RHETORIC AND REALISM: THE FIRST DIET DEBATES ON JAPAN'S MILITARY POWER

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Article 9 has been the focus of legislative debate since Japanese leaders concluded the San Francisco Peace Treaty in 1952, ending the U.S. Occupation of their country. Conservatives and progressives alike sought to consider what this new constitution meant for Japan's postwar defenses, and how it was to be translated into a rearmament policy. Until a new law was passed to create the Self Defense Force in 1954, these Diet debates offer a fascinating window on the effort to define what Article 9 meant, and the issues that provoked contention among political parties.[2]

Most of the critical questions regarding how to interpret Article 9 emerged in the first Diet debates of 1952-54 over the creation of Japan's postwar military. Even though the war was still fresh in the minds of most Japanese, Diet members had to consider how best to provide for the country's defenses as the Korean War ushered in a new era of major power competition, this time cleaved by an ideological clash between socialism and capitalism. Japan's politicians also had to confront the reality, so amply demonstrated at the end of World War II, that they had to do so in an era of nuclear weapons.

Rearmament was unavoidable, but its logic was far from clear in those initial postwar years. While navigating a new relationship with the United States, the government of Prime Minister Yoshida Shigeru had to rebuild a nation. Part of that process was deciding what steps were needed to ensure its security. The world was far from steady in the wake of the Korean War, and Japan's resources were still sparse. Domestic instability hovered close to the surface as Japan's legislators tried to govern under their new Constitution. Politicians varied widely in their positions on the nation's defense needs.

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[2] For recent analysis of Japan's contemporary debate over its military power, see SHEILA A. SMITH, JAPAN REARMED: THE POLITICS OF MILITARY POWER (Harvard Univ. Press 2019); ANDREW OROS, JAPAN'S SECURITY RENAISSANCE (Columbia Univ. Press 2017); and SADO AKIHIRO, THE SELF DEFENSE FORCES AND POSTWAR POLITICS IN JAPAN (Noda Makito trans., Japan Publishing Industry Foundation for Culture 2017).

It was up to Japan's legislators to interpret what Article 9 meant for the defense of the country. Analyzed here are the early deliberations between the Cabinet members of Prime Minister Yoshida's government and Japan's Diet members on how to conform to the rhetorical restraints contained in Article 9. While there was no advocacy for challenging the idea that Japan would not use force aggressively, judgments on what Japan could do to defend itself varied considerably. For some, a police and coast guard were sufficient, while for others, a military was indispensable. The discussions eventually led to the legislation that created the Self Defense Force (SDF) in 1954. But what was also clear from the early days of these deliberations is the defining role of the United States in shaping Japan's military choices. Relying on the U.S. was acceptable to some, but deeply problematic for others.

ARTICLE 9: TRANSLATING RHETORIC INTO POLICY

Japan emerged from occupation with a new Constitution, one written for it by the staff of the Supreme Commander of the Allied Powers but one that gradually was embraced by the Japanese people. When the Constitution was drafted in 1946, it was designed to demilitarize an aggressive nation. It was revolutionary in its intent; but it has been used by postwar Japanese as the premise of their engagement with the world: Japan's foreign policy would no longer rely on military power as its primary instrument.[3]

> ARTICLE 9. (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 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

[3] Today as Prime Minister Abe seeks to amend Article 9, he has no interest in changing the language of the first paragraph. Others in the LDP would like to rewrite the second paragraph, but Abe seeks to add another few sentences to the effect that the existing Self Defense Force is constitutional. The LDP has yet to incorporate this suggestion in a new draft, however. *See* COUNCIL ON FOREIGN RELATIONS, *Japan's Constitutional Debate* (Nov. 5, 2019, 12:36 AM), https://www.cfr.org/interactive/japan-constitution/.

> potential, will never be maintained. The right of belligerency of the state will not be recognized. [4]

The two paragraphs of Article 9 represented a complex bargain between the staff of General Douglas MacArthur, the Supreme Commander of the Allied Powers, and the Japanese politicians who led their country under occupation. The first paragraph, which committed the Japanese people to "forever renounce war as a means of settling international disputes," language was taken from a diplomatic pact made after World War I by many nations interested in forestalling war. Yet Japan's government did not accept full disarmament, and argued for the inherent right of self-defense as stipulated in the Charter of the new United Nations.[5]

Once sovereignty was restored, however, Japan's political leaders had to grapple with how to provide for external defense. Legislative debate began on how to consider Japan's external defense needs. The Diet role in shaping the contours of Japan's military power began with the legislation for creating the SDF, and many of the ideas and the differences that emerged then continued to shape policy-making for decades thereafter.[6] Legalistic, and at times, euphemistic, Diet

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[4] NIHONKOKU KENPŌ [KENPŌ] [CONSTITUTION] (Japan), http://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html.

[5] This interpretation of the UN Charter's language as permitting Japan's own right of self-defense was put forward in Diet committee debates put forward when the Constitution was being drafted in 1946. The chair of the review committee for the Bill for Revision of the Imperial Constitution, Liberal Party member Ashida Hitoshi, oversaw the Diet deliberations on how to amend the draft presented by SCAP. Ashida is credited with finding the compromise between Socialist and Kaishinto Party members on Article 9 that allowed Japan to claim the right of self-defense. For a full discussion of his role, see MIYANO NOBORU, SAIGO NO LIBERARISUTO - ASHIDA HITOSHI (Tokyo: Bungei Shunju, 1987).

[6] For the first several decades post World War II, citizens used the Japanese courts to challenge the government's defense choices, particularly on the continued presence of U.S. military forces on Japanese soil. But the courts also began to hear cases of challenge to the government's interpretation of Article 9. In 1973, the District Court of Sapporo ruled the SDF unconstitutional in the Naganuma Nike case, prompted by the SDF plan to install radar and missile systems in a national forest. The Sapporo High Court overturned the ruling on a technicality, and Japan's Supreme Court upheld the High Court ruling. The Japanese Supreme Court has refused to rule on the constitutionality issue, claiming that the nation's defenses are best determined by the legislature (reference to "the political question" rule). For an excellent overview of these legal debates, see Sayuri Umeda, *Law Library of Congress, Japan: Article 9 of the Constitution*, LAW LIBRARY OF CONGRESS (2006), https://www.loc.gov/law/help/japan-constitution/article9.php. For a more detailed history of the Naganuma Nike case

debates matter most in shaping public understanding of the constraints (*hadome*) imposed on Japan's postwar military. This political interpretation of Article 9 in the Diet reflected the shifting contours of political compromise on what the Self Defense Force (SDF) can and cannot be allowed to do.

Over time, Japanese politicians and bureaucrats developed the rhetorical framework within which military power would be justified. New words would be created, for weapons and for operations, that conformed to the language of Article 9. [7] Bureaucrats carried around a text full of Diet testimony that set the precedent for future decisions. Few challenged the language of the first paragraph of Article 9, but at the center of Japan's postwar debate over military power was the second paragraph. Perhaps the most important debates surrounded the meaning of the phrase "war potential," or *senryoku*. Defining the meaning of war potential was central to determining how to rearm.

A word that does not appear in Article 9, however, has been just as important: *jieiken*, or the right of self-defense. As Japan's politicians considered the U.S. Occupation authorities' draft of their new Constitution, they pointed to the UN Charter and argued that all nations had an inherent right to defend themselves. This interpretation of Article 9 became the premise of Japan's rearmament, and the limited purpose of Japan's military was reflected in its name, the Self Defense Force (*jieitai*).[8]

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and the judiciary's role in determining the constitutionality of Japan's SDF, see William R. Slomanson, *Judicial Review of War Renunciation in the Naganuma Nike Case: Juggling the Constitutional Crisis in Japan*, 9 CORNELL INT'L L.J. 24 (1975); *see also* Po Liang Chen & Jordan T. Wada, *Can the Japanese Supreme Court Overcome the Political Question Hurdle?*, 26 WASH. INT'L L.J. 349 (2017).

[7] For examples of the language devised over the years to describe Japan's military capability and SDF missions, see Sheila A. Smith, *In Search of the Japanese State*, *in* DOING FIELDWORK IN JAPAN 156–75 (Theodore C. Bestor et al. eds., Univ. of Hawaii Press 2003).

[8] The United Nations Charter commits its members to forego the use of military force and to commit to a peaceful resolution of differences. It also promises a collective response to military aggression. However, it recognizes the "inherent right of individual or collective self-defense" in Chapter VII, Article 51:

> Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of

Japan's postwar political leaders did not accept complete disarmament, and instead argued for the right of self-defense. The Diet then became the locus of political debate over how to interpret and how to implement that right. In the decade after Japanese regained their sovereignty, positions on Article 9 differed considerably within and between political parties. These differences were over what Article 9 meant for rearmament, as well as how it was to shape Japan's security relationship with the United States. Conservatives were also divided over whether Japanese sovereignty required revising the document.

But it was with a realist gaze that Japan's government sought to implement their military goals. Embracing the limited purpose of their postwar military, Yoshida Shigeru and his successors in the LDP put forward rearmament plans that would build a military capability sufficient for territorial defense. Supported by its alliance with the United States, Tokyo navigated the tensions of the Cold War, and found its place in the strategy that Washington provided for deterring nuclear threat. Unlike U.S. allies in Europe, Japanese leaders did not seek to shape U.S. nuclear strategy, and rarely emphasized the nuclear element in its postwar security.

EARLY VIEWS ON JAPAN'S MILITARY OPTIONS

The basic task of rebuilding Japan's military power was addressed in Diet debate in 1952-53 when legislation was being prepared by the government of Prime Minister Yoshida Shigeru. Diet discussions over what sort of military force Japan would need began shortly after the San Francisco Peace Treaty came into force on April 28, and the Yoshida Cabinet led deliberation on rebuilding the institutions needed to govern. Some were easier than others, and the Diet debate over how to provide for Japan's external defenses took time. Three Diet sessions were needed to complete the laws that officially created the SDF and the bureaucracy responsible for managing Japan's defenses, the Defense Agency.[9]

> the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

U.N. Charter art. 51, https://www.un.org/en/charter-united-nations/.

[9] Japan's postwar defense needs were deliberated in the 15th, 16th, 17th, and 18th Sessions of the Diet. Deliberations began on how to prepare for the defense of Japan in the Budget Committee of the Lower House in December 1952, and then continued in the Foreign Affairs Committee through 1953. The Upper House Budget Committee

Political leaders were divided not only on how to consider Article 9's prescription, but also had divergent views on Yoshida's decision to rely on the United States against any external threats. Even Yoshida's own party, the Liberal Party, was divided. Hatoyama Ichiro, the prime minister's rival within the party, openly disagreed with Yoshida on how to interpret Article 9 and he was wary of associating Japan too closely with Washington. Shigemitsu Mamoru, a strong proponent of Japanese rearmament and Constitutional revision, led *Kaishinto*, the party most closely associated with the conservatives of the prewar era.[10] The Socialist Party was similarly divided on the issues that shaped defense policy. Two groups within the Socialist party, a leftist branch led by Kamikawa Jotaro and a rightist group led by Suzuki Mosaburo, were also integral to these early deliberations. Socialists on the left argued for unarmed neutrality; their fellow Socialists on the right, however, were far more willing for Japan to rearm and establish greater independence from the United States.

Initially, the Japanese government, led by Prime Minister Yoshida Shigeru, resisted the idea that a new military was necessary. Japan already had a National Safety Force (*hoantai*), which had been created under the U.S. Occupation to maintain domestic order.[11] The Director General of the Safety Agency, Kimura Atsutaro, responsible for the maritime force, repeatedly argued that his agency was evidence that Japan was not interested in military power and that if a foreign country "unlawfully invades" (*fuhō shinnyū*), the National Safety Force and the police were adequately prepared to respond. In short, domestic law enforcement agencies were sufficient. When pressed by Socialist

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followed with their deliberations throughout 1953 Legislation for the Self Defense Law and the Establishment of the Defense Agency Law was presented in the 16th Session, and was passed in the Lower House on May 7, 1954 (by a vote of 277-138) and in the Upper House on June 2, 1954 (by a vote of 152-79). In the wake of the Upper House vote, however, members passed a resolution that banned the dispatch of the SDF overseas. Subsequent conversations in the Diet would continue to focus on how to develop a "defensive" military doctrine as well as on the decision-making over what types of weapons the SDF would be allowed to have.

10 *Kaishinto* is often translated into English as the Progressive Party. I have chosen to retain the Japanese name of the party in order to avoid confusing *Kaishinto* with Japan's postwar progressives, the Socialist and Communist parties. In the early postwar politics of Japan, *Kaishinto* was seen as an ultra-conservative party due to its association with the prewar government.

11 After the war, Japan created a decentralized police force in 1947 at the direction of Occupation authorities. It also created a National Safety Force to protect its maritime territory. The National Safety Agency directed the National Safety Force while the police were organized by municipality across Japan.

Diet member Inamura Junzo about whether the National Safety Force was exercising with a foreign invasion in mind, it put Kimura on the defensive. He argued that at the time, the National Safety Force was focused on ensuring domestic stability and the possible interference by foreign nations in destabilizing Japan. Kimura stumbled over his language as he claimed that dealing with foreign intervention within Japan was different from war; he said the Constitution prevented Japan from exercising its right to initiate war (*kokken no hatsudo*).[12]

Prime Minister Yoshida sidestepped the convoluted rhetoric that Kimura had used, and instead presented a more pragmatic case for limiting Japan's military aims. Japan would not rearm because it had no money and because of the restraints of the Constitution. But Yoshida also saw his country's external environment differently than Kimura. Reflecting the idea that the Cold War now pitted a group of powers against another, Yoshida argued that the likelihood was that a "collective attack" (*shudanteki kōgeki*) would need to be repelled by "collective defense preparations" (*shudanteki bōbi*), and that was why Japan and the United States had concluded a bilateral security treaty.[13]

Nakasone of the *Kaishinto* took a different tack; he pointed out that the minesweeping operations conducted by the National Safety Force had already supported U.S. operations in the Korean War. When the Foreign Minister Okazaki Katsuo replied that Japan's forces were allowed to do "peaceful work" (*heiwa no shigoto*), Nakasone ridiculed his statement, saying it sounded more like something the U.S. Secretary of State should say than something Japan's Foreign Minister should.[14] Other members of the *Kaishinto* were less provocative, arguing that whatever the name of the force was, it should be able to handle an invasion of Japan. Eventually, the *Kaishinto* came around to Yoshida's way of thinking. For example, Suma Yakichiro argued in the Foreign Affairs Committee in July of 1953 that a defense force that reflected

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12 第一類第十八号 予算委員会議録第七号 昭和二十七年十二月四日 [*Budget Committee of the House of Representatives, 15th Diet Session 1-9 (1952)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/015/0514/01512040514007.pdf.

13 *Id.* For a discussion of the first U.S.-Japan security treaty, see MARTIN E. WEINSTEIN, JAPAN'S POSTWAR DEFENSE POLICY, 1947-1968 (Columbia Univ. Press 1971).

14 第一類第十八号予算委員会議録第七号昭和二十七年十二月四日 [*Budget Committee of the House of Representatives, 15th Diet Session 17 (1952)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/015/0514/01512040514007.pdf.

Japan's diminished national strength (*kokuryoku*) should not require a Constitutional revision.[15]

Perhaps the biggest difference among the Liberal and *Kaishinto* conservatives was whether to revise the Constitution. Yoshida resisted the connection between building a postwar military and Constitutional revision, arguing instead that a limited military capability was consistent with the spirit of Article 9. Hatoyama, however, was far more cautious about rearmament, and argued that it would require revision of Article 9. The *Kaishinto*, with which the Liberals would ultimately align, agreed that revision was not necessary for rearmament, but ultimately, they would be troubled by the direction of the Yoshida Cabinet's approach to rearmament. By late 1953, *Kaishinto*'s Nakasone Yasuhiro, one of the most outspoken critics of Yoshida and the Liberal Party, began to see the postwar agreements with the U.S. as a problem. Building a military without war potential (*senryoku naki guntai*) made little sense to Nakasone.[16]

YOSHIDA'S POLITICAL CHOICES AFTER SAN FRANCISCO

Two meetings in 1953 outside of the Diet focused political deliberations on rearmament. One reflected an attempt to overcome differences within the conservatives over how to approach Japan's postwar military power. The second was a critical discussion between Tokyo and Washington over the U.S. role in shaping the goals and the process of Japanese rearmament. A domestic political alliance among conservatives on rearmament was created in the Yoshida-Shigemitsu

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15 第一類第五号外務委員会議録第十七号昭和二十八年七月二十一日 [*Committee on Foreign Affairs of the House of Representatives, 16th Diet Session 1-14 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/016/0082/01607210082017.pdf.

16 Nakasone's criticisms of the government can be found in the 第一類第十八号予算委員会議録第二号昭和二十八年十二月三日 [*Budget Committee of the House of Representatives, 18th Diet Session 1-2, 13 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/018/0514/01812030514002.pdf; Others in *Kaishinto* also pressed the Yoshida Cabinet to explain what was wrong with rearming. *See* 第一類第十八号予算委員会議録第三号昭和二十八年十一月二日 [*Budget Committee of the House of Representatives, 17th Diet Session 1-46 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/017/0514/01711020514003.pdf; *see also* 第一類第十八号予算委員会議録第四号昭和二十八年十一月三日 [*Budget Committee of the House of Representatives, 17th Diet Session 1-34 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/017/0514/01711030514004.pdf.

meeting; the division of labor between a new Japanese military and U.S. forces was created in the second.

The first meeting resulted in a compromise between Yoshida and Shigemitsu over rearmament on September 27, 1953, in what later became known as the Tokyo Kaidan. The Liberal and *Kaishinto* leaders agreed in principle on what sort of military Japan needed and how it would align itself in the growing tensions of the Cold War. The Yoshida-Shigemitsu meeting set in motion the drafting by members of their parties of principles that would guide the Diet legislation for the Self Defense Force. Two basic principles were agreed upon: first, given the regional security changes afoot, it was time for Japan to create a long-term rearmament plan; and second, they would begin by turning the National Safety Force into a Self Defense Force.[17]

A second, and equally important, meeting was held between Yoshida's emissary, Ikeda Hayato, and Assistant Secretary of State Walter Robertson in Washington, D.C. the following month. The aim was to explore how the U.S. would support Japan's rearmament. Both governments agreed that the Soviet Union posed an imminent threat to Japan. Based on that assumption, their assessments of Japan's defense needs emerged, but they were very different in scale. Ikeda's "personal" plan presented far smaller ground and air forces than the U.S. recommended. But Japanese thinking about its navy was more expansive than that of the U.S., undoubtedly reflecting the U.S. desire for its own navy to dominate in the Pacific. But it was the central issue of the role of U.S. forces in Japan and their role in Japan's defenses that was the crux of the meeting. Ikeda conveyed his government's worry that the Japanese public would side with the Socialists should U.S. forces remain much longer on Japanese soil, and argued for greater military assistance for Japan.[18] U.S. officials, at the behest of Secretary of State John Foster Dulles, told their Japanese counterparts that, "Japan cannot expect U.S. to carry the burden over a long period with forces

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17 SMITH, *supra* note 2, at 55–89.

18 There were multiple meetings between Ikeda and Deputy Assistant Secretary Robertson. The details on the U.S. and Japanese views on defense planning, economic and military assistance, and the role of U.S. forces in Japan can be found in official cables between officials at the Embassy of Japan, the Joint Chief of Staff, and the Department of State in Washington, DC between October 1-20, 1953. Cables from the Embassy in Tokyo to Secretary of State John Foster Dulles on October 1, 1953 reflect the initial Ikeda Robertson meeting, and Secretary Dulles' response on October 9, 14, and 20 reveal the U.S. expectation was nothing short of full Japanese rearmament. *See* FOREIGN RELATIONS OF THE UNITED STATES, 1952-1954, CHINA AND JAPAN, Vol. XIV, Part 2, docs. 694, 698, 699, 701, 704, 713, 714 (David W. Mabon et al. eds., Government Printing Office 1985).

the world over. We want to withdraw forces from Japan just as soon as Japan can take care of its own security. We'll remain available to help."[19] For different reasons, both Tokyo and Washington were anxious to reduce U.S. forces and prepare Japan to take over their role in Japan's defense. A bilateral Mutual Defense Assistance Treaty was concluded, a vital step in acquiring U.S. weaponry for the newly formed Self Defense Force.[20]

Once these basic premises for rearmament were set, Diet deliberations settled on three basic questions. First, why avoid the word military? The National Safety Force (*hōantai*) formed during the occupation had served as a maritime law enforcement force, and had housed the minesweepers sent to help U.S. forces during the Korean War. For many, including the Director Generation of the National Safety Agency, this force was sufficient, and it would be fine if some saw these forces as a military. Yet to call them such was unacceptable. Much Diet debate was conducted over why Japan's new force (*tai*) could not be called a military (*gun*). Prime Minister Yoshida began to refine his answers to this question of definition, introducing a new definition for how to distinguish war potential (*senryoku*) in November 1953.[21]

Kono Mitsu, a member of the rightist Socialist Party, asked Yoshida whether the various terms used in the Yoshida-Shigemitsu memo and in the Japan-U.S. Joint statement all conformed to the current Constitution, revealing the range of terms now in circulation about Japan's new military: self-defense force (*jieitai*), Japanese military

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19 *Id.* doc. 698.

20 There are competing views of just how important the Ikeda-Robertson talks were in setting the trajectory of Japan's defense plans. An account of the talks published by Miyazawa Kiichi, who took notes during the meeting, suggested that Ikeda took a detailed plan with him to the talks, but more recent scholarship suggests that the U.S. Joint Chiefs were uninterested. *See* Uemura Hideki, *Ikeda-Robertson kaidan to bōeiryoku zōkyō mondai* [*Ikeda-Robertson Talks and the Development of Japanese Defense Forces*], 1994 KOKUSAI SEIJI 182 (1994).

21 The Director General of the Safety Force Kimura suggested that *senryoku* were forces capable of a military invasion, but a member of the Hatoyama faction asked that his comment be struck from the Diet record as it might suggest to other Asian countries that Japanese politicians were thinking of invasion. Kimura agreed to have the word *shinrayku sensō* (a war of invasion) struck from the Diet record. See comments by Miki Takeshi, 第一類第十八号予算委員会議録第四号昭和二十八年十一月三日 [*Budget Committee of the House of Representatives, 17th Diet Session 1-34 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/017/0514/01711030514004.pdf.

(*Nihongun*), defensive military (*bōeitai*), a Japanese defensive military (*Nihon no Bōeigun*).[22]

Beyond the semantics, questions about how much military capability would trigger a Constitutional revision remained. Here there were a variety of views. For Ishibashi Tanzan, a member of the rightist Socialists, it would be necessary to revise the Constitution if the Yoshida Cabinet wanted the new forces to handle Japan's external defenses.[23] Even some in Yoshida's own party were suspicious of what the prime minster agreed to in his meeting with *Kaishinto*'s Shigemitsu, pointing out that *Kaishinto* members seemed to think that a Self Defense Force possessed war potential (*senryoku*).[24] A member of the leftist Labor Farmers Party, Kuroda Hisao, took issue with Yoshida's distinction between indirect and direct invasion, calling Yoshida's idea of developing self-defense capability as nonsense (*detarame*). He went on to say that Japanese – like himself - would defend Japan if the country were attacked, implying there was no need to build a new military system.[25]

But Yoshida stood firm. When subjected to *Kaishinto* member Matsumura Kenzo's query on the use of the word "military" (*gun*), Yoshida and Director General Kimura both replied with this intent: the word *guntai*, or military, was not the issue. Rather it was the level of their capability. Whatever they were to be named, Japan's forces could not have the power to pursue modern warfare (*kindaisen no chikara*). This was in keeping with the prohibition on war potential, (*senryoku*), contained in Article 9.[26]

By late 1953, Prime Minister Yoshida further developed his government's thinking: Japan would strengthen the National Safety

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[22] 第一類第十八号 予算委員会議録第四号 昭和二十八年十一月三日 [*Budget Committee of the House of Representatives, 8 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/017/0514/01711030514004.pdf.

[23] 昭和二十八年十月三十一日 衆議院会議録第三号 [*Plenary Session of the House of Representatives, 16th Session of the Diet, 35-38 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/017/0512/01710310512003.pdf.

[24] Nakamura Umekichi, a member of Hatoyama's faction in the Liberal Party, pointed out that after Yoshida had met with Shigemitsu, Kaishinto members began calling a Self Defense Force "war potential" (*senryoku*). *See* 第一類第十八号 予算委員会議録第三号 昭和二十八年十一月二日 [*Budget Committee of the House of Representatives, 16th Session of the Diet, 1-46 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/017/0514/01711020514003.pdf.

[25] *Id.*

[26] 第一類第十八号　予算委員会議録第四号　昭和二十八年十一月三日 [*Budget Committee of the House of Representatives, 16th Session of the Diet, 8 (1953)*] http://kokkai.ndl.go.jp/SENTAKU/syugiin/017/0514/01711030514004.pdf.

Force, and if it were to reach the level of having war potential (*senryoku*), then it would be necessary to revise the Constitution. His argument revolved around the need to replace the military power of the United States. This presence of foreign troops (*takoku no guntai*) was a temporary measure, he insisted, and to end it, Japan needed its own military capability to replace it. Yoshida emphasized, however, that Japan was nowhere near being able to build that level of capability.[27]

This was far from an abstract parsing of words. One of the backdrops to this Diet conversation on what nature of forces that Japan would require was the seizure by South Korea of Japanese fishing vessels. South Korean President Syngman Rhee had declared a new maritime boundary, calling it a "peace line," on January 18, 1952. This was done after U.S. Assistant Secretary Dean Rusk had sent correspondence to South Korea the previous year describing the U.S. position on the maritime boundary in preparation for the San Francisco Peace Talks. US forces on the peninsula did not challenge this line, and ultimately approved a sea defense zone that roughly coincided with the Rhee line. The U.S. Ambassador in Tokyo, however, pushed back, but to no avail.[28]

President Rhee informed U.S. officials that any Japanese fishermen who entered this area would be dealt with by South Korea, and the South Korean navy began to seize Japanese fishing and commercial vessels and detain their crews. Japan had little ability to respond when its fishermen were captured. Still under US occupation,

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[27] On November 4, Yoshida noted that having a foreign military (*takoku no guntai*) protecting Japan is a temporary measure, and this situation has to be ended through gradual strengthening of Japan's own national defenses. It is here that Yoshida notes that if Japan's military strength reaches the level of war potential (*senryoku*), then the Constitution would need to be revised. It was not, however, necessary at that time. See his remarks in the 第十八部 予算委員会会議録第二号 昭和二十八年十一月四日 「参議院」 [*Budget Committee of the House of Councilors, 1-28 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/sangiin/017/0514/01711040514002.pdf.

[28] *See* Edwin Allan Lightener, Jr., *The Charge in the Republic of Korea (Lightener) to the Department of State*, *in* FOREIGN RELATIONS OF THE UNITED STATES, 1952-54, CHINA AND JAPAN, Vol. XIV, Part 2, No. 601, 1337 (John P. Glennon ed., 1985). The U.S. and Japanese governments both opposed the ROK navy ship seizure of Japanese commercial and fishing vessels, and the detention of Japanese in Pusan. By 1957, the U.S. reported that 700 ships had been seized. This dispute would continue until 1965 when Japan and the ROK concluded a normalization treaty. *See* Douglas MacArthur, *Telegram from the Embassy in Japan to the Department of State*, *in* FOREIGN RELATIONS OF THE UNITED STATES, 1955-57, JAPAN, Vol. XXIII, Part 1, No. 226, 483 (John P. Glennon ed., 1985); Douglas MacArthur, *Memorandum of a Conversation, Tokyo*, *id.* at No. 71, 164.

the Yoshida Cabinet had to rely on the U.S. and diplomacy for a response. The National Safety Force, the maritime law enforcement agency, had little capability to confront Korean ships. Diet members were unsure how Japan ought to respond, and whether Japan had the right to act in defense of Japanese fishing vessels at the time. The Yoshida Cabinet had yet to reach a conclusion about how other nations might perceive the National Safety Force, as a law enforcement vessel or as a military one. No one argued that Japan should use force against the South Korean vessels, but some worried about what would happen if a National Safety Force vessel were attacked.[29] In the Committee on Foreign Affairs meeting following this discussion, a testy debate between Hozumi Shichiro of the Socialist Party and Naiki Yoshio of the Kaishinto erupted over how to handle the seizure of Japanese fishing vessels by South Korea. Hozumi argued that there were some, even within the government, who wanted to solve the problem by force (*bōryoku*), and Namiki challenged him to identify who those advocates were. Hozumi asserted there were two kinds of wars, a war of self-defense (*jiei sensō*) and a war of invasion (*shinryaku sensō*) and claimed that those who simply advocated violence (*bōryoku*) were not rational.[30]

Finally, Diet committee discussions in both the Budget Committee and the Foreign Affairs Committees in 1953 addressed the link between Japan's military capability and the role of U.S. forces in Japan. The Ikeda-Robertson meeting had revealed the U.S. interest in Japanese rearmament and suggested to some in the Diet that the U.S. would have a determinant role in Japan's rearmament. Also implicit throughout Yoshida's discussion of a gradual increase in Japanese military capabilities was the decrease of U.S. military forces in Japan.[31] Yoshida argued that it would best for Japan to get out from under the

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[29] On November 4, 1953**,** in the Committee on Foreign Affairs, Maeda Masao, the Deputy Director General of the National Safety Agency, replied that in theory the Japanese vessel if attacked could exercise the right of self-defense, but that the government would have to research this further. 第一類第五号 外務委員会議録第五号 昭和二十八年十一月四日 [*Committee on Foreign Affairs of the House of Representatives, 17th Session of the Diet, 6 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/017/0082/01711040082005.pdf.

[30] *See* 第一類第五号　外務委員会議録第六号　昭和二十八年十一月七日 [*Committee on Foreign Affairs of the House of Representatives, 17th Session of the Diet, 1-20 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/017/0082/01711070082006.pdf.

[31] Yoshida began to allude to this need for Japan to build defense capability (*boieiryoku*) to replace that of departing U.S. forces in the Budget Committee discussion on November 3, 1953: *Beikoku guntai no seiwa ni naru toiu ka, hōgō no motoni iru to iu ka wa narubeku hayaku yameta hōga ii* [We should stop relying on

military protection of the U.S. military. Miki Takeyoshi of the Hatoyama faction of the Liberal Party made a far more compelling case, arguing that the Constitution did not permit Japan to have the military power necessary for defense, and he suggested that since all three of Japan's conservative parties want to arm Japan and since they had a two-thirds majority in the Diet, it would be wise to revise the Constitution and create a Self Defense Military (*jieigun*).[32]

JAPAN'S SOVEREIGNTY AND THE SECURITY TREATY

There was another complaint against Yoshida. The security treaty with the United States had included an article that asked for U.S. help in the case of internal unrest. This did not sit well with many Diet members. Moreover, U.S. role in rearming Japan was becoming suspect as well. Yoshida vehemently denied that his government would rearm along the lines of Washington's ambitious plan, and that the government's assumption had been that the National Safety Force would sustain public order when U.S. forces would respond to a direct invasion of Japan. But the Ikeda-Robertson talks revealed Washington wanted Japan to move quickly to replace departing U.S. forces. The pace of rearmament, if not the scale, would be set by Washington. Japan would have to relieve U.S. forces faster than it expected.

Critique of the security treaty evolved into an argument for some on the left for unarmed neutrality. There were some in the Diet that saw a contradiction in having U.S. forces in Japan at all, since they clearly were "war potential" and thus banned under the Constitution. Others from the leftist Socialist Party argued that any troops at all on Japanese soil were forbidden, including UN forces. This party began to articulate a policy of unarmed neutrality. Socialist Party member Sata Tadakata, for example, argued that Japan support "unarmed pacifism, with no military assistance to others," so as not to "turn Japan into a war harbor."[33]

U.S. forces or being under the protection of U.S. forces as soon as we can]. 第一類第十八号 予算委員会議録第四号 昭和二十八年十一月三日 [*Budget Committee of the House of Representatives, 7 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/017/0514/01711030514004.pdf.

[32] *Id.* at 13.

[33] In Japanese, Sata said, "hibusō heiwashugiwo kenjishi, gunjiteki enjowo ataerubeki dewanai." "Nihonwo sensō no minato to kashite wa naran." 第五部　外務委員会会議録第六号　昭和二十八年十一月六日「参議院」[*Committee on Foreign Affairs, House of Councilors, 14-15 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/sangiin/017/0082/01711060082006.pdf.

Here again the Yoshida Cabinet emphasized the temporary nature of his compromise with the United States. Foreign Minister Okazaki stated that the U.S.-Japan security treaty was not a permanent treaty; it was a temporary one. And, in the preamble to the treaty, the U.S. notes its expectation of a gradual increase in Japan's ability to defend itself to counter indirect and direct invasions. Okazaki explained that this meant that Japan's defense capabilities should grow as the U.S. forces in Japan gradually decreased.[34]

A week after this discussion, however, Vice President Richard M. Nixon visited Japan, and created a stir.[35] In a luncheon speech at the American-Japan Society in Tokyo, Nixon directly addressed Japan's important strategic role in the Far East, calling it "a key bastion in the defense of freedom in Asia." But Japan's National Safety Forces, Nixon pointed out, could not perform this mission. "Now if disarmament was right in 1946, why is it wrong in 1953?…I'm going to do something that I think perhaps ought to be done more by people in public life. I'm going to admit right here that the United States did make a mistake in 1946."[36]

Needless to say, Nixon's visit to Japan stimulated an explosion of criticism against the Yoshida Cabinet in the Diet. *Kaishinto's* Nakasone Yasuhiro took aim first. In the opening Session of the Diet, Nakasone asked what Yoshida thought when he heard Nixon state that disarming Japan was a mistake. Yoshida demurred, saying it was a kind speech. Nakasone thought otherwise, claiming that the constitution was forced on Japan, and that the Japanese people think it should not be revised because they have been led to believe it is the best in the world. This perception, Nakasone thought, had to be undone. He said that if the government did not provide the quality and quantity of military capability necessary to cope with a direct invasion, it would be guilty of slowly strangling (*muzamuza migoroshi ni suru*) Japan's National

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[34] *Id*. at 16.

[35] The Nixon Presidential Library describes his speech as follows: Japan, a US ally and a capable free nation, was, according to RN, "a key bastion in the defense of freedom in Asia." However, due to the disarmament of Japan, which had been enforced by the United States following the close of World War II in 1946, its National Safety Forces could not fill this important global role. Nixon followed his own logic to its bold conclusion: "Now if disarmament was right in 1946, why is it wrong in 1953?…I'm going to do something that I think perhaps ought to be done more by people in public life. I'm going to admit right here that the United States did make a mistake in 1946." Developments by Soviet leaders have compelled the US and other nations to rearmament — and other free nations, including Japan, ought to follow suit. Karen Neis, *1953: VP Nixon in Japan*, NIXON FOUNDATION (Nov. 15, 2019, 5:55pm), https://www.nixonfoundation.org/2015/06/1953-vp-nixon-in-japan/.

[36] *Id.*

Safety Force.[37] Nakasone's pent up anger brought ever more harsh and personal criticism of Yoshida. Nakasone accused Yoshida of manipulating meaningless words when he used phrases like "a military without war potential." He called on Yoshida to create a political coalition that would allow Japan to be free finally from the Potsdam Declaration and the San Francisco Peace Treaty instead of allowing Nixon to come to Japan and say what he did and of allowing Korea to make fun of Japan. Finally, he said that Nixon, the president of the Philippines, and Mao Tse-tung were all young men, while Japan was sinking under the weight of being governed by 75-year olds.[38]

The Socialists also took aim at the Yoshida Cabinet and its rearmament plan. On the left, Aono Buichi charged the government with wasting money "practicing murder" [*hitogoroshi no renshu*] while on the right, Inōe Ryoji, demanded to know why the government was building a self-defense force like a "straw doll" [*wara ningyo*]. [39] Director General Kimura of the National Safety Force protested strongly to this characterization, saying that Japan's forces were working hard.[40]

Once tempers had calmed, a more serious conversation on legislators' concerns surrounding rearmament developed later in the session. Two Socialist party members raised concerns that would continue to reflect the opposition party's opposition to government rearmament planning for years to come. They also reflected the philosophical divisions over rearmament that would ultimately cause a break up in the party later in the postwar. The first came from the leftist faction of Japan's Socialists. Takata Nahoko argued that only when Japan abandoned its weapons could its security be truly achieved, and she raised concerns about increasing the size of the National Safety Force to transform it into a military. Director General Kimura disagreed, arguing that both ground and maritime capabilities would be required to protect Japan's peace and freedom. He countered the Socialist Party's

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[37] 第一類第十八号 予算委員会議録第一号 昭和二十八年十二月二日 [*Budget Committee of the House of Representatives, 18th Diet, 13 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/018/0514/01812020514001.pdf.

[38] 第一類第十八号 予算委員会議録第二号 昭和二十八年十二月三日 [*Budget Committee of the House of Representatives, 18th Diet, 4 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/syugiin/018/0514/01812030514002.pdf.

[39] *Id.* at 13, 16.

[40] *Id*. at 17.

claim, saying that "empty-handed neutrality" was a dream and a fairy tale [*yume monogatari*].[41]

The second Socialist came from the rightist faction of the party. Amata Katsuo raised a more sensitive domestic issue when he pointed out the danger of having members of Japan's prewar military make up the National Safety Force. Kimura took pains to respond to Amata, pointing out that the government was paying close attention to the personnel recruited for the National Safety Force as well as the National Police, being careful not to go down the path of the old military cliques. He emphasized Japan's new civilian control system, and reported that former military personnel were carefully evaluated based on their personalities and skills. Only 26% of National Safety Force officers had been recruited from the prewar military, Kimura reported, as he assured Amata that there was no danger that they would dominate the organization.[42]

The Diet finally approved the Yoshida Cabinet's legislation creating a Self Defense Force and a Defense Agency that reported directly to the Prime Minister. Two laws, the Self Defense Law and the Establishment of the Defense Agency Law, were passed in the Lower House on May 7, 1954 by a vote of 277-138, and in the Upper House on June 2, 1954 by a vote of 152-79. Once formed, however, the doctrine of this new military needed attention. Diet deliberations on *how* Japan's SDF were to defend Japan began in earnest with the Hatoyama Cabinet, which was in power from 1954 to 1956. In 1955, the Liberal Party and *Kaishinto* would merge, and a new conservative party, the Liberal Democrats, emerged to govern Japan until the 1990s.

Four five-year defense plans were completed by 1972, with defense assistance provided by the United States. U.S. army forces would leave Japan first as President Dwight Eisenhower began to argue for greater reliance on the U.S. nuclear forces rather than forward deployed forces in the 1950s. The U.S. Navy continued to be stationed in Japan, as did the U.S. Air Force. Japan's new Maritime Self Defense Force drew on the naval legacy of the prewar Imperial Navy, and would operate alongside the US Navy thereafter. The new Air Self Defense Force ("ADSF") took time to establish, and it was not until the mid-1960s that the U.S. Air Force would transfer responsibility for air defenses to the ASDF.

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[41]第十八部 予算委員会会議録第五号 昭和二十八年十二月八日「参議院」 [*Budget Committee of the House of Councilors, 1-13 (1953)*], http://kokkai.ndl.go.jp/SENTAKU/sangiin/018/0514/01812080514005.pdf.

[42] *Id.* at 14.

Throughout the twenty years of building up the SDF's capabilities, Diet legislators would return again and again to query the meaning of war potential (*senryoku)* and to press the government to define the limits of Japan's military power. The premise of the right of self-defense continued to inform military planning, but time and again the Japanese government needed to declare its commitment to an "exclusively defensive" mission for its postwar military. Diet deliberations would erupt in controversy over what types of weapons the SDF used as well as the missions the SDF were assigned, while Japan's conservatives would push to slowly rearm. And always, the ever-sensitive question of whether Japan's civilians performed adequate oversight over the Self Defense Force would remain central to legislative concern.

THEN AND NOW…

Asia's increasingly fluid geopolitics has drawn renewed attention to Japan's military choices. The Abe Cabinet has instituted a series of security policy reforms, including the contentious 2014 decision to reinterpret Article 9 to allow the SDF to operate alongside other national militaries. Apart from his laser focus on Japan's defenses, Abe has encouraged Diet deliberation on revising Japan's constitution, including Article 9. For some, this signals a shift in postwar pacifism in Japan; and yet for others, it reflects the growing concern of Tokyo policy makers over the growing use of military power by their neighbors.

And yet, the conversations today continue to echo the early Diet debates over how to interpret Article 9's restrictions on Japan's military power. The question of how to apply the spirit of Article 9 to the task of providing for Japan's defense is just as important today as it was then. Japan's legislators took considerable pains to devise a consensus on what Article 9 allowed, and what it did not. Article 9 has never been revised, and yet Japan maintains one of the most technologically advanced militaries in the world. It remains a non-nuclear power, however.

In 2019, Japan's legislative balance is far different from that of the early 1950s. Then Japan Socialist Party remained a strong critic of Liberal Democrats' defense policy throughout the postwar years, with vociferous Diet members emerging to carry the torch of opposition to rearmament. One of the most artful and successful critics was Okada Haruo, a Socialist legislator in the 1960s. Similarly, there were important conservative voices that continued to push the envelope on

Japan's military power. As Director General of the Defense Agency in 1970, Nakasone Yasuhiro argued for a more "autonomous defense" [*jishu bōei*] policy, and as Prime Minister in the mid-1980s, he worked with U.S. President Ronald Reagan to firm up the Western Alliance against the former Soviet Union. Throughout his lifetime, Nakasone led the civil society organization that championed constitutional revision.[43]

Japan's Liberal Democratic Party has largely led the effort to build greater military self-reliance. The party consolidated and divided; it continued to govern in coalition and then was replaced briefly by an opposition party, and yet once more returned to dominate the Diet. Today, the LDP-led Abe Cabinet is in a far more secure position in the Lower House than the Yoshida Cabinet was in the early postwar years. And yet, the same questions about just how much military power Japan can deploy—and for what purpose—remain.

In 2014, the Abe Cabinet reinterpreted Article 9 to allow Japan's SDF to operate alongside other national militaries, relaxing a long-held restraint on their ability to use force in a coalition setting. But by then, the SDF had already been deployed abroad, in UN peacekeeping operations and in coalitions led by the United States after 9/11. The U.S. has continued in the aftermath of the Cold War to ask Japan to assume a larger military role in regional and global security cooperation, and successive Japanese prime ministers have responded to Washington's evolving burden-sharing demands. They have done so, however, with Diet approval and with conditions imposed on where and how the SDF could operate with U.S. and other allied forces.

Japan's defense debate continues to reflect the concerns raised in the first Diet deliberation on how to interpret Article 9's meaning for the Japanese military. Driven both by the language of Japan's 1947 Constitution, its relationship to the United Nations effort to eradicate the use of force globally and by the emerging dynamics of international politics, Japan's politicians found common ground on the norm of military self-restraint and the realities that shaped how Japan could provide for its security.

Japan's legislators have repeatedly returned to this early political debate over Article 9's meaning as they sought to adapt their nation's defense policy. Alliance with the United States brought greater

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[43] Nakasone Yasuhiro (中曽根 康弘), Kokumin kenpō seiten e no michi – Nakasone Yasuhiro no kenpōron no kiseki (国民憲法制定への道 : 中曽根康弘憲法論の軌跡) [THE PATH TO ESTABLISHING THE JAPANESE PEOPLE'S CONSTITUTION – THE EVOLUTION OF NAKASONE YASUHIRO'S THINKING ON JAPAN'S CONSTITUTION] (2017).

assurance that Japan could defend itself if necessary. More than anything, however, legislators—on the right and on the left—sought to protect Japan's sovereign discretion over how to manage its new military. Article 9 served both to force politicians to return to the premise that Japan's military power should have limits and to buffer Japan from the incessant demands for greater military effort made by an indispensable ally.