

# The Peace Constitution in Postwar Japan — A Hermeneutics of Public Philosophy —

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Japanese Constitution, Second Paragraph of the Preamble:

*“.....We, the Japanese people, desire peace for all time and are deeply conscious of the high ideals controlling human relationship, and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world. We desire to occupy an honored place in international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize that all peoples of the world have the right to live in peace, free from fear and want. ....”*

Japanese Constitution, Article 9:

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

*2. 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.”*

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Jürgen Moltmann:

*“So-called pacifism is no longer an illusion or utopia; pacifism is the only realism of life left to us in this apocalyptic situation of threatening world annihilation. Pacifists are the realists of life, and not merely voices of utopia.”*

## **I. Introduction: On Public Philosophy**

In Japan today for the past decade or so we have witnessed a lively academic interest among social scientists, philosophers and historians in the concept of publicness or of public philosophy or of the public sphere. This was partly ignited by their academic concern for democratic citizens' public sphere and participation influenced by varieties of works pursued by such diverse theorists as Jürgen Habermas, Hannah Arendt, Sheldon S. Wolin, J. G. A. Pocock, Quentin Skinner, Robert N. Bellah, Michael Sullivan, Michael Sonnet, Robert Putnam, Michael J. Sandel. But it was also caused by the Japanese theorists' practical intent to recover both the active and responsible citizenry and the authentic public sphere over against the monopoly of publicness by the state and its bureaucracy which had thus far controlled at will the public sphere, its concerns and functions. However, one can observe in the current Japanese discussion of publicness significant varieties of understanding publicness and public philosophy.<sup>(1)</sup> To be sure, there should be diverse ways and understandings of publicness or of public philosophy. For these concepts are bound to be controversial and richly ambiguous. So this diversifying trend and the resultant discussion of publicness and of public philosophy in Japan is more than welcomed at the present.

An influential approach to the discussion of public philosophy has been proffered in the current Japanese discussion by such proponents of “public philosophy” as Kim Tae-Chang, Naoshi Yamawaki, and Masaya Kobayashi.<sup>(2)</sup> They attempt to insert a seed of meaningful doubt into the traditional dual structure of the public (*kō*/公)-private (*shi*/私) relationship prevalent in Japanese society. They have put a prioritized emphasis on the common publicness (*kōkyō*/

公共) of ordinary citizens and thus formulated a tripartite structure of (a) the public (*kō/公*), (b) the common publicness (*kōkyō/公共*) and (c) the private (*shi/私*).<sup>(3)</sup> The traditional public (*kō/公*) signifies the official publicness of the state and its bureaucratic institutions, which generally override and suffocate the traditional privateness (*shi/私*). In this context the following conventional diction seems to convey the somewhat real situation of the traditional public-private relationship: “*Messhi hōkō*” (滅私奉公/“Killing the private, serving the public”). In recent decades, due to the excessive stress on the private and privatism (a Japanese version of me-ism), what can be called an ideology of “*Mekkō hōshi*” (滅公奉私/ “Killing the public, serving the private”) has become observable in some quarters of society. Based on the common publicness of ordinary people, Kim Tae-Chang, for instance, proposes “*Kasshi kaikō*” (活私開公/ “Revitalizing the private, opening the public”) over against both “*Messhi hōkō*” and “*Mekkō hōshi*.”<sup>(4)</sup> Thus, their public philosophy basically has a threefold structure of public-private relationship, which is to say, the relationship of (a) the traditional and official state publicness, (b) the common publicness of civil society, and (c) individuals’ privateness. This version of public philosophy aims at revitalizing the commonality and solidarity of ordinary people living in the actual day-to-day *Lebenswelt*.

As long as there are certainly many possible forms of public philosophy, one needs to be as attentive as possible in one’s search for a public philosophy or a philosophy of publicness. In this connection I would like to recall perhaps the first addressing of the task of formulating a public philosophy in the United States of the mid-1950s, namely Walter Lippmann’s stimulating attempt. Lippmann was well aware of the danger of invoking a public philosophy in American society of the 1950s, as the society had become increasingly pluralistic and secular. The modern society of the mid-twentieth century became the locus of the “struggles among gods” using Max Weber’s terminology. So Lippmann was tempted to concede the liberal premise that each person’s beliefs are private and that only overt conduct is a public matter.<sup>(5)</sup> Yet he went back to the natural law tradition of the seventeenth and eighteenth centuries where the presence of a general

public philosophy was assumed. Lippmann maintained the following:

“The public philosophy was in part expounded in the Bill of Rights of 1689. It was re-enacted in the first ten amendments of the Constitution of the United States. The largest part of the public philosophy was never explicitly stated. Being the wisdom of a great society over the generations, it can never be stated in any single document. But the traditions of civility permeated the peoples of the West and provided a standard of public and private action which promoted, facilitated and protected the institutions of freedom and the growth of democracy.”<sup>(6)</sup>

But Lippmann spoke of the decline of public philosophy in America of the 1950s, when disappearance of the common beliefs in public values was in progress and consensus of the first and last things had vanished. Consequently, a great vacuum had opened up in the public mind. This was accompanied by a liberal democratic policy of public agnosticism and practical neutrality in crucial matters. Not only that, Lippmann was worried by the rise of value relativism in which all truths are self-centered and there is no public criterion of the true and the false, of the right and the wrong. In this situation Lippmann wrote *The Public Philosophy* out of his conviction that “there is such a thing as the public philosophy of civility” and that “it is known; but it does have to be revived and renewed.”<sup>(7)</sup> Because the society had increasingly become pluralized and fragmented, a public philosophy with common and binding principles was much more in need than it had ever been.

What kind of ideas, rights or institutions did Lippmann turn to in order to envisage the components of the public philosophy of civility in his time? It is interesting to remark that among the essential ingredients of public philosophy, he found notably the notion of private property, freedom of speech, communication, democracy, lawful contracts, the commitment to rational determination, the commitment to act in public life. These components are beyond doubt expressive of the public philosophy of liberal democracy.

Lippmann insists that these elements of the public philosophy need to be “*believed to be right*,” because “without that belief, most men will not have the energy and will to preserve in the action.”<sup>(8)</sup> Lippmann’s effort to forge out a public philosophy in the United States in his time is helpful, as it provides us with a good theoretical model. It thus allows us to reflect on various forms which public philosophy can assume in the concrete historical context. In the following section I would like to follow an example shown by Lippmann in my attempt to reflect on the problem of public philosophy in the historical context of postwar Japan.

## **II. Postwar Japan: Three Public Philosophies in Tension — A Synopsis**

### **1. Constitutional Democracy and Pacifism, Economic Growth, Neo-nationalism**

It is a difficult task to wrestle with the question of what kind of public philosophy has operated in the postwar Japanese society. The following discussion is not meant to be an empirical and precise historical analysis of what happened in postwar Japan but rather a theoretical analysis of three public philosophies observable during that period. The paper will be concerned with the following different public philosophies at work, and also in mutual tension, during this period. They are, first, constitutional democracy and pacifism grounded in the Japanese Constitution, second, the ideology and public policy of economic growth adopted and carried out forcibly by the postwar administrations, and third, the public discourse and policy of neo-nationalism which gained ascendancy especially from the mid-1980s onward. This paper will mainly focus on the first public philosophy, that is, constitutional democracy and pacifism, with particular emphasis on the latter. Where necessary, the other two public philosophies are mentioned intermittently in reference to the first.

It is widely known that the Constitution of Japan, which was promulgated on November 3, 1946 and went into effect on May 3, 1947, is based on three fundamental principles: popular sovereignty, fundamental human rights, and

pacifism. One might justifiably say that over sixty years these three fundamental principles, despite adverse trends and tensions under conservative postwar politics, have fared well enough as postwar Japan's public philosophy. This is, as we shall see later, a unique type of public philosophy in its intimate and necessary coupling of democracy with pacifism. Moreover, the important point to note is that the type of pacifism as stipulated in the Japanese Constitution does not simply mean "anti-war-ism" or "war-opposition" in a broad sense of the term, as defined, for instance, by Jenny Teichman.<sup>(9)</sup> As Teichman's discussion presupposes, the notion of pacifism as "anti-war-ism" or "war-opposition" is strongly against "aggressive war" and "non-discriminatory war," but does not necessarily contradict the concept of "self-defense war" or "just war." The pacifist principle of the Constitution of Japan, however, upholds the idea of radical pacifism — *tettei heiwashugi* — in my terminology. It demands rendering all wars illegal. This is because the fundamental principle of this constitutional pacifism goes back in international law history to the stipulation of the "outlawry of war" in various historical documents: the Covenant of the League of Nations (1919), Anti-war Treaty (1928), and the UN Charter (1945). In addition, the idea of the "outlawry of war" in the Japanese Constitution has taken a step further by renouncing in principle military power as means of settling international disputes, thus aiming not to retain any military force or war potential. The first clause of Article 9 clearly stipulates the renunciation of war as the sovereign right of the nation. The second clause upholds the non-maintenance of military forces and war potentials as well as the renunciation of belligerent rights (*jus belli*). What we find here is not a vague or water-downed pacifism based on "anti-war-ism" or "war-opposition" but rather a strong assertion of radical pacifism with a very different nature. This is why the Constitution of Japan is often called the Peace Constitution.

However, when it comes to the Japanese government's policy-making and actual conduct, the principle of pacifism in the Constitution was in fact consistently under threat from about 1949 onward. This was due to the onset of the Cold War, which brought about America's shift in its Far Eastern policy. And

this in turn had a great impact on the postwar policy of Japan's conservative administration. Under the order of the Supreme Commander for the Allied Powers (SCAP), General Douglas MacArthur, National Police Force was formed in 1950, which became the National Safety Forces in 1952 and the Self Defense Forces (SDF/*Jieitai*) in 1954. From the early 1990s Japan's defense budget has consistently been among the largest in the world, and is the largest among non-nuclear powers. In November 2001, the Japanese government sent the SDF overseas, to the Indian Ocean and the Arabian Sea. This dispatch of the national forces was made for the first time since 1945, i.e., the defeat of the Pacific War. In December 2002, a year later, an Aegis Destroyer and accompanying support vessels were dispatched to the same waters to support the United States' and the Allies' military operations in that region. These acts were made, as was explained, in order to make *kōhō shien*, that is, "aids in behind." And in December 2003, a year later, the Air Self-Defense Forces (ASDF) were sent to Iraq, and it was immediately followed by the dispatch of the Land Self-Defense Forces (LSDF) to Samoa in Iraq in January through April 2004. They remained there for the humanitarian and the nation-building purposes until July 2006.

There is no doubt that, as far as the principle of radical pacifism is concerned, the series of the Japanese government's recent undertakings clearly marked a turning point in postwar Japanese politics. With regard to the principle of radical pacifism in the Constitution of Japan, the dispatches of Self-Defense Forces overseas clearly represented an incident that directly questioned the national administration's legitimacy by challenging the constitutionality of its actions. At the same time, this conduct of the Japanese government evidently implied that the tacit social contract between the Japanese people and the government concerning pacifism, as it was expressed in the pacifist principle of the Constitution, was unilaterally breached by the government. It also meant that the constitutional foundation of Japanese politics had been jeopardized and was in danger.

It is correct to argue that the constant postwar crisis associated with the principle of pacifism in the Japanese Constitution has reached a definite turning

point. We are faced with a situation witnessing a breach of the social contract of postwar Japan's pacifism, something similar to what Robert N. Bellah refers to as a "broken covenant."<sup>(10)</sup> We can say this, because it is possible to consider any kind of act establishing a Constitution as a settled social contract both among the citizens and between the citizens and the government. What is meant by a "broken covenant" here then is a situation where the Japanese people's tacit social contract with the government in which the principle of pacifism was accepted and upheld has been breached by the government.

As is recognized broadly, Japanese national politics has entered the stage of "constitutional politics" (Bruce Ackerman). But this "constitutional politics" is not the one coming spontaneously from below, that is, from the popular basis but rather a kind of quasi-"constitutional politics" or a government's initiating one. On October 28, 2005 the Koizumi administration published the "Draft for the New Constitution." The Draft includes the replacement of the second clause of Article 9 with wording that endorses the "maintenance of Self-Defense Military Forces." The coming three years, or more, will stage Japan's constitutional politics' "battle of *Sekigahara*," as we might say in Japanese. It also means that our *de jure* public philosophy of constitutional pacifism in postwar Japan is facing a decisive crisis on the stage of its national politics.

Especially important in this regard is the emergence of neo-nationalist discourse. It has begun to dominate the conservative administrations and the minds of the conservative populace, the younger generation in particular, for close to two decades now. This neo-nationalist public philosophy has an aspect of the continuation of postwar nationalism. The latter either tacitly or overtly places its ontological ground into the symbolic Emperor-system — *shōchō tennōsei* — and its prewar predecessor, that is, the divine-kingship type of absolutist Emperor system. The neo-nationalist public philosophy, as espoused by a diversity of proponents and critics such as Nobukatsu Fujioka, Kanji Nishio, Yoshinori Kobayashi, has penetrated into the recent public discourse about the so-called issues of history and history textbook, the problem of war responsibility for the wrongs done to wartime "comfort women," Yasukuni problem, and so



forth. What is distinctly peculiar about this neo-nationalistic discourse is the fact that its increasing popularity and penetration in the mind of the populace has gone hand in hand with the move of the “economic giant power” policy, the so-called “redefinition of US-Japan security treaty system,” the demand for “international contribution,” and the strengthening of “patriotic” education which were adopted and pursued at the government level. I will come back to the problem of the public philosophy of neo-nationalism later.

Thus, it is evident by now that the *de jure* public philosophy of constitutional pacifism has *not* dominated entirely the public discourse in postwar Japan. As already mentioned above, the conservative politics led by the LDP has made a series of flexible interpretations of Article 9 —“Constitutional amendment by interpretations” (*kaishaku kaiken*)— so as to mutilate it. Not only that, the *de jure* public philosophy of constitutional democracy and pacifism has sometimes collided with what I would like to call a *de facto* public philosophy of economic growth. To be sure, the early decades of the postwar history often found both public philosophies consonant with each other. This was partly due to the policy of economic growth combined with social welfare. Social welfare became the priority policy agenda in postwar national politics, pursued by the ruling party and shared by the opposition parties. However, the last ten to twenty years have witnessed an increasing tension between the two public philosophies, especially due to the newly adopted neo-liberal economic policy in the ruling parties. This economic neo-liberalism has replaced the older social welfare economy.

## **2. Two Bodies of Politics in Postwar Japan: People’s *Body Politic* and Political Economy**

The mounting tension between the *de jure* public philosophy of constitutional democracy and pacifism and the *de facto* public philosophy of economic growth in postwar Japan can also be explained in the light of the “people’s two bodies” (Sheldon S. Wolin), on the basis of which current politics of highly industrialized countries now operate.

It has become a common recognition that the so-called “advanced”

industrial and technological societies of the world began to acquire over the last several decades two separate bodies of politics: the people's *body politic* and the political economy.<sup>(11)</sup> In our perspective this fact implies that these highly industrialized societies of the world are faced with two different, Janus-faced, and potentially antithetical public philosophies as the propelling engine that drives these societies. Let us recall the Reaganomics of the early and mid-1980s in the United States, since it was a good example of this Janus-faced commitment to two separate public philosophies. On the one hand, Reagan's rhetoric aroused and heightened the Americans' sense of attachment to the traditional values and history such as the Mayflower Compact, the Declaration of Independence, and the Constitution. On the other hand, his language at the same time showed his assertive and dogmatic commitment to sweeping changes which replace old economic practices, for instance, spending cuts, tax changes, deregulation, and reduced social services. On the one hand, Ronald Reagan's rhetoric showed his commitment to "problems of flesh and blood," that is, "problems that cause the pain and destroy the moral fiber of real people." On the other hand, his language at the same time unmistakably expressed his commitment to a radical change guided by the abstract economic theory proffered by a then popular supply-side economics. The populist rhetoric of the former Japanese Prime Minister, Junichirō Koizumi also showed a similar Janus-faced double commitment to two different sorts of public philosophy: both a tradition-oriented, neo-nationalist philosophy shown by his repeated visits to Yasukuni Shrine and a new public philosophy dictated by an abstract neo-liberal economic theory.

Let us go back to the argument of the two separate bodies of politics with which this section started: the people's *body politic* and the political economy. The notion of the people's *body politic* has a historical lineage that can be traced back to the late medieval age and early modern age of the West, in which constitutional, republican, and democratic conceptions of the polity began to take shape. The political economy, on the other hand, is the public body which gradually formed in the polity increasingly shaped by the type of power embodied in the highly advanced economy and technology after World War II.<sup>(12)</sup>

National politics of each country certainly *de jure* operates on the basis of the people's will and common needs in their *body politic* under the rule of constitutionalism. *De facto*, however, national politics has been increasingly dictated by the needs of the maintenance, management, and development of the political economy. The problem is twofold here. First, the politics of the system as exemplified by the effective maintenance of the political economy overrides the politics of democracy as embodied in the constitutional-democratic *body politic* of the people. Second, these two separate bodies of politics, as well as the two distinct public philosophies embodied in the two spheres express, whether directly or indirectly, what we are as a people, that is, our political identity and the organization of power which sustains it as well.

The problem of political economy lies in its conception of power that is not based on the will of the people but rather compelled by the dynamics of the system. This ungrounded power of the system is also striving for totalization. This anti-democratic politics of the system tends to see genuinely democratic politics as destabilizing and inefficient. For in the theory of political economy society is absorbed into "the economy." "The economy" has come to embody the identity of the collectivity and to serve as the ground of its power. Thus, as Wolin indicated, economic relationships are no longer viewed as embedded in a larger complex of social and political relationships. Instead, like the Marxist-Leninist theory of historical materialism, economic relationships are treated as a privileged distinct system, i.e., an autonomous near-totality, constitutive and defining of all other types of relationships. Here economy becomes "a first principle of a comprehensive scheme of social hermeneutics."<sup>(13)</sup>

In the case of postwar Japan the politics of the system which operates on the basis of the political economy has aimed at the effective management of Japanese economy under the consolidation of professional politicians, state bureaucratic organizations, and the business sector. This is a politics led by economic rationality whose self-dictated purpose lies both in the economic growth of the country and in the strengthening of international economic competition. Here politics is transmuted into a kind of the state-based business

and public administration or a sort of nationwide housekeeping business. Here Japan could be renamed “Japan Inc.”. At this point a serious question can be raised whether economics can fulfill the requirements of a public philosophy.

Certainly the argument above does not mean that there is no need for the politics of the system as such. There can be no denying that this form of politics is to be engendered unavoidably out of the structure of political economy. But the problem is that the politics of democracy is bound to decline, if the professional politics of political parties and state bureaucracy are co-opted into the politics of the system. For the politics of democracy basically aims at caring, tending, and nurturing the people’s *body politic* that is its own ontological basis. The politics of democracy is based upon citizens’ common action to constitute the public realm in which various different groups and individuals can interact. As such its main task consists, among others, in encouraging citizens’ resistance to social injustice and oppression, discrimination and inequality, as well as in enhancing their commitment to the people and groups that are placed in the socially disadvantageous and vulnerable position. So this will create an unbridgeable gap between the goals of the politics of democracy and the actual practice of the politics of the system. For the latter incessantly imposes destructive effects upon human society, the natural environment, the human body, and psyche.

It is worth noting in this context that some specialists in East Asian political economy have explained the rapid and enormous economic development of Japan, South Korea, and Taiwan during the 1970s through the middle of 1990s in terms of the model of “developmental state.” According to Chalmers Johnson, T. J. Pempel, and Meredith Woo-Cumings, the high levels of economic productivity achieved by these East Asian countries are explained in the light of the tight coordination and cooperation between government and business: “the seamless web of political, bureaucratic, and moneyed influences that structures economic life.”<sup>(14)</sup> The key defining factor of the “developmental state” is the top-down administrative coordination and integration with the effect of democratic deficit which became normality so as to enhance domestic economic advancement.<sup>(15)</sup>

But from the mid-1990s on the developmental state model no longer operated, because of several significant changes in the domestic and foreign policies in these countries from then. The changes include the 1997-8 Asian financial crisis which assaulted the whole Asian region by hitting Thailand and Japan first, the move toward closer Asian regional ties, the consequent erosion of the hitherto tight links between domestic business sector and governmental agencies, the reliance on neo-liberal economic policy rather than the hitherto protected economy, the rapid democratization of society in the cases of South Korea and Taiwan.<sup>(16)</sup> So it is now recognized that “the developmental state as it once existed in Japan, South Korea and Taiwan is essentially dead.”<sup>(17)</sup>

It should be understood that the form of the political economy in Japan has gradually shifted from the state-protected economic polity with its welfare policy emphasis to the type with more neo-liberal characteristics. As a result, the *de facto* public philosophy of economic growth has acquired a neo-liberal policy orientation. This change also signaled the escalation of the tension that has long existed between the politics of democracy and the politics of the system. It also meant the widening of the cleavage between the *de jure* public philosophy of constitutional democracy and the *de facto* public philosophy of economic growth.

### **3. The Lost Decade of Japanese Politics: “A Failure of and in Democracy” (John Dunn)**

According to a prevalent view, Japanese postwar history can be divided up into three stages. The first stage is the period of confusion and reform that covers the first decade after the end of World War II. The second stage can be called the period of stabilization and growth that extends from 1955 to the early 1990s. And the third postwar period is the one of the post-Cold War which can be characterized as the period of globalization and identity crisis<sup>(18)</sup> During this third stage the national identity of Japan has been questioned from a number of different angles in the midst of globalization and economic recession. The legitimization crisis of Japan has deepened in popular consciousness, as the vulnerability of Japanese economy, politics and bureaucracy has become evident.

Japan's identity crisis has been exacerbated, as apparent from the sudden increase of Japan's dependence on, and subordination to, the United States.

The so-called "third postwar period"—*daisan no sengo*— can be rightly characterized as the lost decade of Japanese politics. More concretely, the failure of Japanese politics during this period is conspicuous, both in the field of diplomacy and in democracy. First, what I mean by the failure of Japanese diplomacy is clearly visible in Japan's exceptional and gradual military budget increase in the global environment of the post-Cold War era that witnessed arms cuts and military reduction in a number of countries. With China as another exception in military build-ups the East Asian region is now regarded as one of the turbulent regions in the world. And Japan's increasing dependence on the United States in security and war policy signaled the emasculation of constitutional pacifism as the cardinal diplomatic principle of Japanese postwar politics. Second, the malfunction of democracy can be seen in various problems, such as the lack of accountability in political leadership, the alienation of citizens from politics in general, their distrust in politics, the corruption of state bureaucratic organizations.<sup>(19)</sup>

In this connection one should keep in mind that oftentimes, acute observations are given about the present-day Japan by foreign scholars of great insight rather than by Japanese intellectuals in general. John Dunn, for example, provides a deep observation in characterizing the recent decade of Japan as the period of "political paralysis." The long stagnation of Japanese politics paralleled with the lost decade which had started with the Gulf War shock of 1991, the collapse of Hosokawa administration of 1994, the old Socialist Party's acceptance of the Self-Defense Forces and the U.S.-Japan Security Treaty as constitutional in 1994. According to Dunn, this "political paralysis" means "a failure of democracy and in democracy."<sup>(20)</sup> One may interpret this as follows. The "political paralysis" signifies nothing but the long stagnation and malfunction of Japanese politics. It also suggests "a failure in democracy" as the form and function of government—parliamentary politics, party politics, politics of bureaucracy. Furthermore, it indicates as well "a failure of democracy" in the sense that postwar citizens'

politics with its point of departure in the anti-U.S.-Japan Security Treaty movement of the late 1950s suddenly found itself in an impasse.

The late political scientist, Mchitoshi Takabatake found one of the important causes which brought about the long stagnation of Japanese politics for the last decade in “*meizonjitsubō*”—「名存実亡」/ “Names only, substance empty.” According to this interpretation, “system of representation,” “government party,” “opposition party,” “statesman,” “bureaucracy,” “administrative apparatus” “political, economic and bureaucratic elite,” “pro-Constitution forces,” these words only bear name but not meaningful substance.<sup>(21)</sup> For the concern of this paper it is important to note that the “political paralysis” of Japan’s lost decade is manifest in the confusion and discord surrounding “constitutional politics.” There is no commonly shared image about either the shape of the country Japan should assume or the future direction that Japan should take. Furthermore, there is little constructive discussion and debate about these basic problems of national identity either in the National Diet or in public opinion and journalism. What exists in the National Diet and the Cabinet is the policy making accomplished by the exercise of arbitrary top-down leadership at the level of national politics that has become increasingly conservative. The current two big parties, LDP and DPJ (The Democratic Party of Japan), are aiming at making Japan a “normal nation” by amending the Peace Constitution.

The current political situation depicted above clearly put the *de jure* public philosophy of constitutional democracy and pacifism in jeopardy. Despite this overall pessimistic assessment of national politics, I would like to point out that some positive elements for the politics of democracy have emerged at local level in the past decade. What was remarkable, with regard to the revitalization of local politics, was the introduction of a series of local citizens’ referenda. They include, among other things, a referendum regarding the construction of Maki Atomic Power Plant at Maki-Machi in Niigata Prefecture in August 1996 and a referendum as to the American military base in Okinawa Prefecture in September 1996. Local inhabitants’ referenda are by now established as a democratic

institution by which electorate's will is consulted in both local and national politics. Another splendid achievement was the enactment of the NPO Legislation of December 1998. The Legislation had an inescapable effect of revitalizing civil and voluntary associations at the level of civil society. Moreover, the Local Government and Decentralization Reform of April 2000 has enabled the national government to reallocate many of its powers, commissions and finances to local governments. These measures in turn will lead to various institutional reforms, the revitalization of local politics, and the strengthening of citizens' politics. Despite the failure of politics at the national level, the object of John Dunn's criticism, we have witnessed a kind of "lively politics" at work in some local areas.

### **III. The Peace Constitution: The Foundation of *de jure* Public Philosophy**

#### **1. Historical Limitations of the Constitution and the View of Its Imposition**

John M. Maki wrote in 1993: "There has been constitutional controversy but no crisis. This stability demonstrates much about the actual operation of Japan's constitutionalism."<sup>(22)</sup> Now the era of optimism is gone, and the debate about the Constitutional amendment, as already indicated, has become one of the most important items on the agenda of Japanese national politics. Especially in view of the overwhelming victory of the LDP in the last general election of the House of Representatives on September 11, 2005 and the LDP's "Draft of the New Constitution" announced and publicized on October 28, 2005, the real possibility of a Constitutional amendment has become a genuine agenda in Japan's national politics. First, I would like to indicate some historical limitations of the Constitution and to examine critically a controversial view which argues that the present Constitution is an imposed one.

To be sure, there existed some basic problems and historical limitations inherent in the Constitution of Japan. Constitutional theorists, Kenzō Takayanagi, Shōichi Koseki, Osamu Nishi and others have made it abundantly



clear by meticulous historical research that the principle of pacifism as seen in the Preamble and Article 9 was incorporated into the Constitution of Japan by SCAP for three purposes.<sup>(23)</sup> First, the GHQ wanted to carry out the demand of the Potsdam Declaration to disarm the nation. Second, they wished to make the Emperor system survive as the symbolic Emperor system in order to secure the order of the occupied society. Third, they thought that Japan can be defended if Okinawa should be fortified by a heavy concentration of American military power. Furthermore, the voice of the Asian and Pacific countries victimized by the Japanese militarism during World War II was strategically suppressed by the occupying forces. This suppression of the Asian-Pacific voice came about by the change of America's policy in the East Asia in the face of the beginning of the Cold War. The following can be counted among other problematic issues: Emperor Hirohito's failure to make an official and sincere apology to the victim nations, his failure to accept war responsibility appropriately, and his failure to abdicate from the throne, the nation's stronger feeling for being victimized than their sense of guilt as assailants. The slogan of "*ichioku sōzange*" (hundred million people's penitence) coined and promoted by the Higashikuni Cabinet had nothing to do with the genuine repentance coming from the inward hearts of the people. There is some credence to the view that the slogan was fabricated by the rulers of Japan so as to conceal and to exempt the war initiators' and leaders' atrocious crimes. At the level of the populace as well militarists of yesterday suddenly changed to become democrats of today. This is the main reason why the nations of Asia and the Pacific were extremely indifferent to the promulgation of the Peace Constitution. They suspected that the Constitution should be changed soon after the occupation of Japan by the Allied forces is over and that the "peace nation" Japan was nothing but the *modus vivendi* Japan had to adopt in order to survive during the turbulent postwar years.

At the same time, however, we shall see that the Japanese people in general amidst burnt down ashes and demolished debris came to share national sentiment of loss and remorse as well as deep sense of *kyodatsu* (lethargy), as brute facts and new data about the atrocities of the Fifteen Year War gradually

began to disclose themselves to them. After all, the series of the Emperor's militaries' invasions had resulted in the enormous number of casualties including an astonishingly large number of civilians: approximately twenty million among the invaded and combated countries and more than three million among the Japanese. They somewhat realized that the disarmament of the nation, whether imposed or self-chosen, had meant a way of taking the war responsibility for Asian and Pacific, North-American and European nations in line with the demands of the Potsdam Declaration. As a matter of fact, the connection between the acceptance of the Potsdam Declaration and the renouncement of war had been made in the Emperor's well-known edict issued on March 6<sup>th</sup> 1946: "While accepting the Potsdam Declaration, ..... let us readily renounce war ..... and lay down the foundation for rebuilding the state by adding radical alteration to the Constitution."

Some of these facts certainly added strength to the view held by a substantial number of people from the early 1950s that the Constitution of Japan was an imposed document and that it was not an independent and self-made document on the part of the Japanese. But is this view of the imposed Constitution correct? To be sure, this is a delicate matter, since there are subtle facts and courses of events involved here. But, on the whole, great majority of the constitutional historians and theorists in Japan does not take this view of the imposed Constitution.

At first, GHQ wished the Japanese government to draft the Constitution. The Constitutional drafts A and B prepared by the postwar Japanese oligarch, known as "Matsumoto drafts," were far from being satisfactory to SCAP. They were not only unacceptable due to its status-quo oriented and backward looking nature but far more conservative and unimaginative compared to a number of progressive and stimulating drafts formulated on the popular basis. It is natural that some segment of Japanese people was also deeply disappointed with "Matsumoto drafts." This led General MacArthur to order the new draft to be prepared by SCAP's government section headed by Brigadier General Courtney Whitney. This course of events gave some credence to the view of the imposed

Constitution. For, after all, the promulgation of the Constitution in November 1946 was made while Japan was under the occupation by the Allied Forces. But it is clear that some substantial Japanese initiatives such as Kijyūrō Shidehara's role were made, as it was testified by some sources such as "Hamuro Memo," "MacArthur Memorial," the Report of Takayanagi Constitutional Investigation Sub-Committee on the process of the Constitution making.

MacArthur personally provided Whitney and his group with three points — the "MacArthur Note"— to be incorporated in the new draft. The second point of the Note concerned with the disarmament clause reads:

"War as a sovereign right of the nation is abolished. Japan renounces [war] as an instrumentality for settling its disputes and even for preserving its own security. It relies upon the higher ideals which are now stirring the world for its defense and protection. No Japanese Army, Navy or Air Force will ever be authorized and no rights of belligerence will even be conferred on any Japanese force." <sup>(24)</sup>

The origin of the ideas concerning the renunciation of war and the non-maintenance of military forces has been disputed. MacArthur claimed that the idea originally came from Prime Minister Kijyūrō Shidehara. Shigeru Yoshida, the Shidehara Cabinet's Foreign Minister and later Prime Minister, stated his belief that MacArthur first suggested the idea to Shidehara and he strongly agreed. Kenzō Takayanagi and his committee of investigation were summoned to examine, from 1957 to 1964, the details of the procedures leading up to the promulgation of the Constitution and concluded as follows, contrary to Takayanagi's initial belief that Article 9 had its origin in Washington, not in Tokyo:

".... Shidehara astonished the General with a proposal for the insertion of renunciation-of-war and disarmament clause into the new Constitution. Apparently the General hesitated at first. .... The Prime Minister, however,

succeeded in persuading the General that in the Atomic Age the survival of mankind should precede all national strategies, that if an atomic war should break out, America herself might be destroyed, and that other nations must follow the same principle of renouncing war if they themselves were to survive. ....” <sup>(25)</sup>

Nowadays the dominant theory of the origin of the Constitution accepted by the majority of scholars of the Japanese Constitution supports the so-called “Japan-U.S. joint authorship.” At the same time, what cannot be ignored was the support shown by the great majority of the Japanese people for the promulgation of the Constitution with Article 9. The opinion surveys of various nationwide newspapers at that time reveal that the people in general gladly accepted the Constitution and Article 9. According to Mainichi Newspaper’s opinion survey result published on May 27, 1946, 70% of the respondents answered that the clause of the renunciation of war was necessary. Furthermore, the Imperial Diet had repeatedly examined and carefully deliberated on the draft of the Constitution and approved it with an overwhelming majority at the 90th Imperial Diet in October 1946. All these facts corroborate the theory of “Japan-U.S. joint authorship” of the Constitution of Japan. The theory of the imposition of the Constitution by SCAP does not seem to be altogether correct. <sup>(26)</sup>

## **2. Some Elements of Realism within the Peace Constitution**

### **(1) Types of Realism**

There is another view on the Constitution prevalent among supporters of the Constitutional amendment that the pacifist principle of the Constitution is a mere utopia and illusion in the *Realpolitik* of the early twenty-first century. In this section I would like to reexamine this view and to suggest that Japanese constitutional pacifism possesses an element of realism especially when we look at it in its historical context.

To be sure, the Constitution contains an undeniable strain of idealism. This can be seen, for instance, in the Preamble where the expression “high ideals” of

seeking for durable peace appears twice. First, the beginning of its second paragraph reads: “We, the Japanese people, desire peace for all time and are deeply conscious of the *high ideals* controlling human relationship, and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world.” Second, the same phrase appears in the fourth (last) paragraph of the Preamble: “We, the Japanese people, pledge our national honor to accomplish these *high ideals* and purposes with all our resources.” This strain of idealism is certainly both an expression and an origin of the Constitution’s radical pacifism that not merely denies “aggressive war” and “non-discriminatory war” but also holds to renunciation of war, non-maintenance of military forces, and rejection of *jus belli*. But one has to keep in mind that what gave birth to this radical pacifism of the Constitution was not the pressure of SCAP and of other nations. Rather it was the disappointment, contrition and remorse for “the horrors of war through the action of the government” (Preamble) shared equally by the people. It was their firm determination not to bring about a costly war again, their sincere aspiration for peace and welfare, their expectation for the new and peaceful Japan and a future world peace. These real and concrete experiences and ideas shared by the Japanese people gave birth to, and ensured wide acceptance of, the radical pacifism of the Constitution, and not *vice versa*.

Reflecting on the nature and mechanism of life itself, one may not have to think of idealism and realism as an either-or-issue. They do not have to be always antitheses, antinomies, or absolute opposites. Oftentimes one can find both idealistic and realistic elements coexisting and combined harmoniously in an individual or in a group life that includes even *bios politikos* and the nation’s Constitutional existence. Proper idealism contains within itself realistic elements, while proper realism harbors in itself some features of idealism. One often finds oneself to be idealistic in order to become genuinely realistic in a concrete and particular situation. And conversely one has to make realistic choices in order to achieve idealism. As Martin Luther King, Jr. indicated by referring to a French philosopher, “life at its best is a creative synthesis of opposites in fruitful way.”<sup>(27)</sup>

One might justifiably say that a well-balanced combination of idealism and realism is an undeniable characteristic of the Constitution of Japan.

But how should we understand the essence of “realism” in politics? This is a great question which occupied the mind of astute historians and political theorists alike from the antiquity: the age of Thucydides and Ssuma Ch’ien. As is well-known, the antagonism and rivalry between realist school and idealist school has been observed in the field of international politics now for more than a century. The realist school is represented by such theorists as Max Weber, E. H. Carr, Hans Morgenthau, George Kennan, Martin White, or Kenneth Waltz. There is no time and space here to delve into the structure of thought pertaining to realism. Suffice it to say at this point that there can be notably three characteristics of thinking singled out as the basic underlying premises of realism in the sphere of politics. First, the realists have a pessimistic view of human nature and group, which they believe has an unavoidable inclination to evil and selfishness. Second, they harbor a sober view of power that supports and directs politics. Third, realists are more committed to bringing about good consequences of politics, i.e., an *Antwortungsethik* in the Weberian sense, than they are concerned with inner motives of political actors, i.e., a *Gessinnungsethik*. I would like to consider the Peace Constitution and realism particularly in view of the second and third criteria of realism specified above.

What I call “military-power realism” entails problems of its own by the standards of the second and third criteria of realism above. Power has several components such as military power, political power, economic power, power of science and technology, power of culture, support of the people, ideology that includes power of ideas and of morals. “Military-power realism” is a specimen of the notion of “hard power” or “power politics,” and one can find a good example of it in the hegemonic neo-imperialist foreign policy pursued unilaterally by the current Bush administration in the United States. This is a kind of realism preoccupied with, and exclusively dependent upon, the exercise of military power. “Military-power realism” often does not meet the third criterion of realism, i.e., yielding good results, as one can see clearly in the case of the

current American hard power realism. According to the reliable estimates (AFS, AF and others), the casualties of the Iraq War amounted to the following numbers by September 5<sup>th</sup> 2006: between forty thousand and eighty thousand of Iraq soldiers and civilians were killed; 230 lives of soldiers and civilians of the multi-national contingents lost; 2651 soldiers of the U.S. military died. When we think of the approximately 3200 casualties at the September 11 terrorist attacks, these numbers of casualties of the Iraqi War indicate a total lack of sound realism in the American military operations.

The second type of problematic realism is what one might call “status-quo confirming realism”—*genjo tsuinin genjitsushugi*—, the type of realism that Masao Maruyama was particularly concerned with in his critical studies in “ultra-nationalism” and authoritarianism during the prewar and mid-war Japan.<sup>(28)</sup> This type of realism is a reflection of the passive and fatalistic attitude often shown by the Japanese populace toward the “established facts”—*kisei jijitsu*— particularly made by the rulers, *okami*. This realism is manifest, particularly when the Japanese populace tend to follow in acquiescence and subject themselves to the given, established reality. This happened to the Fifteen Year War of Japan, when the nation was gradually led to a series of aggressive acts—which in turn became the established facts as a consequence—on the part of the militaristic Imperial Japan: the Manchuria Incident of 1931, withdrawal from the International League of Nations of 1933, the Invasion of China in 1937, and the Attack of Pearl Harbor in 1941. It seems that during the postwar period, too, this “status-quo confirming realism” has continued. One might even argue, although this is bit an extremist view, that the postwar democratization was nothing else than a result of this obedient submission to the reality of the defeat of war. At any rate, there can be observed a tendency of the Japanese people to regard what happens in history and politics as if these events were mere natural disasters. This submissive attitude can be explained partly in geographical and climatic terms: people would be accustomed to waiting patiently the passing of natural calamities in the land of the Temperate-Monsoon Zone where earthquakes and typhoons regularly hit the land. Now the people are faced with the crisis of the

Constitutional revision. Once again, will the people resign themselves to the mounting pressure?

The realism expressed in the Peace Constitution belongs neither to “military power realism” nor to “status-quo confirming realism.” It rather belongs to the category of “soft power realism.” This realism takes seriously the effective and sustainable power provision procured by non-hard power components such as political and diplomatic power, economic power, power of culture, support and cooperation of the populace, or power of ideas and morals. Constitutional pacifism can be regarded as an expression of a type of *rinen teki genjitsushugi* (ideas-oriented realism). The Peace Constitution has the principle of pacifism which denies the reliance on military power but proffers the institutional design for creating and maintaining peace by committing to the effective use of soft power resources such as diplomacy-oriented politics, economic power, culture, moral values and ideas. One cannot imagine Constitutional pacifism without recourse to the belief, strong commitment and sentiment of radical pacifism shared by the government and the populace alike. Constitutional pacifism does not make sense at all without recourse to wise peace diplomacy and astute political judgment on the part of the government. In the context of Japan’s postwar history there have existed some policies and principles that can be regarded as the realization of Constitutional pacifism. One may rightly enumerate among them the state’s no-war-ism, measure against the export of arms, non-nuclearism under “Three Non-Nuclear Principles,” positive deployment of ODA, each year’s peace declaration by mayors of Hiroshima and Nagasaki on the days of Atomic bombings. They among others have functioned as precious resources and policy proposals which have materialized Constitutional pacifism in the concrete context of postwar history.

## **(2) The Preamble and Article 9**

### **A. Skepticism toward Its Own Government and Military Power**

Next, we should take a better look at the essential ingredients of this “soft power realism” observable particularly in the Preamble and Article 9. One can



rightly identify a conspicuous feature of constitutional realism in its consistent skepticism toward its own government and military power in particular. The “realist school” of international politics often harbors hostile feelings against the enemy state and other nations. But it seldom maintains the same skepticism toward one’s own state power and its military power operation. But the Japanese Constitution is the Basic Law of the country whose government and military fought the most aggressive and the most bitterly fought out type of war in recorded history and which suffered the effects of the atomic bombing. It is the Constitution accepted by the populace because of their immediate experience of the calamity of war. The Constitution bears within it the vivid memory of scars, pains and sufferings that the people had to undergo during the war. This Constitution does no longer believe in the possibility of “just war” or “righteous war,” since the Manchuria Incident and the Invasion of China were carried out under the deceptive slogan of self-defense and proper national interests. Thus, the Preamble simply states: “We, the Japanese people .... resolved that never again shall we be visited with the horrors of war through the action of government ....” Here one can see the Constitution’s spirit of consistent criticism and skepticism directed toward one’s own government and military. <sup>(29)</sup>

One might rightly say that according to the logic of the Constitution the guarantee of the pacifist principle is entrusted to the principle of popular sovereignty, that is, democratic principle. In other words, what guarantees Constitutional pacifism by arresting the resurgence of militarism is regarded as residing in the will, decision and responsibility of the people who are the sovereign. This legal logic of the Constitution is peculiar compared to the normal course of history and developments of Western democracies. For, as is known generally, the notion of the popular sovereignty presupposed the existence of the nation *qua* the aggregate of citizens who had the responsibility and obligation to defend the fatherland at the risk of their lives in the case of democratic political tradition — particularly republican one — of the West. We still have the relic of this presupposition, for instance, in the 2<sup>nd</sup> Amendment of the American Constitution, the oldest document still in use, which reads: “A well regulated

militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.” One can also find the similar relic of the idea in the Swiss militia system which has institutionalized the ordinary citizens to keep arms in houses and to participate in war activities as militia when necessary. But in the case of the Japanese Constitution the severance of democracy and militarism took place due to its peculiar historical concatenations. This led to the inner and necessary connection between democracy and pacifism observable in the legal logic of the Constitution. Thus, according to the legal logic of the Constitution, to exercise the right of the popular sovereignty on the part of the people as the subject of critiquing the use of hard power of the state is understood to be the institutional mechanism which defends and guarantees the principle of radical pacifism. The Article 99 of the Constitution should be understood as specifying the legal logic of the Constitution indicated above: “The Emperor or the Regent as well as Ministers of State, members of the Diet, judges, and all other public officials have the obligation to respect and uphold this Constitution.”

## **B. Pacifism of Immediate Experiences**

A realistic aspect of the Peace Constitution can be also found in the fact that it grew out of “*taiken teki heiwashugi*” (Makoto Oda), that is, a pacifism of immediate experiences of the people. These immediate experiences include the utmost experiences of the atomic warfare (Hiroshima and Nagasaki). The political theory of the Japanese Constitution presupposes that the terms of politics changed so drastically in the age of nuclear war that the classical statement of Karl von Clausewitz that “war is merely the continuation of politics by other means” no longer holds. It also presupposes that the cost and risk of war exceeds any objective a war might conceivably achieve. It holds that non-war and the resultant world peace alone remain the survival scenario for humankind in the post-nuclear-war politics. What endorses the realism of non-war-ism is the escalation of the destructive capability that the mid-twentieth century war technology and weaponry made possible. Thus, it is understood that there can

be no war objective, which can justify the war as a necessary means or an effective instrument. It follows from all these considerations that the emergence of nuclear weapons made obsolete the meaning of war as a practical means to achieve a higher end. Normally, pacifism is treated as a matter of individual's conscience in the West; but in the Japanese Constitution pacifism has become a national and international principle.<sup>(30)</sup>

### C. The Self-Limiting of the State Sovereignty

Moreover, the political theory of the Peace Constitution also both presupposes and suggests the relativization of the sovereign power of the modern nation state. For the right of belligerency (*ius belli*) constitutes the central category of the state sovereignty in the modern Westphalian paradigm of international politics. Thus, the Peace Constitution is an anathema to the modern notion of sovereignty. The first clause of Article 9 proclaims to “forever renounce war as a sovereign right of the nation.” Its second clause insists that “land, sea, and air forces, as well as other war potentials, will never be maintained” and that “the right of the belligerency of the state will not be recognized.” These measures signify that the survival of the earth itself depends on the elimination of the central component of the state sovereignty: the right of belligerency.

This constitutional and institutional design for world peace stemmed from the Japanese people's miserable and humiliated experiences of the defeat of war, its suffering of the atomic bombings, its fear for starvation, and its sense of *kyodatsu* — lethargy and powerlessness. Here the principle of democracy is intimately and necessarily combined with the principle of pacifism. Democracy coupled with pacifism — certainly a rare achievement — was grounded in the defeated people's immediate experience of miseries, devastation and calamities of war. This democracy was bound to be “humble democracy” (John Keane used the expression in a different context) or rather a type of humiliated democracy that is a sharp contrast to the type of “imperial democracy” or triumphant democracy as we can see particularly in today's America. This public philosophy of humiliated democracy in which democracy and pacifism are organically and

inseparably united with one another can be regarded as a unique phenomenon in history.

As John Dunn indicated in his public lecture on Masao Maruyama, this humiliated democracy, a combination of democracy and pacifism, was possible only under the conditions where democrats like Maruyama participated in a “community of contrition.” They did so with the profound sense of remorse for the atrocities committed by the Japanese imperial military during Fifteen Year War.<sup>(31)</sup> This rare combination of democracy and pacifism was initially born out of the debris and ashes of the defeated Japan. As John Dower intimated in *Embracing Defeat: Japan in the Wake of World War II*, 1998, defeated people’s “hope, resilience, visions and dreams,” together with “misery, disorientation, cynicism, and resentment” gave rise to “unusually chaotic vitality” with which they seriously began to grope for peace and a new life and to rethink “what it meant to speak of a good life and good society.”<sup>(32)</sup>

#### **D. Pacifism as a New National Principle**

The pacifism of the Preamble and Article 9 had an element of nationalism, although the proponents of postwar pacifism did not emphasize the nationalistic feature of pacifism. This was because during the 1950s and 1960s the prevailing conservative, nationalistic public discourse strongly demanded the restoration of some of the prewar values such as full-fledged Emperor system and patriarchal family and attempted either to eliminate or to revise the pacifist clauses of Article 9. Thus, postwar pacifism claimed to be anti-nationalistic and internationalist in this particular historical context. However, as recent studies such as Eiji Oguma’s voluminous work on postwar democracy and patriotism show, pacifism was also an expression of nationalism.<sup>(33)</sup> For most of the Japanese who welcomed the Peace Constitution found in it the basis for the spirit of national self-reliance. Constitutional pacifism was capable of providing defeated people with a new national identity as the “peace nation.” As Yoshikazu Sakamoto indicated, the unique characteristic of this pacifist nationalism consisted in founding the collective identity of the nation “not on the past national tradition

but on the sharing of common international mission for the future.”<sup>(34)</sup> The atomic experiences of Hiroshima and Nagasaki became the origin of postwar pacifism of Japan and as such they remained “almost a single important national principle.”<sup>(35)</sup> As is true with any genuine pacifism, pacifism becomes serious and a real option, only when it is based on the utmost experiences or the *Grenzfall* an individual, a group or the nation happens to go through. In the case of the Japanese, the experience of Hiroshima and Nagasaki became the ultimate and limit case, i.e., the nation’s *Grenzfall*. Moreover, this postwar pacifism was a unique type of nationalism, because it sought for such universal values as non-war, world peace, anti-nuclearism and thus became an expression of internationalism as well.<sup>(36)</sup>

#### E. What Was Protected by the Peace Constitution

As already indicated, political realism has an inherent demand of *Antwortungsethik* and hence possesses a keen interest in the actual result that any political position produces. With regard to the actual fruits of constitutional pacifism over the past sixty years, how can one assess them? What service did the Preamble and Article 9 render for the welfare of the Japanese people in the postwar period?

While having some reservations, I would like to answer these questions by claiming that the contribution of constitutional pacifism has been by no means small. To be sure, there are some important points to regret with regard to the materialization of the pacifist principle of the Constitution. First, the government’s initiatives for realizing peace policy and diplomacy have been extremely weak and meager throughout the postwar history. One cannot deny the poverty of politics and diplomacy on the one hand and the popular inaction on the other. Second, the task of fulfilling decolonization, war responsibility and compensation toward the victimized Asian and Pacific countries was not sufficiently carried out. The task of decolonization toward resident Asian peoples within the country has stubbornly remained unsatisfactory as well. This insufficiency of fulfilling the task of decolonization flashed back in the post-Cold

War era one after another in the last decade or so. The task of decolonization and war responsibility was never understood as the prioritized policy matter. It was somehow wrongly replaced by the constitutional “demilitarization” in the perception of the government and of the populace as well. Third, the above-mentioned pacifism of immediate experiences has never become deepened and incarnate as the pacifism of reflected experiences. So the pacifist idea and consciousness of the war generation have not been transferred and inherited to the succeeding generation.

These shortcomings are serious and remain unsolved with us today. One might say, however, that what has been protected by the Peace Constitution are many and considerable. First, thanks to the principle of constitutional pacifism, for the past sixty years no one was killed in the name of Japanese military or Self-Defense Forces. This stands in a remarkable contrast to the period between 1931 and 1945. For during the Fifteen Year War, under the military aggression of the Japanese empire, approximately twenty million lives of the Asian, Pacific, European and North-American peoples were lost and the number of Japanese casualties amounted to more than three million. (As a point of reservation, there remains fact that the American military bases within the territory of Japan were used for the American military operations for Korean War, Vietnam War and Iraq War. This fact cannot be denied.) As a corollary of the above point, for the past sixty years few lives of the young Japanese were wasted on the battlefield.

Second, although the actual postwar politics gave birth to the Self-Defense Forces and the U.S.-Japan Security Treaty, constitutional pacifism narrowly enabled postwar Japan to keep the shape of a “peace nation.” The presence of Article 9 not only helped prevent the postwar Japanese society from succumbing to the resurrection of nightmarish militarism but also nurtured the gradual growth of political culture of peace and safety. This fact is attested by the birth of a number of NGO and NPO organizations and groups for past four decades or so that are committed, whether directly or indirectly, to peace, nonviolence, safety, the protection of human rights, the deepening of democracy, welfare, and nursing care.

Take the development of political culture of peace and safety for example, the statistic of the victims of murder in Japan shows that the figure remains between six hundred and nine hundred each year for the past ten years; 752 victims in 1999, 876 in 2002, and 689 in 2004. The statistic of international comparison shows that in the year of 1995 the figure of victim per the population of hundred thousand in Japan counts 0.60, while 70.92 in Columbia and 64.64 in South Africa — they are the worst records —; and the comparison with Western countries shows that Japan's 0.60 stands far better than 8.95 in America, 3.87 in Belgium, 3.25 in Finland, 2.30 in France, 1.81 in Germany, 1.58 in Spain, and 1.40 in UK. (*Japan's Police White Paper*, 1996) According to another statistic of the U.S.-Japan comparison regarding the police trap of atrocious criminals by an American political scientist, P. Katzenstein, while in the case of the United States policemen killed 375 criminals in average per year from 1988 to 1992, only 6 criminals were killed by policemen in Japan for ten years from 1985 to 1994, which is to say, 0.6 per year. These statistics seem to suggest that the culture of peace and safety have spread out in the postwar society of Japan as a result of the elimination of the military and the military class in the postwar era. (As a point of reservation for "peace nation" Japan, "peace" here simply meant "domestic peace" seceded from "thirty years war of Asia" extending from Korean War to Vietnam War in the neighboring countries of Asia. There has been also an argument which claims that this "domestic peace" was made possible "under the nuclear umbrella of the American military." This argument was often reinforced by another claim for "free ride on the U.S. Japan Security Treaty." Do these arguments make sense? I have some suspicion about them.)

Third, another undeniable fact is that the Preamble and Article 9 became the beacon of hope for the development of popular democratic, progressive, and peace movements. Without the institutional backdrop of the Peace Constitution, postwar civil and resident movements for democracy, peace, social justice, anti-pollution campaign, environmental betterment must have been far more suppressed and subdued ones than what they actually have been. Fourth, constitutional pacifism enabled the Japanese society to expend its resources and

energy to economic development and social welfare. These consequences were by no means negligible ones. (As a point of reservation, one cannot disregard the fact that Japan here stood as the beneficiary of the Cold War.)

### **(3) The Future of Constitutional Pacifism**

To be sure, it is always difficult to predict how well the future world will fare and be shaped. As was indicated earlier, Japanese national politics has entered into the stage of “constitutional politics,” albeit it is a government-initiating and quasi-“constitutional politics.” And public opinion is now divided on the issue of Constitutional amendment. Currently, more than two third of the National Diet members and more than forty percent of the populace are in support of Constitutional revision of the Preamble and Article 9. The weathering away of the pacifist sentiment in the populace seems to imply that the “pacifism of immediate experiences”— *taikenteki heiwashugi* — did not become a “pacifism of reflected experiences”— *keikenteki heiwashugi*. It also regrettably demonstrates that the miserable experiences and the sense of folly of war and the remorse for it shared by the war-experienced generations, regrettably did not become incarnate in the spirit, mind and body of the succeeding generations. <sup>(37)</sup>

But can one not say that at the threshold of the twenty-first century the Peace Constitution still possesses profound foresight about the future direction and shape that the world will take? Certainly, one might justifiably argue that the world has become much more bellicose and turbulent as seen in the attacks of September 11, the subsequent Afghan and Iraq Wars. But at the same time one can witness today the rapid growth of peaceful and cooperative region-building effort such as the European Union. And there are a number of arguments available to the effect that the world has already entered a stage characterized by the post-sovereign nation state paradigm, despite America’s bellicose unilateral stance and hegemonic neo-imperialism.

The experiment of the European Union is particularly interesting and suggestive in its effort to point to the idea of the relativization of the state sovereignty. The corollary idea of the sharing of sovereignty was prefigured in



part by the Preamble and Article 9 of the Japanese Constitution sixty years ago. At any rate, the Peace Constitution will be able to become the cornerstone for the efforts of peacebuilding in East Asia, only if wise and foresighted diplomacy is secured. While the actual politics and diplomacy of the postwar Japanese administrations have not fully utilized the Constitution, the *de jure* public philosophy of constitutional pacifism can offer a needed direction and solid foundation for future politics and diplomacy in East Asia. In order to achieve both reconciliation and regeneration in East Asia, the Japanese government has to express a real and sincere war apology, and accept full responsibility for the war, for the reparation to the victimized nations, and for the compensation to the victimized individuals. It will help Japan to make up for the past deficiencies in fully acknowledging war responsibility. The deficiency of Japanese politics and diplomacy and popular inaction as well prevented the government and the opposition parties alike from the actual application and realization of constitutional pacifism. This is true not only at the national level but also especially in view of the regional level of East Asia.

### **3. The Rise of Neo-Nationalism and Constitutional Pacifism**

I have already referred to the rise of neo-nationalism as the forces claiming to be a stronger candidate for public philosophy in today's Japan. The public discourse of neo-nationalism attempts to endorse and lend support to the current move for the Constitutional revision, the change of Article 9 in particular. It goes without saying that traditional discourse of nationalism had strong affinity and recourse to the Emperor system, as we can still see in the former Prime Minister, Yasuhiro Nakasone's statement and behavior. But the stance of neo-nationalism toward the Emperor system is by no means crystal-clear. In general, liberal constitutional theorists in Japan have been emphatic on the utter discontinuity between the absolutist Emperor system in the prewar era and the postwar symbolic Emperor system. Toshiyoshi Miyazawa, a leading constitutional theorist in the postwar period espoused the thesis of "August Revolution" which took place in the regime change from the prewar imperial national body —

*kokutai* — to the postwar democratic *body politic*.<sup>(38)</sup> According to this view, despite the introduction of the symbolic Emperor system in the Article 1,<sup>(39)</sup> the Japanese Constitution underwent a revolutionary change which brought about a genuine democratic regime. Similarly, Yasuhiro Okudaira, another leading liberal constitutional theorist of the succeeding generation, made in 1993 the following statement:

“The *tennō* system, which was the most controversial issue at the time of the enactment of the new Constitution, remains alive as only a minor institution in the constitutional constellation. It is now nothing more than an accessory to democracy.”<sup>(40)</sup>

I suppose that this is a commonly shared view about the status and meaning of the symbolic Emperor system in the Constitution by the Japanese liberal constitutional theorists. However, in recent years, not only the more conservative scholars but also some foreign historians such as John Dower took more seriously the position of the Emperor system in the Peace Constitution and in postwar history as well. Dower, for instance, understood Japan’s postwar democracy as “imperial democracy.”<sup>(41)</sup> In recent years some Japanese scholars also began to appreciate more the historical importance of the issue of the survival of the Emperor system both for SCAP and for the Japanese oligarchs at the time of the Constitution-making.

As is widely acknowledged, the constitution is a much broader concept than the Constitution as the legal document of the Basic Law of the nation. For the former signifies the entire political structure of government. This includes the whole system of laws and regulations, political and legal practices, political and legal culture, concrete policy making, public discourse based upon the spirit of the Constitution as the Basic Law.<sup>(42)</sup> A weakness of *de jure* constitutional pacifism consisted in its having remained in the status of *de jure*. This historic failure should be rightly ascribed to multiple factors and agents. They include, for instance, the postwar ruling party’s basic policy for emasculating the

Constitution by means of its flexible interpretation, the paucity of peace diplomacy, the so-called pro-Constitutional forces' failure to forge out positive and concrete policies for the pacifism to materialize in practice, and popular inertia. As a result, there has been little effective use, application, and realization of constitutional pacifism. So pacifism has not become a *de facto* pacifism in Japan. This is the single most problematic feature observable in the public philosophy of constitutional pacifism.

#### **IV. Epilogue: Toward a More Viable Public Philosophy of Constitutional Democracy and Pacifism**

John Keane, an Australian political theorist of civil society and democracy currently teaching and doing research at the University of Westminster in London, posed the Japanese political theorists a question. This asked what the Japanese political theorists would consider as a postwar Japanese contribution to democratic theory in the world. This question was raised when he came to Tokyo in May 2005, to deliver two public lectures. At that time I responded to him by saying that we have long criticized the negative aspects of actual postwar democracy and have had little to speak of the positive elements of democracy either in practice or in theory. In line with this argument of the paper, however, I now would like to respond to Keane in retrospect in terms of the above mentioned argument regarding a rare combination of democracy and pacifism that took shape in the Japanese Constitution as well as in Japanese postwar democratic discourse. This combination of democracy and pacifism implied the aforementioned relativization of the idea of state sovereignty by denying its central category: the state's right of belligerency. This conceptual design for humiliated democracy clearly expresses a departure from the classical conception of the state-military sovereignty long presupposed in the modern Westphalian paradigm of the state theory.

One can even claim that the principled denial of self-defense war in the Peace Constitution can be conceived to be a paradigm shift in the history of the modern state and of its theory. The Preamble's claim that "all peoples of the

world have the right to live in peace, free from fear and want” can be construed as another expression of this paradigm shift. “The right to live in peace” cannot be monopolized by any sovereign nation alone but should be shared by all peoples of the world. In the third paragraph of the Preamble one can find the following stipulation:

“We believe that no nation is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all nations who would sustain their sovereignty and justify their sovereign relationship with other nations.”

Here we can discern not merely the relativization of state sovereignty and the emergence of global citizens, sovereignty in embryo but also the premise of the decentralized and multilateral world that was conceived in the Constitution.<sup>(43)</sup> The agony of democracy we have experienced throughout the twentieth century and beyond in part stemmed from the inability of democracy both in theory and in practice to dissociate itself from the state-military sovereignty.<sup>(44)</sup> Herein resides the durable importance of a public philosophy of constitutional pacifism as envisaged in the postwar Japan. Constitutional pacifism is based on the political precept of the antiquity: “Si vis pacem, para pacem.” (“If you want peace, prepare for peace.”) It is ironic, indeed, that the conservative political forces in Japan that have gained a momentum today are trying to throw away this treasure of the world named Article 9 of the Japanese Constitution. Their guiding political precept also goes back to the time as old as human history: “Si vis pacem, para bellum.” (“If you want peace, prepare for war.”) Perhaps we need a new political precept for the future world: “Si vis pacem, para pacem et cole justiciam.” (“If you want peace, prepare peace and cultivate justice.”)

## Endnotes

- (1) E.g., Inoue 1986. Inoue 1987. Muroi 1990. Hanada 1996. Hanada 1999. Saito 2000. Imai 2001. Sasaki and Kim 2000-2002, Sato 2002. Gendai Shisō, 2002, Yamaguchi 2003. Yamaguchi 2004. Yamawaki 2004. Miyamoto and Yamawaki 2005, Katsuragi 2005.
- (2) Sasaki and Kim 2000-2002.
- (3) E.g., Yamawaki 2004, pp. 28-37. Yamawaki 2002, pp. 1-23.
- (4) E.g., Kim 2001, pp. iv-xii, 267-274. Kim 2002, pp. i-iii, 293-299. Kobayashi 2005, pp. 243-279.
- (5) Lippmann 1955, p. 76.
- (6) Ibid., pp. 77-78.
- (7) Ibid., p. 79.
- (8) Ibid., p. 138. Lippmann continues to argue: "For political ideas acquire operative force in human affairs when, as we have seen, they acquire legitimacy, when they have the title of being right which binds men's consciences. Then they possess, as the Confucian doctrine has it, the mandate of heaven." Ibid.
- (9) E.g., Teichman 1986, p. 4.
- (10) Cf., Bellah 1975.
- (11) E.g., Wolin 1981, pp. 9-24. In the historical context of the United States Wolin traces these two different bodies. According to him, the classical statement of the people's *body politic* is found in the historical documents: the Declaration of Independence and the Articles of the Confederation. The conception of political economy was first put forward in *The Federalist Papers*, the Constitution, Hamilton's papers on great state powers and on the powers of the national government. Ibid., p. 11.
- (12) The following is the definition of the political economy given by Sheldon S. Wolin: "The name stands for an order in which the limits of politics are set by the needs of a corporate-dominated economy and a state organization that works in intimate collaboration with corporate leadership." Wolin 1989, p. 147. Cf., Chiba 1995, p. 85.
- (13) Wolin 1989, p. 147. Cf., Wolin 1981, p. 22.
- (14) Woo-Cumings 1999, p. 1.
- (15) E.g., Johnson 1982. Pempel 1999a. Woo-Cumings 1999, pp. 1-31. Johnson 1999. Pempel 1999b, pp. 137-181. Pempel 1998, pp. 136-219. Pempel 2005, pp 1-3, 9-14.

Pempel, for instance, argues that Japan, South Korea and Taiwan were the most prominent and consistent manifestations of the model of the "developmental state." He enumerates its various features as follows:

"All three had 'strong states' that afforded major roles in the shaping of the national

economy as well as high social prestige to non-elected government technocrats. These government officials enjoyed a host of regulatory powers, including most particularly power over the movement and allocation of capital to targeted industries. .... State interventions into the private economy were regular and often arbitrary.

Domestic business, particularly in Japan and in Korea, were highly oligopolistic. Economic conglomerates — the keiretsu in Japan, and the chaebol in South Korea — dominated domestic production and export markets and held a high influence over small and medium sized industries throughout the countries by means of subcontracting, technological sharing, stock holdings and a host of other techniques.” Ibid., p. 9.

(16) Ibid., pp. 2-3, 14.

(17) Ibid., p. 2.

(18) E.g., Oguma 2002, pp. 11-26, 794-829.

(19) Cf., Chiba 2004b, pp. 1-2.

(20) Dunn 2002, pp. 8-9.

(21) E.g., Takabatake 2004, pp. 2-5. Takabatake 2005, pp. 192-194. Cf., Chiba 2004a, pp. 42-46.

(22) Maki 1993, p. 39.

(23) E.g., Koseki 2002, pp. 1-20. Cf., Terajima 2004, pp. 270-286.

(24) Cf., Auer 1993, p. 71.

(25) Ibid. Cf., Ōtake 2001, pp. 44-54.

(26) Cf., Katō 2004, pp. 48-49.

(27) King 1981, Jr., p. 13.

(28) E.g., Maruyama 1995, pp. 193-209.

(29) Haruki Wada also speaks of the strong distrust of the military shared by the people at the end of the Fifteen Year War as the underlying background for postwar pacifism. Wada 2002, pp. 7-8.

(30) Cf., Sakamoto 2004, p. 225.

(31) Dunn 2002, p. 12. Dunn argues as follows: “There were idiosyncrasies in Maruyama’s postwar imagining of what it was to be a Japanese democrat — notably his heavy emphasis on pacifism and on the duty to abjure war, even defensive war, as an instrument of policy.” Ibid., p. 14.

(32) Dower 1988, pp. 25, 28.

(33) E.g., Oguma 2002, pp. 67-208, 447-597, 717-792. Katō 2004, pp. 63-66.

(34) Sakamoto 2004, pp. viii-ix. Sakamoto gave the appellation “*kakushin nashonarizumu*”— progressive nationalism — to this type of postwar nationalism with orientation for universal

values such as peace, democracy, socialism, and liberty. Ibid., pp. 137-204.

(35) Ibid., p. 221.

(36) The national moment of the Peace Constitution was compatible neither with an exclusive and narrow type of nationalism nor with a restorative type of nationalism that glorifies the nation's past. It was rather an innovative type of nationalism open to such universal values as described in the Preamble: "peaceful cooperation," "the blessings of liberty," "a universal principle of mankind," "peace for all time," "the justice and faith of the peace-loving peoples of the world," "the preservation of peace," "the banishment of tyranny and slavery, oppression and intolerance for all time from earth," "the right to live in peace, free from fear and want," "laws of political morality." It should be noted in this connection that constitutional pacifism is clearly positive world pacifism rather than self-enclosed one-country pacifism.

(37) Cf., Chiba 2005, pp. 231-232.

(38) Cf., Higuchi 1993, pp. 61-64. Takami 2001, pp. 22-23. Kawagishi 2002, pp. 61-104.

(39) The Article 1 of the Japanese Constitution reads as follows: "The Emperor shall be the symbol of the State and of the unity of the people, deriving his position from the will of the people with whom resides sovereign power."

(40) Okudaira 1993, p. 5.

(41) Dower 1988, pp. 277-404.

(42) Cf., Mori 2003, pp. 2-18. Sugita 2004, pp. 56-70.

(43) Cf., Kobayashi 1987, pp. 405-407.

(44) Cf., Katō 2001, p. 3. Mizushima 2003, pp. 19-20.

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\* I would like to ask for readers’ understanding that a shorter and penultimate version of this article was already published under the title “Public Philosophy in Postwar Japan: In Focus on the Peace Constitution” in *International Journal of Public Affairs*, Vol. 2 (March 2006), pp. 39-64.

**The Peace Constitution in Postwar Japan**  
— A Hermeneutics of Public Philosophy —

〈Summary〉

Shin Chiba

At the present one can rightly observe a strong interest in the themes of publicity, of public philosophy, and of the public sphere in the fields of human and social sciences in Japan. There certainly are diverse understandings of, and approaches to, these themes. The paper grapples with the issue of public philosophy in the postwar period of Japan. The paper assumes an approach similar to the institutional one which Walter Lippmann, for instance, showed in his classical effort to elucidate the issue of public philosophy in America of the 1950s by paying close attention to such legal documents and institutions as the Declaration of Independence, the Federal Constitution, social and political arrangements, the public opinion about shared public values of the nation.

Perhaps one can correctly indicate three strong candidates for public philosophy which operated in the postwar Japan: (1) constitutional democracy and pacifism based upon the Japanese Constitution often called the Peace Constitution, (2) public philosophy of economic growth which aimed at the economic betterment of the postwar society, and (3) neo-nationalism which incessantly attempted to recover prewar and midwar values of the nation. These public philosophies or ideologies have been interacting with one another both in competition and in mild overlap, directing the postwar society of Japan.

The author aims at articulating the historical roles which the Peace Constitution and its constitutional pacifism have played as a guiding public philosophy in the postwar society. The paper attempts to come to terms with the significance of the Peace Constitution as *de jure* public philosophy in the light of its constant tension, cooperation, and rivalry with the ideology of economic growth, that is, *de facto* public philosophy of the postwar Japan. The paper also proffers a tentative suggestion that points to the continuous relevance of the

Peace Constitution of Japan at the threshold of the 21<sup>st</sup> century.