Alterning Article 9: The Prospect of Revising the Constitution

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Shem Redie

In recent years, Japan has resorted to reinterpreting its Constitution to respond to global trends and its security dilemma. The rate with which Japan is doing this has raised alarms over the possibility that it will gradually defer from this practice to ultimately revise its Constitution under bogus claims over its security and future. With a perceived unstable regional environment, an increasingly one-sided alliance with the US and a determined public resistance to any revision, the Abe government is at an unprecedented crossroads in Japan’s history. How Japan moves forward from its present dichotomy will determine the type of actor it develops into and the influence it holds on the world stage for decades to come. This paper argues that the prospect of a revised Constitution is only a matter of time thus simultaneously consigning the fate of Japan as a ‘normal’ military power to inevitable, presenting momentous implications for the region and the international order.

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Shem Redie is a Junior Associate at the European Institute for Asian Studies
Introduction

In recent years there has been growing scepticism of the extent to which Japan has been complying with its rigid pacifist principles both at home and abroad in security policy. Article 9 in the Constitution prevents Japan from declaring war or using the threat of war to settle disputes. Successive administrations since the Gulf war have placed Japan on a trajectory to become a ‘normal’ military power inevitably altering Article 9 and requiring a revision of the Constitution. Japanese foreign policy transformed due to the external pressures from the US for tangible contributions to the Gulf war the US was embroiled in. Despite the retention in significance that tools such as diplomacy and dialogue have held, recent developments in domestic reforms and the regional security environment suggests that Japan views these as inadequate and no longer viable to be solely relied upon to solve the challenges facing the nation. Japan’s security dilemma comprises of three variables which will be discussed in turn; North Korea and China and the perceived unstable regional security environment these two variables are contributing to. The third variable being the danger of flailing support from the United States as Japan’s primary strategic ally. The findings detect a network that incorporates the variables included in the security dilemma with an added variable - the domestic population of Japan. Each variable either knowingly or unknowingly holds a sizeable degree of influence in the actions of the government and the direction of the future of Japanese security policymaking.

This paper will analyse how Japan has gradually been moving in the direction of revising Article 9, beyond the norm of reinterpreting the necessary clauses to pass security measures in reaction to an evolving network. It will begin by contextualising the key domestic reforms that have facilitated the gradual erosion of Japan’s pacifist principles and implicated Japan into a trajectory of militarisation embodied by the current administration. It will then move to outline what we mean by the security dilemma and how it has directly instigated these reforms. By assessing the trajectory of post-WWII Japan to the Abe administration, the paper also hopes to illustrate the presence of a network in place and how the network is operating directly and/or indirectly towards the goal of a revised Constitution.

Post-WWII trajectory

Japan’s immediate post-war domestic environment was captivated by two dominant sentiments. The first was exhaustion from prolonged military conflict. The second, deep-seated scepticism of the Japanese elite and military establishment that were seen as the perpetrators of the annihilation faced by Japan at the hands of the United States (US) during the war. For these reasons along with the core aim of preventing a resurgence of the imperial militarist sentiment that swept Japan into aggression, Japan was forced to adopt a pacifist-inclined Constitution, primarily drafted by the US. Japan’s so-called pacifist Constitution has determined the scope of Japanese activism, the legality of its actions and the principles that shape its engagements. The defining feature of the Constitution in security terms is arguably Article 9, which in 1947 carried out the desires of its peoples to renounce Japan’s sovereign right to use force or the threat of force to settle disputes. The preamble of Article 9 states:
RENUNCIATION OF WAR

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.

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.

The Constitution possesses anti-militaristic principles which limit military development and use of force except for the self-defence of the mainland. Japan’s pacifist inclinations are characterised by the principles of its post-war Prime Minister, Shigeru Yoshida. Under the Yoshida doctrine, Japan focused on economic development, keeping a low diplomatic profile internationally and relied on the military alliance with the US as a basis for its security. However, it was after the withdrawal of US forces from Japan that the trajectory of Japan’s security shifted away from pacifism. Rather, the two are mutually exclusive. Japan is moving towards becoming a conventional military power without the restraints that were in place during US occupation. This includes a conventional force capable of participating in ‘collective security operations’, foreign conflicts and possessing offensive and defensive capabilities. It is important to understand this definition as it will later underline how Japan has transformed from a pacifist nation with self-defence capabilities to being on track to hold a complete conventional military.

The first domestic reforms that began the gradual erosion of the so-called pacifist Constitution were predicated on the Yoshida Doctrine’s reliance on the US for security. In order to enter the alliance with the US, Yoshida granted them the use of Japanese bases. Ironically it was under US direction that Japan created a ‘Police Reserve Force’ which was “the precursor to the Japanese Self-Defence Forces (JSDF) to ensure domestic security in order to “fill the void left by American troops that had departed for Korea.” The Korean war accelerated the security reforms occurring in Japan and it is important to note that one year after the war, the Diet made the landmark decision to convert the ‘Police Reserve Force’ into the “Air, Ground and Maritime SDF” and simultaneously create an agency capable of overseeing the three separate forces. The JSDF was born.

The passing of key reforms in the immediate post-war period culminated in the 1960 US-Japan Mutual Security Treaty which formalised the permission granted to the US for the use of Japanese bases by its forces and enhanced military cooperation between the two allies. It was said to be “for the purpose of contributing to the security of Japan and the
maintenance of international peace and security in the Far East”. Another significant aspect of the treaty is that Japan would not be obligated to support the US militarily if it is not directly attacked itself which serves as a useful pretext for our assessment of current policies under the Abe administration and the security dilemma. Nonetheless, the treaty continues to hold great significance today and “can be said to be at the heart of the Japanese security role in the world.” The course that Japan chartered after WWII strengthens this claim as the treaty reflected a new reality facing Japan, whereby its strategic partnership with the US guides its foreign policy endeavours during and in the aftermath of the Cold war. From a US perspective, the treaty was monumental as it provided it with a legitimate reason to have a footprint in the region and roll out its hub-and-spoke alliance system that would continue its foundations at this present day. Concurrently, it also equipped the US with the means to encircle the Soviet Union from the East during the Cold War whilst also keeping an eye on a rapidly strengthening China. Japan acted as a “spoke” and proxy in the hub-and-spoke model which bestowed control from the US in the North-East Asia region.

These reforms essentially began the process of reinterpretation of the Constitution to facilitate the agenda of normalising Japan’s defence forces. For the development of the JSDF, the rationale used resembled much of the rhetoric drummed up by the Liberal Democratic Party (LDP) during the 20th century. By declaring that these forces were legal due to Japan’s sovereign right to self-defence granted by the UN Charter, they were able to bypass Article 9. Yoshida’s successor, Prime Minister Ichiro Hatoyama, reinforced this by arguing that “the universal right to self-defence [is] more fundamental than the law of the constitution”. This was symbolic of the conditioning used by post-war governments to dispel public uproar regarding a greater role for the JSDF and render it palatable for public consumption, for example, the JSDF’s capacity was marked as self-defensive for this reason.

**The security dilemma**

Japan has vehemently pushed wide-scale security reforms in the post-WWII era. The rest of the paper will demonstrate how these reforms have accelerated in the late 20th and early 21st century. Whilst it is important to understand where these reforms are occurring, the scale by which they are being applied and the impact they hold on Japan’s foreign policy, it is imperative we briefly tackle why Japan has deemed it necessary to pursue the trajectory that has seen it militarise. The answer pertains to the alliance it is engaged with the US in and the alleged perceived threats in Japan’s regional security environment where Abe has denounced it as “its most severe since World War II”.

First, the regional security environment refers to Japan’s neighbourhood and the historic adversaries that lie close to Japan’s shores – North Korea and China. The North Korea issue

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11 Cooper, The Evolution of Japanese Security Policy, p.6
is a complex one as Japan maintains that it perceives North Korea as threatening beyond the nuclear fears. For example, North Korea is accused of kidnapping Japanese citizens in the 1970s and 1980s.\textsuperscript{13} Japan’s regional threat from North Korea primarily comes from the testing of missiles over the Japanese archipelago and into the Sea of Japan. Since 1998, North Korea has tested its ballistic missile capabilities and undergone rapid nuclear weapons development instilling a sense of apprehensiveness and unease amongst the Japanese government. In 2006, North Korea ramped up this type of activity by launching missiles and conducting a nuclear test within the same year.\textsuperscript{14} It also reinvigorated public debate over Japanese possession of nuclear weapons as a mechanism of self-defence against deliberate hostility and provocative behaviour. North Korean aggression has not stifled in recent years and nuclear and ballistic missile tests continue to be conducted to this present day.

The China issue is also complex. A number of academics\textsuperscript{15} argue that China is both a big challenge to Japan’s security and longer-term in nature.\textsuperscript{16} The threat from China is essentially two-pronged – the modernisation of its conventional and nuclear forces as a result of its alarming defence expenditure increases and the Senkaku/Diaoyu dispute in the East China Sea. The first prong has been observed since the post-WWII era where China enjoyed relative external peace time. However, since the early 1990s, China’s modernisation of its forces and “lack of transparency in its double digit increases in defence expenditure”\textsuperscript{17} have raised eyebrows in Japanese policy circles and expectedly induced acute paranoia. This is a sentiment that can be explained by the zero-sum theory whereby one nation’s rise (i.e. China in this case) will inevitably come at the cost of Japan’s superior position in the region which one can conclusively opine has already been substituted today.

Whether Japan’s fear is justified is certainly contestable, but the second prong suggests that at least in the maritime domain, Chinese incursions in the East China Sea do little to quash long-held underlying fears. The islands have been a source of conflict since the 1970s with competing claims of sovereignty over the islands from China, Japan and Taiwan. China has been accused of deliberately testing Japan’s resolve through numerous provocations in the East China Sea concerning the disputed Senkaku/Diaoyu islands. The action suggests that China plans to use its modernised conventional forces to secure its national interest and prevent Japan from claiming the islands.

The final piece of the security dilemma relates to the close relationship between the US and Japan. At the surface, the relationship appears to be a win-win for all parties whereby Japan remains protected under the US nuclear umbrella and could afford to focus on economic development during the Cold War. Meanwhile, the US had a strategic ally located close to its adversaries – Russia, China and North Korea. On the other hand, the US, in recent years, has threatened to reconsider previous security alliances it is engaged in with Japan if Japan does not re-evaluate its Constitution because of long-held beliefs that the US puts more in than it receives in return. For instance, the Senkaku/Diaoyu dispute is complicated by the fact that the islands are a part of the 1960 Mutual Cooperation Security


\textsuperscript{14} Mathur, Japan’s Self-Defense Forces: Towards a Normal Military, p. 728


\textsuperscript{17} Hughes, P. Japan’s Military Modernisation: A Quiet Japan–China Arms Race and Global Power Projection, p.87
treaty between the US and Japan denoting that if Japan were to be attacked defending the islands, the US would be forced to defend Japan militarily. Hughes and Dobson reinforce the vulnerability that Japan is in, “the security treaty system has significantly shaped the nature of the overall bilateral relationship and made Japan highly vulnerable to US pressure in the political and economic as well as the security dimension of the relationship.” The Gulf War illustrates the demand placed on Japan and the varying degrees of pressure it faces. For the first time since WWII, Japanese forces were permitted to take part in an international conflict because it had revised the Self-Defence Forces Act to “send Japan Maritime Self-Defence Forces (JMSDF) minesweepers to the Gulf.” This was a momentous period in Japan’s post-war history. Despite the intense pressure it experienced for personnel contributions, Japan failed to deliver this and instead opted to contribute financially and materially which left a scar on Japan’s diplomatic reputation in the international community.

There is great irony in the actions of the US in influencing Japan in this manner as they were the hand that dealt Japan’s so-called pacifist Constitution. Nixon is famously quoted stating that Article 9 of the Japanese Constitution was a “mistake” in 1953 and external pressure from the US to reconsider its pacifism has not dithered in recent years. In fact, the issue over Article 9 has spilled over into other functional areas of Japan’s national interests such as its ambitions to become a permanent UN Security Council member. In 2004, Secretary Powell suggested the legislation was a probable impediment to Japan’s chances.

Samuels and Michishita highlight that “the US expectations of its ally transcend the erstwhile minimalist role Tokyo was expected to play. Washington has encouraged Tokyo to augment its profile within the partnership.” Allies such as Japan have been urged to shoulder a greater burden than otherwise present in the relationships that they held with the US. Above, we assessed how historically the US has been providing military support to Japan since WWII. However, in the 21st century and particularly since the Trump administration, there has been growing recognition that it is not economically feasible for the US to continue to do so. Japan found itself in a position where it has had to begrudgingly accept calls from the US to take more responsibility for its own protection or risk abandonment altogether. Nevertheless, due to the regional security environment outlined above and cracks in the relationship with the US, Japan perceives itself “as being extremely vulnerable to external hits and deprived of alternative workable policy options” which leads us to what tools the current Abe administration has sought, to circumvent the dilemma.

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21 Hughes, Why Japan could revise its constitution and what it would mean for Japanese security policy. p.735
22 Hughes, Why Japan could revise its constitution and what it would mean for Japanese security policy. p.735
24 Bendini, Japan Foreign and Security Policy at a Crossroads, In-Depth Analysis, pp.4-5
The Network

Before dissecting how the Abe administration has sought to achieve its interests and brought Japan closer to the revision of the Constitution, it is important to characterise significant stakeholders at play. The paper has found a larger network that hold a significant portion of influence in the minds of Japanese bureaucrats and impact the actions of its government. The network comprises of three stakeholders: the Japanese domestic population, China and North Korea and international partners, primarily the US. Each of these stakeholders either knowingly or unknowingly holds a sizeable degree of influence in the actions of the government and the direction of the future of Japanese security policymaking. The Japanese domestic population is our first stakeholder, where the Abe-led administration is mindful of severely controversial policies that threaten to provoke an uproar from this section of stakeholders. Therefore, the government accommodates this stakeholder’s group by selling any would-be controversial policies as ‘normal’ and in the national interest and security of Japan whilst maintaining pacifist intentions and means. The second set of stakeholders are the international partners, like the US, and the increased expectations and pressure Japan is privy to from these partners to play a more active security role. For example, the Japanese government uses US pressure as a circumstantial tool to suit the wave of public opinion and challenges that arise – i.e. during times of domestic resistance, Japan will exploit this to deter and push-back against US pressure and vice versa. There is also the instance where the US could announce cuts in defence expenditure and express half-heartedness over the commitment to the security treaty. The Trump administration embodied the sentiment complaining “that the alliance with Japan is one-sided”. Jennifer Lind neatly summarises Japan’s manoeuvrability in this regard, as “doing less when it can but more when it must.” In this case, Japan is forced to show its commitment by bending to the grievances of the US. The final stakeholder, or stakeholders rather, stem from North Korea and China. This is the perceived rising regional security threat that Japan faces in its neighbourhood and how it must be proactive in countering the danger faced by these adversaries. Both North Korea and China’s actions influence Japanese security policymaking to the extent where any action is confronted, assessed and responded to.

The Abe Administration

The government’s perceived frequent undermining of the Constitution by testing the elasticity of its language particularly Article 9 ostensibly demonstrates its contentment with militarisation. The security dilemma explains Japan’s willingness to push through reform and move away from historic tenets, but Abe has thus far presented a legacy that takes further steps towards a seemingly unattainable goal more than his predecessors dared to; chiefly the revision of Article 9. Although Abe has yet to accomplish this, the unprecedented strides his government has taken in the security realm transforms the likelihood of it happening from unrealistic to at the very least possible.

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In the aftermath of the events of 9/11, Koizumi Junichirō, Abe’s immediate predecessor, arguably took both the LDP and the successive government towards revision. Koizumi essentially relaxed the constitutional restrictions in place preventing Japanese involvement in foreign conflict by passing the peacekeeping law\textsuperscript{27} and “in less than two months the Japanese government passed the Anti-Terrorism Special Measures Law (ATSML) and joined the US-led anti-terrorism campaign”.\textsuperscript{28} Mason voices the profound precedent Koizumi’s passing of the law set “in institutionalising extra-constitutional use of Japan’s military and reinterpretation of the constitution”\textsuperscript{29} In raising these examples, this paper seeks to emphasise that it does not find security policy developments unique to the Abe government but they have certainly accelerated under him in a manner dissimilar to his predecessors.

Consequently, it was the first Abe-led administration, following Koizumi, that continued on the back of ground-breaking provisions set by the preceding government to upgrade Japan’s Defence Agency into a full ministry in 2007, “signalling that security issues have now been elevated to the same level as many other countries.”\textsuperscript{30} Interestingly, the opposition has played a role in the continuation of Japan’s increasing militarisation and path towards the revision of Article 9 during their brief stint in power between 2009 and 2011. Japan built its first overseas base since WWII in Djibouti in 2011. Initially, the role of the base was to protect against piracy for Japan’s commercial interests. Since then, Abe has regained power and the facility has been subject to an ardent defence by the administration for its permanency.\textsuperscript{31} It is difficult to dismiss the contribution the base in Djibouti has made to illustrate the advanced capabilities of the JSDF and inspire the extensive security measures that would follow.

The second and current Abe-led government prioritised transformation to Japan’s defence to the point where Abe has earned the accolade of the “most transformative leader since post-WWII Occupation-era Prime Minister Shigeru Yoshida.”\textsuperscript{32} Abe has implemented a number of significant security measures that have great implications for Japan’s profile, capabilities and responsibilities going forward including the “first increase in the defence budget in years (…), the introduction of a National Security Council and a Security Strategy (December 2013); the relaxation of arms export restrictions (April 2014); and the reinterpretation of the “peace clause” of the Constitution (July 2014)”\textsuperscript{33} under the banner of ‘proactive pacifism’. The term has been used to justify Japan’s proactive involvement in the Gulf of Aden against piracy and it has been exercised throughout Abe’s time in government to refer to Japan’s new security policy based on facilitating “international cooperation in the fields of arms policy and military affairs.”\textsuperscript{34} The ‘Strategy’ documents outline how Japan plans to increase ‘international cooperation’ by stepping up engagement with partner countries\textsuperscript{35} and the US as well as contributing to peacekeeping. The latter

\begin{thebibliography}{99}
\bibitem{lind} Lind, Japan’s security evolution. p.5
\bibitem{evron} Evron, China–Japan interaction in the Middle East: a battleground of Japan’s remilitarization, p.197
\bibitem{suzuki} Suzuki, Japan-India security cooperation: Asian giants to expand their relations to Space Japan-India security cooperation: Asian giants to expand their relations to Space https://www.financialexpress.com/defence/japan-india-security-cooperation-asian-giants-expand-relations-space/1636322/; ‘Thus, Japan is hedging the risk by extending its network of alliances. Although US has been and will be the most important ally, it has building more closer ties with European partners such as UK and
\end{thebibliography}
directly fulfilling the translation of ‘proactive pacifism’. Nevertheless, the term and the policies surrounding it underline Abe’s realist and pragmatist attitude as he recognises that in order to achieve the government’s interests, Japan must move in the direction towards normalisation and diplomatic cooperation beyond the US.

Japan’s creeping revision of Article 9 has been most noticeable in recent years, following the sweeping security measures passed by the Abe-administration. It has served to embolden and advance the assertiveness of the administration, arguably due to the unyielding influence of the network and their grip on Abe and officials within the government. The 2015 revision of the Guidelines for the US-Japan Defence Cooperation legislation strengthened relations by deepening “interoperability between the US forces and the Self-Defence Forces (SDF)”.

The other significant legislation passed in the same year enabled Japan to participate in ‘collective security operations’ effectively watering down the limitations on the activities of the JSDF missions. Coincidentally, the influence of the network is plainly brought to fore by US Secretary of State Kerry’s remarks alluding to the increased confidence of both the US (as an external actor) and the Abe administration that it is a matter of time before Article 9 is revised.

Conclusion

Japan is experiencing rapid transformation in military and security development and it is expected to continue in this direction for the foreseeable future. Security policy developments are not specific to the Abe-led administration, but they have been accelerated under him in a manner dissimilar to his predecessors. Despite all the wide-scale challenges Abe has made, his government is still vulnerable to public resistance and polls have lately suggested that Japanese citizens oppose the amendment of the Constitution under the Abe government. Through crafted terms with subtle meanings like ‘proactive pacifism’, Japan’s militarisation will become more commonplace in order to continue to partially dispel any public resistance and for militarisation to be tolerable. Japan now finds itself in a position where it can participate in ‘collective security operations’ and engage in foreign conflicts without being under attack itself. These are capabilities associated with imperial Japan and further remilitarisation will see its ceiling raised further to appease the pressures emanating from variables in the network. Nevertheless, Abe appears to be utilising a window of opportunity the various actors within the network are providing his administration with through direct and/or indirect pressure to revise the Constitution and ultimately alter Article 9.

The paper has established that Japan received a barrage of external pressure from different actors, nevertheless, this pressure is embraced within Abe’s own party, the LDP. The party

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37 Lind, Japan’s security evolution p.2

38 Lind, Japan’s security evolution p.2;

is historically uniform in its stance towards Article 9 and the Constitution, favouring an immediate revision in order to normalise Japan’s militarisation. The relative ease with which Abe has been able to pass extensive security measures bodes for a future where Japan is a recognised as a normal military power with a global profile. Before undertaking major reforms, coincidentally, Abe suggested that he likewise shared this vision for Japan’s future role in the international climate by confidently declaring in 2012 that “Japan is back”.\(^{40}\) Ironically, the declaration was made in Washington revealing the possibility that the speech served to also appease US pressure – one of the actors in our constructed network – of Japan’s intentions in the security realm. Regardless, the progress in security policy in the next several years will determine the type of geostrategic actor Japan seeks to be, how it will fit into the existing international order and implications this has for the international community.
