No First Use: How to Overcome Japan’s Great Divide

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ABSTRACT
In Japan, there is strong support for nuclear disarmament and a no nuclear first use policy. The benefits of a no first use policy in promoting nuclear disarmament and nonproliferation and in preventing the start of a nuclear war by accident or by miscalculations are clear. However, except for a brief period under the Democratic administration, the Japanese Government has insisted that the US reject the no first use policy. Even though practical US dependence on nuclear weapons has markedly declined, realists still cling to nuclear deterrence and the retention of the first use option. The strict application of international humanitarian law principles further limits cases where nuclear weapons can be used. The deep divide between the proponents and opponents of nuclear weapons has to be overcome for Japan to support the US no first use policy. There is, thus, a need to explore ways to bridge this divide. To this end, the divide between the proponents and opponents of no first use should be analyzed in detail based on the current military and security situation in the region.

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Introduction
The nuclear debates in Japan date back to the early 1950s. The major questions have focused on whether Japan should acquire its own nuclear weapons, or depend on American nuclear deterrence, and accept the stationing of American nuclear weapons in Japan. The issue of “no first use” has been a subset of these debates. These former major questions culminated in the Three Non-nuclear Principles pronounced in 1967 by Prime Minister Eisaku Sato, for which he later received a Nobel Peace Prize. The first two principles were solidified when Japan ratified the Nuclear Non-Proliferation Treaty (NPT) in 1976. Since Japan decided not to possess nuclear weapons itself but to depend on the US for extended nuclear deterrence, the issue of nuclear no first use has primarily become an issue of understanding how American nuclear deterrence actually works and how dependable it is for Japan.

The key agenda items for Japanese nuclear abolitionists who abhor the atomic bombs dropped in Hiroshima and Nagasaki and who have seen the deadly effects of radioactive fallouts at Bikini Atoll are worldwide nuclear abolition, non-possession for Japan, no stationing or introduction of nuclear weapons on Japanese soil, and negative security assurance given to Japan on the basis of these elements. This agenda also included
support for no first use, as this policy helps to reduce readiness to use nuclear weapons and promotes nuclear disarmament and nonproliferation. Yet, security realists in Japan have decried the naïveté of taking Russian and Chinese no first use declarations at face value, as there was no way to verify the actual doctrine being adopted and the policy could be reversed easily. Of a more practical concern for realists was the risk that the adversary may feel free to launch chemical or biological attacks or a massive conventional offensive. This concern applied mainly to the Soviet Union during the Cold War and North Korea after the end of the Cold War. This realist view persists in Japan even after the end of the Cold War. The great divide between idealists and realists endures to date.

The realist view dominated Japanese government’s official position until the great defeat of the conservative Liberal Democratic Party in the summer of 2009. The realist view was expressed during the time of the 1994 US-North Korea Agreed Framework and it resurfaced from time to time until the election of the progressive Hatoyama administration of the Democratic Party of Japan (DPJ). A letter issued by Foreign Minister Okada to Secretary Clinton was a clear statement of his preference for the no first use policy (Okada, 2009). It seemed the balance had swayed drastically to the progressive side but the swing was short-lived. The DPJ defeat in 2012 spelled an end to the three-year whirlwind and gave the power back to the conservative LDP. As President Obama pushed last minute efforts to move arms control issues forward, Prime Minister Abe came out against the adoption of the no first use policy.

The following chapters will discuss recent developments on nuclear no first use policy, in the contexts of the North Korean nuclear development, the preparation of the International Commission on Nuclear Nonproliferation and Disarmament (ICNND) Report, and the deliberation on the 2010 US Nuclear Posture Review (NPR) report. These discussions will be followed by an examination of some of the progressive alternative views expressed to date and insights on how the great divide over the no first use policy can be overcome in today’s context for the promotion of nuclear disarmament and nonproliferation.

**North Korean nuclear weapons development**

South Korea (and the US forces stationed there) had been under threat from the massive concentration of North Korean conventional forces on the other side of the DMZ, an alleged massive stockpile of chemical weapons and North Korea’s suspected development of biological weapons even before the allegation of nuclear weapons development surfaced in 1992. Concerns about non-nuclear threats from North Korea became manifest in 1994 when the US provided assurances about not using nuclear weapons against North Korea in return for the abandonment of the North Korean nuclear program.

North Korea is not a party to the Chemical Weapons Convention, and thus, not legally prohibited from possessing chemical weapons and seen to possess massive chemical weapons stockpiles with the possibility or potential for weaponization. North Korea is a party to the Biological and Toxin Weapons Convention; however, in the absence of a verification system under the convention, North Korea is seen to be working on biological weapons program and deploying them. The massive
concentration of North Korean conventional forces across the DMZ is viewed also as a serious threat to South Korea. Such concerns have surfaced every time the US has agreed to a nuclear agreement with North Korea.

No nuclear first use became an issue in the US-North Korea Agreed Framework signed on 21 October 1994. In paragraph III (1) of the framework, the US promised to “provide formal assurances to the DPRK, against the threat or use of nuclear weapons by the U.S.” Even though it was not clear when the assurance was to be definitively given and when it would come into force, and one of the sub-items described both sides as “work(ing) together for peace and security on a nuclear-free Korean peninsula,” the provision of such an assurance alarmed the Japanese government as it would eliminate nuclear deterrence against both the use of chemical/biological weapons and a massive conventional invasion by North Korea. As recalled by Robert Gallucci, immediately prior to the release of the Agreed Framework, a senior Japanese government official, Shunji Yanai, made a strong statement to the American government (Wit et al., 2004). Even though he stopped short of specifically mentioning the threat of chemical and biological weapons, on September 12, Yanai raised concerns about the unqualified provision of a negative security assurance against the use of nuclear weapons in the draft Agreed Framework. The concerns were somehow addressed when the Bush administration opened the door for nuclear first use in its 2001 Nuclear Posture Review and 2002 National Security Strategy reports. The Agreed Framework itself finally collapsed in 2003.

The next chance to address no first use came on 19 September 2005 when a Joint Statement was issued at the conclusion of the fourth round of Six-Party Talks, held in Beijing, expressing the agreement among the six parties. The first paragraph of the joint statement read as follows:

1. The Six Parties unanimously reaffirmed that the goal of the Six-Party Talks is the verifiable denuclearization of the Korean Peninsula in a peaceful manner.

The D.P.R.K. committed to abandoning all nuclear weapons and existing nuclear programs and returning, at an early date, to the Treaty on the Nonproliferation of Nuclear Weapons and to IAEA safeguards.

The United States affirmed that it has no nuclear weapons on the Korean Peninsula and has no intention to attack or invade the DPRK with nuclear or conventional weapons.

Such an unqualified statement not to attack or invade the DPRK using nuclear weapons was meant to exclude the possibility of (first) use of nuclear weapons against chemical/biological weapons or a massive conventional invasion. However, the statement was an expression of “intentions” and stopped short of any legal commitments. An analysis by David Sanger in The New York Times characterized the joint statement as “a preliminary accord” (Sanger and Kahn, 2005).

Immediately prior to the first Six-Party Talks in Beijing, Yomiuri Shimbun cited on 23 August 2003 that the Asian Affairs Bureau chief of the Japanese Foreign Ministry, Mitoji Yabunaka, was reported to have filed a request with US Assistant Secretary of State for East Asian and Pacific Affairs James Kelly “to make sure the United States does not again [as in 1994] promise not to use its nuclear weapons against North Korea if Pyongyang agrees to dismantle its nuclear development program.”

The deal soon faced a major challenge as North Korea tested its first nuclear explosive device the subsequent year, damaging the core commitment of the joint
statement. The Six Party Talks, however, continued its efforts to materialize the Joint Statement by adopting an implementation plan in early 2007, but the process finally died down after North Korea tested a nuclear device for the second time in 2009.

The Leap Day Agreement of 29 February 2012 was the last such agreement reached between the US and North Korea and the shortest lived. The agreement did not directly mention nuclear no first use or negative security assurance. There was apparently no agreed text on the “agreement” but since a (North) Korean Central News Agency (KCNA) report stated that the two countries “reaffirmed their commitments to the September 19 Joint Statement,” it may be argued that the agreement indirectly revived the security commitments made in the 2005 Joint Statement. The agreement, as cited by the KCNA, also stated that the “U.S. reaffirmed that it no longer has hostile intent toward the DPRK.” This claim may also be interpreted to mean that the US tacitly reaffirmed its declaration of intent in the 2005 Joint Statement, which read that the US “has no intention to attack or invade the D.P.R.K. with nuclear or conventional weapons.” The Leap Day Agreement essentially made North Korea commit itself to a moratorium on nuclear and long-range ballistic missile tests in return for a major food assistance program from the US.

The deal broke down only 16 days after it was announced when North Korea launched a satellite, even though it failed to be put into orbit. The US took this as a violation of the ballistic missile test agreement while North Korea insisted that peaceful space development activities such as a satellite launch were not “ballistic missile tests.” The gray zone of space development activities remains an area of contention between the US and North Korea (and sometimes between the US and China and Russia), as the launching of a satellite requires an equal or greater rocket capability as what can be used for offensive ballistic missile purposes.

The International Commission on Nuclear Nonproliferation and Disarmament

The promotion of nuclear disarmament has been a major political agenda item in both Japan and Australia. In the latter, this has particularly been the case under Labour Party leadership. It was logical, in that sense, that when Labour Prime Minister Kevin Rudd visited Japan in July 2008, he proposed the establishment of a commission to deliberate the issue of nuclear nonproliferation and disarmament to Japanese Prime Minister Yasuo Fukuda. The two prime ministers appointed former Foreign Ministers Gareth Evans and Yoriko Kawaguchi as co-chairs of the commission. It was formally named the ICNND. Gareth Evans had a strong commitment to nuclear disarmament since his visit to Hiroshima as a young student. He had also had previous experience serving as Foreign Minister when the Canberra Commission was established in 1995, and it produced a report with strong overtones for nuclear abolition in 1996. This was a report issued at a time when the optimism produced by the end of the Cold War still prevailed and the hope that the world could finally shed the threat of nuclear weapons hanging over humankind was still alive and well. The North Korean nuclear crisis had arisen in 1992 but the nuclear crisis was viewed as taken care of by the 1994 Agreed Framework. By the time the ICNND was established, post-Cold War optimism had faded due to the Indian-Pakistani nuclear tests in 1998, the collapse of the Agreed
Framework in 2003, the eruption of the Iraq War over the possession of nuclear weapons and other WMD proliferation issues. Thus, the ICNND emphasized nonproliferation over nuclear abolition and paid more attention to more realistic, practical ways to prevent nuclear proliferation and move toward nuclear disarmament. The ICNND report was issued in 2009 with a set of proposals based on a two-step approach: first, reaching a minimization point where nuclear weapons possessing countries reduce their arsenals to minimal levels, and second, proceeding to the final stage of eliminating nuclear weapons.

Among the initial steps to be taken to move toward nuclear disarmament, Gareth Evans had a particular attachment to the issue of nuclear no first use. If all the nuclear weapon possessors committed to no first use, the threat of surprise nuclear attacks would recede and such hair trigger situations as a launch under warning and high alert status could be reduced, thus, removing the risk of the start of nuclear warfare by accident or miscalculation. During deliberation on the ICNND report, the proposal to advocate no first use faced considerable resistance from Kawaguchi and other Japanese participants. Their reasoning cited concerns about North Korean chemical, biological and conventional threats: “If North Korea sees that the U.S. will not react with nuclear weapons, it may feel safe to use chemical, biological weapons or to carry out a massive conventional invasion.” While the combined superiority of US-South Korean conventional forces may eventually prevail over North Korean forces, it would only be after suffering massive civilian and substantial military casualties. Thus, it would be better to deter North Korea with an ambiguity about what means, not excluding nuclear weapons, the US would react to North Korean invasion with. The ICNND eventually adopted a report containing a recommendation that “[p]ending the ultimate elimination of nuclear weapons, every nuclear-armed state should make an unequivocal ‘no first use’ declaration, committing itself to not using nuclear weapons either preventively or pre-emptively against any possible nuclear adversary, keeping them available only for use, or threat of use, by way of retaliation following a nuclear strike against itself or its allies” (ICNND 2009, 75).

During discussions in the ICNND, the expressions “no first use” and “sole purpose” were used more or less interchangeably. The former literally means that a nuclear-armed state will not use nuclear weapons first, unless it is attacked by another using nuclear weapons. By contrast, the latter means that the purpose of the use of nuclear weapons or the threat of their use will be solely for the purpose of deterring or retaliating against the use of nuclear weapons by another nuclear-armed state. Citing the case of the Warsaw Pact’s military plans, uncovered after the collapse of East Germany, which revealed that there were plans to use nuclear weapons starting from the early stages of military confrontation against NATO, in spite of the repeated Soviet “No First Use” pronouncements, the credibility question of no first use as a simple policy declaration was also raised during discussions and resulted in a recommendation urging “unequivocal ‘no first use’ commitments.”

We (ICNND) would prefer that sooner rather than later, such declaratory “sole purpose” statements be hardened into unequivocal “no first use” commitments, but acknowledge that there has been an issue in the past as to whether such commitments have been seriously attended. (ICNND 2009, 173)
In one part, the ICNND report described “sole purpose” as a new and better way of expressing essentially the same concept as “no first use.” In the Japanese context, the expression “sole purpose” may sit better, as the no first use expression has been very often taken as a propaganda ploy by China.

We (ICNND) acknowledge, however, that such has been the cynicism about the Cold War “no first use” commitment of the Soviet Union, which has been almost universally dismissed as purely a propaganda exercise and such has been the subsequent caution with which such continuing declarations from China and India have been received, that it may be better to settle in the first instance for a different formulation of essentially the same idea. This would be a declaration to the effect that “the sole purpose of the possession of nuclear weapons is to deter the use of such weapons against one’s own state and that of one’s allies. (177: 17.28)

The ICNND report made two more recommendations to accommodate the concerns expressed by the countries receiving American extended deterrence.

If not prepared at this stage to make such a declaration, every nuclear-armed state should at least accept the principle that the sole purpose of possessing nuclear weapons – until such time as they can be eliminated completely – is to deter others from using such weapons against that state or its allies. (177:17.28)

The allies in question – those presently benefiting from extended deterrence – should be given firm assurances that they will not be exposed to unacceptable risk from other sources, including especially biological and chemical weapons. In this context, continuing strong efforts should be made to promote universal adherence to the Biological and Toxin Weapons Convention and the Chemical Weapons Convention, and to develop more effective ways of ensuring compliance with the former. (177: 17.29)

One recent development that is worth noting in conjunction with this is the reaction of the US to the major chemical weapons use by Syrian government forces in 2013. As the civil war in Syria intensified since its eruption in 2011, suspected cases of chemical weapons use began to emerge. On 20 August 2012, President Obama drew a red line, stating in his press remarks, that “a red line for us is (when) we start seeing a whole bunch of chemical weapons moving around or being utilized. That would change my calculus. That would change my equation.” In spite of this warning, Syria carried out an attack in the rebel zone in Ghouta, to the East-Southeast of Damascus, on 21 August 2013. After releasing an unclassified assessment of the attack, President Obama threatened, in his press remarks on August 30, military action against Syria for the violation of “well-established international norms against the use of chemical weapons” (Obama, 2012). It was significant President Obama cited the violations of international norms to justify his potential use of military force, as Syria was not a party to the Chemical Weapons Convention at that time and it could not be accused of violating the convention. Syria is a party to the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare. Whether this protocol applies to the use of chemical weapons not in war between states party to the protocol, but against domestic insurgents, is not clear and may be debatable. However, as discussed by Spence and Brown (2012), there is an emerging view among influential international bodies such as the ICRC and the International Criminal Tribunal for the former Yugoslavia that the norm against the
use of chemical weapons has become a customary international law and now applies to internal armed conflicts as well.

President Obama did not follow through with his military option but accepted Russia’s mediation efforts to force Syria to agree to accede to the Chemical Weapons Convention and to destroy all its chemical weapons stockpiles. While Security Council resolution 2118 of 27 September 2013, endorsing the Russia–US Framework for Elimination of Syrian Chemical Weapons, affirmed “that the use of chemical weapons constitutes a serious violation of international law, and stressed that those responsible for any use of chemical weapons must be held accountable,” it is not clear exactly what international law Syria violated, whether customary international law or the Geneva Protocol.

Nevertheless, the overall sequence of events after the August 21 Ghouta attack was significant in demonstrating that the US, Russia and the international community will not overlook such uses of chemical weapons and will react with strong measures to correct the situation. Hopefully, this will deter North Korea from using its chemical weapons or at least force it to think twice before using chemical weapons. It is to be noted that in his August 30 remarks, President Obama also voiced his intention to deter further use of chemical weapons by other countries.

2010 US Nuclear Posture Review

Soon after his inauguration, President Obama made a historic speech in Prague on 5 April 2009, committing the US to taking concrete steps toward a world without nuclear weapons, while maintaining a safe, secure, and effective nuclear arsenal for deterrence and reassurance as long as nuclear weapons exist. The Obama administration then conducted a new round of NPR. One of the contentious issues was whether to adopt a no first use policy of nuclear weapons as a way to reduce the role of nuclear weapons in US defense policy.

Across the Pacific, the conservative LDP government of Prime Taro Aso was in power in Tokyo during the first half of 2009. The Japanese government became concerned about the credibility of American extended deterrence in the face of the emerging North Korean nuclear threat, as North Korea had first conducted nuclear tests in 2006 and then again on 25 May 2009. When the rumor spread that the US was considering retiring the nuclear-armed Tomahawk land attack missiles (TLAM-Ns), Japanese officials were reported, in the 2009 Congressional Commission on Strategic Posture Final Report, to have requested that the US retain them as a symbol of reassurance as well as a means of escalation (Congressional Commission on America’s Strategic Posture, 2009).

The situation, however, became complicated when the Japanese conservative government lost the August 2009 general election to the center-left DPJ. The more pacifist government of Prime Minister Yukio Hatoyama stepped back from the previous conservative position when, in December 2009, Foreign Minister Katsuya Okada wrote a letter to Secretary of State Hillary Clinton denying the earlier Japanese request to reconsider the retirement of the TLAM-Ns. However, Okada’s letter also expressed a hope that Japan would receive ongoing explanations of the US government’s extended deterrence policy, including any impact the retirement of TLAM-Ns might have on
extended deterrence for Japan and how this could be supplemented. Okada stated further that while Japan depended on US extended deterrence, he expressed interest in the idea of limiting the role of nuclear weapons to the sole purpose of deterring nuclear attacks and support for President Obama’s vision of a world without nuclear weapons. In spite of Okada’s expression of interest in limiting the role of nuclear weapons to the sole purpose of deterring nuclear attacks, the 2010 NPR report stopped short of an unqualified declaration of no first use policy in view of the concerns expressed by Japan and, perhaps, by South Korea (US Department of Defense, 2010).

First, the NPR report used the “sole purpose” terminology rather than the “no first use” terminology. Though both terms essentially mean the same thing, they have different connotations. “No First Use” was used by the Soviet Union for propaganda purposes and is now used by China to describe its nuclear doctrine. Thus, “sole purpose” may sound more acceptable to Western countries. In Japan, “No First Use” is seen very often as one of the areas of focus of left/center anti-nuclear idealists, and thus, carries a negative perception among center/right conservatives. “No First Use” also has the connotation that as long as an adversary does not use nuclear weapons, you do not use nuclear weapons first, but once the adversary has used them, you are free to use them without limitations. By contrast, “sole purpose” has the connotation that the use of nuclear weapons is always only to counter nuclear threats and that such a limitation would continue to be applied even after the first use of nuclear weapons.

Second, the NPR report referred to sole purpose in the context of discussing negative security assurance. After “declaring that the United States will not use or threaten to use nuclear weapons against non-nuclear weapons states that are party to the NPT and in compliance with their nuclear non-proliferation obligations,” it went on to negatively state that the “United States is therefore not prepared at the present time to adopt a universal policy that deterring nuclear attack is the sole purpose of nuclear weapons, but will work to establish conditions under which such a policy could be safely adopted.” Thus, while the NPR report stopped short of declaring sole purpose, it expressed an aspiration to create conditions for when a sole purpose policy can be adopted.

Third, in reaching this conclusion, the NPR report touched on the question of non-nuclear threats, i.e., chemical and biological weapons attacks. The report stated that the

United States affirms that any state eligible for the assurance that uses chemical or biological weapons against the United States or its allies and partners would face the prospect of a devastating conventional military response – and that any individuals responsible for the attack, whether national leaders or military commanders, would be held fully accountable.

The following sentence indicates that the US will not use nuclear weapons to deter or react to the use of chemical or biological weapons even though it has made a reservation that in the future, the US may bring back the use of nuclear weapons when it is concerned about biological weapons:

Given the catastrophic potential of biological weapons and the rapid pace of biotechnology development, the United States reserves the right to make any adjustment in the assurance that may be warranted by the evolution and proliferation of the biological weapons threat and U.S. capacities to counter that threat.
In this way, the concerns expressed by Japan would now be met not by nuclear weapons but by “a devastating conventional military response” and a threat “that any individuals responsible for the attack, whether national leaders or military commanders, would be held fully accountable.” The latter reference to possible war crimes prosecution is significant in the sense that it apparently does not make a distinction whether or not a country, e.g., North Korea, is a party to the Chemical Weapons Convention. It is also notable that the US protection coverage not only extends to “allies” but also to “partners,” which were not defined in the NPR report. This wording may be meant to include Israel, Saudi Arabia, and Taiwan, none of which is a formal ally of the US.

As revealed by his assistant Rhodes at the Arms Control Association, in the summer of 2016, President Obama started an internal process “to review a number of ways he (could) advance the Prague agenda (to seek a world without nuclear weapons)” through the exercise of his executive authority. The options included declaring a “no first use” policy for the United States’ nuclear arsenal (Rhodes, 2016). While arms control proponents such as Daryl Kimball (2016) of the US Arms Control Association supported the adoption of no first use policy, the news of the President’s internal review process initiated an intense debate in the United States, with opponents like Franklin Miller citing risks of the process lowering the allies’ credibility in US extended deterrence (Miller and Payne, 2016).

Asahi reported that Japanese Prime Minister Shinzo Abe told the visiting commander of the US Forces in the Pacific, Admiral Harris, that he opposed the US adoption of a no nuclear first use policy. In citing this incident, a leading expert on Japan’s security policy, Yukio Sato, wrote that he was relieved to see that President Obama came to the obvious conclusion of not adopting a no first use policy (Sato, 2017). Sato maintains the position that the US should keep the option of first use open to deter any future attack by North Korea against the US, South Korea, or Japan. Prime Minister Abe later denied the report or having had any discussion about the nuclear no first use policy with Admiral Harris. While the truth about the specific conversation between the Prime Minister and the Admiral remains in the dark, the Japanese government officials expressed their reservation about the no first use policy adoption on a number of occasions. A clear divide appeared between the skepticism about no first use policy maintained by the Japanese government and the ruling Liberal Democratic Party (LDP) on the one hand, and the support expressed by the minor ruling coalition partner Komeito and the opposition parties on the other. With the LDP keeping a comfortable majority support in the opinion polls (42.3% against 16.6% for the top opposition party CDP in the January 2018 TV Asahi survey), there is no immediate prospect the government reconsiders its opposition to no first use.

Within the Obama administration, three key cabinet members, Secretary of State John Kerry, Secretary of Defense Ash Carter and Secretary of Energy Ernest Moniz, came out in opposition to the no first use policy, joined by major US allies, including

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1Asahi Shimbun reported on 16 August 2016 that the Washington Post had reported on August 15 that Prime Minister Abe expressed his concern to Admiral Harris on 26 July. On 21 August, Asahi reported that Abe denied he had such a conversation with the Admiral, but that a senior Foreign Ministry official commented rather strongly that the American extended deterrence would not work if the US declared nuclear no first use.

2A poll conducted by TV Asahi in January showed 42.3% support for the LDP, and 16.6% for the top opposition party CDP (Constitutional Democratic Party). Ruling coalition partner Komeito won 3.6% (http://www.tv-asahi.co.jp/hst/poll/201801/index.html).
the UK, France, Japan, South Korea, and Germany. Thus, President Obama finally had to abandon his efforts to declare no first use using his executive power. During this time, he also had to let go of the aim to extend the New START treaty’s limits on deployed nuclear weapons by five years, or to cancel or delay development of a new nuclear cruise missile. The idea of a UN Security Council resolution that would affirm a ban on the testing of nuclear weapons materialized, even though it was expressed less forcefully than might have been intended.

2018 Nuclear Posture Review

The new Nuclear Posture Review released by the Trump administration in February 2018 opened the doors for nuclear weapon use not only against nuclear attacks against the US, its allies, and partners but also against “significant non-nuclear strategic attacks,” including attacks on their “civilian population or infrastructure even though it said the US would only consider the use “in extreme circumstances” (US Department of Defense, 2018). This was interpreted to include not only the other kind of WMDs, i.e., chemical and biological weapons, but also such newly emerging threats as cyber-attacks. The new NPR, thus, came as a comfort to those concerned about the security in Japan. Foreign Minister Kono quickly came out, in his press statement, to welcome the new NPR by “highly appreciating” its “articulation of the U.S. resolve to ensure the effectiveness of its deterrence and its commitment to providing extended deterrence to its allies” (Kono, 2018). Kono’s unqualified endorsement came quickly under criticism from nuclear abolitionist organizations and faced challenges by opposition party members. He later tweeted that he regretted that the NPR took a negative stance against the CTBT. Asked how he reconciled his active support for nuclear disarmament before his appointment as Foreign Minister with the praise of the NPR in the House committee hearing, he responded by saying that “he now shares the responsibility to protect the people from the threat of North Korean nuclear missiles while he still wishes to promote nuclear disarmament.”

Progressive alternatives: Discussions at the Hiroshima Round Table and the APLN

While the recent trend in Japan is clearly toward a conservative position to strengthen national defense and reaffirm US extended nuclear deterrence, alternative views have also been expressed. The Hiroshima Round Table is a process of track 2 discussions among experts from Japan, South Korea, China, the US, and Australia to seek practical ways of promoting nuclear disarmament and nonproliferation in Northeast Asia. It was started in 2014 at the initiative of Hiroshima Prefecture Governor Hidehiko Yuzaki. Active participants include former Foreign Ministers Evans and Kawaguchi. The discussions were held under the Chatham House rule but at the end of sessions, a Chair’s summary has been issued occasionally by Prof. Kiichi Fujiwara of the University of Tokyo. Against the background of recent developments in the region, a central focus has been North Korea’s nuclear development, and the roles of nuclear deterrence and no first use policy.
In the Recommendations issued on 4 August 2014, titled “Building Nuclear-free Security in East Asia,” the Round Table recommended that “all nuclear-armed states should pledge never to use nuclear weapons when conventional weapons are sufficient to achieve legitimate military purposes. States that enjoy security guarantees from nuclear weapons states, such as Japan, should also endorse this principle” and “accept that the only role of nuclear weapons is to deter nuclear war.” It reminded readers that “[a]ll states have an obligation to ensure their nuclear policies are consistent with generally recognized law of armed conflict, including the principles of necessity, proportionality, and discrimination.”

Similarly, the Round Table’s Chairman’s Summary issued on 29 August 2016, stated that

Nuclear weapons must never be used. But until they are abolished, they should be strictly subject to the principles of just war doctrine, the laws of armed conflict, and international humanitarian law. The definition of [legitimate military targets] becomes critical for appropriate application of the principles of discrimination, proportionality and, in particular, necessity. Civilian populations should never be targeted by conventional or nuclear weapons, and all efforts should be made to minimize collateral damage in any conflict. Deterrence should never mean targeting innocent civilians.

It further stated that

It is reported that President Obama, after his visit to Hiroshima, is considering a number of options, including declaring no first use of nuclear weapons (NFU), the aim of which is to help ease the alert status of nuclear weapons, reduce the required number of nuclear warheads and reduce incentives to acquire nuclear weapons. We welcome this initiative from President Obama. Although we are aware that such policy may invite reservations among U.S. allies that depend on the U.S. extended deterrence, we believe this policy will not weaken the American security assurances that have been offered to U.S. allies. An increased reliance on conventional weapons provides more credible security guarantees under most scenarios. It should be recalled that China has declared no first use of nuclear weapons, and that the U.S. has maintained that nuclear weapons are held only as a last resort after responding to non-nuclear threats with conventional deterrence. Intensive consultation with the allies would help relieve the allies’ anxiety. In addition to the U.S. adopting this policy, it should be adopted by other nuclear-armed states as well.

The Chairman’s Statement issued on 2 August 2017 reiterated the above views by stating that

There are few, if any, targets in North Korea that cannot be destroyed by U.S. and allied conventional weaponry. Any attack by North Korea including a nuclear strike would lead to the inevitable and violent end of the Kim regime. A conventional threat to end the Kim regime in retaliation to any DPRK attack, including a nuclear attack, would be highly credible and effective given the advanced conventional superiority of the United States, Japan, and South Korea.

It noted further that “the United States should take the option of using nuclear weapons in a first strike against North Korea off the table. Such a use of nuclear weapons would be both immoral and unwise.”

The Hiroshima Round Table aims at moving from a track 2 dialog to a track 1 and a half dialog so that its discussions can influence government thinking. So far, only officials from the Japanese Foreign Ministry have occasionally participated as
observers. The views expressed in the Round Table had, if any, only limited impact on the Japanese government. The government officials have, as reported by Asahi on 19 August 2016, expressed their concern about US declaration of no first use by saying “it would increase the security risk (of the U.S. allies) as it sends a wrong message that as far as an adversary offense remains conventional, it will not face nuclear attack.”

The Asia-Pacific Leadership Network for Nuclear Nonproliferation and Disarmament (APLN) was started as a follow-up advocacy group to the ICNND with Evans as its initial convener. The group encompasses countries in the Asia-Pacific region extending to South Asia but does not include North America, which is included in its sister group, ELN (European Leadership Network). In 2016, the APLN issued a statement welcoming the Obama administration’s consideration of means to re-energize the nuclear arms control agenda and, in particular, the initiative to adopt a No First Use policy (APLN 2016). It strongly encouraged a US. No First Use policy and called on America’s Asia-Pacific allies to support it.

Ways to overcome the great divide over no first use policy

The adoption of a nuclear no first use policy can help reduce tension and promote nuclear disarmament and nonproliferation. To adopt such a policy, not for purposes of propaganda, but as a genuine policy step would require a serious examination of the current and future military situation surrounding the use of nuclear weapons. It is said that if the international humanitarian law requirements of discrimination, proportionality, and necessity are to be strictly applied, the US and allies’ non-nuclear military superiority has greatly reduced the cases where use of nuclear weapons is required. This is possible as far as the US and its allies can maintain conventional superiority backed by their technological and economic advantages over potential adversaries. This means that the US and its allies will have to devote considerable economic resources to maintain their robust conventional deterrence as implied in the US NPR’s statement that “the U.S. will continue to work extensively with allies and partners to build enhanced regional security architectures, including non-nuclear capabilities for deterrence, helping to build partner capacity” (US Department of Defense, 2010, 33).

A straightforward response to eliminating the need for nuclear first use would be to eliminate the non-nuclear threats to be met with nuclear deterrence, i.e., chemical and biological weapons and massive conventional assaults. If North Korea adheres to the Chemical Weapons Convention, abandons all its chemical weapons, and accepts a robust verification of its compliance with the Biological Weapons Convention, along with conventional forces disengagement arrangement across the DMZ, the justification for the retention of the first use option would be virtually eliminated as far as North Korea is concerned. “Strengthen[ing] counter-WMD capabilities, including improved US and allied ability to defeat chemical or biological attack” as stated in the NPR report would also help reduce the requirement (US Department of Defense, 2010, 34). However, it may not be easy to make North Korea abandon chemical and biological weapons as it accepts denuclearization. North Korea would ask, “how can we defend ourselves if we are left with our rundown conventional forces?” This is why the 1994 Agreed Framework and the 2005 Joint Statement put denuclearization in the context of
an overall improvement of the North Korean relationship with the US and other countries.

A strict application of the international humanitarian law requirements of discrimination, proportionality, and necessity would practically reduce the cases where the US can use nuclear weapons for first use or otherwise. A free, open, and democratic country such as the US does not have much choice. As witnessed in the cases of the wars in Vietnam and Iraq, images of brutality in the age of instant visual communication can quickly move the public to push the government away from the use of force. Arguments are made that such situations put democratic law-abiding countries like the US and the UK at a disadvantage vis-à-vis more autocratic nuclear weapon possessors. The validity of this argument needs to be verified in face of the fact that the Soviet Union/Russia and China have not to date used nuclear weapons.

At any rate, a country like the US does not have much choice. If the deterrence and the first use advocates take comfort in the possession and unqualified threats or use of nuclear weapons, they may be, in a sense, enjoying a false sense of security. These are weapons almost too powerful to be practically used and may be used in very limited ways if the country strictly adheres to the requirements of humanitarian law.

If the role of nuclear deterrence is to be reduced without a significant improvement in the regional security environment, as discussed previously, the US and its allies’ conventional deterrence, including missile defense capability, has to be strengthened. As this runs the risk of accelerating regional arms competition vis-à-vis China and Russia, the steps to strengthening conventional deterrence have to be carefully calibrated so as not to cause an arms competition. This, however, is easier said than done. Arms competition is already under way in the Western Pacific. Eventually, regional arms control talks will have to be promoted. This might be a more complicated and difficult process than the US–Soviet process during the Cold War. The fact that today the US can do with far less reliance on nuclear deterrence means the US has a big conventional advantage over its potential adversaries. Today’s arms control talks have to create a new methodology to deal with a twenty-first century asymmetrical military/security situation.

**Conclusion**

The new 2018 NPR report put greater emphasis on nuclear deterrence and moved away from no first use or sole purpose. Instead, it expanded the scope of the threats to be met by nuclear deterrence and proposed to build up nuclear weapon systems that are more useable. However, while Presidents may change but the principles of international humanitarian law applies to every President and anyone, out of one’s volition or under an order from above, who has breached these principles will be held accountable. President Obama expressed this point explicitly. The new NPR still stated that the US would consider using nuclear weapons “in extreme circumstances” that include “significant non-nuclear strategic attacks.” Discussions of these limitations put on the use of nuclear weapons under the new NPR could help bring the practical application of the concept to come in line with the principles of international humanitarian law.

In the meantime, North Korea’s fast nuclear and ballistic missile development and its threats to the US with nuclear warheads are raising tensions. As Fetter and Wolfsthal
have demonstrated, there is also a greater concern about an accidental or mis-calculated use of nuclear weapon. With the marked decline in the US practical dependence on nuclear weapons and the constraints of international humanitarian law, even under President Trump, a possible case for the use of nuclear weapons on the Korean Peninsula would be very limited, e.g., to three scenarios: (1) When North Korea attacks South Korea, Japan, US bases, or the US mainland with nuclear weapons, and follow-up attacks seem to be likely, the US may be warranted in its use of nuclear weapons insofar as its objectives are highly difficult to be achieved with non-nuclear means. Practically, the only case for this option may be when nuclear forces are hidden so deep underground that they cannot be destroyed with bunker busters. (2) When North Korea mounts a massive chemical or biological attack, or a massive conventional invasion into South Korea, and it seems difficult to stop the onslaught, the US may be warranted to use nuclear weapons, again, insofar as the objective is impossible to be achieved with non-nuclear means. (3) When the attacks under scenario (1) or (2) seem highly likely and there is no other means to prevent their occurrence, the US may be allowed to mount preemptive attacks, using nuclear weapons, when it seems other means cannot prevent attacks on the US or its allies. Preventive attacks, however, to destroy buildup of North Korean capabilities without the imminence of attacks cannot be allowed under the UN Charter, unless authorized by the Security Council. Thus, the concrete need or lack thereof for the first use option in the twenty-first-century military/security environment has to be carefully studied in order to explore ways of overcoming the deep divide between the proponents and the opponents of no first use policy.

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