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Prospects for Constitutional Revision in Japan

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Abstract

A number of simultaneous, inter-related, and rapidly evolving developments suggests that for the first time in its postwar history, Japan is headed toward revision of its 1947 Constitution. The purpose of this article is to examine these trends and to suggest what the immediate future holds for the constitutional revision debate in Japan, in particular, how these developments will affect Article 9 of the Constitution, the so-called "Peace Clause." While many of the details this debate have yet to be worked out, the author, by analyzing the activities of the Diet commissions working on revision recommendations, the existence of strong public support for revising the constitution, the preparation of draft revisions by the political parties, and other factors, argues that the trends suggest Japan will revise its Constitution as early as 2007, the 60th anniversary of its postwar Constitution going into effect. While not discussed in detail, the revisions in the Constitution will likely serve three purposes: psychological ("ending the postwar"), strategic (allowing Japan to more capably defend itself), and diplomatic (giving Japan a greater edge in international relations by demonstrating its contributions to international society).

Keywords : Japan, Japanese Constitution, Article 9, political parties,
public opinion

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Introduction

On May 3 every year, Japan celebrates its postwar Constitution with the national holiday known as *Kenpo Kinenbi*, or Constitution Day.¹⁾ Each year, forums and seminars are held throughout Japan and most newspapers carry stories and editorials reflecting on some aspect of Japan's prewar militarism, postwar pacifism, and the postwar Constitution. As the postwar Constitution has never been amended in its 58 years, references are made during these gatherings and in these commentaries about the need, depending on the position of the speaker or writer, to either "protect the Constitution" or to amend it to better reflect the times.

Unlike previous anniversaries, however, this year's Constitution Day took place amid a flurry of debate in favor of constitutional revision, and more important, concrete actions toward that goal. As described in more detail below, a number of simultaneous, inter-related, and rapidly evolving developments—such as strong public support for revising the constitution, political party draft revisions being prepared, Diet commissions working on recommendations, and a strong leader at the helm of the Japanese government—suggests that for the first time in its postwar history, Japan is headed toward revision of its 1947 Constitution. While movements at revision have been seen intermittently and haphazardly in the past, never before have the stars been aligned in such a way to make it actually happen.

The purpose of this article is to examine these trends and to suggest what the immediate future holds for the constitutional revision debate in Japan, in particular, how these developments will affect Article 9 of the Constitution, the so-called "Peace Clause," which "forever renounce[s] war as a sovereign right of the nation and the threat or use of force as means of settling international disputes," as well as banning "land, sea, and air forces," and rejecting the "right of belligerency of the state." Many of the details have yet to be worked out, but the

1) As is discussed below, the postwar Japanese Constitution was promulgated on November 3, 1946 and went into on May 3, 1947. The day was established as a national holiday following the introduction of a bill in July 1948, the year after the constitution went into effect, known as the "Kokumin no Shukujitsu ni Kansuru Horitsu (Law on National Holidays)." Constitution Day began to be celebrated the following May in 1949.

author argues that the trends suggest that Japan will revise its constitution as early as 2007, the 60th anniversary of its postwar Constitution going into effect.

While not the purpose of this article, there will be profound effects resulting from Japan's revising of its Constitution—a more proactive diplomatic posture, a strengthened and more capable Japan-U.S. alliance, and changes in the international relations of the Asia-Pacific region. These issues will be explored in a future study.

Following this introduction, the article is divided into the three sections: a brief overview of the postwar constitution and the related issues, an analysis section looking at Diet committee deliberations, political party deliberations, press coverage, public opinion trends, and the interest of the Koizumi Junichiro administration in this issue, and a concluding section discussing the likelihood of constitutional revision within the next two years. The article, it should be noted, was not written to suggest Japan should revise its Constitution, but rather to argue that Japan is in fact moving in this direction at a speed quicker than most people, including Japan watchers and Japanese citizens themselves, may realize.

Overview

Almost 60 years have passed since the Japanese Diet deliberated and approved the postwar constitution that replaced the 1889 Meiji Constitution in 1947, one that while drafted by the General Headquarters of the Supreme Commander for the Allied Powers during the Occupation of Japan (1945-1952) has remained unchanged throughout the entire 50-plus years after the restoration of Japan's sovereignty on April 28, 1952. The predecessor to the postwar Constitution, known as the Meiji Constitution, was, on the other hand, inherently weak. It limited the powers of the Diet and the Prime Minister, and made the latter simply "one of equals" in the cabinet. In addition, representatives of the military were not civilians, but standing general officers, who exercised default veto powers.

These structural flaws were corrected in the postwar Constitution—most of it drafted by U.S. officials in GHQ in the early weeks of 1946 during the Allied Occupation of Japan. The new constitution, deliberated on, approved, and widely

accepted by the Japanese people for much of the postwar period, limited the power of the Emperor (Article 1), strengthened the power and rights of the people (Articles 2, 10-40) made the Diet the "the highest organ of state power" (Article 41), strengthened the powers of the Prime Minister (Articles 66, 68, 72), and secured civilian control (Article 66). The postwar constitution was truly a modern, democratic document, combining the best practices and ideals of many constitutions from around the world.

One ideal that was introduced, borrowed from the 1928 Kellogg Briand Pact (signed in Paris by the United States and other countries, such as Japan, renouncing war as an instrument of national policy), and the similarly phrased 1935 Philippine Constitution. This was embodied in Article 9 of its Constitution, known widely as the "no war" or "peace" clause, which states:

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.

This was a radical rejection of the path that Japan had taken over the previous 15 years, beginning with Manchurian Incident in 1931, or as some would say, over the previous 50 years, beginning with its war with China in 1894. Some, both within Japan and in the U.S.—Japan's benefactor and new alliance partner—began to argue that the renunciation of war, no matter how noble, was impractical, especially as the Cold War set in and then a hot war began in nearby Korea.

Beginning in the 1950s following Japan's recovery of its sovereignty in 1952, there have been numerous debates on constitutional revision and draft amendments, but never a final political decision to go ahead with the hoped-for changes. Some of the debates were driven out of nationalistic sentiments, namely that the constitution was drafted by the U.S. (which it was, but it was also discussed, amended, and approved by the Japanese Diet). Other debates were heard

because of the concern about an overly idealistic nature of Article 9 in a realistic world. On the other side of the debate were those "fundamentalists" who, for ideological reasons, enshrined Article 9 as if it were written in stone (and not by humans) and fought against any changes. Article 9, in short, while not the only article that has been the subject of debate in the past, is clearly the most controversial. Historically, finding a consensus on the desirability of amending Article 9 has been the litmus test or ultimate hurdle for constitutional revision.²⁾

Over the past decade, however, following the Gulf War and international criticism of Japan's failure to dispatch its forces alongside those of the international community, domestic public opinion in Japan has increasingly been more receptive to constitutional revision. This recognition has continued to grow in light of the continued existence of traditional threats in Northeast Asia, in particular that posed by North Korea's missiles and nuclear weapons programs, China's increasingly nationalistic and hostile posture toward Japan, as well as the threat of terrorism. This does not mean that just any war is now acceptable—witness the public opposition to the Government of Japan's decision to send Self Defense Forces to Iraq to assist in reconstruction—it does clearly suggest that this opposition was not enough to deter the government from pursuing the course it thought correct for the international community and the bilateral alliance.

A look at public opinion polls during the past 10 years clearly shows this trend. In 1994, for example, a public opinion poll sponsored by the *Yomiuri Shimbun* found for the first time in the postwar period that a majority of the public was in favor, at long last, of *discussing* the issue. Today, a majority of those polled are now in favor of constitutional revision itself, moving beyond simply supporting discussing the issue. Similarly, even the *Asahi Shimbun*, historically a voice of the "protect the Constitution" faction, has showed that its public opinion polls show 56% of voters favor revision.³⁾

2) In order to revise the Constitution (according to Article 96), an amendment has to be "initiated by the Diet, through a concurring vote of two-thirds or more of all the members of each House and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majority of all votes cast thereon, at a special referendum or at such election as the Diet shall specify." Japan currently does not have the mechanism for such a referendum, although public and political support exists for the creation of it.

3) "Public Accepts the realities of the SDF and Pacifist Ideals," *Asahi Shimbun*, May 4, 2005.

The details of any possible revisions have of course yet to be worked out. Similarly, the strategy and timeline are not mapped out. But it is clear that there is a strong recognition, unlikely to go away, for the need for constitutional revision.

Analysis

Currently, several developments suggest that the Japanese Government/Diet may decide—more quickly than common wisdom (built up over 60 years of incremental changes) would suggest—to move in the direction of constitutional revision.

First, the Diet has been more seriously studying the issue in recent years, and the respective constitutional research commissions of both its Lower House (House of Representatives) and Upper House (House of Councilors) released their final reports in April this year.

Second, the LDP formed a "Constitution Drafting Committee" in the fall of 2004 to work with its existing Commission on the Constitution, moving beyond the simple "study committee" format. It came up with a draft outline in November, and is preparing to complete its study later this year. Similarly, other parties are stepping up their studies of the constitution with varying versions of drafts underway.

Third, to help the debate, the *Yomiuri Shimbun* released in the summer of 2004 a new version of its controversial constitutional revision draft outline (first published in 1994) along with a book explaining it, raising the quality of the discussion and providing a draft from which to build. This demonstrates the unprecedented interest of the media in the debate.

Next, public opinion polls will be introduced to show the high level of support for constitutional revision.

Finally, the strong leadership of the Koizumi administration on security issues and an endorsement from the Prime Minister's Advisory Panel on Defense Capabilities suggest that the political momentum is in favor of constitutional revision.

The above developments are looked at next in detail.

The Diet Commissions

On January 20, 2000, the opening day of the 147th Session of the Diet, the Research Commission on the Constitution (*Kenpo Chosakai*) was inaugurated. This was the first time that the Diet had established such a commission since the constitution went into effect in 1947.⁴⁾

This does not mean that constitutional revision was not discussed at the political level. Pre-war conservative politicians, such as Hatoyama Ichiro and Kishi Nobusuke, had publicly called for revision, after the end of the Occupation and explored the issue when they led cabinets for much of the 1950s (1954-1956, and 1957-1960, respectively). Indeed, in August 1957, after his return from the United States and a trip to Southeast Asia, Kishi created the Commission on the Constitution within the Cabinet.

The Commission studied the question of constitutional revision over the next 7 years, submitting its report with 12 annexes in July 1964 to the Cabinet of Kishi's successor, Ikeda Hayato, and the Diet. The times had changed, however; the 1960s were not the 1950s, and Ikeda was not Kishi. The Cabinet and the Diet chose not to act on the report. Politically a hot potato, or taboo, nothing was done for more than 30 years.

In May 1997, a bipartisan parliamentary League for the Establishment of a Research Committee on the Constitution (*Kenpo Chosa Iinkai Secchi Suishin Giin Renmei*) was set up on the occasion of the 50th anniversary of the constitution's going into effect. The league was led by Nakayama Taro, former Foreign Minister.

Eventually, in February 1999, the Democratic Party of Japan, New Komeito, and the Reformer's Network Party (*Kaikaku Kurabu*) agreed on a proposal to establish a Research Commission, and the Liberal Democratic Party and Liberal Party concurred in the proposal. The Commission was not to be granted the authority to submit bills.

4) In August 1957, four decades before, a Commission on the Constitution was established within the Cabinet. Since the ruling party was the LDP, it was essentially an LDP-dominated study group.

The next month, the secretaries general of these five parties (the Communist Party and Social Democratic Party did not participate) jointly presented the proposal to the chairman of the Committee on Rules and Administration. The committee's chairman in turn requested the Speaker of the Lower House refer the matter to the Council on the Parliamentary System, which he did. The council subsequently submitted a report on the matter to the Speaker in May that year and the Subcommittee on Amendment to the Diet Law within the Rules and Administration Committee began to consider the establishment of the committee the next month.

The Committee agreed that such a commission should in fact be established in the House of Representatives, and in July presented a bill along those lines to amend the Diet Law to establish it and to draft the regulations of the commission. Some of the main guidelines agreed upon were: (1) that the Commission would not have the authority to submit bills and (2) that it would conduct the research for about 5 years.

That same month, the bill (which was amended to permit the establishment of a similar commission within the Upper House) passed both houses. On January 20, 2000, both houses established their respective Research Commissions on the Constitution and the commissions began their work that day. Nakayama, of the Liberal Democratic Party, chaired the Lower House commission, with the Upper House commission being headed by Murakami Masakuni, also of the LDP.⁵⁾

Beginning in early 2002, at the 154th session of the Diet, the Lower House commission established four subcommittees to work on specific themes. Later that same year on November 1, after the mid-term point in the 5-year schedule, the commission submitted a 1000-page interim report to the Speaker of the Lower House.⁶⁾ Research and discussions continued afterward and the fifth and final report of the Commission was submitted to Speaker Kono Yohei on April 15, 2005.⁷⁾

5) The homepage of the Lower House's Research Commission on the Constitution can be found at: http://www.shugiin.go.jp/index.nsf/html/index_e_kenpou.htm and the one for the Upper House (Japanese only) is <http://www.sangiin.go.jp/japanese/kenpou/index.htm>.

6) See the Interim Report at: http://www.shugiin.go.jp/index.nsf/html/index_e_kenpou.htm (accessed October 2004).

7) See the Final Report (available in Japanese) at: http://www.shugiin.go.jp/index.nsf/html/index_e_kenpou.htm.

It totaled 683 pages in length, and was based on 452 hours of discussion.⁸⁾

Two-thirds of the 50-person Lower House commission, agreed with that the first paragraph of Article 9 should retain that the country renounces war, that the use of force should be kept to the bare minimum, and that the Constitution needs to clarify the position on the right to exercise self-defense and the role of the SDF in that.⁹⁾ However, on the question of exercising the right to collective self-defense, opinions varied between "it should be acknowledged" to "it should be acknowledged but restricted" and "it should not be acknowledged."

The report of the Upper House commission, released the following week, reflected the more cautious voices in the Diet. Comprised of 45 members, the commission similarly looked at four categories in its study, conducting a total of 72 meetings over the five years it was in existence. Its final report, comprising some 300 pages, was submitted to the President of the Upper House, Ogi Chikage, on April 20. Compared to the Lower House commission, its membership was more divided on the question of Article 9, and symbolic of that, the Japanese Communist Party and Socialist Party members of the commission did not approve the report.¹⁰⁾ Phrased another way, the Upper House report was much more cautious toward Constitutional revision.¹¹⁾

Specifically, the differences within the Upper House commission emerged on the question of clause 2 of Article 9. The members were able to reach a consensus on leaving Clause 1 of Article 9 regarding the renunciation of war as is, but differed

8) "Panel Submits Final Report on Constitution," *Daily Yomiuri*, April 16, 2005.

9) *Ibid.*

10) "Upper Panel Can't Agree on Need for Article 9," *Japan Times*, April 21, 2005. The report (in Japanese) is available at: <http://www.sangiin.go.jp/japanese/kenpou/houkokusyo/pdf/honhoukoku.pdf>

11) "Basic Law Reform Bugged Down," *Daily Yomiuri*, April 21, 2004. This and another insightful story by the *Yomiuri Shimbun* notes several reasons for this contrast. First, the Lower House was much more enthusiastic about the assignment. Second, the Lower House commission had strong leadership, being headed by Nakayama for the entire five years. In contrast, the Upper House commission leadership changed five times. Third, compared with the Lower House, the ratio of Upper House seats held by the Socialist and Communist parties is higher. These groups have tied their political fortunes to "protecting the constitution." Fourth, many of the 16 Minshuto members of the Upper House are former Socialist Party members. Fifth, the members of the Lower House commission were allowed to debate and "vote" based on their personal beliefs, while the Upper House commission was bound by party line. (Kakuchi Funatsuki, "No Surprises in Top Law Report," *Daily Yomiuri*, April 20, 2005.) Finally, the Upper House feels threatened by any constitutional revision as it may lead to the introduction of a single chamber in the Diet (symbolized by its creation of a subcommittee studying the bicameral system). This last aspect, the article warns, will lead to potential delays in the future as the two houses will need to coordinate drafting.

on the question of maintaining armed forces.¹²⁾

The Diet will now have to decide how to act on the recommendations of the commissions, which include the call for the creation of standing committees within each house establishment of a new commission to discuss constitutional revision issues, such as the right to self-defense and the status of the Self Defense Forces. In addition, another problem identified by the study groups was the need for a bill creating the legal and administrative foundation for the conducting of national referendum, without which the general public could not approve any Constitution revision.¹³⁾

Party Deliberations

In the meantime, the political parties are proceeding with their respective internal discussions with regard to possible amendments to the Constitution. Because of the role of the parties in the subsequent deliberations and in the preparation of the draft bills, it is necessary to look at several of the parties most seriously concerned with the revisions—the Liberal Democratic Party (LDP), its coalition partner, the New Komeito, and the Democratic Party of Japan (DPJ), the only opposition party relatively enthusiastic about revision.

The Liberal Democratic Party

Historically, since its creation in November 1955, the LDP as the conservative party has been the one with the most members in favor of revising the constitution, particularly Article 9. (More than 90% of the lawmakers in the ruling coalition desire revision of the constitution.¹⁴⁾) The LDP, however, has also been described as a "party of smaller parties," which means that conservative forces within the party have been held in check by those within the party in favor of the *status quo* (and even strongly supportive of the "no-war" clause), not to mention the other parties.

12) "Upper House Ends Top Law Study," *Daily Yomiuri*, April 21, 2004.

13) In addition to the lack of a nation-wide referendum law in Japan, the process of holding a "special referendum" as per Article 96 of the constitution, as introduced above, has yet to be established.

14) "Most in Ruling Bloc Want Military in Constitution," *Kyodo News Agency*, November 4, 2002. Another interesting figure that notes the LDP and the Democratic Party alone occupy 85% of the Lower House seats.

Until the early 1990s, when the 38-year domination of Japanese politics by the LDP came to end with the rise of a non-LDP coalition in the summer of 1993, most in the LDP supported the *status quo* that had been established in 1960, when the party moderates won-out against the more conservative voices in the LDP following the security treaty riots and the resignation of Kishi that summer. Since that time, the LDP took a moderate approach to domestic affairs, and an incremental approach to foreign affairs and security policy—alliance with the U.S., light rearmament, and an economic-first approach—known as the Yoshida Doctrine, after Yoshida Shigeru, the prime minister from 1946 to 1947, and again from 1948-1954, whose followers dominated the post-1960 scene all the way to Miyazawa Kiichi (1991-1993).

In the wake of the changed international situation and domestic consensus on the need for Japan to play a larger international role in the wake of the first Gulf War and more recently the War on Terror, the LDP has been more openly promoting constitutional revision. For example, its 2003 Party Platform, announced on the eve of the fall general elections, called for "the completion of a draft constitution revision by [November] 2005, the 50th anniversary of the party's establishment, and movement toward a national debate on the issue."

Earlier that year on July 24 2003, the Constitutional Revision Project Team (*Kenpo Chosakai Kenpo Kaisei Projekuto Chiimu*) established under the party's long-standing Commission on the Constitution (*Kenpo Chosakai*), submitted its proposal entitled "Draft Outline on Security (Anzen Hosho ni Tsuite no Yoryoan)," to the commission for its review.¹⁵ Discussions on the outline and other related issues have continued since then, with more than a dozen meetings being held in the first several months. In April 2004, the LDP's Research Commission decided to put priority in its study on compiling draft revisions on the right of self-defense, including eliminating the second paragraph of Article 9, which forbids Japan to maintain "land, sea, and air forces, as well as other war potential." In early October, a Constitutional Revision Drafting Committee (*Kenpo Kaisei Yoryo Kiso Iinkai*) was established with Nakatani Gen, a former Director of the Defense

15) For the proposal in Japanese, see the homepage of former Defense Agency director Nakatani Gen at <http://www.nakatanigen.com/teigen.htm>.

Agency, in charge. Its first meeting was held in November, with a draft version being publicized in the press shortly thereafter.¹⁶⁾ It stated that "A military shall be established that will maintain the minimum force required to exercise the right of individual and collective defense," and that "The military in addition *shall be required to contribute to international security*, which may involve the use of arms" (italics author).

Now, under the leadership of former prime minister Mori Yoshiro, the drafting committee is expected to have final outline prepared this summer (2005), with the final draft constitution revision in time for the 50th anniversary of the party's establishment in November 2005.

New Komeito

As the LDP's coalition partner since 1999, the New Komeito, despite its relatively small presence, has exercised influence (some would say disproportional) in the policies of the Cabinet. Established in 1964 with the support of the Soka Gakkai lay Buddhist religious organization, the party's name means Clean Government Party. Soka Gakkai's members provide its strong constituency. New Komeito currently has only one person in the Cabinet, 34 members in the House of Representatives, and 24 members in the House of Councilors. Because of the general instability of Japanese politics over the past decade, and specifically for the 5 years of the current coalition government with New Komeito, the LDP has had to work hard to get the agreement or acquiescence of its coalition partners on problems it has tried to address. This has given Komeito, as the only coalition partner, an extraordinary influence on Japanese politics. Recent legislation on matters of domestic and international security, while comparatively speaking passed quite quickly, have nevertheless required the New Komeito to be on board throughout the process or risk failed passage and perhaps a break in the coalition (which gives the LDP, weakened in both the Lower House elections last November and Upper House elections this July, a comfortable majority in the Diet).

Critics within and outside of the New Komeito, however, complain that its cozy

16) "LDP OK's Collective Defense," *Daily Yomiuri*, November 15, 2004.

relationship with the LDP as a ruling party has caused its motto of "together with the masses" to get hollowed out and for it to lose legitimacy among its base and the general voters. Although it has served as a brake (i.e. slow down function) on the LDP, the New Komeito, these critics continue, has essentially acquiesced to the policies of the LDP. Internally, there are calls to distance itself from the LDP.¹⁷⁾

This problem is particularly serious as the debate heats up on constitutional revision over the coming months. New Komeito is in favor, in principle, of constitutional revision, noting on its official website that it "has fundamentally recognized that the Constitution of Japan should not be beyond question or amendment."¹⁸⁾ At the same time, it also argues that the "permanent renunciation of war as an instrument of state...must be kept intact." It is unclear at this time what role the New Komeito will have in the debate—that as a "nay sayer," a brake, or a partner in the revision process. If recent history is any guide, it will be one of the latter two roles, which suggests that the revision process, led by the LDP, will be facilitated.

Democratic Party of Japan

The DPJ is the second largest party in Japan, with 178 members in the Lower House and 84 in the Upper House. Since its formation in 1998, it has increasingly grown in strength, incorporating, for example, the merger of members of the Liberal Party in November 2003 to become the largest of opposition parties. Its popularity nationwide has also increased steadily over the years and a few observers think that if the LDP is unable to project itself as a party seriously committed to reform then the DPJ will have a serious shot at outdoing the LDP in the next general elections.¹⁹⁾

Unlike the other opposition parties, such as the Japan Communist Party and the Japan Social Democratic Party, the DPJ has a more realistic platform, and is comprised of many young professionals with international experience. Symbolic of

17) "Editorial New Komeito at 40," *Asahi Shimbun*, November 1, 2004.

18) See New Komeito's homepage at: <http://www.komei.or.jp/en/manifest/manifesto4.html>.

19) Because the government is required to hold elections every four years, the next one does not have to be held until November 2007, since the last general election was in November 2003.

this practical approach and the fact that several clearly conservative individuals reside in the party, the DPJ established a commission to study constitutional reform called the DPJ Constitution Commission (*Minshuto Kenpo Chosakai*) in November 1999.

Currently, the DPJ's commission is chaired by Edano Yukio, a lawyer by background, who has been named in the past as a possible Chief Cabinet Secretary were the DPJ to take control of the government. Other senior members of the commission's leadership include Policy Research Committee Chair Sengoku Yoshito. All DPJ Diet members are members of the commission.

The commission issued a 5-part interim report in late June 2004.²⁰⁾ The last section dealt with international security issues. According to it, the commission has recognized the need for Japan to actively participate in collective defense, provided it has been approved by the United Nations General Assembly or Security Council. Similarly, the commission also calls for "limited self defense", provided: (a) it was found to be necessary, (b) it was done as an interim measure until the collective defense of the United Nations was in play, and (c) Japan reports its defense-related activities to the United Nations. Finally, the commission calls for the "extreme restraint in the use of force."

In reading the report, it is clear that a conclusion was far off and that the debate (reflecting deep ideological divides within the party that have been papered over as the party has grown) is torn between simple pacifism and the need to address the realities of the world. These differences became more apparent the following year, when in late April 2005, as the party's commission was preparing to approve the outline of constitutional proposals approving the use of armed force abroad, opposition to this eventually defeated it. Instead, the current outline provides for the stipulating of the right of self-defense and participation in United Nations-led collective security activities. It is unclear to what extent any final report, scheduled to be released in 2006 (the anniversary of the Constitution's promulgation), will have the support of the party as a whole, and whether the draft proposals will be more than a series of compromises. However, considering

20) For the report in Japanese, see the DPJ's homepage at:
http://www.dpj.or.jp/seisaku/sogo/BOX_SG0058.html.

the DPJ's seriousness at replacing the LDP as the ruling party in the future, it will have to stand the test of the general public and critical observers, such as the media.

Media Interest: The Yomiuri Newspaper Draft

As the parties and politicians continue to debate both what is the best for Japan (and their parties politically), a viable, well thought-out draft debated and prepared by experts is out and available to help this discussion—one that was first completed by the Yomiuri Newspaper Company in 1994 and has been continuously updated since then.

The Yomiuri Newspaper Company initiated a constitution study group in 1992 in the hope of preparing recommendations for constitutional revision. The study group was comprised of 12 outside specialists, and was chaired by Dr. Inoki Masamichi, founder of the Research Institute for Peace and Security (RIPS) and a former President of the National Defense Academy. The committee came up with the first set of recommendations (*Daiichiji Teigen*) at the end of the year.

The following year, a project team named the *Yomiuri Shimbun Kenpo Mondai Kenkyukai* (Yomiuri Newspaper Constitutional Problem Study Group) was established within the company to work on an in-house constitutional revision draft. This was completed in early 1994 and publicized on Constitution Day, May 3, that year. Subsequently, two other drafts were prepared in 2000 and in 2004. The drafts and their significance are introduced here, as they relate to security issues.

The 1994 Yomiuri Draft: Clarifying the Right of Self Defense

In "Chapter 3, Security" of the 1994 Yomiuri Draft Constitution, the "maintenance of a self-defense capability" was spelled out. This was done by keeping the spirit of paragraph 1, Article 9 of the current constitution, while revising the second paragraph, which prevented the maintenance of war power and the right to wage war. The re-written paragraph read, "Japan, in order to protect its peace and independence, and preserve its security, is able to possess an organization for self defense (*jiei no tame no soshiki*)."

The 1994 draft made clear that the commander-in-chief of this new organization was a civilian, namely the prime minister, that the general public would not be forced (through a draft) to participate in the organization, and that the making, possessing, and use of weapons of mass destruction was prohibited.

The 2004 Yomiuri Draft: Clarifying a Military for Self Defense

The 2004 Yomiuri Draft, which builds on the 2000 draft (that changed the wording of "an organization for self defense" to "a military for self defense (*jiei no tame no guntai*)"), is the most comprehensive version to date.

The national security section of this draft reads as follows:

Article 11 (Rejection of war and ban on weapons of mass destruction)

(1) Aspiring sincerely to an international peace based on justice and order, the Japanese people shall never recognize war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

(2) Seeking to eliminate from the world inhuman and indiscriminate weapons of mass destruction, Japan shall not manufacture, possess or use such weapons.

Article 12 (Armed forces for self-defense, civilian control and denial of forced conscription)

(1) Japan shall form armed forces for self-defense to secure its peace and independence and to maintain its safety.

(2) The Prime Minister shall exercise supreme command authority over the armed forces for self-defense.

(3) The people shall not be forced to participate in the armed forces for self-defense.

Importantly, the Yomiuri draft also included a chapter on international cooperation, arguing for the clear need for Japan to play a larger role internationally.

Chapter IV

International Cooperation

Article 13 (The Ideal)

Japan shall aspire to the elimination from Earth of human calamities caused by military conflicts, international terrorism, natural disasters, environmental destruction, economic deprivation in particular areas and regional disorder.

Article 14 (Participation in international activities)

In order to accomplish the aim of the preceding article, Japan shall lend active cooperation to the activities of the relevant well-established and internationally recognized organizations and other internationally coordinated activities for the maintenance and restoration of international peace and security, as well as those for humanitarian assistance. In case of need, Japan may dispatch public officials and use a part of its armed forces for self-defense to cooperate in such activities with the approval of the Diet.

Article 15 (Observance of international laws)

Japan shall faithfully observe those treaties it has concluded and those international laws well-established and recognized by the international community.

With this draft in hand, the public and the politicians can now have a serious debate on constitutional revision.

Public Opinion

The deliberations and draft proposals by the parties and newspaper has seemed to awaken public interest in the constitutional revision debate, and vice-versa, the public's interest fueling the political debates. As mentioned previously, most public opinion polls show Japan's voters as being in favor of constitutional revision, in the neighborhood of two-thirds.

For example, the *Mainichi Shimbun* found that 60% of its pollees believed the Constitution should be revised.²¹⁾ The *Yomiuri Shimbun* similarly found that 61% of respondents favored revising the Constitution.²²⁾ This was the second highest result for the *Yomiuri*, since it first began conducting the poll in 1981. Reflecting

21) "Poll on Constitutional Revision," *Mainichi Shimbun*, April 20, 2005.

22) "Editorial Public Demanding Constitutional Revision," *Daily Yomiuri*, May 7, 2005.

the higher numbers, the *Tokyo Shimbun*, in its survey of 3000 participants in early April, found that 69% of voters believed that amendments were needed to the Constitution.²³⁾

Significantly, the *Yomiuri's* ideological rival, the center-left *Asahi Shimbun*, similarly found that 56% of its pollees favored revising the supreme law of the land.²⁴⁾ Even the anti-military *Ryukyu Shimpo* in Okinawa found that 52% of 500 voters in the prefecture favored revising the Constitution.²⁵⁾

In light of these trends, we can safely say that the issue of Constitutional revision is no longer a "yes" or "no" one, but rather a question of time and contents. The devil is, as the expression goes, in the details. Polls vary on the level of support of voters toward revising Article 9, but the consensus is that some degree of change is needed.

Importantly, the public debate was not limited to simple opinion polls. Numerous journals published articles on the Constitution revision debate, including an important edition by *Chuo Koron*, Japan's leading intellectual journal, back in late 2001, well before the current debate.

Likewise, influential organizations in Japanese society have issued revision proposals. On December 17, 2004, the Japanese Chamber of Commerce and Industry (Nihon Shoko Kaigisho) issued an interim report on its Constitutional revision proposals.²⁶⁾ Regarding Article 9, the Chamber's report argued that it should be "completely revised, permitting the right of self defense. The 'possession of war potential' for that purpose should be made clear. The SDF should be allowed to go abroad for the purpose of international contributions in international peace cooperation activities."

Similarly, on January 18, 2005, *Keidanren*, the Japan Business Federation, which has called for political stability (1950s) and economic recover (1990s) in the past, released a set of recommendations entitled "Looking to Japan's Future."²⁷⁾ Its report noted the following:

23) "Poll on the Constitution of Japan." *Tokyo Shimbun*, May 3, 2005.

24) "56% Support Revisions to Constitution," *Asahi Shimbun*, May 3, 2005.

25) "Kenpo Minaoshi, 52%," *Ryukyu Shimpo*, May 5, 2005.

26) See <http://www.jcci.or.jp/cgi-news/jcci/news.pl?1+20041227150144>.

27) Yoshio Okubo, "Calls for Constitutional Revision Growing," *Daily Yomiuri*, January 28, 2005. The report can be found at Keidanren's website, <http://www.keidanren.or.jp/english/policy/2005/002.html>.

As it stands today, Japan's present Constitution, especially in the preamble and Article 9, seems outmoded. Among other things, debate over interpretation of Article 9 has long been "theological" and seemingly endless. Public confidence in the Constitution has substantially declined as a result.

Specifically, while Paragraph 1, Article 9, which is built on the philosophy of "peace" should be retained, Paragraph 2 shows obvious divergence from the reality. The existence of the Self-Defense Forces in order to exercise the sovereign right of self-defense should be recognized in constitutional terms. It should also be explicitly stated that the role and duty of the SDF are to protect Japan's sovereignty and independence, preserve peace, and both contribute to and cooperate with the international community in activities for international peace.

The Constitution should also make clear that the right of collective self-defense may be exercised to secure Japan's national interests and international peace. At the same time, a fundamental law on security should be enacted to provide for rules and measures to limit and control the exercise of such rights-such as requiring advanced approval by the Diet, taking international situations, as well as areas and types of activities, into consideration.

Without waiting for a formal amendment of Japan's Constitution, necessary measures should be implemented immediately to lift the constraints from a rigid interpretation of the current Constitution, which would legally permit necessary activities for security.

In addition, requirements for amending the Constitution are too strict. Conditions for revision, including the motion to propose for the constitutional revision, should be eased so that necessary revisions become available promptly based on the will of the people whenever necessary. As an immediate matter, it is essential that new legislation providing for a national referendum on revisions to the Constitution be enacted as soon as possible.

As an initial step, Paragraph 2 of Article 9 (not to maintain war

potential) and Article 96 (revising the Constitution) both of which diverge greatly from reality today should be revised as a precursor to an indispensable-and overdue-nationwide debate on the Constitutional revision.

In addition, the Institute for International Policy Studies, a private think tank based in Tokyo and chaired by pro-revision former prime minister Nakasone Yasuhiro, released its draft Constitution, comprising a preamble and 116 articles.²⁸⁾ Regarding Article 9, the summary of the IIPS "Proposal Concerning Revision of the Constitution of Japan" states

The provision concerning renunciation of war in Paragraph 1, Article 9 is retained in respect for aspiration to international peace as nurtured in the current Constitution. The status of the Defense Forces for the purpose of self-defense is defined in Paragraph 2. In Paragraph 3, the participation of Defense Forces in activities carried out within the framework of the United Nations or international cooperation for the purpose of international peace and humanitarian support is acknowledged. In Paragraph 4, use of force in this regard is clearly specified, subject to approval by the Diet.²⁹⁾

As the debate heats up, it is likely that more and more organizations will also begin releasing their respective proposals to add to the discussion.

The Koizumi Administration

These trends have certainly helped the current prime minister, Koizumi. Since taking office in the spring of 2001, Koizumi has consistently made strong statements on defense issues and in favor of constitutional revision. Both symbolically and on a practical note, he directed the Cabinet Legislation Bureau to begin studying the issue of collective security.

Despite the fact that such views have traditionally been unpopular in Japan and

28) "Calls for Constitutional Revision Growing," *op.cit.*

29) Summary of "Proposal Concerning Revision of the Constitution of Japan,"

<http://www.iips.org/prop%20Constitution.pdf>. An article-by-article comparison of the current Constitution and proposed revision can be found on the Japanese language edition of the IIPS' website at <http://www.iips.org/kenpouhikaku.pdf>.

thus politicians have avoided taking such stances, Koizumi has not shied away from it. In turn, while some of his decisions (such as dispatching SDF forces to Operation Enduring Freedom and Operation Iraqi Freedom) have been controversial, the public has generally welcomed Koizumi's pronouncements on the Constitutional question. Public opinion polls have consistently showed over the past decade an increased acceptance of the need for international contributions and debates on constitutional revision (which would authorize these). Moreover, in recent months, Japan has been pushing for United Nations reform and permanent membership in Security Council, which would likely require Japan to be able to militarily participate in collective security challenges.

Adding further momentum to these debates, the Prime Minister's Council on Security and Defense Capabilities submitted its report in October 2004 subtitled "Japan's Vision for Future Security and Defense Capabilities," which included an addendum on constitutional issues. Specifically, it called on the government to "continue to promote the debate on the exercise of the right of collective self-defense in order to clarify what Japan should and/or can do within the framework of the Constitution, and expeditiously settle this issue." Koizumi welcomed the report, and told the Diet shortly afterward that the government would move forward on the recommendations found in the report. Considering that Koizumi will likely remain in office as LDP president until 2006 when his term expires, and the next general election won't need to be held until late 2007, Koizumi still has time to realize these goals. Furthermore, the most likely successor to Koizumi in the LDP, and perhaps as Prime Minister (assuming the current coalition holds together, the LDP is able to maintain or increase its seats, and/or the Democratic Party does not make any significant gains) is Abe Shinzo, the grandson of former Prime Minister Kishi and a strong advocate of a larger SDF role.

Conclusion

The debate on constitutional revision has developed over the years, gaining new momentum in recent months. It is widely supported among the general public and among a large percentage of Diet members. The debate is not knee-jerk

nationalism, but one that is realistic, responsible, and cautious (60 years in the making!). It is not a reflection that Japan is becoming militaristic, but rather that it is ready to play a fuller (but still limited) role on the international stage.

The process of this remains unclear. There are three scenarios envisioned: revision of the Constitution (full blown revision of the entire constitution or partial revision of Article 9 alone), new expanded reinterpretation of Article 9 by the Cabinet Legislation Bureau announced by the prime minister, and a new interpretation announced by the prime minister that is also supported by a Diet resolution (thus giving it public legitimacy).

The timing is also unclear. Several potentially important dates lie on the immediate horizon. Two thousand five is a self-imposed deadline for a draft within the LDP. The following year, 2006, is the 60th anniversary of the constitution's promulgation, and 2007, is the 60th anniversary of the constitution's going into effect. During the latter two years, there are a number of possible elections at the national level that could impact the timing, but with the Democratic Party and the Komeito planning to release their respective drafts in 2006, it appears all three main parties (LDP, Komeito, and DPJ) are committing themselves to the debate. Likewise, the three parties are planning to begin trilateral discussions on a common draft in 2007. Assuming all goes well with the respective preparations, 2007 will be a potentially very exciting time.

While the details and timing remain uncertain, the reasons behind the debate, while not spelled out, are unambiguous, at least to this writer. The revisions in the Constitution will serve three purposes: psychological ("ending the postwar"), strategic (allowing Japan to more capably defend itself), and diplomatic (giving Japan a greater role, and therefore status, in international relations by demonstrating its contributions to international society). However, these aspects have not been explicitly discussed. It will be necessary for the proponents of Constitutional revision to openly explain these reasons and for the people of Japan to consider them more carefully.