

Superpower Imperialism and the “Peaceful Uses” of Atomic Energy

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The “peaceful uses only” clause is one of the most widely used and abused clauses in the postwar history of nuclear politics. Contrary to what we might expect, the terms “peaceful” and “military,” as defined in various atomic energy agreements, are not antonymous. For two decades the terms have been used in different ways without any consensus about what they mean even between two parties to an agreement. The various meanings given the terms reflect certain value-premises, and the values are in turn based less on logic than on the policy needs of specific states. Definitions reflect and foster a distinction between nuclear weapons states and nonnuclear weapons states, between the nuclear superpowers and those states which have sophisticated civilian nuclear programs. Since the nuclear superpowers stand to benefit from the imposition of legal or normative restrictions, the “peaceful uses” clause has become a vehicle of superpower imperialism in modern international relations.

If we compare what the peaceful uses clause has meant in India’s experience with the experience of Canada, the USA and the International Atomic Energy Agency, we can get a grip on the problem. The problem of definition exists at three levels: First, there is a difference between the peaceful and the military state of a particular technology; then one must specify what constitutes the act of diversion from peaceful use to military use. Behind these two distinctions lies a judgment about the motives with which a state seeks to advance its technology. Nineteenth-century international law, in rejecting the notion of “just war,” replaced the role of “motive” in questions of war or peace with the “act of state” as a sufficient justification for the use of power in intergovernmental relations. The “act of state” was thus seen as a source and a manifestation of state

sovereignty. However, in seeking to distinguish between the peaceful and military uses of nuclear technology, the nuclear superpowers have revived the judgment of motive in world affairs. The problem with this is not that one state tries to assess another state’s intentions, but that one militarily powerful state wants to institutionalize its assessment of another state’s intention in a treaty without accepting reciprocity in practice. It is a classic instance of a strong state dictating the acceptable rules of behavior in the world community.

The foundation of India’s atomic program was laid in 1944 when the Tata Institute of Fundamental Research was established under the guidance of Dr. Home Bhabha, subsequently the first head of the Indian Atomic Energy Commission. India entered the atomic club in August, 1956, when the first experimental research reactor became critical. APSARA was the first research reactor in Asia and was indigenously built. The enriched fuel element came from Britain, and a bilateral agreement ensured its peaceful use.

The second research reactor (CIRUS), as well as subsequent Canadian reactors, was introduced under a Canadian version of the “atoms for peace” concept. The Indo-Canadian agreements, from 1956 to the present time, centered on the principle that there should be no diversion to military uses. But there was no agreement between India and Canada about the meaning of “peaceful uses”; differences on this score were papered over in bilateral negotiations until, in 1966, they became a point of contention in Indo-Canadian relations.

India’s atomic energy relationship with Canada developed in the framework of bilateralism and reflected India’s concern to establish a viable basis for scientific cooperation with the West. During 1954-58 the personal relationship between Prime Minister Nehru and the Canadian Premier St. Laurent enabled the two countries to seek bilateral methods for solv-

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ing problems which were often multilateral in character. The political patterns in South Asia and the problem of disarmament were two issues on which the Indian and the Canadian leaders collaborated bilaterally. Both countries wanted to depolarize the cold war, and in the 1950's the bilateral method of conflict resolution became a cornerstone of Canadian and Indian foreign policies. In this context, Canada took the position that nothing should be done to disturb the Indian subcontinent and that cooperation in atomic energy was a type of exchange which could strengthen the Indian economy.

While the principles of Indo-Canadian cooperation in atomic energy were being considered, President Eisenhower announced the Atoms for Peace concept and Britain embarked upon a nuclear energy program. These developments, plus the mutual respect existing between Canadian and Indian officials, facilitated Canada's giving India a favored-nation treatment. In view of American and British objections about India's nuclear intentions and their insistence upon the need for rigid inspection procedures, the Canadian terms for setting up India's program appear in retrospect to have been singularly favorable in the history of atomic energy.

Two policy concerns seemed to dominate India's attitude toward atomic energy and arms control during the 1950's. The most obvious was the need to harness atomic energy for India's industrial requirements. In 1948 Madame Pandit, Nehru's sister, pointed out to the United Nations General Assembly that "Atomic energy could be of enormous importance in raising living standards to some reasonable parity with those in the West The underdeveloped countries cannot, therefore, forego an opportunity to develop atomic energy for industrial purposes, nor can they allow any international organisation dominated by the industrially advanced countries to control their activities in regard to the development of atomic energy." Dr. Bhabha also pointed out that India's energy needs could not be met through use of coal and hydroelectric resources. In 1958 he explained the comparative utility of atomic energy, noting that the decisive factor was "not the relative cost of power stations, but the relative total cost to the economy as a whole of providing progressively larger amounts of new power."¹

The other concern was less obvious, but nevertheless salient. India wanted to avoid restrictive international safeguards so that, if the need arose, she could develop a weapons-oriented program. This concern was central in Nehru's and Bhabha's approach, reflecting a loose link between the "peace" and security uses of disarmament and atomic energy. Neither Nehru nor Bhabha lost sight of the potential military uses of atomic power, and although there was no formal coupling between the peaceful and



military uses, there was a built-in capacity for such a linkage.

Nehru's strong reaction in the Indian Parliament against President Eisenhower's December, 1953, Atoms for Peace proposal revealed his commitment to disarmament, but also his opposition to disarmament proposals that tied India's hands, as foreign inspection in the "peaceful uses" clause seemed to do. Neither could he support proposals which helped shape a Soviet-American détente in arms control and thereby strengthen elitism in international security affairs. Although Nehru called for global disarmament, particularly of strategic weapons—which would have lessened the importance of the military powers—he was willing to support partial arms control measures such as the partial test ban. This was significant because in 1956 Moscow was expressing a willingness to consider decoupling general and partial disarmament—a move that signalled Soviet interest in a détente with the West, even though it may hurt China's interests.²

Three nuances marked India's interest in nuclear disarmament and atomic energy, and all three are found in Nehru's statements during 1954-60. First, Nehru was against international control of atomic energy. In a landmark statement to the Indian Parliament (May 10, 1954) on Eisenhower's Atoms for Peace proposal, he asked: Which nations are going to control atomic energy internationally?

Either you make the body [of control] as big as the United Nations with all the countries represented, or it will be some relatively small body with the great powers sitting in it and lording it over. . . .

We are prepared in this, as in any other matter, even to limit, in common with other countries, our independence of action for the common good of

the world. We are prepared to do that, provided we are assured that it is for the common good of the world and not exercised in a partial way, and not dominated over by certain countries, however good their motives.

Second, Nehru focused on the essentially political nature of disarmament and the American proposal to control the peaceful uses of atomic energy. In a speech to the United Nations General Assembly, October 5, 1960, he noted: "Most of the people sitting here have practically nothing to disarm, although we are greatly interested in the disarmament of others so that war may not break out and destroy the world." He again opposed "finalization" of world affairs by a select group of states. Thus he linked the need for nuclear disarmament with the need to solve the political problem of discrimination between the military superpowers and the weaker states. At the same time, he discriminated between the need to disarm the nuclear superpowers and the need to disarm the weaker states.

Third, Nehru's interest in nuclear disarmament was closely circumscribed by his appreciation of technological changes in the field of atomic energy. Thus in a speech to the Indian Parliament on November 22, 1960:

A situation has arisen, or is arising, when perhaps an even greater urgency comes into the picture for a variety of reasons. If nothing effective is done in regard to disarmament in the course of the next three or four years [that is, about the time China exploded its first atomic device] it may perhaps become too late to deal with it; it may become impossible to control the situation. So far as nuclear weapons are concerned, some kind of advance is being made almost from day to day, from month to month, making these weapons more powerful, more dangerous and, what is more important, relatively easier to make. Once this spreads to many countries, it will become exceedingly difficult to have any effective disarmament or any effective machinery of control. Therefore, something has got to be done in regard to disarmament before we pass this point of no return.

These three points informed India's strenuous objections to the creation of the International Atomic Energy Agency, and once the agency was formed, India fought from within against the imposition of an extensive safeguards system. Before 1963 the USSR had also viewed the IAEA with suspicion, and India found support for its positions from the USSR.³ In 1963 the USSR moved toward the American position, namely, that transfer of fissile materials to any country ought to be accompanied with IAEA inspection. Of course the principal nuclear powers were exempt from such inspection, and India con-

tinued to press the argument that inspection of the atomic have-nots represented a form of atomic colonialism.

Despite India's resistance to international safeguards, Canada had faith in India's atomic program. In addition, India's natural uranium-fueled reactor program could be used as a model for promoting sales of Canadian reactors in a competitive world of nuclear technology. Canadian agreements with India from 1956 to 1968, however, indicated that Canadians too were tightening the restrictions to ensure peaceful use of atomic energy. As a last resort, India accepted bilateral Canadian inspection of nuclear fuels but rejected the same for nuclear equipment. And although the "peaceful uses only" clause was inserted in every Indo-Canadian agreement, the definition of the term was still left unexplained. In subsequent agreements, in response to American and Pakistani pressure, India and Canada recognized the need to reiterate their "common interest" to use fissionable material for peaceful uses only, and this entailed mutual inspection of India's Rajasthan reactor and Canada's at Douglas Point.

But the common use of the term "peaceful uses" camouflaged the difference of opinion between India and Canada. Efforts by Canadian officials in New Delhi to tighten the scope of inspection were rejected by Indians because India was more interested in controlling the military than the peaceful uses of atomic energy. Moreover, in view of Indian declarations that India proposed to use atomic energy for peaceful purposes, and in the absence of an international agreement to control the military uses of atomic energy, the question of preventing diversion from peaceful to military uses seemed to India in the late 1950's to be academic. The policy premises on both sides differed, but there seemed to be no reason to force the issue beyond making statements for the record, in private conversations and in international conferences.

India's nuclear behavior reveals a willingness to make concessions if they suit its purpose, but this is combined with a readiness to suffer economic and technological costs in order to protect the political basis of its foreign policy interests. For instance, a concession was made in the 1963 Indo-American agreement for the "civil uses" of atomic energy. (This led to the establishment of an enriched uranium-fueled reactor at Tarapur, near Bombay; access to enriched uranium technology provided valuable experience for Indian scientists.) Article VI emphasized that the common interest of the two countries was to use "any material, equipment or device made available to the Government of India" for the Tarapur station "solely for peaceful purposes." In addition, Article VII stipulated that the material, equipment or device provided by the United States would not be "used for atomic weapons or for re-

search on or development of atomic weapons or for any other military purpose." Provision was also made for the transfer of bilateral safeguard arrangements to IAEA.

While the differences in Indo-Canadian views on peaceful uses were papered over, the Indo-American agreement spelled out the "contrast" between the Indian and American positions on safeguards. The government of India reiterated that acceptance of American safeguards was "in consideration of the fact that . . . the Tarapur Atomic Power Station will be operated on no other special nuclear material" (that is, enriched uranium) which the USA was to provide.

In 1964 Dr. Bhabha emphasized that "since everything in this world can be used both for good or for ill,"⁴ the question of motive applied to the nuclear weapons states as well as to states without nuclear weapons. The Western reaction to this insistence was reflected in the tougher Canadian stance in negotiating the 1966 agreement between India and Canada. Despite the pressures in bilateral negotiations, however, Indians continued to emphasize in disarmament forums that the need was to regulate nuclear facilities of a military nature and not those meant for peaceful purposes.

The real impact of India's argument began to be felt with the appointment of Ambassador V.C. Trivedi to the Geneva-based Eighteen Nations Disarmament Committee (ENDC). Unlike many Indian envoys in Geneva, Trivedi was an expert on nuclear energy and disarmament matters. During his time in Geneva he escalated the Indian arguments in a way that was logically and politically relevant, giving lasting form to the reasoning of India's political and nuclear strategy.

From 1964-68, for instance, the USA stressed the urgent need to prevent the further spread of nuclear weapons (that is, to prevent the growth of the number of nuclear weapons states) and sought universal application of IAEA safeguards for peaceful (not military) nuclear activities. In 1965 in the ENDC Canada maintained its reputation for following policy premises of the USA and supported the importance of IAEA safeguards. In bilateral Indo-Canadian negotiations Canada took a more flexible approach, and it is conceivable that Canada's disarmament negotiators in Geneva were not fully briefed on the political and legal nuances of bilateral Indo-Canadian relations. In contrast to American and Canadian positions in Geneva, Ambassador Trivedi insisted that there must be corresponding obligation toward nuclear disarmament by the existing nuclear powers; that the security of the nonnuclear weapons states lay not in security guarantees but in nuclear disarmament; and that IAEA safeguards were acceptable only if they applied to all countries and all reactors. In short, Trivedi focused on the need to achieve universal and comprehensive nuclear dis-

armament as a *sine qua non* of a peaceful world. The fear of China, it should be noted, was not a dominant factor in India's nuclear policy, although China has indeed been an argument in India's overall security debate.

As the Indians see it, the nuclear nonproliferation treaty and the IAEA safeguards approach to nuclear disarmament do not meet India's technological and security needs. Since the 1960's two concerns have been prominent in Indian policy perceptions. First, since the early 1950's there was the practical concern that if India



had to "go nuclear" it was essential to prevent external controls on its atomic energy program. The foresight shown by Nehru and Bhabha in this regard clearly laid the foundation for subsequent Indian foreign policy behavior. The importance of this concern becomes evident in the event India chooses to declare its intention to go nuclear, that is, to move from a "peaceful" program into a "military" program. Such a change might include the following package: (1) a smoothly functioning conventional military machine already in being; (2) further development of the Indian navy, entailing use of nonexplosive and/or explosive military technology; and (3) de-

velopment of a missile program if, as Henry Kissinger stated privately in his conversations in Delhi in July, 1971, India is felt to be outside the American security mechanism in matters involving the Chinese. On the other hand, if the White House seriously begins to work in India and stops discriminating between China and India, it is possible that the speed and direction of India's nuclear program might be greatly altered.

The second concern is whether it is proper to develop international nuclear law through fuzzy distinctions. Two points are at stake here. (1) Whether the nuclear superpowers have the right to impose or seek to impose their preferences on the lesser powers. (2) Whether the formulas which are used to give legal shape to superpower preferences are valid and can work. For instance, the formulas which are suggested or used in various international arms control agreements with regard to the peaceful and military uses of atomic energy have many variations. One suggestion seeks to restrict "any military purpose"⁵; another restricts "diversion" from "peaceful" to "military" uses⁶; a third tries to define a nuclear weapon or a nuclear device⁷; a fourth seeks to think of nuclear weapons as something producing energy in an "uncontrolled manner"⁸; and yet a fifth relates a nuclear weapon to "characteristics that are appropriate for use for warlike purposes."⁹ Of course international nuclear law ought to be developed, but as the above confusion suggests, relying solely on the judgment of nuclear superpowers is a highly unsatisfactory way to create law in a community of sovereign nations.

Since India, Japan and Israel are all likely to violate the superpower norms in the Non-Proliferation Treaty, we should in the 1970's be focusing on the attitudes of these countries. The ambiguities about "division," "peaceful" and "military" have been touched upon, but it is necessary to point out that these ambiguities become particularly problematic because the treaty stipulates that countries which exploded a nuclear device prior to January 1, 1967 (Article IX [3]) are nuclear weapons states and as such may continue to explode "peaceful" nuclear devices without undergoing international inspection. The same, of course, is not true with respect to those states which did not trigger a device before January 1, 1967. Why another arbitrary date, which might have excluded China, Britain and France from nuclear club membership, was not chosen indicates the obviously political use of a legal norm.

The Indian argument is that the difference between peaceful and military uses of military technology is a question of motive, and science can provide no objective method for differentiating be-

tween the two. Japan indicated that if and when such a distinction became possible, the treaty restrictions on "peaceful" nuclear explosives ought to be removed. Israel, like India, has argued that its program was for peaceful purposes. While there is no obvious coordination of strategies between India, Israel and Japan, self-reliance is obviously a bigger factor for Israel and India than it is for Japan, which has only recently started to decrease its dependence on the United States.

The parallelism between Indian and Israeli arguments includes a token acceptance of external inspection in order to satisfy the world community. There are also obvious differences between India and Israel. The Indian program is more broad-based and geographically spread out. The Israelis, unlike the Indians, have been more inhibited in discussing the problem of superpower imperialism. The willingness of Indians to give more visibility to their differences with the superpowers, and thus to suffer possible costs in terms of external assistance, says something about the nature and style of India's bargaining strategy. The absence of an Indian constituency in the American electoral system is one obvious factor forcing India to rely more on inter-governmental than on intragovernmental bargaining.

Whatever the difficulties India faces in making its case, we may all in the long run be indebted to the Indians for their persistence in pressing for a greater measure of lucidity and fairness in the ordering of nuclear policy in international law and practice.

NOTES

1. H.J. Bhabha, "The Need for Atomic Energy in the Under-developed Countries," *Proceedings of the Second United Nations International Conference on the Peaceful Uses of Atomic Energy*, Vol. I (Geneva, 1958), p. 404.
2. W.C. Clemens, *The Arms Race and Sino-Soviet Relations* (Palo Alto, Calif., 1968), p. 35.
3. For a discussion see J. G. Stoessinger, *The United Nations and the Superpowers*, 2nd ed. (New York, 1970) ch. 8.
4. "Safeguards and the Dissemination of Military Power," *Disarmament and Arms Control* (Autumn, 1964), p. 436.
5. See India's proposal in P.C. Szasz, *Law and Practices of the International Atomic Energy Agency* (Vienna, 1970), p. 352. See also Article II of IAEA's statute, which is focused against furtherance of "any military purpose."
6. This is a standard clause in IAEA statutes and NPT (Article III).
7. The 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America (the Tlatelolco Treaty), Article 5.
8. *Ibid.*
9. *Ibid.*