

SHORING UP DEFENSE:
THE NECESSARY TRANSFORMATION OF JAPAN'S SELF-DEFENSE FORCE
LEGISLATION

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LIST OF ABBREVIATIONS

ACSA	Acquisition and Cross-Servicing Agreement
ASDF	Air Self-Defense Force
DPJ	Democratic Party of Japan
DSP	Democratic Socialist Party
GNP	Gross National Product
GSDF	Ground Self-Defense Force
IJA	Imperial Japanese Army
IJN	Imperial Japanese Navy
IPCL	International Peace Cooperation Law
JCP	Japan Communist Party
JDA	Japan Defense Agency
JASDF	Japanese Air Self-Defense Force
JGSDF	Japanese Ground Self-Defense Force
JSDF	Japanese Self-Defense Forces
LDP	Liberal Democratic Party
MOFA	Ministry of Foreign Affairs
MSA	Maritime Safety Agency
MSB	Maritime Safety Board
MSDF	Maritime Self-Defense Force
NDC	National Defense Council
NLC	New Liberal Club
NPR	National Police Reserve

NSC	National Security Council
PKO	Peacekeeping Operation
RIMPAC	Rim of the Pacific Exercise
ROE	Rules of Engagement
ROK	Republic of Korea
SCAP	Supreme Commander of the Allied Powers
SDF	Self-Defense Force/s
SDPJ	Socialist Democratic Party of Japan
TMD	Theater Missile Defense
UN	United Nations
UNTAC	United Nations Transitional Authority in Cambodia

CHAPTER I

INTRODUCTION:

JAPAN'S BELEAGUERED SELF-DEFENSE FORCE

1 - Problems and Prospects

No armed force in the world suffers from as much convoluted legal maneuvering, intense media scrutiny, and undeserved international censure as Japan's Self-Defense Force (SDF).^{*} Burdened with the legacy of Japan's past, it has been steeped in controversy from its very inception, forcing Japan into the dilemma of trying to satisfy the very real need for a practical defense system while attempting to mitigate public fears of resurgent militarism at the same time. Japan has traditionally dealt with this dilemma through tightly controlled legislation regarding the SDF. The creation of this legislation is a lengthy and complicated process, made more so by the strictures of accepted constitutional interpretations combined with pressures from varied political interest groups, ever-changing public opinion, and vocal international organizations.

Ultimately, however, Japan's efforts to appease the critics through legislative constraints have ensnared the SDF in a web of complex regulations and highly subjective legal reasoning. The existence of this legislative tangle tends to have the opposite of the desired effect. Rather than building up confidence in the SDF and reducing criticism, it leaves the SDF's legitimacy in question, limits operational capability, hampers efficiency, and in some cases, may endanger the lives of its members.

^{*} The Self-Defense Force is actually comprised of three separate forces: the Ground Self-Defense Force, Air Self-Defense Force, and Maritime Self-Defense Force. For grammatical clarity, throughout this paper they will usually be referred to as a singular entity called the SDF.

Untenable though it may have been, Japan saw little need to disturb this status quo until as recently as the early 1990s. World events from that time to the present have provided the impetus for a serious review of legislation surrounding the SDF, and many more people than ever before are open to the idea of legitimizing, expanding, and more freely utilizing the SDF. Given these factors, a logical topic for examination is the legislation needed to provide a solid framework for the SDF's new responsibilities. This thesis will explore how legislation has affected the SDF over the years in the hope of determining what kind of legislation the SDF needs to: 1) allow it to realistically deal with the types of situations an armed force might encounter, and 2) eventually bring the force an unquestionable legitimacy.

Obstacles to an Expanded Role

International Criticism

While there are many questions regarding Japan's apparent intentions, one of the primary concerns is whether an expanded military role would be worth the outcry it is sure to provoke. No matter how low key and restrained the SDF has been, many of Japan's detractors have never accepted the idea that Japan has an inherent right to maintain a military force and can do so responsibly. Countries who suffered at the hands of the Imperial Japanese Military during World War II offer the most strident criticisms of the SDF, heralding its existence as evidence of revived militarism and regarding the motive of every move with deep suspicion. Their allegations, though having little basis in fact, still tend to generate images of a remilitarized and imperialist Japan rising from the ashes of World War II to begin a new course of domination over East Asia.

When Japan was deliberating legislation in the early 1990s that would allow the SDF limited participation in peacekeeping missions, then Singaporean Prime Minister Lee Kwan-yew noted acerbically that allowing armed Japanese to participate in peacekeeping missions would be like offering a drink to an alcoholic.¹ In a similar vein, the more recent announcement that the SDF would assist the U.S. in the War on Terror by providing rear-area support elicited the following response from the North Korean official publication *Rodong Sinmun*:

“The Japanese reactionary ruling quarters are hell-bent on establishing a wartime system as evidenced by the legalization of the overseas dispatch of the Self-Defense Forces . . . Japan has emerged as the most dangerous aggressor and war force threatening the peace in Asia and the rest of the world.”²

These are strong words indeed, considering that they refer to an armed force belonging to a nation that has renounced war and the use of nuclear weapons, and avoided conflict whenever possible. The SDF itself, in almost fifty years of existence, has never invaded another country, never staged a military coup, and with the exception of a few warning shots at suspected spy ships, never even fired upon an enemy. In the years since World War II, historians, military analysts, and even Japanese scholars have attempted to answer the question of whether or not the SDF poses a major threat to the rest of the world. The conclusions of their numerous studies, theses, and books are overwhelmingly in favor of the SDF.

Internal Debate

Criticism and controversy are not confined to the international scene. Within Japan too, there is incessant wrangling between factions who insist on the most literal

interpretation of the Constitution and those who favor a more practical approach. The inherent disparity between the two options has caused years of impassioned arguments over the legality of the SDF on one side, and its severely limited capabilities on the other. Naturally, the biggest conflict has been over the question of whether the SDF is even constitutional, but even among those who accept it as such, disagreements over its activities abound.

On the one hand, the SDF has often been accused of acting, or threatening to act, “extra-legally.” Such accusations go back as far as the 1960s, when SDF officers first began advocating the need for emergency legislation to circumvent civil laws that might hamper SDF operations. Alternatively, the SDF has been vilified for slow reaction time in response to disasters like the Hanshin-Awaji earthquake of 1995, when valuable time was lost while the SDF patiently negotiated the various channels of command demanded by the legislation in place at the time.* The SDF can’t seem to win either way, and it is ironic that Japan must spend so much time and effort defending the Defense Force.

Moving toward “Normalization”

While its fiercest critics, in spite of the strict legislation, continue to decry the SDF’s size, spending, and even its very existence, its supporters protest not only that the legislation hinders the SDF from doing what it was designed to do, but that the SDF could be doing more. Although supporters have seen some movement in this direction, progress has been very slow. Two of the factors in this progress have been the SDF’s essentially unthreatening profile and support from outside Japan.

* These incidents are discussed in more detail in the first section of Chapter IV.

The Mission of the SDF

The founders of the SDF believed that its existence was a vital factor in Japan's security and carefully tried to construct a viable, albeit restricted, role for the SDF that distanced it from its predecessor. In contrast to the "invade and conquer" mentality of the Imperial Japanese Military, the SDF has much more humanitarian goals. Its mission encompasses three areas, the primary one being national defense. For this, the SDF was designed to help repel invasion and deter aggression by working together with U.S. forces under the U.S.-Japan Security Treaty. The second area is disaster relief and humanitarian assistance operations. In numerous large-scale disasters, both natural and man-made, the SDF has been called on to help with everything from evacuations and medical services to supply of provisions. The third area of operations is with the joint international effort to create a more stable security environment. To this end, Japan has participated in international peacekeeping missions for several years. As we shall see later in this thesis however, in all of these areas operations (or plans for operations) have been hampered by restrictive legislation.

The Role of Gaiatsu

Critics notwithstanding, there is a great deal of international support for, and encouragement of, Japan's apparent intention to move toward a more realistic and internationally cooperative use of its armed forces. In an already tension-filled situation, however, this support sometimes translates into what the Japanese call *gaiatsu*, or pressure from the outside, because it can force Japan into an uncomfortable position

between disagreeing factions. In such situations, Japan must decide whether it would be more advantageous to give in to the pressure or to resist it.

Not surprisingly, the U.S. has been one of Japan's most enthusiastic supporters over the years, and the existence of a Mutual Security Treaty between the two nations has made it difficult for Japan to resist encouragement from that direction. It was pressure from the U.S. that led to the establishment of the SDF a few years after World War II in spite of opposition from all directions. Expansion of the SDF role at the behest of the U.S. during the 1970s subjected Japan to a further backlash from neighboring countries. When the U.S. requested Japan's participation in the Gulf War in 1990, however, Japan was unwilling to risk the harsh condemnation that would have certainly ensued had troops participated in the war.

Such pressure comes from other directions as well. Japan's economic prosperity and membership in the United Nations (U.N.) led to calls for more responsibility for U.N. peacekeeping activities beginning in the late 1980s. While this might have helped lead to the participation of Japanese troops in U.N. peacekeeping activities in the 1990s, it also led to criticisms like those of Singapore and North Korea above. In addition to peacekeeping, many countries have been more than willing to accept Japan's aid in the face of natural disasters. This too, has led to pressure to enhance capability at the risk of condemnation. Although the SDF has slowly evolved to meet the increased demands, the dire predictions of many of Japan's critics have yet to be fulfilled, and the force has proven worthy over time of the new responsibilities with which it has been entrusted.

2 - Review of Literature

Literature on the SDF, what little there is, tends to be fairly predictable depending on the period in which it was written. One of the earliest available references, *The Modern Japanese Military System* (ed. James H. Buck), was written in 1975, and coincides with the general period in which the SDF was first becoming visible to the rest of the world. It is a collection of analytical essays dealing with various aspects of the SDF, from recruitment and training to the question of constitutionality. While the tone is neutral, the overall message seems to be one of assurance that the SDF of that particular time posed little threat to the rest of the world.

The 1980s saw an economic boom for Japan, and the consequent increase in defense spending raised some consternation about Japan's military intentions. Edwin P. Hoyt's *The Militarists* (1985), and Malcolm McIntosh's *Japan Rearmed* (1986), tend to be slightly alarmist in tone, focusing on SDF activity as possible evidence of revived militarism or constructing hypothetical scenarios in which Japan's military build-up prompts an arms race that destabilizes the regional security situation. In answer to such books perhaps, we have *Sheathing the Sword*, written by Meirion and Susie Harries in 1989. In this book, which is not specifically about the SDF, the authors take a more cautious view of Japan, studying the societal, political, and economic factors that may act as predictors of ultra-nationalism. The chapters that deal with the SDF represent it as being non-threatening, and the conclusion drawn by the authors is that there are enough restraints on the system to keep it that way.

A plea for Japanese participation in the Gulf War in 1991 and the enactment of the International Peace Cooperation Law in 1992 brought the SDF even more into the

spotlight of public discourse in the early 1990s. *Japan's Military Renaissance?* (Ron Matthews and Keisuke Matsuyama, eds., 1993) tentatively predicts a positive future for Japan's SDF, citing a changed Japan and solid U.S.-Japan relations among other mitigating factors of the much-feared remilitarization of Japan. Scholarly theses like that of Thomas L. Wilborn ("Japan's Self-Defense Forces: What Dangers to Northeast Asia?" - 1994), and articles by military analysts like Richard Halloran ("Japan's Military Force: The Return of the Samurai?" - 1995) attempt to answer the question of whether or not the SDF poses a threat to the rest of the world by focusing on such factors as force size and strength, defensive versus offensive weaponry, and defense spending, as well as the changed nature of the international, political, and economic situation since World War II. The results of their studies seem to agree once again that the world has little to fear from today's SDF. Mike Mochizuki's *Toward a True Alliance: Restructuring U.S.-Japan Security Relations* (1997) and Thomas Berger's *Cultures of Antimilitarism* (1998) offer equally positive views, but while the latter implies that Japan's constitution is unlikely to ever change, the former ends his book with the suggestion that a reinterpretation of the Constitution is vital to the future of U.S.-Japan relations.

This leads us to another interesting body of literature that concerns the SDF, but whose focus is on the writing of Japan's constitution. Two such works, both very recent, are Theodore McNelly's *The Origins of Japan's Democratic Constitution* (2000), and Glenn D. Hook and Gavan McCormack's *Japan's Contested Constitution* (2001). These studies both tend to imply that expecting Japan to adhere blindly to a constitution written by outsiders is inherently unfair. They do this by focusing on the subtle meanings to be discovered through deconstructing the actual drafting process and analyzing the varied

opinions and intentions of the writers. This same concept receives considerable treatment in *Embracing Defeat: Japan in the Wake of World War II* (John W. Dower, 2000), as well as in the aforementioned works by Matthews, Matsuyama, and the Harries’.

As far as Japanese-language books on the subject of the SDF, an internet search turned up over 400 titles. Of those, I have been able to find only two in English translation. Osamu Nishi, in *The Constitution and the National Defense Law System in Japan*, deals with much the same subject matter as McNelly, Hook, and McCormack, with the most substantial difference being that his publication predates theirs by at least thirteen years. The second book, *The Hidden Army: The Untold Story of Japan’s Military Forces*, by Tetsuo Maeda (1995), offers by far the most comprehensive information about the SDF to be found anywhere. Although purported to be impartial, this book is more than a little biased against the SDF. It also implies that the U.S. is responsible for most of the changes regarding the SDF and that Japan has been suspiciously quick to leap at any opportunity to make those changes. Nevertheless, as one of the few sources that goes into any detail about the formation and early history of the SDF, it is a valuable resource. Last is another Japanese viewpoint, that of Eiichi Katahara. His essay, “Japan: From Containment to Normalization” (*Coercion and Governance*, ed. Muthiah Alagappa, 2001), presents the evolution of Japan’s armed force as a natural process that will end in what he calls normalization, giving one of the most balanced and encouraging views of the SDF to date.

From this research by Japan scholars and historians over the decades, we can formulate two major suppositions upon which to base this thesis. The first is that Japan has an inherent right to maintain an armed force, *at the very least* for the purpose of self-

defense. The second is that today's SDF is unlikely to pose a major threat to the rest of the world. Accompanying these suppositions are two secondary hypotheses based on research and observation of more recent studies, debates, and events pertaining to the SDF. One is that SDF activities will continue to expand into previously uncharted territory. The other is that the present climate, both inside and outside of Japan, seems especially conducive to productive debate on SDF activities, and possibly constitutional reinterpretation or revision as well. While the studies named above discuss the many changes in SDF legislation, they rarely give much detail about the effects of the various rules and restrictions on the SDF.

3 - Chapter Summaries

This thesis is an attempt to explore the transformation of SDF laws, examine the catalysts for that change, and describe the practical implications of the laws in the context of the realistic needs of a military force. Chapter II will begin with a brief look at the past that led to the many problems facing the SDF today. Without understanding the intensity of public sentiment against the Imperial Japanese Military in the post-war years, it is difficult to comprehend the rancor that is still directed at Japan, and by extension the SDF, today. This “pre-history” will be followed by a brief treatment of the drafting of the Constitution in order to set the stage for the myriad legal issues that would follow. After this will be an illustration of how exceedingly difficult it has been to define and limit SDF activities to keep them within accepted constitutional interpretations. The rest of the chapter is dedicated to relating a somewhat condensed history of the SDF that notes some

of the difficulties faced by the force and covers the major shaping factors of each decade of its existence.

Chapter III will provide an overview of the laws that provide a foundation for the SDF, as well as a brief description of the Diet, the legislative process, and the major political parties in order to help us understand the complexity of SDF lawmaking. As we follow the evolution of SDF law through the years, it is especially fascinating to note the elaborate verbal and legal maneuverings that were required to pass some of the legislation. This chapter will also point out the issues that have given legislators the most trouble over the years and how those issues influenced SDF legislation throughout the 1990s and beyond.

Chapter IV will examine how the SDF has conducted operations within its restrictive guidelines over the years. Presented here are a number of case studies that show how the inconsistencies and deficiencies of SDF law have been revealed when put to the test in real-life scenarios. The chapter also explains how these incidents have influenced public opinions of the SDF in a number of ways, and how they have also led to some much needed changes.

Chapter V will conclude this thesis with a tentative look at the subject of constitutional revision. Those who have propounded the idea of constitutional revision for the last five decades believe it is possible to revise the Constitution in a way that would legitimize the SDF and allow more cooperation with allies while keeping the same clear commitment to peace that has mollified Japan's detractors for so many years. An indisputable legitimacy and an unambiguous legislative framework should be the building blocks upon which the future of Japan's Self-Defense Force rests.

CHAPTER II

A TROUBLED PAST

If the SDF scarcely deserves the harsh criticisms and impassioned controversies it has been forced to endure over the years, why do these problems continue to plague it even today? To understand the obstacles to the SDF's decades-long struggle for legitimacy, one must turn to the past. Much of the blame can be placed squarely on the soldiers of the Imperial Military, for it was their actions during World War II that led to such fear and distrust of the Imperial Military that it was consequently erased from existence. Their actions were also directly responsible for a new constitution that, according to some interpretations, would deny Japan the right to ever organize and maintain an armed force again. The resultant combination of suspicion and legal ambiguity is a hindrance that the SDF has yet to overcome, at least in some minds, but there was a time in Japan when the military reigned supreme.

1 - The Legacy of Militarism

Seeds of Nationalism

Just after the Meiji Restoration in the late 1800s, the Japanese, in reaction to an alarming trend in Western expansionism, began an experiment in militaristic colonialism that would last for decades and wreak havoc across East Asia and beyond. By the time Japan entered the 20th century the country had waged two successful wars, significantly expanded its territory, and garnered the attention of the rest of the world as a military power worthy of respect. However, the second war was a costly one, and succeeding catastrophes like the post-World War I recession, the Kantō earthquake in 1923, and the

collapse of the world market in 1929, caused Japan to pursue expansion once more as a solution to easing economic conditions that had become increasingly severe.

With its plentiful natural resources, vast territory, and strategic location, Manchuria seemed like the answer to the problems. The Japanese military stationed there, emboldened by past successes, the support of public confidence, and distance from Japan's central government, took matters into its own hands. In 1931, without the consent of the Japanese government, Japanese soldiers took control of the area with surprisingly little criticism from the international sector.³

From that time, Japan's military continued to grow in power. An incident in 1936, in which a group of young military officers tried to take control of the government by assassinating top government officials, worked perversely to the benefit of the military when it turned out that the Army was the one to put down the insurrection and restore order.⁴ Trust in military leaders increased, and by 1941 complete military control was established when General Tōjo Hideki, leader of the Imperial Japanese Army, became prime minister.⁵

Japan Goes to War

With the needs and encouragement of their country behind them, and the apparent indifference of the world around them, Japan's military leaders entered into full-scale war with China in 1937 and soon moved on to surrounding colonial territories. The ensuing threat to their own concerns caused the Western Powers to respond with an oil embargo designed to choke off supplies to Japan. In retaliation, the Japanese attacked Pearl Harbor, Hawaii, in 1941.⁶ The involvement of the United States spelled the beginning of the end

for Japan, but it was another four years of hard fighting, mounting casualties, and unspeakable suffering before Japan was forced to surrender on August 15, 1945. By that time, from Manchuria in the north, to Burma in the west, and Malaysia and New Guinea to the south, there were few among the East Asian nations that had not been affected by the war.

The Imperial Military

The Imperial Japanese soldiers who wreaked such havoc were described as “the most alien enemy the United States had ever fought in an all-out struggle.”⁷ They were the product of an indoctrination that began in grade school with daily readings of the Imperial Rescript on Education, a document urging them to:

“ . . . should emergency arise, offer [themselves] courageously to the State; and thus guard and maintain the prosperity of [the] Imperial Throne . . . ”⁸

Every facet of children’s education was infused with ultra-nationalism and patriotic zeal, and even the sports curriculum included such courses as ‘Warships,’ ‘Play at Soldiers,’ halberd practice, bayonet exercise, and throwing of hand grenades.⁹ In addition to schools, the popular media stressed the values of dedication, loyalty to emperor, and supreme self-sacrifice. It is no wonder, then, that the military was considered an honorable profession, and that those in charge of training military recruits found that a large part of their job of inculcating loyalty and duty had already been accomplished through societal pressures.

Upon joining the military, recruits and conscripts were quickly submitted to a rigorous program of instruction that included training in self-discipline and strengthening of willpower. The most important thing they learned was unquestioning obedience to

their superiors, especially the emperor.¹⁰ This was accomplished with the help of the Imperial Rescript to Soldiers and Sailors, a document designed to instill in fighting men values and ideals that would keep them loyal to the country and ensure that loyalty to the death.¹¹

This rescript, also known as the Imperial Precepts, was authored by Yamagata Aritomo, who later became known as the father of the Japanese Army. It read in part as follows:

“The forces of Our Empire are in all ages under the command of the Emperor . . . It is Our will that . . . the Emperor always retain the supreme civil and military power . . . Our people will long enjoy the blessings of peace, and the might and dignity of Our Empire will shine in the world . . .”

Those who loyally served the emperor and gave their lives courageously in battle were further assured of the enshrinement and eternal worship of their souls upon their deaths. Recruits and conscripts entering the service had to study the rescript daily, listen to readings on special occasions, and memorize its five precepts.¹²

It is interesting to note that the precepts outlined in the document were loyalty, propriety, valor, faithfulness, and simplicity. These were not, in themselves, unworthy goals of any soldier. In fact, of the precept valor, the document admonished soldiers that:

“. . . If you affect valor and act with violence, the world will in the end detest you and look upon you as wild beasts. Of this you should take heed.”¹³

Unfortunately, the Imperial Japanese soldiers did not heed this warning, and the world did learn to detest them for the many atrocities that they committed in the name of the emperor. Forever associated with the uniform of the Imperial Japanese Military would be anguished remembrances of the Rape of Nanking, the Bataan Death March, and the

infamous Unit 731. Forced labor, starvation, rape, torture, and executions; the deaths of hundreds of thousands of Southeast Asians, Allied soldiers, and Japanese citizens . . . the litany of horror continued to the end of the war and beyond.

War's Aftermath

The full extent of the casual brutality of the Japanese soldiers was not realized until some time after Japan's surrender. However, the devastation of the imperial homeland caused by rampant militarism could clearly be seen by Occupation troops as they made their way through Japan's desolate, war-torn landscape. As a result of the long war years, citizens were starving and black markets were flourishing. Whole city blocks had been demolished and city infrastructures were in shambles. Orphans and homeless survivors aimlessly roamed the wasteland that had once been their home.

In the wake of the surrender, many military men were quick to forget their high-minded ideals as they rushed to loot military stores and make off with supplies. Returning soldiers everywhere served only as reminders of defeat, shattered dreams, and broken promises.¹⁴ Distrust and dislike of the military had reached an all-time high, and when the Occupation started its program of immediate demilitarization, few seemed particularly sorry to see the end of the military as they knew it. It was into this atmosphere that Japan's Self-Defense Force was born just a few short years later.

2 - The Demilitarization of Japan

Democratizing Japan

On 15 August 1945, Japan's reluctant surrender to the Allied Forces ended the Imperial Japanese Military's reign of terror. For months before the war's end, the Allied Powers had applied themselves to the question of how to ensure that such horrors never happened again. As stories of atrocities trickled in, shock turned to outrage, and suggestions for solutions ranged from complete extermination of the Japanese race to forced conversion to Christianity.¹⁵ Dismissing these extreme suggestions, General MacArthur and SCAP* engineered a plan that they hoped would prevent future disasters caused by wayward militarism. The foundation of the plan was the "demilitarization and democratization" of Japan. One key to democratization, SCAP theorized, was the abandonment of the Meiji Constitution in favor of a newer, more democratic one.¹⁶

The Constitutional "Convention"

SCAP hoped that a different constitution would guide Japan into a new era of democracy and peace. Originally, they opened the drafting process up to the Japanese government, but none of the earliest proposals was acceptable.¹⁷ A Constitutional Convention of 4 women and 20 men was hastily assembled and the drafting of the new national charter began.¹⁸ This diverse group of SCAP officials was composed of civilians and military officers. It included university professors, a sociologist, an anthropologist, a political scientist, and several lawyers (who had no experience with constitutional law).

* General MacArthur was known as the Supreme Commander of the Allied Powers, or SCAP for short. This term is now used when referring to the Occupation officials in general.

None of the group was Japanese, only a few had ever lived in Japan for a significant amount of time, and fewer still spoke Japanese with any fluency. Working in relative secrecy, they managed to come up with a draft of the new constitution after only a week's deliberation.¹⁹ In its final form, the new constitution had within it a brief declaration – the infamous Article 9 – that was meant to ensure peace, but would end up causing controversy and legal headaches that continue even to today.

To understand the rationale by which the SDF came to be considered legitimate in later years, it is helpful to look at some of the revisions Article 9 went through before being finalized. It allegedly began as part of a memo that General MacArthur sent to the Constitutional Convention, on which he had written some ideas for the foundation of the new constitution. Included in the memo was this statement:

“War as a sovereign right of the nation is abolished. Japan renounces it as an instrumentality for settling its disputes and *even for preserving its own security*. It relies upon the higher ideals which are now stirring the world for its defense and its protection. No Japanese Army, Navy, or Air Force will ever be authorized and no rights of belligerency will ever be conferred upon any Japanese forces.”²⁰ (emphasis mine)

While the memo makes it clear that MacArthur, at that time, did not foresee defense forces in the future of Japan, others had different ideas. One of those was Colonel Charles L. Kades, a lawyer and a member of the Constitutional Convention. He reasoned during the drafting that any nation has the right to at least some form of defense. The rest of the Constitutional Convention must have agreed with him, because his revision was in the draft that was eventually proposed to the legislature. It read:

“War, as a sovereign right of the nation, and the threat or use of force, is forever renounced as a means of settling disputes with other nations.

The maintenance of land, sea, and air forces, as well as other war potential, will never be authorized. The right of belligerency of the state will not be recognized.”²¹

It was a very small change, but an important one because with the deletion of the words, “even for the purpose of preserving its own security,” it could later be argued that the intent of Article 9 in its finalized form was never meant to specifically deny the right to self-defense.

Although the proposed new constitution, with its “renunciation of war” clause, met with the general approval of the Japanese people, the legislature spent considerable time working over the finer aspects of the wording. While some people, including Prime Minister Yoshida, felt that even Kades’ wording of Article 9 prohibited the right to self-defense, most agreed in the end that every nation did have that inherent right. With this in mind, Hitoshi Ashida, the Constitutional Revision Subcommittee Chairman, submitted two amendments to Article 9 so that the final wording read:

“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 a 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.” (Ashida’s additions in italics)

It was later argued that the first paragraph meant that war and force were forbidden only as a means of settling international disputes, not for self-defense. The addition of the clause at the beginning of the second paragraph pointed to the goal of international peace in the first paragraph and implied that “war potential” was anything

that might be a threat to that peace.²² In other words, since self-defense was not a threat to international peace, then it must be allowed by the Constitution.

Kades and two other members of the convention, General Courtney Whitney and Dr. Cyrus Peake, even while admitting the possibility of interpreting the amended article to allow for defense forces in the future, approved Ashida's version. This version became the final wording of Article 9. In further acknowledgement of the possibility of future rearmament, the drafters of the Constitution also chose to insert, as an extra precaution against militarism, a clause (Article 66, Paragraph 2) mandating that all future prime ministers and ministers of state be civilians.²³

Conflicting Opinions

The drafters' understanding of the situation did not solve the controversy over interpretation. While Ashida stated publicly in 1946 that the war referred to in Article 9 was "war of aggression," as late as 1950 Prime Minister Yoshida still maintained that the use of arms was prohibited, even in self-defense.²⁴ That same year, MacArthur was on the flip side of the coin stating, "'by no sophistry of reasoning' could Article 9 be taken as meaning that Japan had renounced the 'inalienable right of self-defense against an unprovoked attack.'"²⁵

The U.S. position on self-defense became even clearer with the signing of the San Francisco Peace Treaty, and the accompanying U.S.-Japan Security Treaty, in 1951. Between the two documents, it was clear that the U.S., in addition to recognizing Japan's right to self-defense, also maintained the expectation that Japan would eventually develop self-defense capability.²⁶ In 1953, for whatever it was worth, then Vice-President Richard

Nixon went on record with the Japanese people saying that Article 9 had been an “honest mistake.” By that time however, it did not really matter what Americans thought. The war-weary and gun-shy Japanese populace had wholeheartedly embraced the new constitution and made it their own.

Rethinking the Constitution

When the realities of the regional situation eventually forced the United States to encourage rearmament of Japan for self-defense, great pains were taken to keep the force within accepted interpretations of the Constitution. It was repeatedly emphasized that the armed forces would be only for the defense of Japan, and that the defense capability would be kept to the minimum necessary. In spite of these reassurances, some government officials felt compelled to raise the possibility of constitutional revision in order to make the force undeniably legal. A Commission on the Constitution convened in 1955 and deliberated on the subject for seven years with no success. The Diet Members League for Formulation of an Independent Constitution conducted a similarly unsuccessful campaign in 1981.²⁷ In January of 2000, a new Constitutional Research Council was set up, and at the present time, the matter continues to be the subject of extensive debate within the Diet.²⁸

Demilitarizing Japan

With a new, war-renouncing constitution, a complete overhaul of the education system, and the relegation of the emperor to human status, democracy quickly took root in the fertile soil of minds embittered by long years of suffering from war and military

domination. The “demilitarization” of the Japanese mind had begun. However, the physical demilitarization of Japan proved somewhat more difficult.

Long before writing the Constitution, SCAP officials had begun the process of abolishing the Ministries of the Army and Navy, disbanding the Army, outlawing aviation, and demolishing military machinery and weapons. They destroyed planes, tanks, and artillery, and confiscated samurai swords and various small arms. Ships and subs were sent to the ocean floor, soon to be joined by other items, like the remains of cyclotrons, which had also fallen under the definition of war potential.²⁹ It was a monumental undertaking, but the difficulties encountered in the disarmament of Japan did not arise from the sheer enormity of the task at hand. Nor were they related to any remaining subversive resistance or incipient desire for remilitarization. When all was said and done, complete disarmament was simply not practical, as was quickly discovered in the immediate post-war environment.

3 - The Remilitarization of Japan

The Big Exception

During the months following the surrender, SCAP realized an immediate need for experienced minesweepers to clean up the waters surrounding Japan and for ships to transport thousands of Japanese colonists and soldiers home for repatriation. No one was better qualified to accomplish these tasks than the Imperial Japanese Navy (IJN). It had the equipment, the organization, and the skilled personnel to do the job, and was consequently allowed to function in this limited capacity for the next five years. Its members continued wearing IJN uniforms (with rank insignia removed), were allowed to

keep some of their weapons, and had the same basic command structure as before. In 1948, this minimally functioning navy was placed under the supervision of the Maritime Safety Board (MSB).³⁰ In addition to its initial responsibilities, the Navy was eventually expected to help deter pirates, smugglers, and illegal immigrants from entering Japanese waters.³¹

At one point during the Korean War in 1950, General MacArthur wanted to stage an attack from the heavily mined sea off the coast of Wonsan. Having no choice but to request aid from the highly skilled Japanese minesweeping division, he sent a request to MSB Director Takeo Okubo. With the reluctant permission of Prime Minister Yoshida, a fleet of vessels manned by over 1200 Japanese personnel took part in the minesweeping operation. One sailor lost his life and several others were wounded when their ship struck a contact mine off the coast of Yonghugman. The civilian public knew nothing of their countrymen's limited participation in the Korean War.³²

“Reversing Course” on the Subject of Defense

Unlike the IJN, the Imperial Japanese Army (IJA) was effectively disbanded in 1945. However, with the size of the U.S. Army shrinking rapidly from twelve million men to 1.6 million men by 1947, and the first distant rumblings of war in Korea, there was talk on both sides of a possible rearmament in terms of ground troops.³³ The U.S. needed men to send to Korea, but did not want to leave Japan unprotected, though at the time the concern was more about internal instability than external aggression. The U.S. Department of the Army ordered a feasibility study in 1948 and shortly after, the

American Council for Japan recommended that the Japanese establish a National Police Reserve of approximately 150,000 men.

The National Police Reserve

Originally, both MacArthur and Prime Minister Yoshida were extremely reluctant to consider the issue. By mid-1950 however, with the outbreak of war in Korea imminent, MacArthur ordered the creation of a National Police Reserve of 75,000 men specifically for the purpose of controlling civil unrest. He partially justified this decision by the fact that four divisions of U.S. Army troops had been removed from their Occupation posts and sent to Korea.³⁴ In August of 1950, the SDF's earliest predecessor came into existence as the National Police Reserve (NPR).

From the beginning, the NPR was caught between the conflicting ideals of complete demilitarization (as understood from the earliest interpretations of the new constitution) and necessary military expediency. The first problem was organization. Although over half of the initial 74,580 inductees into the NPR had some Imperial Military experience, none had experience as officers. This was because former imperial officers were prohibited by the Occupation authorities from serving in positions of leadership.³⁵ The result was huge units entirely comprised of enlisted men following the orders of American officers. Without skilled Japanese officers at the helm, this uneasy mix of Americans and Japanese thrown together with little training or experience was an inefficient and dispirited force at best. When accelerated promotion rates and mandatory training did not solve the problem, it was not long before senior ex-IJA officers were being actively sought after to join the NPR.³⁶

Even when it had obtained the necessary leadership, in its earliest days this ragtag force still faced a bewildering array of oddities, obstacles, and paradoxes as it struggled to assume a meaningful form. Establishing a sense of identity proved quite difficult, since the soldiers were forced for the time being to live in abandoned American barracks and receive instruction from American instructors.³⁷ Their uniforms were a helter-skelter combination of American and Japanese items.³⁸ Their weapons, most of which were cast-offs from the American military, included rifles, light machine guns, bazookas, and light tanks – an impressive arsenal for a police force. To defuse criticism from the public, the tanks were referred to as “special vehicles.”³⁹

Resemblance to an armed military and inclusion of former IJA members notwithstanding, the new force bore little similarity to the IJA in either intent or ideology. The new police reserve was completely composed of volunteers whose service was dedicated to country and constitution, instead of the emperor. In his first address to the troops, Police Reserve Commandant Keizo Hayashi (a civilian) urged his subordinates to have a patriotic spirit of caring for fellow countrymen and to conduct themselves in a respectful manner. He further encouraged them to see the value in scholarship and common sense.⁴⁰

In its first iteration, the NPR was based on five fundamental tenets:

1. It was a peacekeeping force to deal with civil unrest.
2. It was to have a national command divided into four regions.
3. The prime minister would have jurisdiction over the force.
4. The prime minister would appoint a commander.
5. The peacekeeping units would be mobile and suitably armed.⁴¹

These were bolstered by the Occupation authority's Police Reserve Ordinance (Government Ordinance Number 260 under the Potsdam Declaration). The ordinance

stipulated in Article 1 that the purpose of the ordinance was the establishment of a police reserve and in Article 3 that the Police Reserve was under command of the prime minister and was not to infringe upon the rights of individuals.⁴² This meant they had the official blessing of the Allied Powers.

The National Security Forces

In 1952, the fledgling Navy and the NPR were combined and renamed the National Security Forces. Along with this act came an increase in manpower (by 110,000 men) and weaponry, much of which was on loan from the United States. In addition to small arms, the Security Forces now had howitzers, heavy tanks and vehicles, and with the inclusion of some forty aircraft, they had the foundation on which to build an air defense system. They also received (from the U.S.) patrol frigates and large landing ships that would greatly increase their ability to patrol and protect the coastlines.⁴³

The Self-Defense Forces

In 1954, the Security Forces were reorganized and renamed. The new Ground Self-Defense Force (GSDF), Maritime Self-Defense Force (MSDF), and Air Self-Defense Force (ASDF) were then placed under the jurisdiction of the Japan Defense Agency (JDA).⁴⁴ Even though the United States strongly recommended increasing the force strength to 350,000 men, Prime Minister Yoshida insisted that number was too high. After much collaboration, they agreed upon 180,000 as an acceptable number.* At the

* The authorized strength as of 2002 was approximately 260,000 men, which is still far below the U.S. recommendations in 1954. (Defense of Japan 2002, 411)

time of their inception, there were 150,000 men in the GSDF; 15,808 in the MSDF; and 6,287 in the ASDF.⁴⁵

4 - The SDF: Early influences and Formative Factors

Memories of World War II, Article 9 of the Constitution, political infighting, and international pressures (both positive and negative) all played a role in shaping the early SDF. This confluence of factors caused complications for the Japanese government at every turn. From the very beginning, the government had a major problem in simply trying to define terms and set limits in such a way that all sides would be appeased. Unfortunately, the euphemistic designations of the past fooled no one, and clear definitions of many concepts were annoyingly elusive.

Vague Definitions and Theoretical Limitations

The Military that Isn't

When the SDF was still known as the NPR, one of the difficulties that arose was how it would be represented to the public. Although it was called a police reserve, its organization and duties more closely resembled those of a military. Its rank structure was also the same as any military, but the names of ranks, branches of service, and unit designations were changed in order to further distance the NPR from its predecessor, and perhaps from contemporary militaries as well.⁴⁶

For example, in the IJA a major was a *shōsa*. Although majors in other countries' militaries are still called *shōsa* by the Japanese, an officer of identical rank in the SDF is a *sansa*. This distinction can cause some unnecessary confusion when the SDF interacts

with its international counterparts. Likewise, the Military Police branch now has the much more civilian-sounding name of *keikantai*, rather than *kempeitai*. While there is no doubt that some of these changes were made out of respect for the memory of those affected by the war (the term *kempeitai* still carries the same dreaded connotations to some Japanese as the term Nazi S.S. does to Germans), at the time it was very important for Japan to depict its armed force as something other than a military.

Unfortunately, even the early NPR was a little too well armed for a police force, and referring to tanks as “special vehicles” did little to placate the critics. As the quality and amount of weaponry increased, the NPR undeniably outgrew the police reserve designation, and for a brief time was referred to as a ‘military without war potential’ (*senryoku naki guntai*).⁴⁷ However, when the time came for an official name, in a move to defuse accusations of unconstitutionality the government of Japan chose to call it a defense force (*jietai*) rather than a military (*guntai*). To this day, public officials who inadvertently refer to the SDF as a military are sure to be loudly criticized by many in the public sector.

The Flexibility of “War Potential”

Once the Japanese government had tentatively established that self-defense was allowed, it was still faced with the problem of characterizing the “war potential” that was outlawed by the Constitution. In the early days of the NPR, this was not such a difficult matter. As an organization specifically set up for the purpose of maintaining public security, it only required weapons designed for that purpose. The addition of tanks and more sophisticated weapons to the arsenal triggered a need to redefine the term “war

potential,” and by 1952, it was considered “the capacity to pursue modern warfare.” By the time the Self-Defense Forces were inaugurated in 1954, a new definition of “anything beyond the minimum required for self-defense” had emerged, and remains the standard definition to this day.⁴⁸

The Mysterious Minimum

Naturally, the next problem was trying to identify the “minimum level required for self-defense.” This too, was extremely difficult to do. In the 1960s, lawmakers adopted a minimalist approach, severely limiting defense capability to the extent of modifying offensive weapons to make them fit the restriction. Examples of this include the removal of bombsights and in-flight refueling devices of F-4E Phantoms and shortening the range of F-1 ground support fighters so that they could not reach North Korea.⁴⁹

The first *Defense of Japan* White Paper admitted to the difficulty of defining the minimum limits of self-defense in 1970, along with the suggestion that much depended on the extent of scientific progress and technology. Judging from the modifications to the F-1, it is also apparent that much depended on the international situation, as well as how other countries might view Japan’s posture as aggressive or defensive. Even at that time however, it was generally agreed that items like inter-continental ballistic missiles, nuclear attack aircraft carriers, and long-range bombers would be prohibited on the basis that they would “pose a threat of aggression to other nations.”⁵⁰

The 1978 White Paper further delineated that prohibition to anything that would “cause mass destruction to the territory of neighboring nations.” Within 10 years, the

1989 White Paper had changed the definition to “[any offensive weapon that was] *solely for the purpose of* mass destruction to the territory of neighboring nations” (emphasis mine).⁵¹ Finally, the 2002 White Paper informs us that offensive weapons that “are intended to be used only for the wholesale destruction of another country” are prohibited.⁵² Some weapons, such as nuclear bombs, are obviously in the prohibited category. Others, like missile-defense systems and even non-weapon systems like spy satellites, fall into the questionable category because some people believe that they go beyond the minimum level needed for self-defense.

Over the years, there have been many people who believe that the distinction between defense and offense is not so easily drawn, and a few were willing to risk their careers by saying so. One of those people was GSDF General Hirōmi Kurisu, whose appointment to Chairman of the Joint Chiefs-of-Staff in 1977 was ended after less than one year due to his outspokenness on the subject. He caused a furor with this statement on the hazards of a strictly defensive posture:

“The history of war shows that only offense can win. We cannot respond to actions that pose a threat . . . through defensive measures alone. Weapons that do not make potential adversaries feel that their bases and strategic supplies might be at risk are clearly ineffective as a deterrent . . .”⁵³

In a similar vein, his successor, General Shigeto Nakano propounded the idea of a “forward defense” capability that would enable the SDF to strike at bases from which attacks are launched. His tenure lasted just eight months.⁵⁴

Conditions and Boundaries

After establishing and limiting the right to self-defense, it was necessary to ascertain the conditions under (and the geographic boundaries within) which, those rights could be exercised. For the first, the JDA drew up the following three principles for the right of self-defense:

- 1) There must be an imminent and illegitimate act of aggression against Japan,
- 2) All other means of dealing with the act of aggression must have been exhausted, and
- 3) The use of armed strength must be confined to the minimum necessary.

If these three criteria were met, then force could be used to defend Japan.⁵⁵

In the early days, use of that force was limited to Japan's land, sea, or air space, but it is no longer limited to just those areas. In the case of sea defense for example, the use of force was formerly limited to 200 nautical miles from Japan's coastlines, but that range was extended to 1000 nautical miles in the 1980s due to concerns over protection of the sea-lanes.⁵⁶ One thing upon which all parties did agree however, was that deploying armed troops to foreign territorial land, sea, or air space for the purpose of using force went beyond the minimum level of defense, and this opinion became the basis for the SDF law prohibiting such dispatch.⁵⁷

Establishing an Identity

In spite of the extreme care with which these guidelines were created, the SDF's early years marked a time when it operated largely in a shadowy netherworld far removed from public knowledge. The entire region was still recovering emotionally, physically, and economically from the aftermath of war, and with the Japanese populace struggling

to assimilate new ideals of democracy and pacifism, it was much too soon for the government to openly embrace the idea of rearmament, however necessary it may have been. Throughout the early 1950s, the Japanese public might have known little about Japan's rearmament, but by the time the National Police Reserve became the Self-Defense Forces, the government recognized the need to attempt to legitimize their existence and make plans for the future.⁵⁸ In 1957, the government formulated a basic defense policy that rested on the following principles:

- 1) Contribution to world peace by supporting the United Nations,
- 2) Forming a sound basis for national security by maintaining public peace and enhancing love of country,
- 3) Progressive development of defensive capabilities, and
- 4) Working within the framework of the U.S.-Japan Security Treaty to deal with external aggression.⁵⁹

Although those principles never changed, the SDF would experience a remarkable transformation in the ensuing years.

The 1960s: Clarifying Roles and Building Reputations

The SDF in the 1960s was shaped by several decidedly positive factors, one of which was the renewal of the U.S.-Japan Security Treaty in 1960. Japan's post-war economic recovery also led to an increased budget for the SDF. Another factor was increased political stability within the country and the establishment of pro-SDF conservative rule that came with it. Finally, the SDF was aided by the growing expertise of its officers as the early graduates of the Defense Academy received promotions to higher ranks.⁶⁰

Also of note during this time period was Prime Minister Eisaku Sato's adoption of two separate sets of official principles. First were the three non-nuclear principles of: not possessing nuclear weapons, not manufacturing them, and not permitting their introduction into Japan.⁶¹ In addition to those were three principles regarding arms exports: no sales to Communist countries, no sales to countries banned by UN resolution, and no sales to countries at war.⁶² Adoption of these principles was helpful in advancing the idea of Japan as a peaceful nation.

During this time, the SDF still suffered from accusations of militarism from the Socialists and other groups. In 1961, it was discovered that a group of right-wing activists and old imperialists were plotting to take control of the government in an effort to prevent a possible future communist revolution. They planned to kill a number of Diet and cabinet members and then declare a national emergency. For help in carrying out the plan, they aggressively sought the cooperation of SDF officers. None of the officers joined the revolution, however, and the plot leaders were eventually identified and arrested.⁶³

The Mitsuya exercises and the Bull Run plans, in which SDF officers were discovered trying to make plans for how to work with the U.S. to deal with an armed attack on Japan, also brought charges of militarism to the SDF during the 1960s.* In both cases, however, the officers never went past the planning stage, and although the uproar was considerable within the government of Japan, it did not attract the attention of the general public.

* See "Planning without Permission," in Section 1 of Chapter IV for details.

Overall, the 1960s ended on a positive note for the SDF. It had the encouragement of the U.S., the support of the leading political parties, and a budget sufficient to sustain growth. The force had resisted the overt persuasions of ultra-nationalists and successfully weathered some of the earliest accusations of militarism. Finally, the SDF's strictly defensive posture and low profile bolstered Japan's reassuring commitment to peace.

The 1970s: Growing Visibility

The 1970s were an uncertain time for the SDF, for as its existence and activities gradually became more visible, critics were quick to look for any excuse to accuse Japan of resurgent militarism. They did not have to look far for their first excuse. In 1970, when the strong-minded Yasuhiro Nakasone became director-general of the Japan Defense Agency, he brought SDF issues to the forefront of public knowledge with a vengeance.

A large part of the problem was his political stance. An IJN veteran with strong nationalist tendencies, Nakasone was a staunch advocate of constitutional revision, autonomous defense, and even the possible use of nuclear weapons for defense.⁶⁴ He was also the first director-general to publish the annual *Defense of Japan* White Paper, a government document designed to keep the public informed on defense matters.⁶⁵ While transparency in such matters would normally be seen as a positive thing, public discussion about an armed force that most people still felt was unconstitutional only led to more debate.

Nakasone's plan for the SDF emphasized the need for a more autonomous defense capability supplemented by the U.S.-Japan Security Treaty, rather than the other way around. Because his plan would have more than doubled the defense budget, it met

with fierce opposition in the Diet. In the end, fear of disturbing U.S.-Japan relations and irritating Asian neighbors caused the government to reject Nakasone's proposal, but a scaled down and revised plan draft was eventually approved, only to be scaled down once again in the aftermath the Arab oil embargo in 1973.⁶⁶ Nakasone's term as director-general ended after eighteen months.⁶⁷

The first revision of Nakasone's plan for defense build-up was also affected by a remarkable event that drew unwanted attention to the SDF during his tenure with the JDA. In November of 1970, a famous author by the name of Yukio Mishima managed to bring the public's fears of militarism bubbling to the surface once more. Mishima longed for a return to the *samurai* spirit of the past and had nothing but contempt for Japanese society, feeling that post-war changes had made it soft and weak. Although he believed that the SDF bore "the cross of national dishonor,"⁶⁸ he was fascinated with the strict discipline of a military and the bonds of brotherhood that formed between soldiers.

Years earlier, he had attempted to join the Imperial Military, but had failed the physical exam.⁶⁹ In the late 1960s, perhaps due to his fame, he was allowed to participate in SDF boot camp and officer training school. He later formed his own small paramilitary group, the *Tatenokai* (Shield Society). This group received special permission to train at SDF installations, and Mishima used the opportunity to try to bring about a revolution from within the SDF. After several years of training and working alongside them, one day in November of 1970 Mishima publicly exhorted SDF members to:

". . . Rise up with me, if the Self-Defense Forces do not rise up, the Constitution will never be changed. You will forever be nothing more than American mercenaries! Aren't you warriors? . . . Isn't there one among you who will not stand with me?"⁷⁰

He delivered this scathing criticism to some 1000 men outside the office of the commander at Eastern Regional Headquarters in Tokyo, after storming the building with four of his followers. His enthusiastic call for nationalism not only went unheeded, it was greeted with jeers and catcalls, and even his subsequent ritual suicide failed to gain him any disciples.⁷¹

In choosing to revise Nakasone's aggressive plans for defense, the government displayed considerable sensitivity to the depth of public sentiment over the incident. Lost in the criticism however, was the fact that the SDF had once again passed a test of character. Although guilty of poor judgment in allowing association with the *Tatenokai*, it had still proven continued resistance to the subversions of ultra-nationalist thinking.

The remainder of the 1970s was marked by a continued expansion of the SDF that caused considerable alarm to the Japanese public. The renewal of diplomatic relations between America and China caused the U.S. security strategy to shift away from China to build up Pacific sea and air defenses against the Soviets, who were engaged in a naval build-up of their own. When the 1973 oil crisis exposed Japan's dependence on oil imports, defense issues suddenly became focused on the importance of secure sea-lanes and the request by the U.S. that Japan take more responsibility for that task.⁷²

Predictably, reaction to the request was mixed. The Socialists and other SDF critics doubted that the Soviet Union would ever have a reason to disrupt shipping and insisted that giving in to the U.S. demand would force Japan into the midst of the U.S. military strategy. The conservative groups, however, believed that Japan's strategic location would make its air and sea space vulnerable to Soviet invasion in spite of its neutrality in a conflict between the U.S. and the Soviet Union.⁷³

In the ongoing debate, the JDA pushed for the military build-up it felt was necessary to protect Japan's sea and air space. Although being drawn into conflict was a last resort, effectively dealing with such conflict would require numerous improvements in intelligence gathering and tactical data processing; adequate forward interception, anti-submarine, and air defense capabilities; and substantial upgrades in firepower.⁷⁴ All of this would mean doubling the defense budget, but the Japanese public, seeing that there was a general state of détente in the world, once again balked at the idea of increased spending.

To assuage public concerns, JDA Defense Bureau Secretary Takuya Kubo introduced the concept of a standard defense force. Under this plan, rather than reactionary and progressive build-up spurred by international tensions, Japan would maintain a base level of defense during peacetime that could be supplemented with reserve forces if the situation warranted.⁷⁵ Prime Minister Takeo Miki finalized the plan in 1974. Combined with an official ceiling on defense spending limited to 1% of the country's Gross National Product (GNP), this plan formed the foundation of the new national defense policy.⁷⁶

Under Prime Minister Miki, JDA Director-General Michita Sakata launched the Forum on Defense Issues, a civilian committee designed to address public concerns over national security. This gave even more clarity to defense decision-making, and the fact that it met less resistance than Nakasone's Defense White Paper signified a previously unheard of public support of the military.⁷⁷ This action, together with the adoption of Kubo's standard defense force concept, demonstrated the first real evidence of civilian input into security matters. Such civilian 'interference' in military strategy caused no

small amount of frustration to the military leaders, but they were unable to debate their way to a change in the plan.⁷⁸ That some of the changes they wanted came about at all was due to a continuing shift in the regional security situation that once again called for an increased contribution from the SDF in protecting territorial waters against Soviet incursions.

With the United States beginning to expect more from Japan on the basis of the U.S.-Japan Security Treaty, Japan decided it was time to create specific guidelines on the duties of each country in the case that joint action became necessary. The official Guidelines, drawn up in 1978, specified the responsibility that each country would have in regards to: deterring aggression, responding to an armed attack against Japan, and dealing with events in the Far East that might have an impact on Japan.⁷⁹ Unfortunately for Miki however, the increase of Japanese responsibility effectively put an end to the standard defense concept as the 1970s drew to a close and the SDF tentatively entered its third full decade of existence.⁸⁰

The 1980s: Stuck in a Rut

Susan and Meirion Harries' book, *Sheathing the Sword: The Demilitarisation of Japan* (1987), gives an unflattering assessment of the SDF during the early 1980s. It describes an armed force that was discouraged from expressions of pride and prohibited from attracting excess attention. Morale was abysmal and recruitment was down, a factor that led to low physical standards for entry into the SDF. Although it had some sophisticated weapons, much of the armory was outdated, and procurement was restricted by the mandatory low budget. The results of a computer analysis of Japan's defense

capabilities in 1985 suggested that the SDF (alone) could offer only three days' resistance against an armed invasion.⁸¹

In addition to these problems, the SDF also had no known emergency mobilization plans to deal with an invasion, and any attempt to create them met fierce resistance in the Diet. The subject of emergency plans had emerged in the 1960s and been a topic for debate throughout the 1970s, but opponents claimed that, in addition to endangering civil rights, special measures to allow emergency dispatch of forces would violate the principle of civilian control. Proponents of emergency procedures, however, suggested that since emergency measures were the only way to effectively deal with an invasion, the Japanese people might be willing to permit extralegal activities if the situation warranted. It would be another two decades before that debate was resolved.

Another contested subject was whether a strictly defensive posture would pose enough threat to adversaries to deter aggression.⁸² It certainly was not enough to prevent repeated attacks by Iranian fighter aircraft on Japanese-owned, operated, or chartered oil tankers during the Iran-Iraq conflict in the mid-1980s.⁸³ Furthermore, the JDA was growing increasingly aware that Japan's mandatory "minimum level of defense" capability would be no match for the Soviet's immense Pacific Fleet and its long-range, supersonic Backfire bombers. Still, there were others who believed that the escalating Soviet threat was aimed at the U.S., not Japan, and that a build-up of Japanese forces would only increase the likelihood of Japan being drawn into a collective defense situation with the U.S.⁸⁴

Into the middle of this controversy came the unexpected appointment of former JDA Director-General Yasuhiro Nakasone to the position of prime minister in 1982. In

contrast to his previous views on autonomous defense, Nakasone now strongly favored strengthening the U.S.-Japan alliance, offering Japan as “an unsinkable aircraft carrier,” to the Reagan government.⁸⁵ Since he disagreed with the standard defense force concept, it came as no surprise that he also wanted to eliminate the 1% ceiling on defense spending. Although Maeda uses terms like “the collapse of fiscal restraint,” and “exceeding limits,” the spending for 1987 exceeded 1% of the GNP by only .004%.⁸⁶ It stayed in that realm for two more years, and then moved back beneath the 1% level.⁸⁷

Nakasone brought the SDF out of the shadows by unashamedly declaring it constitutional, increasing the budget, and emphasizing the need for joint exercises between U.S. and Japanese forces. These exercises, in addition to bringing more visibility to the SDF, helped to strengthen the U.S.-Japan alliance, which received a further boost from Nakasone’s decision to export Japan’s weapons technology to the United States.⁸⁸ Within a few years, Japan was a leading military power, but the SDF had gone as far as it could go under the existing legislation. The 1990s would herald a new era of SDF activity, and because that new era is so closely tied in with changing legislation, that part of the SDF’s history will be covered in Chapters III and IV.

CHAPTER III

THE TANGLED WEB OF LEGISLATION

More than fifty years after its creation, Japan's Self-Defense Force remains a focal point of disagreement and debate within the Japanese government. The continued divergence of opinions manifests itself in a quagmire of legal obfuscation, calculated abstruseness, and petty squabbling over technicalities. Tensions run so high, and emotions so strong, that it is not unheard of for politicians to come to blows over the subject.⁸⁹

In considering new legislation, the government must take into account varying interpretations of the Constitution, differing viewpoints of the major political parties, the changing attitudes of the Japanese public, and the caprices of international opinion. As will be shown in the next chapter, the practical needs of the SDF often come last in the list of considerations. To highlight the complex nature of SDF legislation, this chapter will provide an overview of the SDF's location within the government, the legislative process, and some of the more recent laws concerning the SDF. Before doing so, however, it is important to look at the legislative underpinnings that have carried the SDF to the present day.

1 - Foundations

The Peace Constitution

Effectuated in 1947, Article 9 of Japan's Constitution was the earliest, and continues to be the most fundamental, framework governing Japan's Self-Defense Force. Although

the writing of Article 9 is discussed in Chapter II, it will be helpful to begin this chapter with one more look at its content and most common interpretations. Article 9 states:

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 a 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 never be recognized.

Although there are numerous shades of meaning in between, there are two basic, and conflicting, interpretations of this passage.

The Liberals look at the Constitution from a strictly literal viewpoint, believing that it proclaims pacifism as the only course of action for Japan to espouse. They think that Japan has unequivocally renounced war of any kind, and that the Japanese may not resort to force in settling international disputes. They also claim that Japan is constitutionally prohibited from maintaining any military force or weapons that could be considered to offer the potential for waging war. To the extreme proponents of this viewpoint, there are no exceptions for self-defense of Japan, the defense of neighboring or allied countries, or collective defense of any kind.

On the other side of the interpretation argument is the view of the Conservatives, who favor a less literal translation. This view has predominated in the legislative process from the very beginning. The Conservatives base their interpretation on the assumptions that self-defense is an inherent right and that the war outlawed in Article 9 is aggressive war. Thus, the armed forces banned in Article 9 are only those that are capable of waging aggressive war. Likewise, weaponry that could be used in aggressive or offensive capability is considered prohibited as “war potential,” while strictly defensive weapons

are not. According to this view, the SDF is not unconstitutional, *as long as* it acts within the limits of self-defense.

Both of these interpretations raise some troubling issues. The most obvious problem with following a literal interpretation is that it would leave Japan completely vulnerable to attack from hypothetical enemies both at home and abroad. It would also make the U.S.-Japan alliance extremely unbalanced (if it were allowed to continue) and render Japan incapable of lending assistance to allies, a factor which would seriously affect international relationships.

The Conservatives' interpretation of the Constitution, while offering some solutions to those particular problems, has its own set of difficulties. One of these derives from trying to limit the SDF to a strictly self-defensive posture. As seen in the previous chapter, distinguishing between defense and offense is a task that has proven extremely difficult over the years. In erring on the side of caution, lawmakers have often restricted even self-defense capability to an extent that may do more harm than good (examples of this will be shown in the next chapter). In the end, even the traditional Conservative view of the SDF has tended to work against, rather than for it. Article 9 of the Constitution may be the first cornerstone of SDF policy, but because of these conflicting and problematic interpretations, it is an insecure foundation at best.

The Treaties of 1951

While the Constitution may not have provided a clear justification for the existence a Japanese armed force, two major treaties drawn up between the U.S. and Japan a few years later were considerably less ambiguous on the subject. In September of

1951, Japan's Prime Minister Yoshida concluded peace negotiations with the Americans by signing the San Francisco Peace Treaty. Under the terms of this treaty, Japan was to regain sovereignty and be released from the burden of additional reparations or economic sanctions.⁹⁰ While there was no specific command for Japan to rearm, the treaty did recognize both Japan's inherent right to individual or collective defense and the possibility that Japan might eventually exercise that right.⁹¹

Immediately after the signing of the Peace Treaty, Prime Minister Yoshida signed the U.S.-Japan Security Treaty, which also acknowledged Japan's right to individual and collective defense. This treaty allowed for the continued presence of U.S. forces in Japan in return for the implicit assurance that the U.S. would help Japan in case of an invasion.⁹² Since Japan would be spared the economic costs associated with fully autonomous defense, and the U.S. could maintain a forward presence in the region, the arrangement was beneficial to both sides. While an added benefit of the Security Treaty was the reassurance of a diminished military presence on the part of Japan, it did specifically provide for the eventual build-up of some defense capability in Article 3, which stated that:

“The Parties, individually and in cooperation with each other . . . will maintain and develop, subject to their constitutional provisions, their capabilities to resist armed attack.”⁹³

This treaty continues to be the basis for the U.S.-Japan relationship today, although it was revised in 1960 to clearly stipulate the U.S. responsibilities for Japan's defense and prohibit U.S. interference in Japan's domestic disturbances, among other things.⁹⁴

The Establishment Laws

Amidst heated debate, the SDF was officially signed into existence with the Self-Defense Forces Law in 1954. This law, built upon the ruling coalition's accepted interpretation of the Constitution, outlined the purpose, organization, duties, and various regulations concerning the SDF. Among those was a statute concerning civilian control, as well as specific prohibitions on conscription and overseas dispatch.⁹⁵ The SDF Law also made the prime minister Commander-in-Chief of the SDF, set up the Joint Chiefs of Staff Council, and established the National Defense Council (now known as the National Security Council).

Concomitant to the SDF Law was the Defense Agency Establishment Law. This law created the Japan Defense Agency as a civilian body in charge of SDF affairs. According to the law, the director-general of the JDA would hold a supervisory position over the Joint Chiefs of Staff, thus cementing the policy of civilian control over the military.⁹⁶ Both of these laws are easier to amend than the Constitution and have seen significant changes over the years.

The Defense Guidelines

Although there was tacit agreement on both sides as to the mutual benefits provided by the U.S.-Japan Security Treaty, it was many years before both sides worked out and solidified the actual details of the plan. In 1975, JDA Director-General Michita Sakata and U.S. Secretary of Defense James Schlesinger began a series of discussions and meetings that would lead to the development of what became known as the Defense Guidelines. Released in 1978, the Guidelines were divided into three sections that

outlined how the two sides would work together to: 1) prevent aggression against Japan, 2) deal with an attack on Japan, and 3) handle situations in the region that could affect Japan's security.⁹⁷

The Guidelines clearly identified the responsibilities of both sides in the first two sections. As to the first, it was assumed that strong evidence of U.S.-Japan cooperation would minimize external threats. Thus, in addition to maintaining its own defense capability, Japan would provide bases for the U.S. military. The U.S. side was responsible for deploying forces to those bases in Japan and for preserving its own nuclear capability. In the case of invasion, the SDF had the first responsibility to defend Japan's land, sea, and air space. Should operating within accepted constitutional limitations prove unsuccessful, the U.S. would provide what Japan could not – namely, an offensive posture capable of driving away the enemy.⁹⁸ Although there was a recommendation that the two sides be prepared to operate under a joint command structure, there were no explicit details on how to do so.

The third section of the Guidelines was somewhat ambiguous, centering on Japan's provision of forward bases and "other accommodations" for U.S. troops, without clearly defining what those accommodations might entail.⁹⁹ Supplemented by measures like the mandatory '1% ceiling' on defense expenditures and the three 'non-nuclear principles,' the Defense Guidelines were the final cornerstone of the foundation that would carry the SDF into the present day.

2 - The Political Framework

Japan's Self-Defense Force falls under the jurisdiction of the Japan Defense Agency, a supervisory body that has never been accorded full status as a ministry. Like the ministers of state however, the director-general of the JDA is still required to be a civilian, as stipulated in Article 66 of the Constitution. The prime minister, as Commander-in-Chief, must also be a civilian. The real power behind the organization lies in the Diet, which is responsible not only for choosing the Commander-in-Chief, but also for creating SDF legislation.¹⁰⁰ The Diet has the power to control the SDF budget, approve or disapprove mobilization orders, and generally regulate the SDF's every activity.¹⁰¹

The Diet

The Japanese Diet is a bicameral law-making body modeled after the British parliament. The upper house, or House of Councilors, consists of approximately 252 members who serve six-year terms. The lower house, or House of Representatives, has some 500 members limited to four-year terms. Any qualified voter over the age of 25 may run for a seat in the general elections, but party association heavily influences their chances for election. Yearly Diet sessions run about 150 days, but it is not unusual to have special sessions throughout the year.¹⁰² Bills submitted to the Diet need a simple majority vote in both houses to pass, but the lower house can overrule the upper with a two-thirds majority vote. Most bills are the result of lengthy and complex negotiations between interest groups, bureaucrats, and leaders of the major political parties.¹⁰³ In examining SDF legislation, the role of the political parties cannot be overlooked.

Political Traditions

The existence of political parties in Japan can be traced back to the late 1800s, the period following the Meiji Restoration.¹⁰⁴ Over the years, some parties have dissolved, while new ones have been added to the mix, a number of them as recently as the 1990s. They differ widely in size, organization, and ideology. The parties often suffer from factionalism, and it is not unusual for them to engage in coalition building to achieve their goals.¹⁰⁵ Since the political landscape is in a state of constant flux, it can be difficult to get an accurate picture of it at any given time. The following descriptions of the political parties in Japan are based on books written between 1987 and 2001.

The Ruling Party

The Liberal Democratic Party (LDP) began as the *Jiyutō* (Liberal Party) long before World War II, and was officially reorganized into the LDP in 1955. With its moderately conservative leanings and broad political base, it has enjoyed an almost uninterrupted predominance in the government for the last half-century.¹⁰⁶ The LDP has traditionally been one of the staunchest defenders of the SDF. Based on its beliefs that Japan has a right to self-defense and that the Constitution does not outlaw defensive warfare, the LDP does not consider the SDF to be unconstitutional. It favors the U.S.-Japan alliance, and the possible revision of the Constitution to clearly legitimize the existence of the SDF.¹⁰⁷

The Opposition

The widely varying stances of the numerous opposition parties in Japan ensure that just about anyone in Japan can find a party to support. However, many of the opposition parties have very narrow support bases dependent on specific philosophies that are resistant to change over time. Because of this, they have little chance of winning over a majority of seats in the Diet. The only time an opposition coalition did manage to take control, it was a very short-lived phenomenon. Below is a brief description of the major opposition parties over the years.

The Progressives

Active since before World War II, this small opposition party was in favor of autonomous defense and collective security. The Progressive Party's chairman was involved in the negotiations with Prime Minister Yoshida that brought about the advent of the SDF in the early 1950s.

The New Liberals

In the late 1970s, a few members of the LDP split off to form a party called the New Liberal Club (NLC). The party gained only a modest following for about ten years before merging back into the LDP.¹⁰⁸ Despite its short-lived nature, it would have had some influence on the SDF during the 1980s. Like its parent party, the NLC supported the existence of the SDF for protection from aggressive nations and preservation of internal order. It also encouraged the maintenance and advancement of U.S.-Japan relations.¹⁰⁹

The Socialists

In the years after World War II, dissatisfaction with the conservatives who had led the Japanese people into war inspired a revival of long-suppressed leftward leaning parties, as well as the formation of new ones. Born in 1945, the Japan Socialist Party (later known as the Socialist Democratic Party of Japan, or SDPJ) was one of those new parties.¹¹⁰ Although it was the largest opposition party until the 1990s, troubles with factionalism have always prevented it from being a major political force.¹¹¹ The SDPJ has traditionally viewed the existence of the SDF as a violation of what it believes is a clearly pacifist Constitution. It also portrays the U.S.-Japan alliance as an infringement on Japanese sovereignty and a danger to peace in the region. The early SDPJ's vision for Japan included ending the Security Treaty and disbanding the SDF. Ironically, there were those within the group who would have sought to replace it with a socialist military.¹¹²

In 1993, the SDPJ enjoyed a brief sojourn into the limelight when its coalition with seven other opposition parties displaced the LDP from power for the first time since 1955. However, because the coalition had no concrete plans for military reform, the SDF was largely unaffected by the turn of events.¹¹³ Although the LDP soon managed to regain power, when it did so, the SDPJ continued to be a part of the ruling coalition, along with the New Party Harbinger (*Sakigake*). Within a few years, the SDPJ had completely reversed course, acquiescing that the SDF was constitutional and accepting the need for the U.S.-Japan Security Treaty.¹¹⁴

The Democratic Socialists

In 1960, infighting within the SDPJ led to a split, and the Democratic Socialist Party (DSP) came into being. It lasted until 1993, when it merged with another party.¹¹⁵ Unlike the SDPJ, the DSP did not view the Constitution as espousing pacifism, and wanted to pass a resolution making the SDF constitutional. This party also favored an autonomous defense structure and wanted the American bases in Japan removed.¹¹⁶

The New Kōmeitō

In 1955, Sōka Gakkai, a large lay organization with strong ties to Nichiren Buddhism entered the political arena. This group believed strongly in the *un*-separation of church (Buddhism) and state (the Japanese government). However, in a move to establish independence from the group's extreme religious ideologies, its members formed the Kōmeitō (Clean Government Party) in 1964.¹¹⁷ In the years since then, the Kōmeitō has vacillated on the issue of the SDF. It has variously supported the existence of the SDF for the purpose of self-defense or claimed that it is not constitutional. It has recommended measures for the improvement of the SDF on the one hand and guidelines for its dissolution on the other. As to the U.S.-Japan alliance, the Kōmeitō accepts the need for it, but would like to see it gradually eliminated.¹¹⁸ In 1993, the party merged with another party for several years, but reemerged as the New Kōmeitō in 1999, when it formed a coalition with the LDP and another party.¹¹⁹ Still a part of the ruling coalition, the New Kōmeitō now considers the SDF constitutional, but wants to keep it limited to defense of Japan.

The Communists

The Japan Communist Party (JCP) began in 1922, was suppressed throughout the war years, and enjoyed a modest revival after World War II. Its narrow ideological views, combined with a growing dissatisfaction with communism in other countries, have kept it in a minority position over the years.¹²⁰ Nevertheless, the JCP has always had a voice in Diet debate over the SDF. One point of disagreement for the JCP has always been the U.S.-Japan alliance, with its members holding the view that the SDF is no more than a pawn of the U.S. Given the chance, the JCP would terminate the relationship and force the U.S. military from Japan. The party also believes in the right to self-defense and non-aligned neutrality, but has never revealed the specifics of how those would be achieved.¹²¹

The Democrats

The Democratic Party of Japan (DPJ) first formed in 1947 under the leadership of Prime Minister Ashida Hitoshi. The party was dissolved in 1950 and reformed in 1996.¹²² The current party leader, Kan Naoto, is an outspoken critic of Prime Minister Junichirō Koizumi's policies on Iraq, and the party showed a surprisingly strong showing in the 2003 elections, although not strong enough to unseat the LDP.

3 - The Major Points of Contention

In addition to the difficulties, outlined in Chapter II, of clearly defining and limiting self-defense capabilities, there are other complicated issues, some of which arise from trying to work within those limitations. Four of the most disputed issues are civilian

control, emergency legislation, collective defense, and the use of weapons overseas. This section will provide some brief background information on the issues and the controversy surrounding them. The next chapter will deal with the repercussions that this controversy has had on the SDF.

Civilian Control

There are few people today who would argue that civilian control, defined as democratic political control over the military,¹²³ is not a good thing. Japan's pre-World War II history provides a clear illustration of the danger of allowing a complete merger of military and political power. It was with this in mind that the Far Eastern Commission added to Article 66 of the new constitution the stipulation that the prime minister and all ministers of state be civilians.¹²⁴

At a time when many people believed that the Constitution endorsed pacifism, this clause raised a few questions as to its reason for existence. With the inauguration of the NPR however, the intention behind Article 66 became clear, and most people wholeheartedly espoused the principle of civilian control, even though it was a novel concept for a nation that had conceded a fair amount of power to the military since the 1880s.

While things have come a long way since the early days of the NPR, when civilian control meant civilian *command*,¹²⁵ there are still some hurdles to cross. The problems with proper implementation of the principle of civilian control are not due to rebellion against the basic principle. They are caused by the difficulty of balancing civilian control with military practicality in a country where: 1) there is fundamental

disagreement over the legality of the SDF, and 2) anti-Imperial Military sentiment continues to provoke knee-jerk reactionary judgments that bind the SDF with overly restrictive legislation.

The first problem with implementing the principle is that the stipulation of civilian control implies that there is a military over which to exercise that control. Lack of consensus in the Diet over the constitutionality of the SDF and denial of the SDF as an actual military have traditionally prevented constructive debate on the application of civilian control.¹²⁶ In order to clearly define and apply the principle, the Japanese government must first come to terms with the existence of a Japanese military.

A second problem is that the theory of civilian control (*bunmin tosei*) more often than not becomes bureaucratic control (*bunkan tosei*) in practice.¹²⁷ From the civilian prime minister and JDA director-general, to upper-level JDA officials and the NSC, a whole host of civilians stands between the SDF and important policy decisions. For many years, uniformed officials were rarely asked for their advice in the highly charged and cumbersome Diet deliberations.¹²⁸ In fact, until 1997 there was a National Safety Agency order on the books that prohibited uniformed officers from speaking in the national Diet.¹²⁹ The highest-ranking officer in the SDF, the Chairman of the Joint Chiefs-of-Staff, may give advice to the Security Council, but may not be a member himself.¹³⁰ Even within the Joint Staff Council, the Chairman cannot participate in resolution making, and must defer to the JDA director-general to resolve stalemates between the Joint Chiefs-of-Staff.¹³¹

Such rigid adherence to the precept of civilian control is not surprising, given Japan's history, but it has proven possible to incorporate the advice and suggestions of

military members who have expertise and experience in the military field without relinquishing that control. In the 1990s for example, Prime Minister Hashimoto allowed military officers to be on the staff of the Cabinet National Security Affairs Office. During that time period, uniformed officers also played a role in formulating the New Guidelines.¹³²

Since there does not appear to be any prohibition on former SDF members becoming politicians or JDA officials, this is another possible way to get the needed input, but those who are in the SDF long enough to become experts are unlikely to be able to start a new career as a high-level politician after retirement. Of all the difficulties faced however, the greatest has probably been how to enhance military expediency in emergency situations without violating the principle of civilian control. This leads to another factor complicating the mission of the SDF – the lack of sufficient legislation to support and protect SDF members during emergency situations.

Emergency Legislation

The issue of emergency legislation has plagued the SDF since the mid-1960s, when SDF officers first began to consider the impossibility of capably dealing with an attack on Japan under the legislative restrictions in place at the time.* It was not until 1978, however, that the matter came under serious discussion, after General Kurisu expressed concern that there could be circumstances in which waiting for a mobilization order before acting might have serious consequences for Japan. His remark that the SDF might have to act “extra-legally” in such a situation was the catalyst for his forced

* See Mitsuya Exercises, Chapter IV, Section 1.

resignation from his position as Chairman of the Joint Chiefs-of-Staff.¹³³ However, it also prompted studies on emergency legislation that have taken over twenty years to obtain any meaningful results.

One concern is that present SDF laws do not cover the “gray areas.” These might be situations that are not clearly the result of war or actions that may only constitute a prelude to aggressive action. An example of this would be if the Japanese had clear evidence that a country was preparing to fire, or had just fired, a missile at Japan. In such a case, Japan would be very limited in ability to react. While the SDF Law does include articles related to wartime actions and procedures for the maintenance of public order during disasters, these have always been deemed insufficient for handling contingencies.

In the event of an armed attack on Japan, the SDF may be mobilized by order of the prime minister. Diet approval of the order is necessary, but may occur after the fact. If the Diet disapproves, the prime minister must withdraw the order (Article 76). Under these circumstances, the SDF may use armed force, within the limits of international and constitutional law, to protect the nation (Article 88). These rules apply to the MSDF protecting sea space, and the ASDF protecting the air space around Japan as well. (Articles 82 and 84). In the event of natural or man-made disasters, Article 83 provides for the dispatch of the SDF with the JDA director-general’s approval (after a request by a prefectural governor or other official).

Until very recently, another of the shortcomings of SDF Law was that it either did not provide enough detailed legislation, or did not have the necessary supplementary legislation to support the SDF in its actions during an attack on Japan. For example, under SDF Law Article 103, the SDF could requisition necessary materials or land from a

prefectural governor. However, an ordinance outlining the procedure for doing so was never written.¹³⁴ There were also no regulations regarding removing structures from requisitioned land, timing requisition orders to coincide with alert orders, or passing over private lands during mobilization.

Additionally, there were no provisions for transcending civil laws that had the power to impede SDF progress in the event of emergency operations. The MSDF vessels would have to abide by the Port Regulation Law; the ASDF by the Civil Aeronautics Law; and the GSDF by standard traffic control laws. The construction of encampments was subject to laws like the River and Forest Laws and the Building Standards Law. Provision of emergency medical care was subject to various medical regulations and the burial of war dead to the Law on Cemeteries and Internment. There were additional proscriptions concerning telecommunications networks, explosives control, etc.¹³⁵ Without legislation in place to guide the SDF through such obstacles, progress would be slow and operations ineffective at best. It is understandable that the Japanese population is unwilling to give free rein to the military, but unless they can come to an acceptable compromise, the consequences for the Japanese people could be serious.

Collective Defense

The increase in international activities of the SDF in recent years has revived another thorny issue concerning the SDF – that of collective defense. Although the JDA consistently refers to the concept as collective self-defense, that particular term seems to be a misnomer. After all, collective self-defense is exactly what would occur if U.S. and Japanese forces ended up working together to protect Japan with the sanction of the U.S.-

Japan Security Treaty. Therefore, it seems more logical to state that collective **self-defense** is allowed (only between the U.S. and Japan in defense of Japan), while collective **defense** is prohibited, on the basis that it does not represent a self-defensive action, which is the only kind allowed under the Constitution. For the purpose of this thesis, collective defense is defined as that which occurs when one country uses force to protect the territory or citizens of another country.

The U.S.-Japan Security Treaty invokes Article 51 of the U.N. Charter (which states that “Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations . . .”) to support Japan’s right to individual and collective defense. This concept gains further support from Articles 4 and 43 of the U.N. Treaty Agreement, which affirm that all signatories (which includes Japan) must make their armed forces available to the U.N. Security Council for the formation of a U.N. force to contribute to international peace. Interestingly enough, if you add to that the fact that Article 98 of Japan’s Constitution requires Japan to “honor all treaties,” the entire debate over constitutionality becomes very confusing indeed.¹³⁶ The traditional Japanese opinion however, is that although Japan does have an inherent right to collective defense, the exercise of that right is still not permitted by the Constitution because it would represent more than the minimum necessary level of self-defense.¹³⁷

This constraint means that even though foreign troops with whom the SDF is working may use weapons to protect their Japanese counterparts, the Japanese are not allowed to return the favor. It also means that even though the United States may be legally accountable for using force to protect Japan and the Japanese under the U.S.-

Japan Security Treaty, the SDF could not respond in turn should an attack occur against the United States.

Use of Force Overseas

The use of weapons by SDF members is one more complicated subject upon which the Diet has had trouble forming a consensus. While armed force has always been considered acceptable in the case of war on Japanese soil, the involvement of SDF members in peacekeeping activities in the 1990s necessitated a thorough review of what was allowable during deployment. After all, *armed* dispatch overseas had been prohibited since the advent of the SDF.

On the other hand, the government could not send the SDF without any protection at all, so it compromised by allowing the use of weapons only in self-defense or for the protection of fellow SDF members, and then only under the order of the officer in charge. This restriction was meant to prevent SDF members from going beyond self-defense and from becoming involved in anything resembling collective defense.

4 - Debating and Creating Modern Legislation

With all of the major political parties giving voice to their differing opinions, and the contradictory nature of the SDF within the framework of the Constitution, it is no surprise that defense issues have always been complicated. This combination of factors has forced politicians to do some very intricate maneuvering to engineer legislation regarding SDF activities, and even the most recent legislation still tends to be characterized by a tendency to concentrate on the “letter of the law,” rather than the

common sense needs of the SDF or the country. Such a thing must be expected, however, when building upon a foundation that is weakened by dissent and irreconcilable differences.

Chapter II of this thesis ended with a description of the changes to the SDF wrought by Prime Minister Nakasone in the late 1980s. While he was responsible for increasing the budget, technological advancement, and visibility of the SDF, it would be several more years before those improvements could be put to use. The 1990s would prove to be a watershed decade for the SDF, thanks to two crucial events that occurred early on: the fall of the Soviet Union and the Gulf War. While the end of the Cold War opened the way for Japan to rethink its international role, it was the Gulf War that provided the most impetus for the avalanche of new legislation that was to follow.¹³⁸

After Iraq invaded Kuwait in 1990, the U.S. government requested SDF participation in the coalition effort to free Kuwait. Although they were only asked to contribute to “rear area support” activities, the suddenness and bluntness of the request caught the Japanese off guard and they were unable to come up with timely legislation that would also get around the sticky issue of constitutionality. They did contribute aid, however, in the form of \$13 billion and some minesweepers to help with the mop-up operation when the conflict was over.¹³⁹ Ridiculed for “checkbook diplomacy,” the Japanese government learned some valuable lessons through the experience. Politicians who had been calling for the participation of the SDF in peacekeeping activities got their legislation back on the drawing board, and by 1992, there was a new law in the books, the first of many to follow.

Peacekeeping Opens the Door

The idea of allowing the SDF to participate in peacekeeping was first suggested in 1984, only to be rejected by Prime Minister Nakasone. Prime Minister Kaifu raised the issue once more in 1989.¹⁴⁰ By the time of the Gulf War in 1990, the matter was under serious consideration. Because the earliest proposals for Japanese participation in peacekeeping excluded the SDF, the Kōmeitō and the DSP were initially in support of the measure. However, there was a significant lack of civilian volunteers with the training and readiness capability required for participation in such an enterprise. This necessitated the inclusion of SDF members – who by nature of their jobs already possessed the essential qualifications – in the proposal.

At the time, such a recommendation was enough to generate anti-war protests, split the LDP, and cause the Kōmeitō and the DSP to withdraw support. By the time all parties were able to agree on a bill, one that allowed only civilian participation in peacekeeping, the Gulf conflict was over.¹⁴¹ Continued debate – fueled by discomfiture over the Gulf War debacle and a coalition between the LDP and the Kōmeitō and DSP (who had once again reversed their opinions) – led to the eventual passage of a bill that did include SDF participation, in spite of vigorous opposition from the Socialist and Communist parties.¹⁴² In his book, *The Hidden Army: The Untold Story of Japan's Military Forces*, Tetsuo Maeda offers this glimpse into the legal and verbal gymnastics that were required to get the bill through the Diet:

“The task of finding holes in the forty-year taboo against sending troops abroad solely through scholastic argument without resorting to constitutional amendment required lengthy and convoluted rhetoric. The Diet decided that ‘participation’ of the Self-Defense Forces in peacekeeping operations was not acceptable, but ‘cooperation’ was.

‘Armed actions’ were unconstitutional, but the ‘use of weapons’ was not. As to command, the United Nations could not *shiki* [direct] the Self-Defense Forces, but it was acceptable for the Self-Defense Forces to receive *shizu* [command].”¹⁴³

In 1992 it was put to a vote, and after an ‘ox walk’* by the opposition, the International Peace Cooperation Law (IPCL) finally passed, allowing SDF members to be dispatched overseas.¹⁴⁴ Even then, the law was incomplete. Unable to reach a consensus on the subject of SDF participation in such activities as monitoring cease-fires and demilitarized zones, disposing of weapons, and assisting in prisoner exchanges, such details were “frozen” for the time being, ostensibly to be decided later.¹⁴⁵ However, even though the SDF was restricted to non-combatant activities like assistance with humanitarian, transport, or construction activities, the IPCL was the first major piece of legislation that expanded SDF activities beyond the borders of Japan. At the insistence of the DSP, prior approval had to be obtained before dispatch could occur. Additionally, authorization for deployment would be determined on a case-by-case basis, each requiring an act of Parliament, and the authorization would be good for only two years at a time.¹⁴⁶

The role of the SDF in peacekeeping activities was strictly defined by the law’s five principles, which stipulated the conditions that must be met before Japan could become involved. The first principle was that a cease-fire between the warring parties must have been reached before the SDF could participate. Secondly, the parties involved must consent to Japan’s participation. The third principle called for strict neutrality on the part of Japan, while the fourth stated that Japan could withdraw its forces if the first three

* An “ox walk” is a stalling tactic in which dissenting members, in an effort to show their dissatisfaction, walk very slowly to the ballot box.

requirements were not met. The last principle, and perhaps the most controversial, restricted the use of weapons by SDF members to the minimum necessary to protect their own lives or those of SDF personnel only.¹⁴⁷ These principles, hammered out so carefully in Diet deliberations, may have appeased the opposition, but would ultimately prove impractical on the ground.

The Increasing Scope of SDF Operations

International Disaster Relief

The passing of the IPCL opened the door to several new pieces of legislation in the 1990s, enabling the new, humanitarian mission of the SDF to become a viable option. For example, in the same year that law was passed, Japan revised a 1987 Law Concerning the Dispatch of International Disaster Relief Teams to allow for the dispatch of SDF teams as well. This was done in an effort to improve the efficiency and extend the capabilities of the Japan International Cooperation Agency in the event of major international disasters (i.e., earthquakes, floods, etc.). In addition to increasing the size of response teams, the SDF would be able to contribute air, land, and sea transportation of relief supplies; offer medical expertise in treating wounded or preventing epidemics; and help create and maintain safe water supplies.¹⁴⁸

Joint Cooperation

In 1996, an Acquisition and Cross-Servicing Agreement between Japan and the United States (ACSA) took effect. This allowed the mutual provision of goods and services between the two forces during joint exercises, UN peacekeeping operations, and

international humanitarian relief operations. A later amendment allowed the cross-servicing to take place during activities that occur “in response to situations in areas surrounding Japan” to this list (see “Activities Outside of Japan” below).¹⁴⁹

The New Guidelines

Also in 1996, a review of the 1978 Defense Guidelines began, and the New Defense Guidelines were solidified and released in September of 1997. Like the old Guidelines, these outlined the responsibilities of both parties in three areas of operation: the prevention of aggression, responding to attack, and dealing with situations in areas surrounding Japan. Unlike the original Guidelines, the New Guidelines were clear on the SDF’s role in the third situation. The “other accommodations” to U.S. troops would include cooperation in joint relief activities, operations dealing with refugees, search and rescue, non-combatant evacuations, surveillance, minesweeping, and sea and airspace management.¹⁵⁰

Activities Outside of Japan

In 1999, the Diet approved the Law Concerning Measures to Ensure the Peace and Security of Japan in Situations in Areas Surrounding Japan. Under this law, if a crisis situation that threatened the peace and security of Japan occurred in an area immediately surrounding Japan, the SDF could take part in “rear area support” activities that would aid the U.S. forces. These activities included everything from supply and transport, to search and rescue operations. Such activities could only take place however, in areas where fighting was not likely to occur. As with the IPCL, Diet approval had to be

obtained before participation was allowed, and the government had the right to terminate the SDF's participation if the proper conditions were not met. At the time this law was passed, the use of weapons was still restricted to defense of SDF members only.¹⁵¹

Confronting Terrorism

All of these changes were long in coming, and most of the world was accustomed to the extraordinarily slow pace of the legislative process. Therefore, it was a great surprise when Prime Minister Koizumi was able to pass the Special Counter-Measures against Terrorism Law (Special Measures Law) in November of 2001, in response to the September 11 terrorist attacks on the Pentagon in Washington D.C. and the World Trade Center in New York.¹⁵² Although this law would lift the freeze on the contentious details of the IPCL, even more significant was the fact that the new law allowed the deployment of the SDF overseas for purposes other than peacekeeping or disaster relief. The swift passage of this law was certainly aided by the outpouring of international anger and sympathy that persisted throughout the months following the bombings.

That the prevailing mood was reflected in Japan provided Prime Minister Koizumi the opportunity to encourage a sincere effort to support the United States and to make up for the much-derided "checkbook diplomacy" of the Gulf War. It is interesting to note that the Prime Minister did not wait around for the U.S. to make any requests either. Within a matter of days, he had convened the NSC and together they quickly formulated a six-part plan to:

- 1) Determine the fate of Japanese nationals who might have been affected by the attacks,
- 2) Consider the dispatch of a disaster relief team to America,

- 3) Keep the people of Japan informed,
- 4) Take measures to prevent economic confusion,
- 5) Enhance the security of U.S. facilities in Japan, and
- 6) Cooperate with the U.S. and other nations to combat international terrorism.¹⁵³

Once the plan was revealed to the public, Ministry of Foreign Affairs (MOFA) and JDA officials; representatives from the LDP and New Kōmeitō coalition; and members of the SDPJ, the JCP, and the Democratic Party jumped into the fray and the fight was on.

The last two items of the six-point plan would prove to be the most hotly debated, with the LDP, JDA, and MOFA in support and everyone else in opposition.¹⁵⁴ The New Kōmeitō insisted on limiting the law to a two-year period, prohibiting the transport and supply of arms by the SDF, and making the basic plan subject to Diet approval. The leader of the DPJ, Hatoyama Yukio, made the same demands, only he wanted the law limited to one year and an agreement that weapons restrictions would not be changed. His party still ended up voting against the bill. Also in opposition were the SDPJ, because it felt the bill supported collective defense; and the JCP, because it believed that the law allowed the unconstitutional use of an unconstitutional force.¹⁵⁵

The law in its final form basically expanded the area of operations in the Law Concerning Situations in Areas Surrounding Japan beyond the “Areas Surrounding Japan.” In other words, the “rear-support” activities could now take place anywhere they were needed, if it could be established that the peace and security of Japan were at stake. It allowed the SDF to take part in rear area support activities like supply, transport, maintenance, intelligence gathering, medical treatment, and dealing with refugees.¹⁵⁶

Once the basic plan was approved, MSDF ships were quickly dispatched to the Indian Ocean to aid U.S. troops in the war against terrorism.¹⁵⁷ Since the ships were

dispatched even before the parties had a chance to work out the exact content of the law however, the government had to use a Defense Agency Establishment Law allowing “investigation and research for the conduct of operations,” to justify the early dispatch.¹⁵⁸ Many concessions had been made to allow the SDF to participate in the War on Terror, however, and once again, its members went abroad carrying their usual burden of restrictions. These restrictions and their implications will be discussed more thoroughly in Chapter IV, Sections 3 and 4.

Emergency Legislation

In June of 2003, Japan finally passed three new laws that will enable the SDF to conduct operations more quickly and efficiently in the event of an attack on Japan. After twenty-six years of careful research and vigorous debate, the Law to Respond to Armed Attack, an amendment to the Self-Defense Forces Law, and an amendment to the Security Council Establishment Law became a reality. The bills had the overwhelming support of the leading coalition parties, and with the promise of some supplemental provisions to come later, the support of the leading opposition party as well. More than 80% of the Upper House and 90% of the Lower House approved the package.¹⁵⁹

When the first studies on emergency legislation began in 1977, the existing laws and ordinances were divided into three categories: those under the jurisdiction of the JDA (Category 1), those under the jurisdiction of other ministries and agencies (Category 2), and those whose jurisdiction was unclear or undecided (Category 3).¹⁶⁰ The Law to Respond to Armed Attack is in Category 1. This law will help ensure a swifter response from the SDF in the event of an armed attack on Japan. Under the law, the JDA director-

general can issue defense mobilization orders to reserve personnel, defense operations alert orders to units, and defense fortification orders to military installations in anticipation of a defense operations order from the Cabinet. In this way, the SDF can be ready to move as soon as the official defense operations order comes down. Although Diet approval is still necessary, ex post facto approval will be allowed in urgent situations.¹⁶¹

The second law, which will amend previous SDF laws, is in Category 2. It will enhance the efficiency of the SDF by providing statutory exceptions to existing laws that could impede SDF movement and activity during an emergency deployment. For example, under the amended laws, trees can be moved to make room for setting up camps, existing buildings can be modified to meet certain needs, and the SDF may travel across private lands or alter traffic patterns as necessary. The amendment to the Security Council Establishment Law calls for the creation of a Special Committee, chaired by the chief cabinet secretary, to conduct investigation and analysis of needs during an emergency.¹⁶²

While these laws are a huge step in the right direction, there are some issues that have yet to be resolved. For one thing, the laws are war contingency plans, for use specifically during an armed attack on Japan. They do not cover events like a terrorist attack or an incursion of armed ships. The Diet is still working on measures to deal with such situations. Also lacking is a clear legal framework enabling the smooth cooperation of U.S. and Japanese forces during an armed attack, since there has never been an agreement on who would command any joint force operations. Finally, one of the promises given to the Opposition party upon the passage of the three bills was that a legal

framework would also be created to ensure the protection of citizens' rights in the event that an attack should occur.¹⁶³

Back to Iraq

Thirteen years from the time that the U.S. first requested Japan's aid in the fight against Saddam Hussein, Japan was once again faced with the opportunity to participate in an international operation against Iraq. Even before Hussein was overthrown and the U.S.-led multinational force had begun the painstaking process of reconstruction, Prime Minister Koizumi was working on forging a Diet consensus to allow SDF participation within the limits of the Constitution.

His efforts paid off, and in July of 2003, the Diet passed the Iraq Reconstruction Bill. This bill would allow the SDF to offer its services in the reconstruction of Iraq. Aside from an easing of the weapons restrictions, this law differed from the IPCL and Special Measures Laws in one major respect – it was the first time that the SDF would be deployed to an area where hostilities had not yet ended. Once the war was technically over, Japan began searching for a “safe” place to send the troops. It finally decided on the city of Samawah, in Southern Iraq. The initial GSDF troops would be an engineering unit sent to build a camp for the SDF contingent. A number of engineering and medical personnel would follow, to provide water purification and emergency medical services, aid in the repair of roads and buildings, and help with city planning projects.¹⁶⁴ ASDF troops would aid in supply and transport, and the MSDF would continue with its activities in support of the ongoing War on Terror.

These troops would be going with a slightly lightened burden of the restrictions that usually accompany overseas deployment. For the first time in history, they were provided with rules of engagement (ROE) for dealing with hostilities. These will be described in greater detail in Chapter IV, Sections 3 and 4. The troops going to Iraq also had the promised temporary protection of the Dutch troops who were also in Samawah.¹⁶⁵ The Japanese government did take some extra, if slightly unorthodox, measures to see that the SDF had some kind of protection. Long before the troops were dispatched, Koizumi had struck up an agreement with Iraqi officials to pay up to \$94 million dollars to Iraqis willing to help provide security to SDF forces.¹⁶⁶ If the deal is successful, it will provide much-needed jobs (and money) to Iraqi citizens and it should increase the safety of JSDF forces in Iraq.

CHAPTER IV

OPERATING WITHIN THE FRAMEWORK

Thus far, this thesis has covered the fifty-year history of the SDF and its surrounding legislation in a fairly general fashion. It is time now for a more detailed examination of how the SDF has attempted to operate within the framework of that legislation over the years. It has been a long and difficult road for the SDF, for although the government has tried hard to avoid criticism of the SDF through restrictive legislation, the effort has been largely unsuccessful. Laws designed to protect the legitimacy and integrity of the SDF inevitably affect the efficiency of its operations, and worse still, compromise the safety of SDF members or those they must protect or rescue. Naturally, this only leads to more criticism from all sides.

This chapter presents various incidents involving the SDF as a series of case studies highlighting some of the most pressing issues faced by the SDF. Most of the problems stem from shortcomings in SDF law or misunderstandings about the workings of the law, and their impacts on the SDF, from low morale to compromised safety, are significant. Recalling the “sticky issues” mentioned in Chapter 3, the studies are roughly divided into four categories: problems regarding civilian control, the need for legislation that deals with contingencies and other “gray areas” of operation, the issues of collective defense, and the problems encountered by the prohibition on the use of force overseas.

There are more issues facing the SDF, and even a great deal of overlap between issues, but for the purpose of this paper, I have selected only these four, and attempted to fit each incident into the most obvious category. Because of this categorization, the studies will not necessarily be in chronological order. Even though some of the incidents

occurred long ago, and have already prompted changes in SDF law, they help to illustrate the types of obstacles that the SDF has faced over the years. While some of the situations led to much-needed reviews of SDF legislation, many issues are either still in the discussion stage or have yet to receive serious consideration. The relation of these incidents is not meant as a criticism of the SDF, but as evidence of the near impossibility of trying to maintain and utilize a military force that can work safely and efficiently within the restrictive frameworks of constitutional interpretation and SDF law.

1 - Trying to Understand Civilian Control

The fundamental principle of civilian control over the SDF has never been in dispute. For the civilian segment of the population, it represents protection against military domination, and for the SDF it provides a measure of legitimacy and acceptance. While there is no real problem with the implementation of civilian control over the SDF, there does seem to be some misunderstanding on the part of the public, and a pervasive resistance to allowing the SDF the freedom that it needs to operate in emergency conditions. Of the cases in this section, the first illustrates the clash between military and civilian ways of thinking in the early days of the SDF and how easily that translated into accusations of violating the civilian control principle. The remaining cases all show how difficult it is for the SDF to negotiate the various restrictions demanded by civilian control in life-or-death situations.

Planning without Permission

In the early years of the SDF, the issue of civilian control was, understandably, a major concern of the Japanese government and citizens. In spite of the controls put in place when the SDF was inaugurated, civilian officials were quick to show alarm at the slightest sign of impropriety. In 1963, with memories of the Korean War fresh in their minds, a number of officers from all branches of the SDF, in apparent collaboration with the U.S. government, conducted a study to determine what actions might be necessary in the event that a hypothetical conflict on the Korean peninsula spread to Japan. Later known as the Mitsuya (Three Arrows) Plan, when it was leaked to the Diet in 1965 it caused a great deal of consternation for several reasons.¹⁶⁷

The primary problem was that the plans were discussed without the knowledge or consent of the Diet, and thus were thought to be a violation of the principle of civilian control over the military. The concept of civilian control, as mandated by the new Constitution, was still a new one to military men accustomed to making decisions without having to look to civilian bodies for permission or guidance. Although these discussions were not official, and any decisions to come out of the talks would have had to pass through the Diet anyway, the Socialists were quick to raise the specter of past militarism by likening the incident to the uprising of young imperial officers back in 1936. This criticism was a blow to the image of the early SDF.

Other problems with the Mitsuya plan included the fact that it involved discussion of: the possibility of Japan being drawn into action that was not strictly defensive, controls being imposed on civil liberties, the likelihood of Japan's having to act under the orders of American commanders, and even the possible use of nuclear weapons.¹⁶⁸ A

similar plan drafted in 1966, known as the Bull Run strategy, entertained the prospect of Japanese cooperation with U.S. forces in a conflict on the Korean Peninsula itself.¹⁶⁹ Although the furor over these incidents soon died down, they did foreshadow some problematic issues, like emergency legislation, that would haunt the SDF for years to come.

Acting without Orders

The law allowing dispatch of the SDF only with Diet approval is an example how civilian control is enforced. Unfortunately, such laws also apply in situations calling for immediate disaster relief and humanitarian assistance. In such cases, prefectural government officials must make formal requests before a dispatch can be approved. Over the years, some commanders have risked reproach by making decisions in emergency situations without waiting for that official request.

One of the humanitarian functions of the SDF is providing emergency medical transportation for people living on Japan's numerous remote islands. In December of 1972, a GSDF unit in Naha, Okinawa was alerted to the presence of a child suffering from breathing problems on the island of Agunijima. When the prefectural office failed to contact the unit within 20 minutes, the commander, Ryoho Kuwae, called the office directly, only to be informed that the issue was under discussion. Concern for the child led Kuwae to order a helicopter rescue anyway, and the child was saved. Although nothing is said of what happened to Kuwae after the incident, it was a risky move at a time when opposition to the SDF on Okinawa was particularly heated.¹⁷⁰

Even today, to move before receiving specific orders risks certain condemnation of the SDF, even when its intentions are clearly honorable. In January of 2001, an earthquake struck the Gujarat Province in India, killing more than 20,000 people and injuring over 200,000.¹⁷¹ Expecting orders to join the many international organizations offering relief to the devastated country, Japan's MSDF, with the approval of the JDA, loaded a destroyer with blankets, food, and medical supplies. The ship, which just happened to be en route to India to participate in the February celebration of the 50th anniversary of the country's foundation, stopped off at Okinawa to take on the supplies. Since the MSDF did not yet have Diet approval for an earthquake relief mission, accusations of violating the principle of civilian control were quick to follow, and newspaper headlines accused the MSDF of "jump[ing] the gun on India quake relief" and overstepping its authority.¹⁷²

Following the Rules

On the other side of the coin, waiting for the proper orders to act can also lead to criticism of the SDF. A case in point is what happened after the Great Hanshin-Awaji earthquake that struck the city of Kobe on southern Honshu on 17 January 1995, destroying some 100,000 homes and killing over 5,000 people. The earthquake occurred at 5:45 am. By 6:00 am, the local GSDF headquarters was on alert, but due to misunderstandings of the magnitude of the damage, a request by the governor's office for assistance from the SDF was not made until 10:00 am. Some troops were sent, but even then, information about the scale of the disaster was lacking, and the full mobilization of troops did not occur until 6:00 pm the next day, a full day-and-a-half after the earthquake.

One doctor assisting with disaster relief recounted the frustrations he encountered in trying to get SDF helicopters to transport the injured to Osaka hospitals. SDF officials told him that they could not contact him directly, but had to make a request to the local fire department. The fire department would then send the request to the Department of Health, who would then process it through the Hyogo prefectural governor's secretary, who would give it to the governor. It was 10 hours before the helicopters got off the ground.

Common sense would tell us that quick response is the key to saving lives. Later analysis of the Kobe incident indicates that the survival rate of people pulled from the rubble was reduced by as much as two thirds after the first day, showing just how crucial it is to be able to act quickly in emergency situations.¹⁷³ Although relief efforts from the SDF lasted for three months and eventually involved approximately 16,500 personnel; 3,500 vehicles; and 70 aircraft,¹⁷⁴ the huge contribution was overshadowed by accusations of inefficiency. Apologizing for the delays, a tearful GSDF Lieutenant General Matsushima reminded the public that the SDF was just trying to abide by the law.¹⁷⁵ Later that year, the JDA revised the Disaster Prevention Plan to allow for discretionary dispatch in cases when people's lives are at risk. It was too late for the people of Kobe, but perhaps the next time a disaster strikes Japan, people can put aside their worries about civilian control long enough to let the SDF do its job.¹⁷⁶

2 - The Gray Areas of Contingencies

With the very legitimacy of its forces ever in question due to the existence of Article 9 of the Constitution, it is no wonder that every move of the SDF has been rigidly

circumscribed. However, when the laws constraining the early SDF were made, there was no way for the government to cover every eventuality. With the ever-changing regional security environment and the development of new and unexpected dangers over the years, “self-defense” has become ever more difficult to define, and each new incident becomes a learning experience. The variety of cases in this section show that in the interest of protecting the Japanese alone Japan has had to face, or may face in the future, some difficult decisions regarding the use of its forces.

Enemies in the Air

Defense of the homeland is not limited to the physical landmass, but includes the surrounding sea and air space as well. In those areas, it can be difficult to determine the intent of intruders or the nature of suspicious circumstances. Because it has to maintain a strictly defensive posture, for years the SDF has had little recourse in dealing with unexpected situations that crop up. One such event occurred on 6 September 1976, when a Soviet Mig 25 slipped by the SDF’s early warning system and landed at Hakodate Airport on the northernmost island of Hokkaido. Its pilot, Victor Belerenko, no doubt certain that he could land there safely, had chosen the spot as his first stop on the way to defection to the United States.¹⁷⁷

The incident posed no danger to Japan, but it did expose weaknesses in the air-defense system. While the primary shortcoming revealed by the incident was lack of sophisticated radar, had the F-4EJ fighters who were sent to intercept the Mig been able to find it, there was little they could have done in response. At the time, if foreign planes invaded Japan’s airspace Article 84 of the SDF Law did allow the SDF to take measures

to force such planes to land or leave the area. If a warning to leave was ignored, the ASDF plane could shake its wings as a warning to civilian aircraft or fire a missile at military planes. They could not fire to harm unless the invader first fired (or prepared to fire) at them. Furthermore, they could only take these measures after receiving an order from the JDA director-general. In the case of the Mig, it took 28 minutes from discovery to landing, but it took 1 hour and 30 minutes for authorities to make contact with the director-general.¹⁷⁸ The frequency of nonchalant incursions into Japanese air space by Russian combat pilots into the early 1980s seems to indicate that Japan's neighbors were well aware of the SDF's limitations regarding airspace violations. In fact, one 1981 estimate suggested that such violations were occurring at a rate of 900 a year.¹⁷⁹

Showdowns on the High Seas

If airspace violations have caused headaches for the SDF, the persistent forays of suspicious ships into Japanese waters have probably been even more frustrating. Never was this more evident than during a situation that developed in the Sea of Japan in 1999. In the early hours of the morning of 31 March, a Marine Safety Agency (the MSA is the Japanese Coast Guard) crew spotted two vessels suspected of being North Korean spy ships. Ignoring orders to stop, and even warning shots fired by the MSA crew, the two vessels fled the area, easily outdistancing the MSA ships.

Information about the incident was relayed to the JDA director-general, and in less than one hour, an emergency Cabinet meeting gave the MSDF, for the first time in its existence, orders to engage in maritime security operations. The fleeing ships also ignored the MSDF's orders to stop, evaded warning shots from a destroyer and bombs

from a P-3C aircraft, and managed to elude the MSDF ships, escaping without harm.¹⁸⁰ The incident was huge blow to the morale of the SDF, but it did lead to some improvements in readiness and capability.

Among the improvements made to both the MSDF and the MSA were the acquisition of faster ships, an increase in firepower aboard guard ships and helicopters, and new laws allowing for use of weapons when necessary to try to halt suspicious boats that refuse to follow instructions.¹⁸¹ These modifications were tested in December of 2001, when suspicious activity was detected once more in Japanese waters. An unidentified vessel that was behaving suspiciously ignored orders to stop and tried to flee the area, pursued by a number of MSA and MSDF vessels and aircraft. Using shoulder-held rocket launchers, the crew of the suspicious vessel exchanged gunfire with the crew of an MSA vessel, then caught fire and sank, leaving no survivors.¹⁸²

Although questions remain about the identity and intentions of the ship, the incident at least proved the enhanced capability of both agencies, and reports of suspicious ship activity have noticeably decreased since the incident. On the down side for the SDF was the fact that although it was the MSA that engaged in the gunfire that sank the fishing boat, many media outlets did little to distinguish between the two agencies. The inevitable accusations of aggression and renewed militarism that came from abroad once again threatened to tarnish the ever-fragile image of the SDF.¹⁸³

Protecting the Homeland

Defense of the homeland from invasion is perhaps the one indisputable responsibility of the SDF, but even in this, there are limitations on its operations. One of

the problems is that, while the SDF is plainly authorized to act in definite cases of attack or aggression, sometimes the nature of situations is not so clear. Another problem is that not every enemy abides by the rules of conventional warfare, and terrorism, of either the foreign or the homegrown varieties, reigns as the newest threat to the peace and security of a country. Finally, there is the unpleasant problem of how to deal with the possibility civil disobedience during an emergency. The cases discussed below provide a brief glimpse into some of the problems encountered in the course of trying to defend (or prepare for the defense) of the homeland.

Guard Duty: When the Coast is not Clear

Guarding Japan's extensive shorelines is a daunting task even during peacetime, but it is by nature an important one because the coasts are the only means by which any invading ground force would be able to enter the country. Since Japan has not been at war for many years, there tends to be little concern on that front, but occasionally things take a turn for the worse, and SDF units near the coast may be shaken from their usual complacency.

One such incident occurred on 18 December 1998, when a skirmish between North Korean and Republic of Korea (ROK) forces occurred in the open sea (outside of Japanese waters) off the coast of the Japanese island of Tsushima.¹⁸⁴ Upon learning that the ROK Navy had sunk a wayward North Korean semi-submersible vessel, GSDF forces on Tsushima were put on alert to the possibility that armed North Korean ships might approach the island. With no real precedent for dealing with such circumstances, all the GSDF members could do was conduct a "survey and study" mission along the coast,

armed only with binoculars, walkie-talkies, and maps. The ships never materialized, but as one senior officer commented later, “[a situation like that] puts a heavy burden on those working in the field.”¹⁸⁵

Terrorism: The New Threat

To many people, including the Japanese, the idea of terrorism is associated with nations who have a long history of ideological division and ethnic strife. Thus, it is easy for a peaceful nation with a policy of non-interference to assume that there is little need to worry about terrorist attacks on the homeland. Terrorism takes many forms, however, and Japan learned the hard way that no country is immune to its effects.

Until the 1990s, the country was ill prepared to deal with the mass casualties, communications breakdowns, transportation difficulties, and other problems that could occur as the result of a single, carefully timed and well-executed terrorist plot. Laws created since that time have improved the system somewhat, but as in the example of the Hanshin-Awaji earthquake, it took a major disaster to expose the weaknesses. While the SDF was not universally disparaged for its performance during the following scenario, there is no doubt that its resources were vastly under-utilized.

On 20 March 1995, an obscure religious cult known as *Aum Shinrikyō* contrived to release considerable amounts of the deadly nerve agent sarin on several trains in Tokyo’s central subway system.¹⁸⁶ Various emergency and crisis management agencies scrambled to identify and deal with the problem, but lack of coordination between the agencies, coupled with a serious under-estimation of the severity of the situation, led to inevitable delays, blunders, and general mishandling of the entire crisis. Twelve people

died as a result of primary contamination by the sarin, and eventually over 3,000 people, many of whom have yet to make a full recovery, were sickened by secondary contamination.

As of 1995, the SDF was the only agency that had the training, facilities, and knowledge needed to deal with chemical or biological decontamination. Although the National Police Agency (NPA) contacted SDF chemical warfare experts as soon as they understood the nature of the disaster, lack of cooperation/coordination between the agencies, along with the usual red tape surrounding SDF dispatch, resulted in an 8-hour delay before a specialized SDF unit was called in for decontamination. By that time, hospital personnel had decontaminated all surviving victims of the attack, some of whom were hospital workers who had dealt with the earliest victims. In the end, all that remained for the SDF was the decontamination of the subway cars. In the years since the attack, although police and fire agencies have acquired some protective gear, decontamination supplies, and training, their capability still does not match that of the SDF. However, without the ability to rapidly deploy during emergencies, and work in close coordination with the other agencies, the SDF will still be of little use the next time terrorists strike at the homeland.¹⁸⁷

Disaster Planning: The Need for Coordination and Public Cooperation

Even when the SDF and other agencies do try to work together to come up with a disaster plan, there will inevitably be some difficulty in presenting the plan to the public. Lessons learned from natural and man-made disasters like the Hanshin-Awaji earthquake and the *Aum Shinrikyō* attacks have led to some efforts at coordinating the various

agencies involved in rescue efforts. One such effort is Tokyo's annual disaster readiness drill. This exercise, which is held on or near the 1 September anniversary of the devastating earthquake that struck the Tokyo area in 1923, includes participation by police, firefighters, the SDF, the MSA, and other agencies, as well as civilian volunteers. In addition to streamlining and coordinating relief efforts, the aim of the exercise is to familiarize the public with the disaster relief agencies, their various types of equipment and supplies, and their plans of action.¹⁸⁸

One would think that such a life-saving program would receive the full support of the populace, especially after complaints about the handling of the Hanshin-Awaji earthquake and the sarin gas attack. On the contrary, the drill held on 3 September 2000, was held amidst a chorus of protests and scathing criticism aimed directly at the increased presence SDF troops (7,000 as opposed to 500 the previous year) participating in the drill.

The heavy condemnation stemmed, not from the actions of the SDF, but from a controversial remark made by Tokyo's Governor Shintaro Ishihara five months earlier about the possibility of the SDF being called in to restore order in the event that illegal foreigners should riot in the aftermath of an earthquake.¹⁸⁹ Disapproval of Ishihara's shocking statement is understandable, especially to those who remember that countless Koreans living in Tokyo were massacred in the wake of deliberate rumors about them rioting after the 1923 earthquake. However, criticism of Ishihara encompassed the SDF as well, once again proving that the image and reputation of the SDF are still vulnerable to suspicion.

Controlling Civilians: The Uncomfortable Subject of Civil Disobedience

Distasteful though the thought may be, dealing with civil disobedience has been one of the principle responsibilities of the SDF since its inception. Experience has proven that the potential for rioting after natural disasters like fires, earthquakes, and floods does exist, although it is certainly not confined to the foreign segment of a population. Public protests occasionally become violent, even in Japan. In the event of an attack on the country too, public order must be maintained. Such incidents usually fall under the jurisdiction of police or firefighters, but if the situations is too big for them to handle the SDF may be authorized to intervene.

The closest it ever came to being dispatched in such a situation, however, was during the Security Treaty crisis of 1960. The renewal of the 1951 Security Treaty involved some major modifications to the old one in order to equalize Japan's relationship with the U.S. One of those changes called for the prohibition of American interference in civil disturbances within Japan.¹⁹⁰ In a strange twist of fate, strong public opposition to the renewal provided one of the first major opportunities for the SDF to be employed in its official capacity of maintaining internal peace. As the time for renewal drew near, student groups and other leftist organizations campaigned against it with heated rhetoric. Public opposition grew, and in this atmosphere of distrust and anger, then Prime Minister Nobusuke Kishi forced the revised treaty through the Diet. This led to an explosion of outrage that manifested itself in mass demonstrations, strikes, and general chaos.¹⁹¹

Members of the Defense Agency monitored the proceedings with growing unease. Although the SDF was placed on full alert, JDA Director-General Munenori Akagi and

his colleagues were extremely reluctant to pit Japanese soldiers against their fellow countrymen for fear of even greater public outcry should anyone be killed.¹⁹² Although the demonstrators were unable to prevent the renewal of the Security Treaty, they successfully turned back a visit by President Eisenhower's press secretary, prevented a visit by President Eisenhower, and obtained Prime Minister Kishi's resignation.¹⁹³ The demonstrations resulted in 43 injuries, 182 arrests, and the death of one student, but it was the police who took the blame, for the SDF was never mobilized against the rioters.¹⁹⁴ It was probably a wise decision, given the SDF's tenuous position at the time, but the fact that it was not used at all in the situation led some to question the SDF's actual grounds for existence.

Preventive Defense: The Ultimate Contingency Plan

The government of Japan, in a precarious compromise between security needs and constitutionality, has tenaciously clung to the concept of a minimum necessary defense capability. On the other hand, the defense establishment has often lamented that: 1) the minimum necessary might not be enough, and 2) it is nearly impossible to draw an absolute line between defense and offense. These facts gained support on 31 August 1998, when North Korea conducted a live missile test in which the final stages of a Taepodong-1 missile passed over the northernmost tip of Honshu (the main island of Japan) and landed in the Pacific Ocean.¹⁹⁵

While the missile incident, ostensibly an attempt by North Korea to launch a satellite into space, did not endanger the Japanese, it did rattle their composure somewhat. It also, like many of the above cases, revealed weaknesses in Japan's defense system. For

example, under the present legislation the SDF may not launch a counter-offensive against a country that launches a missile at Japan until the missile is in the air. By that time, it would be quite a scramble to obtain approval for dispatch and get fighters off the ground in the short time it would take for a missile to reach Japan. Even if they could have gotten fighters off the ground in 1998, retaliation would have been difficult, to say nothing of controversial.

For one thing, retaliation does not fall within the range of defensive activities allowed by the SDF. Additionally, the traditional restrictions on “war potential” that could threaten other countries have kept the range of ASDF fighter aircraft severely limited.¹⁹⁶ In the past few years however, the ASDF has made significant improvements to its air defense capability. For example, in addition to enhanced air strike capabilities, Japan’s F-2 fighter-interceptors have finally acquired a long-controversial air-refueling capability as well.¹⁹⁷

The White Paper for the year 2000 defended this move as a necessary measure to combat the increasing development of stealth technology and longer-range missiles. Since such advances necessitate an increase in combat air patrols, lengthening those patrols through mid-air refueling means that missions can be accomplished with fewer aircraft and pilots. The same capability on training aircraft makes training more efficient as well, and in an added bonus to those living around bases, reduces the number of noisy takeoffs and landings.¹⁹⁸ While this capability naturally extends the range of ASDF fighter aircraft, Japan has not yet come to terms with the idea of a retaliatory strike against neighboring missile bases.

Another of the problems revealed by the Taepodong incident was slow response time, caused in part by Japan's reliance on the U.S. to provide details about the incident. The U.S. first detected the missile launch with the help of stationary reconnaissance satellites. Although U.S. officials issued, within eight minutes, a warning to Japan that the nose cone would probably fall into the Sea of Japan, it was not until two hours after splashdown that Japan received confirmation of the fact.¹⁹⁹

After the incident, Japan began studies on how to remedy the problem. The solution was to enhance Japan's own information gathering capability by making plans to procure satellites capable of gathering and swiftly relaying information about the activities of possible enemies.²⁰⁰ The plans became reality on 28 March 2003, when Japan successfully launched the first two of several planned spy satellites into space. The event sparked protests and a dire warning from North Korea that "Japan [would] be held fully responsible for causing a new arms race in Northeast Asia,"²⁰¹ but the good news for Japan is that the controversial "spy" satellites could possibly gather information about a missile launch before the actual event took place. Knowing about the launch is just half the battle, however, for the next step would be dealing with the threat.

Other than the fairly unreliable Patriot missile, in 1998 Japan had virtually no defense against the threat of enemy missiles. After the Taepodong launch, plans were made for a Missile Defense Joint Task Force that would integrate the capabilities of an Aegis-equipped destroyer with Standard Missile-3 and Patriot missile batteries. Legislation regarding the actual response to missile attack is currently under review.²⁰² In addition, Japan has renewed studies on theater missile defense (TMD) systems that could intercept and bring down incoming missiles before they reach Japan. Although such

systems have yet to prove reliable, Japan intends to continue the studies, and hopes to acquire a reliable system as soon as it becomes possible. The acquisition of such a system, however, would raise some difficult theoretical questions for the Japanese.

One very controversial subject, among the many regarding use of the SDF, is pre-emptive defense. Procurement of a TMD system would offer Japan the ability to make a strike at an overseas base in the process of preparing to launch a missile toward Japan. Many people believe, however, that such a move would be more offensive than defensive in nature, crossing the bounds of minimum necessary defense, so for now the issue is on the back burner. The fact that JDA Director-General Shigeru Ishiba mentioned the possibility in February of 2003 – without being forced to resign – is a sign of how much things have changed in recent years.²⁰³ In the event that Japan does acquire a TMD system, the JDA has already postulated restrictions on its use in at least one hypothetical scenario. Interception of ballistic missiles flying through Japan's airspace in the direction of the United States would be permissible, whereas interception of the same missiles outside of Japan's airspace would be considered a violation of the prohibition against collective defense.²⁰⁴

3 - Avoiding Collective Defense

The prohibition on collective defense is another government-imposed limitation on the SDF based on constitutional interpretation. Long ago, the Japanese government agreed that, under international law, Japan had the right to collective defense but was prohibited from exercising that right because it went beyond the minimum level of self-defense. In spite of this limitation, great effort has been made to integrate the activities of

the SDF with those of U.S. forces through the U.S.-Japan Security Treaty, and with those of multi-national forces through peacekeeping operations. It has proven very difficult, however, to clearly demarcate roles for the SDF that completely avoid the appearance of participation in collective defense.

The following cases highlight some of the problems related to trying to take a more active role in international operations, such as peacekeeping, without engaging in collective defense.* In 1990, the Gulf War provided the first real occasion that brought the SDF's limitations on collective defense into the international limelight. Participation in joint exercises, an obvious necessity under the U.S.-Japan Security Treaty, is another area that comes close to breaking the taboo on collective defense. Diet-sanctioned participation in the War on Terror was tightly circumscribed by the limitation as well.

Peacekeeping: Golan Heights

The IPCL came into being in 1992, and despite its shortcomings, the Japanese have continued to participate in peacekeeping operations whenever possible. For example, since 1996 Japan has regularly sent SDF units to the Golan Heights on peacekeeping missions. Reporter Matt Rees, in a revealing article in *Time* magazine, aptly described the SDF's situation there just a few years ago:

“For the men on the ground . . . the curbs on their duties are surreal, a day-to-day life ripped out of the pages of *Catch-22*. Soldiers aren't allowed even to shovel snow from the street with troops from other countries because that would be an exercise of collective security. If the stable situation in their section of the Golan were to deteriorate into conflict, [the Japanese commander's] men are allowed to shoot to kill only

* To understand how complicated it was for the Diet was able to justify this type of activity in the first place, please refer back to the discussion of the deliberations over the IPCL in Chapter III, Section 4.

in self-defense. The Canadians have orders to protect themselves, U.N. civilian employees and the Japanese. That's one reason why the guard at [the camp's] gate is always Canadian. 'Japanese troops can't work together with other troops,' says Gen Nakatani, who was in the army for four years and, as a member of parliament, has visited the Golan contingent. 'They're here with other teams but have to operate within Japan's own rules and regulations.'"²⁰⁵

The article goes on to describe how the troops from different countries run, eat, and play baseball together, striking up easy friendships in their off-duty time. The Japanese soldiers must keep such friendships only surface-deep however, for they know that should the situation become unstable, they would be constitutionally prohibited from firing their weapons to protect those friends in the heat of battle.

The Gulf War

For nearly four decades, Japan managed to keep the SDF uninvolved in international affairs, a feat that proved ever more difficult as time passed. Japan's growing status as a wealthy nation, membership in the U.N., and possession of a well-funded and technologically advanced military force, led to inevitable calls for more involvement in global issues. Discussions on peacekeeping began in the eighties, but as of the Iraqi invasion of Kuwait in 1990, the Japanese government had yet to reach a consensus on the subject. Into the midst of that wrangling came the U.S. request that Japan offer rear-area support to the coalition that eventually drove Saddam Hussein and his military out of Kuwait. Specifically, the U.S. wanted help with the naval blockade, intelligence gathering, air transport, and minesweeping.²⁰⁶

Although it was impossible, in the given time frame, to reach a consensus on legislation allowing the dispatch of troops during combat, Japan did at least contribute 13 billion dollars to the effort. Overlooked in the derisive critiques of Japan's so-called limitations was the fact that SDF troops did eventually deploy to the Middle East. After hostilities ended, six MSDF vessels participated, with very little criticism, in a minesweeping mission there. Furthermore, in 1991, select GSDF troops took part in U.N. weapons inspections in Iraq.²⁰⁷

The War on Terror: Support Restrictions

There is no doubt that embarrassment over the Gulf War situation led to the enactment of legislation a decade later that would allow the SDF to offer rear-area support to U.S. troops during a conflict that did not involve the defense of Japan. Details of the Special Measures Law, which would allow SDF rear-area support during the U.S.-led offensive against Afghanistan in 2002, were very artfully crafted in an attempt to prevent the appearance of engaging in collective defense.

The range of support activities allowed under the new law came with limitations so meticulously circumscribed as to border on the absurd. For example, the SDF could transport, but not supply, arms and ammunition. The transport of arms and ammunition could only occur by sea, not over land in foreign territories.²⁰⁸ Transporting wounded foreign soldiers who were *carrying* arms or ammunition however, was permitted, even over land.²⁰⁹ In addition, although the SDF engaged in fuel transport and supply, it was prohibited from directly re-fueling, or even providing maintenance to, aircraft preparing to take off on a military mission.²¹⁰

Although the Japanese government agreed to send supply ships and destroyers to the Indian Ocean for the purpose of refueling U.S. ships, one major point of contention was over a U.S. request for Japan to send destroyers equipped with the sophisticated Aegis missile defense systems. These state-of-the-art systems have radar that can track 200 objects at once within a range of 500 kilometers and are capable of launching missiles simultaneously at twenty different targets at a range of 100 kilometers. More important to their proposed mission, however, was the fact that the Aegis technology is fully interoperable with that of the Aegis-equipped ships of the U.S. Navy.²¹¹

The New Kōmeitō, as one member of the ruling coalition, initially refused to allow dispatch of the Aegis-equipped vessels for intelligence gathering purposes because of fears that the possible sharing of gathered information might constitute collective defense. General information sharing was not a problem, but if the system detected a suspicious aircraft and relayed that information to U.S. forces, and the U.S. forces shot down the plane, then Japan could theoretically be accused of involvement in collective defense. Although it was a convoluted argument, the LDP had to cave in to the New Kōmeitō's refusal to send the Aegis-equipped ships in order to pass the Special Measures Law.²¹²

This put Japanese troops at risk, however, by limiting their ability to detect and respond to attacks, as well as their ability to coordinate with the ships of other nations that might be in the area. It took nearly a year of debate before the Japanese government finally reached a consensus on the matter, agreeing that the enhanced safety to the troops and their ships offered by the advanced technological capability of the Aegis systems outweighed the risks of unconstitutionality.²¹³

Joint Exercises

Working together with U.S. forces to defend Japan from aggression under the U.S.-Japan Security Treaty is at present the only type of “collective defense” that the Japanese consider constitutional, although they never refer to it as such. To ensure interoperability of the two forces in the event of a crisis, joint training exercises with U.S. forces are vital. Some of the earliest such exercises were primarily training sessions conducted by the U.S. with the MSDF in the late 1950s, and included minesweeping and antisubmarine operations.²¹⁴ With the Defense Guidelines of 1978 delineating for the first time the responsibilities of each force during a security operation, joint exercises became more than just an occasional occurrence.

After the release of the Guidelines, the role of the MSDF was drastically expanded with its first participation in the biennial Rim of the Pacific (RIMPAC) exercise in 1980. The RIMPAC exercise, which has traditionally involved the U.S., Canada, New Zealand and Australia, is a U.S.-led exercise designed to deal with contingencies occurring within the Pacific Rim area.²¹⁵ The year 1980 also marked the first time that the GSDF officially trained jointly with the U.S. Army, in a command post exercise. The first field training exercise between the two forces was Yamasakura in 1982, an event that has been carried out with increased participation and popularity every year since then. The GSDF has also been a part of an annual exercise with the U.S. Marines, Keen Edge, since 1987. Since 1978, the ASDF has conducted exercises with the U.S. Air Force that include training in fighter combat, air defense, and rescue.²¹⁶

In all of the joint training, the SDF – and its U.S. counterparts – must be ever conscious of the many restrictions placed on the SDF. The MSDF’s involvement in

RIMPAC, although traditionally limited to aspects of the exercise that only involved the U.S. Navy, is still considered by some to be an exercise in collective defense. For many years, during any joint exercise, the SDF had to avoid any operations that could be considered offensive in nature, such as inspecting ships or rescuing refugees.²¹⁷ Training in mid-air refueling of ASDF fighter planes, which until recently was impossible due to the absence of the necessary equipment, has also drawn fire from opposition groups.²¹⁸

4 - The Use of Force Overseas: Keeping Defense from Being Offensive

Overseas deployment of SDF members has never really been in dispute, for they have worked at embassies, participated in exchange programs with the militaries of other nations by attending their military courses, and even obtained advanced degrees from universities outside of Japan for many years. Deployment for the purpose of using force, on the other hand, has been prohibited since the establishment of the SDF. For many years, implicit in that restriction was the prohibition on deployment with the **capability** of using force as well. With the advent of the IPCL, that particular restriction was modified out of necessity, for the safety of the troops. It was an issue in the Special Measures Law as well, and will continue to be closely watched with the dispatch of troops to aid in the reconstruction of Iraq. Finally, this particular restriction means that the SDF cannot engage in operations that involve the defense of Japanese citizens overseas, and must continue to depend on other countries to provide that service.

Peacekeeping: Cambodia

Under the IPCL, the first Japanese troops to be dispatched to a foreign country since 1945 were part of an engineering battalion consisting of 1,216 men. It was October of 1992, and they were going to Cambodia as a part of the United Nations Transitional Authority in Cambodia (UNTAC). From 1992 to 1993, GSDF troops serving under UNTAC helped the people of Cambodia by monitoring elections; reconstructing roads and bridges; providing food, water, and medical services; and despite the ever-present danger of land mines, providing transportation.²¹⁹ They stuck to the five principles of the IPCL as best they could, but peacekeeping is inherently a dangerous prospect, and it was not long before one of the shortcomings in the IPCL became clear. In 1993, a Japanese civilian serving as part of that peacekeeping force was killed by guerillas while SDF members who might have been able to protect him were far away in a 'safe' area where they would be unlikely to need to use their weapons.²²⁰

The War on Terror: Weapons Restrictions

When SDF units were deployed to aid in the War on Terror, restrictions on the type of support they could give were not the only contentious subject. Lessons learned over eight years of peacekeeping led to calls for a review on the use of weapons as well, and the creation of the Anti-Terrorism Special Measures Law provided a perfect opportunity to push for a relaxation on the restrictions. Under the IPCL, weapons could only be used in defense of one's self or one's fellow SDF members, and then only under the orders of the senior officer present. In 1998, the law was revised to allow the use of weapons without those orders if waiting for them increased the risk of danger.²²¹ Another

lesson learned in the field was that guarding facilities and equipment was rather useless if one could not use weapons in the guarding operation. On more than one occasion, the effectiveness of a PKO mission was compromised by the theft of equipment.²²²

When the IPCL first went into effect, the Diet was unable to reach a consensus on allowing PKO forces to take part in activities like monitoring cease-fires and demilitarized zones, disposing of weapons, and assisting in prisoner exchanges because those responsibilities would have required a use of weapons that went beyond strict self-defense. A part of the Special Measures Law was the lifting of the ban on those activities, which meant that once again the rules regarding weapons would have to be revised. Even though they were still confined to operating in areas where battles were not likely to occur, the danger to SDF troops would be considerably greater than in the regular peacekeeping missions. There would be refugees to protect, wounded to transport, and a variety of valuable equipment and supplies to guard.

For the first time, the use of weapons was expanded beyond the defense of SDF members to include refugees under their care, injured soldiers, anyone being transported by the SDF, and any (presumably Japanese) VIPs visiting a facility or encampment under SDF care. The law also covered, among other things, weapons stockpiles, facilities, and aircraft.²²³ By inference however, the use of force to defend troops of other nations with whom the SDF might be working is still apparently prohibited, with two exceptions: 1) individuals who are already injured and under the care of the SDF, and 2) individuals who are being transported in SDF vehicles.

The Gulf Revisited

Participation in the War on Terror made it possible for Japan to support, somewhat indirectly, Operation Iraqi Freedom (the U.S. offensive against Saddam Hussein) in early 2003. Expanding the MSDF's refueling duties in the Indian Ocean to include Italian, Spanish, French, German, New Zealand, and Dutch warships would free U.S. ships from refueling duties so that they could be a part of the Iraqi campaign. Even before the actual war was over, Japan's Prime Minister Koizumi was working long and hard to enable SDF troops to offer much more than just indirect support in the operation.

The final passage of legislation allowing them to do so caused an all-out brawl in the Diet, but on 17 January 2004, an advance team of about 40 SDF members was dispatched to Iraq to evaluate the situation in preparations for sending almost 600 more to aid in the reconstruction effort. The basic plan is to provide clean water, medical assistance, and other services to Iraqi citizens. Searching for a 'safe' area in which to operate however, in a country where guerilla-style insurgency has taken the lives of almost 600 U.S., British, Spanish, and other soldiers in the eight months since the end of the war, has proven difficult.²²⁴ At least those deployed will be better prepared to face a crisis than any of their predecessors were. For the first time, SDF members deployed overseas will be equipped with armored vehicles and antitank weapons, and even more importantly, ROE (known as Operational Code of Conduct in Japan).²²⁵

While these capabilities are a huge departure from the past, they still fall short of full military operational capability. For example, the ROE still restrict SDF troops in Iraq to a "minimal" use of force. Their ROE consist of a three-step plan of: 1) issuing a verbal warning in the necessary language, 2) firing a warning shot into the air, and 3) shooting

to wound, but not kill. If the situation is extremely volatile, they may forgo the verbal warning.²²⁶ By contrast, under U.S. ROE:

“A commander has the authority and obligation to use all necessary means available and to take all appropriate action to defend that commander’s unit and other U.S. forces in the vicinity from a hostile act or demonstration of hostile intent.”²²⁷

While this rule is bound by the principle of proportionality (they would not counter a machine-gun attack with nuclear weapons, for example), it does not limit U.S. troops to a minimum use of force, but to “the amount of force necessary to counter the threat.”

The potential dangers facing SDF troops in a region as unstable as the present post-Saddam Iraq are sobering. The multi-national forces in place are already taxed to the limit with the job of protecting their own, so Japan cannot count on them to guarantee protection. Even the Iraqis hired to help provide protection may find it difficult to guarantee complete safety. The SDF might have defensive training, but it has yet to be tested on the battlefield. Some critics have even suggested that the Japanese soldiers may be specifically targeted because the Iraqis are aware of the great controversy surrounding their dispatch. For Japanese soldiers to be killed or injured would be no more tragic than it would be for soldiers of other nations, but it would be heartbreaking to think that they might have stood a better chance if they could have operated as a normal military, with the full support of their country behind them. In the final analysis, the loss of even one SDF soldier is sure to spark a raging controversy that could threaten the future of the SDF.

Citizens Abroad

While Japanese people at home may be reasonably assured of defense by the SDF if the need should arise (now that the emergency legislation has been passed), the same cannot be said of Japanese nationals in foreign lands. Thousands of Japanese business travelers, tourists, diplomats, and others can be found abroad at any given time, and sometimes their lives will be endangered by circumstances beyond their control. Rigid adherence to the same laws that prohibit dispatch of the SDF overseas for the purpose of using force effectively prevents any constructive discussions on making allowances for use of the SDF in defensive operations outside of Japan. These operations may include evacuations of Japanese nationals from dangerous areas, participation in the rescue of Japanese hostages, or the protection Japanese diplomats.

Citizens Caught in a War Zone

There has always been an expectation that the U.S., as Japan's major ally, would come to the aid of Japanese citizens in a foreign land, but the U.S. is responsible for the mammoth task of taking care of U.S. citizens as well. This means that the SDF should be allowed to do its share, a fact that causes much discomfort to those who espouse the most conservative interpretations of Japan's Constitution. While a 1994 revision to SDF Law did permit the SDF to evacuate Japanese citizens by aircraft from foreign countries, as of 1997 there were some problems in implementing the law. For one thing, the safety of the route had to be assured, something that is quite difficult to do in a time of war or civil unrest. Another problem was that there were no clear provisions for weapons use by SDF troops protecting the evacuees. Paradoxically, performing preparatory operations by

sending aircraft to be on standby so that citizens could be evacuated prior to the breakout of hostilities was considered outside the scope of the law.²²⁸

Interpretation of the law was put to the test in July of 1997, when three ASDF C-130 transport planes were dispatched to Thailand in anticipation of a possible evacuation of Japanese citizens from Cambodia after rebel forces staged a coup there. The situation calmed down before evacuations became necessary, but even so, the planes returned to their home bases amidst a chorus of controversy. The list of accusations was long and varied. Some editorialists cried foul because of questionable legitimacy, while others trotted out the “evidence of remilitarization” argument. Even those who supported the dispatch had complaints about either the slowness of the operation or the insufficiency of air transport only.²²⁹

The same types of questions accompanied the dispatch of SDF aircraft to Singapore in 1998 during the Indonesia crisis, although once again, the expected evacuations never took place. In 1999, an amendment to the law added SDF ships and ship-borne helicopters to the list of permissible transportation devices, and allowed for a minimal use of weapons to protect evacuees as well as SDF members.²³⁰ These changes, in addition to more clearly legitimizing any future operations, were also meant to enhance the capability of the SDF. Even with the changes, however, JDA officials were extremely cautious in their deliberations over the possible dispatch of aircraft to evacuate Japanese from India and Pakistan during a tense period between the two countries in 2002.

Hostages Caught in the Middle

There are other situations that Japanese citizens abroad may face, in which the SDF, without serious changes to its legislation, has no legal recourse to become involved. When Tupac Amaru revolutionaries stormed the Japanese ambassador's residence in Peru on 17 December 1996, taking over 600 hostages that included Japanese businessmen and diplomats, the Japanese had no choice but to attempt to negotiate with the rebels for the release of their fellow citizens. After a four-month standoff, it was Peruvian commandos who stormed the compound and rescued the remaining 72 hostages, 24 of whom were Japanese.²³¹

Diplomats Caught Off Guard

More recently, in November of 2003, two Japanese diplomats were killed in Iraq when gunmen ambushed the car in which they were riding. The diplomats were there to investigate the security situation of the area before making recommendations for a plan to send SDF troops in on a mission to help with reconstruction after the end of Saddam Hussein's reign. Their mission was to find an area where combat was neither taking place nor likely to take place, so that SDF troops could be sent to help in the effort without violating the restrictions on peacekeeping operations or rear-area support activities. Upon hearing the news of the diplomats' deaths, the Japanese Foreign Minister had no choice but to request more U.S. help in keeping Japanese officials safe, which placed an added burden on U.S. forces, who were having enough difficulty protecting their own at the time.²³²

If the SDF is permitted to use force in self-defense, then it makes sense that it should be able to use that force in these types of situations. The major obstacle to this is the Japanese government's self-imposed prohibition on the use of force overseas. The present reasoning is that any soldiers sent for the specific purpose of rescuing evacuees or hostages, or guarding diplomats would be sent for *the purpose of using force*, which at this time goes against the conventional interpretation of constitutional limitations.

5 - Consequences

All of the cases in this chapter serve to illustrate the contention that keeping the SDF strictly within the confines of narrow constitutional interpretation does a disservice both to the force and to those whom the force is meant to serve. The repercussions to the SDF vary widely, and include low morale, hampered efficiency, and danger to the troops, to name just a few. The consequences to the citizens of Japan are also potentially very serious.

The lives of SDF have already been put at risk on more than one occasion. Sending them unarmed to face of uncertain dangers or keeping them inadequately armed in the name of minimum self-defense, as in the coastal alert incident or the various peacekeeping operations, only heightens the chances that someone will get injured or killed. Restricting their abilities react to contingencies like air and sea space violations also increases the likelihood for casualties, as did the hair-splitting over what might be done with information gathered by the Aegis systems.

While these dangers alone are enough to dampen the morale of any force, the SDF has plenty to worry about without them, for accusations and criticisms follow its

every move. If it is not being blasted for showing ‘militaristic tendencies,’ as in the 2001 spy ship incident, or violating the principle of civilian control, as in the India earthquake incident or the Mitsuya exercises, then it is criticized for being too slow or ineffective, as in the Hanshin-Awaji earthquake and the sarin gas incident. The inability of SDF members to come to the aid of their international military counterparts in dangerous situations or even participate on equal footing with them in joint operations must also cause a certain amount of chagrin. These factors could have an effect on future recruitment, and with Japan’s rapidly declining birth rate, there will already be fewer young men and women of military age to choose from in the coming years.

A too-small military force is the least of the problems facing the people of Japan. Until 2003, concerns over civilian control and civil rights prevented Japan from devising an adequate plan to guide the SDF in the case of an armed invasion. The Japanese people have been extremely fortunate that such an invasion did not occur before the plans were put into place. This was not the case with other incidents however, like the Hanshin-Awaji earthquake and the sarin gas incident. Lives were lost that might have been saved if the proper legislation had been in place at the time. In each of these cases, it took a major disaster to help push Japan incrementally closer to finally creating emergency legislation.

Other cases may not be so clear, but the potential for danger still exists. Limiting the SDF to a minimum defense capability may be unlikely to deter or counter real aggression, and the populace would certainly suffer from such an occurrence, even with help from the U.S. Restrictions on training and joint exercises could also have an adverse

affect by minimizing interoperability during such a contingency. Finally, lack of consensus on preventive defense could put citizens at risk someday.

There is no doubt that the SDF needs timely and pragmatic legislation that will enhance, rather than hinder, its capabilities. The potential benefits of such legislation would extend far beyond the SDF alone. However, to obtain that legislation, the SDF needs the public approval that can only be gained by having and maintaining a positive public image. So far, it has proven very difficult to create a positive image under the current system.

CHAPTER V

CONCLUSION:

TOWARD ACHIEVING COMPLETE LEGITIMACY

1 - The Long and Winding Road

The past 50 years have been a tortuous journey for the SDF. It was reluctantly created in order to aid in national security by fulfilling a role beyond the capability of a conventional police force. Out of concern for the Japanese public and Japan's neighbors, the SDF was constrained for most of its existence by rules designed to keep it from appearing offensive. As a result of the constraints, the SDF has never been adequately prepared for defense, and in spite of them, has never been free from criticism.

Criticisms of Japan and the SDF can seriously hinder the SDF's efforts to create an identity that is free from the shadow cast by the Imperial Japanese Military. International controversy over Japan's role in World War II and domestic contention over Japan's Constitution were largely responsible for Japan's efforts to keep details about the SDF out of the limelight for much of its early existence. Because many people did not know much about the true nature and activities of the SDF, it was easy to perpetuate these negative images. However, the SDF emerged from the shadows in the 1980s, only to find itself in the spotlight since the early 1990s. Both international and domestic awareness of, and debate over, the increasing scope of SDF activities have conspired to put Japan in a predicament.

The dilemma that the Japanese now face is this: Is it better to keep the cautious and incremental approach that they have used for years, or is it time to employ what some are beginning to call a "common sense" approach to SDF legislation? The first choice

theoretically offers the SDF an opportunity to slowly build a reputable image while provoking the least amount of criticism. As we have already seen however, this approach has neither lessened criticism nor been conducive to building a good reputation. It also severely limits the SDF's capability and preparedness to deal with emergencies and leaves Japan open to condemnation from countries who would like Japan take on more responsibility in the international arena. The second choice, while sure to cause a furor among Japan's Asian neighbors, would not only render the Self-Defense Force more capable of self-defense, but would allow for more international cooperation as well.

Even the most cautious approach has been at the expense of constitutional integrity, and there are those who claim that the continual "stretching" of constitutional interpretation over the years is nearing a breaking point. If that is true, then perhaps the time has finally come to quit stretching laws to fit unrealistic and outdated concepts and create a new framework that is capable of supporting the changes that have already transpired and guiding future actions as well.

2 - The Missing Piece of the Puzzle

The SDF is closer now to achieving status as a "normal" military than ever before. Its activities have been increased, the scope of its operations has been expanded, and various laws have been implemented in an effort to protect its members on its missions. In spite of this, many of the laws still fall short of what the SDF really needs. Additionally, the constant wrangling within the Diet inevitably leads to elaborate legal maneuverings that infuse the SDF with the taint of illegitimacy. As long as Article 9 is a part of the Constitution of Japan, the existence and activities of the SDF will be suspect,

and therefore subject to fierce debate. For this reason, many see revising the Constitution as the final step in truly legitimizing the SDF.

The Past

The idea of constitutional revision* is not new to Japan (the LDP has been advocating it since 1955), nor is it unheard of elsewhere (the Germans have amended their post-war constitution numerous times).²³³ However, the subject has always been a delicate one in Japan, especially as it relates to Article 9. One of the main reasons that the Japanese so whole-heartedly accepted the war-renouncing Constitution was that they were so completely disillusioned by the military establishment that they wanted nothing more to do with it. That the Japanese public was initially disinclined to accept the SDF is no surprise.

In fact, there have been many legal challenges to the constitutionality of the SDF over the years. In 1952, a representative of the Japan Socialist Party appealed to the Supreme Court to declare the NPR unconstitutional. Six years later, some local residents contested the construction of an ASDF base, claiming that the SDF was in direct violation of Article 9. In 1962, two brothers arrested for sabotaging an SDF field telephone line protested during their defense that the SDF was unconstitutional. In 1973, some farmers brought suit against the SDF, on the same grounds, to prevent the building of a missile base. In each situation, the courts managed to either dismiss the case outright, or issue a ruling that avoided taking a stand against the SDF.²³⁴

* Although there are other issues at stake in the discussions on constitutional revision, in the context of this thesis I will be referring specifically to Article 9.

While many have sought to declare the SDF unconstitutional over the years, others have fought with equal vigor to prove it constitutional. The prime method for “making” the SDF constitutional has been to allow its existence, but try to keep its activities strictly curtailed by the “accepted” constitutional limitations. The impracticality of this endeavor has been a theme throughout this thesis. Supporters of the SDF recognize the inherent contradictions, and thus have been working for years to bring full and unquestioned legitimacy to the SDF through revision of the Constitution. One of the reasons that this is such a difficult prospect is that, according to Article 96, Clause 1 of the Constitution, such a revision would require a two-thirds majority vote in the Diet, as well as a majority vote in a public referendum.

The Proposals

In the years since the highly contested birth of the SDF, the public has reluctantly grown to recognize the need for the SDF, and even appreciate its existence. However, information from numerous polls conducted over the years shows that the increase in acceptance of the SDF does not necessarily translate into an increase in advocating constitutional revision. In fact, the general public seems quite satisfied to accept the paradoxical coexistence of the SDF and the anti-military clause in Article 9.²³⁵

On the other hand, lawmakers and politicians on both sides of the issue, unable to accept the paradox, have worked long and hard to come up with solutions to the dilemma. At one end of the spectrum are the constitutionalists, who advocate a literal interpretation of the Constitution (*goken*). On the other end are those who favor revision (*kaiken*). In between there are those who favor supplementing the Constitution with additional

legislation without changing the actual document (*sōken*), and the proponents of ‘revision by interpretation’ (*kaishaku kaiken*).²³⁶ As we have seen throughout this thesis, revision by interpretation has ruled the day, but the overall effect on the SDF has been somewhat less than favorable.

The Yomiuri Proposal

The Yomiuri Shimbun, a leading Japanese newspaper, began circulating a proposal for constitutional revision in 1994. It advocated keeping the war-renouncing clause in Article 9, while replacing the prohibition on land, sea, and air forces with a clause supporting the right to maintain such forces for the purpose of self-defense. In addition, there would be allowances for international military cooperation in the struggle to bring peace to all nations. In 1995, the proposal also included recommendations for the establishment of emergency laws similar to those recently passed, recognition of the right to participate in collective security, and encouragement of a bilateral security arrangement with the U.S.²³⁷

The Ozawa Proposal

Ichirō Ozawa, a former Secretary-General of the LDP who was a strong proponent of *kaishaku kaiken* throughout the 1990s, had changed his views by the end of the decade. His vision of the Constitution keeps Article 9 intact, but adds a clause allowing military power for defensive purposes. He too, would support a commitment to internationally cooperative use of the military in the name of peace.²³⁸

The Sekai Proposal

In 1993 and 1994, a group of scholars associated with the monthly journal *Sekai*, offered their proposal, which falls into the *sōken* category. They would keep Article 9 as is, but add a law to legitimate self-defense. The SDF would be reorganized and split into two groups, one to defend Japan and a separate one to participate in U.N. relief operations. The proposal also called for a gradual weaning away from the U.S.-Japan Security Treaty in favor of regional collective security, as well as for contribution to world disarmament.²³⁹

The Asahi Proposal

This proposal, published by the *Asahi Shimbun* in 1995, is another endorsement of *sōken*. It insists on non-military contributions to world peace through the establishment of an International Cooperation Law. The proposal also foresees the elimination of the U.S. military from Japan, and a reduction in the size of the SDF by as much as 50%. The remainder of the SDF would be exclusively for the defense of the home islands of Japan. A Peace Support Corps of engineers, medical and rescue personnel, and civilian police units would be established for the purpose of international humanitarian assistance, but armed Japanese would never be sent overseas.²⁴⁰

The Problems

Most of the proposals do not offer any suggestions that have not been made and dismissed, for good reason, many times before. All of them, by advocating the existence of the SDF solely for defensive purposes run into the myriad problems already

encountered in trying to define and circumscribe the use of force for self-defense only. Keeping the SDF without changing Article 9 or adding a clause legitimizing it, as in the Asahi proposal, still leaves the force open to accusations of illegitimacy. Creating a separate force for international work, as the Sekai group proposes, would still mean sending armed Japanese overseas for a purpose other than self-defense.

Even though the Asahi proposal prohibits sending armed personnel overseas, what about the civilian police units? Without weapons, they would not be much good at police work. If they were armed, how would they differ from armed military personnel? The Yomiuri proposal offers some hope to the SDF, by deleting the clause prohibiting the maintenance of military forces, but by continuing to restrict them to self-defense only, it cannot really justify the plan to include them in peacekeeping missions. All of these proposals are several years old, and a lot has happened in the world since they were first made. Since it is quite unlikely that the matter will be resolved very soon, it should be interesting to see what new proposals crop up before Japan makes a decision on the subject.

The Prospects

Japan's present Prime Minister Koizumi makes no secret of his plans to push for revision of Article 9. Perhaps his vision, like that of Japan's U.S. supporters and many in the LDP, is of a military force (not necessarily called a Self-Defense Force) that is indisputably legitimate. While still constrained by the principle of civilian control, the force could maneuver swiftly and efficiently in the case of national emergencies. It could also be deployed in peacekeeping and humanitarian activities throughout the world with a

minimum of fuss and little or no wrangling over perceived constitutional limitations. In those activities, members of the Japanese military would be able to work cooperatively with the forces of other nations, realistically protect themselves in dangerous situations, and even engage in collective defense if necessary. These men and women would be honored and respected for their willing participation and sacrifice, rather than disparaged just for being a part of such a fiercely disputed organization.

At this juncture, it is impossible to predict where Prime Minister Koizumi's controversial opinions and forceful manner will take the SDF. His popularity has waned from the initial high when he first took office. In spite of that, however, he has been in office longer than any other prime minister has since Nakasone in the late 1980s. The LDP and the ruling coalition lost a number of seats to the opposition in the November 2003 elections, and while they are still the majority, the narrower margin of support could make it more difficult for Koizumi to achieve his goals.²⁴¹ Although it seems possible that the Japanese will eventually revise the Constitution, whether it will happen under Koizumi is dependent upon his level of popularity, which in turn is likely dependent upon the outcome of the Iraq mission.

3 - Conclusion

A careful study of the SDF shows that while its existence does generate disapproval in many circles, it is due more to the legacy of the past than to anything the SDF has actually done to date. On the contrary, research reveals that the SDF does not deserve much of the criticism it receives. Ultimately, it is a reasonably capable force whose evolution is due, not to resurgent militarism, but to the very practical need to carry

out missions more safely and efficiently, and the desire to work in cooperation with the forces of other nations and represent its country with pride.

For the SDF to fulfill its duties and the missions with which it is entrusted, transformation is inevitable; this in turn necessitates revisions in legislation that will support and define the role of the SDF. This thesis has identified the following areas in which further changes could be beneficial to the SDF:

- 1) There needs to be greater acceptance by the population that the principle of **civilian control** is in working order, while at the same time improvements in its enforcement so that decisions regarding SDF dispatch can be made more quickly and efficiently.
- 2) **Emergency legislation**, enabling the SDF to move quickly during national contingencies other than war, is vital to the security of the nation.
- 3) Without the unquestioned ability to engage in **collective defense**, true international cooperation is a difficult prospect at best.
- 4) Clear and realistic rules of engagement covering the **use of force overseas** are essential ingredients in many peacekeeping and humanitarian assistance activities, as well as possible future joint operations.
- 5) **Constitutional revision** is the only foreseeable way to support the last two suggestions, as well as to bring unquestioned legitimacy to the SDF.

If the SDF of today bears little resemblance to the SDF as it was originally intended, perhaps it is because the world today is vastly different – not only from the world that existed immediately following World War II, but from the world as many people hoped it would look in the future. Consider, if you will, the ideals embodied in the preamble to Japan’s post-war Constitution:

“We, the Japanese people . . . determined that we shall secure . . . the fruits of peaceful cooperation with all nations . . . desire peace for all time . . . have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world. We desire to occupy an honored place in an international society striving for the

preservation of peace, and the banishment of tyranny and slavery,
oppression and intolerance for all time from the earth.”

Experience has shown that peaceful cooperation with all nations is not so easily achieved, the preservation of security comes at a price, and the banishment of oppression sometimes requires the use of force. If Japan does take the final step to revise the body of the Constitution in such a way that the goals in the preamble may realistically be achieved, it will be controversial to say the least, but perhaps the recriminations will eventually die down as people realize that their fears and criticisms regarding the SDF have been unfounded.

NOTES

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⁸ The Imperial Rescript on Education, 1890; quoted in Meirion and Susie Harries, *Soldiers of the Sun: The Rise and Fall of the Imperial Japanese Army* (New York: Random House, 1991), 41.

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¹⁰ Edward J. Drea, *In the Service of the Emperor: Essays on the Imperial Japanese Army* (Lincoln: University of Nebraska Press, 1998), 83-85.

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¹⁶ The Meiji Constitution was based on a German model and had guided the Japanese way of thinking since 1890. Dower, 346.

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²¹ *Ibid.*, 394.

²² *Ibid.*, 396.

²³ Osamu Nishi, *The Constitution and the National Defense Law System in Japan* (Tokyo: Seibundo Publishing Co. Ltd, 1987), 127-128.

²⁴ Dower, 398.

²⁵ Harries, *Sheathing the Sword*, 233.

²⁶ *Ibid.*, *Sheathing the Sword*, 236-237.

²⁷ *Ibid.*, *Sheathing the Sword*, 290.

²⁸ Hook and McCormack, 3.

²⁹ Harries, *Sheathing the Sword*, 36-40; At least one of the cyclotrons was cut up with a blowtorch and dumped into Tokyo Bay. Dower, 79.

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- ³⁶ Ibid., 32-34.
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- ⁵⁰ Maeda (Tetsuo), 116.
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- ⁵³ Maeda (Tetsuo), 217.
- ⁵⁴ Ibid., 226.
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- ⁵⁶ Matthews, 12-13.
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- ⁵⁸ Ibid., 93-94.
- ⁵⁹ Ibid., 98.
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- ⁶¹ These principles were established in 1967. Harries, 287.
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- ⁶³ This came to be known as The Three Noes [*sic*] Incident for the rebels' demands for "no war, no taxes, and no unemployment." Maeda (Tetsuo), 126-127.
- ⁶⁴ Harries, 252-253.
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- ⁶⁷ Maeda (Tetsuo), 135-149.
- ⁶⁸ Harries, 277.
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⁸⁰ Ibid., 209.
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¹⁰¹ Nishi, 138-9.
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²³⁹ *Ibid.*, 37-38.

²⁴⁰ *Ibid.*, 38.

²⁴¹ "Koizumi Weakened in Japan Election," available from <http://www.cnn.com/2003/WORLD/asiapcf/east/11/08/japan.vote.ap/index.html>.

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