

Mukō-shi Dai-yon-kōku Kenpō Kū-jō no Kai (向日市第 4 校区憲法 9 条の会: The 9th Article Association of Mukō City's Fourth School District)

Terado Community Center in Mukō City

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The Revision of the Constitution and the Mass Media Coverage

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What will become of the 9th Article, the National Defense Force, and overseas dispatch of the troops? The Abe administration is running into tall hurdles. ⁱ

What follows is a report that summarizes the lecture given at the event held on June 16 by “*Mukō-shi Dai-yon-kōku Kenpō Kū-jō no Kai* (向日市第 4 校区憲法 9 条の会: The 9th Article Association of Mukō City's Fourth School District).” Takao Sumii

1. In the forthcoming election for the House of Councilors taking place in July, the prime minister Shinzō Abe is making an issue of the Revision of the current Constitution. He is stating that he is hoping, for the time being, to revise the 96th article, making the requirements to be met by the Diet for/before submitting the proposed revision to a national referendum a majority of the entire membership in each of the two Houses (as opposed to at least a two-thirds majority of all of the members in each House which has been hitherto required to submit it to the referendum). But, after finding the Japanese citizens hardly in favor of this idea of revising the 96th Article, he, being compelled to take a less assertive tone, began to slightly recoil from showing his commitment to the revision of the 96th Article. Though he had previously promised to “fight openly for the revision of the 96th Article as an issue in the election,” he, in answering in the Diet deliberation given

on May 12, admitted that “It is true that there is a lot of opposition to it [the revision of the 96th Article]. If it is submitted to a national referendum, it would be voted down.”ⁱⁱ However, as for his commitment to the constitutional revision itself, he mentioned that he “have not wavered in the slightest.”

2. The salient features of the Liberal Democratic Party’s “Draft of the Revised Constitution of Japan” are as follows: (a) the Emperor would be invested with the position of the head of the state, (b) *Hinomaru* and *Kimigayo* would be proclaimed, written into the constitution, to be the national flag and anthem respectively, (c) the state’s right to self-defense would be recognized, (d) the national defense force would be founded, (e) the Japanese people’s rights would be guaranteed “insofar as” they do “not interfere with public interest and public order” (as opposed to “public welfare” in the current constitution), (f) freedom of expression, freedom of assembly and association, freedom to choose and change one’s residence, and freedom to choose one’s occupation would “not be respected” if they are exercised “for the purpose of interfering with public interest and public order,” (g) the right of public officials as workers to organize and to bargain and act collectively would be restricted, (h) the political party law would be enacted, (i) a declaration of a state of emergency clauseⁱⁱⁱ would be newly added. Moreover, the LDP draft is sprinkled with various provisions that would bind Japanese people, such as a denial of individualism and an unreserved, downright denial of the voting rights of people other than those with Japanese nationality.

3. Against this backdrop, the Yomiuri Newspaper and Sankei Newspaper made out each of their own official draft of the revised constitution in 2004 and 2013 respectively. The two newspaper companies made their presence felt by each having launched a publicity campaign on its own draft and thus jointly if unintentionally having been upholding and facilitating the LDP’s move towards the constitutional revision. In the case of the Yomiuri Newspaper, after the coming of this year, it gave coverage to such a move in a row, as it did on January 28 in “*Hashimoto Intabyū: 96-jō Kaisei Hitsuyō* (橋下インタビュー、96 条改正必要: An Interview with Mr. Hashimoto: The Revision of the 96th Article is Necessary)” and on April 16 in “*Abe Kaiken Intabyū* (安倍改憲インタビュー: An Interview with Mr. Abe: On the Constitutional Revision)” to name a few. It had even reported the LDP-drawn-up

timetable for the Constitutional Revision in detail on April 17, before its editorial dated May 3 went on to argue for making the Constitutional Revision a campaign issue for the coming election for the House of Councilors. The Sankei Newspaper, too, is currently campaigning for the revision with its proposed “*Kokumin Kenpō Yōkō* (国民憲法要項: The Outline of the National Constitution)” which was presented on April 26 and which is quite similar to the LDP draft.

4. Although the NHK had scarcely touched upon the Constitution until recently, it featured the Constitution as an issue in contention in its *Nūsu Nain* (ニュース 9: News 9) on June 11 and 12. The TBS has repeatedly featured this issue with a relatively long airtime in its programs like *Sandē Mōningu* (サンデーモーニング: Sunday Morning) and *Hōdō Tokushū* (報道特集: The Featured News) to name a few. Despite such a commitment on the TBS’s part, the commercial broadcasting as a whole remains conspicuous for recoiling from covering the issue.

The national newspapers which publically came out against the revision are as follows: the Asahi Newspaper, Mainichi Newspaper, and the Tokyo Newspaper. To the Nikkei Newspaper, the idea of a constitutional revision, in itself, is acceptable. However, the Nikkei does not buy into the LDP’s approach to the revision which attempts to first revise the 96th Article before other Articles and describes the approach as problematic. The Hokkoku Newspaper is seemingly alone in agreeing with both the revision of the entire Constitution and that of the 96th Article among all the local newspapers. Most of the other local newspapers are against the revisionist move and thus almost in step and united to oppose the revision of the 96th Article. As for the Kyoto Newspaper, its editorial dated May 3 and titled “*Rikken Shugi no Konkan Hakai-shite Yoika* (立憲主義の根幹壊してよいか: Is it All Right to Destroy the Essence of the Constitutionalism?)” traced the history of the constitution in Japan back to *Jiyū Minken Undō* (自由民権運動: The Movement for Freedom and People’s Rights) and criticized the Abe administration for hastily and unhesitatingly taking action on the revision.

When it comes to circulation figures for the newspapers for and those against the revision of the 96th article, the proponents made up of the Yomiuri, Sankei and the Hokkoku Newspaper have a circulation of 12,000,000 as a whole while the opponents including local newspapers upholding the current constitution in addition to their national (or more-nationally-circulated) counterparts against the revision of the 96th Article, namely the Asahi, Mainichi, and the Tokyo Newspaper

with a circulation of 12, 500, 000 between them three, could boast a larger circulation figure amounting to more than 30, 000, 000 copies altogether (the total newspaper circulation in the whole country reached 46, 000, 000 copies).

5. Public opinion on the 9th and on the 96th Article shows that a pro-current constitution position is clearly in the majority of the entire population of Japan.

The pros and cons of the revision of the 96th Article observed in the polls conducted by the newspapers (each of whose name would come round-bracketed after the result of its poll) are as follows: 38% agree, 54% disagree (Asahi); 38% agree, 55% disagree (Tokyo); 35% agree, 51% disagree (Yomiuri); 25% agree, 51% disagree (TBS). As these public polls demonstrate, a substantial margin exists here. Turning our attention then to public opinion on the revision of the 9th Article, the results of the recent polls such as that of the Asahi Newspaper (with 52 disagreeing while 39% agreeing) and that of the Tokyo Newspaper (with 58% disagreeing while 33% agreeing) indicate that the pro-current constitution side is certainly yet to wane.

More or less surprisingly, an advocate for the revision of the current constitution got in the way of the Abe administration. Setsu Kobayashi, a scholar specializing in constitution and constitutional laws and currently serving as a professor at Keio University, has been renowned as a staunch proponent of the constitutional revision in general and the recognition of the SDF in particular. However, Professor Kobayashi recently joined his academic opponents in the same field of study, like Emeritus Professor Yōichi Higuchi at Tokyo University, who uphold the current constitution and thus not necessarily share their position on the current constitution with him in founding *Kenpō 96-jō no Kai* (憲法 96 条の会: The Association of the 96 Article) on May 23. Touring energetically all over Japan and giving lecture after lecture, Professor Kobayashi severely denounces the Abe administration, charging that “lowering the hurdle set for the requirements for the constitutional revision without presenting its content substantially is an opportunistic fraud!” When this newly-founded *Kenpō 96-jō no Kai* held its official founding symposium on June 14 at Sophia University, Tokyo, it found the symposium to be vibrant with life—people after people ultimately reaching five times more than the association had expected in number came to the venue and eventually filled it beyond its capacity, which, in turn, led to airing the symposium for the audience who had to stay outside the venue.

In its feature on the Constitution aired on June 11, NHK *Nūsu Watchi Nain* (NHK ニュースウォッチ 9: The NHK News Watch 9) explained that in a sense, the opposition to the LDP draft is beginning to cross the party lines. As an example in point, the NHK gave an interview with a former LDP secretary general Makoto Koga in the Sunday edition of *Shinbun Akahata* (しんぶん赤旗: The Newspaper Red Flag), the party organ of his supposedly-sworn enemy, namely the Communist Party. It was a very rare case in which the NHK covered the Communist Party and its political moves squarely instead of treating the party as one of the less-significant “other parties.”

6. There is a widespread argument for the revision of the current constitution on the grounds that it had been imposed by the US. However, the recent studies reveal that it was not necessarily resulting from a semi-top-down, arbitrary decision made on Douglas MacArthur’s own authority. According to these studies, while the current constitution is reflective of an internationally-current principle in the post-war period, a report written by *Kenpō Kenkyū-kai* (憲法研究会: the Constitution Research Association), a Japanese-run private institution, played a significant role in its drafting process.

Pacifism as we know it could be trace back to the General Treaty for Renunciation of War as an Instrument of National Policy which was concluded (1928) after the First World War (1914-1918). And, Japan did sign it too. Those involved in the drafting process of the current constitution are well-known for being greatly informed and influenced by the treaty’s first article which reads, “The High Contracting Parties [Japan included] solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another.”^{iv} With its Article 2, Section 4 providing, “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations,” the Charter of the United Nations enacted (1945) around the same time period as the current constitution of Japan became another essential source of information and insight that had a considerable influence on the participants in the drafting process of the constitution.

Meanwhile, *Kenpō Kenkyū-kai* with Suzuki Yasuzō and Takano Iwasaburō as

its leading members authored its own Constitutional draft. This draft, which is reflecting and is informed by the thoughts developed by the activists of *Jiyū Minken Undō* such as Emori Ueki, was submitted to the GHQ in December 1945. Besides stating that the “sovereignty over Japan comes from the Japanese people” and that the “Emperor, with the people’s delegation of the authority, shall administer ritual and ceremonial functions,” this draft by *Kenpō Kenkyū-kai* also features equality between women and men, freedom of speech, and pacifism.

NHK found a report and a taped testimony given by Lt. Col. Milo E. Rowell, who had played a central role in the making of the MacArthur draft as the Chief of Judicial Affairs, to be in “Truman Library” in Missouri, the United States. According to NHK, Lt. Col. Rowell had analyzed in detail the draft written/presented by *Kenpō Kenkyū-kai* and subsequently wrote a report on it, which was submitted to MacArthur. On its documentary on (an untold story of) the making of the current constitution (aired on May 2, 2007), NHK showed Rowell admitting that he considered the provisions contained in the draft by *Kenpō Kenkyū-kai* to be democratic and acceptable and that he held that a draft which would satisfy MacArthur would result if Rowell and his colleagues make some modifications to this *Kenpō Kenkyū-kai* authored draft.

7. It seems that there have been many discussions on constitution and military power which developed a wide range of arguments and solutions in various countries in the world after the Second World War. As a result, a variety of devices including the promotion of peaceful settlement of disputes, the declaration of renunciation of war, and the condemnation of war of aggression were incorporated into the constitutions of the European and Asian countries. Although it does not negate military power, the Constitution of Italy explicitly declares the renunciation of war. Similarly, France, Germany, and South Korea negate war of aggression in their constitutions.

The 11th Article of the Constitution of Italy states, “Italy rejects war as an instrument of aggression against the freedom of other peoples and as a means for the settlement of international disputes. Italy agrees, on conditions of equality with other States, to the limitations of sovereignty that may be necessary to a world order ensuring peace and justice among the Nations. Italy promotes and encourages international organisations furthering such ends.” (The Restraint on War and Promotion of International Peace)^v

The 2nd section of the 2nd Article of the Constitution of the Republic of the Philippines proclaims, “The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.”^{vi}

There are no less than 26 countries without their own armed forces in the world. Iceland used to have the NATO’s armed forces stationed within its borders, though the pullout took place and left the nation troop-less since then. In the Caribbean, Central America and South America, not only Costa Rica, but also Panama, Grenada, the Commonwealth of Dominica, Haiti, and Saint Vincent and the Grenadines are unarmed nations. Some of the nations located in the Pacific Ocean, such as Kiribati, Tuvalu and Vanuatsu, too, have no armed forces. The countries without their own armed forces where other nations are responsible for their defense include Monaco (giving the responsibility to France), Liechtenstein (Switzerland), the Marshall Islands (the United States), the Federated States of Micronesia (the United States).

Notes for Reference

The Promotion of Peaceful Settlement of International Disputes: Algeria, Ecuador, Nicaragua, Pakistan and so on.

The Renunciation of War: Azerbaijan, Ecuador, Hungary, Italy, and the Philippines.

The Negation of War of Aggression: France, Germany, and South Korea.

The 26 Nations with No Armed Forces: Iceland, San Marino, Costa Rica, Panama, the Commonwealth of Dominica, Grenada, Saint Vincent and the Grenadines, Haiti, Kiribati, Tuvalu, Vanuatsu, Mauritius and so on. 10 nations depend on other nations to defend themselves.

8. The geographical region where an international treaty combined with a set of related international agreements bans any military activities is the South Pole. During the International Geophysical Year (lasting from 1957 to 1958), the international community build up a cooperative framework allowing its participating nations-to-be to work together in conducting scientific research into/on (the surface of) Antarctica. Such a commitment resulted in the adoption of an

international treaty for the preservation of Antarctica. 12 nations including the United States, the United Kingdom, France, the Soviet Union (now Russia), Argentina, Australia, Belgium, Chile, New Zealand, Norway, and South Africa in addition to Japan signed the Antarctic Treaty on December 1, 1959.

Article 1, Section 1 of the Antarctic Treaty reads, “Antarctica shall be used for peaceful purposes only. There shall be prohibited, inter alia, any measures of a military nature, such as the establishment of military bases and fortifications, the carrying out of military maneuvers, as well as the testing of any type of weapons.”^{vii}

9. The Revision of the 96th Article is likely to fail due to its low popularity. In a similar vein, the 9th Article in its current form is still firmly upheld by the majority of (the) Japanese people. Accordingly, there is strong opposition to the establishment of the national defense force and to the legalization of overseas troop dispatch. Moreover, the “public interest and public order as the top priority” provision written into the LDP draft (in order) to restrict the basic human rights of (the) Japanese people was greeted with widespread disapproval from virtually across the entire country. Turning our eyes abroad, various countries in the world are almost solidly united in giving the thumbs-down on the prospective or current policy platform for the Constitutional Revision which allows Japan to reinforce its military power and to legalize overseas troop dispatch. Besides China and South Korea, the Western countries including the United States and the United Kingdom are now alert to the Abe administration and its political agenda. A view that the Abe administration is “ultranationalist” and its agenda for the “constitutional revision” is a “factor in causing the tension in East Asia” is prevailing in the international community.^{viii}

The New York Times dated May 15, 2013

“Japanese ultranationalists have condemned the 1993 apology to comfort women [the Kōno Statement of 1993], as well as a 1995 apology to nations that suffered from Japanese aggression during the war [the Murayama Statement of 1995]. The new prime minister, Shinzo Abe, initially signaled that he might revise the apologies.”^{ix}

10. The chances for the denuclearization and demilitarization of Northeast and Southeast Asia might come unexpectedly early. There is a possibility that the United States and China will join hands with each other, settling or temporarily putting aside a contention between them over the actual measures to be taken to

denuclearize North Korea. Also, Japan could take a course of action, which commits the nation to sticking to the 9th Article of the current Constitution, as well as the pacifist spirit/ideal represented by it, and, in so doing, allows Japan to actively contribute to stabilizing the entire region of Asia.

Speaking of the current 9th Article and its possible role in an international context, I cannot forget what Chalmers Ashby Johnson, a political scientist who used to be a professor at University of California, once said in a documentary film.

He stated that the 9th Article is the apology made by Japan, with which it declared to the nations in Southeast Asia that they do not need to be frightened of the recurrence of Japanese aggressive military action in 1930s and 40s, and that we Japanese would renounce publicly and legally all military power except in the case of self-defense. Throwing out the 9th Article, so he continued, would mean the repudiation of the apology (Japanese Title: *Eiga Nihon-koku Kempo* [映画・日本国憲法, The Constitution of Japan, the Film], English Title: *Japan's Peace Constitution*, Production Company: Siglo, Film Director: John Junkerman, Distribution Year: 2005).^x

Johnson holds that the Constitutional Revision currently under debate, which would allow Japan to reinforce its military power for self-defense and to open the gateway to overseas dispatch of troops, would subsequently draw the condemnation of its neighboring nations and result in destabilizing the entire region. In Johnson's view, not only the Western countries but also the whole world would find such consequences undesirable.

Given Johnson's insightful observation, it is worth remembering that the Constitutional Revision in question is not simply a domestic issue in Japan to be debated within its national borders but also an international issue attracting the world's attention as concerning peace and stability of Asia.

The Translator's Note

ⁱ The official English version of the full text of the current Constitution of Japan is available at "The Constitution of Japan," The Birth of the Constitution of Japan/National Diet Library, <http://www.ndl.go.jp/constitution/e/etc/c01.html> (accessed October 17, 2013). Unless otherwise mentioned, all the English translation of the passages cited from the Constitution of Japan is transcribed from this online page.

ⁱⁱ The single square bracketed mine.

ⁱⁱⁱ It refers to a clause investing the prime minister with the authority to proclaim a

state of emergency.

iv The single square bracketed mine.

v An English translation of the Constitution of the Italian Republic could be found at “Constitutions,” Robert F. Kennedy Center for Justice & Human Rights/ Robert F. Kennedy Foundation of Europe, <http://rfkcenter.org/costituzioni/blog?lang=en> (accessed October 28, 2013).

vi An English version of the Constitution of the Philippines is available at “1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES,” CHAN ROBLES VIRTUAL LAW LIBRARY, <http://www.chanrobles.com/philsupremelaw2.html> (accessed October 28, 2013).

vii An English version of the full text of the Antarctic Treaty is available in a PDF file at “The Antarctic Treaty,” the Secretariat of the Antarctic Treaty, <http://www.ats.aq/e/ats.htm> (accessed October 28, 2013).

viii Though the two places both within single quotation marks seem to be cited from some kind of source(s), they are not specified in the original Japanese text.

ix Although the source where this passage in its original English form could be found remains unspecified in the Japanese text, the passage in question seems to be cited from Carol Giacomo, “Did Japan ‘Need’ Comfort Women?,” Taking Note: Editorial Page Editor’s Blog/ *New York Times*, posted May 15, 2013, <http://takingnote.blogs.nytimes.com/2013/05/15/did-japan-need-comfort-women/> (accessed October 29, 2013); single underline with a hyperlink in original, while the single square bracketed by Sumii. Therefore, i simply transcribed the passage from this blog entry, which seems to be corresponding to that used in the Japanese text and adopted it as the English translation (or, more accurately, the English phrasing) of the passage, apparently a citation from somewhere in the *New York Times* dated May 15, 2013.

x In original Japanese text, a Japanese translation of a portion/passage of the interview with Johnson, possibly transcribed from the official subtitles or the portion/passage officially dubbed into Japanese, is seemingly cited from the film in question. Since Johnson’s words in original has been unavailable/inaccessible to me, instead of literally translating the Japanese text, i decided to describe what was written in the Japanese text as his statement in other English words if not simply paraphrasing it. In short, what i represent/constitute as Johnson’s words or statement about the 9th Article in the text of my translation is not necessarily identical to what he actually said in English in the interview on a word-by/for-word basis. For what Johnson said actually in his native language, see *Eiga Nihon-koku Kempo* (official English title: *Japan’s Peace Constitution*), DVD, directed by John Junkerman (2005; Tokyo: Transview; 2005). Though i referred to the possibility of the Japanese-dubbed version of the film above, it seems that it is officially unavailable (now at least) for purchasing or screening. See “DVD Video Hanbai [Sale of the DVD or VHS version of the Film],” *Eiga Nihon-koku Kempo* official website, <http://www.cine.co.jp/kenpo/order/index.html> (accessed October 30, 2013).