

6 The International Implications of Japan's Non-nuclear Policy

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Ultimately, eliminating the risk of nuclear war requires the abolition of nuclear weapons. But achieving this goal will require global governance of nuclear disarmament and dealing with the gap between the ideal of a nuclear-free world and the reality of living with nuclear weapons. The international community would do well to seek answers to this question by learning from Japan's experience of reliance on the U.S. nuclear umbrella.

Until its defeat in World War II, Japan was among the world's leading military powers and the only modernised nation in Asia with a huge military industry. The attacks on Hiroshima and Nagasaki at the end of the war made Japan the only nation to have suffered atomic bombings. Since then, Japan has chosen to maintain its so-called Peace Constitution and has made the abolition of nuclear weapons a key foreign policy goal.

Now an ally of the United States, with its nuclear arsenal and numerous military bases on Japanese territory, Japan's desire for a 'world without nuclear weapons' contradicts the reality that its national security depends on the deterrence of the United States. How has Japan dealt with the dilemma of this reality while adhering to its three non-nuclear principles: non-production, non-possession and non-introduction of nuclear weapons as a non-nuclear state? What implications do Japan's unique choices and trajectories have for the international community? In this chapter, I will examine these various points.

The first country in Asia to succeed in the Industrial Revolution, Japan fought in World War II based on militarism. It worshipped the emperor as a 'Living God', and even called itself 'God's State'. Japan's initial transformation into a new nation was taken on August 15, 1945, with the radio broadcast of the emperor's 'Declaration of Surrender'.

Only nine days before this Declaration, one atomic bomb had fallen on Hiroshima, and three days later, another fell on Nagasaki. Japan's military did not provide a detailed account of the horrors caused by the two attacks but briefly announced that a 'new type of bomb' had been dropped. Assessments of the damage began immediately after the bombings, with court prosecutors in Hiroshima and Nagasaki submitting reports to the Ministry of Justice. The Hiroshima report stated that some 10,000 people had been killed and between 50,000 and 140,000 injured. The Nagasaki report announced 30,000 deaths and 50,000 to 60,000 injuries. But the extent of the damage caused by the two atomic explosions was so great that it was impossible to determine the exact number of victims after the bombings.

After the draft text of the 'Declaration' was discussed at a Cabinet meeting on August 14, a recording of Emperor Hirohito reading the rescript was made that evening. At noon on August 15, the so-called Gyokuon-broadcast (Jewel Voice Broadcast) was heard,

announcing to the Japanese people that the war had ended. In his Declaration, the Emperor mentioned the atomic bombs dropped on Hiroshima and Nagasaki as follows:

(N)ow the war has lasted for nearly four years. Despite the best that has been done by everyone—the gallant fighting of military and naval forces, the diligence and assiduity of Our servants of the State and the devoted service of Our one hundred million people, the war situation has developed not necessarily to Japan's advantage, while the general trends of the world have all turned against her interest. Moreover, the enemy has begun to employ a new and most cruel bomb, the power of which to do damage is indeed incalculable, taking the toll of many innocent lives. Should We continue to fight, it would not only result in an ultimate collapse and obliteration of the Japanese nation, but also it would lead to the total extinction of human civilization.

(Huffman 2023)

The Emperor himself did not write the statement, which had been approved by the Japanese military regime. Until now, it is not known whether the atomic bombings were the main reason for the Emperor's or the regime's decision to surrender.¹ However, the text of his statement, with its phrase 'a new and most cruel bomb' rather than atomic bombs, suggests that both the Emperor and the military regime recognised the extraordinary power of nuclear weapons and even intuited the danger to human civilisation which they posed. The statement of surrender represented the first time the Japanese government had expressed its views on the atomic bombings to the world and to Japan. The majority of the Japanese people living outside of Hiroshima and Nagasaki had no idea of the devastation they caused.

A newly democratised Japan produced various accounts of the damage caused by World War II. In addition to the tremendous loss of life that Japan inflicted on the invading and occupying nations, its people were also made aware of the enormous number of Japanese casualties. Although multiple studies have produced wide-ranging estimates of casualties, the current consensus is that there were some 3.1 million war dead, including those from the Sino-Japanese War period. The breakdown of casualties is commonly cited as 2.3 million Japanese soldiers and 800,000 Japanese civilians.

Details of the damage gradually became clear, and today's figures indicate that by the end of 1945, some 14,000 people had died in Hiroshima (population 350,000 at the time) and about 70,000 in Nagasaki (population about 240,000), and the number of injured in Hiroshima about 79,000 and in Nagasaki some 75,000. It is also widely known that many *hibakusha* (atomic bomb survivors) suffered from radiation sickness long after the actual bombings.²

Until 1952, Japan was occupied by the General Headquarters of the Supreme Commander for the Allied Powers (GHQ). Although there was no visible social movement against nuclear weapons during this period, fear and loathing of nuclear weapons grew in Japan more quickly than anywhere else in the world. In the first post-war Hiroshima Peace Declaration (August 6, 1947), Hiroshima's mayor took great pains to avoid criticism of the United States.

Another factor in Japan's new pacifism was the Japanese Constitution, effective on May 3, 1947. Reflecting the Potsdam Declaration's inclusion of the demilitarisation of Japan, Article 9 of the Japanese Constitution included the renunciation of war and the non-retention of war potential. The preamble of the Constitution states,

The people of Japan, deeply conscious of the noble ideal of lasting peace and of the rule of mutual, positive human relations, have resolved to preserve their security and existence, trusting in the justice and faith of the peace-loving peoples of the world.

The Hiroshima Peace Declaration of 1948 was also written with the new Constitution in mind, stating, '[W]e are deeply conscious of the ideals of peace-loving nations, and determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world'. Moreover, the Mayor of Hiroshima emphasised that 'the ravages of war have shown us what future wars will be like' and warned of the danger of human extinction from war. At the same time, he stated convincingly that 'with all the efforts and ingenuity of mankind devoted to war, the creation of world peace is not impossible'. He then called for 'the eternal renunciation of war and the establishment of the idea of world peace on earth'.

However, it was not until April 28, 1952, when the San Francisco Peace Treaty came into effect, ending the GHQ occupation and restoring Japan's sovereignty, that the anti-nuclear movement in Japanese society gained strength. On August 6, 1953, the Hiroshima National Peace Convention was held under the auspices of 48 organisations, mostly labour unions. Participants included 663 people from all over Japan, and 13 slogans were adopted, including a 'ban on the use of atomic bombs' and 'stabilisation of the lives of atomic bombing victims'.

Another major turning point in Japanese anti-nuclear sentiment was the hydrogen bomb test conducted by the United States on Bikini Atoll in the Marshall Sea on March 1, 1954. The crew of the Japanese tuna fishing boat *Fukuryu Maru* was exposed to radioactive fallout from the bomb test; all were hospitalised after returning to Japan, and one died soon thereafter. This incident triggered a nationwide campaign to ban both atomic and hydrogen bombs, and as many as 30 million signatures were collected in Japan alone. This growing anti-nuclear movement led to the first World Conference Against Atomic and Hydrogen Bombs in August 1955 and the formation of the Japan Confederation of A- and H-Bomb Sufferers Organizations (*Nippon Hidankyo*), the only national organisation organised by the *hibakusha*.

The Russell-Einstein Manifesto, issued in June 1955, born with the aforementioned developments in Japan in mind, stated,

[It is known] on very good authority that a bomb can now be manufactured which will be 2,500 times as powerful as that which destroyed Hiroshima. Such a bomb, if exploded near the ground or under water, sends radioactive particles into the upper air. They sink gradually and reach the surface of the earth in the form of a deadly dust or rain. It was this dust which infected the Japanese fishermen and their catch of fish. ... No one knows how widely such lethal radioactive particles might be diffused, but the best authorities are unanimous in saying that a war with H-bombs might quite possibly put an end to the human race.

The authors, two intellectual giants, Bertrand Russell and Albert Einstein, expressed their strong fear that if many H-bombs are used, there will be universal death—sudden only for a minority, but for the majority a slow torture of disease and disintegration'.

Similar awareness of nuclear weapons was widely shared in Japanese society in response to the movement in the international community. Moreover, as the international community became better informed about Japan's experience of the atomic

bombings, it was clear that Japan had a moral responsibility to appeal to the world for a ban on nuclear testing and the abolition of nuclear weapons. This anti-nuclear consciousness came to resonate strongly with the pacifist line of the Constitution.

It is unlikely that the authors of the Declaration of Surrender intended or hoped for the subsequent development of anti-nuclearism and pacifism in Japan. However, it is a curious historical development that the sense of crisis over nuclear weapons implied by the wording of the Declaration of Surrender was shared by Japanese society in the aftermath of World War II. Dr. Hideki Yukawa (1989), a Nobel laureate in physics, explains the anti-nuclearism and pacifism that took root in Japanese society as follows:

[T]he appearance of the atomic bomb in the final stages of World War II and the creation of the hydrogen bomb after the war had a decisive impact on the way many people thought about war. As a result, the idea of 'rejection of war' has come to be accepted by a far greater number of people than before. It is probable that among the Japanese people, who experienced the horrors of the atomic bombings and suffered the consequences of the hydrogen bomb tests, this thought has taken root most widely. Soon after the war, the Peace Constitution was enacted, and despite various debates, it has remained in place.

What about contemporary Japan? With the passage of time and changes in circumstances, it is undeniable that the idea of rejection of war is not as powerful as it was in the 1950s and 1960s. However, a nationwide public opinion poll conducted by the Asahi Shimbun in November 2020 found that 59 per cent of respondents favoured Japan's participation in the Treaty on the Prohibition of Nuclear Weapons Convention (TPNW), compared with only 29 per cent favouring no participation. A second opinion poll conducted by the Asahi Shimbun in May 2022 found that 59 per cent favoured not changing Article 9 of the Constitution, compared to 33 per cent who favoured changing it. These data strongly suggest that the rejection of war, anti-nuclearism and pacifism remain deeply rooted in Japanese society and continue to influence Japan's nuclear disarmament and nonproliferation policies.

Japan's 'Nuclear Dilemma' Part I

While the concept of rejection of war has been an ideal in Japan, the country has continued to rely heavily on its military alliance with the United States, a nuclear superpower, for its national security.

As noted earlier, the restoration of Japan's sovereignty with the entry into force of the San Francisco Peace Treaty (SFPT) marked a major turning point for the anti-nuclear movement in Japanese society. On the other hand, another treaty signed the same day as the SFPT forced Japan to confront the contradiction in its policy regarding nuclear weapons, viz., the bilateral Japan-U.S. Security Treaty. With the Cold War in full swing, this Treaty was intended to guarantee the continued presence of U.S. military bases in Japan, even after the restoration of Japanese sovereignty.

Article I of this 'twin Treaty' states,

Japan grants the right to station U.S. forces in Japan. U.S. forces stationed in Japan may contribute to the security of Far East Asia and provide defence assistance in the event of direct armed invasion or civil unrest in Japan at the instigation of a foreign power.

However, the obligation of U.S. forces to defend Japan was not clear. Moreover, the position regarding 'extended deterrence' and 'extended nuclear deterrence' (the provision of a nuclear umbrella) was also unclear.

Article 5 of the (current) Japan-U.S. Security Treaty, revised in 1960, states that

each Party recognizes that an armed attack on either side in the territory under the administration of Japan would endanger its own peace and security, and declares that it will act to deal with the common danger in accordance with its own constitutional provisions and procedures.

This text means that an armed attack on territory under Japan's control is recognised not only by Japan but also by the United States as 'endangering its own peace and security,' and that the United States is, therefore, to 'act to cope with the common danger'. In other words, the United States considers an armed attack on Japan to be equivalent to an armed attack on the United States, compelling it to respond to such an attack. This is the principal basis for extended deterrence by the United States.

When the Japan-U.S. Security Treaty was signed in 1951, the nuclear arms race between the United States and the Soviet Union had already begun, and it is believed that extended deterrence actually included the nuclear umbrella even at that time. But it was not until the 1960s that the Japanese government's policy of emphasising the nuclear umbrella became clear, and it has taken the form of political will, confirmed through exchanges at Japan-U.S. summit meetings and documents released after the meetings. In this way, the maintenance of the nuclear umbrella has long occupied a central position in the management of the Japan-U.S. alliance.

Nevertheless, anti-nuclear sentiment has remained consistent in Japanese society. While the Japanese government has made the policy judgement that U.S. nuclear deterrence is necessary, it also considers the anti-nuclear sentiment of many of its citizens. Although trapped in this painful dilemma, Japan had no realistic choice but to maintain the nuclear umbrella.

Japanese politics has responded to this anti-nuclear sentiment by making the aforementioned three non-nuclear principles a national policy based on the Prime Minister's policy statements and on resolutions of the Diet. In December 1967, then Prime Minister Eisaku Sato announced the three non-nuclear principles (non-production, non-possession and non-introduction of nuclear weapons) at a meeting of the Budget Committee of the House of Representatives and included them in his policy speech in January of the following year. In November 1971 and May 1975, resolutions supporting the three non-nuclear principles were adopted at plenary sessions of the House of Representatives and came to be treated as the national policy of Japan.

The first two principles state unequivocally that Japan shall neither produce nor possess nuclear weapons, and since Japan does not manufacture such weapons, it also means that their proliferation to other countries is impossible. The United States welcomes the first two principles, considering the prevention of nuclear proliferation in Japan and other countries as critical to its national interest. In addition, the principle that Japan would neither arm itself with nuclear weapons nor transfer nuclear weapons it has produced to other countries was consistent with the country's anti-nuclear sentiment.

The third principle is that Japan should not introduce nuclear weapons into the country. This was not necessarily in line with the U.S. policy of maintaining as free a hand as

possible regarding nuclear strategy. However, there was always a concern in Japanese society that U.S. military bases in Japan might be used for purposes of nuclear deterrence.

Under these circumstances, the Japanese government searched for realistic options to maintain the nuclear umbrella. As a result, the Japanese and U.S. governments chose to avoid a backlash of anti-nuclear sentiment in Japanese society by means of undisclosed 'secret agreements'.

The first originated with the negotiations during the revision of the Japan-U.S. Security Treaty in 1960, in which both countries agreed that the introduction of nuclear weapons to U.S. bases in Japan would be a matter of prior consultation between the two countries. However, there were differences of opinion as to the definition of 'introduction'. The U.S. policy was that the 'transit' of U.S. navy vessels to U.S. bases in Japan did not constitute an introduction and was not subject to prior consultation unless the weapons were unloaded on land. Since the 1960s, many tactical nuclear weapons have been deployed on U.S. Navy vessels, and the intention was to maintain a free hand regarding the transit of these vessels to U.S. military bases in Japan.

But Japan argued differently. At the time, before the Japanese government had formulated its three non-nuclear principles, there was strong opposition in Japanese society to the presence of U.S. navy vessels, as they could potentially carry nuclear weapons. Therefore, the Japanese government agreed to revise the Japan-U.S. Security Treaty, leaving the definition of 'introduction' ambiguous. Moreover, the Japanese government continued to overlook the fact that the U.S. side maintained its position in the exchange of opinions after the revision, viz., that transit to U.S. military bases in Japan did constitute introduction. As a result, this left open the serious possibility that vessels carrying nuclear weapons *were* being transferred to U.S. bases in Japan *without prior consultation*. Nevertheless, the Japanese government has repeatedly stated in the Diet that 'since there has been no request for prior consultation, it is considered that there is no introduction'. Even after the three non-nuclear principles became national policy, the government continued to make similar statements.

It is unclear whether or not nuclear-armed vessels have actually been present on U.S. bases in Japan. What is clear, however, is that the United States has been maintaining the nuclear umbrella through an unspoken and unofficial agreement that suits the U.S. side while avoiding any backlash from Japanese society.

Subsequently, during the Japan-U.S. summit of November 1969, then U.S. President Richard Nixon and Japanese Prime Minister Eisaku Sato signed a secret agreement stating that in the event of a grave emergency, the Japanese government 'understands the requirements of the U.S. government with respect to the reintroduction of nuclear weapons into Okinawa and will fulfil these requirements without delay if such prior consultations are held'. In other words, the two leaders promised not to adhere to the three non-nuclear principles if there were 'prior consultations' regarding the introduction of nuclear weapons into Okinawa. The Japanese Ministry of Foreign Affairs maintains that this was not an official 'secret pact' because it was not agreed to in an official diplomatic document. However, it was at least a valid document between the two leaders and was, in fact, another secret agreement.

This secret agreement was only officially revealed in 2010. Successive Liberal Democratic Party (LDP)-led administrations had denied the existence of the secret agreement. But when the Democratic Party of Japan (DPJ) came to power, then Foreign Minister Katsuya Okada ordered an investigation within the ministry, and the relevant documents were found. After a study by a committee of experts entrusted with verification, the

reality of the secret agreement became even clearer. The stance of successive administrations prior to the DPJ government was to maintain silence about the secret agreement with the United States regarding the introduction of nuclear weapons and port calls. This was a dishonest choice made by the Japanese government, which was caught between its position under the U.S. nuclear umbrella and the deeply rooted anti-nuclear sentiment in Japanese society.

As a result of the 2010 exposure and subsequent Japan-U.S. discussions, the secret agreement no longer exists. However, it is now well known that the interpretation of *introduction* between Japan and the United States remains at variance. The U.S. side has consistently taken the position that transit of a U.S. military vessel carrying nuclear weapons to a U.S. military base in Japan does not constitute nuclear introduction, while the Japanese have contended that such transit constitutes introduction and *is* subject to prior consultation. Thus, the Japanese side is well aware that, theoretically, U.S. vessels carrying nuclear weapons may call at U.S. bases in Japan without prior consultation.

The story of how the truth about the secret agreements emerged should end simply with criticism of the Japanese government for continuing to conceal them. There is no doubt that the Japanese government's policy is dishonest to the people and the Diet, but attention must be paid to the reality that the Japan-U.S. Security Treaty has unique characteristics, including (a) a bilateral security treaty between a victorious vs. a defeated nation and (b) the only bilateral security treaty in the world between a nation having used nuclear weapons and one having suffered nuclear attacks.

Considering these unique points, the nuclear umbrella must be maintained for Japan without causing a backlash in Japanese society or damaging the U.S. nuclear deterrence policy. If we consider the successive secret agreements that were concluded as a painful option to the simultaneous achievement of these two contradictory goals, we can say that the history of the secret agreements lies at the heart not only of Japan's deep dilemma over nuclear weapons but also to state-centric international relations with its excessive preoccupation with national military security.

Japan's 'Nuclear Dilemma' Part II

The dilemma over the prior consultation about the introduction of nuclear weapons is a major problem for the Japanese government and Japanese society not only in times of emergency but also in peacetime. But there is another dilemma that could become extremely serious in the event of an emergency: the differences between Japan and the United States concerning international humanitarian law.

International humanitarian law involves customary and treaty law, the former binding on all states and the latter on states parties. Convention law includes the four Geneva Conventions of 1949 (for the protection of wounded and sick soldiers, shipwrecked persons, prisoners of war, and civilians) and its Additional Protocol I (prohibiting the use of weapons that cause undue injury or needless suffering, as well as attacks on civilians and civilian objects), and these rules mirror those in customary law. The International Criminal Court (ICC) was established in 2002 to try individuals who violate international humanitarian law and bring them to justice.

In the 'Shimoda case' in 1963, residents of Hiroshima and Nagasaki (survivors) 'jointly brought an action against the government of Japan for the damages they and members of their families suffered as a result of the atomic bombings by the United States in August 1945'. And these survivors alleged that the dropping of the atomic bombs was an

unlawful act and that Japan's waiver of claims for damages under domestic and international law against the United States gave rise to an obligation for the government of Japan itself to pay damages.

Although this legal action was dismissed by the Tokyo District Court on December 7, 1963, the court held that

the aerial bombardment with atomic bombs of the cities of Hiroshima and Nagasaki was an illegal act of hostilities according to the rules of international law. It must be regarded as indiscriminate aerial bombardment of undefended cities, even if it was directed at military objectives only, inasmuch as it resulted in damage comparable to that caused by indiscriminate bombardment.

(International Committee of the Red Cross 1963)

However, even after this ruling, the Japanese government has not taken the position that the atomic bombings by the United States violated international law.

The advisory opinion by International Court of Justice (ICJ) has concluded that 'the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law'. On the other hand, it stated that

in view of the current state of international law, and of the elements of fact at its disposal, the Court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake.

(International Committee of the Red Cross. n.d.-a)

Based on this advisory opinion and other applicable interpretations of international laws, Japan takes the position that the use of nuclear weapons is not always illegal.

Despite this history, Japan regards the rule of law in the international community as one of its diplomatic priorities and is a state party to the four Geneva Conventions and Additional Protocol I.³ If Japan were to use force, it would need to comply with these treaties. Japan is also a state party to the Rome Statute, which established the ICC. Thus, the key question for Japan is whether these international humanitarian laws would also apply to the use of nuclear weapons and how this would affect the nuclear umbrella provided by the United States. The United States itself has not ratified Additional Protocol I. Although it is apparently formulating its nuclear strategy and targeting strategy with *awareness* of international humanitarian law, it ultimately maintains a position of minimising legal restraints, desiring to keep as free a hand as possible in the conduct of war.

And what about U.S. allies in Europe? In becoming parties to Additional Protocol I, the United Kingdom and France, as nuclear-weapon states,⁴ have declared that the protocol does not apply to the use of nuclear weapons. The United Kingdom, France, Germany, and Italy have also declared that in the event of an attack on their own civilians in violation of Additional Protocol I, they are not denied the right to 'avenge' (a counterattack by a state that has suffered an attack that is illegal under international law in order to force the aggressor state to cease and desist). The debate continues as to the legal meaning of such a declaration. However, considering the political intent of the Declaration, it can be said that the nuclear powers, the United Kingdom and France, are responding in consideration of the impact on their own nuclear deterrence, while Germany and

Italy, non-nuclear-weapon states in the North Atlantic Treaty Organization (NATO), are responding in consideration of the impact on extended nuclear deterrence.

What about Japan? It is not clear to what extent Japan deeply examined the relationship with the nuclear umbrella when it made its decision to sign and ratify these international humanitarian laws. What is clear from the record is that Japan acceded to the Geneva Conventions and Additional Protocol I without any reservations about the rules governing the use of nuclear weapons.

This raises the serious question of how to deal with the differences between Japan and the United States. While the United States is not legally bound by the rules of Additional Protocol I regarding the use of nuclear weapons, its ally Japan has taken the position of being legally bound without *reservation*. Japan is a member of the ICC, but the United States is a non-signatory. Although this protocol has bearing only in the event of a crisis situation in which nuclear weapons are used, how would Japan assess the differences with the United States over international humanitarian law, and how would it respond?

For example, suppose for some security reason, the United States, based on the Japan-U.S. Security Treaty, in consultation with Japan, counterattacked with U.S. nuclear weapons against a nuclear attack on Japan by a nuclear-weapon state. If a nuclear counterattack on a military target agreed to by Japan in the Japan-U.S. talks resulted in a violation of Additional Protocol I, inflicting excessive injury or needless suffering, or causing indiscriminate attacks with significant collateral damage, Japan would not be completely immune from liability, even as a result of a counterattack on a nuclear first-strike.

Moreover, if Japan were to be involved in the decision-making process concerning the nuclear counterattack, it is quite conceivable that the ICC prosecutor might initiate an investigation into the suspected violation of Additional Protocol I, given that Japan is a signatory. Depending on the outcome of such an investigation, it is conceivable that senior Japanese government officials involved in the decision-making process could be charged with war crimes.

With these issues of international humanitarian law in mind, for the sake of the next question, let us assume a case in which the United States offered Japan the option of retaliating with nuclear weapons. Taking into account the risk of being accused of war crimes and based on the perspective of international humanitarian law, could Japan object to the nuclear strike strategy proposed by the United States? If a gap emerged between the United States—which places a high value on having a free hand—and Japan—which is bound by its obligations under Additional Protocol I—it could seriously affect the alliance relationship in case of an emergency. Thus, although difficult to see in peacetime, the nuclear umbrella between Japan and the United States has a latent asymmetry, given the anticipated differences in the enforcement of international humanitarian law between Japan, a party to Additional Protocol 1, and the United States, which is not.

Although a situation in which nuclear weapons are used must be avoided as much as possible, the nuclear umbrella is built on the assumption that the United States *could* conceivably use nuclear weapons. On the other hand, it is appropriate for Japan, as the only country having suffered a nuclear attack, to have joined the four Geneva Conventions and Additional Protocol I without any reservation concerning the use of nuclear weapons. So, in deciding whether or not to use nuclear weapons under the nuclear umbrella, will Japan use international humanitarian law as a basis for persuading the United States to desist from using nuclear weapons? Or will Japan encourage or agree to the use of nuclear weapons by the United States, even though this would be in possible

violation of international humanitarian law and the general law of war? This represents another serious nuclear dilemma that Japan faces.

Japan's 'Nuclear Dilemma' Part III

The two dilemmas that I have described concerning the three non-nuclear principles and international humanitarian law have structural causes. The structure of these dilemmas can be summarised as follows.

For Japan, Article 9 of the Japanese Constitution is essential to the fundamental idea of the 'rejection of war'. On the other hand, Japan signed a treaty *on the same day*, recognising *both* the restoration of its sovereignty and the Japan-U.S. Security Treaty, authorising the stationing of U.S. military bases in Japan. In doing so, a basic framework was formed in which Japan's foreign and security policy was henceforth to rely on Article 9 of the Constitution *and* the Japan-U.S. Security Treaty. As a result, a structure was created in which Japanese society faced multiple dilemmas between the idea of *rejection of war* contained in Article 9 and the nuclear umbrella provided by the Japan-U.S. Security Treaty.

How was this structure formed? From a historical perspective, Japan's Constitution and the Japan-U.S. Security Treaty were basically created under the leadership of the GHQ during the occupation. Nevertheless, the Japanese government and Japanese society have accepted both and preserved them as the basic framework for Japan's post-war foreign and security policies. More specifically, this framework consists of two pillars: (a) maintaining Article 9 of the Constitution, which contains the renunciation of war and the non-retention of military force, and limiting Japan's ability to defend itself to the minimum necessary, and (b) at the same time, ensuring Japan's security through the U.S. commitment to defend Japan under the Japan-U.S. Security Treaty.

This system is also known as the Article 9-Security Treaty Regime, and it was Prime Minister Shigeru Yoshida who mapped this basic course, choosing a strategy of prioritising economic growth—by entrusting Japan's security to the Japan-U.S. Security Treaty—while carefully avoiding full-scale rearmament under Article 9 of the Constitution. This basic line of thinking was carried forward by subsequent Japanese Prime Ministers and became entrenched as the Yoshida Doctrine, at least until the end of the Cold War.

In the post-Cold War era, there was a growing movement to expand Japan's international contributions not only in the non-military area but also in the military sphere. Moreover, in response to changes in the security environment, such as the build-up of military power (including nuclear weapons) by China and the nuclear armament of North Korea, the argument for revising Article 9 of the Constitution became stronger than it had been during the Cold War. For example, former Prime Minister Yasuhiro Nakasone (LDP), who was a proponent of constitutional reform, asserted,

This constitution, which was framed by MacArthur's command during the occupation, lacks a view of the nation based on the history and traditions of the people. Article 9, which states that Japan shall have no armed forces, is based on the protection of the U.S. military under the Security Treaty, and this imposes too great a restriction on Japan's autonomy. It is time for us to create a constitution that is in tune with the times and appropriate for the 21st century.

(*Dialogue between Former Prime Minister Yasuhiro Nakasone and Kiichi Miyazawa* 1997)

There is no doubt that the revision of Article 9, taboo during the Cold War, became easier to talk about after the Cold War. Nevertheless, the argument that the revision of Article 9 is unnecessary still holds sway in Japan. For example, former Prime Minister Kiichi Miyazawa (LDP), a defender of Article 9, responded to Nakasone's argument by saying,

Japan has made a terrible mistake in the past by having an army. Since the Self-Defense Forces can do what they can do under Article 9, it would be foolish to have an army or use force in foreign countries anymore. Japan has made good use of this Constitution since the end of World War II, and we should cherish it.

(‘Dialogue between Former Prime Minister Yasuhiro Nakasone and Kiichi Miyazawa’ 1997)

Although the LDP, which has maintained its position as Japan's ruling party for most of the post-war period, has become much more vocal in its opposition to the revision of Article 9 than it was during the Cold War, Japanese society as a whole is still dominated by a constitutionalist majority, similar to that of Prime Minister Miyazawa.

Looking back over the history of Japan, it is clear that the original Yoshida Doctrine has undergone minor revisions as times have changed, but the Article 9-Security Treaty Regime itself has not been reformed.

Thus, in entrenching the Article 9-Security Treaty Regime, a nuclear dilemma was created, giving rise to a conflictual relationship between the rejection of war—with its anti-nuclear stance as a central pillar—and the nuclear umbrella provided by the Japan-U.S. Security Treaty. Although there is a growing tendency in Japanese society to accept the Japan-U.S. Security Treaty, this does not necessarily mean acceptance of the nuclear umbrella. Historically, and even today, there has been a certain range and transformation in the idea of rejection of war. Opposition to the Japan-U.S. Security Treaty emerged strongly between the 1950s and the 1970s, whereas recent national public opinion polls show that both Article 9 of the Constitution and the Japan-U.S. Security Treaty have gained the support of more than a majority of the Japanese public.

This change in Japanese society became a factor in the acceptance of the Article 9-Security Treaty Regime. However, even though the Japan-U.S. Security Treaty is accepted, anti-nuclear consciousness remains firmly grounded in the idea of rejection of war. Many Japanese accept the Japan-U.S. Security Treaty for the pragmatic reason of national security. But many Japanese also feel that support for the Japan-U.S. Security Treaty and acceptance of the nuclear umbrella are not one and the same. As a result, realism regarding national security and anti-nuclearism in rejecting war have become confused in the minds of many Japanese.

Clearly, under the Article 9-Security Treaty Regime, the idea of rejection of war is more or less dependent on the Japan-U.S. Security Treaty. As mentioned earlier, former Prime Minister Miyazawa spoke in defence of Article 9, saying, ‘[T]he Self-Defense Forces have been able to do what they can do under Article 9, so it would be foolish to have an army or use force abroad anymore’. This is a logical development given the existence of the Japan-U.S. Security Treaty. In other words, Article 9 is supported by the Japan-U.S. Security Treaty. As a result, the idea of rejection of war, which is inseparable from the existence of Article 9, is more or less dependent on the Japan-U.S. Security Treaty, including the nuclear umbrella. Since the anti-nuclear consciousness remains deeply rooted in the idea of rejection of war, the structure of Article 9—supported by the Japan-U.S. Security Treaty—has encouraged a structure that generates a conflictual relationship.

For these reasons, the clash between reliance on the nuclear umbrella and anti-nuclearism continues under the Article 9-Security Treaty Regime and continues to reproduce Japan's nuclear dilemma. It is hard to imagine that this situation could have been foreseen when the SFPT and the Japan-U.S. Security Treaty were signed in 1951. In reality, among the post-World War II allies of the United States, only Japan, the only country exposed to atomic bombings, has continued to face this nuclear dilemma in its history.

How, then, will the Article 9-Security Treaty Regime affect the idea of rejection of war? It is difficult to predict the distant future, but as long as Article 9 of the Constitution exists, the Article 9-Security Treaty Regime will continue to keep Japan within this conflicted framework premised on the U.S. nuclear umbrella.

Because of this framework, a new dilemma has emerged: the Japanese government's policy towards the 2021 Treaty on the Prohibition of Nuclear Weapons (TPNW). The Government of Japan continues to oppose it. This supreme irony exists because Japan's participation in a treaty, which would immediately outlaw nuclear weapons *while nuclear threats exist in the vicinity of Japan*, would undermine the legitimacy of nuclear deterrence by the United States and put the lives and property of its citizens at risk. The Government of Japan has even decided *not to participate as an observer* in the first meeting of the Conference of the Parties to the TPNW. The representative of the Government of Japan explained its reasons for this decision by saying, 'To change reality, the cooperation of nuclear-weapon states is necessary, but none of them is participating in the TPNW. Our country will continue to make practical efforts (towards nuclear disarmament)'.

It is realistic to conclude that nuclear abolition through the TPNW is impossible unless the nuclear-weapon states themselves participate. However, there was also a diplomatic option of utilising the existence of the TPNW to encourage nuclear-weapon states to pursue nuclear disarmament. In fact, NATO members Germany, Norway, the Netherlands, and Belgium joined in the first meeting of the Conference of the Parties as observers; Australia, a U.S. ally in the Pacific region, made a similar choice. While pointing out the drawbacks of TPNW, they stressed the need for nuclear disarmament.

The Government of Japan refused to even participate as an observer. This decision was clearly based on the presence of the United States, which had turned its back on the TPNW, and it represents a clear policy choice in favour of the nuclear umbrella in the face of the nuclear dilemma. From a different perspective, Japan's decision not to participate as an observer can be seen to result from its caution that if it were to join, support for the TPNW would grow in Japan, and criticism of the nuclear umbrella would intensify. As the TPNW case strongly suggests, it will be extremely difficult for Japan, given its special relationship with the United States, to overcome the tension arising between the U.S. nuclear umbrella and anti-nuclearism at the heart of the strong anti-war sentiment.

International Implications of Japan's Non-nuclear Policy

What are the implications of Japan's continuing to internalise anti-nuclearism in Japanese society while maintaining Article 9 of the Constitution in the face of the nuclear dilemma under the Article 9-Security Treaty Regime?

First is the restraining effect on the argument in favour of a nuclear-armed Japan. According to the Japanese government's interpretation of Article 9 of the Constitution, Japan can arm itself with nuclear weapons, as long as it is within the scope of a non-aggressive defence policy; in other words, the Japanese government can maintain and

exercise nuclear capabilities for self-defence. However, nuclear weapons possessed within the scope of a nonaggressive defence policy are an effective deterrent.

Moreover, even the smallest nuclear armaments would be deemed to violate the Non-Proliferation Treaty (NPT). Even if Japan were to acquire 'constitutional' nuclear arms domestically, internationally it would be seen as a betrayal of the NPT and subject to economic sanctions. Because nuclear arms would not be militarily commensurate and would cause Japan to lose standing internationally, the Japanese government has deemed it politically wise not to move towards nuclear arms under the restrictions of Article 9. Furthermore, Japan's three non-nuclear principles, designed to satisfy its citizens' anti-nuclear sentiment, have restricted its ability to manufacture or possess nuclear weapons, and overturning these principles would risk domestic political disapproval.

Preventing Japan from going nuclear is of vital concern to the United States, which wants to maintain its military bases there. Moreover, under the Article 9-Security Treaty Regime, Japan's dependence on the U.S. nuclear umbrella and the U.S. legal right to maintain its forces on an ongoing basis are required for the U.S. Asia-Pacific strategy. It is, therefore, desirable to prevent Japan from going nuclear and shifting to an autonomous armaments policy to prevent a new source of instability for U.S. forces in Japan. Clearly, it is deemed in the best interests of the United States if Japan's nuclear armaments are suppressed through the Article 9-Security Treaty Regime.

Given these factors, the continuation of Japan's nuclear-weapon-free policy will have a positive effect on security in Northeast Asia. In China and South Korea, where the historical traces of the Sino-Japanese War and Japan's colonisation of the Korean Peninsula still linger, there is a deep-seated wariness of a nuclear-armed Japan. Given such regional misgivings, the continuation of Japan's nuclear-weapon-free policy is seen as a sign that the Article 9-Security Treaty Regime is fulfilling its function as a public good for regional security.

The second implication of the Article 9-Security Treaty Regime is Japan's contribution to nuclear disarmament and nonproliferation policies based on the NPT. Japan's Ministry of Foreign Affairs (MOFA) recognises that, as the only country to have experienced atomic bombings, Japan has a responsibility to lead the international community's efforts to achieve a world without nuclear weapons. MOFA has cited as one of its achievements the fact that it has submitted a resolution on nuclear abolition to the United Nations General Assembly every year since 1995, and that the resolution has been adopted. The August 2022 NPT Review Conference and the September 2022 United Nations General Assembly were held simultaneously. Prime Minister Fumio Kishida, a Hiroshima native, attended both events and delivered speeches, symbolic of the high priority Japan places on nuclear disarmament and nonproliferation.⁵

Beyond the NPT Review Conference and the United Nations General Assembly, Japan's MOFA has contributed to the international community policy recommendations for nuclear abolition. In response to the 1998 nuclear tests by India and Pakistan in defiance of the NPT, MOFA organised the Tokyo Forum on Nuclear Non-Proliferation and Disarmament, which was attended by international experts. In 1999, the Forum called for

a rapid and concerted effort to reverse this dangerous trend or risk undesirable changes in nuclear disarmament and nonproliferation over the next few years. Unless concerted action is taken promptly to reverse this dangerous trend, treaties on nuclear nonproliferation and nuclear disarmament will be meaningless instruments.

In 2017, in response to the deteriorating security environment, especially in North Korea, and the emerging conflict of opinion between the nuclear-weapon states and those not possessing nuclear weapons over how to proceed with nuclear disarmament, then Foreign Minister Fumio Kishida announced the launch of the 'Eminent Person's Council for Substantial Progress on Nuclear Disarmament'. This Council of international experts was commissioned to compile a report in 2019 and identify gaps between claims from security and humanitarian perspectives and the difficult issues that must be confronted in order to achieve nuclear abolition. In 2019, the council Chairman reported on these issues and proposed steps that states and civil society could take.

As explained earlier, the contribution of the Japanese government to nuclear disarmament is based on the recognition that 'as the only country to have experienced atomic bombings, Japan has a responsibility to lead the efforts of the international community toward the realisation of a world without nuclear weapons'. At present, this is premised on the Article 9-Security Treaty Regime, a practice still overshadowed by the nuclear dilemma. Even so, Japan's contribution is considered an indispensable public good for the international community to be proactive in nuclear disarmament and nonproliferation policies while aware of its moral high ground.

But this raises yet another significant question: will Japan remain mired in the nuclear dilemma as long as it relies on the Article 9-Security Treaty Regime? Immediately after Russia launched its invasion of Ukraine, President Vladimir Putin made a statement threatening the use of nuclear weapons, sending shock waves through Japanese civil society. At a citizens' rally against war in Nagasaki, one participant said,

If a third A-bombed city is created, it will be a seed in the chain of nuclear weapons use. We must not only pray for Nagasaki to be the last A-bombed city, but also continue to tell the world what will happen if nuclear weapons are used.

One of the *hibakusha* said,

(Intimidation with nuclear weapons is) a blasphemy against those who died in the atomic bombings of Nagasaki and Hiroshima. It is the duty of the *hibakusha* to continue to raise our voices so that war will not be waged in the days of their children and grandchildren.

The Japanese government has continuously criticised Putin's nuclear threats. After the G20 summit in Bali, Indonesia, Prime Minister Fumio Kishida, a politician from Hiroshima, made the following comments at a press conference.

In the (G20) Summit Declaration, the majority of countries strongly condemned the war in Ukraine, and in the G20, the threat or use of nuclear weapons is also inadmissible. ... Japan strongly urged that the threat or use of nuclear weapons should be condemned in the strongest possible terms, as it is an act of hostility against humanity. I greatly appreciate that the inclusion of this phrase was a major step leading to next year's G7 Summit in Hiroshima in 2023. I would like to lead the discussion as the chair of the G7 Hiroshima Summit.

After the war in Ukraine broke out, some Japanese politicians expressed the idea that Japan should also discuss nuclear sharing with the United States. However, Japanese

media reacted negatively to this, and the Japanese government stated that it would not consider this as a policy. Maintaining a policy that respects the strong anti-nuclear awareness in civil society while assuming the existence of the U.S. nuclear umbrella remains unchanged even today in the midst of a challenging security environment.

It is unrealistic and unlikely that the situation will change dramatically in the near future, although from a long-term perspective, the landscape we may see in the future may be very different. In fact, there is a way to resolve the nuclear dilemma while moving closer to the ideals of Article 9 of the Constitution, and Japan is progressively moving towards that goal: to realise a ‘world without nuclear weapons’ in the future and completely close the nuclear umbrella between Japan and the United States. If such a world is to be realised, a new security theory and international security system will have taken root, and the role and scale of U.S. forces in Japan will have been reduced. If this can be achieved, it will be because the security policy has shifted away from the Article 9-Security Treaty Regime towards an Article 9-led policy.

If the Article 9-Security Treaty Regime could be reformulated, it would give new life to the idea of rejection of war that emerged after World War II and to the Preamble and Article 9 of the Constitution. If we can approach the ideals of a ‘world without nuclear weapons’—even though it has been a long time since the Declaration of Surrender was made with the risk of destruction by nuclear weapons in mind—we can expand our chances of translating the words of the Hiroshima Mayor’s 1948 Peace Declaration into concrete policy.

However, a bright scenario is not guaranteed. As long as Article 9 of the Constitution exists, the Article 9-Security Treaty Regime will also be prolonged. If Article 9 were to be revised, Japan would become a normal state militarily under the Constitution. In this scenario, it is feared that the argument *for* independent nuclear armament would become stronger than it is today and that modifications to the three non-nuclear principles or cancellation of them could become a reality. These options, if implemented, would greatly undermine the characteristics of Japan as the only country to have suffered nuclear warfare. And as regards international humanitarian law, these options would also increase the likelihood that compliance with Additional Protocol I would be put on hold in the event of a national security emergency.

Revision of Article 9 of the Constitution would also be a major blow to the idea of rejection of war. Despite various debates, since the Peace Constitution was established shortly after the end of World War II, it has remained intact, based principally on the disastrous experience of the Japanese people in the atomic bombings and the hydrogen bomb tests (Yukawa 1989). If Article 9 of the Constitution were to be revised, it would mean that Japanese society has changed such that the idea of rejection of war has weakened, and anti-nuclear awareness regarding nuclear weapons has also lost strength. The *hibakusha* are ageing every year, and it is highly probable that the number who will be able to testify publicly about their experiences of the atomic bombings in ten years will be very limited. The ‘oblivion of history’ is inexorably progressing, and this may become a hotbed for the revision of Article 9 of the Constitution and would have a major negative impact on the world’s nuclear disarmament and nonproliferation policies.

Will the abolition of nuclear weapons lead to the rebirth of the Article 9-Security Treaty state in such a state of historical oblivion? Japan is at a major crossroads, but the implications for Japan are not limited to Japan alone. Were Article 9 to be revised in Japan, making the country a normal military state, and the message from Hiroshima and Nagasaki weakened, the norm towards nuclear abolition would be seriously eroded,

creating a major negative factor for nuclear disarmament and world peace. It is no exaggeration to say that the future choices of Japanese society will have historic, global implications.

Whether Japan can change its Article 9-security regime to an Article 9-guided one is, in fact, closely related to the future development of global governance regarding nuclear disarmament. In the search for a Japan-U.S. alliance that does not depend on the nuclear umbrella, improvement of the regional security environment is an essential prerequisite. On the other hand, such improvements will depend to a large extent on the future of global governance on nuclear disarmament. Thus, synergy between Japan's efforts to shift the Article 9-security regime to an Article 9-guided regime and the development of global governance on nuclear disarmament will be closely interlinked. While Japan, with its historical memory of Hiroshima and Nagasaki, will demonstrate its significant moral and normative power in the development of global governance on nuclear disarmament, the development of global governance on nuclear disarmament will, in turn, improve the security environment in the Northeast Asian region, spurring a shift to an Article 9-guided security regime in Japan. The creation of such a positive cycle will be a powerful driving force towards a world without nuclear weapons.

Notes

- 1 For example, Dr. Tsuyoshi (Yamaguchi, Yoshida and Compel 2019) considers '(n)either the first bomb on Hiroshima nor the combined two bombs had any immediate impact on Japan's decision to surrender'.
- 2 For a review of the medical aftermath of Hiroshima and Nagasaki, see Tomonaga 2019, who writes,

The damage to their (*hibakusha*'s) health has continued, in three phases of delayed effects: the appearance in 1949 of leukaemia, the first malignant disease; an intermediate phase entailing the development of many types of cancer; and a final phase of lifelong cancers for *hibakusha* who experienced the bombing as children, as well as a second wave of leukaemia in elderly *hibakusha* and psychological disorders, such as depression and post-traumatic stress disorder. Thus, the human consequences of the atomic bombings have not ended. Because many are still dying of radiation-induced malignancies, it is too early to estimate the total death toll. The *hibakusha* have faced a never-ending struggle to rebuild their lives and families, while living with the fear of disease.

- 3 The International Committee of the Red Cross explains this as follows: (1) 'International humanitarian law (IHL), also known as the law of armed conflict or the law of war, is a set of rules that seek, for humanitarian reasons, to alleviate the effects of armed conflict'; (2) 'IHL protects persons who are not, or who are no longer, participating in the hostilities, such as civilians and wounded or captured combatants. It also protects civilian objects (i.e., objects that are not military objectives)'; (3) 'IHL does not specifically prohibit nuclear weapons. Nevertheless, their use in armed conflict is regulated by the general rules of IHL, which restrict how weapons may be used and outline measures to be taken to limit their impact on civilians and civilian areas' (International Committee of the Red Cross n.d.-b).
- 4 Nuclear-weapon states are China, France, Russia, the United Kingdom, and the United States.
- 5 Representing Nagasaki and Hiroshima and the Group of Mayors for Peace, Nagasaki Mayor Tomihisa Taue attended the NPT Review Conference as a non-governmental organisation (NGO) member and delivered the following message. (1) 'Decades of effort can be undone if just one nuclear-weapon state decides to use all of its power to tyrannize other states. We were subjected to such a risk when Russia implied the use of nuclear weapons during the Ukraine invasion; (2) more convinced than ever before, I hereby make the following appeal to every state including the nuclear-weapon states: nuclear weapons must never be used. Abolition is the only way for humanity to avoid the dangers of nuclear weapons; (3) as reaffirmed in the final

document of the First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons (TPNW), the NPT and the TPNW reinforce each other and, together, they are both integral to the realization of a world without nuclear weapons'. Mayor Taue's message reflected the general views of Japanese civil society which favour nuclear disarmament. It was a great disappointment for Japanese civil society that, owing to Russian opposition, the NPT Review Conference failed to adopt a final document, and thus failed to lay the groundwork for a new relationship between the NPT and the TPNW.

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