Attacking Safeguarded Nuclear Facilities: Law, Legitimacy, and the Future of the Non-Proliferation Regime

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Abstract

Deliberate attacks on civilian nuclear facilities operating under International Atomic Energy Agency (IAEA) safeguards violate core principles of international law and corrode the confidence mechanisms that sustain the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Such operations endanger populations and the environment, undermine reciprocity around peaceful nuclear rights, and signal permissive attitudes toward the use of force against protected installations. Drawing on established legal baselines—including the NPT's Article IV guarantees, the IAEA safeguards system, UN Security Council (UNSC) precedents, and the humanitarian protections associated with works containing dangerous forces—this article assesses the legal and strategic implications of strikes against safeguarded facilities. It argues that normalising such attacks (including recent strikes on Iran's programme) weakens the credibility of the NPT and the IAEA, while entrenching geopolitical double standards—most notably regarding Israel's undeclared nuclear arsenal and U.S. instrumentalisation of non-proliferation as a tool of hegemony. A brief case discussion of North Korea highlights how perceived double standards and regime-change fears can push states to view nuclear weapons as the ultimate deterrent. The article concludes with legal, diplomatic, and institutional steps to restore discipline, strengthen accountability, and protect peaceful nuclear infrastructure.

Keywords

Non-Proliferation Treaty (NPT); IAEA safeguards; attacks on civilian nuclear facilities; international humanitarian law (AP I, Art. 56); UNSC Resolution 487.

1. Normative Baselines: Peaceful Use, Safeguards, and Protection from Attack

The NPT rests on a bargain: non-proliferation and disarmament commitments balanced by the "inalienable right" to develop nuclear energy for peaceful purposes and to benefit from international cooperation (NPT, Art. IV; French MFA, n.d.). That bargain is operationalised through IAEA comprehensive safeguards—codified in INFCIRC/153—which require states to accept verification on all nuclear material in all peaceful activities to ensure non-diversion to weapons (IAEA, 1972; IAEA, n.d.-a). While the law of armed conflict permits targeting lawful military objectives, humanitarian law sets heightened protections for works containing dangerous forces—explicitly including nuclear electrical generating stations—due to catastrophic collateral risks (Additional Protocol I, Art. 56; ICRC, 1987).

Though uranium-enrichment plants are not "nuclear electrical generating stations", the underlying logic applies: any attack with a substantial risk of radioactive release or long-term environmental harm engages the principles of distinction, proportionality, and precaution. UNSC Resolution 487 (1981) unanimously condemned Israel's bombing of Iraq's Osirak reactor—then under IAEA safeguards—and called on Israel to place its own facilities under safeguards, establishing an enduring Security Council precedent against attacks on safeguarded sites (UNSC, 1981). In short, the legal and political architecture assumes that safeguarded facilities are to be protected, not pre-emptively destroyed.

2. Unlawful Strikes and the Erosion of the NPT's Bargain

Recent strikes and sabotage operations against Iran's safeguarded programme—reported at Natanz, Fordow, and Isfahan—illustrate the dangers of unilateral action outside Security Council authorisation (IAEA, 2025a; IAEA, 2025b; Reuters, 2025; The Guardian, 2021; Reuters, 2021). Such actions blur the line between counter-proliferation claims and aggression, corrode confidence in verification, and incentivise secrecy over cooperation. They also risk normalising the use of force against nuclear infrastructure despite the UNSC's Osirak precedent and the humanitarian law principles designed to prevent mass-harm externalities (UNSC, 1981; ICRC, 1987; Carlson, 2022).

Beyond immediate safety concerns, these operations strike at the heart of reciprocity: if adherence to safeguards does not protect a state from attack, incentives to accept intrusive verification diminish. The net effect is to weaken the IAEA's authority and to make the NPT's peaceful-use pillar look contingent on great-power tolerance rather than on legal entitlement (Gibbons, 2022).

3. Gaza and the regional theatres as stress tests for IHL

Israel's long-standing policy of nuclear opacity (*amimut*)—neither confirming nor denying possession—sits outside the NPT framework and therefore outside comprehensive IAEA safeguards, even as neighbouring states are pressed to accept intrusive verification and strict limits (UK Parliament, n.d.). Archival evidence indicates that, by the 1960s, Israel had developed a clandestine plutonium pathway at Dimona, a fact pattern corroborated by declassified U.S. intelligence and subsequent historical reconstructions (U.S. National Security Archive, 2024). The Security Council's unanimous condemnation of the 1981

bombing of Iraq's Osirak reactor through Resolution 487 did more than censure the strike; it "called upon Israel urgently to place its nuclear facilities under IAEA safeguards," underscoring the regime's expectation of universality and transparency (UN Security Council [UNSC], 1981). Four decades on, that call remains unfulfilled.

From a regime-legitimacy perspective, the anomaly is acute. Non-nuclear NPT parties are expected to accept full-scope safeguards and to forgo weapons, while a de facto nuclear-armed non-party maintains strategic ambiguity with limited pressure to regularise its status (UK Parliament, n.d.). The asymmetry is not merely symbolic: it shapes security behaviour. Israel's opacity, combined with a history of pre-emptive and covert actions against neighbours' safeguarded programmes, amplifies perceptions that adherence to verification does not yield protection from attack, weakening incentives for transparency and cooperation (UNSC, 1981). In parallel, multilateral efforts to establish a Middle East zone free of nuclear weapons and other weapons of mass destruction—endorsed by the 1995 NPT Review and Extension Conference's "Resolution on the Middle East" and subsequently advanced within the UN framework—have stalled amid the unresolved question of Israel's status and the absence of region-wide safeguards coverage (United Nations, 1995; UN Office for Disarmament Affairs [UNODA], n.d.).

These double standards reverberate through the non-proliferation bargain. First, they erode the fairness pillar that underwrites compliance: states see stringent obligations and verification imposed on NPT members while a non-party retains an undeclared arsenal without equivalent opprobrium (Gibbons, 2022). Second, they complicate IAEA authority: the agency's claims to neutrality and universality are harder to sustain when a central

regional actor's facilities are not subject to comprehensive oversight (IAEA, n.d.-a). Third, they incentivise hedging by others: if safeguards do not shield compliant states from the threat of force, the security value of transparency declines relative to secrecy and redundancy. Finally, they encourage instrumentalised enforcement elsewhere, where powerful states conflate non-proliferation with alliance politics, further politicising the regime.

Rectifying the imbalance requires a dual track. On the regional track, progress toward a Middle East WMD-free zone should include pathway options for Israel to engage incrementally with transparency measures—beginning with politically binding declarations, enhanced reporting on safety and security practices, and expanded facility-specific arrangements—while building conditions for eventual safeguards coverage commensurate with regional commitments (United Nations, 1995; UNODA, n.d.). On the global track, NPT parties should reaffirm that attacks on safeguarded facilities are unacceptable and that peaceful-use rights are not contingent on political alignment, thereby reducing incentives for pre-emption narratives that feed exceptionalism (UNSC, 1981; IAEA, 1972). Absent movement on these fronts, the perceived two-tier order will continue to sap the NPT's credibility and encourage the very hedging behaviours the regime was designed to prevent.

4. U.S. non-proliferation as hegemonic statecraft

A substantial body of scholarship shows that U.S. non-proliferation policy has often been filtered through alliance politics and regional strategy, producing *selective enforcement* that blurs the line between rule-based governance and great-power management (Tannenwald,

2024). In this repertoire, non-proliferation tools—including unilateral and secondary sanctions, technology-denial lists, export-licensing hurdles, and financial blacklisting—function not only to constrain weapons programmes but also to shape the broader strategic behaviour of targeted states and their commercial partners (SIPRI/EUNPDC, 2025). The result is a *compliance premium* for friends and a *punishment premium* for adversaries: similarly situated programmes can receive divergent treatment depending on geopolitical alignment, reinforcing the perception that the regime's guarantees are contingent rather than universal (Tannenwald, 2024; "Double Standard" study, 2018).

Mechanically, extraterritorial sanctions leverage control points in the global financial system—dollar clearing, correspondent banking, insurance, and re-insurance—to compel third-country actors to observe U.S. restrictions on pain of market exclusion. Even when formal humanitarian or safety carve-outs exist, banks and vendors frequently *over-comply*, refusing transactions involving safeguarded nuclear items such as safety-grade sensors, medical isotopes, or grid-stability components, for fear of enforcement risk (SIPRI/EUNPDC, 2025). This chilling effect is not a peripheral nuisance: it directly undercuts the NPT's Article IV promise of access to peaceful nuclear technology "without discrimination" under IAEA verification, substituting discretionary gatekeeping for legal entitlement (IAEA, 1972; SIPRI/EUNPDC, 2025). In practice, therefore, unilateral sanctions can narrow the space for licit, safeguarded cooperation—precisely the cooperation the regime seeks to *encourage*—while doing little to resolve underlying security disputes (Tannenwald, 2024).

Selectivity also manifests in the tolerance of regional *exceptionalism*. Where a de facto nuclear-armed non-party benefits from strategic affinity, pressure to regularise safeguards

coverage and to accept transparency may be muted, even as non-nuclear NPT members are held to stringent verification and restraint. The juxtaposition of permissive attitudes toward an undeclared arsenal with coercive measures against a safeguarded programme entrenches a two-tier order that weakens the regime's fairness pillar and incentivises hedging by others (UN Security Council [UNSC], 1981; Gibbons, 2022; UK Parliament, n.d.). As Nora Tannenwald (2024) argues, such *self-undermining dynamics* erode the normative authority of the non-proliferation system from within: when power politics visibly override rule consistency, the legitimacy that sustains voluntary compliance frays.

From a policy perspective, decoupling non-proliferation from hegemony requires three shifts. First, align sanctions design with the NPT bargain by protecting safeguarded trade through *safe payment corridors, general licences, and due-process-based delisting mechanisms* that reduce over-compliance and distinguish clearly between peaceful-use items and weapons-relevant transfers (SIPRI/EUNPDC, 2025). Second, commit to *universality of standards*: states outside the NPT whose capabilities affect regional balances should face sustained, collective diplomacy aimed at transparency and safeguards engagement rather than asymmetric impunity (UNSC, 1981; UK Parliament, n.d.; U.S. National Security Archive, 2024). Third, prioritise multilateral channels—IAEA Board action, coordinated supplier-state guidance, and Security Council frameworks—over unilateral dictates, so that enforcement is perceived as regime-driven rather than alliance-driven (IAEA, n.d.-a; Tannenwald, 2024). Absent these corrections, the instrumental use of non-proliferation will continue to corrode the credibility of the very rules it claims to defend ("Double Standard" study, 2018).

5. The North Korea lesson: deterrence under perceived existential risk

North Korea's nuclear trajectory is often read as a cautionary tale about what happens when states conclude that the international system cannot—or will not—guarantee their survival through treaties, security assurances, or normative restraints. A sequence of breakdowns in diplomacy, episodic crises, and coercive pressures created a perception in Pyongyang that only a survivable nuclear deterrent could offset conventional inferiority and preclude regime-change scenarios (Narang, 2014; Kwon, 2020). In this reading, nuclear weapons are not merely status symbols or bargaining chips; they are the ultimate insurance policy against external intervention.

Strategically, the Democratic People's Republic of Korea (DPRK) pursued what Vipin Narang classifies as an "asymmetric escalation" posture: building the capability to threaten early nuclear use if the regime's leadership or command-and-control face decapitation risks, thereby raising the expected costs of invasion or coercive disarmament (Narang, 2014, pp. 50–58, 112–120). This posture relies on several design choices: warhead and delivery-system diversification; dispersion and mobility to complicate adversary targeting; and doctrinal signals that lower the threshold under specific, tightly defined conditions (Narang, 2014). The signalling component—tests, parades, rhetorical thresholds—has been integral to deterrence credibility, calibrating external perceptions of Pyongyang's willingness to escalate (CSIS Nuclear Network, 2020).

At the political level, North Korean discourse frames the programme as a rational response to existential threats and a hedge against perceived great-power double standards in the

non-proliferation system (Kwon, 2020). The leadership has repeatedly linked nuclear development to episodes of acute insecurity, presenting the arsenal as both shield and leverage: a shield to deter regime change and a lever to compel direct engagement on security guarantees and sanctions relief (Kwon, 2020; CSIS Nuclear Network, 2020). Seen through this lens, punitive measures divorced from credible pathways to de-escalation tend to entrench, rather than unwind, nuclear resolve.

The DPRK case also illuminates the knock-on effects of perceived selectivity in enforcement. When some states appear insulated from pressure despite ambiguous or undeclared capabilities, others infer that compliance and restraint may not yield security dividends. This inference is magnified when attacks or sabotage against safeguarded facilities elsewhere are normalised, suggesting that verification does not confer protection. The result is a perverse incentive structure: transparency and cooperation look risky, while opacity and redundancy look prudent (cf. Narang, 2014; Kwon, 2020).

Policy experience further indicates that sanctions, though capable of slowing procurement and raising costs, have limited traction in altering fundamental threat perceptions once a nuclear deterrent is entwined with regime survival (Kwon, 2020). Where sanctions interact with financial de-risking and over-compliance, they can also impede humanitarian and safety-related flows, deepening isolation without delivering stable de-escalation (CSIS Nuclear Network, 2020). In such contexts, signalling theory matters: mixed messages or coercive red lines untethered from realistic diplomatic off-ramps risk being discounted, while clear, conditional assurances aligned with reciprocal steps stand a better chance of shaping behaviour (CSIS Nuclear Network, 2020; Narang, 2014).

For the wider non-proliferation regime, the DPRK's lesson is not that nuclear acquisition is inevitable, but that *security drivers* and *credibility deficits* must be addressed early and consistently. Three implications follow. First, credible negative and positive security assurances—paired with verifiable, reciprocal steps—are essential to make non-nuclear pathways more attractive than nuclear insurance (Narang, 2014; Kwon, 2020). Second, enforcement must look and feel even-handed: if states perceive a two-tier order, hedging will outcompete cooperation. Third, insulating safeguarded peaceful-use cooperation from geopolitical punishment helps preserve the NPT's core bargain, signalling that transparency will not become a vulnerability (CSIS Nuclear Network, 2020).

In sum, the DPRK experience underscores how deterrence logic hardens when existential risk is salient and double standards appear entrenched. A regime that aspires to prevent further nuclearisation must therefore restore *predictability* and *fairness*: predictable pathways away from crisis through step-for-step arrangements, and fair application of norms across friends and rivals alike (Narang, 2014; Kwon, 2020).

6. Consequences: Safety, Peace, and Institutional Credibility

Attacks on safeguarded nuclear facilities generate cascading technical, humanitarian, legal, and institutional harms that extend far beyond the immediate blast radius. Technically, enrichment plants, fuel-cycle nodes, research reactors, spent-fuel pools, and waste stores are embedded within complex safety systems that assume continuity of power, cooling, access, and trained personnel. Kinetic strikes or sabotage can disable redundancies, sever grid connections, compromise containment, and impede operator response, increasing the

probability of loss-of-coolant accidents or uncontrolled releases (Carlson, 2022). Even where the targeted installation is not a power reactor, collateral damage to auxiliary systems, laboratories, or waste lines can mobilise contaminated material and create persistent clean-up and monitoring burdens (ICRC, 1987; Carlson, 2022). The risk profile rises further if hostilities constrain emergency access, evacuation routes, and medical surge capacity—conditions that any responsible safety case assumes away (Carlson, 2022).

Humanitarian and environmental effects are by definition transboundary. Depending on meteorology, topography, and the radionuclides involved, fallout or contaminated runoff can traverse borders, affect agriculture and water basins, and impose long-tail public-health costs on populations with no nexus to the underlying dispute (ICRC, 1987). It is precisely because of these disproportionate externalities that international humanitarian law affords heightened protection to "works and installations containing dangerous forces," signalling a strong presumption against attacks that may release such forces and a correspondingly demanding assessment of precautions and proportionality (Additional Protocol I, art. 56; ICRC, 1987). Normalising strikes in this domain lowers the caution threshold and invites copy-cat doctrines in other regional disputes.

Institutionally, the verification compact is directly eroded. Safeguards depend on the proposition that transparency and cooperation reduce suspicion and therefore enhance security. When safeguarded sites are attacked or sabotaged, the perceived *security dividend* of cooperation reverses: facility operators and governments rationally discount the benefits of openness if compliance does not shield them from force (Gibbons, 2022). The International Atomic Energy Agency's access and monitoring may be curtailed amid crisis—

because staff safety cannot be guaranteed, equipment is damaged, or host authorities impose restrictions—degrading the continuity of knowledge the Agency requires to verify non-diversion (IAEA, 2025a, 2025b). Breaks in the safeguards record, even if later repaired, complicate material-accountancy baselines and stoke proliferation suspicions (IAEA, n.d.-a, n.d.-b).

Economically and operationally, coercive environments spill over into licit, safeguarded cooperation. Financial de-risking and over-compliance with unilateral or secondary sanctions can choke procurement of safety-critical equipment—sensors, control-room components, protective gear—and impede protected trade in medical isotopes or grid-stability items, even when exemptions exist on paper (SIPRI/EUNPDC, 2025). The result is a perverse "dual harm": facilities face elevated technical risk because safety supply chains are disrupted, while the cooperative pillar of the NPT (Article IV) appears contingent on geopolitical alignment rather than legal entitlement (IAEA, 1972; SIPRI/EUNPDC, 2025). Recent reporting around attacks on Iranian sites underscores these dynamics, with physical damage, power interruptions, and access constraints forcing emergency stabilisation under heightened security conditions (Reuters, 2025; IAEA, 2025a).

Strategically, the cumulative effect is to politicise the regime and incentivise hedging. If adherence to safeguards does not confer protection—and if an undeclared nuclear-armed non-party faces limited pressure to regularise its status—then other states may disperse sensitive activities, build clandestine redundancies, or curtail inspector access under the rubric of security (Gibbons, 2022; UK Parliament, n.d.; U.S. National Security Archive, 2024). This shift from *openness as security* to *opacity as prudence* undermines the IAEA's authority

and the perceived fairness of the NPT bargain, weakening compliance incentives precisely where they are most needed (Tannenwald, 2024).

Finally, these practices corrode peace and crisis-management architectures. Once strikes on safeguarded facilities are treated as a legitimate instrument of statecraft, de-escalation becomes harder: reciprocal attacks on infrastructure raise the stakes, while diplomatic off-ramps narrow because the verification scaffolding that could enable confidence-building measures is damaged (Carlson, 2022; IAEA, 2025b). Restoring credibility therefore requires not only physical repair and emergency assistance, but also political remedies that reaffirm the Osirak precedent, re-protect safeguarded trade and safety supply chains, and rebuild the expectation that cooperation under IAEA supervision enhances—rather than jeopardises—security (UNSC, 1981; SIPRI/EUNPDC, 2025).

7. Accountability and deterrence of unlawful strikes

Deterring attacks on safeguarded nuclear facilities requires a layered strategy that raises the political, legal, financial, and operational costs of such actions while insulating legitimate, IAEA-supervised cooperation from collateral harm. At the political–legal apex, the UN Security Council should reaffirm and update the Osirak precedent in Resolution 487 by stating plainly that strikes on safeguarded civilian nuclear installations—absent Security Council authorisation—violate the peace and risk unlawful release of dangerous forces, recalling the heightened protections embedded in Additional Protocol I, Article 56 (UN Security Council [UNSC], 1981; International Committee of the Red Cross [ICRC], 1987). Where Council paralysis persists, the General Assembly can mobilise broad condemnation

and request an advisory opinion clarifying states' obligations not to attack safeguarded installations, echoing the logic that underpins the IAEA safeguards bargain and the NPT's peaceful-use pillar (IAEA, 1972; IAEA, n.d.-a).

Second, accountability should be juridically real and reparative. Injured states can pursue claims for compensation and environmental remediation consistent with the principle that those who unlawfully cause transboundary harm should make reparation—an approach that can be supported by UN mechanisms for claims processing and by IAEA-coordinated technical assistance for stabilisation and clean-up (Carlson, 2022; IAEA, 2025a). Complementarily, coalitions of states should craft targeted, due-process-based sanctions against individuals and entities credibly implicated in planning, authorising, or executing unlawful strikes or sabotage—calibrated to avoid chilling humanitarian and safety-critical trade through clear exemptions and "safe payment" channels (SIPRI/EU Non-Proliferation and Disarmament Consortium [EUNPDC], 2025).

Third, deterrence must reach enablers. Financial and export-control networks can be leveraged to disrupt procurement of dual-use items for sabotage while preserving safeguarded cooperation. This implies harmonised supplier guidance distinguishing prohibited enabling items from licit safety equipment, and it requires practical de-risking tools—general licences, white-listed vendors, protected correspondent-banking routes—for safety-critical goods such as sensors, shielding, and emergency power systems (SIPRI/EUNPDC, 2025). Without such tools, over-compliance by banks and vendors will continue to throttle legitimate projects and perversely elevate technical risk at civilian sites (SIPRI/EUNPDC, 2025).

Fourth, safeguards and nuclear-security practices should incorporate contingency clauses for conflict environments. Facility-specific arrangements—developed with the IAEA—can specify minimum emergency power, cooling, access and communications requirements under duress; establish pre-approved stabilisation teams; and mandate data-resilience measures (redundant cameras, tamper-indicating seals, and remote monitoring) to preserve "continuity of knowledge" if inspectors must withdraw temporarily (IAEA, n.d.-a; IAEA, 2025b). These steps reinforce the proposition that cooperation under IAEA supervision enhances security rather than inviting vulnerability (Gibbons, 2022).

Finally, consistency matters. Efforts to deter unlawful strikes will ring hollow if double standards persist—most visibly the tolerance of Israel's undeclared arsenal and the selective instrumentalisation of non-proliferation tools by powerful states. A credible accountability architecture therefore needs parallel diplomacy aimed at transparency and safeguards engagement by outliers, alongside multilateral—not unilateral—enforcement that reads as regime-driven rather than alliance-driven (UNSC, 1981; UK Parliament, n.d.; Tannenwald, 2024; U.S. National Security Archive, 2024).

8. Conclusion

The non-proliferation regime is held together by reciprocity: non-proliferation and verification in exchange for peaceful rights and predictable security. Strikes and sabotage against safeguarded nuclear facilities tear at that fabric. They endanger populations and environments, degrade IAEA monitoring, and—by showing that compliance does not confer protection—invert the incentives that make transparency rational (Carlson, 2022; IAEA,

2025a, 2025b). When such actions are paired with enduring double standards—Israel's undeclared arsenal outside the NPT and muted pressure to regularise its status—and with a selective, often extraterritorial U.S. enforcement posture, the regime's fairness pillar erodes and hedging becomes the prudent choice (UNSC, 1981; UK Parliament, n.d.; Tannenwald, 2024; U.S. National Security Archive, 2024). The North Korean experience shows where this logic can lead: once a state internalises the lesson that only a nuclear deterrent guarantees survival amid perceived great-power arbitrariness, sanctions and stigma rarely reverse course (Narang, 2014; Kwon, 2020; CSIS Nuclear Network, 2020).

Re-centring legality and restraint requires actions commensurate with the stakes. Legally, the international community should restate—with the authority of the Council and the Assembly—that attacks on safeguarded facilities are presumptively unlawful and trigger responsibility and reparation, recalling the special protection for works containing dangerous forces (ICRC, 1987; UNSC, 1981). Diplomatically, it should pursue a twin track: insulate peaceful-use cooperation through protected finance and trade channels while engaging outliers on pathways to transparency and safeguards coverage, including practical steps toward a Middle East WMD-free zone (United Nations, 1995; UN Office for Disarmament Affairs [UNODA], n.d.; SIPRI/EUNPDC, 2025). Institutionally, the IAEA and supplier states should hard-wire conflict-contingency safeguards and de-risk humanitarian and safety-critical supply chains so that verification remains continuous and safe operations remain possible even under stress (IAEA, n.d.-a; IAEA, 2025b).

Strategically, the regime's credibility depends on even-handedness. Condemning unlawful attacks, addressing the anomaly of Israel's opaque capabilities within a pathway to

transparency, and curbing the instrumentalisation of non-proliferation as hegemonic statecraft are not concessions; they are conditions for restoring trust in the rules (Tannenwald, 2024; Gibbons, 2022). If the centre holds—if states see that safeguarded cooperation is protected, that outliers are nudged toward universality, and that enforcement is multilateral and principled—the incentives favour openness over opacity. If it does not, the system drifts toward a world of normalised pre-emption, proliferating hedges, and brittle verification. Protecting safeguarded civilian nuclear infrastructure is therefore both a legal imperative and a strategic necessity for preserving the NPT's promise of peaceful nuclear progress without fear.

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