

# **An Analysis of the Japanese Constitutional Revision Debate: From the Eclectic Perspectives of IR Theory**

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## **I. INTRODUCTION**

The Japanese constitutional revision issue has been one of the most controversial debates throughout postwar Japanese constitutional politics. Several reasons exist for why the Japanese Constitution needs to be modified. For example, it can be argued that new human rights, such as privacy and environmental rights, need to be added to the current Constitution. The essential argument is that the 1947 Constitution is outdated and has to be modified so that it matches the current political and legal practices. However, the main reason why Japan's constitutional revision has been a focus of fierce political debate is because constitutional reform, especially revision or deletion of Article 9, has the potential to drastically transform Japan's security policy.

In particular, there has been a fear among the Japanese people that constitutional revision would lead to the return of an aggressive militarist state. Moreover, it is believed that Article 9 of the Japanese Constitution is special in terms of renunciation of war. Most Japanese constitutional scholars support the interpretation that the Japanese Constitution prohibits any use of force including self-defense. Despite this legal interpretation, the Japanese government has regarded self-defense as well as the Self-Defense Forces (SDF) as constitutional. This gap between the ideal of the Peace Constitution and the reality of politics has been a cause of longstanding nationwide controversy and a catalyst for passionate debate.

This paper points out that arguments put forward in the Japanese constitutional revision debate tend to end up with a dichotomy of constitutional protection and revision. The dichotomy, however, lacks balanced viewpoints and possible future

scenarios. In order to overcome this research gap, this study employs “analytical eclecticism” proposed by Peter Katzenstein in 2008, combining orthodox theories and an approach of international relations (IR) (classical liberalism, neo-liberalism, classical realism, neo-realism, and constructivism) to investigate possible future scenarios after constitutional revision. In addition, this research attempts to eschew taking sides in the debate in order to provide an academically neutral analysis. Finally, arguments in the eclectic analysis will be visualized with conclusive comments.

## II. DICHOTOMY IN THE CONSTITUTIONAL REVISION DEBATE: CONSTITUTIONAL PROTECTORS VS. CONSTITUTIONAL REVISIONISTS

Those who try to protect the Japanese Constitution (constitutional protectors or *goken-ha*) tend to regard Article 9 of the Japanese Constitution as a special “peace clause” compared to other countries’ constitutions.<sup>1</sup> Constitutional protectors also regard the current Constitution as “self-created” rather than being “imposed”. For instance, Takamichi Mito observed that Prime Minister Kijūrō Shidehara in his book *Gaikō Gojū-nen* (*Fifty Years of Diplomacy*) made it clear that no one imposed the Constitution on Japan.<sup>2</sup>

Most Japanese constitutional lawyers can be categorized as constitutional protectors, and they have accepted an interpretation that Article 9 prohibits possession of military power even for the purpose of self-defense.<sup>3</sup> Yasuo Hasebe argued that the Japanese Peace Constitution stems from the historical fact that the Imperial Japanese Army

1 A countless number of scholarly works on constitutional protection can be raised, but for a variety of academic arguments by several leading constitutional protectors, see, e.g., T. FUKASE / Y. SUGIHARA / Y. HIGUCHI / K. URATA, *Kōkyū sekai heiwa no tameni: nihon-koku kenpō kara no teigen* [In Quest of World Peace for All Time: Proposals Based on the Constitution of Japan] (Tokyo 1998); KENPŌ SAISEI FORUM (ed.), *Kaiken wa hitsuyō ka* [Is Constitutional Revision Necessary?] (Tokyo 2004); T. MITO, Japan’s Constitutional Revision Debate under Prime Minister Abe Shinzō and Its Implications for Japan’s Foreign Relations, in: *Japanese Studies* 28 (2008) 59-71. For political opinions, see JCP official home page, available at <http://www.jcp.or.jp>. See also SDP Official Home Page, available at <http://www5.sdp.or.jp>. Some constitutional protectors advocate that Article 9 should become world heritage. See, e.g., H. ŌTA / S. NAKAZAWA, *Kenpō kyūjō o sekai isan ni* [Let’s Make Article 9 World Heritage] (Tokyo 2006). For the analyses by the Japanese constitutional scholars against the Second Abe Cabinet’s stance on constitutional revision, see Sekai (March 2013).

2 MITO, *supra* note 1, 65-66; T. MITO, “*Oshitsukerareta Kenpō*” no seijiteki shinwa [Political Myth of “Imposed Constitution”], in: SHINDŌ / MITO, *Sengo nihon seiji to heiwa gaikō: 21 seiki ajia kyōsei jidai no shiza* [Postwar Japanese Politics and Peace Diplomacy: Perspective for Asian Coexistence Era in the 21st Century] (Kyoto 2007) 28 *et seq.*; K. SHIDEHARA, *Gaikō gojū-nen* [Diplomacy of Fifty Years] (Tokyo 2007) 213.

3 K. AIKYO, *Kaiken mondai* [Constitutional Revision Issue] (Tokyo 2006) 56, 191.

obstructed democracy and eventually led Japan into the Second World War.<sup>4</sup> Likewise, Yōichi Higuchi insisted that if Article 9 is revised to legalize exercise of the right of collective self-defense, Japan would be directly involved in US-led wars.<sup>5</sup> Moreover, some constitutional scholars believe that the existence of both the SDF and the Japan-US Security Treaty are unconstitutional.<sup>6</sup>

Politically, the Japanese Socialist and Communist parties have opposed constitutional revision. For instance, the Japanese Socialist Party (JSP) proposed the policy of unarmed neutrality. Similarly, the political goals of the Japanese Communist Party (JCP) are the abolition of the SDF and the Japan-US Security Treaty because the JCP believes these military powers and alliance are “unconstitutional.”<sup>7</sup> The Social Democratic Party (SDP), as the successor to the JSP, expressed its objection to any kind of constitutional revision and contended that the SDF should be gradually diminished and transformed into an unarmed organization.<sup>8</sup>

As Richard Samuels noted, Japanese pragmatists also tend to avoid revising the current Constitution. Indeed, pragmatic Japanese prime ministers, such as Shigeru Yoshida, Hayato Ikeda, Eisaku Satō, and Kiichi Miyazawa, regarded Article 9 as a useful excuse to focus on economic development in spite of US pressure on Japan to rearm.<sup>9</sup> Still, the pragmatists’ stance has been conditioned by the existence of leftist and pacifist politicians who held one-third of the seats in the Diet in the 1955 system.

On the other hand, those who insist on constitutional revision (constitutional revisionists or *kaiken-ha*) argue that the 1947 Constitution needs to be amended because most of them wish to normalize or maximize Japanese military power.<sup>10</sup> Constitutional

4 Y. HASABE, *Nihon no rikken shugi yo, doko e iku?* [Where Is Japanese Constitutionalism Going?], in: RONZA HENSHŪBU (ed.), *Liberaru kara no hangeki* [Counterattacks from Liberals] (Tokyo 2006), 122, 125.

5 Y. HIGUCHI, *Ima kenpō kyūjō o sentaku suru koto wa, higen-jitsuteki dewanai ka* [Isn’t It Unrealistic to Choose Article 9 Now?], in: Kenpō Saisei Forum, *supra* note 1, 7.

6 See, e.g., A. MIZUSHIMA, *Genjitsu to yūri shiteshimatta kenpō wa, genjitsu ni awasete aratameta hō ga ii no dewanai ka* [Isn’t It Better to Revise the Constitution Which Became Detached from Reality to Adjust It to Reality?], in: Kenpō Saisei Forum, *supra* note 1, 151.

7 JCP, *supra* note 1.

8 SDP, *supra* note 1.

9 R. SAMUELS, Constitutional Revision in Japan: The Future of Article 9 (Washington, 2004) 6, available at <http://www.brookings.edu/fp/cnaps/events/20041215.pdf>, last retrieved on 5 June 2013.

10 Numerous publications on constitutional reform are available, but for a typical “normal state” debate that justifies revision of the Constitution, see I. OZAWA, Blueprint for a New Japan: The Rethinking of a Nation (Tokyo 1994). For academic works written by a leading constitutional revisionist, see O. NISHI, Ten Days Inside General Headquarters (GHQ) (Tokyo 1989). For scholarly works by realist political scientists, see T. KATAOKA, The Price of a Constitution: The Origin of Japan’s Postwar Politics (New York 1991); T. INOGUCHI / P. BACON, Japan’s Emerging Role as a “Global Ordinary Power,” in: International Relations of

revisionists have two main reasons why the current Constitution should be revised. First, they believe that Japan should possess a “normal army” and therefore regard Article 9 as a hindrance to achieving this political goal. Second, they insist that the 1947 Constitution was imposed by the General Headquarters (GHQ) during the occupation period and extraordinarily limited Japan’s own decision-making process.<sup>11</sup>

Retrospectively, the original political platform of the Liberal Democratic Party (LDP) was comprised of two pillars: constitutional revision and rearmament.<sup>12</sup> Prime Minister Ichiro Hatoyama and his successor, Nobusuke Kishi, expressed their strong motivation for constitutional revision. In particular, Kishi contended that Japanese people should create an “original and independent” constitution.<sup>13</sup> After Kishi was forced to resign from his prime ministership as a result of the revision of the Japan-US Security Treaty, successive prime ministers refrained from arguing constitutional revision at the National Diet. Instead, LDP prime ministers focused on “changing the interpretation of the Constitution” (*kaishaku kaiken*). Even Prime Minister Yasuhiro Nakasone, a famous constitutional revisionist, mentioned that his cabinet had no intention to tackle constitutional revision.<sup>14</sup>

It was Prime Minister Jun’ichirō Koizumi who resumed the debate on constitutional revision to exercise the right of collective self-defense.<sup>15</sup> In spite of his aspiration for constitutional reform, Koizumi could not take concrete action. Prime Minister Shinzō Abe, known as a conservative hawk and constitutional revisionist, stated that he would exert his leadership and take action for constitutional revision as a political schedule.<sup>16</sup> As a first step toward constitutional revision, he made measurable progress to create National Referendum Legislation as a procedure of the revision. Nonetheless, Abe’s initiative was not supported by the Japanese public as shown in the result of the 2007 Upper House election.<sup>17</sup>

Abe’s successor, Prime Minister Yasuo Fukuda, did not consider constitutional revision as his political priority.<sup>18</sup> Moreover, the debate on constitutional revision was

the Asia-Pacific 6 (2006) 1-21; T. INOGUCHI, Japan as a Global Ordinary Power: Its Current Phase, in: Japanese Studies 28 (2008) 3-13.

11 See, e.g., N. HYODU, *Nihon yūji* [Emergency of Japan] (Tokyo 2006). Exceptionally, in 2004 Komeito began supporting constitutional revision, not to normalize military power but to add new clauses for new human rights. See Komei Shinbun, 23 March 2004.

12 S. ABE, *Utsukushii kuni e* [Towards a Beautiful Country] (Tokyo 2006) 27-29.

13 NDL (National Diet Library), Statement of Nobusuke Kishi, Proceedings of the 26th Diet Session, available at <http://www.ndl.go.jp/>.

14 NDL, Statement of Yasuhiro Nakasone, Proceedings of the 97th Diet Session, *supra* note 13.

15 NDL, Statement of Jun’ichirō Koizumi, Proceedings of the 151st Diet Session, *supra* note 13.

16 NDL, Statement of Shinzō Abe, Proceedings of the 165th Diet Session, *supra* note 13.

17 I. KABASHIMA / T. HAYANO, *Abe shushō wa kenpō ni yabureta: san’insen no kekka o yomitoku* [Prime Minister Abe Lost to the Constitution: Analysis of the Results of the Upper House Election], in: Sekai (October 2007) 68-79.

18 NDL, Statement of Yasuo Fukuda, Proceedings of the 168th Diet Session, *supra* note 13.

toned down further after Tarō Asō assumed office. Prime Minister Asō did not express his intention for constitutional revision, although he implied the necessity of a one-chamber system to revise the Constitution.<sup>19</sup> Likewise, although major parliamentary politicians of the LDP and the Democratic Party of Japan (DPJ) desire constitutional revision, they could not take any conspicuous action due to technical difficulty and the opposing influence of constitutional protectors.<sup>20</sup> Indeed, the current Prime Minister, Shinzō Abe, has prioritized economic policy over constitutional revision.<sup>21</sup> Thus, there has been an obvious dichotomy on the Japanese constitutional revision issue. Owing to the dichotomy of arguments, however, the two parties both lack comprehensive perspectives and contemplation of potential future scenarios.

### III. ANALYTICAL ECLECTICISM AND IR THEORY

In an attempt to overcome this dichotomy as a research gap, this paper employs “analytical eclecticism” to examine holistic perspectives and possible future scenarios. Peter Katzenstein in 2008 proposed analytical eclecticism, arguing that “some writings on Japanese security may, in the future, be able to take a more eclectic turn, by incorporating elements drawn from three different styles of analysis – the testing of alternative explanations, the rendering of synthetic accounts, and historically informed narratives.”<sup>22</sup>

In applying analytical eclecticism to the Japanese constitutional revision debate, four orthodox theories (classical liberalism, neo-liberalism, classical realism, and neo-realism) and an alternative approach (constructivism) to international politics can be integrated.<sup>23</sup> First, from a perspective of classical liberalism, this paper considers whether Japan will become a “non-violent state” based on absolute pacifism or remain a “pacifist state” based on relative pacifism. Second, from a neo-liberal perspective, there will be

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19 NDL, Statement of Tarō Asō, Proceedings of the 171st Diet Session, *supra* note 13.

20 DPJ politicians have a variety of views on constitutional revision. See, e.g., *Shinbun Akahata*, 28 July 2007, available at [http://www.jcp.or.jp/akahata/aik07/2007-07-28/2007072804\\_02\\_0.html](http://www.jcp.or.jp/akahata/aik07/2007-07-28/2007072804_02_0.html), last retrieved on 5 June 2013. For an analysis of the LDP draft for constitutional revision, see, e.g., S. TAMURA, *Jimintō shin kenpō sōan ni tsuite: tokuni dai 9 jō kanren o chūshin ni* [Liberal Democratic Party’s Drafting of a New Constitution: With a Special Focus on Article 9] Defense Law Studies 30 (2006) 29-47.

21 See “Japanese PM Shinzo Abe Hails ‘Monetary Regime Change,’” The Telegraph, 22 January 2013, available at <http://www.telegraph.co.uk/finance/currency/9817432/Japanese-PM-Shinzo-Abe-hails-monetary-regime-change.html>, last retrieved on 8 April 2013. Incidentally, the economic-oriented policy of the Second Abe Cabinet is called “Abenomics.”

22 P. KATZENSTEIN, *Rethinking Japanese Security: International and External Dimensions* (New York 2008) 3.

23 For detailed explanations on theories and approaches of international politics, see C.W. KEGLEY / R.W. WITTKOPF, *World Politics: Trend and Transformation* (10th ed., Melbourne 2006).

an examination into whether Japan will remain a “UN peacekeeper” or become a “UN centrist state” that can make a full commitment to UN-authorized military operations. Third, from the viewpoint of classical realism, this paper will conduct an analysis into whether Japan will become a completely “normal state” or a “militarist state.” Finally, this paper will discuss whether Japan will become an “equal US ally” or attempt to seek “autonomy.” The eclectic theoretical perspectives of Japan’s security policy in relation to constitutional revision can be categorized and displayed as in Table 1.<sup>24</sup>

*Table 1. Theoretical Application of Analytical Eclecticism to Japan’s Security Policy<sup>25</sup>*

Orthodox Theory	Legal Basis / Constructivist Norm	Security Identity
a) Classical Liberalism	Article 9 / Culture of Anti-militarism	Pacifist State
b) Neo-liberalism	Preamble / International Cooperation	UN Peacekeeper
c) Classical Realism	SDF Law / Individual Self-Defense	Normal State
d) Neo-realism	Security Treaty / Collective Self-Defense	US Ally

#### IV. ECLECTIC ANALYSIS OF CONSTITUTIONAL REVISION

##### 1. *Classical Liberalism: A Pacifist State or a Non-violent State?*

In terms of international relations theory, the arguments of constitutional protectors can be categorized as classical liberalism based on anti-war pacifism. Strictly speaking, however, the pacifism of constitutional defenders can be divided into absolute pacifism and relative pacifism. The former interpret Article 9 as pacifism of non-violence and unarmed neutrality. On the other hand, the latter regards Article 9 as renunciation of war but accepts the use of force in case of emergency.<sup>26</sup> In other words, constitutional

24 For a detailed analysis of Japan’s security identity, see D. AKIMOTO, Japan as a Global Pacifist State: Its Changing Pacifism and Security Identity (Bern 2013, forthcoming).

25 Japan’s military normalization toward a normal state is not complete but “in progress.” For an analysis of Japan’s anti-militarist culture, see T. U. BERGER, Culture of Antimilitarism: National Security in Germany and Japan (Baltimore MD 1998). For a neo-liberal perspective on Japan’s international cooperation, see T. U. BERGER, The Pragmatic Liberalism of an Adaptive State, in: Berger/Mochizuki/Tsuchiyama (eds.), Japan in International Politics: The Foreign Policies of an Adaptive State (London 2007). For a recent normal state debate, see Y. SOEYA et al., Japan as a “Normal Country”? A Country in Search of Its Place in the World (Toronto 2011). For a neo-realist perspective and structural influence on Japan’s security policy, see K. WALTZ, The Emerging Structure of International Politics, in: International Security 18-2 (1993) 44-79.

26 Y. SAWANO, *Heiwa shugi to kaiken rongi* [Pacifism and Constitutional Revision Debate] (Kyoto 2007) 112.

protectionists wish Japan either to remain a pacifist state (relative pacifist state) or to become a non-violent state (absolute pacifist state).<sup>27</sup>

Nonetheless, constitutional protectors are not necessarily absolute pacifists. In fact, even though the JCP regards the SDF as “non-constitutional” under Article 9, the party permits the use of the SDF in the case of an emergent and unjust violation of sovereignty and large-scale natural disaster.<sup>28</sup> Notably, Tatsuo Inoue argued that constitutional protectors should make political efforts to revise the Constitution to make the SDF and the Security Treaty officially “unconstitutional.” He also denounced the fact that some of the constitutional protectors expressed that they would only “escape” in case of an armed attack.<sup>29</sup> Thus, constitutional defenders are faced with a dilemma between ideals and reality. Simply put, it is unlikely that they would be able to gain sufficient seats in the Diet, given the diminished political influence of the Japanese Socialist and Communist parties.

To overcome the limitation of constitutional protection, some constitutional supporters have internationalized Article 9. For instance, while supporting constitutional protectors, Charles Overby organized a movement to propagate Article 9 around the world on the basis of the belief that Article 9 is “the world’s greatest Rule of Law.”<sup>30</sup> Likewise, the Hague Appeal for Peace Conference in 1999 expressed in the first article that all nations should adopt anti-war clauses like Article 9. In addition, Jody Williams, a Nobel Peace Laureate in 1997, supported the idea that all countries should possess Article 9 of the Japanese Constitution. Furthermore, the Global Partnership for the Prevention of Armed Conflict (GPPAC), which was established with strong support from the former UN Secretary-General Kofi Annan, also insisted on the internationalization of Article 9.<sup>31</sup> Likewise, in the first Global Article 9 Conference to Abolish War: *The World Has Begun to Choose Article 9*, held in Japan in May 2008, a large number of international peace activists expressed their support for internationalizing Article 9. Keynote speaker Mairead Corrigan Maguire, who contributed to the end of the Northern Ireland conflict and won the Nobel Peace Prize in 1976, stated that “Article 9 continues to inspire many

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27 For an argument of unarmed neutrality, see M. MIYATA, *Hibusō kokumin teikō no shisō* [Philosophy of Unarmed Citizens’ Resistance] (Tokyo 2004).

28 JCP, Draft Resolution of the 22nd Congress of the Japanese Communist Party, available at [http://www.jcp.or.jp/english/22th\\_Draft/e0011100\\_gian.html](http://www.jcp.or.jp/english/22th_Draft/e0011100_gian.html), last retrieved on 2 February 2013.

29 T. INOUE, *Kyūjō sakujō-ron: kenpō rongi no giman o tatsu* [Deletion of Article 9: Ending the Deception of the Constitutional Revision Debate], in: Ronza Henshūbu (ed.), *supra* note 4, 136-140.

30 See Charles Overby’s home page, available at <http://www.article9society.org/a9-toc.htm>, last retrieved on 5 June 2013.

31 A. KAWASAKI, *Honkide “kyūjō o sekaika” suru tame ni* [To Internationalize Article 9 in Earnest], in: Gunshuku Mondai Shiryō [Data on Disarmament Issues] 317 (2007) 51-55.

people throughout the world.”<sup>32</sup> Another keynote speaker, Cora Weiss, the president of the Hague Appeal for Peace, articulated that “I have come to help spread Article 9. Japan is not alone. You have support from around the world.”<sup>33</sup> Beate Sirota Gordon, who was involved in revising the Meiji Constitution, spoke in Japanese and stated that “I believe Article 9 can be a model for the entire world.”<sup>34</sup> These statements show that although it is unlikely that Japan will become a non-violent state on the basis of unarmed neutrality, the Japanese public and international peace activists still desire Japan to remain a pacifist state and internationalize Article 9.<sup>35</sup>

## *2. Neo-liberalism: From a UN Peacekeeper to a UN Centrist State?*

From a neo-liberal perspective that values international cooperation, Japan has contributed to UN peacekeeping operations based on the PKO Law and the Preamble of the Constitution. Similarly, neo-liberalists would argue that Japan could revise Article 9 to become a UN centrist state that can contribute to all UN peace operations, including military operations based on Chapter 7 of the UN Charter.

To explore this aspect, it is imperative to compare the Japanese Constitution and the Charter of the United Nations. Both the Preambles of the UN Charter and the Japanese Constitution share “anti-war pacifism” based on experiences of war devastation. Their primary purpose is the prevention of war. Indeed, the UN Charter stipulates in Paragraph 4 of Article 2 that “all members shall refrain in their international relations from the threat or use of force.”<sup>36</sup> Likewise, Paragraph 1 of Article 9 of the Japanese Constitution stipulates that Japan will “forever renounce war as a sovereign right of the nation and the threat or use of force as a means of settling international disputes.”<sup>37</sup>

Unlike the Japanese Constitution, however, the UN Charter authorizes the use of force under certain circumstances. Whereas the UN Charter authorizes the exercise of

32 J. JUNKERMAN, The Global Article 9 Conference: Toward the Abolition of War, in: Japan Focus, 25 May 2008, available at <http://www.japanfocus.org/-John-Junkerman/2760>, last retrieved on 5 June 2013.

33 *Id.*

34 Beate Gordon, who passed away on 30 December 2012, was the last surviving member involved in drafting the 1947 Constitution. See M. FOX, Beate Gordon, Long-Unsung Heroine of Japanese Women’s Rights, Dies at 89, in: New York Times, 1 January 2013, available at [http://www.nytimes.com/2013/01/02/world/asia/beate-gordon-feminist-heroine-in-japan-dies-at-89.html?pagewanted=all&\\_r=1&](http://www.nytimes.com/2013/01/02/world/asia/beate-gordon-feminist-heroine-in-japan-dies-at-89.html?pagewanted=all&_r=1&), last retrieved on 3 February 2013.

35 For an analysis of Article 9 in terms of global constitutionalism, see A. KIMIJIMA, Global Constitutionalism and Japan’s Constitutional Pacifism, in: Ritsumeikan Journal of International Studies 23 (2011) 465-483.

36 See Art. 2 (4) of the UN Charter, available at <http://www.un.org/en/documents/charter/>.

37 See Art. 9 (1) of the Japanese Constitution; Engl. transl. available at <http://www.japaneselawtranslation.go.jp/law/detail/?ft=2&re=02&dn=1&yo=constitution&x=47&y=16&ky=&page=1>, last retrieved on 5 June 2013.

rights of individual and collective self-defense in Article 51,<sup>38</sup> Paragraph 2 of Article 9 prohibits possession of any “war potential” and also denies “the right of belligerency of the state.”<sup>39</sup> Furthermore, Article 43 of the UN Charter stipulates that all member states shall support military operations by the Security Council with a special agreement.<sup>40</sup> Still, owing to its own self-constraint of Article 9, Japan cannot make military contributions for the ultimate purpose of the United Nations, namely maintenance of international peace and security.

Nonetheless, it is significant to compare Article 98 of the Constitution and Article 25 of the Charter.<sup>41</sup> Article 98 of the Japanese Constitution articulates Japan’s obligation to abide by international laws. In addition, Article 25 of the UN Charter stipulates that “the Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.”<sup>42</sup> The Preamble of the Japanese Constitution describes Japan’s willingness and responsibility for international peace, stipulating, “we desire to occupy an honored place in an international society striving for the preservation of peace”; “we believe that no nation is responsible for itself alone” and that “we, the Japanese people, pledge our national honor to accomplish these high ideals and purposes with all our resources.”<sup>43</sup> In this regard, in theory, the current Constitution can be incorporated into the UN Charter. For this reason, revision of Article 9 for international cooperation can be justified by legal arguments based on neo-liberalism.

Nevertheless, no consensus has been reached among Japanese neo-liberal constitutional revisionists regarding how to revise the current Constitution. If Article 9 is not revised, Japan will remain a UN peacekeeper based on the PKO Law and the international cooperation-ism of the Preamble of the current Constitution. If Article 9 were modified to allow the possession of a normal army, Japan would be able to become a UN centrist state that can contribute to all UN peace operations, including UN-authorized collective military sanctions. Still, in order to become a UN centrist state, Japan needs to first normalize its military capability.

### *3. Classical Realism: Toward a Complete Normal State or a Militarist State?*

The arguments of constitutional revisionists in Japan coincide with those of classical realists in international relations theory. Constitutional revisionists wish Japan to become either a complete normal state with ordinary defensive military power (defensive realism) or a militarist state with greater offensive military capability

38 See Art. 51 of the UN Charter.

39 See Art. 9 (2) of the Japanese Constitution.

40 See Art. 43 of the UN Charter.

41 H. NASU, Article 9 of the Japanese Constitution Revisited in the Light of International Law, in: ZJapanR / J.Japan.L. 18 (2004) 60.

42 See the Constitution of Japan; Art. 25 of the UN Charter.

43 See the Preamble of the Japanese Constitution.

(offensive realism).<sup>44</sup> Constitutional reformers based on defensive realism believe that Japan's military capability should be commensurate with its economic power. Meanwhile, revisionists based on offensive realism contend that Japan should become an independent military state, even armed with nuclear weapons.

As discussed already, the LDP was established to increase Japan's military power by constitutional amendment. When Yoshida "swallowed his pride" and asked Hatoyama to return to the former Seiyukai in November 1953, Hatoyama agreed to this on condition of establishing the "Constitutional Investigation Commission."<sup>45</sup> In this regard, the purpose of establishing the LDP is consistent with the argument of classical realism, which contends that each state behaves according to its national interest and maximizes its power.

Through the reinterpretation of the Constitution (*kaishaku kaiken*), the Japanese government authorized the constitutionality of the SDF. On 27 January 1954, Prime Minister Yoshida explained that Japan should possess the SDF as a self-defense power (*jiei-ryoku*) according to national power (*kokuryoku*).<sup>46</sup> Then, where did this "realistic" recognition of self-defense come from in spite of Article 9? At least at the stage of the MacArthur Note, Japan was not supposed to possess even the right of self-defense and self-defense capability.<sup>47</sup> Still, the MacArthur Note was "revised" by Colonel Charles L. Kades so that Article 9 did not deny Japan's right of self-defense. Notably, Kades "deleted" the sentence in the MacArthur Note which stipulates, "even for preserving its own security," because he thought that renunciation of national "self-defense" was "unrealistic."<sup>48</sup>

In response to the Ashida revision, GHQ agreed to the content of the amendment, which allowed Japan to have the right of self-defense. In return, the Far Eastern Commission (FEC) requested the inclusion of the "civilian clause" in order to democratically control Japan's future military power.<sup>49</sup> Thus, the process of the birth of the 1947 Constitution justifies Japan's right of self-defense and the constitutionality of the SDF. The Japanese government has interpreted that Japan can possess the SDF because Article 9 does not deny "use of minimum force necessary for self-defense."<sup>50</sup> This realism

44 For a theoretical definition of defensive realism and offensive realism, see J. MEARSHEIMER, *The Tragedy of Great Power Politics* (New York 2001).

45 KATAOKA, *supra* note 10, 132.

46 See NDL, Statement of Shigeru Yoshida, Proceedings of the 19th Diet Session, *supra* note 13.

47 NDL, Three basic points stated by Supreme Commander to be "musts" in constitutional revision, about 4 February 1946, available at <http://www.ndl.go.jp/constitution/shiryo/03/072/072tx.html>, last retrieved on 13 August 2009.

48 NISHI, *supra* note 10, 47.

49 O. NISHI, *Sekai no genkō kenpō to heiwa shugi jōkō* (Current Constitutions in the World and Pacifist Articles), available at <http://www.jnpc.or.jp/files/opdf/218.pdf>, last retrieved on 5 June 2013.

50 MOD (Ministry of Defense Japan), Defense Policy, available at <http://www.mod.go.jp/edpolicy/dp01.html>, last retrieved on 13 August 2009.

for “self-defense” can be seen in Article 3 of the SDF Law,<sup>51</sup> which justifies the exercise of a self-defense right to maintain Japan’s sovereignty against aggression.

In order to justify Japan’s military power and its overseas dispatch, the Japanese government created the 1954 SDF Law, the 1992 PKO Law, the 2001 Anti-Terrorism Law, the 2002 Contingency Law, and the 2003 Iraq Special Measures Law. Among these legal frameworks, the Emergency Law was of significance in that it substantially “normalized” Japan’s self-defense power. Especially, the “Armed Attack Situation Response Law” enacted in 2002 is practical because it is more specific than the SDF Law in the event of armed attack. Furthermore, the 2004 “Civil Protection Law” enhanced the completeness of the Emergency Law.<sup>52</sup>

Given the political and constitutional background discussed above, if the current Constitution were revised, it would complete Japan’s military normalization. However, Japan’s path to military normalization has been a step-by-step creation of a legal framework due to the influence of anti-war/anti-militarist pacifism. Accordingly, at least at this point, it is unrealistic to predict that Japan will become an aggressive militarist state with offensive power, including nuclear weapons. Whether Japan becomes an independent normal state or not will be conditioned by structural factors, such as changes in the international security environment and its military alliance with the United States. For this reason, structural influences on the constitutional revision debate need to be taken into consideration.

#### *4. Neo-realism: Will Japan Become an Equal US Ally or Seek Autonomy?*

The following question will be explored in this section: Will Japan become an “equal US ally” that exercises the right of collective self-defense or seek autonomy without any military alliance?<sup>53</sup> Structural realism (neo-realism) provides an explanation regarding constitutional revision. Structural realists argue that the international structure (anarchy) and a hegemonic state (the United States) determine the behavior of countries, especially their foreign and security policies. For instance, Akio Watanabe argued that the Cold War and the end of the Cold War influenced Japan’s security policy, as well as its interpretation of the “Peace Constitution.”<sup>54</sup>

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51 *Ji’ei-tai-hō* [SDF Law], Law No. 65/1954, as amended by Law No. 100/2012, available at <http://law.e-gov.go.jp/htmldata/S29/S29HO165.html>, visited on 5 June 2013.

52 MOD, Defense of Japan 2009 (Annual White Paper), Part 3, available at [http://www.mod.go.jp/e/publ/w\\_paper/pdf/2009/Part3-chap1.pdf](http://www.mod.go.jp/e/publ/w_paper/pdf/2009/Part3-chap1.pdf), last retrieved on 5 June 2013.

53 For a systematic analysis of the multiple factors on the formation, continuation, and disappearance of US bases, see T. OHTOMO, Understanding U.S. Overseas Military Presence after World War 2, in: Journal of International and Advanced Japanese Studies 4 (2012) 17-29.

54 A. WATANABE, Japan’s Postwar Constitution and Its Implications for Defense Policy: A Fresh Interpretation, in: Matthews / Matsuyama (eds.), Japan’s Military Renaissance? (New York 1993) 35-49.

In retrospect, the Allied Powers, especially the United States, decided to revise the Meiji Constitution as part of the process of demilitarization and the democratization of Japan.<sup>55</sup> Japan's constitutional revision was therefore "induced" by a GHQ initiative and interference by the FEC.<sup>56</sup> However, it is also possible to argue that the GHQ draft was almost "imposed" because "Americans threatened to indict the *Tennō* [Emperor] as a war criminal if Cabinet did not accept the GHQ draft as the basis for a new constitution."<sup>57</sup> In this sense, US pressure significantly influenced Japan's decision on constitutional revision.

From the structural realist perspective, "for a country to choose not to become a great power is a structural anomaly" because of structural anarchy.<sup>58</sup> In terms of this view, the existence of the SDF and the Security Treaty and military normalization process toward constitutional revision are theoretically understandable. Indeed, Japan's rearmament was facilitated by structural factors, especially the Cold War. In particular, on account of the outbreak of the Korean War, the United States "determined" Japan's rearmament with the creation of the National Police Reserve in 1950, which later became the SDF. One of the reasons why Article 9 has been a "dead letter" is because of "the absence of an effective supranational supervisory agency."<sup>59</sup> In other words, Article 9 has been less functional as a normative constraint on Japan's remilitarization because the world is under "anarchy," as neo-realists contend.

In the Cold War structure, the United States pressured Japan to revise Article 9 of the 1947 Constitution so that Japan could cooperate militarily as an "equal" US alliance partner. For example, when then US Vice President Richard Nixon visited Japan in November 1953, he mentioned that the demilitarization policy during the occupation period was wrong and demanded that Japan scrap Article 9.<sup>60</sup> Even in the post-Cold War era, the so-called "Armitage Report" written by Richard Armitage and Joseph Nye expressed the view that "Japan's prohibition against collective self-defense is a constraint on alliance cooperation. ...Washington must make clear that it welcomes a Japan that is willing to make a greater contribution to and to become a more equal

55 In fact, General MacArthur determined to replace the Meiji Constitution with a new Constitution. See J. DOWER, *Embracing Defeat: Japan in the Aftermath of World War II* (New York 1999) 346-373.

56 Theodore H. McNelly described the occupation policy not as "imposed" but as "induced." See T. H. MCNELLY, "Induced Revolution": The Policy and Process of Constitutional Reform in Occupied Japan, in: Ward / Sakamoto (eds.), *Democratizing Japan: The Allied Occupation* (Honolulu 1987) 76-106.

57 A. STOCKWIN, *Governing Japan: Divided Politics in a Resurgent Economy* (Malden 2008) 205.

58 WALTZ, *supra* note 25, 66.

59 T. H. MCNELLY, The Renunciation of War in the Japanese Constitution, in: *Political Science Quarterly* 77 (1962) 350-378.

60 STOCKWIN, *supra* note 57, 203.

alliance partner.”<sup>61</sup> Without a doubt, this report indicates that Washington desired Japan’s constitutional revision so that Japan could exercise the right of collective self-defense.

Pressure on Japan’s security policy and constitutional revision based on Washington’s strategic interest became more obvious after the outbreak of the US-led War on Terror. On 21 July 2004, Richard Armitage spoke to Hidemao Nakagawa of the LDP, communicating that Article 9 was a hindrance to the Japan-US military alliance as well as to acquiring permanent membership on the UN Security Council.<sup>62</sup> Similarly, on 12 August 2004, US Secretary of State Colin Powell stated that if Japan wished to gain a permanent seat on the UN Security Council, Article 9 needed to be reviewed.<sup>63</sup> Although the “New Armitage Report” published in 2007 did not explicitly pressure Japan to revise Article 9, the report noted that “the ongoing debate in Japan on the Constitution is encouraging.”<sup>64</sup> Furthermore, in an article of the *Daily Yomiuri* on 23 July 2012, Armitage stated that “Japan’s constitutional constraints will become more, not less, consequential to our alliance over time,” implying the necessity of constitutional revision.<sup>65</sup>

Notably, Tomohito Shinoda demonstrated the correlation between the changing international security environment and the Japanese media and public opinion on national security issues, including constitutional revision. Based on the in-depth analysis of a survey of public opinion, he concluded that the changing international structure facilitated the transformation of Japanese public opinion to “a more realistic one,” i.e., support for constitutional revision.<sup>66</sup> Evidently, the neo-realist perspective provides persuasive arguments for why Japan should revise its current Constitution. If Article 9 of the Constitution were revised for a balance of power based on defensive realism, Japan

- 61 Institute for National Strategic Studies – National Defense University, INSS Special Report (Armitage Report): The United States and Japan: Advancing Towards a Mature Partnership 2000, available at <http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=cab359a3-9328-19cc-a1d2-8023e646b22c&lng=en&id=46462>, last retrieved on 5 June 2013.
- 62 This issue was raised at the Diet by Chairman of the JCP Kazuo Shii. See NDL, Statement of Kazuo Shii, Proceedings of the 160th Diet Session, *supra* note 13.
- 63 S. KITAOKA, *Kokuren taishi, genba kara no teigen: jōnin riji-koku iri wa nihon ga hatasubeki yakuwari dearu* [UN Ambassador, Suggestion from the Field: Japan Should Gain a Permanent Seat on the UN Security Council], in: Chūō Kōron January (2005), available at <http://www.mofa.go.jp/mofaj/press/iken/05/0501.html>, last retrieved on 5 June 2013; NDL, Statement of Tomio Yamaguchi, Proceedings of the 161st Diet Session, *supra* note 13.
- 64 R. L. ARMITAGE / J. S. NYE, The U.S.-Japan Alliance: Getting Asia Right through 2020 (Washington 2012) 22, available at <http://csis.org/files/media/csis/pubs/070216asia2020.pdf>, last retrieved on 1 August 2012.
- 65 R. ARMITAGE, Pivot to Asia: Back to the Future, Daily Yomiuri, 23 July 2012, 15.
- 66 T. SHINODA, Becoming More Realistic in the Post-Cold War: Japan’s Changing Media and Public Opinion on National Security, in: Japanese Journal of Political Science 8 (2007) 171-190.

would be able to become a more “equal” security partner of the United States. If Article 9 were “deleted” on the basis of offensive realism, the possibility that Japan would seek greater power and detach itself from the US alliance system cannot be ruled out. Even so, it is highly unlikely that Japan would attempt to become a nuclear-armed state, given the normative influence of anti-war/anti-nuclear pacifism. In summary, the theoretically eclectic perspectives on, before, and after constitutional revision investigated in this paper can be visualized as shown in Figures 1 and 2 below.

*Visualization of Eclectic Analysis: Models of the Japanese Constitutional Revision Debate*<sup>67</sup>

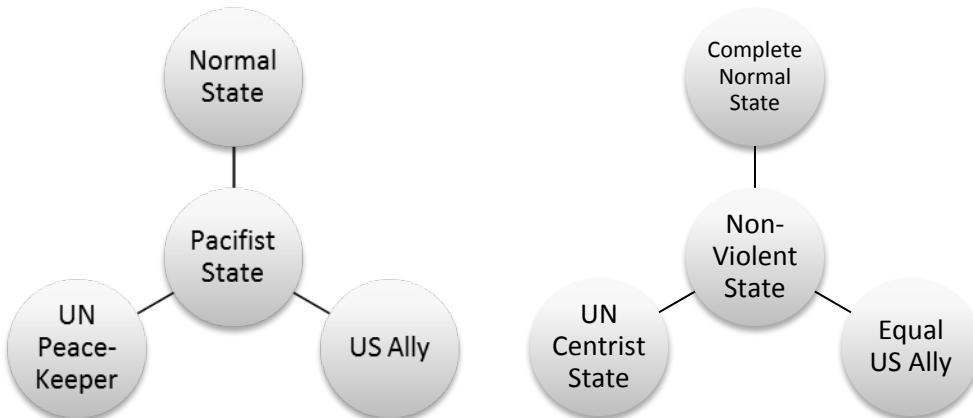


Figure 1. Before Constitutional Revision

Figure 2. After Constitutional Revision

## V. CONCLUSION

This paper has examined the Japanese constitutional revision debate in terms of theories of international politics. It was pointed out that the dichotomy between constitutional protectors and revisionists lacks comprehensive analytical perspectives. In an attempt to overcome this dichotomy, this study employed analytical eclecticism to integrate the four orthodox international relations theories and an alternative approach (classical/neoliberalism, classical/neo-realism, and constructivism) as shown in Table 1.

First, from a perspective of classical liberalism, Japan as a pacifist state model was examined to consider whether Japan will become a non-violent state through constitutional revision. To consider this possibility, it was confirmed that Japanese constitutional

67 Japan as a “complete normal state” includes the possible scenario in which Japan seeks to become a “militarist state” that desires maximization of power and autonomy based on nationalism and offensive realism.

protectors are not necessarily absolute pacifists, and that Japanese socialists and communists have lost their political influence. Therefore, it is unlikely that Japan will become a non-violent state based on absolute pacifism. Still, constitutional protectors attempt to internationalize Article 9, and international peace activists also support this movement. For this reason, even if Article 9 were revised, the renunciation of war in Paragraph 1 of the article could survive. Yet if Article 9 were deleted, Japan would become a UN centrist state, normal state, or an equal US ally.

Second, a neo-liberal perspective supports constitutional revision in that Japan would be able to make a full commitment to UN-authorized peace and military operations. To examine this scenario, the paper reviews the similarities and differences of the Japanese Constitution and the Charter of the United Nations. It was discussed that the Constitution (Paragraph 2 of Article 9) and the Charter (Paragraph 4 of Article 2) illegalize use of force in general, but the latter recognizes use of force for individual and collective self-defense (Article 51). Moreover, the Constitution (Article 98) prescribes that Japan would abide by any international law, including the UN Charter that requests member state to observe decisions by the UN Security Council (Article 25). Given these legal perspectives, Japanese neo-liberal constitutional revisionists can justify revision of Article 9.

Third, from the viewpoint of classical realism, it was argued that Japan has been moving toward a normal state. Still, constitutional revision would be required if Japan wished to become a completely normal state that can use force without constitutional constraints. The paper contextualized the origin of the constitutional revision arguments and present military normalization process. If Article 9 were revised or deleted, Japan would become a completely normal state, but it does not necessarily mean that Japan would seek to become an offensive militarist state. Classical liberalist, neo-liberalist, and defensive realist viewpoints differ from offensive realist desires on this point. If Japan were to become a completely normal state, it could also become an equal US ally. However, Japanese realist politicians might reconsider the necessity of the Japan-US military alliance in this scenario.

Fourth, in light of a neo-realistic point of view, whether Japan would become an equal US ally or seek autonomy without any military alliance was examined. As shown in this paper, the United States has continuously pressured Japan to revise Article 9 so that Japan can become an equal ally. The remarks by Nixon, Armitage, and Powell are obvious examples of US pressure on the Japanese constitutional revision debate. Moreover, it was demonstrated by Shinoda that the Japanese public has become realistic, and acceptance has grown for the necessity of constitutional revision. Nevertheless, it is unlikely that Japan would become an independent aggressive militarist state with nuclear weapons, given the lingering normative influence of anti-war/anti-nuclear pacifism.

In conclusion, this study, based on analytical eclecticism, has contributed to providing theoretically comprehensive perspectives, ideologically impartial analysis, and systematically visualized current situations as well as possible future scenarios of the Japanese constitutional debate.

## SUMMARY

The 1947 Japanese Constitution has always been a focus of political debate ever since its enforcement, but it has never been revised. The center of the constitutional debate has been Article 9, the so-called “peace clause,” which stipulates renunciation of war and non-possession of armed forces. In response to changes in the security environment during the Cold War, Japan decided to possess constabulary forces that were upgraded to the Self-Defense Forces. In the post-Cold-War world, Japan began participating in international peace operations authorized by the United Nations. The post-9/11 international environment forced Japan to enhance its military capability, and the Japan Defense Agency was upgraded to the Ministry of Defense in 2007. Moreover, the National Referendum Law, designed to facilitate the constitutional revision process, came into force on 18 May 2010. Furthermore, Prime Minister Shinzō Abe, a constitutional revisionist, came back to power again on 26 December 2012.

This paper examines the Japanese constitutional revision debate from the perspectives of international relations (IR) theory. First of all, it points out that the arguments of both constitutional protectors and revisionists tend to lapse into a dichotomy. Most Japanese constitutional scholars support the interpretation that the Japanese Constitution prohibits any use of force, including self-defense. On the contrary, Japanese political elites prefer to revise Article 9 so that Japan can possess proper military forces. The dichotomy in the arguments regarding the Japanese constitutional revision issue is obvious, and academic analysis needs to provide comprehensive perspectives on the debate. In order to overcome the dichotomy, this paper provides eclectic theoretical perspectives on the basis of “analytical eclecticism” suggested by Peter Katzenstein in 2008. The eclectic research method, which integrates orthodox theories (classical liberalism, neo-liberalism, classical realism, and neo-realism) and an alternative approach (constructivism) to international politics, assists in elucidating and visualizing complicated theoretical factors and possible future scenarios.

First, Japan as a pacifist state model is examined from the perspective of classical liberalism to consider whether Japan will become a non-violent state through constitutional revision. Second, a neo-liberal perspective supports constitutional revision in that Japan would be able to make a full commitment to UN-authorized peace and military operations. To examine this scenario, the paper compares the legal similarities and differences between the Japanese Constitution and the Charter of the United Nations. Third, from the viewpoint of classical realism, it is argued that Japan has been moving toward a normal state. Still, constitutional revision would be required if Japan wished to become a completely normal state that can use force without constitutional constraints. Fourth, in light of a neo-realist point of view, whether Japan could become an equal US ally or seek autonomy without any military alliance is examined. By carefully avoiding taking sides in the debate, this study, based on analytical eclecticism, attempts to contribute to providing theoretically comprehensive

*perspectives, ideologically impartial analysis, and systematically visualized current situations as well as possible future scenarios of constitutional revision in Japan.*

#### ZUSAMMENFASSUNG

*Die japanische Verfassung hat seit ihrem Inkrafttreten durchgängig im Fokus politischer Diskussionen gestanden, wurde jedoch nie geändert. Dieser Beitrag nähert sich der Debatte um eine solche Änderung vor dem Hintergrund der Theorie internationaler Beziehungen aus einer eklektischen Perspektive. Zunächst wird aufgezeigt, dass die Argumente der Protektionisten und der Revisionisten der Verfassung dazu tendieren, in eine Dichotomie zu verfallen. Um die bestehende Erkenntnislücke zu schließen, nimmt dieser Beitrag eine eklektische theoretische Perspektive basierend auf einem „analytischem Eklektizismus“ ein, wie er von Peter Katzenstein im Jahre 2008 angeregt wurde. Die eklektische Methode, welche konventionelle Theorien (Klassischer Liberalismus, Neo-Liberalismus, Realismus und Neo-Realismus) und einen alternativen Ansatz (Konstruktivismus) internationaler Politik vereint, hilft dabei, komplizierte theoretische Faktoren und mögliche Zukunftsszenarien zu erhellen und zu visualisieren. Indem er sorgsam versucht, sich in der Debatte nicht auf eine Seite zu schlagen, bietet dieser Beitrag eine akademisch unparteiische und systematische Analyse der Aspekte der Überarbeitung der japanischen Verfassung.*

*(Übersetzung durch die Redaktion)*