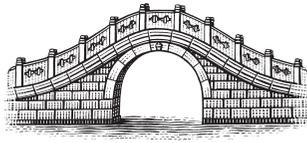


Policy by Other Means: Collective Self-Defense and the Politics of Japan's Postwar Constitutional Reinterpretations

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EXECUTIVE SUMMARY

This article analyzes Japan's landmark cabinet decision reinterpreting the constitution to allow the limited exercise of collective self-defense (CSD) in both a historical and a contemporary context and assesses its implications for the conditions under which Japan may use military force.

MAIN ARGUMENT

In July 2014, a historic cabinet decision reinterpreted Article 9 of Japan's 1947 constitution to allow the use of force to aid an ally under attack, overturning 60 years of authoritative constitutional interpretations categorically prohibiting Japan's exercise of CSD. The decision was followed by a revision of the U.S.-Japan Defense Guidelines and landmark legislation intended to transform Japan's security policy. Yet the change is evolutionary rather than revolutionary. Japan's self-imposed precondition for the use of force by the Japan Self-Defense Forces (JSDF) remains uniquely strict: an armed attack posing an existential threat to Japan's security. Nor is this the first case of a major reinterpretation of Article 9. Though its original wording remains untouched, the article's effective policy significance has changed repeatedly over 70 years in accordance with shifting domestic political winds and perceived strategic exigencies. Specific to post-2014 developments, understanding what changed and why—especially how Prime Minister Shinzo Abe and his allies' push for full exercise of CSD failed—elucidates the strategic, political, and normative factors shaping changes to Japan's security policy and the U.S.-Japan alliance.

POLICY IMPLICATIONS

- While Japan may now legally exercise “limited” collective self-defense, unique, self-imposed conditions appear so strict that the use of force in support of allies or partners outside a defense-of-Japan scenario seems unlikely.
- Security legislation in effect since 2016 opens up space for more expansive JSDF logistical support for U.S. military operations, bilateral planning, and exercises, as well as new authorities that somewhat resemble collective security or CSD operations in peacetime, including use of small arms during UN peacekeeping operations and protection of foreign militaries engaged in activities contributing to Japan's defense.
- Without formal constitutional revision (at a minimum), however, more ambitious efforts to fundamentally transform Article 9's interpretation or the scope of scenarios in which Japan can use force overseas are unlikely without major domestic political realignments.

On July 1, 2014, global headlines were awash with news of Japan's historic cabinet decision "reinterpreting" its never-revised 1947 constitution to allow the country for the first time to exercise collective self-defense (CSD)—the UN Charter-sanctioned right to use force to aid an ally under attack. This substantively unprecedented, controversial decision spearheaded by Prime Minister Shinzo Abe overturned 60 years of authoritative government interpretations forbidding the exercise of CSD on constitutional grounds. It sparked a political firestorm domestically, and its policy impact was swift: in April 2015, Tokyo and Washington rewrote the seminal document articulating the allies' respective responsibilities and procedures for operational coordination. In March 2016, landmark legislation intended to transform and "normalize" Japan's security posture and expand the roles and missions of the Japan Self-Defense Forces (JSDF) came into effect.

The debate that was sparked by the Abe administration's push to enable Japan to exercise CSD without formally revising the constitution's famous Article 9 "peace clause" became a revealing focal point for the latest intense contestation of core issues permeating Japan's postwar domestic politics. These issues range from the legitimacy and appropriate role of Japan's de facto military and alliance with the United States to deeply sensitive domestic political issues concerning civil-military relations, Japan's democratic institutions, and even national identity. The political atmosphere was highly incendiary. Domestic and overseas criticism of Abe's allegedly unprecedented affront to Japan's democratic norms and constitutionalism was widespread, while warnings of resurgent Japanese "militarism" abounded and opposition parties disparaged bills codifying the reinterpretation in law as "war legislation" (*senso hoan*) that would inevitably trap young Japanese in foreign wars "on the far side of the world."¹

This hyper-politicized and noisy context raises compelling questions about the cabinet decision's implications for contemporary Japanese politics and foreign policy, the U.S.-Japan alliance, and Japan's role in regional and global politics: How were Japan's political leaders able to simply "reinterpret" Article 9 after the administration's original objective—formal constitutional revision—proved politically impossible? In rendering the exercise of CSD constitutional, how

¹ For examples of domestic and foreign criticisms, see "Over 9,000 Japanese Scholars Oppose Abe's Security Legislation," Xinhua, July 10, 2015; and Jeff Kingston, "PM Abe Overturns Japan's Pacifist Postwar Order," Friedrich-Ebert-Stiftung, Tokyo Office, July 2014 ~ <http://library.fes.de/pdf-files/bueros/japan/11282.pdf>. The Japan Communist Party's "anti-war legislation" campaign has helped increase its number of Diet seats from 19 to 35 since July 2014.

did Abe's cabinet succeed where its predecessors had failed? What explains the politically negotiated outcome: an approach and reinterpretation that went far enough to offend many critics but substantively fell far short of many CSD advocates' desired end state? Finally, in practical terms, how significant are the resulting policy changes? Do Abe's efforts, as some scholars suggest, provide evidence of a "radical" transformation of and fundamentally new trajectory for Japan's foreign and security policy?² Given that Japan is the world's third-largest economy and a major U.S. ally geographically and geopolitically wedged between Washington and Beijing, the fundamental shift in its security posture alleged by many critics (and some proponents) would have significant ramifications for regional and global politics.

With the benefit of three years of hindsight, this study analyzes the politics behind the historic 2014 cabinet decision and the implications of the resulting allowance of limited CSD for the JSDF's use of force (*buryoku koshi*). Its approach is dispassionately analytical, seeking neither to endorse nor criticize any interpretation, tactic, or policy on normative grounds. The article is divided into the following sections:

- ≈ pp. 143–54 offer crucial historical context for Japan's decades-old domestic debate concerning the exercise of CSD. This section provides a baseline for the 2014 reinterpretation by examining the oft-forgotten postwar legacy of 70 years of shifting norms regarding Article 9's effective interpretation. Although the article's actual text has never been revised, its effective interpretation and policy impact have changed repeatedly.
- ≈ pp. 154–66 focus specifically on the 2014 cabinet decision and its implications for the use of force by the JSDF. Specifically, this section analyzes the strategic, political, and normative factors that enabled Abe and his allies to go further than their predecessors in reinterpreting Article 9, but which also prevented the more significant reforms they set out to accomplish.
- ≈ pp. 166–72 discuss key takeaways, including policy implications. Japan's 2014 constitutional reinterpretation to allow the exercise of limited CSD cannot be understood in a historical, strategic, or political vacuum. Within this contemporary story are important lessons for all those interested in the trajectory of Japan's security policy evolution—past, present, and future.

² For one such argument, see Christopher W. Hughes, *Japan's Foreign and Security Policy under the "Abe Doctrine": New Dynamism or New Dead End?* (Basingstoke: Palgrave Macmillan UK, 2015).

BASELINING 2014: CSD AND THE POSTWAR LEGACY OF
SHIFTING NORMS FOR INTERPRETING ARTICLE 9

CSD and Article 9

The right to exercise CSD is an international legal principle enshrined in the 1945 UN Charter. It affords all UN members the right to use armed force vis-à-vis any state that commits an armed attack against a third party. The basic rationale is that because any use of military force against another state poses a threat to all states, third parties have the right to defend the victim of military aggression. The goal is to bolster deterrence and, if an armed attack has already occurred, to restore the peace *ex ante*. Article 51 asserts the inherent legality of such defensive use of force, stipulating that “nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations.”³

Yet the 2014 decision by Abe’s cabinet marks the first time that the government of Japan has judged the exercise of any degree of CSD to be constitutional. To be clear, previous administrations have affirmed that as a sovereign state and UN member Japan, too, enjoys “inherent rights” to both individual self-defense (*kobetsuteki jieiken*) and collective self-defense (*shudanteki jieiken*). Nevertheless, until July 2014, Japan had repeatedly opted to self-impose a ban on the latter’s exercise. The crucial factor has been official interpretations of the constitution’s Article 9, which reads as follows:

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.

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.⁴

Official interpretations of both Article 9 and the right of self-defense have fundamentally shaped—and reshaped—whether and how Japanese leaders choose to develop and employ military power. Since Japan’s postwar re-emergence as a sovereign state, the issue has had significant implications

³ United Nations, “Charter of the United Nations,” June 26, 1945  <http://www.un.org/en/charter-united-nations>.

⁴ “The Constitution of Japan,” Prime Minister of Japan and His Cabinet, November 3, 1946  http://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html.

for its foreign policy—in particular, political and security relations with the United States and regional neighbors.

Often missing from commentary on contemporary Japanese security policy—and the 2014 decision in particular—is the establishment of a historical baseline that recognizes that the government’s effective interpretation of Article 9 has changed significantly, and repeatedly, since the constitution took effect in 1947.⁵ As a result, many contemporary commentators exaggerate the pace and scale of change. Though Article 9 has never been revised, political actors have interpreted its impact on security policy differently in response to perceived strategic imperatives and shifting political winds. Thus, in key aspects neither Abe’s tactics in 2014 nor the ultimate outcome was unprecedented. Sometimes referred to as “constitutional revision by interpretation” (*kaishaku kaiken*), significant—albeit controversial—precedent exists for effective “reinterpretation” of Article 9 in response to changing circumstances. Though in each instance contemporaneous critics have tended to frame the debate over constitutionalism as though a static interpretation of the constitution unchanged since 1947 exists, this is—empirically at least—a red herring. For example, today those “originalists/textualists” who deny even the constitutionality of the JSDF based on a literal interpretation of how Article 9 was originally intended have declined significantly, even among left-leaning politicians and constitutional scholars.⁶

Strategic and domestic political vicissitudes have been the major drivers of changing interpretations of Article 9. An example of the former is the most historically consequential case: Japan’s establishment of de facto (and theretofore “unconstitutional”) armed forces—the JSDF—in 1954, less than one year after the end of the Korean War. A case of the latter is the ostensibly pacifist Japanese Socialist Party’s official recognition of the constitutionality of the JSDF and the U.S.-Japan Security Treaty in 1994, abandoning decades of opposition on ideological and political grounds. A more recent example of political expediency was the offer by the Japanese Communist Party in 2015 to “freeze” its opposition to the existence of the JSDF and the security treaty

⁵ For seminal contributions to the English-language literature, see Richard J. Samuels, “Politics, Security Policy, and Japan’s Cabinet Legislation Bureau: Who Elected These Guys, Anyway?” Japan Policy Research Institute, Working Paper, no. 99, March 2004 ~ <http://www.jpri.org/publications/workingpapers/wp99.html>; and J. Patrick Boyd and Richard J. Samuels, *Nine Lives? The Politics of Constitutional Reform in Japan* (Washington, D.C.: East-West Center, 2005).

⁶ “Anpo hoan gakusha anketo” [Survey of Scholars Concerning Security Bills], *Asahi Shimbun*, July 11, 2015.

to potentially form a coalition of parties in opposition to Abe's government and the security legislation.⁷

Such iterative reinterpretations of Article 9 are effectively politically negotiated policy settlements. Their substantive outcomes reveal the complex and deeply political interactions among multiple variables as the unchanging 1947 text's policy significance evolves. Especially important drivers include leaders' assessments of external strategic imperatives, domestic political cost-benefit calculations, and more abstract and contested but clearly salient norms and issues of national identity.

The Historical Record: Iterative Reinterpretations of Article 9

Article 9's effective meaning began changing the moment the ink dried on Japan's postwar constitution (essentially drafted by the United States). What Prime Minister Shigeru Yoshida interpreted in 1946 as "not allowing any armaments" and as committing Japan to "abandon war invoked in the right of self-defense" had by 1954—after the U.S.-led Allied occupation and the armistice ending the Korean War—undergone a transformative reinterpretation spearheaded by Yoshida himself that allowed the creation of Japan's Ground, Maritime, and Air Self-Defense Forces.⁸

The historical record evinces the inherently political nature of effective interpretations of Article 9. Japan's postwar leaders have been overwhelmingly conservative, coming mainly from the Liberal Democratic Party of Japan (LDP), whose 1955 founding charter called for constitutional revision.⁹ Yet powerful public opposition, scars from several abortive revision attempts in the 1950s, and the downfall of Prime Minister Nobusuke Kishi due to mass protests in 1960 over revision of the U.S.-Japan Security Treaty (the negotiations for which included CSD as a major topic) sealed military affairs as a third rail of Japan's postwar politics.¹⁰ These Cold War-era developments also signaled to LDP leaders that constitutional revision was not politically feasible. The hurdles, including a powerful Socialist opposition party and popular sensitivities among the public concerning military affairs

⁷ "Kyosan, Nichibei Anpo yonin mo" [JCP Also to Recognize U.S.-Japan Security Treaty], *Asahi Shimbun*, October 16, 2015.

⁸ Yoshida Shigeru, "Dai90 Teikoku Gikai Shugiin Teikoku Kenpo Kaiseian Tokubetsu Inkaï" [Minutes of the Constitutional Revision Draft, Lower House Special Committee, 90th Imperial Diet], June 26, 1946.

⁹ "To no seiko" [Party Principles], LDP, November 15, 1955.

¹⁰ Andrew L. Oros, *Normalizing Japan: Politics, Identity, and the Evolution of Security Practice* (Stanford: Stanford University Press, 2008), chap. 2.

and Article 9, were simply too high. In contrast, from the perspective of LDP leaders, effective reinterpretation by elites, though suboptimal on strategic and nationalist grounds, was possible.

A seminal inflection point in Article 9's evolving postwar interpretation is the official definition of "war potential" (*senryoku*) in 1954—the year of the JSDF's establishment. Specifically, the government interpreted Article 9's prohibition on maintaining war potential as not denying Japan the right to self-defense under international law and asserted the constitutionality of defensive capabilities "not exceeding the minimum necessary level for self-defense" (*jiei no tame no hitsuyo no jitsuryoku*).¹¹ The inherently political nature of operationalizing this definition became clear when in 1955 Prime Minister Ichiro Hatoyama asserted the constitutionality of "defensive" nuclear weapons.¹² (Officially, and contrary to widespread belief, Japan's famous eschewal of nuclear weapons is a "policy choice" [*seisakuteki na sentaku*] rather than a requirement under Article 9.)¹³ In 1959, the Kishi administration reaffirmed this interpretation and also asserted that even strike capabilities (i.e., "counter attacks on enemy bases") were constitutional—again, provided they were in "self-defense."¹⁴ In short, barely a decade after the constitution's promulgation, leaders had demonstrated significant politically negotiated wiggle room for interpretations far exceeding a literal reading of Article 9's actual text.

Japan's leaders were hardly free to change their interpretation at will, however. The official 1954 interpretation effectively self-imposed a fundamental principle of Japan's postwar defense posture that, to advocates of pragmatic reinterpretations, maintained faithfulness to Article 9's basic spirit: nonaggression and a posture of "exclusive defense" (*senshu boei*). The principle of exclusive defense set three conditions for exercising

¹¹ "Kenpo ni kan suru omona ronten (dai2sho senso no hoki) ni kan suru sanko shiryō" [Constitutional Issues (Ch.2. Reference Materials Concerning the Renunciation of War)], Shugiin Kenpo Shinsakai Jimukyoku, Shukenshi, no. 77, May 2013.

¹² For Hatoyama's 1955 statement on nuclear weapons, see Frank C. Langdon, *Japan's Foreign Policy* (Vancouver: University of British Columbia Press, 1974), 34, 35. For the 1957 and 1965 statements, see Takatsuji Masami, "Kokkai Kaigiroku Joho Dai50kai Kokkai Nikkan Joyaku To Tokubetsu Iinkai Dai9go" [Minutes of the House of Councillors, 50th Diet, Japan-ROK Treaty Special Committee, No. 9], December 3, 1965. For a defense white paper, see Ministry of Defense (Japan), *Boei hakusho* [Defense White Paper] (Tokyo, 1970) ≈ http://www.clearing.mod.go.jp/hakusho_data/1970/w1970_00.html.

¹³ Ministry of Defense (Japan), *Boei hakusho* [Defense White Paper] (Tokyo, 1970); and Ohira Masayoshi, "Dai87kai Kokkai, Sangiin Honkaigi, 9go" [Minutes of the House of Councillors, 87th Diet, Regular Session, No. 9], March 16, 1979.

¹⁴ James E. Auer, "Article Nine of Japan's Constitution: From Renunciation of Armed Force 'Forever' to the Third Largest Defense Budget in the World," *Law and Contemporary Problems* 53, no. 2 (1990): 178, 179.

use of force/the right of self-defense: (1) an attack against Japan has already occurred, (2) no other appropriate measures exist to defend the country, and (3) the use of force to defend Japan is limited to the minimum necessary level.¹⁵ In effect, this meant that Japan's defense strategy was—by the government's own assessment—basically passive (*judoteki*), requiring Japan to absorb an armed attack (*buryoku kogeki*) before responding kinetically.¹⁶ The principle of exclusive defense also imposed significant policy constraints on Japan's force development: the government judged as offensive and exceeding the minimum necessary threshold—and thus eschewed on constitutional grounds—key capabilities allowing for aggressive war or possible preemptive attacks (*sensei kogeki*). Intercontinental ballistic missiles, long-range strategic bombers, and “offensive” (*kogekigata*) aircraft carriers were all forbidden.¹⁷ It bears noting that other major powers have acquired these same capabilities, while justifying their acquisition as necessary for self-defense or deterrence; yet Japan's acquisition of them has heretofore proved out of reach domestically.

Therein lies a crucial point of relevance throughout the Cold War and today: as the government's assertion of the “constitutionality” of nuclear weapons and counterstrike capabilities in the 1950s illustrates, in Japan—as in all countries—which military capabilities are considered offensive and which are defensive are inherently political questions.¹⁸ The threshold is also heavily contingent on the external threat environment. For instance, confronted with poorly equipped pikemen, strike capabilities or a nuclear deterrent would appear to any reasonable security expert to clearly exceed the minimum necessary threshold. If facing a neighbor with nuclear-tipped ballistic missiles threatening to turn Tokyo into a “sea of fire,” however, views are likely to differ significantly.

To offer a case in point, in 1952 the head of the precursor to the Japan Defense Agency judged fighter jets unconstitutional. Within 30 years, however, due to sea changes in military technology, the rapidly improving capabilities of regional militaries, and Moscow's Far East military buildup, the JSDF was

¹⁵ Yamamoto Kentaro, “Anzen hoshō hōsei wo meguri keii to ronten” [Background and Issues Concerning Security Legislation], *Kokkai Toshokan*, Issue Brief, no. 833, October 28, 2014, 3.

¹⁶ Ministry of Defense (Japan), “Boei seisaku no kihon” [Defense Policy Fundamentals] ∞ <http://www.mod.go.jp/j/approach/agenda/seisaku/kihon03.html>.

¹⁷ See, for example, Ministry of Defense (Japan), *Boei hakusho* [Defense White Paper] (Tokyo, 1991), chap. 2 ∞ http://www.clearing.mod.go.jp/hakusho_data/1991/w1991_02.html.

¹⁸ This reality is central to the “security dilemma”—a foundational concept in international relations theory. See John H. Herz, “Idealist Internationalism and the Security Dilemma,” *World Politics* 2, no. 2 (1950): 157–80.

flying the world's most advanced fighter jet: the U.S.-designed F-15 Eagle.¹⁹ Confronting a dynamic (and worsening) strategic environment, the effective threshold defining the minimal necessary limit had shifted. More robust defensive capabilities became, de facto, constitutional—with no formal reinterpretation of Article 9 required.

Beyond force development, this logic has also applied to how the JSDF can be employed. Because Article 9 provides no explicit limitations or prohibitions on JSDF deployment abroad or the geographic scope of what constitutes self-defense—individual or collective—appropriate JSDF roles, missions, and operations have also been subject to iterative political reinterpretation. No explicit constitutional or binding legislative ban on the overseas dispatch of the JSDF has ever existed. Commentators sometimes refer to a 1954 Diet resolution prohibiting overseas deployment, but this resolution was passed only in the House of Councillors and carried no binding force.²⁰ As for the exercise of CSD, far from being an occupation-era legacy, it was not until after Japan regained its sovereignty that the government chose to formally interpret the constitution to prohibit it. For decades, the government did consider exercise of CSD to be Japan's sovereign right based on international law, yet judged it to be unconstitutional domestically based on the seminal 1954 interpretation of Article 9: that CSD exceeded the minimum necessary threshold.²¹ Put another way, in the Cold War context of the time, Japan's ability to defend another country (namely the United States) was considered unnecessary to ensure its own survival.

Specific restrictions on the JSDF's deployment beyond Japanese territory have also been largely questions of politics and policy. As numerous cases illustrate—including Japan's defense perimeter expansion to one thousand miles in the 1980s, the deployment of Japan Maritime Self-Defense Force minesweepers to the Persian Gulf after Iraq's surrender in 1991, and Japan's participation in peacekeeping operations and ballistic missile defense cooperation with the United States—in key instances policymakers have expanded the scope of acceptable JSDF deployments overseas without any formal reinterpretation of Article 9. This pattern continued after September 11,

¹⁹ Auer, "Article Nine of Japan's Constitution," 177.

²⁰ Jitsuo Tsuchiyama, "War Renunciation, Article Nine, and Security Policy," in *Japan in International Politics: The Foreign Policies of an Adaptive State*, ed. Thomas U. Berger, Mike M. Mochizuki, and Jitsuo Tsuchiyama (Boulder: Lynne Rienner, 2007), 59.

²¹ For the 1972 unified government's view, see "Shudanteki jieiken to kenpo to no kankei ni tsuite" [The Relationship between Collective Self-Defense and the Constitution], *Sangin Kessan Inkai Teishutsu Shiryo*, October 14, 1972. For the full text, see Sakata Masahiro, *Kenpo 9jo to Anpo Hosei* [Article 9 and the Security Legislation] (Tokyo: Yuhikaku, 2016), 158, 159.

as Tokyo expanded the JSDF's overseas missions to include nonkinetic operations not requiring the use of force, such as postwar reconstruction in Iraq, deployment to the Indian Ocean to refuel coalition forces in support of Operation Enduring Freedom, and participation in multinational antipiracy task forces in the Gulf of Aden. Meanwhile, the JSDF increasingly trains and exercises with foreign militaries and established its first overseas base in Djibouti in 2011.

In sum, long before the 2014 cabinet decision, political leaders had already negotiated a significant expansion of the scope of the JSDF's force structure and overseas operations through de facto reinterpretation of Article 9. Nevertheless, it is important to stress that the use of force remained prohibited outside a scenario involving an armed attack against Japan.

Enabling Conditions for the Reinterpretation of Article 9

Far from being subject to the whims of Japan's postwar leaders, significant policy shifts required antecedent strategic and political conditions and needed to be presentable as faithful to Article 9's basic spirit of nonaggression. Conversely, once decided, new interpretations are not easily undone.²² Nevertheless, policy inaction—e.g., refusal to deploy the JSDF—is also fundamentally the prime minister's prerogative.

Strategic vicissitudes. Most foundationally, perceived strategic imperatives in the 1950s—especially the worsening of the Cold War and outbreak of conflict on the Korean Peninsula—had direct implications for early shifts in Japan's defense posture, reflected in major about-faces concerning Article 9 by the occupation's two most significant political figures: General Douglas MacArthur, who oversaw the occupation and was the deciding voice in the demilitarization and democratization fundamental to the 1947 constitution, and Shigeru Yoshida, prime minister during much of this period. In his 1950 New Year's statement, MacArthur asserted, "Article 9 is based upon the highest of moral ideals, but by no sophistry of reasoning can it be interpreted as complete negation of the inalienable right of self-defense against unprovoked attack."²³ In his Diet speech that same month, Yoshida—also reversing his past positions—stated unequivocally that "war renunciation does not mean

²² As head of a coalition government in 1994, the Socialist prime minister Tomiichi Murayama was compelled to abandon his party's decades-old position that the JSDF itself was unconstitutional. See Teresa Watanabe, "Murayama Says Forces Are Constitutional," *Los Angeles Times*, July 21, 1994. [~ http://articles.latimes.com/1994-07-21/news/mn-18337_1_socialist-party](http://articles.latimes.com/1994-07-21/news/mn-18337_1_socialist-party).

²³ Douglas MacArthur, *Reminiscences* (Annapolis: Naval Institute Press, 2012), 304.

renunciation of the right of self-defense.”²⁴ Within two weeks of North Korea’s invasion of U.S.-backed South Korea in June 1950, MacArthur authorized the creation of the National Police Reserve (*keisatsu yobitai*)—a precursor to the JSDF. That September, President Harry Truman approved a memo stipulating that the forthcoming San Francisco Peace Treaty “must not contain any prohibition, direct or implicit, now or in the future, of Japan’s inalienable right to self-defense in case of external attack, and to possess the means to exercise that right.”²⁵ At the San Francisco Peace Conference in 1951, John Foster Dulles observed that “to deny to Japan ‘the inherent right of collective self-defense’ and permit only a token right of ‘individual self-defense’... That kind of a peace, in this present kind of a world, would be a fraud.” He explained that under such a constraint “Japan would be so subject to the menace of surrounding power that Japan would not in fact be able to lead an independent existence.”²⁶

This statement highlights the inextricable link between perceived regional threats and many arguments supporting the allowance of CSD as an existential imperative—thus meeting the minimal necessary condition. These arguments failed until 2014 but have nonetheless shaped the discourse since the constitution’s first decade. The 1951 U.S.-Japan Security Treaty explicitly recognized Japan’s “right to enter into collective security arrangements” and its “inherent right of individual and collective self-defense.” Nor was emphasizing Japan’s right to exercise CSD under international law a uniquely self-interested U.S. pursuit: the San Francisco Peace Treaty (signed by 48 nations), and even the 1956 Soviet-Japanese Joint Declaration, also explicitly recognized Japan’s UN Charter-sanctioned “inherent right of individual and collective self-defense.”²⁷

These developments demonstrate the extent to which Japan’s significant constraints on the exercise of force are self-imposed. In major instances, primary resistance has not been from the United States but domestic. Time and again, faced with powerful normative and political headwinds

²⁴ Shigeru Yoshida, “Kokkai Kaigiroku, Honkaigi Dai9” [Diet, Minutes, Regular Session, No. 9], January 23, 1950.

²⁵ Dean Acheson, Memorandum for the President, September 7, 1950, in *Foreign Relations of the United States, 1950*, vol. 6, *East Asia and the Pacific* (Washington, D.C.: U.S. Government Printing Office, 1976) ~ <https://history.state.gov/historicaldocuments/frus1950v06/d757#fn:1.3.2.14.4.85.5.5>.

²⁶ John Foster Dulles (speech at the San Francisco Peace Conference, September 5, 1951), available from the World and Japan Database ~ <http://www.ioc.u-tokyo.ac.jp/~worldjpn/documents/texts/JPUS/19510905.S1E.html>.

²⁷ Copies of all three documents can be accessed in the University of Tokyo’s World and Japan Database under “Basic Documents of Modern and Contemporary International Politics” ~ <http://worldjpn.grips.ac.jp/documents/indices/docs/index-ENG.html>.

within Japan, conservative Japanese leaders have moderated their ambitions. Yet despite other major interpretative shifts, they were unable to assert CSD's constitutionality until 2014. Why was this the case?

The Japanese government's official 1954 reinterpretation of Article 9 allowed Japan to exercise the right of individual self-defense. As discussed above, it effectively asserted the JSDF's establishment as a strategic imperative in a post-occupation, volatile Cold War context. Significantly for what was to come in July 2014, the 1954 interpretation stipulated that "war potential"—that which exceeds the minimum necessary threshold for self-defense—could not be defined in a strategic vacuum but must take into account Japan's changing security environment: "Determining what constitutes war potential requires a concrete judgment taking into account the temporal and spatial environment of the country in question....It is neither unconstitutional to maintain capabilities that fall short of war potential nor to utilize these capabilities to defend the nation from direct invasion."²⁸

By explicitly conditioning minimal necessary capabilities on strategic vicissitudes, the Japanese government opened the door to future effective reinterpretations in practice, even if not in word. Despite continued opposition criticism of the JSDF and the U.S.-Japan Security Treaty as unconstitutional, the LDP's repeated electoral success after 1955 shifted the core of the policy debate from deciding whether Japan's right of self-defense exists to defining the appropriate means of and limitations on its exercise given the strategic context (and changing political winds). Fundamental to this debate was whether exercise of collective—not just individual—self-defense was constitutional. Beginning in the 1950s, the government officially judged that CSD did "not fall within the scope of 'self-defense'" (*jieiken no hani ni hairanai*).²⁹ In 1972 and 1981, future administrations clarified this position: although Japan enjoys the right to exercise CSD under international law, actually exercising it would exceed the minimum necessary condition established in the official 1954 interpretation.³⁰ In other words, Japan could not defend its U.S. ally unless Japan itself were attacked. Setting up the developments of 2014, however, these Cold War-era interpretations nevertheless allowed that changing

²⁸ Akira Nakamura, *Sengo seiji ni yureta Kenpo kyujo* [Article 9: Shaken by Postwar Politics], 2nd ed. (Tokyo: Chuo Keizaisha, 2001), 99; also quoted in Samuels, "Politics, Security Policy, and Japan's Cabinet Legislation Bureau."

²⁹ See the Cabinet Legislation Bureau director's 1959 statement in Takahiro Suzuki, "Kenpo dai9jo to shudanteki jieiken" [Article 9 and Collective Self-Defense], *Refarensu*, November 2011, 37.

³⁰ "Shudanteki jieiken to kenpo to no kankei ni tsuite."

strategic conditions could shift the minimum necessary threshold, potentially rendering CSD constitutional—if judged necessary for Japan’s self-defense.

Institutional factors. How were democratic policymakers able to implement policy shifts as transformative as rendering the JSDF—a de facto military—constitutional without formally revising Article 9? Political leadership was a necessary but insufficient condition. Japan’s unique system of checks and balances on constitutional matters also played a central role, albeit often behind the scenes. In particular, two major institutions have operated independently to shape effective interpretation (and reinterpretation) of Article 9: Japan’s Supreme Court and the Cabinet Legislation Bureau (CLB).

Under the constitution’s Article 81, Japan’s Supreme Court “is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act.”³¹ Accordingly, it is empowered to judge any issue related to Article 9, and therefore all issues related to self-defense generally or to JSDF development or employment specifically. In practice, however, despite numerous related lawsuits at lower levels, the Supreme Court has adopted a posture of “judicial negativism”—not ruling on constitutional issues unless absolutely necessary.³² Some other courts have behaved similarly. For example, in overturning a lower court’s 1973 judgment that the JSDF was unconstitutional, the Sapporo High Court asserted that “the choice of means of defense is nothing other than a determination of the most fundamental national policy, requiring both a high level of specialized technical judgment and a high level of political judgment.”³³ The implication was that the JSDF’s constitutionality was outside the scope of judicial review and that the associated issues were fundamentally political/policy questions.

In essence, Japan’s Supreme Court has avoided ruling explicitly on issues related to Article 9 unless required to do so by district court rulings that contradict Japanese government policy. One major exception is the Supreme Court’s ruling in 1959 on the Sunakawa case. In response to the Kishi government’s direct appeal, the court overturned an earlier decision by the Tokyo district court that the presence of U.S. forces in Japan was unconstitutional.³⁴ The ruling asserted Japan’s inherent right to self-defense using language and

³¹ “The Constitution of Japan.”

³² Sayuri Umeda. “Japan: Article 9 of the Constitution,” Law Library of Congress, February 2006 ~
<http://www.loc.gov/law/help/japan-constitution/article9.php>.

³³ Quoted in *ibid.*

³⁴ Alfred C. Oppler, “The Sunakawa Case: Its Legal and Political Implications,” *Political Science Quarterly* 76, no. 2 (1961): 244.

logic that resembled prior government statements. Specifically, it ruled that Article 9

renounces the so-called war and prohibits the maintenance of the so-called war potential, but certainly there is nothing in it which would deny the right of self-defense inherent in our nation as a sovereign power. The pacifism advocated in our Constitution was never intended to mean defenselessness or nonresistance.... Article 9 of the Constitution does not at all prohibit our country from seeking a guarantee from another country in order to maintain the peace and security of the country.³⁵

Beyond its direct implications for Article 9, this judgment made clear that in the process of judicial review, politics and legal interpretation are often intimately connected. In Japan, the Supreme Court's deference to other government branches has enabled decades of formal and effective reinterpretations without revision. Another example is a 1973 decision that again deferred to the government on the interpretation of Article 9:

Whether the SDF corresponds to the so-called "war potential" prohibited by Article IX...is not a matter to be examined by the judicial branch....The judiciary does not bear political responsibility to the people...[and] these are not matters into which the Court should inquire.³⁶

The Supreme Court's avoidance of ruling directly on Article 9 facilitated the emergence of the CLB in the controversial role of "a quasi-constitutional court with a *de facto* monopoly on interpreting the constitution."³⁷ Composed of roughly two dozen legal experts seconded from most ministries (and the National Police Agency), the CLB examines bills and regulations submitted to cabinet meetings, treaties in need of ratification, and cabinet order drafts. Its director general often appears in the Diet to answer constitutional questions. From 1952 to 2005, the Supreme Court never judged a CLB-examined bill to be unconstitutional.³⁸ Following its seminal statements in the 1950s, the CLB maintained a fairly consistent interpretation of CSD until 2014.

³⁵ Quoted in Umeda, "Japan: Article 9 of the Constitution."

³⁶ Quoted in Samuels, "Politics, Security Policy, and Japan's Cabinet Legislation Bureau."

³⁷ Ibid. For a seminal analysis of the CLB in Japanese, see Akira Nakamura, *Sengo seiji ni yureta Kenpo Kyujo* [Article 9: Shaken by Postwar Politics], 3rd ed. (Tokyo: Seikai Shuppan, 2009). For background and analysis on the controversy surrounding the CLB, see Mashiba Yasuharu, *Naikaku Hoseikyoku ni yoru kenpo kaishaku shoron* [Article on Constitutional Interpretation by the Cabinet Legislation Bureau] (Tokyo: National Diet Library, 2008); and Adam P. Liff, "A Check without Balance? Japan's Cabinet Legislation Bureau, the Supreme Court, and the Politics of Defense Policy" (unpublished manuscript).

³⁸ Umeda, "Japan: Article 9 of the Constitution."

On the other hand, the CLB has been intermittently vulnerable to political pressure, even on core defense issues. Indeed, as Japan scholar Richard Samuels notes, in particular instances of historical importance, skillful political leaders have employed the bureau to enable desired policies theretofore widely considered unconstitutional.³⁹ During the Cold War, determined prime ministers such as Yoshida, Kishi, and Yasuhiro Nakasone forced policy changes either by co-opting CLB bureaucrats or by bypassing them on issues involving fundamental policy questions that emerged during times of perceived external threat. Successful cases of prime ministerial pressure include assertions of the constitutionality of the JSDF and of “defensive” nuclear weapons in the 1950s, as well as of certain arms exports in the 1980s. Indeed, the author of the seminal 1954 interpretation by the CLB enabling the establishment of the JSDF acknowledged “strong pressure” from Yoshida. For arms exports, Nakasone’s chief cabinet secretary simply asserted that “policy review” does not fall under the CLB’s jurisdiction.⁴⁰

Following the Cold War, successive governments further loosened prohibitions on JSDF employment without revision or even formal reinterpretation of Article 9. A major inflection point was the 1992 International Peace Cooperation Law, which allowed the first of many overseas JSDF deployments. More recent examples include U.S.-Japan cooperation on ballistic missile defense, expansion of joint exercises with the United States and other nations (e.g., Australia), JSDF replenishment and air transport operations in support of Operation Enduring Freedom, and ongoing antipiracy patrols in the Gulf of Aden. Indeed, long before the July 2014 cabinet decision, the gap between Article 9’s original intent and its effective interpretation was already conspicuous and expanding. Despite these changes, however, exercise of CSD itself was consistently deemed above the “minimum necessary” threshold and thus unconstitutional.

CSD IN THE ABE ERA: NO LONGER A BRIDGE TOO FAR?

In July 2014, Abe’s cabinet thus achieved something that no other postwar Japanese leadership had: reinterpretation of Article 9 to eliminate the categorical denial of CSD exercise on constitutional grounds. The decision seemed to overturn 60 years of authoritative government interpretations. The policy impact was rapid: Tokyo and Washington revised their

³⁹ Samuels, “Politics, Security Policy, and Japan’s Cabinet Legislation Bureau.”

⁴⁰ *Ibid.*

bilateral Guidelines for U.S.-Japan Defense Cooperation and Abe pushed through major security legislation intended to transform defense policy decision-making and the JSDF's international role.

Due partially to intense domestic political debate and global media coverage often lacking sufficient nuance, however, the enabling constitutional reinterpretation came with unappreciated, major caveats of political, policy, and operational significance. Abe's effort fell far short of his original, publicly stated intent: formal revision of Article 9. With revision a political nonstarter, he was compelled to fall back on a far less expansive (and attractive) outcome: reinterpretation. Yet the reinterpretation his cabinet achieved was limited, stopping far short of even Abe's fallback objective: reinterpretation to allow full exercise of CSD without conditions.⁴¹ Rather, domestic political forces—especially public opinion and resistance from Komeito, the ruling LDP's junior coalition partner—compelled the cabinet to water down the 2014 decision significantly. Once all was said and done, conditions on CSD remained so strict that, if circumstances persist, doubts remain as to whether Japan will ever actually exercise its newly “constitutional” right.

This section will analyze the factors enabling the Abe administration to succeed in overcoming significant resistance to push through a constitutional reinterpretation that had eluded previous administrations. It will then assess the policy significance of this reinterpretation.

Strategic Vicissitudes

Though a historical departure in substance, the Abe administration's justification for allowing CSD appears logically consistent with that offered decades earlier concerning the constitutionality of individual self-defense. It is a logic familiar to any student of international security and flows directly from foundational works on deterrence and alliance politics.⁴² In short, the cabinet argued that changing strategic circumstances—the rapidly evolving strategic and political environment in Northeast Asia—had rendered CSD within the scope of minimum necessary policies for Japan's self-defense. This view is controversial but nevertheless supported by a suprapartisan critical

⁴¹ Throughout his political career, Abe and key allies have championed revision of Article 9 or, if that proved impossible, the constitutionality of exercising CSD. In 2006, Abe campaigned for the LDP presidency on a pro-revision platform and began pushing for both during his first tenure as prime minister (2006–7). See Hiroko Nakata, “Abe Says He Will Tackle Constitution, Including Article 9,” *Japan Times*, November 1, 2006 ~ <http://www.japantimes.co.jp/news/2006/11/01/national/abe-says-he-will-tackle-constitution-including-article-9/#.WS9YkE0ktQs>.

⁴² Thomas C. Schelling, *Arms and Influence* (New Haven: Yale University Press, 1966); and Glenn H. Snyder, “The Security Dilemma in Alliance Politics,” *World Politics* 36, no. 4 (1984): 461–95.

mass of domestic elites, especially security and foreign policy experts, many of whom had for years actively championed a more assertive security posture as a perceived national security imperative. Specifically, CSD was judged crucial to bolster deterrence to avoid a possible military conflict and, relatedly, to reduce the risk that essential U.S. military support would be absent in the event of one.

Abe and most other advocates of reinterpretation base their stance on an idea permeating Japan's security discourse over the past decade: Northeast Asia's increasingly challenging security environment and the changing force structure and posture of its neighbors. Echoing remarks by his predecessor from the Democratic Party of Japan (DPJ), Abe referred to an increasingly "severe" (*kibishii*) security environment surrounding Japan and the JSDF's need to confront a "grim 'reality' and a 'crisis of here and now'" in a 2013 commencement speech at the National Defense Academy.⁴³ Of particular concern were developments over the past decade, especially North Korea's rapidly advancing nuclear and missile programs since its 2006 nuclear test. Meanwhile, China's military capabilities have grown significantly since the late 1990s, transforming perceptions of East Asia's military balance and heightening the vulnerability of Japan (and U.S. bases on its territory). Between 1997 and 2014, Japan's defense spending relative to China's declined from four times the size to roughly one-third. Owing to its growing military capabilities and geographic proximity to flashpoints on Japan's periphery, China had come to be seen in Tokyo as posing asymmetric and increasingly symmetric potential threats. The latter is reflected in its "maritime advance" and increased activity near Japan's islands as China's navy seeks greater access to the western Pacific. Exacerbating concerns, Sino-Japanese political relations had been noxious, with high-level political and military dialogue irregular and rare. Especially since September 2012, Japanese concerns had deepened over what many strategists consider Beijing's aggressive policies and gray-zone activities designed to assert its claim to the Japan-administered Senkaku Islands (known as the Diaoyu Islands in China).

Relatedly, the proliferation of ballistic missiles, cyber and anti-satellite weapons, and other new technologies posed unprecedented challenges to Japan's ability to defend itself independently, and in some scenarios even with alliance cooperation. The rapidity with which attacks could be launched fundamentally challenged the practicality of long-standing

⁴³ Shinzo Abe, "Heisei 24nendo Boei Daigakko sotsugyoshiki naikaku sori daijin kunshi" [Prime Minister's Remarks at the 2013 National Defense Academy Graduation], Prime Minister of Japan and His Cabinet, March 17, 2013 ~ http://www.kantei.go.jp/jp/96_abe/statement/2013/0317kunji.html.

(and time-consuming) consensus-building norms and ad hoc responses. These trends, in turn, had raised new questions about whether reinterpretation of Article 9—to allow CSD in particular—was needed to effectively deter or, if necessary, confront new threats. Importantly, advocates of reinterpretation asserted that the contemporary threat environment was significantly more complicated than the one Japan faced decades earlier, when past official judgments concerning CSD’s constitutionality and the minimum necessary threshold had been promulgated.

Against this backdrop, the 2014 cabinet decision’s preamble links reinterpretation directly to contemporary strategic exigencies:

No country can secure its own peace only by itself, and the international community also expects Japan to play a more proactive role for peace and stability in the world, in a way commensurate with its national capability....In particular, it is essential to avoid armed conflicts before they materialize and prevent threats from reaching Japan by further elevating the effectiveness of the Japan–United States security arrangements and enhancing the deterrence of the Japan–United States Alliance for the security of Japan and peace and stability in the Asia-Pacific region.

Section 3 adds:

Article 9 of the Constitution cannot possibly be interpreted to prohibit Japan from taking measures of self-defense necessary to maintain its peace and security and to ensure its survival.

To date, the Government has considered that “use-of-force”... is permitted only when an “armed attack” against Japan occurs. However, in light of the situation in which the security environment surrounding Japan has been fundamentally transformed and continuously evolving by shifts in the global power balance, the rapid progress of technological innovation, and threats such as weapons of mass destruction, etc. as mentioned at the outset, in the future, even an armed attack occurring against a foreign country could actually threaten Japan’s survival, depending on its purpose, scale and manner.⁴⁴

In short, to advocates of the constitutionality of CSD exercise, the basic rationale remained logically consistent with that offered since 1954 to allow individual self-defense: as the nature of Japan’s threat environment changes, so too must political judgments about the conditions necessary for Japan to ensure its national security.

⁴⁴ The original Japanese version is authoritative. See Cabinet Secretariat (Japan), “Kuni no sonritsu wo mattoshi, kokumin wo mamoru tame no kireme no nai anzen hosho hosei no seibi ni tsuite” [Cabinet Decision on the Development of Seamless Security Legislation to Ensure Japan’s Survival and Protect Its People], July 1, 2014 ≈ <http://www.cas.go.jp/jp/gaiyou/jimu/pdf/anpohosei.pdf>.

Alliance Politics

In recent years, the changing regional balance of power has also caused some in Japan to question the United States' commitment to intervene kinetically in certain conflict scenarios, especially over the Senkaku Islands. For much of the Cold War, U.S.-Soviet superpower competition mitigated Japan's concerns over abandonment, and entrapment was the country's paramount concern (e.g., during the Vietnam War). By contrast, some Japanese strategists now increasingly fear abandonment.⁴⁵ In his 2006 book, Abe stressed CSD as important for strengthening bilateral "bonds of trust, and to create a more equal [*taïtona*] alliance."⁴⁶ In 2014 a prime ministerial advisory panel member voiced abandonment concerns as a rationale for reinterpretation: "The United States does not want to fight for [the Senkakus]. If Japan, when push comes to shove, does not prepare to work together with [Washington], then [Washington] will say goodbye to its participation in the defense of our islands."⁴⁷ Though such claims are arguably overwrought—the United States clearly continues to deeply value peace and stability in East Asia (and thus its alliance with Japan) for manifold reasons, not least its own self-interest—they nevertheless suggest a moderate shift along the alliance dilemma continuum.

As noted above, and reflected in treaties dating back to 1951, Washington saw Tokyo's self-imposed ban on CSD as preventing more expansive, effective alliance cooperation and deterrence. By 2014, both parties had come to see allowing CSD as increasingly necessary to ensure Japan's national security. Over the previous decade, U.S. pressure to revisit the issue had also grown more explicit. In his farewell press conference, U.S. ambassador to Japan J. Thomas Schieffer (2005–9) called on Tokyo to reinterpret the constitution to enable CSD.⁴⁸ Likewise, in a bipartisan 2012 report widely read in Japanese political circles, former deputy secretary of state Richard Armitage and former assistant secretary of defense Joseph Nye criticized "anachronistic constraints" on the JSDF, called CSD prohibition "an impediment to the alliance," and suggested that reinterpretation to allow it did not require formal revision of Japan's constitution.⁴⁹ As this

⁴⁵ For exposition of these theoretical concepts, see Snyder, "The Security Dilemma in Asian Politics."

⁴⁶ Shinzo Abe, *Utsukushii kuni e* [Toward a Beautiful Country] (Tokyo: Bungei Shunju, 2006), 130–132.

⁴⁷ "The Deep Roots of Abe's Drive for Collective Self-Defense," *Asahi Shimbun*, March 3, 2014.

⁴⁸ "Schieffer Ends Term in Japan with Call to Reexamine Collective Defense," Kyodo, January 14, 2009.

⁴⁹ Richard L. Armitage and Joseph S. Nye, *The U.S.-Japan Alliance: Anchoring Stability in Asia* (Washington, D.C.: Center for Strategic and International Studies, 2012), 2, 15.

debate raged in Japan in spring 2014, President Barack Obama offered support, praising Abe “for his efforts to strengthen Japan’s defense forces and to deepen the coordination between our militaries” and stressing the importance of CSD for deterring North Korea.⁵⁰

This should not be surprising. As suggested in Dulles’s 1951 speech, for decades U.S. policymakers had called on Japan, albeit not unconditionally, to become a more capable and active security partner—often far beyond what LDP leaders judged that domestic political conditions would allow. To proponents on both sides of the Pacific, constitutional reinterpretation to allow the exercise of CSD would constitute major progress toward a more equal alliance and a more active Japan, and thereby bolster bilateral deterrence amid a perceived worsening of the security environment.

Political Intervention in the CLB

Unsurprisingly, Abe confronted significant resistance from the CLB, yet he moved forward. In August 2013, he took the controversial step of replacing the CLB director general not with his deputy but with an outsider: Ichiro Komatsu, the former head of the Ministry of Foreign Affairs’ International Legal Affairs Bureau. Komatsu became the first-ever official from the Ministry of Foreign Affairs to hold the post. Not coincidentally, he was widely seen as sharing Abe’s views on both the constitutionality of CSD and the cabinet’s authority to reinterpret the constitution.⁵¹ The liberal *Asahi Shimbun* criticized Abe’s tactic as stacking the deck in favor of his preferred constitutional interpretation and argued that his previous cabinet (2006–7) viewed the CLB as an “evil empire.”⁵² Though Abe’s means of intervention in CLB affairs appear to have been unprecedented, he was—at least rhetorically—in revealing company. During a campaign for the opposition DPJ presidency a decade earlier, Yoshihiko Noda, Abe’s immediate predecessor as prime minister, had not only openly called for CSD to be made constitutional but vowed to do exactly what Abe ultimately did: appoint his own CLB director general.⁵³

⁵⁰ “Joint Press Conference with President Obama and Prime Minister Abe of Japan,” White House, April 24, 2014 ~ <https://obamawhitehouse.archives.gov/the-press-office/2014/04/24/joint-press-conference-president-obama-and-prime-minister-abe-japan>.

⁵¹ Komatsu resigned in May 2014 due to poor health, was succeeded by his deputy, and passed away soon after. See “Abe’s Legal Aide on Defense Reform Steps Down Due to Ill Health,” *Kyodo*, May 16, 2014.

⁵² “Insight: The Deep Roots of Abe’s Drive for Collective Self-Defense.”

⁵³ Samuels, “Politics, Security Policy, and Japan’s Cabinet Legislation Bureau.”

Fractious Opposition Parties as a Weakening, Permeable Barrier

Since the founding of the LDP, shifting balances of power among major ideological camps within and outside the party have been major factors shaping constitutional interpretation and its effective impact on Japan's defense policies.⁵⁴ Although recent efforts to revise or reinterpret Article 9 have traditionally been associated with the LDP's most conservative wing, intraparty support is far greater today than in the past. Even major opposition parties now offer considerably less active resistance to associated reforms. The Cold War-era leading opposition Socialists occupy only four Diet seats, sharply reducing their influence. Meanwhile, the leading opposition party on the eve of the 2014 cabinet decision—the DPJ—was hardly pacifist, at least in a traditional sense. During its three years in power (2009–12), the DPJ adopted significant, incremental reforms to Japan's security policy that built on earlier LDP-led initiatives. Concerning CSD, the party's more conservative members, including Noda, openly supported reinterpretation of Article 9.⁵⁵

In short, by summer 2014 support for reinterpretation had reached a critical mass among elites and was no longer limited to so-called defense hawks. Moderate changes to the interpretation of Article 9, or even its revision, had garnered support from an array of politicians and security experts across the political spectrum. Although public support for Abe's defense reforms was still hardly robust, widespread popular perceptions of a worsening security environment due to developments concerning North Korea and China had weakened the active resistance that had derailed past efforts. The ruling coalition's remarkable electoral success since 2012, coupled with an enervated and fractious opposition, thus created a domestic political context in which Abe and his allies determined that they could weather the resulting political storm.

A Major Caveat: Remaining Limitations on the Use of Force

Despite these strategic and political stars appearing to align, Abe and his allies were nevertheless compelled to make significant, yet widely underappreciated, concessions with significant policy implications. The actual content of the 2014 reinterpretation that proved politically acceptable fell far short of the original objective: the exercise of CSD without conditions. Once the political dust had settled, three explicit and restrictive conditions for the

⁵⁴ Boyd and Samuels, *Nine Lives*.

⁵⁵ "Noda Seeks Japan's Right to Exercise CSD," *Asahi Shimbun*, July 10, 2012.

use of force unique to Japan had been imposed: (1) Japan's "national survival" (*kuni no sonritsu*) must be threatened by a "clear danger" (*meihakuna kiken*), (2) no alternative means of addressing the threat can exist, and (3) whatever force Japan uses must be limited to the minimum necessary.⁵⁶ These three conditions closely resemble the widely accepted 1954 interpretation allowing individual self-defense (see **Table 1**) and explicitly limit the exercise of CSD to scenarios where Japan's own survival is at stake. In contrast, international law contains no such limitation. In an effort to demonstrate consistency with previous interpretations, language in the 2014 decision drew from the official unified government view on CSD presented in 1972 and other parts of the constitution (e.g., Article 13). To proponents, these major concessions undermine the arguments of critics who claim that the 2014 decision gutted

TABLE 1
*Conditions for the Use of Force in Exercising
the Right of Self-Defense*

	Prior to July 2014 (individual self-defense only)	After July 2014 (individual and limited collective self-defense)
Condition #1	"[There is] an imminent, illegitimate aggression against Japan; i.e., an armed attack has occurred."	"[A]n armed attack against Japan occurs [or] an armed attack against a foreign country that is in a close relationship with Japan occurs <i>and as a result threatens Japan's survival</i> and poses a clear danger to fundamentally overturn people's right to life, liberty and pursuit of happiness" (emphasis added).
Condition #2	"[T]here is no other appropriate means available to repel [the attack]."	"[T]here is no other appropriate means available to repel the attack and ensure Japan's survival and protect its people."
Condition #3	"[The] use of force ought to be limited to the minimum extent necessary."	"Minimum necessary force will be exercised."

Source: The old conditions are translated from House of Representatives (Japan), "Naikaku Hosenkyoku sakusei no 'kenpo kankei toben reishu' ni kan suru shitsumon shuisho" [Gist of Questions Concerning Cabinet Legislation Bureau's "Compilation of Constitution-Related Responses"], April 25, 2014 ~ http://www.shugiin.go.jp/internet/itdb_shitsumon.nsf/html/shitsumon/a186145.htm. The new conditions are translated from Cabinet Secretariat (Japan), "Kuni no sonritsu wo mattoshi, kokumin wo mamoru tame no kireme no nai anzen hosho hosei no seibi ni tsuite."

⁵⁶ Cabinet Secretariat (Japan), "Kuni no sonritsu wo mattoshi, kokumin wo mamoru tame no kireme no nai anzen hosho hosei no seibi ni tsuite."

Article 9's normative power, or that decision-making on the JSDF's ability to use force has fundamentally changed (see **Table 2**).

Thus, while the July 2014 reinterpretation was indeed substantively unprecedented, close readings of the decision, subsequent legislation, and statements by the prime minister and other leaders reveal that the ambitious effort to formally rewrite Article 9 in line with an aspirational 2012 LDP draft revision ended with the cabinet allowing only limited (*genteitekina*) CSD exercise under strict, unique conditions.⁵⁷ The ultimate outcome reveals the persistent, albeit stretched, normative bounds limiting the JSDF's use of force to scenarios in which Japan's own survival is fundamentally threatened.

TABLE 2

*Desired vs. Actual Outcomes of Abe's 2014
Revision/Reinterpretation Effort*

Desired objectives	Actual outcomes
Fundamental revision of Article 9 along the lines of the LDP's 2012 draft proposal for constitutional revision	Article 9 remains untouched
Significant reduction of domestic and constitutional constraints on JSDF overseas activities to conform more to international major-power standards consistent with international law	Constitutional constraints on JSDF activities loosened, but the new interpretation continues to disallow full exercise of CSD and more ambitious policies involving the use of force when Japan's survival is not threatened (e.g., in UN-sanctioned collective security operations)
A permanent shift in the focus of security policy debates away from the CLB and issues of domestic constitutionality toward policymakers and the democratically elected Diet and issues of national interest	Issues of constitutionality likely to remain a major focus of debates about JSDF development and employment
Reorientation of the Diet debate to the substance of proposed policies and the extent to which they serve Japan's national interest, as opposed to abstract debates about constitutionality insulated from changes in Japan's strategic environment	Debates over "constitutionalism" likely to continue to be a core focus, unless Article 9 is formally revised to remove Japan-specific prohibitions on armed forces and the use of force
A shift toward a "negative list" approach to JSDF employment: i.e., unless an action is explicitly prohibited or violates international law, the JSDF would be allowed to do it	Minimal change; there continues to be a "positive list" approach to most debates about JSDF employment: i.e., unless an action is explicitly allowed, the JSDF cannot do it

⁵⁷ "Nihon koku kenpo kaisei soan" [Japan Constitution Revision Draft], LDP, April 27, 2012, 4-5 ~ <http://constitution.jimin.jp/draft>. This document was drafted when the LDP was out of power and not in coalition with Komeito.

The concessions were particularly notable given a strong electoral mandate granting the ruling coalition a two-thirds majority in the lower house, relatively high cabinet support ratings, and a fractious and disorganized opposition. From this perspective, the widespread criticism that Abe ran roughshod over democratic political processes is certainly debatable. Widespread public discomfort with Abe's ambitious security reform agenda—reflected in opinion polls and major protests—was the most conspicuous constraint. Yet intra-coalition politics, in particular the role played behind the scenes by the LDP's junior coalition partner, seems to have most directly compelled the administration to moderate its ambitions.

Coalition Politics and the Buddhist Firewall

The debate in Japan over CSD's constitutionality is often misleadingly presented as a simple binary choice. In reality, the policy significance of constitutional interpretation and its political feasibility have always depended heavily on specific content. In 2014, as always, many reinterpretations were possible. Many in the LDP sought unconditional exercise of CSD and a mandate for use of force in UN collective security operations. However, its junior coalition partner, Komeito, whose power base is the Buddhist, pacifist organization Soka Gakkai, wanted an explicit articulation of what missions would be possible: a so-called positive list approach.⁵⁸ Relative to Abe's original objective, the final interpretation fell clearly on the moderate side of the spectrum of possibilities. Facing opposition from Komeito and its demand that any reinterpretation be logically consistent with previous CLB statements, LDP leaders made major political concessions during intra-coalition negotiations, with significant implications for continued restrictions on the use of force.⁵⁹

Two examples are particularly salient: by mid-May 2014, Abe abandoned his effort to enable the JSDF to support UN-sanctioned collective security operations requiring military force. This was particularly disappointing to

⁵⁸ Sheila A. Smith, "Defining Defense: Japan's Military Identity Crisis," *World Politics Review*, May 12, 2015 ~ <http://www.worldpoliticsreview.com/articles/15747/defining-defense-japan-s-military-identity-crisis>. For background on Komeito, see George Ehrhardt, Axel Klein, Levi McLaughlin, and Steven R. Reed, eds., *Komeito: Politics and Religion in Japan* (Berkeley: Institute of East Asian Studies, 2014).

⁵⁹ The LDP's success in national elections depends significantly on support from Komeito voters, granting Komeito far greater influence over its senior coalition partner than its Diet seat total would suggest. See Adam P. Liff and Ko Maeda, "Explaining a Durable Coalition of Ideologically Incompatible Parties: Evidence from Japan" (unpublished manuscript). Komeito also constrained the ambitious post-September 11 agenda of LDP prime minister Junichiro Koizumi. See Boyd and Samuels, *Nine Lives*, 27–48.

many domestic champions of CSD and further normalization of JSDF roles and missions, who were eager to allow Japan to contribute militarily to such missions and for whom Japan's inability to do so in past instances—most famously, the first Persian Gulf War, had caused major international loss of face.⁶⁰ Komeito also successfully opposed a reinterpretation of Article 9 to allow for full exercise of CSD. This far more ambitious departure from past interpretations, which was advocated by Abe's own advisory panel and is consistent with the UN Charter, would have allowed the JSDF to use force in defense of another country, even when Japan was not directly threatened. Komeito pressure worked: Abe ultimately conceded that collective security operations and full exercise of CSD would not have been “logically consistent” with the 1972 interpretation and would therefore not be possible without formal constitutional revision.⁶¹

Though Komeito's means of influence varied, compelling the administration to revise early drafts of the cabinet decision appears fundamental. For example, it reportedly forced a change of the original precondition for CSD from “another nation coming under attack [that] *leads to the possibility* that Japan's survival is threatened” to a “*clear danger exists* that Japan's survival is threatened” (emphasis added). Komeito also limited the countries under armed attack to which Japan could provide support to those “with which Japan has close ties” (widely interpreted to mean the United States). Moreover, it ensured that the interpretation stipulated clearly that the “three conditions” could be met only if necessary to ensure Japan's self-defense, thereby imposing a concrete link to previous CLB interpretations and limiting the reinterpretation's practical scope.⁶²

Throughout the negotiations, Komeito publications heralded its role as the “opposition within the ruling coalition” (*renritsu no naka no yato*).⁶³ In a self-congratulatory statement released to supporters, Komeito stressed its success in “securing the normative status of the Constitution,” especially the 60-year-old “exclusive defense” principle, and “maintaining the basic logic of the government's interpretation expressed in 1972.” In stark contrast to

⁶⁰ “Cue Sheet Goes Well Beyond Cabinet Document on CSD,” *Asahi Shimbun*, June 28, 2014.

⁶¹ “Press Conference by Prime Minister Abe,” Prime Minister of Japan and His Cabinet, May 15, 2014 ~ http://japan.kantei.go.jp/96_abe/statement/201405/0515kaiken.html.

⁶² “Shudanteki jieiken, osuji de goi” [Basic Agreement on Collective Self-Defense], *Asahi Shimbun*, June 25, 2014; and “Komeito's Efforts to Ensure Maintenance of Defense-Only Policy,” Komeito, July 17, 2015 ~ https://www.komei.or.jp/en/news/detail/20150717_18019.

⁶³ Levi McLaughlin, Axel Klein, and Steven R. Reed, “The Power of Japan's Religious Party,” Woodrow Wilson International Center for Scholars, December 4, 2014 ~ <https://www.wilsoncenter.org/article/the-power-japans-religious-party>.

Abe's initial push to allow full exercise of CSD, Komeito interpreted the collective implication of the three conditions as follows:

So-called collective self-defense, in which the purpose is to defend another country, is not recognized now nor in the future. The Constitution limits the use of defensive measures solely to the defense of Japan. The core normative value of the Constitution has been secured because Constitutional restraints have been applied, such that the [right to self-defense] can only be invoked in cases that are virtually indistinguishable from cases of individual national self-defense.⁶⁴

Komeito leaders have reiterated this conclusion in numerous subsequent venues, such as immediately following the 2016 upper house election. Asked whether the party would support Abe's moves toward constitutional revision after pro-revision forces attained two-thirds majorities in both Diet houses, Komeito spokesperson Tetsuo Saito stated repeatedly that the 2014 reinterpretation, which remained within the exclusive defense framework, went far enough.⁶⁵ Soka Gakkai's chairman seconded the interpretation of Komeito's success as a brake (*hadome*), manifested through the three conditions.⁶⁶ Nevertheless, both groups faced criticism from their supporters for having gone even that far.

Komeito's impact was most direct, but it was hardly alone in its resistance to the originally intended reinterpretation. Public opinion polls showed widespread discomfort with the exercise of CSD, which was manifest in protest groups such as the Students Emergency Action for Liberal Democracy (SEALDs).⁶⁷ This opposition came to a head in summer 2015. In the run-up to the November passage of security legislation based on the 2014 cabinet decision, massive protests erupted outside the National Diet Building and scuffles took place inside the Diet. The incendiary atmosphere within and outside the Diet demonstrates that even 70 years after Japan's defeat in World War II, military affairs remain a deeply contested area of domestic politics.⁶⁸

⁶⁴ "Pacifist Principles Preserved," Komeito, July 2, 2014 ~ <https://www.komei.or.jp/en/policy/stands/20140702.html>.

⁶⁵ Author's notes from NHK's live election night broadcast in Tokyo, July 11, 2016.

⁶⁶ "Soka Gakkai wa doko e?" [Where Is Soka Gakkai Headed?], *Asahi Shimbun*, September 22, 2016.

⁶⁷ Only 28% expressed support. "Kenpo kaishaku henko, 'hantai' 51%" [51% "Oppose" Change in Constitutional Interpretation], *Nikkei Shimbun*, May 25, 2014 ~ http://www.nikkei.com/article/DGXNASFS2501Z_V20C14A5MM8000/.

⁶⁸ Thomas U. Berger, "From Sword to Chrysanthemum: Japan's Culture of Anti-Militarism," *International Security* 17, no. 4 (1993): 119–50; and Oros, *Normalizing Japan*.

To be sure, as the analysis herein confirms, leaders have pushed through incremental reforms in response to a changing strategic context, and Japan's defense posture has evolved significantly.⁶⁹ Nevertheless, even after the 2014 reinterpretation and with new security legislation now in effect, limitations on the JSDF's use of force in CSD operations remain severe. Whether one judges the determining factor as normative (e.g., national identity, strategic culture) or instrumentally rationalist (e.g., avoiding entrapment), these self-imposed constraints have proved remarkably resilient—despite deepening elite consensus that national security requires a more ambitious posture. By any contemporary major-power standard, Japan continues to maintain exceptional restrictions on the development and employment of the JSDF, its *de facto* military.⁷⁰ Though the unrevised text of Article 9 is an integral part of this story, its interpretation in practice has always been, and will continue to be, largely political.

IMPLICATIONS

The historical record demonstrates that the influence of Article 9's literal text over Japan's security policy is often misunderstood. Since 1947, the government's interpretation has proved remarkably malleable, contingent on perceived strategic expediency, shifting domestic political winds, the continued deference of the Supreme Court to the cabinet, and the key role of the CLB. Nuclear weapons and other major force development and employment policies that Japan's leaders chose to eschew for political reasons throughout the country's late twentieth-century rise had actually been deemed constitutional by the 1950s. Under different domestic political circumstances, they could conceivably have reinterpreted the constitution to sanction much more assertive policies—all in the name of self-defense. That this has not happened is a testament to politics serving dual roles—as both a spoiler and an enabler—in postwar Japan's constitutional debate.

This interesting role played by constitutional interpretation is a direct consequence of the inherent contradictions between unique state pacifism

⁶⁹ Jennifer M. Lind, "Pacifism or Passing the Buck? Testing Theories of Japanese Security Policy," *International Security* 29, no. 1 (2004): 92–121.

⁷⁰ For more recent arguments identifying threat-based change yet recognizing persistent constraints, see Michael J. Green, *Japan's Reluctant Realism: Foreign Policy Challenges in an Era of Uncertain Power* (New York: Palgrave Macmillan, 2001); Richard J. Samuels, *Securing Japan: Tokyo's Grand Strategy and the Future of East Asia* (Ithaca: Cornell University Press, 2008); Adam P. Liff, "Japan's Defense Policy: Abe the Evolutionary," *Washington Quarterly* 38, no. 2 (2015): 79–99; and Jennifer Lind, "Japan's Security Evolution," CATO Institute, Policy Analysis, no. 788, February 25, 2016.

baked into the occupation-era constitution, the right afforded all sovereign states to self-defense under the UN Charter, and the changing strategic imperatives that Japan's leaders perceive. As Kishi bluntly asserted about the CLB's 1954 reinterpretation of Article 9, "with the right of self-defense retained as an independent nation, the Constitution does not mean for the nation to sit and do nothing and await its death."⁷¹ This evolutionary process of reinterpretation is enabled by a domestic political and institutional context that has heretofore prevented leaders from revising Article 9 but enables them to assert new meanings and policies when certain political conditions align.

That it has been subject to repeated reinterpretation hardly renders Article 9 meaningless, however. On the contrary, it has proved a powerful focal point for both advocates and opponents of change.

For 70 years, elite contestation and popular opinion have powerfully shaped the debate about Article 9 and what is or is not acceptable. Though the bounds have stretched over time, and Japan has acquired some capabilities that could be used offensively, it has not equipped the JSDF with robust kinetic power-projection capabilities.

On the other hand, long before 2014 the political ground had shifted to such an extent that the JSDF, the U.S.-Japan Security Treaty, and U.S. Forces Japan—the three major pillars of Japan's post-occupation "self-defense" posture, all of which at one time were widely considered unconstitutional—had become not only accepted but popular among the public. The three largest political parties had also come to judge them constitutional. Central to this sometimes explicit, often *de facto* acceptance of creeping normality by domestic actors was deepening appreciation of evolving strategic circumstances necessitating new understandings of the platforms, equipment, tactics, and doctrine necessary to ensure Japan's self-defense. This point was reflected in the first defense white paper of the post-Cold War period, which paraphrased the 1954 interpretation: "The specific limit of the necessary minimum level of armed strength for self-defense varies depending on the prevailing international situation, the standards of military technology and various other conditions."⁷² Indeed, this is exactly the rationale that the Abe cabinet used to justify reinterpretation in 2014. Yet, as shown in the previous section, the substantive outcome was far from preordained. A closer look reveals the intense politics that powerfully shaped the negotiated outcome, in ways both expected and not.

⁷¹ Auer, "Article Nine," 179.

⁷² Ministry of Defense (Japan), *Boei hakusho* (Tokyo, 1991).

For historical and other reasons, Japan's domestic discourse concerning defense reforms under Abe tends to focus on issues of constitutionalism and democracy, and, for some, even alleged creeping militarism, over policy. Yet loaded rhetoric often creates more heat than light and masks fundamental policy disagreements. Issues of national identity and the apparent distrust of political leaders concerning military affairs are also salient. The latter is particularly true in the case of Abe. Beyond widespread domestic criticism, even many foreign experts—including former U.S. policymakers who publicly called for CSD—see his controversial views on Japan's wartime behavior (the *raison d'être* for Article 9's creation) and open criticism of occupation-era "victor's justice" as providing a "nationalist wrapping" that distracts from efforts to debate proposed policies (including CSD) based solely on their merits.⁷³ In this regard, in pursuit of their policy goals Abe and his fellow ideological conservatives may to some extent be their own worst enemies.

Despite these criticisms, however, Abe's policy gamble appears to have paid off, at least for now. Under his leadership since 2012, the ruling coalition has decisively won all four democratic elections, including upper and lower house elections since the controversial 2014 cabinet decision. Following a brief reversal precipitated by the security legislation's passage, since mid-November 2015 Abe's cabinet has consistently received net-positive average approval ratings, which is rare this late in a Japanese prime minister's tenure.⁷⁴ This suggests that once the smoke from the political fireworks had cleared, administration concessions, coupled with an increasingly worrisome security environment, had led a critical mass of the public to at least grudgingly accept the reinterpretation and subsequent legislation.

Nevertheless, mirroring domestic criticism on constitutional grounds, recent developments have raised concerns among some scholars within and outside Japan that Abe's cabinet may be evolving into an "unguarded guardian."⁷⁵ This, too, reflects inherent tensions between the state pacifism baked into Japan's postwar charter, domestic politics, and rapidly changing strategic circumstances to which political leaders feel compelled to respond.

⁷³ Ayako Mie, "Japan's Image Hurt by Abe's Militarist Facade: Nye," *Japan Times*, April 4, 2014 ~ <http://www.japantimes.co.jp/news/2014/04/04/national/japans-image-hurt-by-abes-militarist-facade-nye>; and T.J. Pempel, "Why Japan's Collective Self-Defence Is So Politicised," East Asia Forum, September 2, 2014 ~ <http://www.eastasiaforum.org/2014/09/02/why-japans-collective-self-defence-is-so-politicised>.

⁷⁴ "Japan Political Pulse," Sasakawa Peace Foundation USA, April 27, 2017 ~ <http://spfusa.org/category/japan-political-pulse>.

⁷⁵ Pempel, "Why Japan's Collective Self-Defense Is So Politicised."

Indeed, while significant checks remain, coupled with the creation of the National Security Council and several other developments, consolidation of security policy decision-making in the executive is an important trend that began decades ago but has accelerated in recent years.⁷⁶ The 2014 reinterpretation of Article 9, including the National Security Council's central role and the weakened influence of the CLB, is one major consequence.

Though at first blush the post-2014 changes appear striking, perspective is key. In operational terms, the Abe-era policy shifts are remarkable only relative to Japan's previous constraints rather than to any contemporary major-power standard. A comparison between the actual capabilities, roles, and missions of the JSDF now and on the eve of the reinterpretation—when it had already been deployed in various ways in cooperation with and even in support of foreign militaries—further elucidates the limited size of the change, especially concerning the use of force.

Policy Implications

Even following the current government's 2014 reinterpretation of Article 9, Japan is still allowed to exercise CSD and use force only if its survival is at stake. This means the JSDF will probably be unable to use force in defense of the United States or in support of collective security operations unless Japan itself faces an existential threat prompted by armed attack, an important condition that should not be overlooked. Beyond such a scenario (e.g., a North Korean missile strike), the 2015 security legislation means that potential JSDF support for U.S. regional and global military operations is likely to be more forthcoming but remain primarily logistical rather than kinetic. To proponents of recent policy shifts, given a strategic environment in Northeast Asia that is increasingly perceived within Japan to severely threaten its security, what stands out about the recent changes is that they did not happen sooner and that the cabinet decision, U.S.-Japan Guidelines revision, and security legislation were not more transformative. Japan's security posture continues to be subject to strict, self-imposed constraints on the use of force. Mutual understanding between allies and proactive management of possible expectation gaps should be a top priority for both sides.

Even with the 2014 reinterpretation of Article 9 now reflected in security legislation that went into effect in spring 2016, the policy debate

⁷⁶ Adam P. Liff and Andrew S. Erickson, "From Management Crisis to Crisis Management? Japan's Post-2012 Institutional Reforms and Sino-Japanese Crisis (In)Stability," *Journal of Strategic Studies* 40, no. 5 (2017): 604–38.

within Japan may only be beginning. Based on the new legislation, the hurdles for actual CSD exercise are high and the path to approval may prove a political minefield. In order for the government to declare a “survival threatening situation” (*sonritsu kiki jitai*), a nation with which Japan has a close relationship must have suffered an armed attack and requested Japan’s assistance in response. The cabinet then must compile documentation detailing the threat to Japan’s survival, the appropriate JSDF response, and how that response is the only means available and addresses the threat to the minimum extent necessary. Then the Diet must approve the decision. The possibility of disparate interpretations at each step is already apparent, even within the ruling LDP-Komeito coalition. In short, politics may create a high threshold for the declaration of a survival-threatening situation.⁷⁷

The focus of this article is specifically on the 2014 reinterpretation’s implications for Japan’s use of force and exercise of CSD. Full, unconditional exercise of CSD remains a bridge too far. Yet the security legislation did open up significant space for expanded bilateral planning and exercises, as well as new authorities that somewhat resemble collective security or CSD operations in the space between peacetime and an armed attack. These new missions include *kaketsuke-keigo* (use of small arms during UN peacekeeping missions to aid other countries’ units and personnel under fire from nonstate actors) and “asset protection” (peacetime protection of foreign militaries engaged in activities contributing to Japan’s defense, such as bilateral exercises, but, significantly, excluding activities where combat is already underway). Importantly, those authorities have already been granted to the JSDF to employ—in the recently completed South Sudan UN peacekeeping mission and when the Japan Maritime Self-Defense Force escorted a U.S. Navy supply ship in early May 2017. Of course, these authorities are limited in scope, which is to say that the JSDF can only use weapons to the extent necessary to pacify an attack or to enable retreat from aggression—far less than the Abe administration envisioned when setting out to reinterpret Article 9. Yet overall the new legislation opens up important avenues for a more active posture for the JSDF within and beyond

⁷⁷ There is some space for ex post Diet approval in certain emergencies. See Alexandra Sakaki and Kerstin Lukner, “Japan’s Uncertain Security Environment and Changes in Its Legislative-Executive Relations,” *West European Politics* 40, no. 1 (2017): 139–60.

the U.S.-Japan alliance, especially in logistical and support operations not involving the use of force.⁷⁸

Conclusion

While the actual text of Article 9 remains unchanged, the historical record prior to 2014 shows that interpretation in policy terms has always been contingent on changing strategic conditions, evolving military technology, and shifting political winds at home. The tendency of some observers to uncritically explain Japan's unusual self-imposed constraints on security policy as being "because of constitutional constraints," while of course partially correct, oversimplifies the external and internal forces and political contestation perennially at play in shaping the evolution of Article 9 in practice. It also leads to the erroneous conclusion that Abe's tactics in 2014 were fundamentally unprecedented. In practice, postwar Article 9 interpretations and the associated effective definition of minimum necessary defense capabilities have been fundamentally political questions—in the words of one major postwar leader, "policy choices" (*seisakutekina sentaku*)—not simply straightforward matters of constitutionality and law.

In words prophetic but long-forgotten, future prime minister Nakasone told his Diet colleagues in 1949 that "after independence collective self-defense will probably become a paramount issue" (*ichiban judaina mondai*).⁷⁹ Since the constitution's ratification 70 years ago, Article 9's interpretation has often been a reflection of domestic and international politics channeled through constitutional interpretation. Inherent tensions between state pacifism baked into the constitution's never-amended text, a public generally supportive of the basic spirit of nonaggression, and vagaries in Japan's strategic environment have allowed politicians to intermittently spearhead policy changes through formal or, more often, de facto constitutional reinterpretation.

As with past reinterpretations of Article 9, the story of the 2014 reinterpretation and its implications for Japan's security posture and the U.S.-Japan alliance is also deeply political. Viewed in appropriate historical, political, and strategic context, arguments decrying the Abe administration's

⁷⁸ For overviews of the new authorities created under the 2015 legislation, which are beyond the scope of this article, see Ministry of Defense (Japan), *Defense of Japan 2016* (Tokyo, 2016), 213–27; and Atsuhiko Fujishige, "New Japan Self-Defense Force Missions under the 'Proactive Contribution to Peace' Policy: Significance of the 2015 Legislation for Peace and Security," Center for Strategic and International Studies, July 21, 2016 ≈ <https://www.csis.org/analysis/new-japan-self-defense-force-missions-under-%E2%80%9Cproactive-contribution-peace%E2%80%9D-policy>.

⁷⁹ Quoted in Suzuki, "Kenpo dai9jo to shudanteki jieiken."

July 2014 reinterpretation of Article 9 as an unprecedented departure from democratic principles and past practice lose significant luster. Circumstances shaping these developments reveal familiar enabling variables: a changing external threat environment, the Supreme Court's deference to the cabinet on security policy, and motivated political leaders unwilling to defer entirely to unelected CLB bureaucrats. Yet Abe broke new ground in directly appointing an outsider to the position of CLB director general—though Komatsu passed away before the cabinet decision—the latest example of political intervention by strong-willed prime ministers.

Meanwhile, policy outcomes were compromises resulting from intense political contestation among democratically elected elites, suboptimal to all major parties involved. Though undoubtedly a substantive departure from past practice, the 2014 reinterpretation provides far more than lip service to previous constitutional interpretations and maintains a very high, internationally exceptional bar for the use of force, which is limited to armed attack situations threatening Japan's survival. At a minimum, without formal constitutional revision, more ambitious efforts to fundamentally transform Article 9's interpretation or the circumstances under which the use of force by the JSDF can occur are unlikely for the foreseeable future, especially without a major political realignment, such as Komeito leaving the ruling coalition.

Constitutional interpretation is inherently political, a reality manifest across democracies. Though practically significant in a Japanese context, the 2014 cabinet decision reinterpreting Article 9 to allow limited exercise of CSD fell far short of the changes that Abe and his allies initially sought. As was the case time and again with his conservative LDP predecessors, domestic politics enabled Abe's cabinet to push the limits of what was possible but also compelled it to significantly rein in its initial policy ambitions. The 2014 reinterpretation of Article 9 is thus the latest in a line of effective reinterpretations dating back to the 1940s. It did not occur in a political, strategic, or historical vacuum, nor should its significance be evaluated in one. ◆