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### JAPAN'S PERMANENT SDF DEPLOYMENT LAW: A GAME CHANGER?

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The ISIS hostage crisis of two Japanese citizens (and apparent death of both) has given new thrust to Shinzo Abe's agenda of bolstering the security capabilities of Japan. As per its Diplomatic Bluebook 2014, Japan describes its surrounding security environment as becoming "increasingly severe" due to a significant change taking place in the balance of power among nations<sup>1</sup>. With the relative decline of US influence in recent times, Japan has been in a dilemma on how to reinvigorate and support US' extended deterrence in the region. The dual challenges of supporting its security partner while building up its own capabilities has led Japan to question its pacifist strategic policy. While reforming the peace constitution and becoming offensive-capable would be a highly contested process, the possibility of finding a middle path through a re-interpretation of Article 9 has assumed significant priority. Recourse is also taken from United Nations Charter' Article 51, which underscores the right of self-defence and collective self-defence as inalienable to all UN members. To add to the growing debate for change of policy, recently emphasis has also begun to be laid on Article 13 of Japan's Constitution which states that "*...right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.*"

Though Article 9's interpretation sufficiently favours the existence of Japanese Self Defence Forces (SDF), it's the definition of the extent of collective self-defence that is the problem. With the growing transnational nature of threats and challenges facing the global world, it has become manifest that no country can secure peace for itself, by itself. Japan has also realized that defining its pacifist ideals as, merely not resorting to war, without



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taking on a proactive role in promoting peace, would be a very narrow interpretation. In view of its rapidly changing security environment, Japan has come to expand its security perception from a direct “armed attack” on Japanese territory to including armed attacks against a foreign country that would advertently or inadvertently pose a threat to Japan's sovereignty or territorial integrity<sup>2</sup>. Further, the growing international pressure on Japan in recent years to participate in joint efforts for peace and stability, commensurate with its national capabilities, has prompted Japan to initiate regulations that have begun to permit the deployment of SDF outside Japan.

SDF since its time of inception has faced crises on its purpose and boundaries. After the surrender to the Allied forces and military occupation of Japan in 1945, all forms of military power reminiscent of Japan's aggression in World War II were dismantled. However with the Korean War in 1950 where much of the US troops stationed in Japan had to be transferred, questions were raised on the virtual defenceless state of Japan. So while it was a war that fathered constitutional pacifism in Japan, it was war itself that began its erosion. Hence in 1950 the minor police force was expanded to the National Police Reserve for domestic security which was further expanded in 1952 to the National Safety Forces. Finally in 1954, separate land, sea, and air forces were created and put under the command of the Prime Minister. The armed forces were designated the Ground Self-Defence Force (GSDF), the Maritime Self-Defence Force (MSDF), and the Air Self-Defence Force (ASDF), instead of the army, navy, and air force. The department was given an agency status and it was not until 53 years later till 2007, when the world had changed dramatically, that the Defence Agency was elevated and transformed into the Ministry of Defence.

Over the years, US and Japan faced friction on numerous issues, but it wasn't until the Gulf War in early 1990s, that Japan faced a major diplomatic crisis with US. Though Japan towed its foreign policy line in sync with US' interests, Japan managed to keep itself from being entangled in US' military activities. Controversy flared up when it initially



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refused to send troops but later contributed about \$13 billion to the war effort; Japan was excluded from Kuwait's congratulatory message to US/UN forces. With fear of alienating the US and becoming isolated in the global community, Japan began re-debating on initiating legal provisions to allow for Japan to participate in international peacekeeping operations. With its phenomenal economic growth, Japan became the second largest financial contributor of UN peacekeeping operations (UN PKO) after the US. However, owing to its constitutional provisions, it was still a reluctant peacekeeper in terms of putting Japanese boots on ground. At the beginning of the Gulf crisis, a majority of the Japanese public had opposed the idea of dispatching the SDF leading to the failure of the first introduction of the UN PKO Bill. But a year later with massive international criticism of Japan's "free-riding" in international security, the UN PKO Bill was finally passed.

Hence, while in the 1950s, Japan used the UN as a shield for its minimalist security policy, decades later in the 1990s UN once again became the legitimizing institution to overcome domestic constraints so as to carve a responsible role in international security affairs. With the enactment of the International Peace Cooperation Law (IPCL) in 1992 that allowed Japan to send not just civilian personnel but even the SDF; Japan participated in 8 peacekeeping operations such as in Angola, Cambodia, Mozambique, El Salvador, the Golan Heights and Timor-Leste, in 5 international humanitarian relief operations such as for Rwandan refugees and Timorese and Iraqi displaced persons and in 5 international election monitoring activities such as in Bosnia and Herzegovina and Timor-Leste. However, five basic principles of Japanese participation in UN PKO were emphatically laid out to limit Japanese mandate in view of constitutional restrictions<sup>3</sup>:

*1) A ceasefire must have been reached between the conflict parties prior to a deployment;*

*2) The conflict parties have to give their consent to (a) the deployment of the peacekeeping force and (b) Japanese participation in that force;*



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- 3) *The peacekeeping force has to be strictly impartial;*
- 4) *The Japanese government may withdraw its contingent if one of the criteria should not be satisfied anymore; and*
- 5) *The use of weapons must be limited to the self-defence of Japanese soldier.*

However the SDF has encountered problems in its cooperation with other countries' forces due to the rigid limitations set by the five principles leading to friction on numerous occasions.

Owing to the Gulf War debacle, after the 2001 terrorist strike on US soil, Japan was quick to show solidarity and passed the Anti-Terrorism Special Measures Law (ATSML) in September 2001, following which SDF was deployed to assist the US led international coalition through rear end and logistics support. Not only did the ATSML remove the clause of an existential ceasefire for deployment of SDF, ATSML also permitted the SDF to use force to defend not only themselves, "but also those accompanying them or those who have come under their control in the course of conducting duties." In December 2001, following the contours of ATSML, even the IPCL was amended to expand the mandate of the SDF in UN PKO. In 2003, Japan also passed the Law Concerning Special Measures for Humanitarian and Reconstruction Assistance in Iraq to allow for dispatch of ground troops for the first time since World War II to a country in which fighting was still going on to assert that it was a responsive ally and willing to make its share of the contribution. However, SDF participation in Iraq was limited to non-combat action. Japan withdrew from Iraq in 2006.

Though the achievements and capabilities of the SDF are highly appreciated by both the Japanese public and international community, there is still friction on the issue of SDF deployment outside Japan. The Japanese public still sees the SDF as primarily a disaster-relief management force and may have very little tolerance for loss of life as posed by the realities of modern military engagement. Further, inability of Tokyo to resolve the issue of



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historical legacies with its neighbours is a major impediment for Japan in picking up a larger military role. The concern over potential reactions is an important factor limiting Japan's security and defence policy. Also Tokyo wants to discount the use of military force as an instrument of foreign policy and maintain its international image as a "civilian power." But the spectacular rise of China and the dichotomy of US-China relations force it to address the dilemma posed by its constitution. After the ATSMML expired in 2007 due to stiff resistance from the opposition party, Japanese ships had to be withdrawn from their refuelling mission in the Indian Ocean which they had been doing since 2001. However on pressure from the US, the lower house, led by the ruling Liberal Democratic Party (LDP) overruled the upper house with a two-thirds majority – a very rare manoeuvre in Japanese politics<sup>4</sup>.

With a resplendent victory and a two-thirds majority in the lower house despite calling for early elections in late 2014, it is expected that Shinzo Abe would push for a permanent SDF deployment law in 2015. The ISIS hostage crisis has given more momentum to this issue which has been lurking around since last year. Abe's primary agenda is to allow for SDF to engage in 'international cooperation' including both UN peacekeeping activities and humanitarian assistance in collective security operations with a more relative flexibility<sup>5</sup>. In July 2014, Abe reinterpreted the constitution to expand the definition and parameters of the right to collective self-defence. To reduce the hassles that come every time the Japanese government wants to dispatch the SDF abroad or extend the time limits of any existing law, the decision and authority to send the SDF abroad would rest with the Cabinet instead of the Diet. Japan's security policy is based on military deterrence. While Japan has a modern self-defence force, its capabilities are more defensive in nature and not vastly superior to that of its neighbours. However, with a capability to support its partners unhindered, it will be game-changing for Japan which will be able to build and strengthen alliances with other countries. Lastly, a permanent SDF deployment law would also give a



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boost to the staggering US-Japan alliance that has been pivotal not only to Japan's post-war strategic culture but also to the strategic-military balance of power in the region.

*(Disclaimer: The views and opinions expressed in this article are those of the author and do not necessarily reflect the position of the Centre for Air Power Studies [CAPS])*

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### End Notes

<sup>1</sup> <http://www.mofa.go.jp/files/000055800.pdf>, accessed on 02 February 2015.

<sup>2</sup> [http://www.mofa.go.jp/fp/nsp/page23e\\_000273.html](http://www.mofa.go.jp/fp/nsp/page23e_000273.html), accessed on 02 February 2015.

<sup>3</sup> Frank A. Stengel, "The Reluctant Peacekeeper: Japan's Ambivalent Stance on UN Peace Operations", 2008.

<sup>4</sup> No. 2 ibid

<sup>5</sup> <http://www.japantimes.co.jp/opinion/2008/05/21/commentary/world-commentary/permanent-sdf-overseas-deployment-law-endangers-democracy/#.VM4ZDOHHq-c>, accessed on 02 February 2015.

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