

US-India Nuclear Cooperation Agreement as discussed in Pakistan

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In my talk I would like to analyze the nature of debate in Pakistan over the US-India Nuclear Cooperation Agreement.

- Has the US-India Nuclear Cooperation Agreement generated sufficient debate in Pakistan? What has been Pakistan's response/reaction/policy to this Agreement?
- What is being proposed in the name of policy and its impact the debate about nuclear deterrence?

Implications for Pakistan:

Specially emphasize how India is framed as responsible nuclear power and Pakistan as naughty one mainly because of the AQ Khan affair. How that issue has cast its long shadow.¹ It is somewhat like Turkey's application for EU. Pakistan's application/aspiration for nuclear cooperation is also likely to meet same fate.

Background/Context:

If one looks at the nuclear issue and its attendant realities in South Asia there are several markers that can serve as points of reference for our discussion. Signpost on the current roadmap of nuclear South Asia would start with the May 1998 tests, followed by the Kargil crisis, the 2000 impasse in India-Pakistan relations, the July 2005 Indo-US nuclear deal, and most recently culminating in the Agreement for cooperation between US and India in the field of nuclear energy made public in the first week of August 2007.

In what for decades appeared like a zero-sum game where Washington's closer ties with Islamabad were perceived inevitably as coming at the expense of closer Indo-US ties, the key feature of the current triangular relationship is marked by multi-dimensional closeness between DC and Delhi and strategic alliance between Islamabad and Washington to fight what the American state sees as 'terrorism.'

Current debate:

Barring few essays by retired Pakistani ambassadors, there has been little debate in Pakistan about the Agreement for cooperation between US and India in the field of nuclear energy made public in the first week of August 2007. In India the Agreement has sparked intense debate that is far from over. In months following the Agreement contentions over it could possibly have lead to the downfall of the Manmohan Singh's government had his Left Front supporters pulled the plug on the government over the deal controversy.

The debate in India was not confined to the Indian legislature alone. The media, particularly the English language print media, covered technical, strategic and domestic political aspects of the Agreement and its fallouts in minute detail.

The US non-proliferation community was equally charged up about the debate.

The same can't be said about Pakistan. The deal has not created equivalent ripples Pakistan. A country so mired in troubled waters of domestic politics can't be faulted for not expending intellectual energies on intricacies of the nuclear Agreement between India and US. Ironically the state of the debate in Pakistan today is eerily reminiscent of the post-1974 debate in

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¹ A Q Khan is bete noir of non-proliferation voices especially who aim their guns at horizontal proliferation. As an example of this genre of writing see Gordon Corera, *Shopping for Bombs: Nuclear Proliferation, Global Insecurity, and the Rise and Fall of the A. Q. Khan Network*, Oxford: Oxford University Press, 2006

Pakistan after India's so-called peaceful nuclear explosion (PNE). It was mainly Zulfikar Ali Bhutto who was the lone voice drawing attention to its implications for the country's security policy.

Whether there is debate in Pakistan or not about the growing Indo-US cooperation in the nuclear area, Pakistan can't remain immune to its effects. Pakistan's nuclear programme has been Indo-centric when it comes to its strategic side, and that has not changed and is unlikely to change in near future.

After offering a brief overview of the debate in Pakistan about the Agreement and place it in historical context, I'll discuss some of the implications of this Agreement for Pakistan. I'll sum up by suggesting few courses of action for Pakistani policymakers should they wish to lend their ear to ill-informed academic like myself.

To fully understand and assess the import of the Agreement there is no substitute for reading the 22 pages dense draft.

Which voices count on issues like the Indo-US Agreement on nuclear cooperation in Pakistan? Who are these voices? Where do these debates/discussions take place? Is there a way to ascertain which voices have say in the actual policymaking and to what degree?

Debate as it is understood in this paper refers to what appears in public realm. That view of the debate, I acknowledge, is quite restrictive as anyone familiar with the Pakistani nuclear programme and its attendant aspects would know that the Armed Forces exercise much of the control when it comes formulating nuclear policy. Some civilians may be privy to the on-going internal debates in forums like Strategic Planning Division or National Command Authority, or other such venues; but I'm not one of the those lucky chaps.

Yet, the views that prevail in such debates, presumably such matters of intensely debated, often become the official policy and reaches public realm usually through foreign office statements. Diplomatic core, and within that individuals assigned areas of arms control and relations with US and India, is other place where this issue could have been debated. But the nature of their profession is such that they will say bare minimum and this subject is no exception.

One might say that if those who are responsible for policymaking and custodians of nuclear programme are unlikely to say much beyond carefully scripted brief policy statements then what's the point in us writing and discussing this matter.

Mercifully for our purposes most of those who write opinion pieces on nuclear issue in Pakistan happen to be retired diplomats and/or military officers. And to them we'll turn to make sense of this issue.

Other likely venues of generating debate can be civilian politicians in and outside national legislature and academia. The former can be divided into camps. On the one side are those who say the IAEA will be allowed to interrogate A Q Khan. On the other are those who wouldn't like to see that happen. More about it later. But suffice to say that our civilian politicians have kind of hands off approach when it comes to assessing implications of the Indo-US nuclear cooperation for Pakistan. Our legislature didn't have Sitaram Yechuris, Manmohan Singhs and Jaswant Singhs.

Elections will take place in couple of weeks and the nuclear agreement is unlikely to make it into talking points of the leading politicians. If at all it will be exchange of innuendoes over AQ Khan that will occasionally spring up. Looking at the election manifestos/platforms of PPP and PML(Q) and N one does not come across any specific reference to the India-US nuclear agreement and its implications for Pakistan. Jamaat Islami, traditionally more vocal on such issues than any other party, has decided to boycott the polls. So don't expect too much from civilian politicians by way of insights here. Let's keep in mind how the civilians have been sidelined on this issue historically.

The case of academia is slightly different. The pool is shallow and is mainly confined to handful of think-tanks, most of which are government funded hence not as independent as they claim to be, based in Islamabad.

So much of the debate takes place in op-ed pages of English language dailies. Talk about paper-tigers! Let's turn to them now.

Sporadic analyses that have appeared in Pakistani newspapers have assumed quite a lot by way of prior knowledge of treaties and agreements concerning nuclear weapons and energy on part of the ordinary reader. In reality that may not be the case. Therefore, erring on the side of

the caution, I will try to paraphrase salient features of the deal, their implications for the non-proliferation, and policy options for Pakistan.

That's what the nature of writings was in 1996-97 when the CTBT issue was in the news. Few, then, had bothered to read the draft of the CTBT. Or at least that's how they came across in their writings.

Although the Agreement is manifestly about peaceful uses of nuclear energy, but it is more than that as both countries are 'desirous of strengthening the strategic partnership between them.'

So the arch defenders of the Agreement are being little disingenuous if they would like us to see it as something merely confined to peaceful uses of nuclear energy. That is one of the key reservations of the Left Front objections to the Agreement.

Article 1 defines the terms used in the Agreement and contains 17 such definitions. Interestingly, the term "information" 'means any information that is not in the public domain...but will cease to be information whenever the Party transferring the information or any third party legitimately releases it into the public domain' (p. 3).

Basically what is termed 'information' is in practice 'secrecy' clause as the so-called information is deemed such only insofar it is out of the public domain.

When it comes to 'non-nuclear materials' the signing parties retain the privilege of 'jointly designating' any materials as 'non-nuclear material.'

Although the subsequent clause offer a broad definition of as to what constitutes 'nuclear material' and mentions the IAEA and its Board of Governors deemed as 'nuclear material' but the determination of the IAEA's Board 'shall only have effect under this Agreement when both Parties to this Agreement have informed each other in writing that they accept such amendment' (p. 4).

Hypothetically speaking any determination of the IAEA's Board of Governor to designate a material as nuclear will have no applicability on the Indo-US nuclear cooperation if the former chooses not to accept that in writing.

Article 2 has 4 clauses that outline the "Scope of Cooperation."

The declared objective is to enhance, institute, and facilitate nuclear cooperation in the civilian sector in an all encompassing manner ranging from arranging reciprocal visits by scientists to 'development of a strategic reserve of nuclear fuel to guard against any disruption of supply over the lifetime of India's reactors.'

But the scope is not confined to bilateral cooperation. Clause 2 (g) of the 2nd article reads: 'Supply between the Parties, whether for use by or for the benefit of the Parties or third countries, of nuclear material.'

This means that India and US are going to team up to provide, if they wish to and consider it in their economic and strategic interests, to extend such cooperation to third countries. Nuclear materials from India are unlikely to be shared with countries that are earmarked as actual or possible threats to either India or US. Here one can foresee growing cooperation among close US allies like Israel and new found friends like India whereas shunning the doors of cooperation with countries like Iran or Pakistan.

While agreeing on scope of the Agreement, New Delhi and Washington have skilfully avoided to issue of dual use of nuclear knowledge, materials, and technology.

It is no secret that nuclear technology is dual use, i.e., the same knowledge and technology can be used for peaceful and military purposes. India proved that in 1974 by conducting its first nuclear test.

Proponents of the Agreement unconvincingly dismiss the above concern as pure scare-mongering.

Article 5 deals with the critical issue of the Transfer of Nuclear Technology. This can be read as obligations of the US under the Agreement to make the case for India with other members of the Nuclear Supplier Group (NSG), and amending domestic laws that would result in unhindered supply of fuel for India.

Foreseeing possible opposition from majority of the NSG countries, the US has assured India that they would jointly 'convene a group of friendly supplier countries to include countries such as Russia, France and the United Kingdom to pursue such measures as would restore fuel supply to India.'

This is recipe for undoing the international commitments and opening the Pandora's Box of the nuclear fuel supply chain.

I have mainly highlighted those aspects of the Agreement that would put strain on already shaky non-proliferation regime.

How has Pakistan officially reacted to the Agreement? Has the debate in Pakistan been mindful of/sensitive to the broader context in which Pakistan is seen/viewed when it comes to nuclear field? Is Islamabad's existing response an appropriate policy course for Pakistan? What is the menu of choice/policies available?

It comes as a little surprise that the most recent Indo-US nuclear deal is viewed differently depending which chair you are in—New Delhi's, Islamabad's, or DC's.

If left-out from the orbit of the increasing cooperation in the field of civilian nuclear field, Pakistan sees the July 2005 and the recent 123 Agreement and the Hyde Act not only zero-sum terms with its relationships with India but there is understandable sense of discomfort and questioning of Washington's modus operandi of leaving Pakistan out of emerging cooperation in the nuclear field.

Cozying up of ties between Washington and New Delhi in the meantime led to a markedly different image of India. That of a responsible nuclear power whose weapons aspect of the program is solely India-centric, whose past record did not make it a dubious outsider.

Therefore, when the Indo-US deal came about, Islamabad was made to feel that good 'outsiders' with massive economic potential would be rewarded whereas 'dubious allies' will be left-out and even castigated.

Pakistan did call for inclusion in expanding cooperation in the nuclear field, but in response to these calls the mirror of AQ Khan was held in its face as a reason for Washington's "NO."

The official Pakistani position of points out discriminatory nature of the Agreement and demands the exemptions to be granted to India should also be granted to Pakistan because it too has to cope with an acute energy shortage. Former ambassador Najmuddin Shaikh echoes official fears that 'mounting any other sort of campaign, emphasising for instance the importance of maintaining the non-proliferation regime, will only risk inviting further comment on our past spotty record on controlling the export of nuclear technology and material and on the questions frequently raised about the safety of nuclear materials in Pakistan.'

This policy prescription overlooks the fact that the reason Pakistan's noise about the Indo-US nuclear cooperation being discriminatory is falling on deaf ears is precisely because of Islamabad track record on nuclear transactions. Rather coincidentally news regarding the A Q Khan clandestine nuclear network hit the headlines contemporaneously with the increased cooperation between Delhi and Washington in 2005.

Serving Pakistani diplomats and those in the Armed Forces who are responsible for making policy choices on nuclear and disarmament matters are, I am sure fully aware that the US is not going to extend concrete cooperation to Islamabad in the nuclear arena no matter how loudly Islamabad shouts 'discrimination.' Since that is not going to work, it is about time that military and civilian security policymakers put their noses in papers and alerted others of serious pitfalls of the Agreement.

Dr Shireen Mazari, veteran voice on the nuclear issue, has done that but because her analysis is almost single-mindedly concerned with castigating the US and her suggested policy recommendations for Pakistan is recipe for isolationism.²

Her line of argument is that by initiating the 123 Agreement, United States is violating non-proliferation regime. It is lining up its allies (in the NSG as well as in the IAEA) to ensure

² Shireen M. Mazari, "The New US Non-proliferation Agenda in the Wake of the 123 Agreement," *Strategic Studies*, XXVII:3 Autumn 2007, pp. 1-6

supply of nuclear fuel to India. This line is in marked contrast with the one adopted by people like Najmuddin Sheikh.

Dr. Mazari goes even further and her way of washing out what Sheikh calls 'spotty record' of Pakistan on the proliferation is by accusing India of being a proliferators with having nuclear cooperation agreements in the past with Saddam Hussein and Indian scientists helping Iranian program. This line is unlikely to convert many minds outside Pakistan.

In her assessment, the FMCT (Fissile Materials Cut-off Treaty) becomes the defining issue. She argues the US would blackmailing the international community on this matter and 'hold the conference on disarmament (CD) hostage to its demands' (pp. 4-5) mainly to realize the dream of US-India nuclear cooperation. And this will liberate India's nuclear fuel for weaponization purposes. Which, in turn, would undermine Pakistan's nuclear deterrence capabilities.

Her policy prescription is simple but quite drastic, and I suggest, quite harmful for Pakistan. This is how she sums it up: 'Even if we are the only ones holding out—and the CD does work on consensus principle—we must do it without flinching. To compromise on this would be to compromise on our security and eventually our very existence as a state.'³

The above is illustrative of a trend where analysts like Dr Mazari unfortunately do not situate their analysis and resultant policy recommendations in the wider context nor do they take dispassionate view of Pakistan's track record in mind. It is almost dismissive of the wider context in which nuclear issue/cooperation, or lack of it, is situated. It is recipe for isolationism. Above all, it does not take into account the changing perceptions about sources of insecurity for the country and the means to tackle them as expressed by high-ups like Pervez Musharraf. For Musharraf the biggest threat to the country's security is posed by militant Islamist. So Musharraf and Mazari are not even on the same page when it comes to security perceptions. Their responses to national security threats, understandably, differ.

The evolving nuclear realities between India and Pakistan can be meaningfully understood in situating them in this wider context of changing security scenario.

Factors Favoring Cozying-up in Indo-US relations

- Washington accepting India's de facto nuclear status
- The US administration's decision to un-tie nuclear issue from the wider developments in Indo-US relations first then through the Hyde Act the US establishment finding India and US on the same page as far as the politics of global security is concerned.
- The Bush administration's approval of India as a responsible nuclear power.

Factors not that favourable

- The 9/11 has brought Pakistan back in the radar of US policymakers
- The recent Indo-US deal is fraught with complications that are not conclusively sorted out yet, especially, having to do with domestic politics in India over this matter.

Factors not favouring Pakistan

We will start with this because the even hurriedly prepared list is quite long.

- Goodwill for India in the US is at an unmatched level these days
- While India is now paired with China as potential partner/competitor in economic terms, Pakistan is largely seen through uni-lens of strategic interests.
- While India is seen as a responsible nuclear power, albeit it being non-signatory to the NPT, Pakistan's track record has been tarnished by assorted bumps with the AQ Khan scandal serving as the major stumbling block against any likely cooperation in the field of civilian nuclear energy between DC and Islamabad.

³ Mazari, 2007, p. 6

- Islamabad is seen as a unique ally where the government, or more precisely, the Musharraf regime is seen as the reliable partner in an otherwise choppy anti-American waters of Pakistani polity.
- No meaningful ongoing closer ties between the key Pakistan-US officials as was the case between Strobe Talbott and Jaswant Singh. In fact, in case of Pakistan it is quite the opposite and quoting Talbott is not out of order here. "While Jaswant's team was highly disciplined in every respect, some of Shamshad Ahmad's (former foreign secretary of Pakistan) colleagues tended to be querulous, surly, and sometimes abusive' (Talbott, *Engaging India*, 105).
- Political instability— the question of who do you deal with? remains elusive as ever. Where Foreign Office is kind of a glorified travel agency for visiting dignitaries or front office to face diplomatic assaults in case of failure of policies made exclusively by the men in Khaki.

Conclusion

In Pakistan, on the question of how best to deal with the growing India-US nuclear cooperation there are two extremes. One the one of the spectrum is what is best represented by Najmuddin Sheikh, former foreign secretary, that is taken which echoes the official position. That pretty much amounts to inaction.

On the other end of the spectrum is Dr. Mazari, whose position if followed through would mean isolationism. A position that is at best based upon little regards/cognizance of the contextual realities in which India-US nuclear cooperation takes place and how Pakistan is situated in it.

It would be more useful to calibrate the policy between these two extremes of inaction and isolation.

No major breakthrough in favor of Pakistan is in offing as far as Indo-US-Pakistan triangular relationship on the nuclear issue is concerned.

Strobe Talbott assessing Pakistani policymakers' back in 1998 summarized that "the Pakistanis had no game plan. They always seemed to be either hunkering down, lashing out, or flailing about" (Talbott, 106).

There are no visible signs to suggest otherwise when it comes to publicly available Pakistani position in the wake of monumental Indo-US nuclear deal. As they say in cricketing analogy, Islamabad is on the back-foot. This situation is a result of combination of long historical processes, not-so-wise policy choices, and circumstances not in control of Islamabad such as growing salience of the Indian market. These factors cannot be changed overnight. However, steps to redress these factors lie in strengthening making room for genuine in-put by the Foreign Office in policy planning process and coming up with 'game plans' that appear more that 'reactive'.

While India is portrayed as a natural partner of the US, it is worth recalling that when it comes to nuclear issue the proliferation Pandora box in the subcontinent was opened by New Delhi first in 1974 and then again with a bang in 1998. At both occasions, it was not pressing external security threats that necessitated those tests but rather dynamics of domestic politics and configuration of power within Indian polity. Pakistan mainly reacted to Indian actions, what the late Eqbal Ahmed called "India's choices Pakistan's compulsions." It would be ironic if the initiator of nuclear acquisition were rewarded whereas Islamabad is reprimanded. In the long run, if Washington adopts such a course of action it will only contribute to 'insecurity' in the region.