruction, to determine and adopt non-binding principles under the title of "Prohibition Principles". Many countries have joined the Proliferation Security Initiative, which shows that governments welcome the aforementioned plan and support the non-proliferation of weapons of mass destruction through the sea, especially the high seas.

The Declaration of Security Principles announced four demands that are effective in advancing and realizing the missions of the initiative, which are expressed as the goals of the Proliferation Security Initiative:

-1 Taking effective individual or collective measures to prevent the proliferation, acquisition, transfer, and in general any type of movement and exchange of weapons of mass destruction, their delivery systems, and related materials and equipment from or to countries or non-state entities.

-2 Taking effective measures and actions to exchange information and operations that monitor any investigative and prosecution measures.

-3 Promoting relevant methods and principles at the national level to achieve the principles and goals of the initiative and legitimizing those principles based on the rules of international law.

-4 Adopting mechanisms to prevent the transfer of illegal materials in the national geography of countries and to pursue, stop and inspect ships and aircraft suspected of transporting and transporting said materials (Hatami, 2010, 130-129).

An interesting method of the Proliferation Security Initiative is that it performs its duties without establishing an international organization, simply by organizing international working groups. These working groups include; a working group of operational experts, an intelligence working group and a working group of legal experts, and this working group operates in areas outside the territorial borders of the initiative members (Mcclinchey D., 2004, 10).

Self-defense

The issue of seizing and inspecting ships on the high seas in order to control weapons and maintain international peace and security was raised by the United States of America based on the general principles of self-defense. Of course, the French government had previously taken similar decisions in the 1950s and 1960s. The country invoked Article 51 of the UN Charter to justify its actions in arresting and inspecting ships suspected of carrying weapons to Algeria, although this action was strongly protested by flag states. Another similar case involved the ship *Karin A*, which was seized and inspected by Israeli authorities in the Red Sea in 2002. Despite the fact that the ship was carrying conventional weapons, Israeli authorities stated that the weapons were for the use of Palestinian militants and that they were therefore resorting to self-defense in response to an imminent threat. These statements are in clear contradiction to the conditions governing self-defense set out in Article 51 of the UN Charter, which states: "If a Member of the United Nations is the object of an armed attack, until the Security Council has taken appropriate measures to maintain international peace and security, nothing in the present Charter shall impair the inherent right of individuals or groups to exercise self-defense." Accordingly, self-defense can be applied when a military attack by an aggressor country against the attacked country is imminent and certain to occur. Considering that the justification of the Security Initiative based on the principle of self-defense lacks legal validity and implies that the justification of the Proliferation Security Initiative is based solely on the principle of self-defense mentioned in the United Nations Charter, it reveals the fact that the reliance on this Charter principle for the seizure and inspection of ships on the high seas is due to the lack of foundations and documentation of other treaties, because otherwise the United States of America would have relied on those treaties and regulations to justify the actions it takes within the framework of the initiative (Hatami, 2010, 123-124).

Conclusion:

Nuclear science is one of the new fundamental sciences that most countries are always competing to achieve its advantages and capabilities, and by conducting nuclear tests and arms races, they somehow demonstrate their power against other countries, and this situation has seriously endangered international peace and security. After the nuclear tests of nuclear countries and after the end of World War II, measures were taken by countries to control and restrict international nuclear activities, which resulted in numerous international agreements and treaties, including the Comprehensive Test Ban on Nuclear Tests and others, and in particular, the ratification of the Statute of the International Atomic Energy Agency is a turning point in this regard. One of the most important treaties in the field of international nuclear law is the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which is based on three basic principles, namely; non-proliferation of nuclear weapons, peaceful use of nuclear energy, and general and complete nuclear disarmament. The principle of non-proliferation and the principle of nuclear disarmament are actually necessary and indispensable to each other, meaning that the goals of each of these two principles are more achievable by realizing the other, although each of these principles can be achieved independently.

On the other hand, the peaceful use of nuclear energy can help countries meet their energy needs, including electricity, improve health, and provide medicine and treatment for various incurable diseases, improve agricultural seeds, raise the quality of crops, and provide food, and fight poverty, etc. It is of great importance that the benefits of using nuclear energy outweigh its disadvantages, especially the production of nuclear weapons. Therefore, the majority of schools, religions, and various political tendencies have certainly not denied or prohibited the peaceful use of nuclear energy. It is natural that Imamiyyah jurisprudence, which is in favor of using all divine gifts based on observing the principle of equality and protecting the rights of others, is no exception to this rule. In view of the verses, narrations, and valid jurisprudential rules and principles, the use of new and discovered human sciences for the better life of Muslims and peaceful uses has always been approved and emphasized. Some jurists have even considered the use and application of modern weapons necessary and essential to ensure the authority of a country, citing verses and narrations. Of course, the opinion of this group, which was in the minority, is believed by many to be in conflict with the fatwas of the religious authorities, including the famous fatwas of the Supreme Leader on the ban on nuclear weapons and atomic bombs, and cannot be relied upon. Therefore, the dominant theory of the jurists and religious authorities is, first, to approve and emphasize the peaceful use of nuclear energy. Second, they have also prohibited and sanctioned any construction, accumulation, and development of nuclear weapons. Therefore, Imami jurisprudence in its ideological basis and content can be evaluated in accordance with the principles contained in the NPT. On the other hand, based on the findings of this research, it is clear that international nuclear law is under the management and intervention of nuclear states, and considering the history of concluding international treaties and establishing groups and organizations such as the Zanger Group, the London Club, and others, in relation to the rights of other countries in the world to use atomic energy peacefully, it has only been considered to ensure the security and monopoly of nuclear and powerful countries with nuclear materials and technology, and bilateral or multilateral treaties and agreements have never implemented the objective and real commitment of countries with technology to allow non-nuclear applicant countries to use nuclear energy peacefully; on the contrary, it has only placed non-nuclear states under the control and safeguards regime of the Agency and interpreted according to the opinion of the same nuclear states. Although appropriate and good measures have been taken so far by non-nuclear states, including the conclusion of the Treaty on the Prohibition of Nuclear Weapons approved in 2017, which emphasizes the principle of general and complete nuclear disarmament (Article 6 of the NPT), and of course, this has been met with strong opposition from these same nuclear states, it is necessary for non-nuclear states, and especially Islamic states, relying on credible Islamic sources and with complete unity, to prepare the ground for the establishment of regional or international organizations such as the Regional Atomic Energy Organization, and to pursue the principles of the NPT seriously and continuously under the protection of a regional organization that will be far stronger than the legal personality of individual states .

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