



RIISING POWERS INITIATIVE

Sigur Center for Asian Studies

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Japan Debates the Right to Collective Self-Defense

Japanese political leaders – faced with emerging security concerns ranging from territorial disputes with China to the nascent North Korean nuclear arsenal – are reevaluating how their constitution limits the Japanese military’s ability to project power beyond its self-defense. While Article 9 of the Japanese Constitution “forever renounce[s] war” and “the threat or use of force as a means of settling international disputes,” Japan’s changing security environment raises several questions. **Is Japan heading towards more military activism under Prime Minister Shinzo Abe and his recently reelected coalition? Will Abe be successful in changing the Japanese Constitution? What are the major forces at play in this domestic debate?**

This Policy Brief by **Satoru Mori**, Visiting Scholar, outlines competing viewpoints debating the future direction of Japan’s Self-Defense Force, its constitution, and Tokyo’s foreign policy toward its neighbors and the United States.

Background

The Liberal Democratic Party (LDP) won a landslide victory in the December 2012 general election and the July 2013 Upper House election and is now in control of both Houses of the Diet. Prime Minister Shinzo Abe has raised the issue of changing the interpretation of Article 9 of the Japanese Constitution. During Abe’s first term, he convened an advisory group composed of scholars and former government officials that examined this issue. He has since reconvened this group. The group’s recommendations will serve as a basis for formulating the Japanese government’s position.

Article 9 of the Japanese Constitution stipulates as follows:

1. Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as a means of settling international disputes.
2. In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

In official statements submitted to a committee in the Upper House in 1972 and to Mr. Seiichi Inaba, a member of the Diet in 1981, the Japanese government outlined the constructs of Article 9. First, Japan has renounced war but has not renounced any effort to defend itself; second, Japan as an independent nation possesses the right to individual and collective self-defense; third, the Constitution nevertheless does not unconditionally permit all means of self-defense, and self-defense measures under Article 9 should be limited within what is deemed minimally necessary; and last, exercising the right to collective self-defense would exceed what is deemed minimally necessary and therefore would not be permissible under the Constitution.

Prime Minister Abe's Initiative

The advisory group convened during the first Abe government was asked to examine four particular cases in which there might be a need to exercise the right to collective self-defense. Those four cases included: providing protection to U.S. vessels that are attacked on the high seas; intercepting ballistic missiles heading to U.S. territory; using force to protect third country forces participating in international peacekeeping operations; and providing logistical support to third country forces participating in international peacekeeping operations. The idea was to identify cases of exception to the 1981 statement on the interpretation of Article 9 by way of formulating a "positive list" or defining what types of action could be permissible. However, Prime Minister Abe resigned from office before the advisory group completed its work, and his successor Prime Minister Yasuo Fukuda did not follow through with the recommendations of the advisory group that essentially argued for the need to exercise the right to collective self-defense under certain circumstances.

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In February 2013, Prime Minister Abe reconvened the advisory group and asked it to reexamine the issue. The group held its second meeting on September 17 and is expected to deliver a report in the next several months. Some of the specific cases that were discussed during this particular meeting included: providing security for sea lines of communication, providing assistance to aggrieved states and the United States during contingencies that affect Japan, participation in activities based on United Nations decisions to respond to situations that have grave consequences for maintaining international peace, evacuation of Japanese citizens from third countries, and responding to situations that do not amount to a full-fledged war.

Despite the discussions on particular types of cases, it should be noted that a member of the group pointed out that it is necessary to identify what kinds of action are constitutionally prohibited by formulating a “negative list” rather than a “positive list”, and it appears that this “negative list” approach might be the preferred new approach that could provide flexibility under the prime minister’s foreign policy initiative called “proactive contribution to peace”. In addition, Professor Shinichi Kitaoka, the acting chairman of the prime minister’s advisory group, stated in a TBS television program on September 14 that unless Japan receives a clear request from a third country, the Japanese Self Defense Force units should not be sent to the aggressor state based on the right to collective self-defense. He also stressed that this was not an obligation but a right to collective self-defense, and thus, allowing Japan to exercise this right does not automatically obligate Japan to come to the defense of a foreign nation.

Prime Minister Abe has also appointed Mr. Ichiro Komatsu, a former foreign ministry official and an expert on international legal affairs, as the Director of the Cabinet Legislation Bureau that had traditionally been charged with providing the executive body’s authoritative interpretation of the Constitution. Mr. Komatsu is said to be supportive of the reinterpretation approach, but has stated clearly in media interviews that the cabinet as a whole will deeply examine the issue of collective self-defense before drawing any conclusions and has declined to state his personal view regarding this issue.

Contending Voices and Public Opinion

Whether the Japanese government is able to exercise the right to collective self-defense without revising the Constitution is an issue that has been raised on the Japanese political scene. The former director of the Cabinet Legislation Bureau (CBL), Mr. Tsuneyuki Yamamoto, upon assuming his position as a Supreme Court judge, stated in a press conference on August 21 that the revision of the Constitution was necessary to allow for the exercise of the right to collective self-defense.

Mr. Yukio Edano, chairman of the general research council of the Constitution of the Democratic Party of Japan (DPJ) publicly

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presented his own recommendation for Article 9 in the journal *Bungei Shunju* on September 10. He proposed that Article 9 be preserved and that two new clauses, Article 9-2 and 9-3, be added to put a limit to Japan's military activity. Rather than relying on traditional distinctions between individual and collective self-defense that underpin debate on Article 9 today, Yukio believes the right to self-defense should be governed by three principles: first, the purpose should be to repel imminent and unlawful armed attack; second, when there are no alternative means; and finally, within what is deemed minimally necessary. He also argued that armed attack against foreign forces acting to protect Japan should also be included as a basis for exercising the right. Former Deputy Minister for Foreign Affairs Tsuyoshi Yamaguchi (DPJ) stated in an

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interview with *Sankei Shinbun* on September 6 that Japan does indeed possess the right to collective self-defense and should be able to exercise it, but the time is not ripe for changing the government's position on this issue because the world at large is concerned that Japan has not faced issues of the past and revising the Constitution at the expense of buying distrust from other countries would not contribute to security. DPJ at this point appears still to have mixed views on this issue.

The New Komeito Party (NKP) also appears reluctant to approve such changes to Article 9. NKP is in a coalition with the LDP and has been known for its pacifist party line. Natsuo Yamaguchi, the party's chief representative, stated in an interview with the *Kyodo News*

Agency on August 29 that the public's hesitance to change Article 9 may prevent an agreement with the LDP to move ahead by the end of this year. In his speech at the Carnegie Endowment for International Peace in Washington on September 12, Yamaguchi reiterated that the traditional interpretation of Article 9 was meticulous, systematic, and solid. He stressed that efforts should be made to obtain the understanding of Japan's neighbors if any changes were to be made to the existing interpretation.

According to a public opinion poll conducted by the *Asahi Shinbun* on August 24 and 25, 59 percent of respondents said they were against changing the interpretation of Article 9 to allow for the exercise of collective self-defense, while 29 percent supported the reinterpretation. Other recent polls yielded similar results: *Mainichi Shinbun* in July found 51 percent to 43 percent against collective self-defense and a survey by *Yomiuri Shinbun* in August showed 47 percent opposed with 39 percent in support.

Conclusion: The Politics Driving an Article 9 Decision

It appears that the prime minister will carefully consider the state of public opinion and the party position of the NKP to determine the appropriate timing to make a decision on the reinterpretation issue. The prime minister will want to avoid creating any fissure between the LDP and the NKP over this sensitive issue since his government will have to manage a host of other issues that require close coordination within the coalition. Augmenting public support for the reinterpretation could make it easier for the NKP to give consent to the prime minister's initiative. Despite the fact that nearly half of the Japanese public is still hesitant to change the status quo on the right to collective self-defense, the level of support has been gradually rising as Japan's security environment worsens with tensions over the Senkaku Islands and nuclear weapons development by North Korea. The advisory group will likely release its report in the next several months to raise public awareness of this issue's implications for Japanese national security.

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