

# Expanding the Constitutional Role of Japan's Military

Written by David Arase

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DAVID ARASE, AUG 3 2014

### The Impending Change

On July 1st, the Japanese Cabinet led by Prime Minister Shinzo Abe adopted a Cabinet decision that reinterprets Article Nine of the Constitution to allow *collective self-defense*. Starting this autumn, Abe will begin to introduce amendments to existing laws based on this new concept. This change is far less than what Japan's hawks aim for, but it will incrementally expand Japan's international security role in ways that significantly affect Japanese foreign policy strategy and regional security.

### Article Nine Issues

In 1946, the Japanese Occupation authority under General Douglas MacArthur drafted a Constitution to lay the groundwork for a radically demilitarized and democratized post-World-War-2 Japan. One signature provision was Article Nine, which stated that Japan renounced the right to threaten or use force against other states and would not maintain military forces for those purposes.

Article Nine was, and remains, a key symbol of national humiliation to Japan's right wing. It also became a problem for the US when it wanted Japan to become an armed cold war sentinel in Asia after China was "lost" to the Chinese Communist Party in 1949. But Article Nine proved to be very popular with the Japanese people, whose bitter wartime experiences at home and abroad convinced them that war was not a viable road to peace. It was also popular with left wing parties and pragmatic conservatives who entertained narrow conceptions of the national interest that did not include involvement in overseas cold war conflicts. These supporters of Article Nine remain strong enough today to prevent any attempt to alter or remove its language, which would require approval by a two-thirds majority in both houses of the Diet, and simple majority approval in a national referendum.

When the Self Defense Force (SDF) was created in 1954, it needed a Constitutional basis for its existence and functions. Article Nine was interpreted to permit Japan to exercise *limited defense*. That is, Japan can possess a defensive force sufficient to repel an attack; only defensive force, and may use it only in defense of Japan (and no one else). Since then, this limited defense concept has been the foundation of Japanese security policy, as well as SDF force posture and doctrine. It is highly popular with voters.

However, in the face of growing Chinese and North Korean weapons buildups and military provocations in, around, and above Japanese-claimed territory, an increasingly concerned conservative establishment and segments of public opinion now believe Japan needs to step up its defensive effort. However, Japan does not plan a significant expansion of SDF budget, manpower, or weapons procurement. Instead, this means strengthening Japan's alliance with the US (which remains unhappy with Japan's inability to add fighting forces to the security equation in the wider Asian region) in order to keep it engaged in East Asia. It also means entering into additional alliances or softer forms of defense cooperation with other nations. Finally, it means reconfiguring Japan's national security decision making, strategic doctrine, force posture, and the SDF's operational roles and missions to meet the new kinds of threat it faces.

### Collective Defense vs. Collective Self-Defense

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To deal with growing security concerns, Abe has been spearheading a campaign to reinterpret Article Nine to permit *collective defense*. This refers to a treaty relationship in which a country pledges to give military assistance to an ally that comes under attack from a third party. All sovereign states can freely enter into such agreements. But Japan cannot exercise this right according to the current interpretation of Article Nine, because collective defense could obligate Japan to declare war or use force *over issues unrelated to defense of the homeland*. This would violate the limited defense principle.

Opposition to changing the limited defense principle is still so strong that Abe was forced to settle for the more modest concept of *collective self-defense*. This means *if a partner country's forces are attacked creating a situation that materially endangers Japan's own vital interests, the Japanese military can intervene to defend them, but only as a last resort and to the minimum degree needed to save the situation*. For example, if US forces come under attack while patrolling Japan's vital sea-lanes, then collective self-defense could conceivably permit the SDF to defend these forces until they escape danger. But if a partner's forces come under attack while engaged in purposes unrelated to Japan's vital interests, the Japanese military cannot intervene to defend them.

Thus, Japanese security policy is still based on restrictive self-defense principles. But what has changed is that *the concept of self-defense permitted by Article Nine has been expanded to include defense of an ally's forces engaged in the defense of Japan's vital interests even in areas beyond Japan's borders* (e.g. the South China Sea or the Persian Gulf).

## New Tools for Japanese Security and Foreign Policy

This expansion of limited defense has great symbolic and practical significance for Japanese policymakers scrambling for ways to defend the current regional order that provides Japan with security. Collective self-defense not only strengthens the US-Japan alliance. It may also open the way for Japan and new partner countries to exchange reciprocal collective self-defense pledges.

Where could this make a difference? Most immediately, Japan needs a strengthened alliance with the US in the event China makes a grab for the Senkaku/Diaoyudao islands. Stability on the Korean peninsula could be improved if collective self-defense permitted Japan to work directly with South Korea in certain contingencies. Collective self-defense might also provide a basis for defense-related cooperation with Southeast Asian countries to maintain maritime security in the South China Sea and, more broadly, to reinforce US strategic presence in the region.

## China's Reaction

China's initial reaction to this development has been unexpectedly mild. It could have responded to Abe's July 1st Cabinet decision with a domestic media campaign, street demonstrations, and targeted diplomatic and economic sanctions against Japan. Instead, bilateral visits and working level contacts are calmly resuming, and China appears open to the possibility of a side meeting between Xi Jinping and Abe at the November APEC Summit. There are no unusual developments inside China or Japan that could explain this uncharacteristic restraint; the new factor that might explain it is the emergence of a larger pattern in regional developments that Beijing may not have anticipated.

In the South China Sea, a number of events, including the Philippine's success in appealing to the Permanent Court of International Arbitration to judge the relative merits of conflicting Philippine and Chinese EEZ claims, new Chinese construction of artificial islands on remote shoals and reefs, and the sinking of a Vietnamese boat after a collision with a Chinese ship in June when China's HS-981 oil rig was drilling in waters disputed with Vietnam, have drawn negative media attention to China's military-backed, civilian agency-led efforts to unilaterally take over exclusive control of disputed maritime jurisdictions. ASEAN members are now closing ranks to press China to negotiate a Code of Conduct in the South China Sea, despite Chinese efforts to keep them intimidated and divided.

Washington is taking a decidedly cooler attitude toward trust and cooperation with China, judging from the remarks of Defense Secretary Chuck Hagel at the Shangri-La Dialogue last May, and the US Senate resolution passed July 15th that "condemns the use of coercion, threats, or force by naval, maritime security, or fishing vessels and military

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or civilian aircraft in the South China Sea and the East China Sea to assert disputed maritime or territorial claims or alter the status quo.”

Add to this the unexpectedly easy time Abe had in adopting the collective self-defense measure, his keynote address at the May Shangri-La Dialogue, his opening of official talks with North Korea, his successful visit to Australia, and the impending visit to Tokyo by newly elected Indian premier Modi, and it becomes clear that China's attempts to isolate Abe by painting him as an irrational war monger are failing.

Thus, Beijing is confronted with a larger pattern of resistance or counter-balancing to its aggressive regional strategy to assert leadership in Asia. With the possible exception of China-South Korean relations, Chinese behavior could be strengthening US relationships in Asia and dropping a blanket of regional suspicion and mistrust on China. Beijing likely finds this surprising because it has been confident that its careful management of bilateral relations to accomplish divide-and-rule diplomatic strategies can succeed based on its overwhelming military and economic superiority over neighbors. Moreover, it has believed that a US desire to avoid confrontation with China over local disputes in Asia would keep it out of China's disputes with neighbors, and the net result would prevent the region's members coalescing against China. And yet, China's expectations are not being met. It is a signal that China needs to pause to reassess its current strategic course, and this may help to explain its restrained response to the recent modest expansion of Japan's diplomatic and defense cooperation options.

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