

A Conception of Conversion of the Self-Defense Forces in Conformity to the Peace-Constitution

Asaho MIZUSHIMA

Since the end of Cold War, having lost a hypothetical enemy of Soviet Union, existence of the Japan Self-Defense Force (SDF) has been in question in its meaning and legitimacy. In the long-term view, the trend of the world is in the direction of disarmament. But, in reality, further reinforcement in quality and reorganization of armaments are under way. And various justifications are considered in order to show the reason for existing of the SDF, even inside the SDF itself.

For example,

- (1) the SDF as a "International Police Power",
- (2) the theory of general deterrent,
- (3) the theory of paramilitary risk management,
- (4) the theory of equivalence of fighting and nonfighting functions, and so on.

The standpoint of this paper is not to regard the SDF as constitutional and then go toward "disarmament": but to argue that the SDF should be dissolved as unconstitutional existence, and then, that an organization suitable to the Constitution should be newly formed. I call this idea the "military-civil conversion".

This conversion is a constituent element of Demilitarization. In performing this conversion of the SDF, important viewpoints are following.

First, considering that we should carry out the content of Article 9 of the Constitution of Japan, it is not allowed to hold all forms of armed forces and other organizations like that.

Second, when the conversion is put into practice. The SDF in the process of this conversion will exist as unconstitutional.

Third, the conversion of the SDF needs to be enforced suitable to the principles of the Constitution (respect for human rights, parliamentary democracy, local autonomy, the free access to information, and so on).

Fourth, the conversion of the SDF should be performed in relation with a radical change of the System of the Japan-U. S. Security Treaty.

As guidelines of the conversion of the SDF, important points are following.

First, as a long-term goal, our goal is to establish the International Disaster Relief Party (a provisional name). Importance of establishing the comprehensive relief organization which deal with mass disaster have been increasing, particularly in this post-Cold War era.

Second, it is necessary for Japan to fulfill its duties on the armamentresistration system of the United Nations, regulation of weaponry exports and unilateral

disposal of land mines. These fulfillments are going to operate together with the conversion of the SDF.

An example idea of concrete implementation of the conversion is following: each task which the SDF is now enforcing will be converted into the tasks of related government offices and self-governing bodies, so that they can be enforced more comprehensively.

For example,

- (1) task of relief and rescue,
- (2) disposal of underwater mines on the sea,
- (3) cooperation for disposal of unexploded bombs in domestic area and for elimination of land mines internationally,
- (4) prevention of pollution of the seas,
- (5) a project of comprehensive disaster prevention.

Further, it is necessary to convert the organization and equipment of the SDF into those of civilians.

Concretely:

- (1) a drastic cut down on military equipment,
- (2) promotion of the conversion of uses or military equipment,
- (3) to stop newly employing the personnel,
- (4) conversion of the military base into civilians.

Complete Demilitarization in 1945 was an "enforced disarmament". Disarmament after Cold War must not be under compulsion from the outside, but be spontaneous, based on democratic discussions in the state.

In the context of real politics, the possibility of realization of the conversion of the SDF is very little yet. But the conversion of the SDF will continue to be a significant task to realize the content of Article 9 of the Constitution of Japan, over the next century.

(pp. 589—617.)

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In Quest of World Peace for All Time

—Proposals Based on the Constitution of Japan—

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To all the peace-loving peoples of the world

* The authors of this book worked together to uphold the ideas and principles of the Japanese Peace Constitution, while maintaining their diversities of conscience, thought, and political stands. All stand accountable for the content of their own articles.

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Preface

Constitutional and Interdisciplinary Research for Contributing to Establish World Peace

—General Ideas and Contents—

Tadakazu FUKASE

The Japanese people must never forget the fact that in their modern history, they built a great militaristic nation, and under the name of self-defense, they invaded other Asian countries, and they experienced the horrors of nuclear warfare. In the end their militaristic regime led to the destruction of the Japanese nation itself.

Reflecting profoundly on their war experiences, the Japanese people declared in their new Constitution of Japan their desire for everlasting peace, renounced war as a sovereign right of the nation, and would not hold any armed forces, while recognizing that all peoples of the world have the right to live in peace, free from fear and want. They promised to contribute to world peace in all their efforts.

The Japanese people have determined as a National Ideal for 100 years to come a "Constitutional democratic pacifism anticipating the peace which the nuclear age ought to have".

The Japanese people have preserved this pacifist Constitution during 50 years since its enforcement, not even once authorizing to revise the Constitution and retraining rearmaments in spite of the pressures of the "Cold war", succeeded in building a economically big nation.

There remain, however, fundamental contradictions in the Japan-US military alliance as well as the Japanese Self-Defence Forces in relation to the Peace Constitution, and Japan is actually surrounded by so general stagnations, "corruptions" and "deadlocks". Moreover, the Japanese people are being asked, since the dissolution of the Cold war era and end of the Gulf War, to show "international contributions" to world peace at the end of 20th century.

In this era of structural change, there are three routes for the Japanese people to choose from.

One route would require Japan to change the pacifist Constitution and return to being a military strong nation, able to contribute to international military activities.

The second route would lead her to leave the Constitution as it is but to continue on her present path of escalating the SDF to conform to a "redefinition" of the

Japan-US pact.

The third route would require Japan to truly abide by the ideals set forth in her peace Constitution, to develop its universal and inherent values, and enable her to become a model of constitutional democratic pacifism.

The first route has followed by Japan once before, and it will lead sooner or later to her destruction.

The second route could be following a hit or miss compromise-conformist pattern with no clear backbone principle. This path cannot be followed indefinitely, and sooner or later the nation will no longer be able to go on.

The third route would be the path which the Japanese people could choose with an independent spirit of constitutional peace. If the Japanese people follow this path, other peoples of the world will understand and trust them as a truly peaceful nation. Isn't this the vision of the Japanese people?

We, Japanese constitutionalists judge that the third route is the righteous path to follow for the Japanese people, and five years ago we organized a nationwide constitutional and interdisciplinary research group to offer proposals and comprehensive peace strategy from the Japanese Constitution as a model of how to contribute really to the world peace.

The background of this research on constitutional policy is the solid and rich foundations of 50 years of Peace Constitution Studies: Objective interpretations of the original constitutional code, Social-scientific and positive criticism of the realities of militarization, and Creative research of alternative peace strategy to replace the military forces. On these foundations, we tried to go to further steps.

This book is the result of our research, and is titled "For the Everlasting World Peace—Proposals from the Japanese Constitution".

It is clearly evident that this book continues and develops the fundamental thoughts of famous German philosopher I. KANT in his book "Zum ewigen Frieden—ein philosophische Entwurf", published 202 years ago:

"Higher realism", which means a long-range, gradual and synthetic strategy, by which one approaches realistically step by step toward the universally approvable ideal of world peace;

Especially, KANT pointed out categorically that "Annihilating war (bellum interneccinum) and its means must be absolutely forbidden, and this assertion requires that in our nuclear age the traditional concepts concerning war and peace must have "a Copernican change".

We conclude that the Japanese Constitution, which renounces all wars and enacted complete disarmament for "everlasting peace" has elevated the universal "imperative" of Humankind to a principle of the highest constitutional priority for the Japanese people: in the nuclear and planetary age "Humankind should not be

annihilated and buried—dead to eternal peace—with the globe as its—graveyard, but Humankind must survive and develop—living for everlasting peace—on an earth well preserved".

We think that the Japanese people should be the people with a "Constitutional democratic pacifism anticipating the peace of nuclear-planetary age", who will preserve these ideals as a backbone and fundamental principles for the service of Mankind.

Isn't it worthy of being the Vision of the Japanese people for 50 years to come in the new century?

This book proposes many guidelines and examples of concrete measures following the principles of the Japanese pacifist Constitution.

We would like to present this book as a historical testimony of the truth which the Japanese Peace Constitution Studies have attained at the end of the 20th century, for younger generations who will succeed and develop it further in a brighter perspective.

(pp. 3—31. of this book)

Part I
General Problems

Proposals for Everlasting World Peace from
the Constitution of Japan

—Constitutional Democratic Pacifism
Anticipating the Peace of the Nuclear Age—

Tadakazu FUKASE

What was the basic idea for the everlasting world peace in the Constitution of Japan, which was enacted 50 years ago as a farsighted national policy to last 100 years? It is, I would conclude, an advanced idea of Constitutional democratic pacifism anticipating the peace which the nuclear age ought to have.

This constitutional democratic pacifism has been adhered to and preserved by the Japanese people for 50 years since the enforcement of the Constitution, even under the pressures of militarization from the Cold war and the Gulf war. Toward the next century, we, the Japanese people, should walk the righteous path established by this constitutionalism. Not yielding to a "redefinition" of the Japan-US security treaty or a "recognition" of the constitutionality of the Self-Defense Forces, we should utilize the constitutional pacifist principle as a new guideline for international cooperation. We should not give up this constitutionalism halfway.

The Japanese people, facing to the horrors of the reality of nuclear war, resolved at the starting point, in proclaiming the Constitution of Japan, that we renounce all kinds of war and armed forces, and ensure the right to live in peace for all peoples of the world, not only the Japanese. We confirm that this constitutional resolution is a right and universal principle for Humankind.

As for the constitutional reality, we have never amended our original Constitution, and it remains as an effective political-legal norm in many fields and in restraining rearmament. In the light of our experience, we believe that it is quite possible to overcome, in the long range and gradually, the conflicts between our Constitution and the Japan-US military pact or the Japanese SDF.

Thus, in the 50th anniversary of the Constitution, the important and urgent tasks for us are: to recognize the disastrous reality of wars in the nuclear age, to re-

interpret the Constitution in the light of the universal principles of Constitutional democratic pacifism, to try to internationalize the functions of constitutional principles, to study and elaborate a comprehensive strategy for world peace, and finally, to make every possible effort to fulfill these tasks.

The Preamble of our Constitution is based on the premise of the principle of international cooperation. This premise is guided and ruled by the principle of permanent pacifism in the nuclear age, which is more advanced than the *status quo* of international society.

The Japanese people determine to renounce all wars and to trust fundamentally in the justice and faith of the peace-loving peoples of the world.

They confirm that all peoples of the world have the right to live in peace, free from fear and want resulting from war and military forces, and that this right is a universal natural right in our nuclear age.

The Preamble further declares that the peace Constitution system supports liberal democracy, which, reciprocally, establishes peace by its democratic control and leadership.

It becomes obvious that, following the principles of the Preamble, the pacifism of article 9 of the Constitution requires "a Copernican change" in traditional concepts of war and peace. Under this new interpretation, we can present the following three propositions:

First: Renunciation of War. We should aim, not at resorting to war, but at reducing and abolishing the chances of war or the use of forces, with the final goal of abolishing the system of war. (Part II of this book)

Second: Non-Maintenance of the Armed Forces. We should make every effort, not to expand armaments, but to reduce and abolish conventional weapons and nuclear weapons in particular, and should change armaments into pacific (non-military) facilities. (Part III)

Third: The Right to Live in Peace. We should create a just and peaceful world order in which the right to live in peace, free from fear and want, is equally guaranteed and respected not only among Japanese people but also among all peoples of the world. (Part IV)

The specific concrete contents of "The Propositions for Everlasting World Peace" will be examined and presented systematically according to the Ideal, Principles and Provisions of the Constitution of Japan mentioned above.

This book is just a clarification of the propositions of the "Constitutional democratic pacifism anticipating the peace which the nuclear age ought to have" as a

comprehensive strategy for peace.

Also it presents guidelines and many concrete examples of measures for international cooperation in a true sense by the Japanese people.

Furthermore, this book will make clear our fundamental position of "Constitutional Diffusion" (Fuken-shugi) as well as the process of gradual diffusion and the philosophy of the right to live in peace not only of the Japanese people but also of all peoples of the world in the nuclear and planetary age.

The construction of a perpetually peaceful world order where this right to live in peace is equally respected on an earth well preserved will be the Justice of a new civilization.

(pp. 35—103.)

The Present Significance of the Article 9 of the Japanese Constitution

—On its inevitability in "The Present"
After the World War II—

Yasuo SUGIHARA

This article tries to certify that the age of the article 9 of the Japanese Constitution has surely come in "the Present" after the World War II.

The Article 9 of the Japanese Constitution provides all forces never maintained and the renunciation of war including war for self-defense. At the time of establishment of the Constitution, the government construed as previously stated and the academic world keeps the interpretation as stated above all the while. By the Article 9 it is confirmed armed forces and war had already lost their conventional significance through the repeated hardships of HIROSHIMA and NAGASAKI.

On the contrary, in "the Present" after the World War II, up to the beginning of 90's, cold war and a fierce armaments race were spread out. Japan also acted a part of the race against the Article 9, and maintained the Self-Defense Forces, one of the world's foremost armies.

By the armaments race nuclear and non-nuclear weapons were accumulated with terrible capacity on the brink of ruin of the human and, to make matters worse, in all countries participated the armaments race it struck a serious damage against economy and finance. The Soviet Union was consequently collapsed, the advanced capitalist countries not to speak of U. S. A. got into trouble on economy and finance, and the realization of the ideas provided in their Constitutions is a remote possibility. Moreover many developing countries are placed in painful conditions contrary to expectation of "developing country".

From the experience of the fierce armaments race, we must inevitably reconsider the absurdity of armed forces and war and also the failure of economy and finance. To preserve our security and existence we must firmly establish the Article 9 as the legal principle in the internal and international societies.

This article further refers to the problem of possibility to avoid war and, to resist an impulse to the war inherent in modern capitalism, advocates not only proclaiming the Article 9 as international law but also accomplishing the idea of welfare state internally and proclaiming of the idea in international law.

(pp. 107—133.)