

An Analysis of the ICNND: The Japan-Australia Collaboration for Nuclear Abolition

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The Japanese and Australian governments supported the establishment of the International Commission on Nuclear Non-proliferation and Disarmament (ICNND) in 2008. During its two-year mandate, the ICNND organized international conferences in Sydney, Washington, Moscow, and Hiroshima. The commission made specific proposals in a final report entitled *Eliminating Nuclear Threats: A Practical Agenda for Global Policy Makers*. This research note examines the significance of the report, while paying special attention to its limitations. In particular, this study criticizes the nuclear policies of Japan and Australia that have depended upon U.S. extended nuclear deterrence and peaceful use of atomic energy. Finally, it suggests five alternatives for Japan and Australia so that both countries can resume further endeavors towards a world free of nuclear threats.

Keywords Japan, Australia, ICNND, nuclear umbrella, peaceful use of atomic energy

Introduction

Japan, the only country that has suffered from nuclear warfare, adopted the “Three Non-Nuclear Principles” as a national policy in 1967 and has been active in nuclear disarmament efforts, facilitating United Nations resolutions to abolish nuclear weapons every year. Likewise, Australia, as a victim of nuclear testing by the British government in Western Australia and by the French government in the South Pacific Ocean, has made contributions to the anti-nuclear movement, such as the conclusion of the Rarotonga Treaty (South Pacific Nuclear Free Zone Treaty) and the establishment of the Canberra Commission on the Elimination of Nuclear Weapons (Canberra Commission 1996). In this context, former Australian Prime Minister Kevin Rudd proposed the formation of the International Commission on Nuclear Non-proliferation and Disarmament (ICNND) in his speech at Kyoto University in June 2008 (ICNND Homepage).

On September 26, 2008, in New York, former Japanese and Australian prime ministers Taro Aso and Kevin Rudd officially announced the establishment of the ICNND (MOFA 2008), and the former Japanese and Australian foreign ministers Yoriko Kawaguchi and Gareth Evans were appointed as co-chairs of the commission.

Both Japan and Australia cooperated in this initiative without reference to their alliances with the United States. The first conference of the ICNND was held in Sydney in October 2008, and the second conference took place in Washington in February 2009 (ICNND 2008; 2009a). Stemming from the Washington conference, the joint statement “Toward a World without Nuclear Weapons” (MOFA 2010a) was announced on February 21, 2009 in Perth. The third conference was held in Moscow in June 2009 (ICNND 2009b). At the fourth conference in Hiroshima and Tokyo, October 16-20, 2009, the ICNND completed a final report for the 2010 Nuclear Non-Proliferation Treaty (NPT) Review Conference (ICNND 2009c). Moreover, the “Joint Statement on Nuclear Disarmament and Non-Proliferation” (MOFA 2010b) was issued on November 23, 2010. Among the activities and accomplishments of the ICNND, the final report, published on December 15, 2009, is worthy of review in that it was a comprehensive analysis that makes specific proposals for nuclear non-proliferation and disarmament.

Although there is some research on the ICNND in the context of global disarmament and the 2010 NPT Review Conference (e.g., Kurosawa 2011), scholarly analyses on the ICNND itself are relatively scant and limited despite its significance (Okada 2009; JADS 2011). In other words, a research gap regarding the ICNND can be identified in previous scholarship that was devoid of a critical and constructive investigation. In an attempt to fill the gap, this research note makes a contribution to peace research regarding nuclear abolition by providing both critical and constructive analysis of the ICNND report. At the same time, however, it points out the limitations of the bilateral initiative. This note argues that the limitations fundamentally stem from the structural dependence of Japan and Australia upon the U.S. nuclear umbrella and on peaceful use of atomic energy. Finally, the author proposes five recommendations for further endeavors by Japan and Australia toward a nuclear-free world.

An Assessment of the ICNND Report and Its Comprehensiveness

The ICNND report, entitled *Eliminating Nuclear Threats: A Practical Agenda for Global Policy Makers*, is 332 pages long, and is comprised of 20 chapters with detailed analysis, plus 76 recommendations (ICNND 2009d). Recommendation 1 of the ICNND report stresses the importance of a “two-phase approach” for nuclear abolition: a minimization phase and an elimination phase. The action

agenda of the report is divided into three periods: short term (to 2012), medium term (to 2025), and longer term (beyond 2025). According to Recommendation 2, the objective of the short and medium terms is to achieve the “minimization point objective” where the total number of global nuclear warheads should be no more than 2,000. In addition, Recommendation 2 describes the “nuclear doctrine” which suggests that deterrence should be the sole purpose for possessing nuclear weapons and that a “no first use” policy should be adopted by all nuclear-armed states. Unfortunately, however, Recommendation 3 did not determine a target date for getting to zero nuclear weapons.

Recommendation 4 focuses on an overall non-proliferation strategy and Recommendations 5-7 stipulate NPT safeguards and verification. Recommendations 8-11 are designed to enhance NPT compliance and enforcement. Recommendations 12-14 suggest ways that the IAEA can be strengthened, while Recommendations 15 and 16 focus on non-NPT treaties and mechanisms. Recommendations 17-19 are aimed at extending NPT obligations to non-NPT states, such as India, Pakistan, and Israel. In Recommendations 20 and 21, the report requests that all states sign and ratify the CTBT. Recommendations 22-26 propose to limit the availability of fissile material. Recommendations 27-31 are intended to improve nuclear security and urge the adoption of the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material. In Recommendations 32-38, the ICNND report confirms its support for the peaceful use of nuclear energy based on the NPT. Recommendations 39 and 40 suggest multilateral management of the nuclear fuel cycle.

Recommendation 41 consists of six priorities for the 2010 NPT Review Conference. In order to achieve the “minimization point” by 2025, bilateral and multilateral processes are enumerated in Recommendations 42-48. In Recommendations 49-54, the nuclear doctrine, comprised of “no first use,” “extended deterrence,” and “negative security assurances” is reconfirmed. It was also suggested that all NPT states should sign and ratify the protocols of all Nuclear Weapon Free Zones. Recommendations 55-58 focus on nuclear force protocol, especially launch alert status and transparency. Recommendations 59 and 60 emphasize the importance of the Six-Party Talks for the denuclearization of North Korea and the P5+1 process for inspection of Iran’s nuclear enrichment program. Recommendations 61-65 deal with parallel security issues such as missiles, space, and biological and conventional weapons.

Recommendations 66-70 are specific action agendas for the short, medium, and longer term. Recommendations 71-76 are suggestions for mobilizing political will towards nuclear abolition. Significantly, the report proposes that the contents of the model Nuclear Weapons Convention (NWC) should be improved and promoted by interested governments. The ICNND report is clearly thorough, with 76 concrete recommendations towards nuclear disarmament. However, the report lacks a deadline for nuclear abolition, eschews the fundamental problem

of U.S. nuclear deterrence, and supports the peaceful use of nuclear energy, a controversial position in post-3/11 Japanese politics.

The ICNND Report and Nuclear Disarmament Progress 2010-2013

It can be argued that the real impact of the ICNND report can be measured by analyzing to what extent global nuclear disarmament has progressed since the report's release on December 15, 2009. In other words, disarmament progress in the post-ICNND period can be a measurable indicator of the ICNND report, as Gareth Evans himself confirmed in the public forum "Crisis in East Asia," held in Tokyo on February 1, 2014 (Tokyo University 2014). In order to calculate global nuclear disarmament progress between January 2010 and January 2013, the author compared data on the number of nuclear warheads in 2010 and 2013, as estimated by the Stockholm International Peace Research Institute (SIPRI 2010, 334; SIPRI 2013, 284) and shown in Table 1.

Clearly, the total number of the nuclear warheads has decreased since January 2010, right after the ICNND report was published. It indicates that more than 5,000 nuclear warheads have been dismantled in approximately three years. Yet, it has to be noted that the Obama administration directly influences the global disarmament progress, while the ICNND report is an indirect influence. For example, the New Strategic Arms Reduction Treaty (New START), which was signed on April 8, 2010 in Prague and came into force on February 5, 2011, was a concrete and direct contribution to the bilateral nuclear disarmament process (U.S. Department of State 2010). Still, the New START Treaty was in the context of the 2009 ICNND report; hence, it is possible to interpret the global disarmament

Table 1. Nuclear Disarmament Progress, January 2010-January 2013

| Name of Country | Year of first nuclear test | Number of nuclear warheads, 2010 | Number of nuclear warheads, 2013 |
|-----------------|----------------------------|----------------------------------|----------------------------------|
| U.S. | 1945 | 9,600 | 7,700 |
| Russia | 1949 | 12,000 | 8,500 |
| UK | 1952 | 225 | 225 |
| France | 1960 | 300 | 300 |
| China | 1964 | 240 | 250 |
| India | 1974 | 60-80 | 90-110 |
| Pakistan | 1998 | 70-90 | 100-120 |
| Israel | ... | 80 | 80 |
| North Korea | 2006 | ... | 6-8 |
| Total | | 22,600 | 17,270 |

Source: *SIPRI Year Book* (2010; 2013).

progress itself as an accomplishment of the ICNND, which arranged a clear disarmament schedule.

Notably, the data in Table 1 demonstrates that both the United States and Russia disarmed their nuclear warheads as planned in Recommendation 2 of the ICNND report. This is an understandable outcome given the fact that one of the ICNND members is William Perry, a former U.S. Secretary for Defense who has influenced the nuclear policy of the Obama administration. While the ICNND final report can be regarded as one of the most meticulous documents on nuclear non-proliferation and nuclear disarmament, the critical responses stem from the limitations of the nuclear policies of Japan and Australia as discussed in the next section.

Limitations: Structural Dependence on Nuclear Umbrella and Nuclear Industry

As Yoriko Kawaguchi noted, the report is not only “action-oriented” but also “realistic,” giving up some ideal aspects, and therefore, “there are some of those who are highly critical of this report” (Kawaguchi 2011, 14-15). Indeed, it was pointed out that the pace of the action plan for nuclear disarmament is slow, and the report did not show a clear timeline and process for nuclear abolition beyond 2025 (Ichikawa 2009). The International Campaign to Abolish Nuclear Weapons (ICAN) also criticized the report for being supportive of the nuclear power industry, which would make nuclear abolition difficult (ICAN 2009). A Japanese NGO, Peace Depot, moreover pointed out that the normative influence of the report was weak and incapable of abolishing nuclear weapons (Peace Depot 2010). Both Japan and Australia have been under the U.S. nuclear umbrella, which weakens the assertiveness of the bilateral cooperation for nuclear disarmament (Flitton 2009). The Nuclear Posture Review (NPR), announced by President Obama on April 6, 2010, expressed a decision to maintain strategic deterrence through nuclear weapons (Department of Defense USA 2010). As a key U.S. ally, the Japanese government automatically depends on the extended deterrent based on the Japan-U.S. Security Treaty (Ministry of Defense Japan 2011). Likewise, as described in the 2009 Defence White Paper, the Australian government announced its defense policy to continue reliance on the American nuclear umbrella until 2030 based on the ANZUS (Australia, New Zealand, and United States) Treaty (Department of Defence Australia 2009).

The dilemma stems from Japan’s ambivalent non-nuclear policies. Prime Minister Eisaku Sato introduced the “Three Non-Nuclear Principles” on December 11, 1967. Based on the principles, the Japanese government decided not to produce, possess, or permit the introduction of nuclear weapons into the country (MOFA 2012). In the following year, however, Sato adopted the

“Four Pillars Nuclear Policy” which declared Japan’s reliance on the U.S. nuclear deterrent. Sato signed the NPT in February 1970, and consequently, the prime minister received the Nobel Peace Prize on December 11, 1974 (*Nobelprize.org* 1974). Nevertheless, it has been reported that Prime Minister Sato allowed “U.S. nuclear aircraft carrier suspected of carrying nuclear weapons to enter a Japanese port” in January 1968 (*Japan Times* 2000). Moreover, Japan’s non-nuclear policies are arguably dubious because of the so-called “secret agreement” on nuclear cooperation signed by Prime Minister Sato and U.S. President Richard Nixon. According to the document found in Sato’s house, the agreement allowed “the United States to introduce nuclear weapons into Okinawa in the event of an emergency” (*Japan Times* 2009). Regarding this issue, on March 9, 2010, Foreign Minister Katsuya Okada stated that the successive conservative governments “offered dishonest explanations, including lies from beginning to end” (Alford 2010).

Ironically, the Japanese government itself has been a hindrance to the global movement toward nuclear abolition. For instance, former Prime Minister Taro Aso expressed his opposition to the “no first use” policy, while the Japanese government, especially the Ministry of Foreign Affairs and the Ministry of Defense, expressed the strongest opposition to the concept of “sole purpose” which might weaken the effectiveness of the U.S. nuclear umbrella (Naito 2010).

In addition to the military use of nuclear power, the ICNND report and both governments support “peaceful use” of nuclear energy. Although Australia does not have atomic power plants, it possesses the largest deposit of uranium in the world, and produces a huge amount of uranium to export to other countries that continue military and peaceful use of nuclear energy. Nevertheless, both countries need to reconsider their policies on the peaceful use of atomic energy in the post-3/11 world. Although the Japanese nuclear power industry still persists, it is apparent that “the institution is drifting away from its earlier configuration” (Kim 2013, 104). The 2011 Great East Japan Earthquake revealed the limitations of peaceful use of atomic energy; that incident directly caused “approximately 130 deaths and 180 cases of cancer” (McClure 2012) and potentially endangers the human security of Japanese people and that of neighboring countries. In short, the limitation of the ICNND stems from its support for the U.S. nuclear umbrella and peaceful use of nuclear energy.

Alternatives for Japan and Australia toward a Nuclear-Free World

On the basis of analyses on the limitations and “potential violence” (Galtung 1969, 173) of military and peaceful uses of nuclear energy, this section makes five proposals for Japan and Australia toward a nuclear free world. First, the Japanese and Australian governments might reconsider the necessity of the

American nuclear umbrella. Of course, this sounds unrealistic and unfeasible given the reality of international politics at this point, yet it is not impossible; if both countries support nuclear abolition, they need to take this political option into consideration. As Eiichi Sugie (2010, 202-204) observed, there is no legal obligation for the United States to protect both countries by using nuclear weapons.

In fact, the Japan-U.S. Security Treaty and the ANZUS Treaty do not codify the nuclear umbrella as a defense obligation. In other words, it is feasible for both governments to say “no thanks” to the U.S. nuclear umbrella without abrogating their military alliances. Unlike New Zealand, which did reject a U.S. nuclear presence and was suspended from the ANZUS Treaty, Japan is still strategically and geopolitically vital for the United States. Moreover, there is no guarantee that Washington would jeopardize its own security in case of nuclear attack on Japan, as pointed out by some American realists, such as Henry Kissinger, Samuel Huntington, and Kenneth Waltz (Bōei System Kenkyūjo 2009, 149). Furthermore, even if Japan and Australia acted together to abandon U.S. nuclear protection, Washington would not want to lose two key allies at the same time. Therefore, this option is theoretically and practically feasible and rational, and more significantly, meaningful for peaceful resolution of the nuclear security dilemma between Japan and North Korea. In other words, Japan would be able to negotiate for denuclearization of North Korea in exchange for secession from the American nuclear umbrella.

Second, the nuclear crisis followed by the 3/11 East Japan earthquake exemplified the shift in the “peaceful use” of nuclear energy from potential violence to overt violence. The nature of potential violence of atomic energy is the same as that of nuclear deterrence when considering the possible devastation once the “peaceful” use of nuclear power resulted in failure. On September 6, 2012, the Democratic Party of Japan, as the governing party, officially promised to decommission nuclear power plants by the 2030s (*Daily Yomiuri* 2012). On the very same day, however, the Japanese Defense Minister, Satoshi Morimoto, expressed his view that Japan’s nuclear power plants are “taken by neighboring countries as having very great defensive deterrent functions” (*Japan Times* 2012). Moreover, after the victory of the Liberal Democratic Party in the Lower House election, Prime Minister Shinzo Abe expressed his support for constructing new nuclear power plants on December 30, 2012 (*New York Times* 2012). As the sole state which suffered from nuclear bombs and which underwent a major nuclear energy crisis, the current (and any future) Japanese government should decommission atomic power plants as soon as possible.

Third, the Japanese government could make a proposal for all governments to adopt the “Three Non-Nuclear Principles.” Prime Minister Eisaku Sato originally planned to make this proposal in his 1974 Nobel Peace Prize ceremony speech. However, Sato decided to delete the proposal from the draft after U.S.

Secretary of State Henry Kissinger objected (NHK 2012, 110). Not only should Japan decline partnership in the nuclear umbrella, it has an ethical responsibility to propagate the ideal of the “Three Non-Nuclear Principles,” which are in alignment with the Obama administration’s goal of a feasible plan towards a world free of nuclear weapons.

Fourth, the secession from the U.S. nuclear umbrella will facilitate the creation of the Nuclear-Free Zone in Northeast Asia. As Australia played an influential role in formalizing the Nuclear-Free Zone in the South Pacific under the Treaty of Rarotonga, Japan’s withdrawal from the nuclear umbrella will be meaningful. By signing the Rarotonga Treaty, Australia abandoned the possession and creation of nuclear weapons despite its capability and production of uranium as well as the alliance with the United States (Umebayashi 2011, 56-64). Again, by abandoning the U.S. nuclear umbrella, both Japan and Australia will be able to negotiate with North Korea to create a Northeast Nuclear-Free Zone. Even the conclusion of a “bilateral nuclear free treaty” between Japan and North Korea can be a critical step for establishing the nuclear-free zone in this region.

Fifth, both countries should facilitate creation of the model NWC as the last recommended proposal by the ICNND (2009d). Costa Rica submitted a draft of the NWC (*Convention on the Prohibition of the Development, Testing, Production, Stockpiling, Transfer, Use and Threat of Use of Nuclear Weapons and on Their Elimination*) to the UN General Assembly on November 17, 1997 (United Nations 1997). A revised draft of the NWC was submitted to the United Nations by Costa Rica and Malaysia in 2007. As Costa Rica and Malaysia have cooperated, Japan and Australia will be able to facilitate the global movement towards the establishment of the NWC.

To this end, the Hiroshima-Nagasaki Process proposed by Katsuya Kodama (2010) is of significance in terms of Japan’s leadership. By the creation of the NWC and revision of the Rome Statute (United Nations 1999-2002), any users of nuclear weapons should be punished at the International Criminal Court (ICC). As Article 7 of the Nuremberg Charter stipulated, the applicability of “act of state” as a legal loophole is not allowed (Boyle 1986, 1415). In this way, legal deterrence will be more effective than military deterrence.

In order to justify the five proposals for Japan and Australia raised above, legal bases to minimize and eliminate nuclear threat should be reconfirmed. Article 6 of the NPT can be raised as a legal obligation for nuclear disarmament (IAEA 1970). As a basis for the illegality of the use or threat of use of nuclear weapons, the 1996 advisory opinion by the ICJ should be reconfirmed. Notably, Judge Weeramantry contended that “the use or threat of use of nuclear weapons is illegal *in any circumstances whatsoever*.” He stated, “I regret that the Court has not held directly and categorically that the use or threat of use of the weapons is unlawful *in all circumstances without exception*” (ICJ 1996, 433). Thus, ICJ’s advisory opinion is an important legal basis for illegalization of nuclear weapons.

Unfortunately, however, in the Sixty-sixth Session of the United Nations General Assembly of 2011, both Japan and Australia abstained from voting for the “follow-up to the advisory opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons.” Unsurprisingly, the United States voted against the draft resolution (United Nations 2012, 115-119). Both countries should have voted in favor of the resolution, and will need to reconfirm the illegality of the use or threat of use of nuclear weapons to contribute to facilitation of the creation of the NWC. In the case of Japan, the “right to existence” is guaranteed by Article 25 of the Japanese Constitution. Likewise, the Preamble of the Constitution stipulates the “right to peaceful coexistence” of all human beings, stating, “We recognize that all peoples of the world have the right to live in peace, free from fear and want” (NDL 1946). In this sense, not only the use or threat of use of nuclear weapons and the nuclear deterrence policy, but also the existence of nuclear weapons and peaceful use of atomic energy itself is incongruent with the Japanese Constitution. Therefore, Japan has an ethical obligation as the sole victim of atomic bombs and a legal obligation to contribute to nuclear abolition and denuclearization of its own energy policy in collaboration with Australia and other countries.

Conclusion

This paper has examined the Japan-Australia joint initiative for nuclear non-proliferation and disarmament in relation to the ICNND report *Eliminating Nuclear Threats: A Practical Agenda for Global Policy Makers*. Since the study of the ICNND tends to be overlooked in the existing research, this paper can be one of the contributions in this respect. It was confirmed that the report provided specific and realistic policy goals, such as the “minimization point” and “elimination phase.” The short term (to 2012) and medium term (to 2025) goals are to reduce the number of global nuclear warheads to 2,000 as a minimization point, and to make a global consensus on nuclear doctrine, such as “no first use” or “sole purpose” of nuclear weapons. As shown in Table 1, the United States and Russia made measurable progress in their nuclear disarmament efforts between January 2010 and January 2013. These two countries dismantled as many as 5,000 nuclear warheads during this period, and this can be a positive indicator of the nuclear disarmament progress articulated in the 2009 ICNND report.

Nevertheless, the obvious paradox of the bilateral initiative is that Japan and Australia still depend on the U.S. nuclear umbrella and peaceful use of atomic energy. These are the limitations of the bilateral initiative reflected in the comprehensive and action-oriented ICNND report. Australia expressed its desire to rely on the U.S. nuclear umbrella until 2030, and Japan wishes the U.S. nuclear deterrence to be functional in the event of armed attacks by North Korea.

Domestically, it was revealed that Prime Minister Sato made a secret agreement on nuclear cooperation with U.S. President Nixon. Moreover, some Japanese realists hope Japan will become a nuclear armed state. As well as the military use of nuclear power, Japan has not immediately abandoned its nuclear industry even after the Fukushima incident.

Through the analysis of the limitations of the ICNND report as well as the potential violence which Japan and Australia continue to depend upon, this paper has made five proposals for the further bilateral effort toward a nuclear free world: a) independence from the U.S. nuclear umbrella, b) abandonment of peaceful use of nuclear energy, c) propagation of the “Three Non-Nuclear Principles,” d) creation of a Northeast Asia Nuclear-Free Zone, and e) establishment of the NWC. The five recommendations for Japan and Australia were, moreover, justified by the international legal obligations, such as Article 6 of the NPT, and the 1996 ICJ advisory opinion. In particular, Article 7 of the 1945 Nuremberg Charter is of significance in that the article might be a legal foundation to punish any state or actor which uses nuclear weapons in the future.

In this way, “legal deterrence” can replace “military deterrence” to prevent the use or threat of use of nuclear weapons. Especially for Japan, the right to peaceful coexistence and right to existence stipulated in the Preamble and Article 25 of the Japanese Constitution were raised as domestic legal bases. The feasibility of the five recommendations rely not only on the current and future policy makers but on peace movement and peace education as well. Both Japan (as the sole country that has suffered from atomic devastation) and Australia (as a state that possesses the largest deposit of uranium) have ethical and political responsibilities to make further endeavors toward a world free of nuclear threats.

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