

# JAPAN'S PACIFICISM AS NATIONAL IDENTITY AND A 'NORMAL' SECURITY OPTION: WHY JAPAN'S CONSTITUTIONAL PEACE CLAUSE IS UNLIKELY TO BE AMENDED

SIMON MILLER\*

*Japan faces its most serious and complex defence environment since the end of World War II. The country holds two significant security concerns: first, and critically, China's burgeoning military, increasingly aggressive diplomacy, and destabilising actions around the Senkaku Islands in the East China Sea; second, North Korea's continued unpredictable rhetoric and actions in its nuclear arming program and ballistic missile testing. Japan's 2022 National Security Strategy proposes two unprecedented policy ideas to counter these threats: first, to significantly increase Japan's defence budget; second, to acquire counterstrike long-range missile capabilities in response to an attack. Nonetheless, despite these security issues and policy developments, this article argues that formal amendment of the peace clause in art 9 of the Japanese Constitution remains unlikely. To understand the improbability of constitutional amendment, this article first explores Japan's constitutional pacifism under the post-World War II Yoshida Doctrine and the United States–Japan cornerstone security alliance, as well as the context of North Korea's nuclear and ballistic missile threat and the emotive issue of abductions of Japanese citizens. The article then turns to Japan's historic imperial relationship with China as an avenue to understand contemporary relations, including the key issues of trade and its link to security, and the Senkaku Islands sovereignty dispute. It concludes that formal constitutional amendment of the peace clause remains unlikely in the short to medium term.*

## I INTRODUCTION

Despite evolving re-interpretation of the peace clause in art 9 of the *Japanese Constitution*,<sup>1</sup> which is one of the most polarising issues within Japan's political elites and public debates,<sup>2</sup> Japan's pacifism remains key to its internal policy and

---

\* Master of International Law (UQ, 2023).

<sup>1</sup> 日本国憲法第9条, *Nihon koku kenpō dai kyū-jō* [Constitution of Japan] (3 May 1947) ('*Japanese Constitution*').

<sup>2</sup> Yongwook Ryu, 'To Revise or Not to Revise: The "Peace Constitution", Pro-Revision Movement, and Japan's National Identity' (2018) 31(5) *The Pacific Review* 655, 655.

forms an intrinsic part of its national identity. The former Shinzo Abe administration's 2015 incremental legislative re-interpretation of art 9 of the *Constitution*, which enables collective self-defence, did not mean that Japan's pacifism was dead.<sup>3</sup> Moreover, and notwithstanding a deteriorating and complex security environment where confrontation and cooperation are delicately intertwined, Prime Minister Fumio Kishida's new *National Security Strategy* means Japan remains unable to commit an offensive attack.<sup>4</sup>

Japan's defence posture remains multilateral through its commitment to international organisations, its security alliance with the United States ('US') and deepening diplomatic relationships with other like-minded democracies in the Indo-Pacific.<sup>5</sup> Against this background, this article argues that formal constitutional amendment of art 9 remains extremely unlikely in the short to medium term. This is despite two significant external security concerns:<sup>6</sup> first, and most significantly, China's burgeoning military, increasingly aggressive diplomacy, and destabilising actions around the Senkaku Islands in the East China Sea; and second, North Korea's continued unpredictable rhetoric and actions in its nuclear arming program and ballistic missile testing.

Whilst it is for the Japanese people to decide at a national referendum whether to formally maintain or amend their peace clause, this article argues that such amendment is unlikely for two reasons. First, even though robust revision would arguably enhance the credibility, flexibility and responsiveness of Japan's internal and external security balancing,<sup>7</sup> former Prime Minister Abe's nationalist agenda and the evolution of current Prime Minister Kishida's security policy is unlikely in the near term to override Japan's seven-decades-long entrenched national identity as a peace-loving nation. Second, noting the strengthened US-Japan security alliance,<sup>8</sup> it would take a radical external event such as a declaration of war against Japan from China or North Korea, or both, to engage urgent dialogue between both political elites and the Japanese public about the sustainability of the peace clause going forward.

The article proceeds as follows. First, it introduces the *Japanese Constitution* and the context of its development following World War II, as well as the constraints on its amendment. A brief comparison to the similar non-aggression

---

<sup>3</sup> Karl Gustafsson, Linus Hagstrom, and Ulv Hanssen, 'Japan's Pacifism is Dead' (2018) 60(6) *Survival* 137, 138 ('Japan's Pacifism is Dead').

<sup>4</sup> Ministry of Foreign Affairs of Japan, *National Security Strategy of Japan*, 16 December 2022, 1 ('*National Security Strategy*').

<sup>5</sup> Leif-Eric Easley, 'How Proactive? How Pacifist? Charting Japan's Evolving Defence Posture' (2017) 71(1) *Australian Journal of International Affairs* 63, 79.

<sup>6</sup> Shogo Suzuki and Corey Wallace, 'Explaining Japan's Response to Geopolitical Vulnerability' (2018) 94(4) *International Affairs* 711, 713.

<sup>7</sup> *Ibid* 722.

<sup>8</sup> The White House, 'Joint Statement of the United States and Japan' (Statement, 13 January 2023) ('*Joint Statement by President Biden and Prime Minister Kishida*').

provision in the *German Constitution* is also made.<sup>9</sup> Second, Japan's constitutional pacifism is succinctly explored in the context of the post-World War II Yoshida Doctrine, *Sakata v Japan* (the 'Sunakawa case'),<sup>10</sup> and the evolution of collective self-defence. The article then turns to an analysis of Japan's cornerstone security alliance with the United States, through the twin lens of the *National Security Strategy* and the US' Indo-Pacific Strategy. It explains that, since the 1950s, the United States ('US') has pressured Japan to do more 'heavy lifting' by amending art 9 to enhance security in East Asia. Following this, the article examines key security threats to Japan from North Korea and China before setting out more fully its overarching argument. This is that Japan, with assistance from the US alliance and enhanced cooperation and engagement in the Indo-Pacific, has the diplomatic capability to manage perceived and real external threats from China and North Korea while maintaining its pacifist constitution. This, combined with the difficulty of obtaining agreement as to the scope and meaning of any proposed amendment to the peace clause make formal amendment of art 9 unlikely.

## II BRIEF CONSTITUTIONAL BACKGROUND

Japanese military aggression in World War II led to powerful institutional, normative, and external constraints with regards to the use of force.<sup>11</sup> The US-imposed<sup>12</sup> *Japanese Constitution* incorporates a Preamble, which strives to secure peaceful cooperation and peaceful preservation for the people, and resolves that 'never again shall we be visited with the horrors of war through the action of government.' Critically, the peace clause in Chapter II: Renunciation of War extends the Preamble as follows:

### Article 9

Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

---

<sup>9</sup> *Grundgesetz für die Bundesrepublik Deutschland* [Basic Law for the Federal Republic of Germany] ('*German Constitution*').

<sup>10</sup> Violation of the Special Criminal Law Enacted in Consequence of the Administrative Agreement under Article III of the Security Treaty between Japan and the United States of America, (Supreme Court of Japan, 16 December 1959, Case Number 1959 (A) 710) (the '*Sunakawa case*').

<sup>11</sup> Alexandra Sakaki et al, *Reluctant Warriors: Germany, Japan, and Their US Alliance Dilemma* (Brookings Institution Press, 2019) 2.

<sup>12</sup> Ellis S Krauss and Hanns W Maull, 'Germany, Japan and the Fate of International Order' (2020) 62(3) *Survival* 159, 162.

The *Japanese Constitution* is the oldest unamended constitution in the world, in part due to the difficulty of amendment. Formal amendment of the *Japanese Constitution* involves two distinct stages. First, amendment requires a concurring vote of two-thirds or more of all members of each House of the National Diet. If this is successful then the second stage requires the affirmative vote of a majority of people, either at a special referendum or specified election.<sup>13</sup> To date, not only have attempted amendments to art 9 failed to pass the Diet, no amendment to any part of the *Constitution* has succeeded since ratification in 1947.<sup>14</sup>

A comparison may be drawn between the Japanese peace clause and a similar provision in the *German Constitution*. Like the *Japanese Constitution*, the *German Constitution* was also overseen by the victorious allied powers following World War II (specifically France, the United Kingdom, and the United States).<sup>15</sup> The German Preamble broadly expresses peace through the words “[i]nspired by the determination to promote world peace as an equal partner in a united Europe”. Importantly, art 26 relating to ‘Securing International Peace’, provides:

- (1) Acts tending to and undertaken with intent to disturb the peaceful relations between nations, especially to prepare for a war of aggression, shall be unconstitutional. They shall be made a criminal offence.
- (2) Weapons designed for warfare may be manufactured, transported or marketed only with the permission of the Federal Government. Details shall be regulated by a federal law.<sup>16</sup>

As such, Germany, similarly to Japan, constitutionally affirms its commitment to peaceful coexistence with nations and expressly rules out war as a sovereign right of the nation.<sup>17</sup> Germany declares all aggressive acts as unconstitutional but, unlike Japan, Germany criminalises preparing for a war of aggression,<sup>18</sup> and criminalises other acts disturbing the peaceful relations between nations.<sup>19</sup> While Germany may manufacture, transport or market weapons designed for war pursuant to a federal law,<sup>20</sup> in Japan the ability to maintain “other war potential” is forbidden.<sup>21</sup>

<sup>13</sup> *Japanese Constitution* (n 1) ch IX: Amendments, art 96.

<sup>14</sup> Jeffrey P Richter, ‘Japan’s “Reinterpretation” of Article 9: A Pyrrhic Victory for American Foreign Policy?’ (2016) 101(3) *Iowa Law Review* 1223, 1243.

<sup>15</sup> Sascha Mueller, ‘The Crime of Aggression under German Law’ (2008) 6(6) *The New Zealand Yearbook of International Law* 183, 184.

<sup>16</sup> *German Constitution* (n 9) art 26.

<sup>17</sup> For analysis of the use of force under the *German Constitution*, see Anne Peters, ‘Between Military Deployment and Democracy: Use of Force under the German Constitution’ (2018) 5(2) *Journal on the Use of Force and International Law* 246.

<sup>18</sup> *Strafgesetzbuch* [Criminal Code] (Germany) s 80 (‘*German Criminal Code*’). See generally Mueller (n 15).

<sup>19</sup> *German Criminal Code* (n 18) s 80a.

<sup>20</sup> *German Constitution* (n 9) art 26(2).

<sup>21</sup> *Japanese Constitution* (n 1) art 9.

The *German Constitution* may be amended by a law expressly amending or supplementing its text.<sup>22</sup> Any such law must be carried by two thirds of the members of the *Bundestag* (Representative Chamber of German Parliament) and two thirds of the votes of the *Bundesrat* (Upper Chamber of Parliament).<sup>23</sup> In contrast to the amendment procedure in Japan, there is no requirement for affirmative voting by the German public. Unlike the *Japanese Constitution*, the *German Constitution* has been amended numerous times since entering into force on 23 May 1949.<sup>24</sup>

### III EVOLUTION OF JAPAN'S POST-WAR DEFENCE POSTURE

The *Japanese Constitution* has remained unamended since it was promulgated on 3 November 1946 and enacted under United States occupation on 3 May 1947.<sup>25</sup> The goals were the demilitarisation and democratisation of Japan.<sup>26</sup> Controversially, art 9 provides a unique peace clause forever renouncing war and the threat or use of force and prohibiting Japan from maintaining war potential. Significant debate domestically and internationally over the interpretation of art 9 and the role of Japan's Self-Defense Forces continues unabated.<sup>27</sup> Shortly after art 9's promulgation, the US demanded Japan's rearmament in the context of the Korean War and rising threat of communism.<sup>28</sup> The initial interpretation of art 9 rejected a right of self-defence,<sup>29</sup> and Prime Minister Shigeru Yoshida resisted the US call to rearm, favouring instead an aggressive economic recovery coupled with avoidance of international military entanglements through passive international strategic disassociation.<sup>30</sup> This pragmatic approach of relying on art 9 and cooperation with the US became known as the Yoshida doctrine.<sup>31</sup> The unanimous,

<sup>22</sup> *German Constitution* (n 9) art 79(1).

<sup>23</sup> *Ibid* art 79(2).

<sup>24</sup> Donald P Kommers and Russell A Miller, *The Constitutional Jurisprudence of the Federal Republic of Germany* (Duke University Press, 3<sup>rd</sup> ed, 2012) 42.

<sup>25</sup> Satoshi Yokodaido, 'Constitutional Stability in Japan Not Due to Popular Approval' (2019) 20(2) *German Law Journal* 263, 263.

<sup>26</sup> Richter (n 14) 1234.

<sup>27</sup> Christian G Winkler, 'A Historical Analysis of the LDP's 2018 Constitutional Amendment Proposals: Mission: Moderation?' (2020) 60(5) *Asian Survey* 882, 883.

<sup>28</sup> Richter (n 14) 1228.

<sup>29</sup> Rosalind Dixon and Guy Baldwin, 'Globalizing Constitutional Moments? A Reflection on the Japanese Article 9 Debate' (2019) 67(1) *The American Journal of Comparative Law* 145, 153; Richter (n 14) 1233.

<sup>30</sup> Michael K Connors, 'Between a Doctrine and Hard Place: Japan's Emerging Role' in Michael K Connors, Remy Davison, and Jo Dosch (eds), *The New Global Politics of the Asia Pacific: Conflict and Cooperation in the Asian Century* (Taylor and Francis Group, 33<sup>rd</sup> ed, 2017) 86; Richter (n 14) 1235.

<sup>31</sup> Stein Tonnesson, 'Japan's Article 9 in the East Asian Peace' in Kevin P Clements (ed), *Identity, Trust, and Reconciliation in East Asia: Dealing with Painful History to Create a Peaceful Present* (Palgrave Macmillan, 2018) 256; Christopher W Hughes, 'Japan's "Resentful Realism" and Balancing China's Rise' (2016) 9(2) *The Chinese Journal of International Politics* 109, 121 ('Japan's Resentful Realism'); Easley (n 5) 69.

precedent setting, 1959 Supreme Court decision in the *Sunakawa case* did,<sup>32</sup> however, endorse the view that, under art 9, Japan retained a fundamental right of individual self-defence and could enter treaties for mutual security.<sup>33</sup> In the absence of a clear violation of the *Constitution*, the *Sunakawa case* held that courts must defer to the political branches on constitutionality matters.<sup>34</sup>

With the judicial branch's tenet of judicial restraint,<sup>35</sup> and the constitutional restriction on amendment,<sup>36</sup> the government's interpretation of art 9 via the advisory Cabinet Legislation Bureau ('CLB') seems particularly elastic.<sup>37</sup> In 1960, in an interpretation that lasted for five and a half decades, the CLB stated that, under art 9, armed force in self-defence could be used under three conditions;<sup>38</sup> first, when there is an imminent and illegitimate act of aggression against Japan; second, when there is no appropriate means to deal with such aggression other than by resorting to the right of self-defence; and, finally, when the use of armed force is confined to the minimum necessary level.<sup>39</sup> In 1967, Japan announced three additional non-nuclear principles; it would not 'manufacture, possess or permit entry of nuclear weapons into its territory'.<sup>40</sup>

The remaining issue of collective self-defence was arguably resolved when Japan became a member of the United Nations in 1956. Article 51 of the *Charter of the United Nations* recognises the inherent right of individual or collective self-defence if an armed attack occurs. Nevertheless, in a controversial cabinet decision,<sup>41</sup> which was subsequently passed into legislation,<sup>42</sup> Prime Minister Shinzo Abe (a conservative revisionist)<sup>43</sup> issued a 'reinterpretation' of art 9 whereby collective self-defence is enabled provided three requirements are met:

- (a) when an armed attack against Japan occurs or when an armed attack against a foreign country that is in close relationship with Japan occurs and as a result threatens Japan's survival and poses a clear danger to fundamentally overturn people's right to life, liberty and pursuit of happiness;

<sup>32</sup> *Sunakawa case* (n 10).

<sup>33</sup> John O Haley, 'Article 9 in the Post-*Sunakawa* World: Continuity and Deterrence Within a Transforming Global Context' (2017) 26(1) *Washington International Law Journal* 1, 8; Richter (n 14) 1256.

<sup>34</sup> Sayuri Umeda, Law Library of Congress, Global Legal Research Directorate, 'Japan: Interpretations of Article 9 of the Constitution' (September 2015); Haley (n 33) 1.

<sup>35</sup> Yokodaido (n 25) 264.

<sup>36</sup> See *Japanese Constitution* (n 1) art 96, which requires a concurring vote of two-thirds or more of all members of each House in the Diet and ratification by a majority of people at a referendum; Dixon and Baldwin (n 29) 14,6.

<sup>37</sup> Sheila A Smith, *Japan Rearmed: The Politics of Military Power* (Harvard University Press, 2019) 131.

<sup>38</sup> Haley (n 33) 8.

<sup>39</sup> Japan Ministry of Defense, *Defense of Japan 2014* (Annual White Paper) 119–20.

<sup>40</sup> Tonnesson (n 31) 262.

<sup>41</sup> Ministry of Foreign Affairs of Japan, Cabinet Secretariat, *Cabinet Decision on Development of Seamless Security Legislation to Ensure Japan's Survival and Protect Its People* (1 July 2014).

<sup>42</sup> Government of Japan, Ministry of Foreign Affairs of Japan, *Japan's Legislation for Peace and Security: Seamless Responses for Peace and Security of Japan and the International Community* (March 2016). Eleven new bills passed both houses of the Diet and the new laws took effect on 29 March 2016.

<sup>43</sup> Ryu (n 2) 656.

- (b) when there is no other appropriate means available to repel the attack and ensure Japan's survival and protects its people; and
- (c) the use of force is limited to the minimum extent necessary.<sup>44</sup>

This significant departure from previous CLB decisions did away with the constitutional prohibition against exercising the sovereign right to take part in collective self-defence.<sup>45</sup> Some protectionist scholars suggest the 2014 reinterpretation impermissibly strains the text of art 9,<sup>46</sup> calling Abe's changes unconstitutional,<sup>47</sup> while others conclude the 2015 security laws have emptied art 9 of most of its content.<sup>48</sup> On the other side, Nasu argues the distinction between individual and collective self-defence is flawed because increasing regional threats favour a broad interpretation of art 9, which permits changes to the Self-Defense Force's role.<sup>49</sup> In 2018, Abe, who remained committed to ridding Japanese citizens of shame and guilt for the nation's war history,<sup>50</sup> proposed more modest but formal art 9 amendments; however, the domestic political situation and unstable public support for art 9 amendment prevented carriage of his agenda.<sup>51</sup>

Concerns of increasing insecurity in the region led Japanese security planners to craft a three-tier response:<sup>52</sup> first, increase Japan's own military capability including by reforming the legal framework; second, deepen security cooperation within the existing US alliance; and finally, seek new regional security partners such as Australia, India and Singapore.<sup>53</sup> This 'proactive pacifism'<sup>54</sup> has shaped Japan's internal security identity, which has remained resilient because it is adaptable to regional threats.<sup>55</sup> The rejection of the use of force as a means of settling international disputes remains at the heart of Japanese thinking.<sup>56</sup>

---

<sup>44</sup> Dixon and Baldwin (n 29) 157.

<sup>45</sup> Tonnesson (n 31) 263.

<sup>46</sup> Ryu (n 2) 656; Yasuo Hasebe, 'The End of Constitutional Pacifism?' (2017) 26(1) *Washington International Law Journal* 125.

<sup>47</sup> Easley (n 5) 78.

<sup>48</sup> Tonnesson (n 31) 266.

<sup>49</sup> Hitoshi Nasu, 'Japan's 2015 Security Legislation: Challenges to its Implementation Under International Law' (2016) 92 *International Legal Studies* 249, cited in Dixon and Baldwin (n 29) 160.

<sup>50</sup> Ria Shibata, 'Identity, Nationalism and Threats to Northeast Asia Peace' (2018) 13(3) *Journal of Peacebuilding and Development* 86, 86.

<sup>51</sup> Winkler (n 27) 900.

<sup>52</sup> Andrew L Oros, *Japan's Security Renaissance: New Policies and Politics for the Twenty-First Century* (Columbia University Press, 2017) 68 ('Japan's Security Renaissance').

<sup>53</sup> *Ibid* 92–93.

<sup>54</sup> Chung-in Moon and Seung-won Suh, 'Historical Analogy and Demonization of Others: Memories of 1930s Japanese Militarism and Its Contemporary Implications' in Kevin P Clements (ed), *Identity, Trust, and Reconciliation in East Asia: Dealing with Painful History to Create a Peaceful Present* (Palgrave Macmillan, 2018) 75, 94; Ryu (n 1) 661; Andrew L Oros, 'International and Domestic Challenges to Japan's Postwar Security Identity: "Norm Constructivism" and Japan's New "Proactive Pacifism"' (2015) 28(1) *Pacific Review* 139, 139 ('International and Domestic Challenges').

<sup>55</sup> Oros, 'International and Domestic Challenges' (n 54) 142.

<sup>56</sup> Smith (n 37) 163.

#### IV THE DEEPENING UNITED STATES–JAPAN CORNERSTONE ALLIANCE

Following the end of World War II, the rebuilding of a defeated Japan was influenced considerably by the US' political and strategic agenda of demilitarisation and democratisation.<sup>57</sup> The US envisioned a defensive multilateral system in Asia that was expected to reduce its security burden. Japan, however, strongly preferred security bilateralism.<sup>58</sup> With the implementation of the peace clause and developing norms of an anti-militaristic identity under the Yoshida doctrine, Japan focussed on the development of its economic strength,<sup>59</sup> and appeared unwilling to contribute militarily to security in the region.<sup>60</sup> Nevertheless, soon after the implementation of art 9, the US continued to pressure Japan to rearm,<sup>61</sup> and only after offering monetary aid did Yoshida begin to strengthen Japan's military.<sup>62</sup>

Japan's current defence structure and policy remains inextricably tied to the cornerstone US–Japan security alliance.<sup>63</sup> A key facet of this alliance has been the US rebalance to Asia after its war on terror post 9/11, first started under the Obama administration in response to China's rising economic, diplomatic, and military might.<sup>64</sup> Within this context, and as stated in the US Indo–Pacific Strategy, Japan remains a crucial partner in enabling 'a free and open Indo–Pacific that is more connected, prosperous, secure and resilient'.<sup>65</sup> This dovetails with Japan's own free and open Indo–Pacific vision of promotion of the rule of law, freedom of navigation and free trade, pursuit of economic prosperity, and commitment to peace and stability.<sup>66</sup>

<sup>57</sup> Rex Li, 'Identity Tensions and China–Japan–Korea Relations: Can Peace Be Maintained in North East Asia?' in Kevin P Clements (ed), *Identity, Trust, and Reconciliation in East Asia: Dealing with Painful History to Create a Peaceful Present* (Palgrave Macmillan, 2018) 47, 50.

<sup>58</sup> Yasuhiro Izumikawa, 'Network Connections and the Emergence of the Hub-and-Spokes Alliance System in East Asia' (2020) 45(2) *International Security* 7, 21–3.

<sup>59</sup> Richter (n 14) 1235.

<sup>60</sup> Izumikawa (n 58) 46.

<sup>61</sup> Umeda (n 34) 32.

<sup>62</sup> Richter (n 14) 1237.

<sup>63</sup> *Security Treaty Between the United States and Japan*, US–Japan, signed 8 September 1951, 3 UST 3329 (entered into force 28 April 1952); *Treaty of Mutual Cooperation and Security Between Japan and the United States of America (Japan–US Security Agreement)*, US–Japan, signed 19 January 1960, 11 UST 1632 (entered into force 23 June 1960); Japan Ministry of Defense, *The Guidelines for Japan–US Defense Cooperation* (27 April 2015); Jorn Dosch, 'The United States in the Asia-Pacific: Still the Hegemon?' in Michael K Connors, Remy Davison, and Jorn Dosch (eds), *The New Global Politics of the Asia Pacific: Conflict and Cooperation in the Asian Century* (Taylor and Francis Group, 33<sup>rd</sup> ed, 2017) 34; Easley (n 5) 80; Prime Minister Fumio Kishida, 'Japan's Decisions at History's Turning Point' (Policy Speech, John Hopkins University School of Advanced International Studies, 13 January 2023) <<https://www.mofa.go.jp/files/100446121.pdf>>.

<sup>64</sup> The White House, *Indo–Pacific Strategy of the United States* (February 2022) 5 ('Indo–Pacific Strategy of the United States'); Rosemary Foot, 'Power Transitions and Great Power Management: Three Decades of China–Japan–US Relations' (2017) 30(6) *Pacific Review* 829, 837.

<sup>65</sup> *Ibid* 6.

<sup>66</sup> Japan Ministry of Defense, International Policy Division, *Free and Open Indo-Pacific: Japan Ministry of Defense's Approach* (Policy, 27 September 2021) 2.



Regarding the worsening security environment, the US acknowledges that China represents the greatest strategic challenge in the Indo-Pacific region and beyond<sup>67</sup> and strongly supports Japan's updated national security policies.<sup>68</sup> The US approach is integrated deterrence that counters coercion through its network of security alliances and partners.<sup>69</sup> Importantly, the Strategy sets out expanding US-Japan-Republic of Korea trilateral cooperation to counter China's influence, maintain peace and stability in the Taiwan Strait, and seek sustained dialogue with North Korea that engages the deepening US-Japan relationship.<sup>70</sup> For its own part, Japan will continue to rely on the US for force-projection capability and nuclear deterrence, while the US will continue to rely on Japan for military basing, diplomatic and financial support.<sup>71</sup> The alliance is a politically convenient, ideologically coherent, and economic way for Japan to pursue its defence and for the US to maintain its strategic position in the Indo-Pacific.<sup>72</sup> The Japanese public strongly favour the alliance and remain anti-militarist and casualty averse;<sup>73</sup> all factors which make formal amendment of art 9 unlikely in the short to medium term.

Nonetheless, Japan's advancement and strengthening of the US alliance has not been without vulnerability and tension.<sup>74</sup> Japan must balance the risks of abandonment and entrapment in designing its security policy.<sup>75</sup> Abandonment entails the risk that the US, as a global superpower with wider ranging strategic interests, might overlook its security treaty duties or even abdicate them entirely.<sup>76</sup> For example, factors such as the rise of communism in East Asia having ended with the Cold War; President Trump's 'America First' policy pressuring Japan to finance more of the cost of US troops stationed in Futenma; successive North Korean nuclear tensions and missile tests; and Washington's financial support of Ukraine, have left Tokyo's policymakers concerned about US military capability amidst rising Chinese threats and North Korean unpredictability. Tokyo must also prepare for the possibility of Trump's return to the White House.

Entrapment has been an enduring and greater fear than abandonment for Tokyo.<sup>77</sup> The US welcomed Abe's 2014 reinterpretation of art 9, and President Joe

---

<sup>67</sup> Japan Ministry of Defence, *Joint Statement of the Security Consultative Committee (2 + 2)* (11 January 2023) 2 ('Joint Statement of the Security Consultative Committee').

<sup>68</sup> *Ibid* 1.

<sup>69</sup> Indo-Pacific Strategy of the United States (n 64) 12.

<sup>70</sup> *Ibid*.

<sup>71</sup> Easley (n 5) 80.

<sup>72</sup> *Ibid* 80.

<sup>73</sup> *Ibid* 81.

<sup>74</sup> Suzuki and Wallace (n 6) 715; Christopher W Hughes, 'Japan's Foreign Security Relations and Policies' in Saadia M Pekkanen, John Ravenhill, and Rosemary Foot (eds), *The Oxford Handbook of the International Relations of Asia* (Oxford University Press, 2014) 371, 384 ('Japan's Foreign Security Relations').

<sup>75</sup> Hughes, 'Japan's Foreign Security Relations' (n 74) 375.

<sup>76</sup> Foot (n 64) 833; Hughes, 'Japan's Foreign Security Relations' (n 74) 375.

<sup>77</sup> Hughes, 'Japan's Foreign Security Relations' (n 74) 375.

Biden recently commended Kishida's bold leadership in reinforcing its defence capabilities.<sup>78</sup> Yet both reinterpretations are not based on a formal constitutional amendment and Washington appears to desire certainty in Tokyo's defence commitments.<sup>79</sup> In practical terms, Japan could theoretically join the US on a military campaign anywhere in the world.<sup>80</sup> For example, the US is committed to the *Taiwan Relations Act*,<sup>81</sup> the Three Joint Communiques<sup>82</sup> and the Six Assurances;<sup>83</sup> however, if China takes Taiwan by force,<sup>84</sup> then the US wants certainty that Japan would support the US in collective self-defence. Japan's reinterpretation of art 9, regardless of any future formal amendment, may entrap them in a US conflict. Contemporary Japan faces two external national security threats: first, and most significantly, China's burgeoning military, increasingly aggressive diplomacy, and destabilising actions in the Senkaku Islands in the East China Sea; and second, North Korea's continued unpredictable rhetoric, nuclear arming and ballistic missile testing. The article turns to North Korea first.

## V ONGOING SECURITY THREATS

### A *Japan–North Korea Relations*

The first significant external national security threat to Japanese sovereignty is North Korea. Historically, Japan's annexation and occupation of the Korean Peninsula from 1910 to 1945 created deep-seated animosities between the Korean people and Japan due to the latter's brutality, especially manifested in the thousands of Korean deaths and the exploitative use by Japan's military of Korean females as sex slaves ('comfort women').<sup>85</sup>

<sup>78</sup> Joint Statement by President Biden and Prime Minister Kishida (n 8).

<sup>79</sup> Richter (n 14) 1259.

<sup>80</sup> *ibid* 1250.

<sup>81</sup> *Taiwan Relations Act of 1979*, Pub L No 96–8, 93 Stat 14.

<sup>82</sup> Taiwan Documents Project, United States and People's Republic of China 'Shanghai Communique' (First Communique, 28 February 1972) <taiwandocuments.org>; Taiwan Documents Project, United States and People's Republic of China Joint Communique on the Establishment of Diplomatic Relations (Second Communique, 1 January 1979) <taiwandocuments.org>; The White House, Joint Communique of the United States of America and the People's Republic of China (Office of the Press Secretary, Third Communique, 17 August 1982).

<sup>83</sup> Taiwan Documents Project, The "Six Assurances" to Taiwan, July 1982 <taiwandocuments.org>. This commitment is affirmed in the Indo-Pacific Strategy of the United States (n 64) 13.

<sup>84</sup> Christopher W Hughes, Alessio Patalano, and Robert Ward, 'Japan's Grand Strategy: The Abe Era and Its Aftermath' (2021) 63(1) *Survival* 125, 147.

<sup>85</sup> Linus Hagstrom and Ulv Hanssen, 'The North Korean Abduction Issue: Emotions, Securitisation and the Reconstruction of Japanese Identity from "Aggressor" to "Victim" and from "Pacifist" to "Normal"' (2015) 28(1) *Pacific Review* 71, 72; Anthony DiFilippo, 'Cold War Stasis: Past and Continuing Problems in the Normalization of Japan–North Korea Relations' (2018) 14(2) *North Korean Review* 64, 64.

The creation of two different Korean states in 1948 meant an ideological divide between communist Soviet-supported Kim Il-Sung and capitalist Japan, which prevented rapprochement.<sup>86</sup> During the Cold War, the Japanese Communist party established a relationship with North Korea, but North Korea's attempt to infiltrate Seoul and attack the presidential residence in 1968 was opposed by the Japanese Communist Party leading to a 'gradual distancing'<sup>87</sup> and animosity.<sup>88</sup> After the Cold War ended, the ruling Liberal Democratic Party (LDP) began negotiations to normalise diplomatic relations with North Korea.<sup>89</sup> This led to Prime Minister Junichiro Koizumi making his first visit in 2002 to meet Supreme Leader Kim Jong-il and the adoption of the foundational Japan-North Korea Pyongyang Declaration.<sup>90</sup>

The summit proceeded with the support of the US, China, and South Korea;<sup>91</sup> however, alarmingly, Kim Jong-il confessed during the Summit that North Korean agents had abducted thirteen Japanese citizens in the 1970s and 1980s.<sup>92</sup> By 2002, however, only four were alive and the remains of the others could not be returned, leaving Koizumi aghast<sup>93</sup> and calling for North Korea to return all the abductees.<sup>94</sup> Pyongyang apologised for the incidents, thus admitting a degree of culpability, but saved face by claiming the abductions were the unauthorised work of other elements of the state.<sup>95</sup> Tokyo had begun suspecting during the 1980s that Pyongyang had kidnapped Japanese nationals so that the abductees could teach DPRK agents Japanese language and cultural skills.<sup>96</sup> Specifically, Kim Hyun-hui, who smuggled a bomb onto a South Korean passenger plane in 1987, testified that she was a North Korean agent who had learned the Japanese language and behaviour from an abducted Japanese woman.<sup>97</sup> After Pyongyang indicated in 1997 that it would investigate these 'missing persons', Pyongyang reported in 1998 that it could find no trace.<sup>98</sup> In response, the Japanese public generated an intense anti-North Korean feeling, bordering on hysteria, and fuelled by mass-media sensationalism.<sup>99</sup> Meanwhile, the Japanese government approved the

---

<sup>86</sup> DiFilippo (n 85) 66.

<sup>87</sup> Shunji Hiraiwa, 'Japan's Policy on North Korea: Four Motives and Three Factors' (2020) 9(1) *Journal of Contemporary East Asia Studies* 1, 2.

<sup>88</sup> DiFilippo (n 85) 69.

<sup>89</sup> Christopher Hughes, 'Japan-North Korea Relations from the North-South Summit to the Koizumi-Kim Summit' (2002) 9(2) *Asia Pacific Review* 61, 61 ('Japan-North Korea Relations').

<sup>90</sup> *Japan-DPRK Pyongyang Declaration*, Japan-North Korea, signed 17 September 2002.

<sup>91</sup> Michael Yahuda, *The International Politics of the Asia-Pacific* (Taylor and Francis Group, 4<sup>th</sup> rev ed, 2019) 215.

<sup>92</sup> Hiraiwa (n 87) 9.

<sup>93</sup> Hughes, 'Japan-North Korea Relations' (n 89) 66; Rebecca Seales and Hideharu Tamura, 'Snatched from a Beach to Train North Korea's Spies' *BBC News* (online, 7 February 2021).

<sup>94</sup> Hiraiwa (n 87) 9.

<sup>95</sup> Hughes, 'Japan-North Korea Relations' (n 89) 66.

<sup>96</sup> DiFilippo (n 85) 69.

<sup>97</sup> Seales and Tamura (n 93).

<sup>98</sup> Hughes, 'Japan-North Korea Relations' (n 89) 71.

<sup>99</sup> *Ibid.*

development of spy satellites and granted the MSDF authorisation to intercept North Korean spy vessels.<sup>100</sup>

The highly-emotive abduction issue was of enormous concern to the public, even over the North's development of nuclear weapons and long-range ballistic missiles, and remains unresolved after four decades. The issue goes to the heart of the sovereignty of Japan and the lives and safety of Japanese citizens.<sup>101</sup> The families of the abductees and the nonpartisan Abduction Parliamentary League demanded the Japanese government assume uncompromising attitudes towards North Korea.<sup>102</sup> After North Korea's confession, a narrative proliferated that portrayed pacifism as the root cause of Japan's inability to prevent such incidents.<sup>103</sup> The lesson for Japan was that protecting citizens required a departure from pacifism.<sup>104</sup> This has aided conservative political elites in Japan to undertake a policy-related identity shift,<sup>105</sup> as opposed to constitutional change. The abduction issue has tempered the public backlash<sup>106</sup> against changes in Japan's defence posture.<sup>107</sup> Under the *Stockholm Agreement*,<sup>108</sup> North Korea agreed to re-investigate remains of Japanese citizens and specific missing persons. Unfortunately, however, talks have stalled and the re-investigation suspended.<sup>109</sup> The Quad, the US-Japan Security Consultative Committee, and Japan's *National Security Strategy* have recently reconfirmed the necessity of immediate resolution of the abductions issue.<sup>110</sup> If there remains no positive outcome on this issue, it appears that there can be no normalisation of relations between Japan and North Korea.<sup>111</sup>

Another significant external security concern is North Korea's continued unpredictable rhetoric and 'abnormal' actions in its nuclear arming and ballistic missile testing program. Japan's latest *National Security Strategy* refers to

---

<sup>100</sup> Easley (n 5) 72.

<sup>101</sup> Ministry of Foreign Affairs of Japan, *Japan-North Korea Relations (Overview)*, 3 October 2022; Ministry of Foreign Affairs of Japan, *Abductions of Japanese Citizens by North Korea: For Their Immediate Return*, November 2021; Hiraiwa (n 87) 4.

<sup>102</sup> Hiraiwa (n 87) 10.

<sup>103</sup> Gustafsson, Hagstrom, and Hanssen, 'Japan's Pacifism is Dead' (n 3) 151.

<sup>104</sup> Karl Gustafsson, Linus Hagstrom, and Ulv Hanssen, 'Long Live Pacifism! Narrative Power and Japan's Pacifist Model' (2019) 32(4) *Cambridge Review of International Affairs* 502, 510.

<sup>105</sup> Hagstrom and Hanssen (n 85) 71.

<sup>106</sup> Smith (n 37) 155–6; Daiki Shibuichi, 'The Article 9 Association, Leftist Elites, and the Movement to Save Article 9 of Japan's Postwar Constitution' (2017) 34(2) *East Asia* 147, 148–9.

<sup>107</sup> Easley (n 5) 81.

<sup>108</sup> Intergovernmental Consultations Between Japan and North Korea (Stockholm, Sweden, 26–28 May 2014).

<sup>109</sup> Sachio Nakato, 'Security Cooperation Between Japan and South Korea on the North Korean Nuclear Threat: Strategic Priorities and Historical Issues' (2020) 35(2) *Pacific Focus* 307, 319; Hiraiwa (n 87) 12.

<sup>110</sup> The White House, *Joint Statement by President Joe Biden, Prime Minister Anthony Albanese of Australia, Prime Minister Narendra Modi of India, and Prime Minister Fumio Kishida of Japan on the Quadrilateral Security Dialogue Leader's Summit* (24 May 2022); Japan Ministry of Defence, *Joint Statement of the Security Consultative Committee* (n 67) 3; *National Security Strategy* (n 4) 9.

<sup>111</sup> Hughes, 'Japan-North Korea Relations' (n 89) 66.

Pyongyang's nuclear capabilities in terms of quality and quantity and holds that 'North Korea's military activities pose an even more grave and imminent threat to Japan's national security than ever before.'<sup>112</sup> North Korea has the technology and capability to attack the entire Japanese archipelago<sup>113</sup> and a range extending to the US mainland.<sup>114</sup> Japan first recognised North Korea as a threat to its national security after the launch of the Taepodong I in August 1998.<sup>115</sup> While North Korea carried out its fourth nuclear test in January 2016,<sup>116</sup> Pyongyang launched roughly 70 missile experiments in 2022, including multiple Intercontinental Ballistic Missile (ICBM) tests.<sup>117</sup> Weapons development and testing at strategic times has been prioritised by the North over other domestic issues such as food insecurity. For example, in May 2022, just three days prior to new South Korean President Yoon Suk-yeol's inauguration, North Korea launched a submarine-based ballistic missile. In an immediate response, Defence Minister Nobuo Kishi resolved to drastically strengthen Japan's defence capabilities.

While Japan may not have a 'normal' security and defence position,<sup>118</sup> in that it cannot wage war, Japan is not 'abnormal' in its retention of art 9. Rather, an assertive, 'normalised' incremental policy shift occurred in 2014 as a result of the increasingly volatile external security environment. Prime Minister Kishida has framed the historical changes in power balances and intensifying geopolitical competitions as presenting Japan with the most severe and complex security environment since the end of World War II.<sup>119</sup> This requires Japan to prepare for the worst-case scenario by fundamentally reinforcing its defensive capabilities.<sup>120</sup> Yet, Japan retains its pacifism and is likely to do so in the medium term. On this view, neither the North Korean internal abduction issue nor the external weapons issue will cause amendment of Japan's peace clause. Only a radical material factor such as a North Korean attack or declaration of war against Japan would be sufficient to convince the Japanese people to vote for constitutional change. Japan understands that to maintain peace and stability in Northeast Asia it must normalise relations with North Korea. The development of Japan-North Korea ties and United States-North Korea discussions must also contribute to a meaningful progress of dialogue between North and South Korea.<sup>121</sup> Japan's dialogue strategy in North Korean relations must also acknowledge the North's

---

<sup>112</sup> *National Security Strategy* (n 4) 9.

<sup>113</sup> Hiraiwa (n 87) 4.

<sup>114</sup> *National Security Strategy* (n 4) 9.

<sup>115</sup> Yahuda (n 91); Hiraiwa (n 87) 4.

<sup>116</sup> Nakato (n 109) 320.

<sup>117</sup> Adam Liff, 'Kishida the Accelerator: Japan's Defense Evolution After Abe' (2023) 46(1) *Washington Quarterly* 63, 68.

<sup>118</sup> Linus Hagstrom and Karl Gustafsson, 'Japan and Identity Change: Why it Matters in International Relations' (2015) 28(1) *The Pacific Review* 1, 3.

<sup>119</sup> *National Security Strategy* (n 4) 3.

<sup>120</sup> *Ibid* 4.

<sup>121</sup> Hiraiwa (n 87) 7.

close relationship with China,<sup>122</sup> and, more recently, Russia.<sup>123</sup> Japan's relationship with China, which is an increasingly global threat,<sup>124</sup> will now be examined.

## **B *Japan-China Relations***

Although the Korean Peninsula and cross-strait relations remain precarious, China's strengthening military, increasingly aggressive diplomacy, and disputes over history and territory with Japan have surfaced as the core of Asia's new security dilemma.<sup>125</sup> In terms of historical context, disputes dividing China and Japan include the revival of right-wing Japanese nationalist movements, continuing visits to the Yasukuni Shrine where Japan's war heroes (or war criminals) are buried, the Nanjing Massacre and brutal Japanese invasion, the 'comfort women' issue, and the revision of history textbooks.<sup>126</sup> In particular, despite numerous Japanese officials apologising for Japan's war-time aggression,<sup>127</sup> China argues that Japan's re-interpretation of its peace clause represents the revival of its earlier militarism.<sup>128</sup> Revival of 1930s geopolitical discourses, status, identity, and nationalism have been identified as potential explanatory variables for the mutual demonisation between China and Japan.<sup>129</sup>

Japan's dependence on the sea for its economic prosperity and security is among its oldest security concerns.<sup>130</sup> In terms of prosperity, Japan's leadership has reduced confidence in relying on China's economic juggernaut due to the increase in Beijing's willingness to use its economic power for diplomatic coercion.<sup>131</sup> Tokyo's political elites have also become increasingly concerned about China's assertion of its territorial and resource interests in the East China Sea, South China Sea, and the sea lanes for trade in both the Asia-Pacific and beyond to the Persian Gulf.<sup>132</sup> While China wants to secure sea lanes for trade and acquisition of resources,<sup>133</sup> Japan has actively contributed to peaceful regional stability through antipiracy operations in the Strait of Malacca and the Gulf of Aden. These operations ensure free passage of goods and oil through this shared

---

<sup>122</sup> Ibid 4.

<sup>123</sup> 2023 North Korea–Russia Summit (Vostochny Cosmodrome, Amur Oblast, Russia, 13–17 September 2023).

<sup>124</sup> Hughes, 'Japan's Foreign Security Relations' (n 74) 381.

<sup>125</sup> Moon and Suh (n 54) 76.

<sup>126</sup> Ibid 77, 96.

<sup>127</sup> See Oros, 'Japan's Security Renaissance' (n 52) app 3.

<sup>128</sup> Linus Hagstrom and Chengxin Pan, 'Traversing the Soft/Hard Power Binary: The Case of the Sino-Japanese Territorial Dispute' (2020) 46(1) *Review of International Studies* 37, 48.

<sup>129</sup> Moon and Suh (n 54) 80.

<sup>130</sup> Oros, 'Japan's Security Renaissance' (n 52) 78.

<sup>131</sup> Suzuki and Wallace (n 6) 715.

<sup>132</sup> Hughes, 'Japan's Foreign Security Relations' (n 74) 378; Haley (n 33) 15.

<sup>133</sup> Moon and Suh (n 54) 79.

maritime space.<sup>134</sup> Ultimately, China's hegemonic rise and ambition is fuelling Japan's sense of insecurity.<sup>135</sup>

The main security dispute between Japan and China, involving serious risk of militarised conflict, involves the sovereignty of the five small uninhabited Senkaku Islands in the East China Sea (known as the 'Diaoyu Islands' in China).<sup>136</sup> The islands are strategically important as the surrounding waters are rich in natural resources, containing valuable fishing grounds and oil and gas reserves.<sup>137</sup> China contends that the islands have been a part of its territory since ancient times,<sup>138</sup> whereas Japan's claim of sovereignty over the islands is based on the understanding that the 1951 *San Francisco Peace Treaty*<sup>139</sup> placed them under US administration as part of the Nansei Shoto archipelago.<sup>140</sup> In September 2012, after Japan purchased three of the islands from a private owner,<sup>141</sup> tensions rose significantly after Prime Minister Noda announced his plan to nationalise the disputed islands.<sup>142</sup> Vice Foreign Minister Zhang Zhijun responded that China has an unshakeable resolve, confidence and the ability to uphold its territorial integrity.<sup>143</sup> In January 2023, the US Joint Security Consultative Committee reconfirmed what President Obama publicly confirmed in April 2014 — that art V of the US–Japan Security Treaty applied to the Senkaku Islands.<sup>144</sup>

Both Beijing and Tokyo appear unwilling to compromise on their territorial claims, with each accusing the other of ignoring historical facts and defying international law.<sup>145</sup> In terms of soft power, Japanese policymakers represent China as a state seeking to change the status quo by coercion or force and juxtapose aggressive Chinese revisionism with peaceful Japan's allegiance to the post-war international order.<sup>146</sup> By contrast, Chinese soft power aims to get international audiences to empathise and identify with Chinese narratives and represent Japan as so 'militaristic' that 'history may repeat itself.'<sup>147</sup> This apprehension has been operationalised through physical power via the deployment of Chinese surveillance ships and Japanese Coast Guard vessels to the

---

<sup>134</sup> Oros, 'Japan's Security Renaissance' (n 52) 78.

<sup>135</sup> Shibata (n 50) 89.

<sup>136</sup> Richter (n 14) 1247–1248.

<sup>137</sup> Hughes, 'Japan's Resentful Realism' (n 31) 130; Richter (n 14) 1247.

<sup>138</sup> Richter (n 14) 1248.

<sup>139</sup> *Treaty of Peace with Japan, Allied Powers–Japan*, signed 8 September 1951, 136 UNTS 45 (entered into force 28 April 1952).

<sup>140</sup> Hagstrom and Pan (n 128) 49.

<sup>141</sup> Haley (n 33) 15.

<sup>142</sup> Moon and Suh (n 54) 87; Li (n 57) 59.

<sup>143</sup> Moon and Suh (n 54) 88.

<sup>144</sup> Japan Ministry of Defence, *Joint Statement of the Security Consultative Committee* (n 67) 2; Yahuda (n 91) 206.

<sup>145</sup> Li (n 57) 59.

<sup>146</sup> Hagstrom and Pan (n 128) 49.

<sup>147</sup> *Ibid* 48.

disputed area.<sup>148</sup> Moreover, Beijing, responding from a position of status and strength,<sup>149</sup> declared an Air Defence Identification Zone including the Diaoyu Islands.<sup>150</sup> This soft and hard power binary has solidified a consensus among Japanese analysts that Chinese grand strategy has decisively shifted from regional cooperation and integration to one of attaining regional hegemony<sup>151</sup> and global power projection.<sup>152</sup> The Chinese no longer regard Japan as their competitor, which stokes Japan's proactive nationalist posture.<sup>153</sup> Furthermore, and as expected, China responded to Abe's Cabinet Decision and legislative change with widespread condemnation.<sup>154</sup> The complex combination of deep-seated animosities fuelled by Japanese brutality in World War II, the Senkaku Islands sovereignty dispute, and rising nationalism in both countries has increased the potential for armed conflict.<sup>155</sup>

### C *Kishida's National Security Strategy*

In December 2022, Prime Minister Kishida's Cabinet announced a new *National Security Strategy*, together with a National Defence Strategy and Defence Buildup Program.<sup>156</sup> To maintain and develop a free and open international rules-based order, Japan's first pillar of comprehensive national power to prevent crises and proactively create peace and stability is vigorous diplomacy.<sup>157</sup> This pillar aligns with Japan's peace clause, with its focus on coexistence and coprosperity. Second, Japan's defence capabilities to deter, disrupt, and defeat threats as the last guarantee of national security include bold, interrelated policy ideas: first, a phenomenal surge in its defence budget; and second, acquisition and development of counterstrike capabilities. While some argue that China is not a threat and that Japan has embarked on a radical and dangerous departure from its former, passive policy stance,<sup>158</sup> such strategies aim to bolster alliance deterrence and are assertively framed through pacifist language including 'fundamental reinforcement,' 'responding,' 'continuing,' 'detering,' and 'protecting.'<sup>159</sup>

<sup>148</sup> Li (n 57) 59.

<sup>149</sup> Moon and Suh (n 54) 80.

<sup>150</sup> Hagstrom and Pan (n 128) 53; Yahuda (n 91) 206.

<sup>151</sup> Hughes, 'Japan's Resentful Realism' (n 31) 127.

<sup>152</sup> Suzuki and Wallace (n 6) 714.

<sup>153</sup> Moon and Suh (n 54) 80.

<sup>154</sup> Shibata (n 50) 96; Richter (n 14) 1253.

<sup>155</sup> Richter (n 14) 1253.

<sup>156</sup> Ministry of Foreign Affairs of Japan, *Adoption of the New "National Security Strategy"* (Statement by Foreign Minister Hayashi Yoshimasa, 16 December 2022) ('*Adoption of the New "National Security Strategy"*').

<sup>157</sup> *National Security Strategy* (n 4) 11; *ibid.*

<sup>158</sup> Hannah Middleton, 'Japan's Dangerous Military Expansion' *The Guardian* (online, 2 February 2023).

<sup>159</sup> *National Security Strategy* (n 4) 18–19; Japan Ministry of Defence, *Joint Statement of the Security Consultative Committee* (n 67) 1.



In terms of defence spending, Japan aims to set aside US\$317 billion for its defence over the next five years, representing a 57 per cent increase and bringing its annual expenditure to approximately 2 per cent of gross domestic product ('GDP'), thus matching NATO's target for member states.<sup>160</sup> With Japan's public debt already at more than 200 per cent of GDP, raising taxes or issuing government bonds<sup>161</sup> will require political negotiation and careful framing. The decision to significantly expand military spending appears to have reached a tipping point, however, with broad public support for the proposed spending after Russia's invasion of Ukraine further crystallised fears of a possible conflict in Taiwan.<sup>162</sup>

Critically, Japan's enhanced defence budget will provide a new capability of counterstrike to bolster deterrence and resilience amid a rapidly worsening threat environment.<sup>163</sup> Japan's ability to respond to an attack has evolved to include the capacity to launch strikes on military targets in adversary territory.<sup>164</sup> Practically, Tokyo plans to acquire Tomahawk missiles from the US, develop its own long-range cruise missiles, invest in munition and parts stockpiles, expand passive defence bases, and enhance cyber defences.<sup>165</sup> Counterstrike capabilities to deter any invasion of Japan comply with the 2015 Legislation for Peace and Security and the peace clause, noting pre-emptive strikes remain impermissible.<sup>166</sup>

While these two policy ideas are not legally binding commitments and, to date, have not been fully resourced, Kishida's administration can be seen to be incrementally building on Abe's defence and foreign-policy platform. Complicated and deteriorating geopolitical realities have also placed the administration on the front foot. While Russia may not be a direct threat to Japan, China and North Korea are watching closely to see what Russia might gain (or lose) from its invasion of Ukraine. What follows from the invasion is Japan's efforts to deepen ties with the US and US alliances to manage the complex relationship with China.

Unless China or North Korea declares war or launches an attack against Japan, formal amendment of art 9 remains unlikely in the short to medium term. Even if art 9 is considered for amendment to alter Japan's pacifism or enable limited conditions of attack, the scope of the new wording will require delicate political negotiation inclusive of public debates. Domestic and international

---

<sup>160</sup> Tsuneo Watanabe, 'Japan's Security Policy Evolution: The Interaction Between Think Tank Proposals and Government Implementation' (2022) 17(3) *Asia Policy* 107, 108; Kana Inagaki and Leo Lewis, 'Who Is Going to Pay for Japan's Military Build-up?' *Financial Times* (online, 15 December 2022).

<sup>161</sup> Inagaki and Lewis (n 160).

<sup>162</sup> Fumiaki Kubo, 'Japan-US Relations After Russia's War in Ukraine' (2022) 14(3) *East Asia Forum Quarterly* 8-9; Inagaki and Lewis (n 160).

<sup>163</sup> Liff (n 117) 64.

<sup>164</sup> *Ibid* 71.

<sup>165</sup> Watanabe (n 160) 120.

<sup>166</sup> *National Security Strategy* (n 4) 19.

politicians, think tanks, policy writers, academics, and critically the Japanese voting public, will contribute to the debate and decide Japan's militaristic future. Whatever the potential outcome, it will have an enormous impact on global defence leadership.

## VI CONCLUSION

This article has critically analysed the likelihood of Japan amending art 9 of its *Constitution* to allow it to take a *more active* role its own defence. It has addressed the historical context of Japan's post-war reinterpretation of art 9 and the strengthening US-Japan alliance to counter a rising China. It argued that, in the light of Prime Minister Abe's previous and Prime Minister Kishida's new incremental policy-based reinterpretation, formal amendment of art 9 remains extremely unlikely in the short to medium term. This is despite external threats to Japan's national security from North Korea's unpredictable nuclear and ballistic missile testing program, as well as China's increasingly aggressive diplomacy and behaviour in relation to open sea lanes and the disputed sovereignty of the Senkaku/Diaoyu Islands.

The incremental evolution of Japan's internal defence posture is balanced towards maximising its national security, while also ensuring economic and reputational benefits in the current international system.<sup>167</sup> Japan stands out globally as a resilient liberal democracy compliant with the rule of law,<sup>168</sup> with little in the way of post-war human-rights abuses.<sup>169</sup> Japan's identity as a peace-loving nation remains,<sup>170</sup> and its contribution to peace as a reality<sup>171</sup> demonstrates Japan's security leadership in East Asia. Nevertheless, as the world continues to combat non-traditional security issues including terrorism, climate change, and hunger,<sup>172</sup> Japan is likely to have a major role to play. Whether this leads to reevaluation of its peace clause in the future remains to be seen.

---

<sup>167</sup> Easley (n 5) 80.

<sup>168</sup> Larry Diamond, 'Democratic Regression in Comparative Perspective: Scope, Methods, and Causes' (2021) 28(1) *Democratization* 22, 39.

<sup>169</sup> Moon and Suh (n 54) 95.

<sup>170</sup> Suzuki and Wallace (n 6) 732.

<sup>171</sup> Tonnesson (n 31) 264.

<sup>172</sup> Stephanie Martel, 'From Ambiguity to Contestation: Discourse(s) of Non-Traditional Security in the ASEAN Community' (2017) 30(4) *Pacific Review* 549, 553; Smith (n 37) 226.