

**A Historic- Legalistic - Institutional Analysis of
the US-Japanese Military Relations**

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Abstract

In international relations one rarely sees a sovereign state's military so integrated by another sovereign state as in the Japan-US dyad after the Second World War. Britain, for example, did control India's military once, but India was part of the British empire then.

This article elaborates the legal mechanism with which the United States integrates Japanese military apparatus. The mechanism's origin, formation and evolution are analyzed. The analysis is divided into three phases: first, from 1941 to 1951; second, from 1951 to 1960; thirdly, from 1960 onward. The article will also address how this integration might impact the geopolitical situation in East Asia.

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I. Introduction

It is commonly regarded that Japan has regained its independence in 1951 at the signing of San Francisco Peace Treaty and that the US-Japan security alliance is founded on the relation of two sovereign nations. However, a closer look reveals that the US military continue to enjoy the occupation-era privileges even 73 years after Japan's independence.

This present article will take a historic-legalistic-institutionalist approach to examine how laws, rules, regulations, and governmental institutions, particularly those related to defense, have evolved over time and how they have shaped Japan's defense policy and behaviors. The use of the institutionalist approach is advanced by figures such as Robert O. Keohane, Lisa L. Martin,¹ Kenneth R. Mayer, Anne M. Khademian, among many others.² The approach focuses on the historical context of institutional design and the evolving of laws, rules, and regulations as the foundation of institutions, hence the historic-legalistic-institutionalist approach.

¹ Keohane, Robert O., and Lisa L. Martin. "The Promise of Institutional Theory." *International Security* 20, no. 1 (1995): 39-51.
<https://muse.jhu.edu/article/447387>.

² Mayer, Kenneth R., and Anne M. Khademian. "Bringing Politics Back in: Defense Policy and the Theoretical Study of Institutions and Processes." *Public Administration Review* 56, no. 2 (1996): 180-90.
<https://doi.org/10.2307/977206>.

The evolution of the legal framework of the Security Treaty is marked by the progressive institutionalization of the US command of Japanese armed forces as well as the production of countless secret agreements in the Japan-U.S. Joint Committee and the Japan-U.S. Security Consultative Committee (SCC). Much of the institutional development and secret agreements in the U.S.-Japanese military relations have escaped public attention, thus lacking public accountability.

This article attempts to probe the institutional embeddedness of U.S.-Japan military relations in a legal history starting from the 1941 Atlantic Charter. The problematics of this probe is how the United States obtained and maintained significant political and military clout over Japan and how the American clout has evolved.

Figure 1 serves as the basic outline of this article. It summarizes the three layers of Japanese security structure in three different periods. The Grand Layer is the major principles dictating the security arrangement of Japan. The Intermediate Layer is specific rules and regulations of particular fields derived from these principles. The Operational Layer is the working groups which resolve specific issues.

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		1941-1951	1951-1960	Post-1960	
Grand Layer (Justification for stationing)	Atlantic Charter UN Charter	<i>Security Treaty Between the United States and Japan</i>	<i>Original Security Treaty (OST)</i>	<i>Treaty of Mutual Cooperation and Security between Japan and the United States of America</i>	
Intermediate Layer (Rights & Privileges)	Japanese Constitution San Francisco Peace Treaty	The Administrative Agreement	U.S. - Japan Status of Forces Agreement (SOFA)		
Operational Layer	Preliminary Working Group	US-Japan Joint Committee	US-Japan Joint Committee	US-Japan Security Consultative Committee, (SCC)	

Source: from the author

Figure 1. Three Layers of Security Treaty

For example, the original Security Treaty (at the Grand Layer) enunciates major principles; the Administrative Agreement (at the Intermediate Layer) complements the Security Treaty by providing many detailed rules regarding these principles. And the the Japan-U.S. Joint Committee (at the Operational Layer) deals with discrepancies between U.S. rights and Japanese laws by creating new secret agreements. The Administrative Agreement is the extension of the original Security Treaty, and all these must be regarded as one integral whole.

Similarly, the revised New Security Treaty (at the Grand Layer) enunciates major principles; and the Status of Forces Agreement (SOFA, at the Intermediate Layer) elaborates these

principles into detailed rules. The SOFA is the extension of the New Security Treaty, and together with the operational branches of the Japan-U.S. Joint Committee and the Japan-U.S. Security Consultative Committee (SCC), they must be regarded as one integral whole.

Elaborations follow.

II. 1941-1951: The War and the Occupation

In this section, the origin of Japan's defense structure will be examined. Japanese postwar defense apparatus was created by the United States during the occupation. But the basic ideas of the apparatus were conceived earlier. The United States used the Atlantic Charter (August, 1941) and the United Nations Charter (June, 1945) as the legal foundation for its endeavors in shaping Japanese military apparatus. In the following analysis, I will trace the origin of Japanese security legal system back to the inception of the Atlantic Charter and the subsequent UN Charter. The analysis will first describe the evolution of ideas in these two charters. Then it will specify how they have shaped the Japanese Constitution and the US conception of postwar Japanese defense system, which later led to the San Francisco Peace Treaty and the US-Japan Security Treaty.

American Ideas and Japanese Defense Structure. Ideas matter. They matter in American trade policy;³ they matter in American general foreign policy;⁴ and they also matter in international relations.⁵ So happens to ideas in American policy toward Japan after the war. In August 1941, the basic framework of the “post-World War II world” was spelled out in the US-UK Joint Declaration, commonly known as the Atlantic Charter. The principles of the Atlantic Charter would later become the UN Charter and the basis for the post-war international order. Japan’s international status as defined in the UN Charter and Japan’s Constitution can be traced back to the Atlantic Charter.

Paragraph six in the Atlantic Charter is used almost verbatim in the preamble of the Japanese Constitution.

The Atlantic Charter reads, “*Sixth, [...] they [Franklin Roosevelt and Winston Churchill] hope to see established a peace [...] which will afford assurance that all the men in all lands may live out their lives in freedom from fear and want,*” (Emphasis by the author)

³ Judith Goldstein, “Ideas, institutions, and American trade policy,” *International Organization* 42, no. 1 (1988): doi:10.1017/s0020818300007177.

⁴ Judith Goldstein and Robert O. Keohane, eds., *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change* (Ithaca: Cornell University Press, 1993).

⁵ Michael C. Williams, “Why Ideas Matter in International Relations: Hans Morgenthau, Classical Realism, and the Moral Construction of Power Politics,” *International Organization* 58, no. 04 (October 2004): doi:10.1017/s0020818304040202.

The Preamble of Japanese Constitution reads, “*We [the Japanese people] recognize that all peoples of the world have the right to live in peace, free from fear and want.*” (Emphasis by the author)

Furthermore, the spirit of Paragraph eight of the Atlantic Charter is transcribed into the preamble and Article 9 of Japanese Constitution.

The Atlantic Charter reads, “*Eighth, they believe that all of the nations of the world, [...] must come to the abandonment of the use of force. Since no future peace can be maintained if land, sea or air armaments continue to be employed by nations which threaten, or may threaten, aggression outside of their frontiers, they believe, pending the establishment of a wider and permanent system of general security, that the disarmament of such nations is essential. They will likewise aid and encourage all other practicable measure which will lighten for peace-loving peoples the crushing burden of armaments.*” (Emphasis by the author)

The idea presented here is that all nations should abandon the use of force. The nations which threaten peace (i.e. Axis Powers) should be disarmed of their land, sea or air forces, pending the establishment of a wider and permanent system of general security (i.e. the United Nations) so that the burden of armaments of peace-loving people (i.e. Allied Powers) will be

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lightened. Below, Japanese Constitution stipulates that Japan entrusts its security to “the justice and faith” of the peace-loving peoples (Allied Powers), and that Japan (Axis Power) will not maintain land, sea, and air forces and renounces the use of force and the right of belligerency.

The Preamble of Japanese Constitution reads, “*We, the Japanese people, desire peace for all time [...], and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world.*” (Emphasis by the author)

Furthermore, Article 9 of the above constitution 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 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.*” (Emphasis by the author)

The Anglo-American-led international order envisioned in the Atlantic Charter was realized through the UN Charter and the creation of the United Nations Organizations.⁶ The UN Charter is

⁶ Yabe, "US Military Bases" and "Nuclear Power Plants," 65%-66%.

the backbone of the postwar Anglo-American international order, on which Japanese defense framework was built upon. Therefore, it is worthy of a closer examination of the Charter in order to understand the restrictions placed on Japanese defense capabilities.

First of all, the UN Charter prevails over all other international laws.

Article 103: *In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.* (Emphasis by the author)

In particular, this “*obligation*” which shall take precedence over all other international law requires member states to provide the Security Council with “*armed forces, assistance, and facilities, including rights of passage*” (Article 43) in order to create a UN Standing Force at disposal of and under the command of the UN Security Council.

Article 43 (1): *All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces,*

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assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security. (Emphasis by the author)

In other words, Japan is required to prioritize its UN obligation above all its international treaties to provide “*armed forces*” (the Self-Defense Forces), “*assistance*” (logistics and financing), “*facilities*” (military bases) and “*rights of passage*” (free entry and exist of its territorial land, water and airspace, including for the purpose of armed attack on other states) to the Security Council “*in accordance with a special agreement*” (Japan-U.S. Security Treaty, which will be elaborated later in this article.)

Moreover, Article 106 of the UN Charter stipulates the permanent members of the Security Council shall act on behalf of the United Nations until a UN Standing Force is created. As the UN Armed Force was never created, the permanent members of the Security Council continue to possess the right to represent the United Nations and employ armed forces on behalf of the United Nations.

As stated in Article 2 of the UN Charter, its member-states, including Japan, must assist the UN.

Article 2 (5) of the UN Charter: *All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, [...]*

The United Nations is represented by the Security Council members such as the United States, and Japan is required by the UN Charter to assist the United States in any action it takes through its “*special agreement.*” Such is the historical context of Japan-U.S. Security Treaty.

These articles are the basis of Japan’s provision, in later years, of military assistance to the United States, including the American use of military bases in Japan, its unrestricted use of Japanese land, territorial water and airspace, Japan’s financial “burden-sharing” of US military expenditure, and the disposition of Japanese Self-Defense Forces under US command.

Another major characteristic of the UN Charter is the “Enemy Clauses”: Articles 53, 77 and 107, which defined the postwar treatment of the Axis Powers. The United Nations being originally a group of the victorious nations of World War II, the “Enemy Clauses” are intended to deprive the Axis powers of their “right of

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belligerency”.⁷ It is the right of a state to engage in war for offensive or defensive purpose.

Article 53 allows UN member-states to attack Germany and Japan anytime without UN Security Council authorization if the member-states deem these two states show any sign of aggression. However, it is very difficult to determine which act is an aggression and which is an act of self-defense. (For example, a state may use arms for defensive purposes, but other states may interpret it as an aggression.) Therefore, Article 53 essentially prohibits Germany and Japan from using arms and exercising their right of belligerency. However, Germany’s membership in NATO allows it to exercise its right of belligerency through NATO’s collective-defense pact, making Japan the only state in the world that legally does not possess its sovereign right of belligerency.⁸

Article 77 regards the UN trusteeship, whereby a state (in this case, the United States), under a UN trusteeship, governs a non-independent territory of a former enemy state (Okinawa). Article 77 stipulates “*The trusteeship system shall apply to [...]territories which may be detached from enemy states as a result of the Second World War.*”

⁷ Hideto Tomabechi 苦米地英人, *Shinsetsu kokubō-ron* 真説・国防論 [The True Theory of National Defense] Tokyo: TAC Publishing, (2019), Kindle: 46/2408.

⁸ Hideto Tomabechi 苦米地英人 and Iron Fujisue, *Koko ga okashī anpo hōsei* ここがおかしい安保法制 [This is What's Wrong with the Security Legislation] Tokyo: Cyzo inc., (2016): 97-98.

Article 3 of the San Francisco Peace Treaty stipulates that the United States possesses the right to exercise the executive, legislative and judicial powers over Okinawa until the United States, at its discretion, decides to apply for Okinawa's trusteeship to the United Nations. Since the United States never applied for Okinawa's U.N. trusteeship, the terms of trusteeship specified in the UN Charter never applied to Okinawa, including the respect for the Human Rights and national self-determination of Okinawa's citizens. Okinawa was kept under the direct US military rule without UN supervision until Okinawa's return to Japan in 1971. Thus, Article 77 provided the United States with the pretext of ruling a territory without application of the international law.

Article 107 silenced any criticisms against the United States concerning its treatment of Okinawa. It stipulates that the UN Charter does not apply to postwar settlements with Axis Powers, hence giving the United States the immunity from international law and a free-hand over Okinawa.⁹ The article further deprived Japan of its rights and privileges recognized under the UN Charter to sovereign states with regard to its postwar settlements, placing Japan on significantly inferior position when negotiating its postwar settlements with the United States. These "Enemy Clauses" were written by U.S. Senator Arthur H. Vandenberg, whose advisor was John Foster Dulles. Vandenberg stated that the main purpose of the Enemy Clauses is the permanent and effective

⁹ Yabe, "US Military Bases" and "Nuclear Power Plants," 72-73%.

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demilitarization of Germany and Japan and the preservation of strategic influence over those two countries.¹⁰

Between February 4 and 12, 1946, in mere nine days, the US military representing the Allied Powers wrote the Japanese Constitution. According to the book *Political Reorientation of Japan: September 1945 to September 1948* published by the Government Section, Supreme Commander for the Allied Powers, the United States representing “*the General Headquarters, Supreme Commander for the Allied Powers*” (GHQ-SCAP) drafted the Constitution of Japan. Twenty-five U.S. Army servicemen, led by Colonel Charles Louis Kades, Deputy Chief of GHQ-SCAP Government Section, were tasked with drafting Japanese constitution.

What is important to note here is that the UN Standing Force concept, the core of the world government concept, was still much alive in February 1946, when the US occupational force wrote the draft Japanese constitution. Earlier, on February 1, 1946, the Chiefs of Staff of the five permanent members of the Security Council gathered in London to begin concrete discussions on a regular UN force, as specified in the UN Charter, where each country would provide its own troops which the Security Council would centrally utilize.

¹⁰ Yabe, “*US Military Bases*” and “*Nuclear Power Plants*,” 90%.

Based on the principle of "unarmed neutrality," in February 1946, Japanese Constitution was written on the premise that a "UN Standing Force" would be created. Article 9 renounced all military power and the right of belligerency.

Article 9. *Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.*

In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.¹¹

Kades, who wrote Article 9 at his own initiative, stated that the main purpose was "to leave Japan permanently disarmed." Historian John Dower states that in MacArthur's vision, Japan's 'unarmed neutrality' was to be protected by the deployment of UN forces on major islands in the Pacific, including Okinawa. MacArthur believed that the deployment of nuclear weapons and a powerful air force in Okinawa could destroy without fail any enemy forces on the Asian coast from Vladivostok to Singapore.

¹¹ "The Constitution of Japan," Prime Minister's Office of Japan, accessed March 6, 2025,
https://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html.

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Therefore, it would be possible to guarantee Japan's security without placing troops on Japanese soil.¹²

On February 13, 1946, GHQ-SCAP handed the draft constitution to the Japanese government and demanded that their constitution be amended in accordance with the draft. Hardly two months before GHQ-SCAP wrote the draft constitution, on December 18, 1945, 381 out of the 466 members of the House of Representatives, or 82% of the total, had been deemed "unfit" by GHQ-SCAP and had been expelled from public office. They could not run in the general election held in April 1946 to elect members of the 90th Imperial Diet, which was to deliberate on constitutional revision.¹³ This was a deliberate measure taken by MacArthur to prevent the old regime from remaining in power in the Diet.

Article 9 of the Japanese Constitution renouncing war and armed forces and the UN Charter "Enemy Clauses" (Articles 53, 77, and 107) work conjointly to permanently demilitarize Japan and deprive Japan of its right of belligerency. As the United States drafted both the Japanese Constitution and the major components of the UN Charter, one can regard that these two sets of laws are complementary pieces that constitute the postwar US

¹² John W. Dower, *Japan in War and Peace: Selected Essays* (The New Press, 1995).

¹³ Hiroshi 増田弘 Masuda, *Kōshoku tsuihō-ron* 公職追放論 [The Purge of Public Officials] Tokyo: Iwanami Shoten, (1998), cited in: Yabe, "US Military Bases" and "Nuclear Power Plants", 179.

international order. In other words, even if Japan changes its interpretation of the constitution or amends the constitution, the Enemy Clauses of the UN Charter will still prevent Japan from becoming a fully sovereign state internationally because the UN Charter prevails above all other international law (Article 103 of the UN Charter). Thus, Japan remains semi-sovereign state as long as Japan remain a member of the United Nations.¹⁴ However, Japan is obliged to stay a UN member because San Francisco Peace Treaty required Japan to join the United Nations as a condition to regain its autonomy. (Let us recall that San Francisco Peace Treaty was also written by the United States.)

In the *Memorandum by the Consultant to the Secretary (Dulles)* dated June 30, 1950,¹⁵ Dulles recounts his meeting with MacArthur held on June 22, 1950, in which he advised MacArthur to use Articles 43 and 106 of the UN Charter to justify US military presence in Japan after the latter's independence.

As mentioned earlier, Article 43 of the UN Charter is the article about a “regular UN force” that never came to fruition. The article states that all UN member states are required to conclude

¹⁴ Hideto Tomabechi 苦米地英人, *Nihonjin dake ga shiranai sensō-ron* 日本人だけが知らない戦争論 [Theories of War that Only Japanese People Don't Know] Tokyo: Forest Publishing Co., (2015), Kindle: 79/2117.

¹⁵ *Memorandum by the Consultant to the Secretary (Dulles)*, June 30, 1950, *Foreign Relations of the United States, 1950, East Asia and the Pacific, Volume VI*, pp.1229-1230, (Washington, D.C.: United States Department of State, 1950), https://history.state.gov/historicaldocuments/frus1950v06/pg_1229.

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their own “special agreements” with the UN Security Council to provide the latter with bases and other military assistance. Article 106, on the other hand, is an “interim clause” that allows the five permanent members of the Security Council to conduct necessary military operations on behalf of the UN until such a UN force is actually established. This clause was originally written into the UN Charter as a transitional provision that would be in effect until UN forces were founded, but later, when no UN force was established, it still remained in place. Dulles, a high-power lawyer himself and the primary architect of San Francisco Peace Treaty, suggested to MacArthur that these two clauses be interpreted in combination to legally allow U.S. troops to remain in Japan after the occupation ended. In other words, Dulles told MacArthur that it was legal under international law for Japan to conclude a "Security Treaty in place of the UN Special Agreement" with the "United States, the representative of the UN," and to provide "US military bases in place of UN military bases." MacArthur fully agreed to the proposal.

As a result, the basic configuration of the Japan-U.S. Security Treaty was coming into shape, in which "U.S. forces in lieu of UN forces" would be stationed throughout Japan without any restriction or control by the Japanese government. This legal maneuver of "the U.S. = the UN" and "U.S. forces = UN forces" is at the root of the current highly abnormal patron-client relationship between the United States and Japan. Furthermore, this mechanism

has been used to justify the U.S. presence in Japan as a substitute for the UN forces. Japan has been subservient to the United States since this moment.

On June 25, 1950, the Korean War broke out. The war virtually eliminated the possibility of U.S. withdrawal from Japan. Japan therefore did not have any option other than to accept U.S. military presence in Japan even if Japan were to pursue a policy of early independence. The diplomatic maneuvers by the United States in the U.N. closed all the escape routes of Japan towards true independence. The American maneuvers are as follows.

With the outbreak of the Korean War, an irregular U.N. force was established in Korea, since no UN Standing Force existed under Article 43. The United States was granted "unified command" and "use of the UN flag" in this irregular "UN Force" in which US forces comprised over 90% of forces.

On the evening of June 26, 1950, Truman ordered MacArthur to mobilize air and naval forces on the Korean Peninsula based on Security Council Resolution 82; on July 8, 1950, Truman appointed MacArthur to command the "United Nations Forces in Korea" following Security Council Resolution 84 of the previous day.

Thus, Dulles's ingenious legal mechanism which binds Japan into the regime of U.S. military occupation and the provision of

war assistance saw its first test in the Korean War. Indeed, during the Korean War the US-Japan patron-client relationship functioned so well that no one could really question the validity and sustainability of the legal mechanism on which US-Japan relationship was based. And this regime is still in place for more than seventy years thereafter. Japan is, therefore, trapped in a “Korean War regime” which will continue as long as the Koreas do not conclude a peace treaty to end the war (technically, the two Koreas are still at war).

The Coming about of Japanese Defense Forces. At the time, MacArthur made a decision to completely reverse his initial policy of demilitarizing Japan. On June 26, 1950, by letter to Prime Minister Shigeru Yoshida (吉田茂), he ordered the creation of a 75,000-strong Police Reserve Corps and an increase of Coast Guard personnel by 8,000 in order to fill the void left by the U.S. troops, almost all of which had been deployed to Korea. With Japan still under U.S. occupation, its government complied, and de facto armed forces were created.

The Police Reserve was camouflaged as a "police force," but it was in fact an army, which would later be transformed into the Self-Defense Forces. Moreover, it was an American creation. Namely, Colonel Frank Kowalski, Chief of Staff of the Military Advisory Assistance Group in Tokyo, was responsible for the

creation of Japan's National Police Reserve Corps.¹⁶ Kowalski states in his book *An Inoffensive Rearmament: The Making of the Postwar Japanese Army*,

*During the months that the inductees were being processed and moved into camps, all planning and operational tasks had to be performed by Americans. For all practical purposes, the NPR became our creation and our creature.*¹⁷

[T]here were compelling reasons favoring the establishment of a new Japanese force organized on the American pattern. [...] As these would be of American design, the combat, supply, and maintenance units of the new forces would have to be organized in a way similar to American Army units. Furthermore and most significant, in the event of joint U.S.-Japanese military operations, the advantages of having two forces identically organized and similarly equipped were obvious. The two command and staff structures, communications systems and procedures, and logistical systems could be integrated and superimposed one upon the other with minimum

¹⁶ Frank Kowalski, *An Inoffensive Rearmament: The Making of the Postwar Japanese Army* (Annapolis, Maryland: Naval Institute Press, 2013).

¹⁷ Kowalski, *An Inoffensive Rearmament*, 81.

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*disarrangement. This obviously was an overriding consideration. The NPR became a little American Army.*¹⁸

In other words, the U.S. military created the Japanese Self-Defense Forces in its own image. The Japanese Defense forces was designed to conduct joint operations with the U.S. armed forces, hence under full American control. As these events occurred during the occupation period, one could conclude that Japan's military as a junior partner to its American counterpart was already underway during the occupation.

On September 8, 1950, in preparation for the signing of the San Francisco Peace Treaty and a security treaty with Japan, President Truman authorized Dulles to officially launch negotiations between the United States and Japan for Japanese independence. As a basic principle, Truman formally decided that "the United States shall acquire the right to have as many troops as it needed, for as long as it needed them, anywhere in Japan." In other words, the United States set as major precondition for Japan's independence the continued US military occupation of Japan.¹⁹ On January 26, 1951, at the meeting with American staff the day after his arrival in Japan, Dulles declared, "*The primary*

¹⁸ Kowalski, *An Inoffensive Rearmament*, 93

¹⁹ Kouji Yabe 矢部宏治, *Nihon wa naze, 'sensō ga dekiru kuni' ni natta no ka* 日本はなぜ、「戦争ができる国」になったのか [How Did Japan Become a Country Capable of Waging a War?] Tokyo: Koudansha, (2019), Kindle: 1234/3938.

*purpose of this treaty is to secure for us the right to station as many troops as we desire, where we desire, for as long as we desire.*²⁰

On February 3, 1951, according to a document entitled "On the Institution of Re-Armament," Yoshida proposed to create a joint committee (later became the Japan-U.S. Joint Committee) to discuss behind closed doors "command authority issues," including the unified command authority of the United States during wartime, Japanese rearmament and U.S. military base issues.²¹

The founders of the Self-Defense Forces will participate in the Japan-U.S. Joint Committee, where they will discuss command, bases, and other issues with the United States. In other words, founders of the Japanese Self-Defense Forces were to consult with the United States through the Japan-U.S. Joint Committee, where the United States has the dominant power. By establishing the secretive Japan-U.S. Joint Committee, the United States maintained its rights and privileges without enunciating in the text of the Security Treaty, and Japan became independent in name only.

Dulles added another element to Yoshida's idea of a joint committee - that the agreements reached at this Committee be recorded in writing, rendering the Committee with unlimited power to produce secret agreements without Diet oversight. The

²⁰ Yabe, *Country Capable of Waging a War?*, 1028-1234/3938.

²¹ Yabe, *Country Capable of Waging a War?*, 1178/3938.

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"secret agreements," layered on but detached from the security treaty to be signed later in the year, became part of the Administrative Agreement whose text was not made public at that time.²²

The United States thus maintained its rights and privileges it had during the US occupation of Japan through the new concept of "the Administrative Agreement + the Japan-U.S. Joint Committee + secret agreements" based on a Yoshida's proposal on February 3, 1951. Immediately after it became certain on February 5, 1951, that Japan would accept these conditions, on the following day, February 6, Dulles presented Japan with drafts of a "very generous" peace treaty, a security treaty,²³ and an administrative agreement, which were signed by the two countries on February 9, 1951.

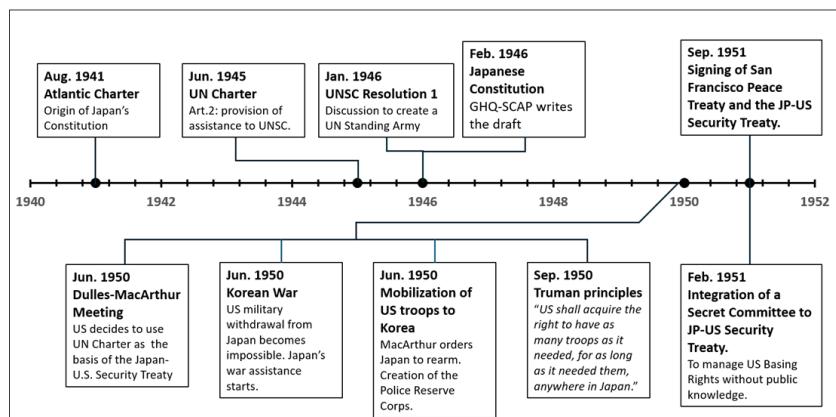
On September 8, 1951, Dulles gathered representatives of 52 countries in San Francisco and successfully concluded the Peace Treaty with Japan. The San Francisco Peace Treaty and the Security Treaty were signed on the same day hours apart, putting collar on Japan as soon as it regained its independence. They entered into force the following April 1952. The Security Treaty had been kept secret from the Japanese people until then. The members of Japanese plenipotentiary delegation who participated in the San Francisco Peace Treaty also did not know about the

²² Dulles' demand at Dulles-Yoshida talks on April 18, 1951.

²³ At this point, "Japan-U.S. Agreement for Collective Self-Defense."

Security Treaty until they arrived in San Francisco. Naturally they refused to sign it. Two of them even refused to participate in the signing ceremony. Hence, Yoshida alone signed the Security Treaty between the United States and Japan.

Figure 2 is the timeline for the major events depicted in this section.



Source: from the author

Figure 2 Major Events 1941-1951

III. 1951-1960: Original Security Treaty

In this section, the legal structure provided in the original Security Treaty (OST) (the Security Treaty between the United States and Japan) and the San Francisco Peace Treaty will be examined. Together, they form the basis of Japanese security

arrangement. This analysis will be followed by examination of a series of secret agreements concluded between Japan and the United States, which shaped and finessed the legal structure of Japanese Defense Forces throughout its history.

The Legal Structure. Signing of a peace treaty and subsequent independence was conditioned by the United States on Japan's acceptance of the Security Treaty and the continued stationing of US troops on Japanese soil. The San Francisco Peace Treaty requires Japan to join the United Nations and provide military assistance to the UN as dominated by the United States. The preamble of the Peace Treaty reads,

Whereas Japan for its part declares its intention to apply for membership in the United Nations and in all circumstances to conform to the principles of the Charter of the United Nations;

[...]

Article 5 (a): Japan accepts the obligations set forth in Article 2 of the Charter of the United Nations, and in particular the obligations

[...]

(iii) to give the United Nations every assistance in any action it takes in accordance with the Charter [...].

Furthermore, Article 5 (c) grants Japan the right of self-defense as per UN Charter Article 51, but without the right of belligerency (Article 53 “Enemy Clause” in the UN Charter).

(c) The Allied Powers for their part recognize that Japan as a sovereign nation possesses the inherent right of individual or collective self-defense referred to in Article 51 of the Charter of the United Nations and that Japan may voluntarily enter into collective security arrangements.

In other words, Japan with a right of self-defense (Article 51, UN Charter) but without right to use armed forces (Article 53, UN Charter), its defense remains precarious. The inadequacy of Japanese defense so designed is partially resolved by Japan-U.S. Security Treaty, where the United States takes the responsibility for Japan's self-defense or acts of aggression of Japan's enemy countries. With the UN Charter and San Francisco Peace Treaty, Japan's right to self-defense can only be exercised under the control of the United States.²⁴

An analysis of the legal framework of the two security treaties between Japan and the U.S. is in order here. Japan and the U.S. signed two security treaties---one in 1951, the Security Treaty between the United States and Japan (hereafter the Original Security Treaty, or the OST), and one in 1960, The

²⁴ Tomabechi, *Theories of War*, 33/2117.

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Treaty of Mutual Cooperation and Security between the United States and Japan (hereafter the Revised Security Treaty, or the RST) . Below is an analysis of the Original Security Treaty,

Article I

Japan grants, and the United States of America accepts, the right [...] to dispose United States land, air and sea forces in and about Japan.

Japan granted the U.S. gigantic military privileges, the most important of which was Article 1 of the Security Treaty. It stipulates that the U.S. may station its troops "in and about Japan." There is no restriction on the areas where the troops can be stationed. This is in sharp relief with, say, U.S.-Philippines Military Base Agreement (1942-1991), which stipulates specific locations where the U.S. military was allowed to establish bases in the Philippines. In the case of Japan, however, the agreement does not provide for a specific location as a base, but rather allows the U.S. military to "deploy" anywhere. This is called the "all-area" base system. The U.S. military can demand Japan to station US troops anywhere on Japanese soil. And Japan has no right to refuse US request under Article I.²⁵

²⁵ Kouji Yabe 矢部宏治, *Shittehaikenai kakusareta nihonshihaino kouzou* 知ってはいけない 隠された日本支配の構造[We Are Not Supposed to Know - The Structure of Hidden Control of Japan] Tokyo: Koudansha, (2017), Kindle: 68.

What is important to note is that the United States did not acquire the right to “station” but rather the right to “dispose” U.S. armed forces. The concept of “disposal” assumes that troops will go out to conduct military operations (i.e., military exercises, armed conflicts, wars, etc.). Furthermore, the “disposal” is allowed *“in and about Japan,”* which signifies that the bases can be built anywhere in and adjacent to Japan, and any military operations can be conducted there.

“In and about Japan” means that all U.S. troops stationed in Japan are free to move across the Japanese border. Thus, this Article grants to foreign armed forces (that is the U.S. forces) “the right to attack other states from Japanese territories.” At the same time, Article 1 guarantees Article 3 – Paragraph 1, second half: *“the right of the U.S. armed forces to move freely outside the Base and Area of use.”*²⁶ This disposition contrasts sharply with the "Iraq-U.S. Status of Forces Agreement" signed by the United States and Iraq in 2008. One of the most significant corrections was the addition of a new article prohibiting U.S. troops stationed in Iraq from crossing Iraq's borders to attack neighboring countries.

Article I of the OST further states,

Such forces may be utilized to contribute to the maintenance of international peace and security in the

²⁶ Yabe, *Country Capable of Waging a War?*, 890-916/3938.

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Far East and to the security of Japan against armed attack from without,

The original wording of Article I was “**Such forces would be designed solely for the defense of Japan,**” but it was unilaterally amended by the United States as shown above and became the final version of the OST. It is important to note that the term “Far East” does not indicate the “scope of action” but rather the “scope of purpose” signifying that the military operations may be taken not only in the vicinity of Japan but also anywhere in the world for the “purpose” of “maintaining peace and security in the Far East.” This paragraph gives the United States a carte blanche for military operations from Japan to anywhere in the world without consultation with the Japanese Government. This unilateral amendment established the legal basis for Japan to accede to the U.S. military's demands as the United States sees fit.

OST's Article II elaborates the rights granted by Article I to the United States, although expressed indirectly through the prohibition to grant such rights to a third power. Three major rights are enunciated here; first, the right to establish bases in Japan and its exclusive use; second, the right to station soldiers in Japan and conduct military exercises; and third, the right of U.S. military units (Army, Navy, and Air Force) to transit through Japan [i.e. the right to cross Japan's borders].

OST's Article III stipulates that the U.S. military privileges secured by Articles I and II be specifically administered through the Japan-U.S. Joint Committee in the form of "administrative agreements"²⁷ between the Japanese government and the US government, without any involvement of the Diet (国会 *Kokkai*, or Japanese parliament). This legal structure allows the governments of both countries a free hand to conclude secret agreements without accountability to the Congress / the Diet.²⁸

The treaties and agreements stipulate "*U.S. forces in Japan*," not "*U.S. forces stationed in Japan*." The term "*U.S. forces in Japan*" could arguably include any U.S. forces physically present within Japanese territory, including "*U.S. forces temporarily stopping at Japanese bases*" and "*U.S. forces passing through Japanese airspace or territorial waters*" in addition to those U.S. forces stationed in Japan.

In other words, the original Security Treaty provides significant privileges to troops that are not necessarily involved in the defense of Japan, and that are acting solely on behalf of US interests, as long as they are "present" in Japanese territory and

²⁷ An "administrative agreement" refers to a genre of legal agreements that the head of the executive branch, the President of the United States, can make with other countries without going through Congress.

²⁸ Kouji Yabe 矢部宏治, *Shittehaikenai 2 Nihonno Shukenha Koushite Ushinawareta* 知ってはいけない2 日本の主権はこうして失われた [We Are Not Supposed to Know Vol.2 - Japan's Sovereignty Was Thus Lost] Tokyo: Koudansha, (2018), Kindle: Chapter 2.

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airspace. Considering this fact alone, it is clear that the essence of the OST is not the “defense of Japan” but rather the “military use of Japanese land” by the U.S. military. This expression is kept in the Revised Security Treaty and remains effective to date.

Therefore, the U.S. military continues to be in a state of wantonness that was almost the same as during the occupation period. This is because the U.S. military is free to do whatever it wanted as long as it agreed with the Japanese bureaucrats on the Japan-U.S. Joint Committee.

The legal privileges the U.S. military enjoyed in Japan were not only determined by the provisions of the Japan-U.S. Administrative Agreement that came into effect in April 1952, but also by a series of secret agreements concluded in the Japan-U.S. Joint Committee.

Secret Agreements. On September 8, 1951, the secret agreement “Yoshida-Acheson Exchanged Notes” (hereafter, Exchanged Notes) was concluded in San Francisco on the same date as the San Francisco Peace Treaty and the original Security Treaty were signed.²⁹ This secret treaty between Japan and the

²⁹ *Notes Exchanged between Prime Minister Yoshida and Secretary of State Acheson at the Time of the Signing of the Security Treaty between Japan and the United States of America, September 8, 1951*, (Joyakushu, 30-6. Japan's Foreign Relations-Basic Documents Vol.1, pp.446-448.: "The World and Japan" Database, The University of Tokyo, 1951), <https://worldjpn.net/documents/texts/docs/19510908.T3E.html>

United States legally bound Japan to continue its support for the US war efforts as during the occupation era. Moreover, this time there was no restriction on the regional scope. The United States could project its forces from Japan to anywhere in the world, and Japan is legally bound to provide war support to the United States under the same conditions as it did during the U.S. occupation when Japan was deprived of sovereignty.

As a result, to this day, Japan is the only country in the world that is obligated by treaty to cooperate with the U.S. military in war. The legal nature of Japan-U.S. relation is not merely a “continuation of the occupation regime”; it is the “continuation of the wartime regime (i.e. war collaboration regime) under occupation.”

Finally, the entity to which Japan is obligated to provide assistance is not even the ambiguously defined “*the forces of a member or members of the United Nations [...] engaged in any United Nations action in the Far East*,” but to UN member states that provide military support to such armed forces. In the text, it is written,

[I]f and when the forces of (1) a member or members of the United Nations are engaged in any United Nations action in the Far East after the Treaty of Peace comes into force, Japan will permit and facilitate the support in and about Japan, by (2) the member or members, of the forces

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*engaged in such United Nations action (Emphasis and
numbering by the author)*

Here one has to pay attention to the nuanced differences between “a” member (using indefinite article) and “the” member (using definite article). This is a masterpiece by Dulles, the lawyer-com-diplomat, to create devils in the details. (1) *a member or members* indicates the states engaged in UN actions. (2) *the member or members* indicate those states which provide assistance to the members undertaking UN actions.

The reason Dulles forced the division of one entity “[UN] member or members” into two (“a” and “the”) is to require Japan to support the war effort in the name of the UN forces (“a” member or members) and the support will only go to the United States (“the” member or members). The recipient of such aid, i.e., the United States, is unbound by any intervention or restrictions by the United Nations. To put it bluntly, the U.S. wanted Japan to provide assistance to UN operation (a member or members of UN), but did not want the U.N. to have any say in the using of Japanese assistance by the recipient--*the* American force.

The Exchanged Notes made Japan legally obligated to “permit and facilitate” any U.S. military operations under the name of the United Nations, but the U.S. using the Japanese logistics would remain outside the framework of the United

Nations. Such is the beautiful (in the eyes of Americans) design embedded in the wording of the Exchange Notes.

On July 23, 1952, three months after the Treaty of San Francisco came into force on April 28, Prime Minister Yoshida made the first secret verbal agreement with the United States that in the event of war, Japanese forces would come under the U.S. command. The fact that another country has the command of Japanese military means that Japan is a **protectorate**. On October 15, 1952, the National Police Reserve Corps was upgraded to the Security Forces.

On February 8, 1954, Yoshida concluded the second secret verbal agreement to the US Command of Japanese forces. In the testimony of U.S. Ambassador to Japan John M. Allison before the U.S. House of Representatives Committee on Foreign Affairs, Subcommittee on the Pacific on February 17, 1954, Allison confirmed that Yoshida made Japan's second verbal agreement.³⁰

On February 19, 1954, *Agreement regarding the Status of the United Nations Forces in Japan* was signed.³¹ This agreement, alternatively called "UN SOFA," comprises one of two treaties

³⁰ Committee on Foreign Relations, U.S. House of Representatives, "Secret Hearings, Extracts, 1951-50," Volume 1, United States Government Printing Office, 1980.

³¹ *Treaty Series No.10 (1957) Agreement regarding the Status of the United Nations forces in Japan*, (London: Her Majesty's Stationery Office, 1957), <https://treaties.fcd.gov.uk/awweb/pdfopener?md=1&did=65745>.

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granting the Right of Command of Japanese armed forces to the United States. The other treaty giving the Right of Command of Japanese armed forces is the “Yoshida-Acheson Exchanged Notes,” as mentioned earlier. These two treaties together form one legal framework of the Unified Command: the Exchanged Notes provide a justification for concluding the UN SOFA, and the UN SOFA defines the Unified Command. The crux is laid out in Article I of the annex of the UN SOFA called Agreed Official Minutes Relating to the Agreement Regarding the Status of the United Nations Forces in Japan. It reads,

Re Article I:

1. For the purpose of this Agreement the Government of the United States of America acts only in the capacity of “the Government of the United States of America acting as the Unified Command.” The status of the United States armed forces in Japan is defined by arrangements made pursuant to the Security Treaty between Japan and the United States of America, signed at the city of San Francisco on September 8, 1951.

The first half of the article stipulates that the United States is acting not as a government but as the Unified Command of the United Nations. In fact, both the text of the Agreement and the signature line refer to “*the Government of the United States of*

America acting as the Unified Command” rather than “the Government of the United States of America.”

The U.S. military contributes the majority of UN forces in Japan, and it is almost a UN force in and of itself. The second half of the article indicates that the legal basis of the stationing of this “UN troops” is not the UN SOFA, but rather the US-Japan Administrative Agreement.

In other words, the UN SOFA divides one physical entity “the U.S. forces in Japan” into two conceptually distinct entities: the “United Nations Command with unified command authority [the U.S. Far East Command]”³² (U.S. Forces A) and “U.S. Forces in Japan with massive rights and privileges” (U.S. Forces B).

Japan is legally required to cooperate with U.S. Forces A, representing UN forces in accordance with UN SOFA. At the same time, the actual cooperation is carried out with U.S. Forces B (which represent the nation-state of the United States) on the legal bases of the Original Security Treaty, the Administrative Agreement, and the “Yoshida -Acheson Exchanged Notes.”)

Thus, the “Right to Command Japanese armed forces” was clearly written in the Status of UN Forces Agreement to which

³² UN Command as the entity exercising unified command authority granted to the U.S. Government by UNSC Resolution No. 86 (U.S. Far East Command)

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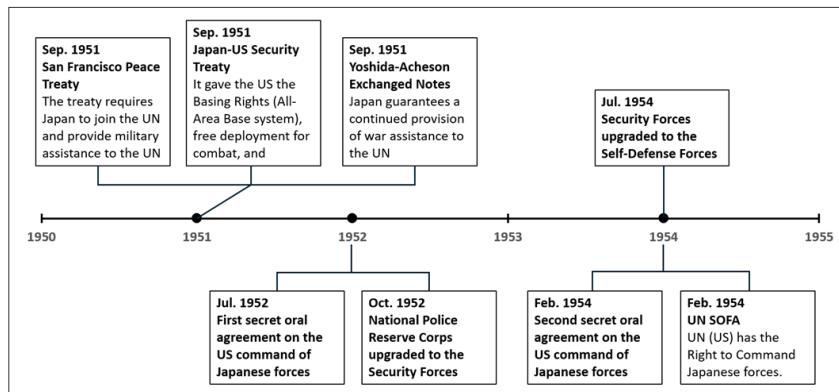
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Japan is the principal signatory state. The reason the United States engineered such a legal manipulation as to divide one physical entity into two legal entities is to maximize the U.S. interests. By binding Japan to assist UN war efforts indirectly through U.S. Forces B, the United States was able to take advantage of its enormous rights and privileges granted by Japan for its war efforts outside Japan. This is the extension of legal wording strategy Dulles perfected in the Yoshida-Acheson Exchanged Notes and the UN SOFA.

To summarize the major development, immediately after the second secret verbal agreement with Yoshida on unified command (February 8, 1954), the UN SOFA was signed (February 19, 1954), followed by the Japan-US Mutual Defense Assistance Agreement (MDA Agreement, March 8, 1954) and the creation of the Self Defense Forces (July 1, 1954).

The way the United States brought Japan into such a military submission was through legal mechanisms. As demonstrated previously, all these military agreements between Japan and the United States were grounded in the UN Charter; however, they were concluded at a time when Japan was not yet a UN member state, depriving Japan of its legal protection by the UN Charter. Dulles imposed obligations on Japan in the name of international law and concluded unequal treaties while Japan was denied of its rights.

Figure 3 is the timeline for major events depicted in this section.



Source: from the author

Figure 3 Major Events 1951-1954

IV. After 1960: Revised Security Treaty

This section will examine the revision of the original Security Treaty and subsequent secret agreements.

The Revision of Security Treaty and the Sunagawa Decision. The revised **Security Treaty (RST)** was carried out during the rule of Prime Minister Nobusuke Kishi (岸信介, January 1957-July 1960). Kishi was brought to power early on by the CIA from a Class A war criminal in prison to the position of prime minister in a little over eight years. According to Tim Weiner, the CIA had been paying off foreign politicians since

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1948. But Japan was the first leading nation in the world to have its future leader chosen by the CIA.³³

In November 1955, Japan's two conservative parties (the Liberal Party and the Japan Democratic Party) were merged into a single party called "the Liberal Democratic Party (LDP)." Kishi was a leading figure in the LDP, becoming its first secretary-general, and he tacitly allowed the CIA to begin maneuvering to increase the number of members in the Diet who would cooperate with Kishi. In his skillful rise to the top, Kishi worked in tandem with the CIA to create a new security arrangement between the US and Japan.³⁴

Kishi received massive fundings and "advice on the election" from the CIA during that crucial general election that established one-party LDP rule for over three decades. The New York Times published an article on October 9, 1994, reporting

³³ Tim Weiner, *Legacy of Ashes: The History of the CIA*, New York: Vintage, (2008), cited in: Yabe, Japan's Sovereignty, 104-112.

³⁴ Central Intelligence Agency, *Nobusuke KISHI*, (Washington, D.C.: Central Intelligence Agency of the United States, 1982), https://www.cia.gov/readingroom/docs/KISHI%2C20NOBUSUKE_0003.pdf ; Koichiro Osaka, "The Imperial Ghost in the Neoliberal Machine (Figuring the CIA) - Journal Issue #100," E-flux Journal, last modified May 2019, <https://www.e-flux.com/journal/100/268783/the-imperial-ghost-in-the-neoliberal-machine-figuring-the-cia/>.

Kishi, Ikeda (池田勇人) and Sato (佐藤栄作) were funded by the CIA throughout their administrations from 1958 to the 1960's.³⁵

The main purpose of Kishi's revision of the Security Treaty announced to Japanese people was allegedly to remove "remnants of the occupation period" and to start a "new era of Japan-U.S. relations" between the two sovereign nations as equals. Kishi announced the establishment of a "Prior Consultation System," where Japan obliges the United States to consult the former under certain conditions before the United States takes military actions. Through this mechanism, Japan allegedly would protect its sovereignty by placing restrictions on the military actions of U.S. forces.³⁶

In May 1958, Kishi won the first lower house election since the formation of the LDP with 187 seats. Five months later, on October 4, 1958, he launched negotiations for the revision of the Security Treaty, which were decided entirely through secret negotiations at the Imperial Hotel, never reported by the press. During the negotiations over a year and three months, Fujiyama (藤山愛一郎), a Kishi's long-time business friend who was recruited to take position of Minister of Foreign Affairs, oversaw the entire process, and held many secret meetings with

³⁵ "CIA spent Millions to support Japanese Rights in 50's and 60's," *The New York Times*, last modified October 9, 1994, <https://www.nytimes.com/1994/10/09/world/cia-spent-millions-to-support-japanese-right-in-50-s-and-60-s.html>.

³⁶ Yabe, "US Military Bases" and "Nuclear Power Plants", 96%.

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Ambassador Douglas MacArthur II (nephew of General Douglas MacArthur). Kishi and Fujiyama kept the negotiations secret even from the other cabinet ministers and LDP officials.³⁷

On December 16, 1959, one month before the signing of the RST, a Supreme Court decision was handed down in Sunagawa Trial (砂川裁判) that the Supreme Court would not judge the constitutionality of the Japan-U.S. Security Treaty.

Sunagawa is the name of the location where Tachikawa U.S. military base (Tokyo) was located at the time. In July 1957, over the expansion of Tachikawa U.S. military base, 23 people were arrested and seven of them were indicted for violating the Special Criminal Law (a law that provides special penalties and criminal procedures for issues related to U.S. forces in Japan) on the ground that protesters had entered the base grounds for a few meters.

On March 30, 1959, in the first trial of this case, Tokyo District Court Judge Akio Date (伊達秋雄) ruled that since the U.S. forces in Japan constituted a "force of war" that Japan was prohibited from having under Article 9 - Paragraph 2 of its Constitution, allowing their stationing in Japan was a violation of the Constitution. Therefore, there is no rational basis for a special

³⁷ Yasushi Suenami 末浪靖司, *Kimitsu Kaikin Bunsho ni Miru Nichibeidōmei* 機密解禁文書にみる日米同盟 [The Japan-U.S. Alliance Seen in Declassified Documents], Tokyo: Koubunken, (2015), Kindle: 167.

criminal law that provides special legal protection for U.S. forces in Japan, and all of the defendants were found not guilty. This “Date Decision (伊達判決)” declared the U.S. military presence in Japan to be in direct violation of the Constitution, but was later overturned by the Supreme Court on December 16, 1959, through U.S. maneuvers.

The U.S. Ambassador MacArthur II feared that the revision of the Security Treaty scheduled for the following year would be affected, and he launched an aggressive political maneuver to have the ruling overturned by the end of 1959. First, the day after the first trial decision was issued, Ambassador MacArthur II immediately met with Foreign Minister Fujiyama at 8 o'clock in the morning and requested him to appeal the case directly to the Supreme Court, by-passing the Tokyo High Court, in order to shorten the trial period. MacArthur II dictated the trial through exchanging information directly with Chief Justice Kotaro Tanaka (田中耕太郎), and on December 16, 1959, as planned, the Supreme Court reversed the Date Decision of the trial.

The political maneuvers by MacArthur II against the Japanese Supreme Court is further documented by declassified U.S. governmental archives. According to the U.S. archives,³⁸ the

³⁸ Several US diplomatic archives indicate that the Japanese government and Supreme Court implemented the requests of the United States, violating the rule of law of Japan. Douglas MacArthur II, *Telegram, from Tokyo to Secretary of State, No. 1969, March 31, 2PM, 1959*, (Washington, D.C.: Department of

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entire process of the Sunagawa Trial, from the beginning to the end, including the prosecutor's position, the Japanese government's policy, and the Supreme Court's ruling, followed exactly the requests from the U.S. government, which saw its bases in Japan vital to its national interests.

The Supreme Court's ruling stated that "*the court cannot make a constitutional judgment on a highly political issue that affects the existence of the state, such as the Security Treaty.*" This ruling rendered impossible for the people to challenge the constitutionality of the acts of Japanese Government regarding anything "*that affects the existence of the state.*" The Security Treaty and Japanese Defense policy is just one of such "*political issues.*" Any issues can be placed above the constitution if it is

State, the United States, 1959); Douglas MacArthur II, *Telegram, from Tokyo to Secretary of State, No. 1982, April 1, 8 PM, 1959*, (Washington, D.C.: Department of State, the United States, 1959); Douglas MacArthur II, *Telegram, from Tokyo to Secretary of State, No. 2018, April 3, 9 PM, 1959*, (Washington, D.C.: Department of State, the United States, 1959); Douglas MacArthur II, *Telegram, from Tokyo to Secretary of State, No. 2200, April 24, 4 PM, 1959*, (Washington, D.C.: Department of State, the United States, 1959); William K. Leonhart, *Airgram, from Amembassy TOKYO to Secretary of State, No. G-73, July 31, 1959*, (Washington, D.C.: Department of State, the United States, 1959); Douglas MacArthur II, *Airgram, from Amembassyy TOKYO to Secretary of State, No. G-230, November 6, 4 PM, 1959*, (Washington, D.C.: Department of State, the United States, 1959). These archives are presented in: Toshihiro Yoshida 吉田敏浩, Shouji Niihara 新原昭治, and Yasushi Suenami 末浪靖司, *Kenshō hōchi kokka hōkai: Sunakawa saiban to Ni-Tsu kome mitsuyaku kōshō* 檢証・法治国家崩壊: 砂川裁判と日米密約交渉 [Verification: The Collapse of the Rule of Law: The Sunagawa Trial and the Secret Japan-US Negotiations] (Tokyo: Sogensha, 2014).

considered an issue “*that affects the existence of the state*,” opening to wide interpretations encompassing all areas of policy. Hence, the Constitution of Japan has virtually ceased to function as the supreme law of the land. The public cannot hold its government accountable in court, and Japanese government is subject to the unequal security treaties which maintain the occupation-era privileges of the US forces. The Sunagawa Ruling made the US military sacrosanct in Japanese jurisdiction. Originally, the issue brought to the Court was the legality of US forces in Japan; however, the decision handed down ensured the legality of all policy areas related to the US forces, including the highly contentious issue of the American Right of Command of Japanese armed forces.

With this ruling, it was effectively established as a precedent by the Supreme Court that “the Security Treaty is above the Constitution of Japan.” Moreover, the Sunagawa ruling applies not just to the Security Treaty but to all areas of law. As the ruling is formulated: “*the court cannot make a constitutional judgment on a highly political issue*,” and the Security Treaty is merely one examples in this category, the definition of “*highly political issue*” is subject to an expansive interpretation. In other words, this ruling has brought the entire set of treaties with the United States

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above the entire set of Japanese laws, legally fixing Japan under US control.³⁹ (Figure 2)

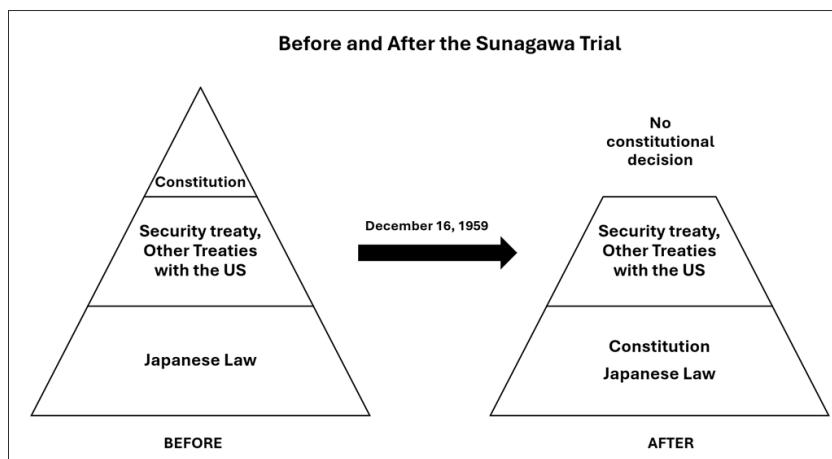


Figure 4 Disempowerment of Japanese Constitution by Sunagawa Ruling

As a result, this ruling has let not only the US military and related officials but also Japan's elite bureaucracy be immune to Japanese rule of law with regard to US related issues. As long as the bureaucrats work under the agreements reached between Japanese government and the U.S. military (secret or public), or as long as bureaucrats agree with the U.S. military in the closed-door sessions of the Japan-U.S. Joint Committee,

³⁹ Yabe, "US Military Bases" and "Nuclear Power Plants", 13%.

bureaucrats will not be held accountable before Japanese Laws regardless of the legality of their actions.

The Supreme Court Decision redefined the Japanese Constitution by stating: *“Japan has the right to defend itself”* (paras 4 &5); *“The method of self-defense is not limited to military action by the UN Security Council”* (para 6); *“Article 9 of the Constitution was enacted in order for Japan to reflect on its past militarism and for the Japanese government not to provoke another war”* (para 2); *“Therefore, the ‘force of war’ prohibited by Article 9, paragraph 2, is military power that Japan has the authority to command and control and which could provoke another war of aggression”* (para 3).

It is important to note that in this Sunagawa Decision, what Japan is prohibited from possessing is military power with its own command and control. According to this definition, even if the Self-Defense Forces are deployed overseas, they are not unconstitutional as long as the U.S. military has command authority over them. This fraudulent theory of the constitutionality of the U.S. military presence in Japan was conceived by John B. Howard, Special Assistant to the Secretary

of State, who was a leading theorist and international lawyer in the U.S. State Department.⁴⁰

After the Supreme Court's Sunagawa Decision, Japanese Government essentially became free to make substantive amendments to the Constitution, ignore the principle of separation of powers, and suppress fundamental human rights, once secret agreements are signed by the "Japan-U.S. Joint Committee" or the "Japan-U.S. Security Consultative Committee (SCC)," for example. Hence, with regard to Sunagawa incident, the deliberations in the Diet, the debates over the Constitution, and the public opinion expressed in the demonstrations were essentially meaningless to the Japanese Government, since a military agreement with the U.S. had already been concluded through the SCC.

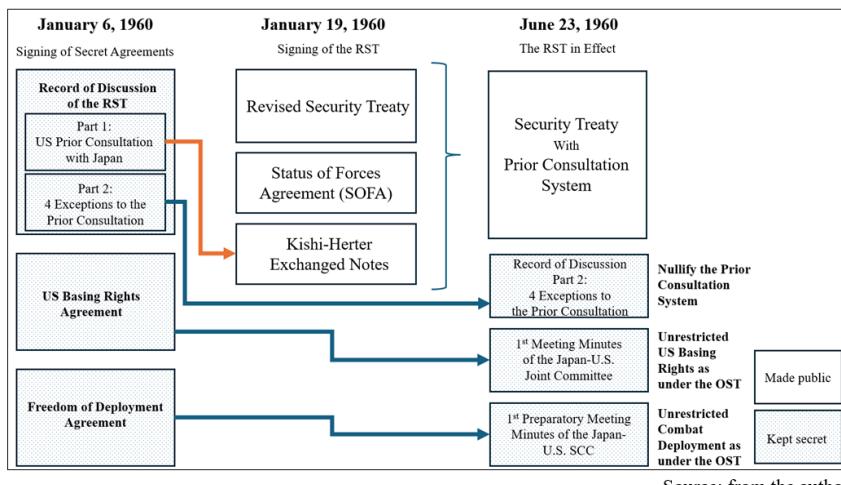
The Security Treaty and its related agreements supersede the entire domestic laws of Japan, including the Constitution. Human Right violations by US armed forces are rampant, such as their low-altitude flights over residential areas, unilateral blockades of accident sites, and the health damages due to roars of fighter jets.

⁴⁰ John B. Howard, *The impact of Japan's war renunciation on military sanctions, March 3, 1950*, (Washington, D.C.: Department of State, the United States, 1950), cited in: Yoshida, Nihara, and Suenami, *Verification*, 204-217.

Yet they are entirely legal under Japanese laws, hence no Court can stop the violation.⁴¹

Laying Ground for the RST - More Secret Agreements.

As shown below in Figure 5, on January 6, 1960, the United States and Japan concluded what became the foundation of the RST: three secret agreements called “the Record of Discussion,” “the Basing Rights Agreement,” and “the Freedom of Deployment Agreement.”



Source: from the author

Figure 5 Mechanism of the Revised Security Treaty

⁴¹ Yabe, “US Military Bases” and “Nuclear Power Plants”, 13%.

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The Record of Discussion consists of two parts: the first part concerning the conditions which require US prior consultation with Japan, and the second part stipulating four exceptions to avert prior consultation. The first part was made public in the form of the “Kishi-Herter Exchanged Note,” giving the Japanese public the façade of “partnership between two sovereign nations.” The four exceptions were kept secret, which nullify all the conditions that require the US government to consult Japanese government, making the “Prior Consultation System” a dead letter and giving the United States free hand in their military activities and the use of bases in Japan.⁴² No prior consultation has ever taken place since the signing of the RST in 1960.

The Basing Rights Agreement and the Freedom of Deployment Agreement guaranteed the U.S. forces that under the RST, they would enjoy the same unchanged privileges and rights as under the OST. The difference between the RST and the OST is that these exorbitant rights were hidden under the RST while it was known under the OST. The implication of these agreements is that over 1600 secret agreements⁴³ signed during the OST in the Japan-U.S. Joint Committee were all brought into the RST.

On January 19, 1960, when the Revised Security Treaty (RST) and the Status of Forces Agreement (SOFA) were signed,

⁴² Yabe, *Japan's Sovereignty*, Chapter 2.

⁴³ Yabe, “US Military Bases” and “Nuclear Power Plants”, 97%.

and the first part of the Record of Discussion was made into the “Kishi-Herter Exchanged Note” and annexed to the RST.

In addition, also on January 19, 1960, the “*Exchanged Notes, Regarding Yoshida-Acheson Exchanged Notes*”⁴⁴ was signed, in which the parties agreed the following two points: first, Japan’s obligation to assist US war efforts inscribed in the “Yoshida–Acheson Exchanged Notes” would remain in force as long as the Korean War continues. Secondly, the use of bases and the legal status of U.S. forces in Japan under the United Nations Command will be determined by the RST, which gives UN forces in Korea the enormous rights and privileges of the Japan-U.S. Security Treaty. In this way, the United States can leverage Japanese resources for the purposes other than what is defined in the Japan-U.S. Security Treaty.

Firstly, the new Exchanged Notes transferred the “Yoshida –Acheson Exchanged Notes” from annex of the OST to the annex of the “Status of UN Forces Agreement (UN SOFA).” Thus, no matter how the Japan-U.S. Security Treaty is changed or terminated in the future, the “Yoshida –Acheson Exchanged Notes” will remain in force as long as the UN SOFA is in force,

⁴⁴ Government of Japan, *Exchanged Notes, Regarding Exchanged Notes between Prime Minister Yoshida and Secretary of State Acheson*, (Tokyo: Database of Japanese Politics and International Relations, University of Tokyo, 1960), <https://worldjpn.net/documents/texts/docs/19600119.T3E.html>.

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which means until the Korean War officially ends with a peace treaty. It signifies that the United States will maintain its Basing Rights in Japan as long as the Korean War continues, regardless of whether the Japan-U.S. Security Treaty is in force. Therefore, Japan legally lost its right to terminate the US Basing Rights in Japan.

Secondly, the new Exchanged Notes means the dual-entity formula created in the Minutes of UN SOFA, where the "UN Command" [U.S. Forces A] is stationed in Japan on the basis of the Status of UN SOFA and "U.S. Forces in Japan" [U.S. Forces B] on the basis of the Japan-U.S. Security Treaty, is now stated in the official annex to the RST. Therefore, as long as the Korean War does not end with a peace treaty, Japan must support the war efforts of UN forces in Korea on the same terms as to the United States under the Japan-U.S. Security Treaty.

On June 23, 1960, on the day the RST entered force, the secret Basing Rights Agreement was inserted into the first Meeting Minutes of the Japan-U.S. Joint Committee, and the secret Freedom of Deployment Agreement was inserted into the first Preparatory Meeting Minutes of the Japan-U.S. Security

Consultative Committee (SCC). This was an act of rendering these secret agreements part of the official RST treaty.

Article 6 of the RST stipulates that the US Basing Rights and the Status of US forces “*shall be governed by a separate agreement [i.e. SOFA] [...] and by such other arrangements as may be agreed upon ([]) by the author.*” Therefore, “*other agreements*” such as the secret Record of Discussion, the meeting minutes of the Japan-U.S. Joint Committee and those of the SCC have the same legal effects as the RST treaty itself. It is for this reason that the secret Basing Agreement and Freedom of Deployment Agreement were inserted into the meeting minutes of the committees on the exact date the RST came into force.

The most important change in the revision of the Security Treaty is Article 4 of the RST: the institutionalization of the US Right to Command Japanese armed forces from what was initially oral agreements between Prime Minister Yoshida and his American counterparts to an organ of the Japan-U.S. Security Treaty called “the Japan-U.S. Security Consultative Committee (SCC).” The SCC is dedicated to the Unified Command of American and Japanese forces under the US Command. This change made it possible for the Japanese Self-Defense Force to

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engage in joint military operations under a unified command of the United States.⁴⁵

So what is the difference between the Japan-U.S. Joint Committee and the Japan-U.S. Security Consultative Committee? As shown below in Figure 6, the Japan-U.S. Joint Committee was established in 1951 by the OST to manage issues related to US Basing Rights under Japanese laws. In contrast, the SCC was established in 1960 by the RST. Nominally it is a committee where the United States consults Japan before taking certain actions, but as explained above, this system never came into operation. The real function of the SCC is to strengthen the US Command of Japanese armed forces.

⁴⁵ Yabe, *Country Capable of Waging a War?*, 2700-3161/3938.

	The Japan-U.S. Joint Committee	The Japan-U.S. Security Consultative Committee (SCC) a.k.a. “2+2”
<i>Founding</i>	Est. by the OST, 1951	Est. by the RST, 1960
<i>In charge of issues related to</i>	US Basing Rights	Prior Consultation (Official) US Command of Japanese armed forces / Unified Command
<i>Current Members</i>	JP: Director-General of the North American Affairs Bureau, MOFA US: Deputy Commander of the US Forces in Japan	JP: Minister of Foreign Affairs, Minister of Defense US: Secretary of State, Secretary of Defense
<i>Structure</i>	26 subcommittees + 10 working groups (as of Mar. 2025)	Defense Cooperation Subcommittee (est. 1976) + 3 working groups (est. 1977)
<i>Features</i>	Creates legally binding secret agreements	Creates legally binding secret agreements

Source: from the author

Figure 1 RST Committees

The current members of the SCC are the Minister of Foreign Affairs and the Minister of Defense on the Japanese side and the Secretary of State and Secretary of Defense on the U.S. side, making it commonly known as “2+2.”⁴⁶

The power dynamic of the SCC works to the advantage of the United States. Since the revision of the Security Treaty in 1960 up to 2025, in 65 years Japan saw 51 foreign ministers preside, with an average tenure of less than one and a half years,

⁴⁶ However, the original members were the U.S. Ambassador to Japan and the Commander in Chief of the Pacific Command (Acting Commander of U.S. Forces Japan) on the U.S. side, and the Director-General of the Defense Agency and the Minister of Foreign Affairs on the Japanese side.

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and 76 Defense Agency Directors General⁴⁷/ Defense Ministers with an average tenure of less than one year. In such a short tenure and a frequent reshuffling of the posts, the Japanese representatives cannot accumulate the expertise needed to negotiate with the United States on equal footing. Hence the United States can dictate the interpretation of treaties and lead the formulation of a vast number of secret agreements. It is in this context that questions vital to national sovereignty as the issue of command of Japanese forces are discussed and policy formulated.

What is more, the SCC is the de facto superior body of the Japan-US Joint Committee, since the representatives in the Japan-U.S. Joint Committee are hierarchically in positions of duty to receive direct orders from the ministers, who are the members of the SCC. This signifies that the United States exercises an additional layer of influence over both the SCC and the Japan-U.S. Joint Committee.⁴⁸

The “Defense Cooperation Subcommittee”, established under the SCC in 1976, is the operational organ of the US Command of Japanese forces, whereas the SCC is a political organ. Officially called “*Japan-U.S. Unified Command Headquarters*,” the Defense Cooperation Subcommittee

⁴⁷ The Japanese Ministry of Defense was originally the Defense Agency until its upgrade in 2007.

⁴⁸ Yabe, *Japan's Sovereignty*, 167.

established three working groups on Operations, Intelligence, and Logistics on April 18, 1977.

The SCC's Defense Cooperation Subcommittee established *the Guidelines for Japan-U.S. Defense Cooperation* in 1978, 1997 and 2015. These are commonly known as *the First Guidelines*, *the Second Guidelines*, and *the Third Guidelines*. Through these Guidelines, the Right to Command Japanese forces was gradually strengthened, and finally in 2015, the legal environment is in place for the Japanese Self-Defense Forces to conduct operations around the world under the US command. Through the first two Guidelines, the Japanese Self-Defense Forces were gradually made more autonomous from the US forces, and then in the Third Guidelines, Japanese forces became fully tailored for joint operations with the US forces under the US Command.

However, Japanese Diet placed an important restraint on the deployment of Japanese forces abroad. The Third Guidelines were actually enacted with a “supplementary resolution,” which requires the Diet to give prior approval for the use of force, thereby eliminating the possibility of the government using force at its own discretion. In addition, it is now clarified in all situations that the SDF's activities will be terminated if the Diet passes a resolution to suspend them, and the government is required to report every six months on the SDF's activities overseas. Furthermore, a system for constant monitoring by the Diet (a report to the Diet every 150 days) and post-event

verification will be established. In summary, the new Diet bill adds: “All exercises of the right of collective self-defense are under the control of the Diet,” “The Self-Defense Forces shall withdraw uniformly upon a Diet resolution to suspend the exercise of the right,” and “Constant monitoring and post-event verification by the Diet.”⁴⁹

In a nutshell, the RST brought four major reforms. First, the RST maintained all the rights and privileges that the US forces enjoyed during the Occupation and under the OST era, while erecting a façade of “equal partnership” through the “Prior Consultation System.” Secondly, the RST institutionalized the oral agreements on the US Right to Command Japanese forces into a formal institution: the SCC. Since 2015, Japanese Self-Defense Forces can be deployed abroad under the US Command. Third, Japan lost its right to terminate the US Basing Rights, and fourth, Japan is bound to provide war supports to the UN forces on the same conditions as under the Japan-U.S. Security Treaty.

Moreover, since the meeting minutes of the Japan-U.S. Joint Committee and the SCC have the same legal effects as the security treaty itself (Article 6, RST), the confidentiality in which these minutes are kept means these committees are incessantly

⁴⁹ Tomabechi, *Security Legislation*, 25.

creating secret treaties, salami-slicing and taking over Japan's sovereignty.

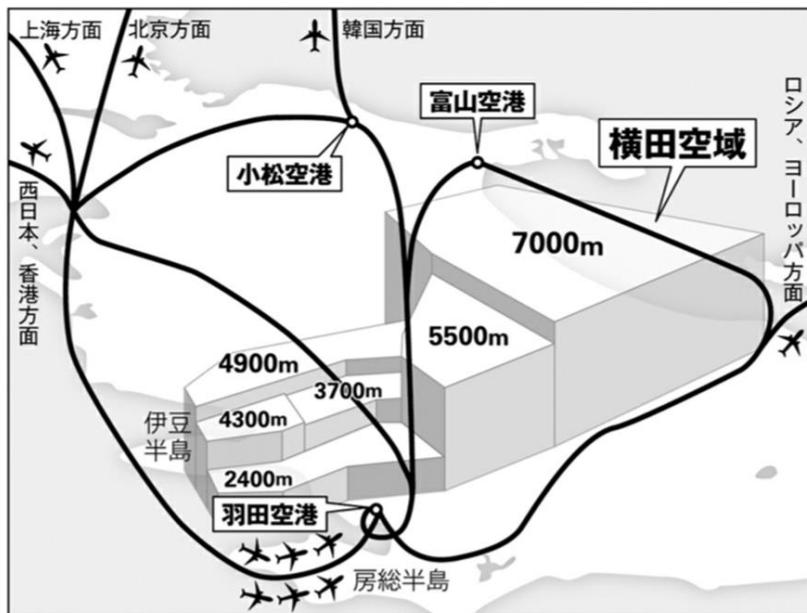
The US infringement of Japanese sovereignty is evident in the rights granted to the U.S. armed forces under Article 3 of the RST (initially Article 3 of the OST), which is the legal basis for the “Yokota Airspace” that extends over the Tokyo metropolitan area. That is, the U.S. armed forces hold the absolute right over the airspace over the entire Tokyo metropolitan area, even including a part of the Pacific Ocean.⁵⁰

The diagram below is Yokota Airspace over Tokyo (Figure 7). In fact, the airspace over the Japanese metropolitan area is controlled by the U.S. military, and Japanese aircrafts are not allowed to fly there without permission from the U.S. military. The highest point of the airspace is 7000 meters above sea level, and this huge Himalayan-like airspace divides the Japanese sky into two halves, east and west. Within this boundary, the U.S. military can conduct any kind of military exercises and does not need permission from the Japanese government.

⁵⁰ Furthermore, Article 5, Paragraph 2 of the Administrative Agreement and the Status of Forces Agreement, as an extension of this right, allows U.S. military aircraft, military vehicles, and ships to freely move between bases and between bases and Japanese ports and airfields, allowing U.S. military aircraft to fly virtually anywhere in Japan.

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Source: Kouji Yabe, *Hidden Control*, p.15.

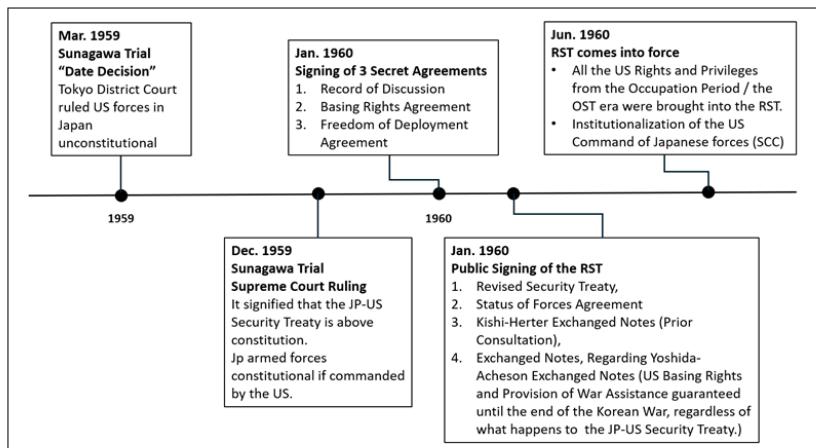
Figure 7. Yokota Airspace

Without information from the U.S. military, Japan does not possess any information on the kind of planes flying in the airspace. Under the controlled airspace, huge U.S. military bases of the size similar to the bases in Okinawa, such as US military bases of Yokota, Atsugi, Zama, and Yokosuka surround the capital city of Tokyo, and these bases are extraterritorial as per the Status of Forces Agreement. U.S. military personnel freely enter and leave Japan unchecked from these bases. The Japanese

government does not know how many Americans are currently in Japan.⁵¹

In other words, the fact that “the U.S. armed forces have the absolute right to access (enter and leave) U.S. bases” remains unchanged even after the revision of the Security Treaty. Its contradictions with Japanese laws are to be dealt with through the Japan-U.S. Joint Committee, which was conceived to have the Japanese domestic laws amended or have the interpretation of the law changed.⁵²

Figure 8 is the timeline for major events depicted in this section.



Source: from the author

⁵¹ Yabe, “US Military Bases” and “Nuclear Power Plants”, 23%.

⁵² Yabe, *Country Capable of Waging a War?*, 774-875/3938.

*Figure 8 Major Events 1959-1960***V. Staring into the Future**

On March 7, 2025, NHK World Japan reported that US President Donald Trump “lamented that it requires the United States to protect Japan, but does not require Japan to do the same for the US.”⁵³ With the American hegemony in decline, it is worthy to speculate on the implications of a possible US withdrawal from the Japan-US Security Treaty, though the purview of my speculation can hardly be complete.

First of all, militarily, the Japan-U.S. Joint Committee in which US military officials dictate Japanese defense policy would be abolished. Since this military arrangement intervenes in Japanese domestic affairs through “all-area basing rights,” “all-area extraterritoriality” and “free-deployment and crossing of Japanese borders,” these interferences would accordingly cease.

The Japanese armed forces previously under US command would become independent, with significant implications in diverse areas. First of all, Japanese weapons’ development and its industry which previously had been severely restricted by the

⁵³ “Trump complains about Japan-US security pact,” *NHK World Japan*, March 7, 2025, https://www3.nhk.or.jp/nhkworld/en/news/20250307_06/.

United States⁵⁴ would receive funding from the government for more active development of weapons and other military-related technologies. A military intelligence agency independent of the United States would be set up, hence collecting intelligence on its own and cutting off its dependency on the United States. Independence of Japanese armed forces means that Japan would develop its own military strategy autonomous of the United States, which until now has been impossible. The postwar prohibition by the United States of strategic studies in Japan, especially geopolitics and military strategy, in the form of confiscation of books and documents related to the subjects has severed Japanese strategic tradition. It would take significant efforts and time to re-establish Japanese strategic culture and technological edges.

Secondly, in terms of Japanese government structure, this signifies the power hierarchy within Japanese bureaucracy with the Japan-U.S. Joint Committee members at the helm would cease to exist as well.

The US military controls and appoints the Attorney General of Japan through the Japan-U.S. Joint Committee. The first acting Japanese representative on the Committee is the Chief Cabinet Secretary of the Ministry of Justice. Through the years the

⁵⁴ See FSX jet affairs in: Tucker, Jonathan B. "Partners and Rivals: A Model of International Collaboration in Advanced Technology." *International Organization* 45, no. 1 (1991): 83–120.
<https://doi.org/10.1017/S0020818300001405>

majority of whom once held the position have become the Ministry's Administrative Vice-Ministers and then the Prosecutor General. Dismantling of the current system also means the US control of Japanese judiciary will end.

In addition, Japan's Supreme Court has been virtually non-functional after the Sunagawa Trial and its Supreme Court Decision in 1959, US military has been above Japanese Constitution, and the rule of law has been overtly breached. The withdrawal of US forces from Japan will re-establish the rule of law under Japanese Constitution.

Thirdly, as the defense capability is the ultimate guarantor of national sovereignty, the possession of strong military forces translates into a stronger political voice in international affairs. This political power that the U.S. derives from its military presence in Japan is not limited to security issues, but it also ripples to other areas, including economy and finance. For example, after 1997 Asian Financial Crisis, Japan tried to launch 100 billion dollar "Asian Monetary Fund" upon ASEAN's request to hedge against currency speculations. Washington used several means to crush this plan, one of which was a threat on Prime Minister Ryutaro Hashimoto (橋本龍太郎). According to a high-ranking finance bureaucrat, Washington called the Prime Minister before the cabinet meeting on the Asian Monetary Fund to abandon the plan or else "there would be a serious consequence

to the Japan-US security relations.”⁵⁵ The Prime Minister subsequently dropped the plan. This incidence demonstrates that U.S. military-political power in Japan is fungible. The withdrawal of US forces from Japan therefore is likely to give much more autonomy to Japanese policy-making.

Nonetheless, the withdrawal of US forces from Japan does not signify the US withdrawal from Asia. Given the fact that Asia has a vibrant economy, the US would likely supplement the loss of US military presence with other means, such as an increased intelligence, economic and financial presence in Japan. Since Japanese dependency on the United States would still serve the US interests better than an independent Japan, the United States is likely to maintain Japanese dependency by preventing Japan from establishing an independent external intelligence agency, for example. After all, Japan’s oil supply, the protection of its sea lanes transportation as well as its nuclear plants are heavily dependent on the United States.⁵⁶ As we have already seen, Japan’s largest political party, the Liberal Democratic Party, has

⁵⁵ Hideo Tamura 田村秀男, *Kenshō kome-chū bōeki sensō: yuragu-jinmingen teikoku* 檢証 米中貿易戦争: 搖らぐ人民元帝国 [Verification: The US-China Trade War: the Shaking of the Renminbi Empire] (Tokyo: Magazine Land, 2018), 235-239.

⁵⁶ Junichiro Yamaoka 山岡淳一郎, *Genpatsu to kenryoku* 原発と権力 [Nuclear Power and Political Power] (Tokyo: Chikumashobo, 2011); Junichiro Yamaoka 山岡淳一郎, *Nihon denryoku sensō* 日本電力戦争 [Japan Electricity War] (Tokyo: Soshisha, 2015); Kenji Akimoto 秋元健治, *Genshiryoku suishin no gendai-shi* 原子力推進の現代史 [Modern History of Nuclear Power Promotion] (Tokyo: Gendaishokan, 2014).

received considerable sums of fund from the CIA in the 1960s. Although the current CIA relations with the LDP are unclear, the author surmises that their relations continue to this day, suggesting that the US covert influence on Japanese politics remain strong. The withdrawal of US military from Japan does not therefore automatically translate into an unhampered Japanese sovereignty. Put it succinctly, for the eight decades from 1945 to this day, the United States has not just cultivated Japan's military infrastructure, but also its political, administrative, and human (politician) infrastructures.

Without US armed forces, Japan would need to obtain nuclear weapon to offset Chinese and North Korean nuclear threats. However, Japanese public has knee-jerk reactions against nuclear weapons due, naturally, to their historical memories of Hiroshima and Nagasaki. Currently, it is unforeseeable that the Japanese public would accept a possession of nuclear weapons. After all, the Japanese nuclear politics is structured much like the Security Treaty where Japan has little say. Hence, Japan cannot make nuclear weapons without US approval.

To complicate the matter even more, a large part of Japanese public believes what kept Japan out of war after 1945 is the war renunciation clause (Article 9) of Japanese Constitution. Many still believe that Japan's renunciation of war brought peace to Japan, disregarding the role of US military presence and its

nuclear weapons. The GHQ-SCAP's prohibition of studies related to military and strategy as well as banning of books on these subjects have played a role in blurring the public's perception toward their security environment.

Fourthly, in terms of budget allocation, a strong public opposition in Japan is likely to be expected against an independent Japanese armed forces and an increase in defense budget. It is commonly considered among the public that the United States is bound to defend Japan in return for Japanese provision of military bases to the United States. Therefore the public supports and prefers maintaining the military alliance with the United States. Japanese public has a deep-seated distrust against their own armed forces due to the "War Guilt Information Program" that the GHQ-SCAP installed during the occupation era. Despite the public's general belief, the treaty does not guarantee an automatic US armed intervention on behalf of Japan. Article 5 of the revised Security Treaty simply states, "*[Each Party] would act to meet the common danger in accordance with its constitutional provisions and processes.*" This paragraph signifies that US armed forces will intervene in an armed conflict in the territory of Japan only upon the Congressional approval. But it is well known that the war power sharing between the American president and Congress is still moot, with or without the War Powers Act (50 U.S.C. ch. 33, 1973). Therefore, the US-Japan security relation is not based on "collective self-defense" but

rather it is based on two “individual self-defenses,” so to speak. On top of this straightforward interpretation of the Security Treaty, the US government regularly reassures Japan with oral confirmation that “it will intervene in the event of armed attack against Japan.” It is no wonder the majority of Japanese public supports the alliance. In case the U.S. really withdraws from the alliance, a shocked Japan might very well embark upon a military buildup that worries its neighbors. A security dilemma might form in East Asia, destabilizing regional situation.

Lastly, but most importantly, is how Japan will define its national interests if the current system is no longer in place. In the present security arrangement, the United States is unlikely to leverage its direct sway over Japan to force Japan to act against its national interest because any act that is overtly against Japan’s national interest would not be able to win the public support, and the politicians who cave in such US demand would certainly be ousted in the following election. Therefore, the United States has the incentive to masquerade whatever it wants Japan to do into a “Japanese interest.”

An interesting case in point is the so-called “Sea Lane Defense” in the 1980s. Back then, the United States set as its strategic priority to counter formidable Soviet strategic submarines in the Sea of Okhotsk and decided to use Japanese naval and air power to counter the Soviets. However, bluntly

telling the Japanese to take part in the US military strategy and deploy Japanese forces would have likely stirred a strong public opposition. The distrust of Japanese public against anything related to military and war is almost at a pathologic level compared to other states. Therefore, the United States couched this project in Japanese national interest and announced that the sea lane defense in the Sea of Okhotsk is necessary to secure Japan's oil imports. Japan complied, especially after experiencing two oil shocks in the 1970s. However, the reality is far from what the United States argued. According to Ukeru Magosaki, a Japanese diplomat and a former chief in the intelligence division of the Ministry of Foreign Affairs, actually the Soviets gave low priority to attacking sea lanes given its naval deployment postures and military exercises of the time.⁵⁷

In the extreme case where the US interest is gravely detrimental to Japanese interests, such as an armed conflict between Japan and China over Senkaku Islands, the success of US maneuver to metamorphosize its interests into Japanese national interests is slim. In such a case, a more likely scenario is the use of covert means that can be aptly termed as "CIA tricks." The United States has engineered over 100 wars and regime changes,

⁵⁷ Ukeru Magosaki 孫崎亭, *Nihon Gaikō: Genba Kara no Shōgen* 日本外交: 現場からの証言 [Japanese Diplomacy: Testimony from the Field], Tokyo: Sogensha, (2015), 162-163.

as demonstrated by Stephen Kinzer.⁵⁸ Some historians on both sides of the Pacific believe that Japanese attack on Pearl Harbor is also of American making. More recently, evidence exists which insinuates the American involvement in anti-Japanese riots in China, and in the media manipulations in Japan which intensify anti-Chinese sentiments among Japanese.

Then the question comes to mind as to what extent Japan influences the United States. The author has found little historical evidence in this regard. Japan's postwar history has been marked by its struggle to regain its political independence from the United States. Among postwar politicians, many of those who tried to pursue and protect Japan's national interests against US intervention had their main policy thrusts curbed or their political career trajectories derailed. Aoi Shigemitsu (重光葵), Hitoshi Ashida (芦田均), Ichiro Hatoyama (鳩山一郎), Tanzan Ishibashi (石橋湛山), Kakuei Tanaka (田中角榮), Ichiro Ozawa (小澤一郎), and Yukio Hatoyama (鳩山由紀夫) are cases in point.⁵⁹ On

⁵⁸ *Overthrow: America's Century of Regime Change from Hawaii to Iraq* (New York: Times Books, 2006).

⁵⁹ This author is undertaking a research project to use these cases to shed light on American power in Japanese human infrastructure. Detailing how the U.S. curtailed the Japanese politicians' ambitions or careers would not be possible here. Case studies of these seven politicians' demise along the theme of this article should further enlighten our understanding of American influence in the politico-military sphere in Japan. Since Japanese-language books and contemporary journalistic reports abound, I will just give a few bibliographical mentions I deem most probing for each case.

Aoi Shigemitsu 重光葵. *Gaikō iken-sho-shū Dai 2-kan (Chūka taishi gaimu daijin jidai jyou)* 外交意見書集 第2卷(駐華大使・外務大臣時代 上) [Diplomatic

the next level, bureaucrats in the Ministry of Foreign Affairs, the Ministry of Finance, and the Ministry of Economy, Trade, and Industry who tried to pursue a course deemed incongruent with

Opinions, Volume 2 (Ambassador to China and Minister of Foreign Affairs (Part 1)). (Tokyo: Gendaishi Publishing, 2007); Aoi Shigemitsu 重光葵. *Gaikō iken-sho-shū Dai 3-kan (gaimu daijin jidai (ge) sonota)* 外交意見書集第3卷 (外務大臣時代(下)・その他) [Diplomatic Opinions, Volume 3 (Minister of Foreign Affairs (Part 2) and Others)]. (Tokyo: Gendaishi Publishing, 2007). Hitoshi Ashida 芦田均 and Motoharu Shimokoube 下河辺元春, *Ashida hitoshi nikki* 芦田均日記 [Diary of Ashida Hitoshi], Vol. 2, ed. Eiichi Shindou 進藤榮一 (Tokyo: Iwanami Shoten, 1986); Hitoshi Ashida 芦田均 and Motoharu Shimokoube 下河辺元春, *Ashida hitoshi nikki* 芦田均日記 [Diary of Ashida Hitoshi], Vol. 7, ed. Eiichi Shindou 進藤榮一 (Tokyo: Iwanami Shoten, 1986); Ichiro Hatoyama 鳩山一郎, *Hatoyama Ichirō kaiko-roku* 鳩山一郎回顧錄 [Ichiro Hatoyama's Memoirs] (Tokyo: Bungeishunjū, 1957); Tanzan Ishibashi 石橋湛山, *Tanzan kaisō* 湛山回想 [Tanzan's Recollections] (Tokyo: Iwanami Shoten, 1985); Hajime Ishii 石井一, *Enzai: tanaka kakuei to rokkido jiken no shinsō* 冤罪: 田中角栄とロッキード事件の真相 [False accusation: The truth behind Kakuei Tanaka and the Lockheed scandal] (Tokyo: Sankei Newspaper Publishing, 2016); Toshihiro Okuyama 奥山俊宏, *Himitsu kaijō rokkido jiken tanaka kakuei wa naze Amerika ni kirawa reta ka* 秘密解除 ロッキード事件: 田中角栄はなぜアメリカに嫌われたか [Declassified - Lockheed Scandal: Why was Kakuei Tanaka hated by the United States?] (Tokyo: Iwanami Shoten, 2016); Karel Van Wolferen, *Jinbutsu hakai dare ga ozawa ichirō o korosu no ka?* 人物破壊 誰が小沢一郎を殺すのか? [Character Assassination: Who will kill Ozawa Ichiro?] (Tokyo: Kadokawa Shoten, 2012); Sadao Hirano 平野貞夫, *Ozawa ichirō kanzen muzai - 'tokkō kensatsu' ga okashita 7tsu no taizai* 小沢一郎 完全無罪 - 「特高検察」が犯した7つの大罪 [Ichiro Ozawa: Completely Innocent - The Seven Deadly Crimes Committed by the "Special Higher Prosecutors' Office"] (Tokyo: Koudansha, 2011); Yukio Hatoyama 鳩山由紀夫, Satoshi Shirai 白井聰, and Akira Kimura 木村朗, *Dare ga kono kuni o ugokashite iru no ka* 誰がこの国を動かしているのか [Who is Running This Country?] (Tokyo: Shisousha, 2017); Yuzuru Magasaki 孫崎享, *America ni tsubusa reta seijika-tachi* アメリカに潰された政治家たち [Politicians Ruined by the United States] (Tokyo: Shougakukan, 2012); Ukeru 孫崎享 Magasaki, *Sengo-shi no shōtai* 戦後史の正体 [The Truth of Postwar History] (Tokyo: Sougensa, 2017), Kindle.

American preference ran the risk of being removed by the Prime Minister's Office under US influence. The Japanese subservience to the United States deepened with the revision of the Security Treaty in 1960 and again even more so after the end of the Cold War. The postwar Japanese history is marked by an incremental take-over of Japan by the United States.

How Japan defines its national interests in the current US-dominant system will certainly influence Japan's *ménage à trois* with the United States and China. Japan cannot be counted as an independent political actor with regard to China-US relations. Japan's influence in Asia depends on the length of leash allowed by the United States. For example, in March 2025, Taiwan appointed Shigeru Iwasaki (岩崎茂), former head of Japan's Self-Defense Force, as Cabinet adviser. Given the enormous influence the United States exercises over Japan's defense policy as we have seen above, this appointment can be seen as with the endorsement of the United States. If there is to be a conflict in the Taiwan strait, how Japan will react is of huge significance. Legally and technically Japan can be involved in Taiwan strait conflict, with the United States remaining in arrears. In this case, the United States can sap China's power without having to directly confront with China. In the author's view, a war never happens accidentally. It is meticulously planned, and the American history demonstrates that the war is the most profitable business for the Anglo-American ruling class. In this regard, the

appointment of Iwasaki as Taiwan's cabinet adviser can be interpreted as an indication that the United States is reinforcing the military cooperation between Japan and Taiwan and increasing tensions between these three Asian states.

If Japan determines its national interest out of the limits set by the US constraints, Japan may pursue a more lenient rapprochement with China, or at least strike a more balanced position between the United States and China. Japanese political history revealed that when prominent Japanese politicians pursued a policy of rapprochement with China, the United States thwarted their initiatives, and their political careers upset, as aforementioned. Since the early days of Japan's wiggling out of the Occupation, many politicians have continued to voice the importance of improving Japan-China relations. Therefore, if President Trump gets his way with US-Japan relationship, one may see a sea change in East Asia in the future.

VI. Conclusion

This article adopts a historic-legalistic-institutionalist approach to U.S.-Japan military relations since the end of World War II. The analysis shows that the U.S. design-ideas of its military relations with Japan originated in the Atlantic Charter and the U.N. Charter. The design-language is legalistic. From 1945 to this point of time, U.S.-Japan military relations have evolved into

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a junior-senior partnership. This partnership's foundation is the Japan-U.S. Security Treaty (original one as well as the revised one), Japan's Constitution, the treaty's affiliated agreements (be them written on paper or just oral exchanges), secret agreements and treaties, rules and regulations derived from the treaty or agreements, as well as formal organizations (Japan-U.S. Joint Committee, Security Consultative Committee).

Japan's defense apparatus is characterized by the renunciation of war and the right of belligerency, which was originally promoted by the 1941 Atlantic Charter. The UN Charter advocated that every state renounces the right of belligerency and possession of armed forces, and the UN Security Council be the sole guarantor of peace with armed forces at its disposition. This principle was incorporated into Japanese Constitution. Japan is prohibited by Japanese Constitution's Article 9 the right of belligerency and possession of armed forces.

The UN Charter provides two functions to the Japanese security framework: the deployment system of UN Forces (Articles 43 and 106) and the Enemy Clause (Article 53). The UN Force deployment system is the basis of Japan-U.S. military relations, where Japan provides armed forces, bases and other assistance to the United States acting on behalf of the United Nations. This is conditioned on the continuation of the Korean War. The Enemy Clause on the other hand denies the right of

belligerency to Japan, making Japan dependent on the United States for its security.

San Francisco Peace Treaty (a.k.a. Peace Treaty with Japan) consolidated these ideas into Japan's post-war military apparatus. It required Japan to join the United Nations and give the United Nations "every assistance in any action it takes in accordance with the Charter." In other words, the condition for Japan's independence was to provide the United States, under the guise of the United Nations, bases, facilities and armed forces. The Japan-U.S. Security Treaty maps out the exact content of "assistance", which translates into the "all-area base system", the extraterritoriality that covers the entire territory of Japan, and the command of the Japanese armed forces by the United States.

The ideas contained in these historical treaties (the Atlantic Charter, the U.N. Charter, San Francisco Peace Treaty) were realized at various levels of Japanese law-making (including its Constitution) and institutional design. The legal edifice gives the U.S. tremendous influence over Japan in the politico-military sphere. Other than President Trump's recent rhetoric, U.S.-Japan military relations show no signs of wear and tear after eighty years, which is almost eternity in international relations. Should the U.S. withdraw from this security arrangement, East Asia will see a sea change in its international relations.

The potential U.S. withdrawal from the Japan-U.S. Security Treaty raises significant policy considerations for Japan's defense, governance, and international positioning. The current arrangement has long placed Japan's defense under substantial American control via the Japan-U.S. Joint Committee. The end of this security alliance would mean the removal of U.S. extraterritorial military privileges, thereby restoring full Japanese sovereignty over its territory and military affairs. This would also allow Japan to rebuild its independent military strategy, revive strategic and geopolitical studies previously suppressed, and establish autonomous intelligence capabilities.

From an institutional standpoint, dissolving the Japan-U.S. Joint Committee would reshape Japan's bureaucratic power structures. Currently, the U.S. exerts indirect influence over key positions in the Ministry of Justice and the judiciary, particularly through the appointment pipeline involving the Prosecutor General. Furthermore, Japan's Supreme Court has historically subordinated constitutional principles to treaty obligations with the U.S., effectively sidelining domestic legal authority. Terminating the alliance would restore constitutional primacy and judicial independence, enhancing Japan's rule of law.

In terms of foreign and economic policy, U.S. military leverage has had broad implications beyond defense. Notably, Japan's economic autonomy has been constrained, exemplified by

U.S. intervention in Japan's 1997 proposal for an Asian Monetary Fund. American pressure forced Japan to abandon the initiative, reflecting how military dominance can influence financial policy. A U.S. military withdrawal would likely open space for Japan to pursue independent economic strategies and redefine its national interest, though the U.S. may maintain influence through covert intelligence, financial networks, and political support systems such as the LDP-CIA relationship established in the postwar era.

However, domestic political and public opinion factors complicate the picture. Japan's pacifist orientation and distrust of military expansion—rooted in postwar education policies and media control—make rearmament or nuclear armament politically difficult. The public's belief in Article 9 and skepticism of national militarization may resist any move toward full defense independence, even in the face of declining U.S. support. Moreover, budgetary and institutional inertia, along with political influence from the U.S., continue to inhibit Japan's strategic autonomy.

Finally, Japan's role in U.S.-China relations is likely to remain constrained unless it successfully redefines its national interest independent of American frameworks. Past efforts at rapprochement with China have been curtailed under U.S. pressure, undermining Japan's diplomatic freedom. Future scenarios—such as tensions in the Taiwan Strait—could see Japan pulled into conflict in ways that primarily serve U.S. strategic

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goals, not Japanese ones. As such, the evolution of Japan's security identity, post-U.S. alliance, is not solely a matter of military capacity but of political will, institutional restructuring, and a reorientation of national priorities toward true strategic autonomy.

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