



# Japan's Constitution and Role as a Middle Power

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### Introduction

It is a fact that a variety of opinions exist with regard to the Japanese Constitution that was drawn up during the US occupation after World War II, including some who argue that Japan should revise the Constitution and formulate a new, autonomous constitution. However, it is also true that the path Japan has followed from the end of the war to the present, guided by the universal values of peace, democracy, and respect for human rights, has contributed to a positive evaluation of the current Constitution. Even if changing times mean that there must eventually be a debate on constitutional reform, the Constitutional Democratic Party does not support the argument that Japan should come up with a totally new autonomous constitution.

### Developments to date, the status quo, and outstanding issues

With regard to national security, Article 9 of the Constitution renounces war and states that Japan will not maintain armed forces and does not recognize the right of belligerency. Even from the period when the Constitution was first enacted, however, the interpretation of successive Japanese governments was that this provision does not deny Japan the right to defend its own territory and interests. Later, when the Korean War began, in the context of increasing instability in the region, the Japanese government

established the National Police Reserve, later the Self-Defense Forces (SDFs), and effectively moved to restore some of the nation's military strength. At the same time, the signing of the US-Japan Security Treaty clarified the duty of the United States to come to Japan's defense. Japan would limit its defense program to the minimum necessary for self-defense (and would maintain an exclusively defense-oriented policy), while otherwise relying on the deterrent force of the United States. In exchange, Japan allowed the United States the use of bases in Japan to pursue US security policy in the Far East.

In the years that followed, the Japanese government's interpretation of the Constitution was based on the assumption that Japan as a sovereign state naturally possesses the right to self-defense as determined by international law. Even under Article 9 of the Constitution, the renunciation of military potential did not include the exercise of individual self-defense, and the Constitution was understood to allow Japan to maintain minimal forces at a level necessary for self-defense. The country operated the SDFs on this basis. Successive governments maintained the position that Japan's strategy was based on the exclusively defense-oriented policy, limiting the possible use of the SDFs to the right to individual self-defense and refusing to commit to the right to collective self-defense. For many years, until the passing of the recent Legislation for Peace and Security, debates on defense in the

National Diet were always based on this interpretation of the Constitution.

What has been the role of Japan's inhibitory defense framework, as defined by Article 9, in the decades since the war? Let me state my conclusion first: Broadly speaking, I believe that the Constitution, which delivered peace and allowed the country to focus on economic recovery and development, and the way in which it has been interpreted and administered by governments over the years, have been largely positive for Japan.

Basically, the Constitution has performed three important roles.

First, the Japanese Constitution played the fundamental role of developing trust in Japan among neighboring countries. Before the war, in an attempt to compete with the Western imperial powers, Japan colonized Korea and Taiwan, and then launched advances into Manchuria and Southeast Asia that eventually led to its defeat in the war. There was skepticism in neighboring countries about whether postwar Japan would truly be reborn as a nation based on the keynotes of peace and democracy. Japan worked to gain the trust of these countries by explaining that it would operate the exclusively defense-oriented policy, based on the ideal of pacifism as laid out in the Constitution.

Second, through the signing of the US-Japan Security Treaty, it was possible to keep Japan's defense budget spending

to a minimum. Under the terms of the Japan-US Alliance, Japan allowed the United States to use bases in Japan and provided an important foothold for US security strategy in the Far East. In return, the United States guaranteed a deterrent for Japan, including the protection of its nuclear umbrella. The United States has repeatedly pressed Japan to assume a more proactive military role, but Japan has consistently insisted on maintaining the exclusively defense-oriented policy. In terms of the shield and the spear, Japan has used the provisions in the Constitution to explain to the rest of the world its decision to focus exclusively on the defensive qualities of the shield.

Third, by placing a clear constitutional brake on the possibility of Japan's ever becoming a military threat to other countries, the Constitution has helped to build the fundamental trust necessary for Japan to move forward with its peace-based diplomacy as a middle power. When the United States differentiates clearly between enemies and friends, and pursues a hardline foreign policy as a superpower, based chiefly on military pressure, this stance provides room for Japan, as a country that does not rely on military power, to act as an intermediary in diplomatic negotiations. As tensions and antagonisms increase between the United States and China, proceeding only in one direction will exacerbate the instability in the regional security situation. Japan's role should be to exercise neutral diplomatic efforts

to ensure that these tensions do not escalate. There is also value in maintaining the potential to find solutions through Japan's distinctive position in responding to authoritarian regimes in countries like Iran, Myanmar, and North Korea. A situation that makes it possible for Japan to set limits on its own military spending, to do without offensive military potential, and to pursue peace-based diplomacy, is extremely valuable for a middle power caught between antagonistic superpowers. Japanese diplomacy should make greater use of these advantages, and look to build an autonomous foreign policy.

I believe that we also need to think about a new response to the international changes that have taken place in recent years, affecting conditions in the region around Japan. The time has surely come to explore the potential to develop Japan's current security strategy, based on its bilateral alliance with the United States, into one that can evolve into a collective security framework, including United Nations reforms.

Among the major changes in the international climate in recent years, the rise of China and Russia's invasion of Ukraine have increased concerns about a possible emergency involving Taiwan. At the same time, the progress of North Korea's nuclear and missile development programs has increased the threat to Japan. In response to these trends, it is important that the Japanese government does not limit its vision to the

relationship with the United States but looks beyond that to develop multilateral cooperative relationships in the Indo-Pacific region through the Quadrilateral Security Dialogue (Quad) framework that incorporates Australia and India. In particular, in the context of escalating tensions between the United States and China, it will be important for Japan, which has traditionally relied exclusively on its Security Treaty with the United States, to develop closer relationships with the European Union (EU) and North Atlantic Treaty Organization (NATO) and countries like South Korea and Canada, in addition to the Quad framework. As a security direction for Japanese diplomacy, I think it will be important for Japan to build on the Japan-US Security Treaty framework, which has functioned in the past as a bilateral arrangement, and look to develop it into a collective security framework, and in this way check China's aspirations toward hegemony in the region. NATO and the EU have played an important role in the security of their respective regions. Likewise in the Asia-Pacific, the security framework should be not structured solely around the antagonisms between major powers like the United States, China, and Russia. Japan should take the lead as a middle power in working to build a collective security system by collaborating with Quad and the Association of Southeast Asian Nations (ASEAN) as well as countries like South Korea and Canada.

## Conclusion

If there is to be a debate in Japan on revising Article 9 of the Constitution, this discussion must not simply be along the lines of the argument that as an American ally Japan should change its policy to allow it to fight alongside the United States, simply because that is what is being demanded by the United States. Neither should Japan scrap its focus on the right to individual self-defense and embrace the right of collective self-defense simply for this reason. In terms of the bilateral alliance with the United States, the current division of offensive and defensive roles (the shield and the spear) represents the best option for Japan as a middle power. Japan should continue to maintain this division of roles as a middle power based on the exclusively defense-oriented policy. However, if in the future the possibility emerges of achieving a collective security system based on the United Nations or multilateral cooperation in the Asian region, this will provide an opportunity to think seriously about constitutional revision. Japan should play a proactive role and should take the lead in promoting regional security policy. The time for a debate on constitutional reform will be when the world moves to establish a system of this kind. I want to build a national consensus, by debating the norms and provisions of the constitution, including how Japan should be involved in the military side. Space, cybersecurity, electromagnetic waves, and other things, and their relationship

with constitutional rules and guidelines, are a challenge for the future. At the present stage, what is required is to work steadily to build Japanese independence and a defense vision for Japan as a middle power, in response to changes in the actual security environment. At the same time, it will also be important to work to secure understanding for Japan's position, not only among countries in Asia, but also from the United States and the EU countries.

## Reference material

### **From the preamble to the Constitution of Japan**

We, the Japanese people, desire peace for all time and are deeply conscious of the high ideals controlling human relationships, and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world.

### **Article 9 of the Constitution of Japan**

Article 9. 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 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.

**US-Japan Security Treaty Articles V and VI**

Article V

Each Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations in accordance with the provisions of Article 51 of the Charter. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

Article VI

For the purpose of contributing to the security of Japan and the maintenance of international peace and security in the Far East, the United States of America is granted the use by its land, air and naval forces of facilities and areas in Japan. The use of these facilities and areas as well as the status of United States armed forces in Japan shall be governed by a separate agreement, replacing the Administrative Agreement under Article III of the Security Treaty between Japan and the United States of America, signed at Tokyo on February 28, 1952, as amended, and by such other arrangements as may be agreed upon.

## Masaharu NAKAGAWA



Masaharu Nakagawa is Member of the House of Representatives (9th term) with the Constitutional Democratic Party of Japan (CDP).

He started his career at the Japan Foundation. After serving as Member of Mie Prefectural Assembly for 12 years (three terms), he was first elected as Member of the House of Representatives in 1996. As Next (Shadow) Finance Minister of the Democratic Party of Japan (DPJ), he committed himself in creating the manifesto for the 2009 summer election.

In the DPJ administration, led by PM Yukio Hatoyama in 2009, he served as Senior Vice Minister of Education, Culture, Sports, Science and Technology. Moreover, in the Naoto Kan administration from 2010, he was appointed Chair of Foreign Relations and Security Research Committee in the ruling party. In the Yoshihiko Noda administration, he was sworn in as Minister of Education, Culture, Sports, Science and Technology. Finally, he was given the portfolio of Disaster Management, New Public Commons, Gender Equality and Civil Service Reform in 2012.

After the national election in 2012, he served as the Acting Secretary-General of the opposition. He struggled for the DPJ's recovery in the Parliament. And he served as Chair of General Meeting of DP Diet Members and as Chair of CDP Constitutional Research Committee.

He is actively involved in issues such as e-books, ethnic groups in Myanmar, and promoting the acceptance of foreigners and multicultural coexistence society, joint studies of the histories of Japan and South Korea. For creating a more equal and civil society internationally, he has established the Progressive Caucus Japan, a group of Japanese Progressive parliamentarians.

