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Why Foreign Policy Principles Persist: Understanding the Reinterpretations of Japan's Article 9 and Switzerland's Neutrality

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Understanding the Reinterpretations of Japan's Article 9 and Switzerland's Neutrality

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Chapter 1: Contextualizing Japan's Article 9 and Switzerland's Neutrality

I. Introduction

On September 17, 2015, the Japanese Diet passed the Peace and Security Preservation Legislation, a set of bills that allowed the Japanese Self-Defense Forces (SDF) to participate in collective self-defense action. It was a *de facto* reinterpretation of Article 9 of the Constitution of Japan, which calls for the "renunciation of war as a means to settle disputes." Although these bills simply the most recent development of a series of reinterpretations of Article 9 that has been ongoing since as early as 1950, they provide a good opportunity to reflect on how far the Constitution and its original postwar interpretation have fallen behind the realities that Japan faces today. As Piotrowski (2005) and Pence (2006) point out, there is an obvious contradiction between Article 9, which explicitly states that "sea, and air forces, as well as other war potential, will never be maintained," and the reality of the SDF's ever-increasing capabilities. There is increasing ambiguity as to the significance of Article 9, and by extension, the Constitution itself. It now seems to be common practice to sidestep the question of the constitutionality of a certain law or action.

Another country that faces a similar situation, where the definition of a concept central to its foreign policy is becoming increasingly ambiguous, is Switzerland. The concept is neutrality. Encoded in Articles 173 and 185 of the current Swiss Constitution as a duty of the Federal Assembly and Federal Council, neutrality originally meant absolute impartiality on any matter, military or economic, that could potentially get the Swiss nation involved in a conflict or war. From this so-called "integral neutrality", however, the Swiss government in recent years has

switched to a policy of what they call "active neutrality," reinterpreting the definition of neutrality in order to accommodate higher integration with international organizations and alliances such as the United Nations (UN), European Union (EU) and the North Atlantic Treaty Organization (NATO). In Dreyer and Jesse's words (2014), "Swiss neutrality still maintains that it will not join the wars of others, but it has relaxed any previous reliance, real or imagined, on impartiality" (68).

For both countries, then, there is a common trend where the definition of a central tenet of its foreign policy is losing its significance due to ongoing reinterpretation. In both cases, the reinterpretations allow the country to overcome self-imposed limitations in response to increasing pressure to participate in the actions and activities required of them as members of the evolving international community. The puzzle here is not that these changes (i.e. participating in collective self-defense, cooperating with international organizations) have been made, as they can be reasonably expected in a globalizing world. Rather, what is interesting is that both Japan and Switzerland have chosen to keep the vocabulary of Article 9 and neutrality, respectively, and reinterpreting their definitions to suit their needs (policy reinterpretation), instead of simply abandoning the original policy, or at least the wording of the policy, and replacing it with a new, more suitably worded policy that clarifies the new and changed position of the government (policy abandonment). **Why have Japan and Switzerland continuously chosen policy reinterpretation over policy abandonment in order to respond to changing security needs?**

II. Literature Review: Japan

A. The Beginnings of Article 9

The Constitution of Japan was promulgated in November 1946 and came into effect the following May. It is colloquially known as the "Peace Constitution" due to its strong pacifist language – the term "peace" (or a variant of it) is mentioned no less than five times in the preamble alone. Arguably the most characteristic feature of the entire Constitution is, of course, Article 9 (Renunciation of War):

> Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.
> In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized. (Const. of Japan, Ch. II, Art. 9)

A literal reading of this text would suggest that Japan cannot possess a military. Indeed, at the outset in 1947, Japan did not have any form of military force, as intended by the Allied Forces who occupied Japan at the time. By 1950, however, the United States had ordered the creation of the National Police Reserve (NPR) – the predecessor of the SDF – as a hedge against the perceived threat posed by the newly Communist China and the Korean War and to lower U.S. costs incurred by policing Japan; by 1954, the SDF had been established.

B. A Constitutional SDF: *Senshu Bōei*

The constitutionality of the SDF is at best ambiguous: the Constitution prohibits "war potential," and it seems counterintuitive to argue that the SDF is not war potential. That is, however, precisely what the Japanese government has argued since the formation of the SDF. As a Library of Congress (2015) report explains, by defining war potential as "forces much greater than those forces minimally required for self-defense," the Japanese government has been able to

argue that SDF is constitutional insofar as it stands by the principle of *senshu bōei* (exclusively defense-oriented policy), which is defined as follows:

> The exclusively defense-oriented policy means that defensive force is used only in the event of an attack, that the extent of use of defensive force is kept to the minimum necessary for self-defense, and that the defense capabilities to be possessed and maintained by Japan are limited to the minimum necessary for self-defense. The policy including these matters refers to the posture of a passive defense strategy in accordance with the spirit of the Constitution. (Japan MOD)

Senshu bōei has since been a central tenet of Japanese foreign policy.

C. The Realism Paradox

A significant portion of scholarly literature related to the SDF asks why Japan has restrained its military growth, even though realism predicts that a country should look to maximize its military power commensurate with its economic growth and political status (Layne 1993; Waltz 2000). In order to explain this supposed paradox, some scholars have focused on economic factors. The most popular explanation is that Japan, because it was assured of its military security under the protection of the United States, were able instead to focus its resources on economic primacy and technological advancement (Huntington 1993; Banno 1997; Heigbontham and Samuels 1998). Kawasaki (2001) gives a similar argument based on postclassical realism: the U.S. military umbrella has allowed Japan to adopt a policy of responding to probable threats rather than possible threats. In other words, it has limited its military power to the bare minimum needed, especially because – as balance of power theory would predict – any extra security measures would only intensify regional insecurity.[1] Other scholars take a more constructivist approach and point out the importance of elements such as pacifist culture, historical memory, and the collective identity of Japan as a peaceful state,

[1] Balance of power is a complementary theory to realism that predicts that a world where power is evenly distributed (balanced) among states will be more stable, because states will have less incentive to attack another state with equal power than a state with lesser power.

together with the institutions that preserve these norms, as factors that have limited the growth of Japanese military power (Berger 1998; Miyashita 2007).[2]

C. The Falsity of Japanese Military Restraint

As Lind (2004) points out, however, these arguments are all based upon "a widespread misunderstanding about... the level of Japanese military power. Scholars have neglected to measure Japanese military power or have measured it superficially" (93). This misunderstanding is based on the statistic of defense spending as a percentage of GDP, which has historically stayed constant around 1%. However, as Lind shows, this is not an accurate measure of military power, as the aggregate amount spent is highly dependent on the size of GDP – in fact, using such a measure would suggest that the military power of the United States is less than that of Angola, Serbia, or Yemen. Alternative methods of measurement suggest that Japanese military power is much stronger. For instance, since 1988 until the rise of China and Saudi Arabia in 2007, Japan had the fifth or sixth largest aggregate military expenditure (SIPRI 2015).[3] Perhaps more important, however, is that Japan has increased the quality and capabilities of the SDF over time, even with a limited budget. It has continuously pursued the modernization of its military and invested in new technology to ensure the geographic mobility and power projection of the SDF (Hughes 2009).

[2] Constructivism is an explanatory international relations theory that suggests that actions of states are largely shaped by historical and social factors. It stands in contrast to the two other major international relations theories, realism and liberalism (for an explanation on liberalism, see footnote 4).
[3] Fifth following the United States, France, UK, Germany, and sixth following the USSR/Russia. Aggregate military expenditure measured in constant price (2014).

E. The Reality Gap: SDF capability vs. Article 9

This leads us back to the original question of why Article 9 has persisted in its original form to this day. Boyd and Samuels (2005) give one possible answer: high legal barriers. Article 96 of the Japanese Constitution mandates that both a two-thirds majority in both houses of the Diet and a simple majority in a national referendum is needed to amend any part of the Constitution. It is perhaps indicative of this difficulty that no other part of the Japanese Constitution has been changed, either. At the same time, however, Boyd and Samuels also point out that every other country with similar amendment procedures has succeeded in revising their constitution. This situation becomes even more perplexing when one takes into account that all of the major Japanese political parties actually support constitutional reform (Pence 2006). Thus, "institutional difficulty may be a factor in Article Nine's longevity, but it cannot be the whole story" (Boyd and Samuels 2005).

F. The Missing Piece: Public Pressure

The missing part of the "story" may be explained by public opinion. Waltz (1993), for instance, highlights the clear tension between the government and the public. According to Waltz, Japanese leaders have shown a clear desire to become more militarily assertive due to factors such as U.S. pressure and rising regional insecurity, but public opinion is serving as a brake on any significant change. Midford (2011) also finds that public opinion has a significant influence on foreign and security policy; however, he finds that the public is not necessarily against military assertiveness. Rather, they stand by a defensive realist attitude, meaning they support military power at the minimum level required for national defense, but not beyond that. In either case, it is clear that public opinion has a large influence on government decisions on foreign and security policy.

III. Literature Review: Switzerland

A. The Origins of Neutrality

Swiss neutrality first gained formal international recognition at the 1815 Congress of Vienna. The Great Powers, seeing that keeping Switzerland as a sort of buffer state would be beneficial to the maintenance of a long-term peace in Europe, declared the following:

> The Powers who signed the declaration of Vienna of the 20th March declare, by this present act, their formal and authentic acknowledgment of the perpetual neutrality of Switzerland; and they guarantee to that country the integrity and inviolability of its territory in its new limits, such as they are fixed, as well by the act of the Congress of Vienna, as by the Treaty of Paris of this day … The Powers who signed the declaration of the 20th March acknowledge, in the most formal manner, by the present act, that the neutrality and inviolability of Switzerland, and her independence of all foreign influence, enter into the true interests of the policy of the whole of Europe (Treaty of Paris 1815, Act on the Neutrality of Switzerland).

Again, like in Japan's case with Article 9, there is some confusion as to the extent of autonomy Switzerland had in adopting its policy of neutrality. Some frame it as recognition of a policy Switzerland had been unilaterally declaring since as early as 1674 (Panchaud 2009), while others point to the regional utility of a neutral Switzerland and describe the Act as "forc[ing] (Switzerland) into neutrality" (Pauchard 2015).

B. Why Neutrality?

Neutrality served two purposes for Switzerland. The first was the maintenance of independence: for a small state in strategic territory surrounded by large powers, neutrality was crucial because Switzerland could not feasibly hope to maintain its independence if it were to get involved in a war or commit itself to an alliance. The second purpose was the maintenance of internal cohesion (Hofer 1957). This was particularly significant in light of the "hostile" religious division between the Catholic and Protestant cantons, which arose after the Protestant Reformations in the 1520s. A policy of neutrality meant that Switzerland, by remaining

uninvolved, could more easily hence avoid being absorbed by another power or breaking up under internal religious tensions.

C. Neutrality: An Anachronism

As many scholars contend, however, neutrality has largely lost its functionality and relevance with the end of the Cold War. For instance, according to Goetschel (1999), "neutrality is not seriously discussed anymore, but seen as a relic from the Cold War" (115). This sense of neutrality as an anachronism can be attributed to two factors: first of all, the nature of threat has changed. The biggest threats to national security are no longer traditional wars over territory, but new threats such as terrorism, mass immigration, environmental deterioration, and crime. Neutrality is not an effective hedge against these new types of threats – instead, what is needed is stronger regional cooperation and solidarity (Schwok 1996; Church 2000). The second factor, on a closely related note, is the change in the geopolitical climate since the end of the Cold War. Not only have Switzerland's neighbors now become peaceful and democratic states, but because of the new threats, they have also become "engaged in creating an overarching security structure in Europe" (Church 2000, 102) through the creation of institutions such as the UN, the EU, the OECD, and NATO. Liberalism holds that the perceived economic benefit from participation in such institutions would incentivize a state to abandon neutrality (Morris and White 2011), but Switzerland has not – at least not in name.[4] In practice, Switzerland is highly integrated with the EU and NATO through bilateral agreements and participation in program initiatives, much in the same way it was integrated with the UN even before its formal accession in 2002. The situation therefore begs a similar question to that asked earlier of Japan and Article 9: why does

[4] Liberalism is an international relations theory that predicts that peace can be sustained, even in an anarchic world, through state cooperation via international organizations, economic interdependence, etc.

Switzerland choose to retain a policy of neutrality when it is, no longer practicable, or even practiced?

E. Historical Memory

One factor that may be able to explain Switzerland's reluctance to let go of its neutrality is the issue of historical memory. For instance, in explaining why Switzerland initially refused to join the UN, Gunter (1976) points to its experience with the League of Nations. When it joined in 1920, it agreed to adopt a policy of differential neutrality; i.e. it was allowed to remain militarily uninvolved, but was obliged to participate in economic measures. However, Switzerland found that this jeopardized its relations with Italy. Thus, by 1938, it reverted to its original policy of integral neutrality in order to safeguard its national security. This experience left many in Switzerland with the impression that "a state cannot be partially neutral. If its neutrality is broken down at all, it is broken down completely" (Zahler 1936:757).

This, however, cannot be the complete explanation, because there are also other memory issues that would encourage Switzerland in the direction of abandoning, rather than keeping, its neutrality. Of particular relevance is the national interest vs. national morality issue seen during World War II. The actions Switzerland took in order to pursue its national interests during the war, such as restricting the number of Jewish refugees and accepting Nazi gold, are considered a compromise of Swiss morality that was made easier because of the legitimacy provided by its neutral status (Schindler 1998; Dreyer and Jesse 2014). According to one public opinion poll, Swiss refugee policy during WWII comes in second in the category "events they would like to

erase from Swiss history" (Bradley 2014).[5] Historical memories of neutrality are not necessarily positive.

F. Internalization

Another factor that may help explain the Swiss attachment to neutrality is the internalization of the concept into national identity. For instance, Christin and Trechsel (2002) show that acceptance (or non-acceptance) of EU membership is highly correlated with voter attachment to neutrality, which is in turn affected by the conceptualization of national identity. This is particularly the case in the German-speaking area of Switzerland – more than 70% of the population – that has stronger conservative tendencies. They are adamantly opposed to anything that might further erode the concept of neutrality (Schwok 1996). Church (2000) also observes that since the end of the Cold War, neutrality has evolved into a value in itself, and has become an "untouchable Swiss characteristic" (103). This line of thinking is an interesting evolution of scholarship, as it stands in direct contradiction to earlier literature that rejected neutrality as a conviction or a political ideology a maintained that neutrality could only be an instrument of foreign policy and never an end in itself (Hofer 1957).

IV. Contribution to Literature

For both Japan and Switzerland, the current literature focuses mainly on how and why the interpretation of Article 9 and neutrality, respectively, have been compromised or evolved over time. This thesis aims to add to the existing literature by asking why specifically they opt for policy reinterpretation, even at the expense of (or perhaps because of) resulting ambiguity in

[5] Second after the Swissair "grounding" of 2001 – a scandal in which airplanes of the former national Swiss airline were forced to remain on the ground after near-bankruptcy due to financial mismanagement.

their definitions, rather than for policy abandonment, when their original definitions are no longer compatible with their current foreign policy.

In addition, this thesis seeks to add to the existing literature by linking Japan and Switzerland. Japan's relationship with Article 9, understood as *senshu bōei*, and Switzerland's relationship with its neutrality, understood as absolute neutrality, have strong parallels that will allow for a side-by-side comparison.[6] The two policies are both defining yet anachronistic features of their respective country's foreign policy. They are both concerned with limiting their foreign policy functions, with the only main difference being the scope of their limitations. Article 9 as understood through the principle of *senshu bōei* limits military involvement, while neutrality concerns itself with limiting involvement in all aspects of foreign policy, including military, political, and economic issues. Focusing solely on the military aspect, however, both policies have a common point in that they limit the country's military activity to defensive actions. More specifically, the nature of the two policies is such that the deployment of troops to overseas locations without a direct attack on the country should, in principle, be prohibited. However, both the SDF and the Swiss Armed Forces (SAF) are known to operate overseas today. This provides a common point of comparison that the rest of this thesis will focus on.

At the same time, there are significant differences between the two countries that can make this comparison insightful. For instance, the process for constitutional amendment is much more accessible to the public and easier to complete than that of Japan. Thus, any explanation given for the choice of reinterpretation in Switzerland may provide further insight into what factors exist beyond legal barriers – one of the explanations given in the literature review – for

[6] In the remainder of this thesis, any reference to the term "Article 9" will be according to the definition of *senshu bōei*, and "neutrality" according to the definition of *absolute neutrality*, unless otherwise specified.

Japan. In similar ways, other parallels and differences between the two cases should be able to provide an additional depth of understanding to the question at hand.

V. Hypotheses and Methodology

The seemingly consistent choice of policy reinterpretation over policy abandonment implies that there exists somewhere either a strong preference for the former, against the latter, or both. In order to understand where these preferences originate and how they ultimately culminate in the choice of reinterpretation, I raise the following three sub-hypotheses with regard to the research question given in the introduction:

- *Hypothesis 1. Government Self-restraint:* The government, especially the government leader, may be acting in self-restraint due to expected resistance, either from opposition parties or public opinion (addressed in hypotheses 2 and 3) or from some perceived benefit in choosing reinterpretation.
- *Hypothesis 2. Party Resistance*: Domestic political parties have a vested interest in the preservation of the respective policies, stemming from factors such as party branding or voter support, and are able to block the government from abandoning/amending them.
- *Hypothesis 3. Public Opinion*: The national populace has a strong attachment to the respective concepts, most likely due to factors such as historical memory, national identity, and threat perception.

The following chapters of this thesis will attempt to confirm the validity of these three hypotheses in order to achieve a comprehensive understanding of the incentives behind the choice of reinterpretation.

In order to analyze the validity of these hypotheses for each country, I will start by going through the legal history of the armed forces and their leeway of operating outside of domestic

area and identifying the key turning points (Chapters 2 & 4). Then, I will look more closely at each of the identified turning points and assess how well each of the three hypotheses explains the choice of policy reinterpretation over policy abandonment/constitutional amendment (Chapters 3 & 5). I will do this by analyzing official statements and reports by the government or government leaders for Hypothesis 1 (*government self-restraint*); by assessing official party positions and comparing them with seat percentages in the legislative body for Hypothesis 2 (*party resistance*); and by looking at public opinion polls and surveys for Hypothesis 3 (*public opinion*) in order to determine whether or not each of the three actors (government, parties, public) support a) constitutional amendment b) the policy in question (Article 9, neutrality) and c) the increase in military capability at the identified turning points. Finally, I will compare my findings at the three levels from both Japan and Switzerland in order to see if there is a common pattern or other information that could provide further insight, and come to an conclusion about the overall thesis (Chapter 7).

Chapter 2: Legal History of SDF Overseas Capabilities

The first two sections of this chapter will list out all of the relevant articles of the Constitution and laws that have changed the overseas capabilities of the Japanese Self Defense Forces (SDF), and analyze the legal text in order to understand what exact capabilities each law gave or took away from the SDF. The third section will then analyze the changes over time in order to identify the most significant turning points in terms of SDF overseas capabilities.

I. Constitution of Japan

The Constitution of Japan has not been changed since its establishment in 1947. The text of the Constitution is markedly pacifist, and as such, the Constitution is colloquially referred to as the "Peace Constitution." The part of the Constitution that directly pertains to the maintenance of armed forces is Article 9 (Renunciation of War). As described above, the text suggests that a standing army would be unconstitutional, but the Japanese government has worked around this problem by arguing that the SDF does not possess "war potential" but rather is exclusively for purposes of defense (which is separate from war potential). Although that is the official government interpretation of Article 9, what exactly it allows the SDF to do remains an area of controversy. Over the years, a number of laws (described in the following sections) have been passed that reinterpret the Constitution in order to authorize the maintenance and deployment of the SDF to overseas locations, for reasons other than exclusively defensive ones.

II. Relevant Laws

The SDF finds its origins in the National Police Reserve (NPR), which was established in 1950 under the *Keisatsu yobitai-rei* (National Police Reserve Law) as a domestic police force. According to the ordinance, the NPR was to act in cases of special need to maintain public order. In 1952 the NPR was restructured as the National Safety Force (NSF) under the *Hoanchō-hō* (National Safety Agency Law).

Two years later, under the 1954 Self Defense Forces Act (SDF Law), the NPR was reorganized as the SDF. Under this act, the SDF could be deployed in cases of attack or clear risk of imminent attack. The passing of this act was accompanied by the Upper House's Resolution on Dispatching the SDF Abroad, which explicitly forbade the SDF from being deployed abroad:

> 本院は、自衛隊の創設に際し、現行憲法の条章と、わが国民の熾烈なる平和愛好精神に照し、海外出動はこれを行わないことを、茲に更めて確認する。
>
> (In the light of the articles and provisions in our current Constitution and the fiercely peace-loving spirit of the Japanese people, the Upper House strictly confirms that with the establishment of the SDF, they shall never be deployed overseas.) [author's translation]

This resolution, however, was effectively nullified in 1992 with the enactment of the International Peace Cooperation Law (PKO Law) and the revision of the Japan Disaster Relief Team Law (JDR Law). The PKO Law authorized the SDF to participate in International Peace Cooperation Assignments, which are defined as designated tasks implemented for United Nations Peacekeeping Operations that are conducted overseas, provided that a ceasefire has been put in place. At this time, the tasks they could undertake were restricted to so-called background support activities, which include items j – k in Table 1.

The revised JDR Law that was enacted at the same time also authorized the SDF to participate in international disaster rescue activities as well as for the transportation of personnel, machinery, and other materials needed for those activities in cases of the occurrence or

Table 1. Tasks Implementable Under the PKO Law

(a)	Monitoring the observance of cessation of armed conflict or the implementation of relocation, withdrawal or demobilization of armed forces as agreed upon among the Parties to Armed Conflict
(b)	Stationing and patrol in buffer zones and other areas demarcated for preventing the occurrence of armed conflict
(c)	Inspection or identification of weapons and/or their parts carried in or out by vehicle, by other means of transportation, or by passersby
(d)	Collection, storage or disposal of abandoned weapons and/or their parts
(e)	Assistance in the designation of cease-fire lines or any other similar boundaries by the Parties to Armed Conflict
(f)	Assistance in the exchange of prisoners-of-war among the Parties to Armed Conflict
(g)	Observation or management of fair execution of congressional elections, plebiscites or any other similar election or voting events
(h)	Provision of advice or guidance and supervision related to police administrative matters
(i)	Provision of advice or guidance related to administrative matters not covered by (h) above
(j)	Medical care including sanitation measures
(k)	Search or rescue of Afflicted People or assistance in their repatriation
(l)	Distribution of food, clothing, medical supplies and other daily necessities to Afflicted People
(m)	Installation of facilities or equipment to accommodate Afflicted People
(n)	Measures for the repair or maintenance of facilities or equipment damaged by Conflicts, which are necessary for the daily life of Afflicted People
(o)	Measures for the restoration of natural environment subjected to pollution and other damage by Conflicts
(p)	Transportation, storage or reserve, communication, construction, or installation, inspection or repair of machines and apparatus in addition to what is listed in (a) to (o) above
(q)	Other tasks similar to those listed in (a) to (p) above, as specified by a Cabinet Order.

Source: Japan, Act on Cooperation for United Nations Peacekeeping Operations and Other Operations, Act No. 79 of June 19, 1992.

imminent occurrence of large-scale disasters in regions, particularly developing regions, overseas.

The 1998 revision to the PKO Law expanded SDF capabilities even further by allowing them to be deployed in certain cases even when there was no ceasefire agreement in place yet, and for operations led by regional organizations (instead of only those led by the United Nations). In addition, this revision also allowed for the armament of the SDF and for individuals in the SDF to use those arms in cases of imminent threat to oneself.

In 1999, the Law on Measures to Ensure the Peace and Security of Japan in Perilous Situations in Areas Surrounding Japan (*Shūhen Jitaihō*) was enacted. This authorized the SDF to act not simply in cases of a direct attack within the territory of Japan, but also in cases of *shūhen*

jitai, or situations in areas surrounding Japan that could have a significant effect on the peace and security of Japan, including situations that, if left alone, could lead to a direct attack. The specific actions the SDF could take, however, remained limited to background support activities and search and rescue activities.

In 2001 the PKO Law was revised again. It unfroze the previous limitations on so-called "traditional" peacekeeping tasks, which includes items (a) to (f) in Table 1. This revision also allowed SDF members to use arms in cases of imminent threat not only to themselves but also to "other SDF Personnel or Corps Personnel who are with them on the scene, or individuals who have come under their control during the performance of duties" (Art. 24).

In 2001, the Anti-Terrorism Special Measures Law (ATSML) was passed in response to the September 11th terrorist attacks. This law temporarily increased SDF capabilities so that they could engage in cooperation and support activities, search and rescue activities, assistance to affected people and other necessary measures – tasks that would otherwise be regulated by the *Shūhen Jitaihō* – within the following territorial limits:

> I. Japan's territory
> II. Following areas where combat is not taking place or not expected to take place while Japan's activities are being implemented.
> A. The high seas, including the exclusive economic zone stipulated in the UN Convention on the Law of the Sea, and airspace above
> B. Territory of foreign countries (Implementation shall be limited to cases where consent from the territorial countries has been obtained.) (ATSML, Art. 3)

The law did not require a ceasefire to be in place for the SDF to act, nor did it limit SDF participation to UN peacekeeping operations, thereby allowing the SDF to participate in support activities in the NATO-led War on Terror. It was renewed three times in 2003, 2005, and 2006, and expired in November 2007.

The SDF Law was revised in 2001, 2005, and then again in 2006. None of these revisions directly affected the overseas capabilities of the SDF. The 2006 revision did, however, elevate

the overseas operations of the SDF from an ancillary task to a primary task, which had symbolic significance in itself, but also in its indication that the overseas operations of the SDF was a key issue under government and/or parliamentary consideration at the time.

Another special measures law, the Law Concerning Special Measures on Humanitarian and Reconstruction Assistance in Iraq (LCSMHRA), was passed in 2003. This law authorizes the SDF to conduct activities for humanitarian and reconstruction assistance and support activities for ensuring security in designated areas within and around Iraq. It effectively allowed the SDF to engage in support activities for the Multi-National Force – Iraq (MNF-I), insofar as their security could be ensured. The law expired in December 2004.

The SDF Law was further revised to allow for collective self-defense action under the 2015 Peace and Security Preservation Legislation. Among the revisions made was the addition to Article 76 that allowed the SDF to be deployed not only in cases of attack or clear risk of imminent attack, but also in cases of attack on countries with close relations to Japan that could in turn threaten the national security of Japan. In addition, the revision also authorized the SDF to be deployed in order to protect Japanese citizens in emergency situations abroad (Article 84), and to use arms in order to protect weaponry belonging to U.S. troops or other allied troops (Article 95), and to supply goods and services to U.S. troops in six additional scenarios (Article 100), among a number of other minor revisions.

The Peace and Security Preservation Legislation also amended the PKO Law to allow the SDF to additionally undertake basic policing tasks to maintain public order, as well as support tasks for the establishment or rebuilding of organizations pertaining to national defense. Furthermore, the SDF are permitted to use arms beyond purposes of self-preservation or protection of weaponry if it is required in order to implement these tasks. The revision also

authorizes SDF participation in a new category of activities called 国際連携平和安全活動 (International Cooperation Activities for Peace and Security) [author's translation], which are general non-UN peacekeeping operations mandated by either a UN General Assembly, Security Council, or ECOSOC resolution, or requested by a specialized UN agency, designated regional organizations or the country where the operation is to take place.

Some other important changes made under the Peace and Security Preservation Legislation include the change of the *Shūhen Jitaihō* to the 重要影響事態安全確保法 (Law on Measures to Ensure the Peace and Security of Japan in Critical Situations) [author's translation] which broadened capability to act by removing the geographic limitation "in areas surrounding Japan." In addition, the 国際平和支援法 (International Peace Support Law) [author's translation] was established, which enabled the SDF to participate in support activities to military forces of other countries in situations where the international society is acting to remove a threat to its peace and security and active participation is required of Japan.

II. Identifying Key Turning Points

The capabilities of the SDF as designated by law fall into three overall categories: first, geographic capabilities (Where can they go?); second, circumstances in which they can be mobilized (When can they act?); and finally, the actions they are permitted to take (What can they do?). To recap, under the original SDF law, the SDF were only allowed to act in defense of Japan within national borders in cases of direct attack.

For the first criteria (Where can they go?), there is a significant turning point in 1992 when the PKO Law and the simultaneous JDR Law revision was passed, because it was the first instance that the SDF were authorized to go overseas at all.

Table 2. Key Laws and Turning Points* in Legal History of SDF Overseas Capabilities
*Turning points are the sections shaded grey

	Law	Where can they go?	When can they go?**	What can they do?
1954	SDF Law	Within Japan	In cases of direct attack	Acts to preserve national peace and security
1992	PKO Law	Areas overseas	UN peacekeeping operations, ceasefire in place	Background support activities
1992	JDR Law Revision	Areas overseas	In cases of disaster in destination	Search and rescue activities
1998	PKO Law Revision	Areas overseas		Background support activities
1999	*Shūhen Jitaihō*	Areas surrounding Japan	In cases of threat to national security	Background support activities
2001	PKO Law Revision	Areas overseas	UN or other peacekeeping operations, ceasefire in place	Background support activities & traditional peacekeeping tasks
2001	ATSML	Areas overseas	Unspecified	Background support activities
2004	LCSMHRA	Iraq	MNF-I operation	Background support activities
2015	SDF Law Revision	Areas overseas	In cases of attack on Japan or allied countries, or to protect Japanese citizens in emergency situations abroad	Acts to preserve national peace and security
2015	PKO Law Revision	Areas overseas	UN or other peacekeeping operations, ceasefire in place, or request by country under attack	Background support activities & traditional peacekeeping tasks
2015	*Jyūyo Eikyō Jitai Anzen Kakuho-hō*	Areas overseas	In cases of threat to national security	Background support activities
2015	*Kokusai Heiwa Shien-hō*	Areas overseas	In cases of threat to international peace and security	Background support activities

**Consent of destination country required in all cases

For the second criteria (When can they act?), the passing of the PKO Law and the JDR Law revision were likewise significant in that they allowed the SDF to act in cases that were not directly relevant to the defense of Japan. The 2001 ATSML was also an important turning point in that it was the first instance in which the SDF were authorized to participate in background support activities for a non-UN, non-peacekeeping operation that was military in nature, without a ceasefire in place. The 2015 Peace and Security Legislation constitute the most recent

significant turning point because it effectively allows the SDF to be deployed in the name of collective self-defense.

For the third criteria (What can they do?), the 1992 PKO Law and JDR Law revision may again be considered an important turning points, because they provide the first instance in which the SDF could be deployed for purposes other than self-defense. In addition, the 2000 PKO Law may also be considered a turning point – if somewhat less significant – in that the SDF were now allowed to participate in so-called traditional peacekeeping tasks that put them at the front of the line, rather than in the background away from combat zones.

To sum up, the major turning points in the legal history of SDF overseas capabilities can be found at three points in time. The first is in 1992 when the PKO Law was passed, because it was the first time where SDF were allowed to go overseas in any capacity. The second is in 2001 when the ATSML and the PKO Law revision were passed; the former was the first time the SDF was allowed to participate in a military operation, and the latter the first time the SDF were allowed to participate in front-line tasks in peacekeeping operations. Finally, the third is in 2015, when the Peace and Security Legislation was passed, because it allowed the SDF to participate in collective self-defense activities.

Chapter 3: Forces behind Reinterpretation at the Government, Party, and Public Level in Japan

This chapter examines the turning points identified in the previous chapters and asks why, at each stage, the increase in SDF overseas capabilities was implemented by policy reinterpretation rather than policy abandonment. This chapter includes a brief overview of the structure of the Japanese government, the procedures for constitutional amendment and laws, and general party positions, followed by an analysis of each turning point to check for the hypotheses raised in Chapter 1 (government self-restraint, party resistance, and public opinion).

I. Background Information

A. Structure of the Japanese Government

The Japanese government is a parliamentary system. The executive branch is led by the Cabinet, which consists of the Prime Minister and the Ministers of State, who are individually appointed by the Prime Minister. The Prime Minister is elected by the legislative branch, the National Diet. The Diet consists of the House of Councillors (Upper House), and the House of Representatives (Lower House). The members of both houses are directly elected by the people.

B. Procedures for Constitutional Amendment and Laws

Policy abandonment of Article 9 would naturally require constitutional amendment. The procedure for constitutional amendment specified in Article 96 of the Constitution of Japan. The process would start with a proposal for revision initiated by the Diet. Once it is proposed, it must

achieve a two-thirds majority in both the Upper House and Lower House, followed by a simple majority in a public referendum vote.

The procedure for passing or amending a law is specified in Article 59 of the Constitution. A legislative bill may be initiated by a group of Diet members – more than 20 members of the Lower House or more than 10 members of the Upper House – or the Cabinet. Once submitted, both the Lower and Upper House must approve the bill with a simple majority. If the Upper House does not approve the bill, however, the Lower House may still approve it independently if it can achieve a two-thirds majority.

C. General Party Positions

The **Liberal Democratic Party (LDP)** is Japan's ruling political party and has been in power almost continuously since 1955. It is generally considered a populist center-right conservative party but is actually comprised of a number of factions ranging from center to right. Officially, the LDP has included constitutional revision and/or the need for a new constitution on its party platform since its establishment on the basis that the current Constitution was imposed externally by the GHQ and is therefore illegitimate.[7] In practice, however, the prioritization of the issue has fluctuated over the years. Although they do not list specific issues to consider for constitutional amendment in their party mission, the LDP have historically been in favor of a more active and empowered SDF (LDP, n.d.).

The **Democratic Party of Japan (DPJ)** is Japan's current major opposition party. They are a center-left party mainly known for their emphasis on social welfare. Regarding foreign policy issues, their party platform states that they seek pragmatism while adhering to *senshu bōei*

[7] The GHQ is an abbreviation for General Headquarters, the name for the office of U.S. General Douglas McArthur, the Supreme Commander of the Allied Powers (the Allied Powers occupied Japan from 1945-1952).

and pacifism. More specifically, they are supportive of the SDF and their participation in peacekeeping operations "within the bounds of the Constitution," but are against collective self-defense and use of force abroad. They are also in favor of constitutional reform, because – as they state in their 2005 Recommendation on the Constitution – there is need to prevent the "hollowing out" of the Constitution that has resulted from multiple reinterpretations. They also cite other reasons such as the need to restructure government to redistribute political power to the people, and the need to clarify the kinds of human rights ensured by the Constitution (DPJ 1998; DPJ 2005).

The **Social Democratic Party of Japan (SDP)** is a social democratic party with a strong emphasis on antimilitarism and pacifism. Formerly known as the **Japanese Socialist Party (JSP)**, they were the major opposition party until the rise of the DPJ in the late 1990s. They are against constitutional reform, stating in their party vision that it is of utmost importance to protect the pacifist principles set forth in the Constitution. They also claim that the SDF are "clearly unconstitutional" and call for a restructuring of the SDF, to decrease its size and to clarify its responsibilities to ensure Japan remains "unarmed" (SDP 2006).

The Kōmeitō (KP), formerly New Kōmeitō, is a centrist conservative party affiliated with the Buddhist organization Sōka Gakkai; however, in recent years it has been shifting to the right due to its coalition with the LDP. It is in favor of SDF deployment to UN peacekeeping operations and other non-military operations, as well as collective self-defense. It also supports constitutional reform, but will only accept additions to the Constitution, not amendments. Regarding Article 9 specifically, they suggest adding several clauses to clarify the constitutionality of the SDF and the limits of their international contribution (KP n.d.; KP 2005; Kōmei Shimbun 2014).

Other parties that were supportive of the SDF and its increased range of activities abroad included the **Liberal Party** and the **Japan Innovation Party (JIP).** The two parties were also in favor of constitutional reform in order to clarify the constitutionality of the SDF and its actions, and of collective self-defense (Liberal Party 2000; JIP 2015). On the other hand, the **Japanese Communist Party (JCP)**, like the SDP, believes that the SDF is unconstitutional and is also against constitutional reform (JCP 2000). The **Democratic Socialist Party (DSP)** was also against constitutional reform, although it supported SDF participation in UN peacekeeping operations (Hyde 2009).

II. Influences at Identified Turning Points

A. 1992 PKO Law

Government Self-restraint

At the time of the passing of the PKO Law and the simultaneous JDR Law Revision, the ruling party was the LDP, led by Prime Minister Kiichi Miyazawa. The first question is whether constitutional reform was even considered as a method to expand SDF capabilities. The answer in this case is no; constitutional reform was not attempted under the Miyazawa administration. What, then, were the reasons behind this government self-restraint?

Official government statements do not address the issue of constitutional amendment; the 1992 Diplomatic Bluebook issued by the Ministry of Foreign Affairs (MOFA), for instance, merely states that the constitutionality of the bill was discussed in parliamentary proceedings, and that the government believes that "participation in U.N. Peace-keeping Operations is in conformity with the principle of the Constitution which calls for permanent peace and international cooperation" (MOFA 1992). This does not reveal much, aside from the fact that

constitutionality of the law was an issue. A short article Miyazawa wrote for the *Japan Quarterly* five years later, however, may provide further insight into government incentives in choosing policy reinterpretation over abandonment. Miyazawa expresses his views on constitutional reform as follows:

> ...revision would be of little merit, especially considering the enormous amount of national energy such changes would consume. The effort would yield too little gain for too great cost. Even if an effort to revise the constitution were undertaken, Article 9 ... would certainly be a focus of intense debate. Ultimately, I believe no change would be made at all. We would end up wondering why we had wasted so much energy and time. (Miyazawa 1997)

In other words, Miyazawa perceived enough resistance to make realizing constitutional amendment basically impossible. Although he does not explicitly specify where he expects the resistance to come from, his use of the term "national energy" and the following quote from the same article suggests that he likely expected the bulk of resistance to come from the public:

> I doubt, however, that the idea of revision of the Constitution was much welcomed by the public. That was why the signing of the new Japan-U.S. Security Treaty in 1960 ignited such fierce opposition and violent demonstrations. (Miyazawa 1997)

In the article, Miyazawa also specifically addresses his Cabinet's decision to pass the PKO Law:

> When I was prime minister, my cabinet adopted a law on cooperation with United Nations peacekeeping operations in Cambodia, believing that Japan should do what it could within the Constitution. The Cabinet was accused harshly by those who declared the law that had been passed permitting dispatch of SDF personnel outside Japan was in violation of the Constitution. These accusations made me quite angry at the time because the SDF personnel sent to Cambodia were not going to fight: they were going to build roads and bridges – acts that could not possibly violate the Constitution. I saw no reason to be ashamed of what we were doing. (Miyazawa 1997)

This raises an interesting alternative hypothesis for the Miyazawa Cabinet's self-restraint: although it is difficult to quantify the honesty with which this statement was made, it does raise the possibility that the Miyazawa Cabinet genuinely did not believe that the expansion of SDF capabilities in question was in violation of the Constitution. They saw no need to consider constitutional amendment in the first place – there was fundamentally no self-restraint to speak of.

Party Resistance

The distribution of party seats at the time the PKO Law was passed is illustrated in Table 3.1. To briefly recap the policy positions of the parties shown, the LDP and KP are in favor of the SDF's participation in UN peacekeeping operations, whereas the SDP, JCP and DSP are against. The LDP and KP are open to constitutional reform, while, again, the SDP, JCP and DSP are against. This means that 62.5% of the Lower House was in favor of SDF participation in UN peacekeeping operations and 32.4% against. In the Upper House, 51.2% was in favor of SDF participation and 35% against. The same percentages apply for constitutional reform. Recalling that a law can pass with a simple majority in both houses, these numbers show that the parties in favor of SDF participation in UN peacekeeping operations were able to push through a law such as the PKO Law, but did not have enough seats in order to attempt constitutional reform, which requires a two-thirds majority in both houses.[8] It is thus unsurprising at the party level that a law was chosen instead of constitutional reform.

Table 3.1 National Diet Seat Distribution as of 1992

Party	Seats in Lower House (%)	Seats in Upper House (%)
LDP	53.7	43.3
SDP	26.6	26.2
KP	8.8	7.9
JCP	3.1	5.6
DSP	2.7	3.2
Other	5.1	13.8

Source: Kanda 2014

Public Opinion

A public opinion poll conducted in 1992 by the Prime Minister's Office regarding foreign policy reveals that 49.4% of respondents believed that financial contribution to international peace and security was insufficient, and that contribution of personnel should be increased. In contrast, only 40.0% of respondents believed that financial contribution would be sufficient

[8] A similar bill (the United Nations Peace Cooperation Corps bill) failed in 1990 under the Kaifu administration. However, it was much more ambitious in scope: it would have allowed the SDF to engage in collective self-defense and combat actions, which was at the time unacceptable even by the parties supporting personnel contribution (Sebata 2007; Oros 2008).

(whether increased or at current rates). The polls also showed that 54.2% were in favor of deploying the SDF overseas for disaster relief operations, while 30.4% were against. 45.5% were in favor of deploying the SDF on UN peacekeeping operations, while 37.9% were against (Prime Minister's Office 1992). Thus, in general, it seems that the majority of the public was in favor of the SDF playing a larger role overseas. With regards to the Constitution, a public opinion poll conducted by the Japan Broadcasting Corporation (NHK) in 1992 found that only 35% of respondents were in favor of revision (Hashimoto 2008). Assuming that the poll results are representative of the population, this indicates that approximately 10% to 20% of the population are in favor of a more active SDF role overseas but yet remain against constitutional revision. A potential explanation for this discrepancy may be that they do not believe constitutional revision is necessary for the SDF to take an active role overseas.

B. 2001 ATSML/PKO Law Revision

Government Self-restraint

When the ATSML and the PKO Law Revision was passed in 2001, Japan was governed by a coalition government between the LDP, the KP, and the NCP. The Prime Minister was LDP party leader Junichiro Koizumi, well known as an open advocate of constitutional amendment. In fact, under his leadership, the LDP later introduced a draft for constitutional revision in 2005. At this time, however, the Koizumi administration did not attempt to revise the Constitution. In a press conference in April 2001, Koizumi shared his thoughts on the question of constitutional revision:

> 憲法９条という問題は、日本は戦争の後遺症が強いですから、この問題を今の政治課題に乗せるというのはなかなか難しいと思います。

> (The issue of Article 9 of the Constitution will be quite difficult to include in the current political agenda because the aftereffects of the war [WWII] are felt strongly in Japan.) [author's translation] (Koizumi 2001)

Although at this time he did not explicitly state by whom these supposed aftereffects were felt, a statement he made several years later makes it clear that he expected resistance to come in the form of party resistance and public opinion:

> The revision of the Constitution has been a longstanding issue. However, the Constitution cannot be revised without the support of a majority of the people under an initiative taken by two-thirds of the Diet members. Faced with the reality, I believe that this issue cannot be resolved unless public debate is thoroughly initiated nor without the cooperation of political parties. (Koizumi 2005)

Specifically regarding *public opinion,* however, his efforts towards constitutional amendment regarding direct election of the Prime Minister – a topic he thought would be "easily understood by the public" – seems to imply that he believed that any lack of public support stemmed from a lack of understanding regarding the process of constitutional amendment, rather than from opposition against the actual content of the change. This falls in line with the statement made in the 2002 Diplomatic Bluebook that the PKO Law revision was made "in response to domestic and international expectations that Japan should make a more active contribution to global peace efforts" (MOFA 2002, 102), indicating that the government did perceive domestic support for peacekeeping operations.

Party resistance

The distribution of party seats at the time the PKO Law was passed was as shown in Table 3.2. To briefly recap the policy positions of the parties shown, the LDP, DPJ, KP, and Liberal Party are in favor of the SDF's participation in UN peacekeeping operations, whereas the SDP and JCP are

Table 3.2 National Diet Seat Distribution as of 2001

Party	Seats in Lower House (%)	Seats in Upper House (%)
LDP	48.5	44.5
DPJ	26.5	23.9
KP	6.5	9.3
Liberal	4.6	3.2
JCP	4.2	8.1
SDP	4.0	3.2
Other	5.7	7.8

Source: Kanda 2014

against. The same parties support/oppose constitutional reform. This means that 86.1% of the Lower House was in favor of SDF participation in UN peacekeeping operations and 8.2% against. In the Upper House, 80.9% was in favor of SDF participation and 11.3% against. These numbers show that the parties in favor of SDF participation in UN peacekeeping operations would not only have been free to pass or revise any law (as they did), but would have theoretically have been able to amend the constitution as well, because it could have cleared the two-thirds thresholds in both houses. Despite these numbers, however, they did not. This implies that although parties in the Diet pass laws relatively freely, when it comes to constitutional amendment; there is something more than structural barriers that hold them back.

Public Opinion

A public opinion poll conducted by the Prime Minister's office in 2000 reveals increasing support for the SDF's international participation. It was considered the second most important of the activities the SDF had been involved in up to today, and the third most important activity in which the SDF should strengthen its efforts in the future. 86.3% were in favor of SDF overseas deployment for international rescue activities, and 79.5% for UN peacekeeping operations (Prime Minister's Office 2000).

Regarding constitutional amendment, the-left leaning newspaper *Asahi Shimbun* found in an opinion poll conducted in 2001 that 47% of respondents felt a need for constitutional reform while 36% felt no need. Among those who did feel a need, however, 74% believed that Article 9 should be kept as is. The right-leaning newspaper *Yomiuri Shimbun* found in an opinion poll also conducted in 2001 that 50% of respondents supported constitutional reform (JAPOR; n.d.). These numbers show that there was increasing support for constitutional reform among the public compared to 1992. However, as was the case in 1992, there still was a significant

percentage (over 30%) of people in favor of increased SDF overseas capabilities but against constitutional revision.

C. 2015 Peace and Security Preservation Legislation

Government Self-restraint

When the Peace and Security Preservation Legislation was passed in 2015, a coalition government between the LDP and the KP was in place. The Prime Minister was LDP party leader Shinzo Abe, also a known proponent of constitutional reform. During his previous term in office from 2006 to 2007, Abe had successfully passed a law – the first of its kind – defining the process for holding the national referendum required for constitutional amendment. Since his re-election in 2012, the LDP had further attempted to amend the Constitution in order to make the amendment process itself simpler. Although that attempt failed, Abe was still trying to garner support for constitutional reform in the near future. In 2014 he was reported as saying:

> Revising the constitution has always been an objective since the Liberal Democratic party was launched. ... The most important thing is that we need the support of a majority of the people in a referendum. From that standpoint I will work hard to deepen people's understanding and receive wider support from the public. (Harris 2013)

Like his predecessors, Abe perceived that it was among the public where support was lacking – support that was needed if constitutional amendment were to become a reality. Despite these continued efforts towards constitutional amendment, however, there was still some self-restraint that could be observed in the Abe administration in the sense that they delayed any actual attempt at a constitutional revision and focused on garnering support instead. The very fact that the Abe administration chose to pass the Peace and Security Preservation Legislation instead of trying to directly amend the Constitution is a manifestation of this self-restraint.

Regarding the issue of collective self-defense, the 2015 Ministry of Defense (MOD) White Paper describes in both Chapter 1, Section 2 (Constitution and the Basis of Defense Policy) and Section 3 (Development of Legislation for Peace and Security) how exactly the right to collective self-defense can be considered constitutional. This indicates that the constitutionality of the Peace and Security Preservation Legislation was, in general, an issue that needed to be addressed.

Party Resistance

The distribution of party seats at the time the PKO Law was passed was as seen in Table 3.3. To briefly recap the policy positions of the parties shown, the LDP, KP, and JIP are in favor of the collective self-defense, whereas the DPJ, SDP and JCP are against. The LDP, DPJ, KP and JIP are in favor of constitutional amendment, while the SDP and JCP are against. This means that 77.3% of the Lower House was in favor of collective self-defense and 20.2% against. In the Upper House, 59.5% were in favor and 33.9% against. For constitutional amendment, 92.7% were in favor and 4.8% against in the Lower House, and 83.9% in favor and 9.5% against in the Upper House. The parties in favor of collective self-defense cleared the fifty-percent threshold but not the two-thirds; thus, they were been free to pass or revise law, but would not have been able to amend the constitution. The numbers also indicate that having a sufficient number of seats among parties in support of constitutional amendment means nothing if there is no agreement on the policy as well. In other words, constitutional amendment only becomes a real possibility if both the

Table 3.3 National Diet Seat Distribution as of 2015

Party	Seats in Lower House (%)	Seats in Upper House (%)
LDP	61.3	47.5
DPJ	15.4	24.4
KP	7.4	8.3
JIP	8.6	3.7
JCP	4.4	8.3
SDP	0.4	1.2
Other	2.5	6.6

Source: Kanda 2014

percentage of Diet members in support of a specific policy and constitutional amendment pass the two-thirds threshold in both houses.

Public Opinion

Public support for the SDF and its overseas activities was even stronger than it had been in 2000, with 89.8% of respondents answering that they supported the SDF's overseas activities in general. For peacekeeping operations and other activities contributing to peace, 65.4% responded that they should continue participating, and 25.9% responded that they should participate more actively than they were now. Regarding constitutional amendment, the *Asahi Shimbun* found in a public opinion poll conducted in 2015 that 48% of respondents felt a need for constitutional reform, while 43% felt no need. Among those who did feel a need, 63% believed that Article 9 should be kept as is (an 11% decrease compared to 2001) (Asahi Shimbun 2015a). The *Yomiuri Shimbun*, on the other hand, found in a 2015 poll that 51% of respondents supported constitutional reform. Thus, the percentage of the population in favor of increased SDF overseas capabilities but against constitutional amendment increased to approximately 40%. Another part of the 2015 *Yomiuri Shimbun* poll can provide some insight into why this gap exists: the poll found that 40% of respondents believed that reinterpretation was the best way to deal with the issues surrounding Article 9, 35% believed that reinterpretation had reached its limits and thus constitutional amendment was necessary, and that 20% were against any type of reinterpretation (Yomiuri Shimbun 2015).

Regarding collective self-defense, a 2014 *Yomiuri Shimbun* poll found that 63% of respondents supported SDF participation in collective self-defense to the minimum extent necessary, while another 8% supported full-scale participation in collective self-defense (Yomiuri Shimbun 2014). Thus, for this issue too, a similar situation can be seen where

approximately 20% of people support collective self-defense but not constitutional amendment. However, this does not mean that the public supported policy reinterpretation by law, either: a 2015 *Asahi Shimbun* poll found that support for the Peace and Security Preservation Legislation was only 26%, whereas 56% were against. A follow-up question in the same poll may provide some insight into why this was the case: 67% of respondents believed that the Abe administration did not sufficiently explain the legislation to the public (Asahi Shimbun 2015b). Another *Asahi Shimbun* poll conducted in the same month after the bills had been passed also found that 69% of respondents did not agree with the way it had been forced through the Diet without involving opposition parties, and that 74% of respondents disapproved of how Abe had chosen to reinterpret the Constitution to allow for collective self-defense, rather than following the necessary steps for constitutional amendment (Asahi Shimbun 2015c). Thus, it can be understood that the method by which a policy is implemented, and in particular, the extent to which the public is engaged, is just as important as the policy itself in terms of garnering public support.

III. Understanding Government, Party, and Public Preferences

Overall, at the government level, there is a tendency for the Cabinet to self-restrain from constitutional reform, even under the leadership of advocates such as Koizumi and Abe. This is not that surprising, as it merely indicates that once in office they choose to be pragmatic (rather than ideological) in the face of perceived resistance. A common theme across all three administrations was that they perceived the bulk of resistance against constitutional reform to come from the public, rather than the parties. It was the support of the public rather than the parties that each administration sought, which may be quite logical considering that party support would mean little without public support, since constitutional amendment can be blocked by a

simple majority of the public. On the other hand, a higher rate of public support could easily be reflected back into party dynamics by, for instance, a snap election. In addition, Miyazawa's apparent belief that the capabilities given to the SDF by the PKO Law was truly constitutional suggests that in certain cases the contradiction of a new policy with a constitutional rule may not be obvious, particularly in the early stages of reinterpretation.

At the party level, in all three cases, the parties in favor of increased SDF capabilities abroad cleared the fifty-percent threshold required for passing a law in both the Upper House and Lower House. For the 1992 PKO Law and 2015 Peace and Security Preservation Legislation, however, the parties in favor of increased SDF capabilities abroad did not clear the two-thirds threshold. Thus, it is not surprising that a law was passed instead of a constitutional amendment. The odd one out, however, is the 2001 ATSML and PKO Law revision: at this time, the parties in favor of increased SDF capabilities abroad actually cleared the two-thirds threshold, yet they refrained from constitutional amendment. There are a variety of ways this could be explained – it may simply be because the Cabinet never put it on the agenda, but it may also be, for instance, because the Diet members believed it would be turned down at the stage of national referendum anyway, or because constitutional amendment is linked with a lot of other issues such as human rights and the direct election of Prime Minister, making it too difficult to use constitutional amendment simply as a tool for policy implementation (see Chapter 6 for further explanation).

At the public level, a common trend that can be observed across all three cases is that there is always a significant gap between the percentage of people who support the policy in question (deployment of troops on UN peacekeeping operations, collective self-defense) and those who support constitutional reform. In fact, regarding UN peacekeeping operations, the size of the gap increases over the three years, from approximately 10% in 1992 to 20~30% in 2001,

then to 40% in 2015. This indicates that, to a certain extent, constitutional reform has turned into a political issue in itself, rather than simply being seen as a method by which to execute policy changes. It is, however, unclear whether or not the public approves of reinterpretation as an alternative method of policy implementation; the *Yomiuri* and *Asahi* seem to imply different answers to this question. Regardless, however, the poll numbers do seem to indicate that Koizumi's assessment of resistance by the public – that the public were not against content of change but simply lacked an understanding of constitutional reform as a procedure – was actually quite accurate. This can also be true of laws: as the 2015 Asahi polls found, public support for a law can be lacking if the government does not explain it to the public well. Thus, if the process of constitutional reform were clarified to the public and ensured that it would be for a specific issue only, it can be reasonably expected that there would be less resistance.

Chapter 4: Legal History of the Swiss Armed Forces

The first two sections of this chapter will list the relevant articles of the Constitution and laws that have changed the overseas capabilities of the Swiss Armed Forces (SAF), and analyze the legal text in order to understand what exact capabilities each law gave or took away from the SAF. The third section will then analyze the changes over time in order to identify the most significant turning points in terms of SAF overseas capabilities.

I. Constitution

The SAF finds its origins in the federal army organized under the Swiss Constitution of 1848, which was the first instance that Switzerland had an army at the national level (as opposed to cantonal). However, Article XIII forbade the maintenance of a standing army at the federal level, and allowed the cantons to have no more than three hundred men of standing troops. Thus, the federal army was – as it still is today – structured as a militia, calling upon the troops of the cantons in times of danger. The revised Constitution of 1874 saw no major changes regarding the army.

The Constitution of 1999, however, saw a significant change in that it now designated the role of the SAF (Article 58):

> Switzerland shall have armed forces. In principle, the armed forces shall be organised as a militia. The armed forces serve to prevent war and to maintain peace; they defend the country and its population. They shall support the civilian authorities in safeguarding the country against serious threats to internal security and in dealing with exceptional situations. Further duties may be provided for by law. The deployment of the armed forces is the responsibility of the Confederation. (Const. of Switzerland 1999)

The language suggests, at first glance, that the SAF are for exclusively defensive purposes ("The armed forces serve to prevent war and to maintain peace; they defend the country and its

population"). However, there are several ambiguities in the language ("in dealing with exceptional situations", "Further duties may be provided for by law") that make offensive or even preemptive action not necessarily unconstitutional. The relationship of the SAF's actions to neutrality is not mentioned in the Constitution.

II. Relevant Laws

The Federal Act on the Armed Forces and the Military Administration (*Loi fédérale sur l'armée et l'administration militaire*, LAAM) is the primary law that determines the capabilities of the SAF. The 1995 version does not address international cooperation apart from one section in Article 1 (The Army Mission) that states that the SAF are to "contribute to measures of peacekeeping in an international context":

> 1 L'armée contribue à la prévention de la guerre et de ce fait au maintien de la paix.
> 2 Elle assure la défense de la Suisse et de sa population et contribue à leur protection.
> 3 Dans le cadre de sa mission, elle doit en outre:
> a. soutenir les autorités civiles lorsque leurs moyens ne suffisent plus pour faire face aux menaces graves contre la sécurité intérieure;
> b. soutenir les autorités civiles lorsque leurs moyens ne suffisent plus pour maîtriser d'autres situations extraordinaires, en particulier, en cas de catastrophe dans le pays et à l'étranger;
> c. contribuer aux mesures de maintien de la paix dans le contexte international.
>
> (1 The army contributes to the prevention of war and therefore the maintenance of peace.
> 2 It ensures the defense of Switzerland and its population and contributes to its protection.
> 3 As part of its mission, it must also:
> a. support civil authorities when their resources are no longer sufficient to deal with serious threats against internal security;
> b. support civil authorities when their resources are no longer sufficient to control other extraordinary situations, in particular, in cases of disaster in the country and abroad;
> c. contribute to measures of peacekeeping in an international context.) [author's translation]

Items 1 to 3b are parallel with the language of the Federal Constitution. However, item 3c is an addition that designates contribution to international peacekeeping as one of the missions of the SAF.

Several revisions to the act were made in 2001. Article 48 (Instruction and Engagement of Troops) was changed significantly: where previously there had been no mention of cooperation with foreign troops, the revised version authorizes the SAF to participate in military exercise with foreign troops. In addition, Article 66 (Peace Promotion Services) was changed to elaborate in detail on the requirements and limitations of peace promotion activities: under the revised version, troops can be dispatched if such deployment is based on a mandate from the UN or the OSCE and if it also meets Swiss standards of foreign policy and security. The dispatched forces may be armed, but participation in combat is forbidden.

Further amendments were made in 2003: Article 1 Section 3c was elevated to its own section and reworded as follows:

> 4 Elle contribue à la promotion de la paix sur le plan international.
> (4 It can contribute to the promotion of peace on an international scale.) [author's translation]

Now, instead of contributing only to "measures of peacekeeping in an international context," the army can contribute more generally to the "promotion of peace on an international scale." In addition, Article 69 (Support Services in Cases of Disasters Abroad) was also amended. It originally extended the geographical scope of civil support to overseas locations and authorized the SAF to be sent abroad for humanitarian assistance as well as to supply equipment and other provisions. In the new version, the article was retitled to the more general "Support Services abroad" and the following clause was inserted, permitting the SAF to be deployed abroad in order to protect people and objects "particularly worthy of protection."

III. Identifying Key Turning Points

In identifying the key turning points in the legal history of the SAF, the two important criteria are the circumstances in which they can be mobilized (When can they act?); and the

actions they are permitted to take (What can they do?). The first question asked of the SDF in the previous chapter (Where can they go?) is not relevant to the SAF because there were never any geographic limitations placed on the activities of the SAF, although in practice the locations where the SAF were sent abroad were largely correlated with the actions they were allowed to take.

In the context of neutrality, an important turning point for the first criteria (When can they act?) is the 2001 Revision to the LAAM. It was the first time that the SAF was explicitly authorized to participate in unilateral missions mandated by the UN or the OSCE. Another important turning point with regards to the second criteria (What can they do?) was in 1995 when the LAAM was passed in the first place. It was the first case in which the SAF were explicitly authorized to participate in general international peacekeeping activities and military exercises with foreign troops – the latter of which is particularly in seeming violation of the Swiss principle of neutrality.

Table 4. Key Laws and Turning Points* in Legal History of the SAF Overseas Activities

	Law	When can they act?	What can they do?
1848	Constitution	In times of danger	N/A
1995	LAAM	N/A	International peacekeeping**, military exercise with foreign troops
		In cases of disasters abroad	Support services
1999	Constitutional Revision	Serious threats to internal security, exceptional situations	Prevent war, maintain peace, defend
2001	LAAM Revision	On operations mandated by UN or OSCE	International peacekeeping, Military exercises with foreign troops
2003	LAAM Revision	If protection of persons or objects is required	Support services

*Turning points are the sections shaded grey
**participation in combat is forbidden

In short, there are two major turning points in the legal history of SAF overseas capabilities. The first is in 1995 when the LAAM was passed, because it was the first time where the SAF were officially allowed to participate in international peacekeeping missions and military exercises with foreign troops. The second is in 2001 when the LAAM was revised, because it explicitly authorized the participation of the SAF in UN and OSCE peacekeeping operations.

Chapter 5: Forces behind Reinterpretation at the Government, Party, and Public Level in Switzerland

This chapter looks in more depth at the turning points identified in the previous chapters and asks why, at each stage, the increase in SAF overseas capabilities was implemented by policy reinterpretation rather than policy abandonment. This chapter includes a brief overview of the structure of the Swiss government, the procedures for constitutional amendment and laws, and general party positions, followed by an analysis of each turning point to check for the hypotheses raised in Chapter 1 (government self-restraint, party resistance, and public opinion).

I. Background Information

A. Structure of the Swiss Government

Switzerland is a confederation of 26 cantons. The executive branch at the federal level is the Federal Council. There is no single leader of the Federal Council; rather, it is a collective head of government consisting of seven Councillors. The Federal Council is elected by the legislative body, which is called the Federal Assembly. The Federal Assembly consists of the Council of States (two seats per canton) and the National Council (seats distributed in proportion to population). Both houses have equal powers and are directly elected by the people.

B. Procedures for Constitutional Amendment and Laws

The highest order of law that mandates the Swiss government to adhere to a policy of neutrality is, as mentioned, the Swiss Constitution. Thus, for policy abandonment, a constitutional amendment would be needed. Due to Switzerland's system of direct democracy, the process for constitutional amendment is in fact quite simple and is often used in order to address specific issues on a case-by-case basis. In fact the democratic instrument of the popular initiative aims at changes to the Constitution.

The procedure for constitutional revision is specified in Article 138 of the current version of the Swiss Constitution (Articles 118 to 123 in the 1874 version, Articles 111 to 114 in the 1848 version). Any eligible Swiss voter can initiate a partial revision by forming an initiative committee comprised of seven to twenty-four eligible voters. The initiative requires validation by the Federal Chancellery and valid signatures of at least 100,000 eligible voters in order to be submitted. [9] Once submitted, both the Federal Council and Federal Assembly may propose a counter-proposal to the initiative, although they cannot block the initiative itself. However, they can ask the proposers of the initiative to voluntarily withdraw it if the counterproposal seems acceptable to them in lieu of their original proposal. Afterwards, the initiative (along with its counter-proposal, if one was made) is put to a vote. At the polls it must achieve a "double majority," that is, a simple majority among the electorate as well as among the cantons in order to pass (ch.ch n.d.).

Laws, on the other hand, are initiated when the Federal Council or the Federal Assembly produces a draft of the bill. Then, the draft goes through a consultation process where cantonal

[9] The Federal Chancellery is the staff office of the Federal Council, responsible for preparing reports on government policy, ensuring that bills and initiatives meet formatting requirements etc., among other tasks. The Federal Chancellor (head of the Federal Chancellery) has an influential advisory role and is often referred to as the "Eighth Federal Councillor."

governments, political parties as well as other relevant organizations/associations can comment and propose changes to the draft. The draft is then presented to both houses of the Federal Assembly, who discuss the law separately and make amendments in accordance with the feedback from the consultation process. The final draft of the law must then be passed with a simple majority in both houses. If the two houses do not agree, they go through a process of negotiation in order to reach a compromise. It is the electorate, however, who has the last say in passing a law, because they can launch a referendum with the support of a minimum of 50,000 signatures within 90 days of Parliament passing a law. If successful, the law then has to be brought before the people for a public vote and can thus be blocked if the referendum achieves a simple majority (Direct Democracy n.d.).

C. General Party Positions

As a general observation, Switzerland is a multi-party democracy and the spectrum of parties is quite fluid. New ones appear and disappear or change quite frequently. There are, however, four major ruling parties that share among themselves the seats of the Federal Council according to a "magic formula."[10] They are the following parties:

The **Social Democratic Party (*Parti socialiste suisse*, PSS)** is a center-left party with an emphasis on large government policies, as well as other social issues such as environmental protection and women's rights. With regards to foreign policy, it has been known to call the Swiss government out for "hiding behind a cloak of silent neutrality" and believes that the country should take an active part in the resolution of regional conflicts. It thus supports Swiss membership in international organizations such as the UN and the EU (PSS 2014a; PSS 2014b).

[10] The "magic formula" is an unofficial agreement among the four largest parties in the Swiss political system to distribute amongst themselves the seven seats in the Federal Council. The three largest parties each received two seats each, and the fourth, one. This distribution of seats was arranged in 1959 in order to accommodate the growth of the SPP and held until 2003 when it was challenged by the growing UDC.

The Liberals (*Les Libéraux-Radicaux*, PLR) are a center-right party that mainly advocates economic liberalism and a small federal government. They are in favor of higher integration into the international/European community. This is mainly because of perceived market benefits, but they – like the PSS – believe that neutrality understood as isolation is not a solution, and that international cooperation is an important policy instrument for Switzerland's national security (PLR n.d.). The party was formed in 2009 as a merger between the **Free Democratic Party (*Parti radical-démocratique*, PRD)** and the **Liberal Party (*Parti libéral suisse*, PLS).**

The **Swiss People's Party (*Union démocratique du centre*, UDC)** is a conservative, right-wing party with populist tendencies; it is currently Switzerland's largest party. They are fierce supporters of traditional armed neutrality, and call the current practice of active neutrality (i.e. participation in peacekeeping operations, economic sanctions, and other multilateral activities) "absurd." They are against participation in international organizations such as the UN, the EU, and NATO, believing the vast majority of member states to be "vassals" of the United States (UDC 2007; Amaudruz 2015).

The **Christian Democratic Party (*Parti Démocrate-Chrétien*, PDC)** was originally formed as a representative of Roman Catholic interests but has more recently evolved into a centrist party. Its main focus is domestic social issues, generally standing against federal centralization. With regards to foreign policy, it does not have an articulated position on neutrality, but stands in favor of higher Swiss integration into the international community, including aid to developing countries and entry into the United Nations (The Editors of Encyclopædia Britannica n.d.).

Aside from these, other minor parties that have held seats in the Federal Assembly in favor of high international integration include the left-wing **Green Party (*Les Verts*)**, while right-wing populist parties such as the **Swiss Democrats (*Démocrates Suisses*)**, the **Freedom Party (*Parti Suisse de la Liberté*; PSL)**, and the **Ticino League (*Ligue des Tessinois*)** are against participation in international integration and call for a more isolationist stance (*Les Verts* n.d.; swissinfo.ch 2006; Skenderovic 2009; Lublin 2014).

II. Influences at Identified Turning Points

A. 1995 LAAM

Government Self-restraint

In 1993, two years prior to the enactment of the LAAM, the Federal Council and the Swiss Federal Department for Foreign Affairs (FDFA) released the *White Paper on Neutrality*. This report gives an extensive analysis of the government view on neutrality and other related foreign policy issues. It characterizes Swiss neutrality as permanent and armed, and defines it as "noninterference in other countries' affairs." It recognizes that neutrality has become irrelevant in the light of new threats such as economic warfare, intrastate war, and terrorism, and even states that "no neutral attitude is acceptable between a state that has broken the peace or seriously disregards the international order," and that "in such a case, Switzerland can only opt for the side of law and order, i.e. that of the United Nations" (19). Despite this, the government still upholds neutrality as a central foreign policy principle.

Regarding the motives behind reinterpretation, the report clearly states that neutrality is not a goal in itself, but rather, "one instrument among many enabling Switzerland to attain its true objectives, chief among which is to maintain the maximum possible degree of

independence." It openly admits to reinterpreting the word neutrality in order to achieve those objectives, and justifies the reinterpretations as follows:

> Under international law, Switzerland is at liberty to give up its neutrality unilaterally. …Therefore, our country has no obligation to maintain this status for ever. Consequently, Switzerland can claim the right to adapt and redefine its neutrality in light of changes in its environment. It has great latitude in this regard. In the history of our country, neutrality never was a rigid institution, fixed and unchanging. On the contrary, Switzerland has always adapted the instrument of neutrality to international requirements and to its own interests. (Swiss Federal Council and FDFA 1993)

In short, the report is making the argument that not only is Switzerland is free to abandon the policy of neutrality at any point, but also that because it is free to do so, it is also free to redefine neutrality. The latter is a logically flawed argument. The report also frankly admits that reinterpretations of neutrality have occurred in order to meet national interests. The report hints at two such interests. The first is that it allows Switzerland to prioritize its domestic issues and minimize its international obligations:

> Switzerland has been able to focus almost exclusively on its own affairs and has never had to invest all its resources in foreign policy disputes. Neutrality has enabled Switzerland to stand apart from the world and "cultivate its own little garden". (Swiss Federal Council and FDFA 1993)

The second is that Switzerland can use neutrality as an argument to delay participation in an international organization until it proves beneficial for Swiss interests:

> Accession … to a military alliance requiring binding mutual assistance, or even a common defence system, would not allow us to retain our neutrality. Switzerland should not decide on whether or not to join such a new system until the contours and the reliability of the new security order can be evaluated. The decision will then be based essentially on the answer to the question whether participation in the regional defence system will protect our country and its population more effectively than non-participation. A small peace-loving country has every interest that such a security system functions effectively. That is why Switzerland should participate in its establishment. (Swiss Federal Council and FDFA 1993)

These sentiments are reflected in the report's explanation of the incentives behind deploying the SAF on UN peacekeeping missions, which the 1995 LAAM allows. The deployment of troops is framed not as a fulfillment of any obligation to international society, but rather as a necessary action to maintain Switzerland's image and reputation in the international society:

> Since the end of World War II, Switzerland has, on the whole, been less frequently asked to provide its good offices. ... The main reason ... for this reduced number of requests to Switzerland

> lies in the fact that more and more of the requests for good offices, mediation and other forms of conflict resolution are being addressed to the international organizations. The United Nations and its Secretary General have received the lion's share of these requests, particularly in the peace-keeping area ... In view of the fact that Switzerland's neutral status is losing its importance for providing good offices, the Federal Council believes it is necessary to extend and develop Switzerland's services, by strengthening what the country has to offer in the way of material and human resources. Provision of Swiss "Blue Helmet" forces would be an important step in this direction. The Federal Council will also continue to contribute toward alleviating the consequences of conflict by providing humanitarian assistance to the victims. ... Switzerland must increase its efforts to support international security and peace. Switzerland is to prove itself a useful member of the international community and a factor contributing to peace. (Swiss Federal Council and FDFA 1993)

Thus, we can see that government policy regarding neutrality has become largely opportunistic, and is no longer the ideological and identity-oriented policy that it used to be during and prior to WWII.

Party Resistance

To briefly recap general party positions, the UDC and the PDC stand by the traditional definition of neutrality – armed, absolute, and permanent – while the PSS and PLR are in favor of the reinterpreted definition of neutrality. The option of abandoning neutrality, however, is not considered by any of the parties. Regarding higher integration into the international community, the UDC and PDC are against, while the PSS and PLR are in favor.

The distribution of seats among the parties in the Federal Assembly when the LAAM was passed (see Table 5.1) was such that in the National Council, the PSS and PLR together held approximately 40% of the seats, while the UDC and PDC together held approximately 30% of the seats. Including the Green Party, the parties in favor of higher international integration held 46.1% of the seats in the National Council. On the other hand, including the Swiss Democrats, PSL and Ticino League, the parties in favor of more isolationism held 37.8% of the seats. In the Council of the States, the PSS and PLR held 45.7% of the seats, while the UDC and PDC

together hold 43.5% of the seats. The PSL and Ticino League were also represented in the Council of States, so altogether, the parties in favor of more isolationism held 52.2% of the seats.

Recalling that a law must be approved by a simple majority in both houses, these party seat percentages mean that the parties in favor of more isolationism would be able to block legislation encouraging international amendment in the Council of States. Despite this, the LAAM – which authorizes SAF participation in international peacekeeping missions and multilateral military exercises – was ultimately passed. This implies that at some point in the negotiation process, the parties in favor of international integration were able to convince at least 2.2% out of the 52.2% in favor of isolationism to agree to the LAAM.

Public Opinion

The clearest indicator of public opinion regarding a certain issue addressed by a bill or a law in Switzerland are, of course, referendums and initiatives. When it was first passed, the LAAM was not subjected to a referendum. Since the Swiss people are free to request a referendum on any law or decree of the Federal Assembly, the lack of a referendum suggests that the majority of the public was either in agreement with the changes presented by the LAAM (allowing the deployment of SAF for international peacekeeping, disaster relief support, and military exercises with foreign troops), or considered it to be a non-issue.

Table 5.1 Swiss Federal Assembly Seat Distribution as of 1995

Party	Seats in National Council (%)	Seats in Council of the States (%)
UDC	12.0	8.7
PSS	18.5	6.5
PRD	21.0	39.1
PDC	18.0	34.8
Green Party	6.1	N/A
Swiss Democrats	3.4	N/A
PSL	3.0	6.5
Ticino League	1.4	2.2
Other	16.6	2.2

Source: Nohlen & Stöver 2010

According to a poll conducted by the Annual "Security" Studies by the Swiss Military College at the Federal Institute of Technology in Zurich in 1995, 80% of respondents agreed

with the statement "Switzerland should retain its neutrality," 53% of respondents with the statement "Switzerland should take a clear stand for one side or the other in political conflicts abroad but remain neutral in military conflicts," and 25% of respondents with the statement "Switzerland should take a clear stand for one side or the other in military conflicts abroad" (Aeschimann et al. 2004). Aside from the obviously overwhelming support for neutrality, the numbers indicate an important finding: there is at least 33% overlap between approval rates for the first two statements, implying that, for at least those people neutrality is not seen as a conflict of interest with taking a side in political non-military conflicts. Similarly, there is 5% overlap between approval rates for the first and last statement, indicating that some people do not see neutrality as conflicting with taking a side in military conflicts, either.

B. 2001 LAAM Revision

Government Self-Restraint

The Foreign Policy Report released by the FDFA details the aims of the Federal Council on foreign policy. Regarding neutrality, it mainly reiterates the points made in the 1993 *White Paper*; first, that neutrality is a dated concept in the face of new threats and that "Switzerland cannot guarantee its security through its own efforts alone; it is dependent on cooperation with others to achieve this"; second, that its "neutral status does not prevent it from further intensifying international cooperation in the security policy sphere nor from supporting non-military sanctions which the UN or a relevant group of states such as the OSCE or the EU impose against an offender," and finally, that its "neutral status has been deprived of its previous significance in terms of good offices" (Swiss Federal Council and FDFA 1999). Specifically regarding SAF deployment on UN peacekeeping operations, the report states the following:

> In the context of military peace promotion the Federal Council will aim to ensure that our country can participate in those peace support operations which are conducted on the basis of a UN or OSCE mandate. In the case of armed operations, the purpose of the arms should be to enable the troops to defend themselves and to fulfil their mission. Participation in military peace enforcement actions is excluded. (Swiss Federal Council and FDFA 1999)

Indeed, the Federal Council succeeded in ensuring Swiss participation in the specified peace support operations; this was enshrined in the 2001 LAAM revision.

Party Resistance

The distribution of seats among the parties in the Federal Assembly at the time the LAAM revision was passed (see Table 5.2) was such that in the National Council, the PSS and PLR together held approximately 42.4% of the seats, while the UDC and PDC together held approximately 38.4% of the seats. Including the Green Party, the parties in favor of higher international integration held 47.4% of the seats in the National Council. On the other hand, including the Swiss Democrats, PSL and Ticino League, the parties in favor of more isolationism held 43.3% of the seats. In the Council of the States, the UDC and PDC together hold 47.80% of the seats, and the PSS and PLR hold 50% of the seats. This means that the situation of 2001 is reverse to that of 1995, where the parties in favor of isolationism did not hold enough seats in either house to block any legislation. Thus, it is not surprising that the LAAM revision, authorizing SAF participation in UN/OSCE peacekeeping operations, passed in the legislature without issue. One other thing to note, however, is that the seats held by the UDC saw a

Table 5.2 Swiss Federal Assembly Seat Distribution as of 2001

Party	Seats in National Council (%)	Seats in Council of the States (%)
UDC	22.6	15.2
PSS	22.5	13.0
PRD	19.9	37.0
PDC	15.9	32.6
Green Party	5.0	N/A
Swiss Democrats	1.8	N/A
PSL	2.2	N/A
Ticino League	0.9	N/A
Other	9.2	2.2

Source: Nohlen & Stöver 2010

significant increase between 1995 and 2001 (12.0% to 22.6%). Although it has no major implications at the party level, this may be indicative of a shift in opinion at the public level.

Public Opinion

The 2001 LAAM revision was subject to two referendums: one concerning the revision on armament, and another concerning the revision on instruction cooperation. The former is the revision that explicitly authorized SAF deployment on missions mandated by the UN and OSCE, and thus is the main focus of my analysis. The latter, however, is also relevant because it reiterates that the SAF may participate in multilateral military training exercises. For both, the voting records can indicate trends in public opinion regarding the content of revision. The referendum on armament passed narrowly with 51.0% in favor and 49.0% against, with a participation rate of 42.52%. The referendum on instruction cooperation also passed narrowly with 51.1% in favor and 48.9% against, with a participation rate of 42.50% (*Chancellerie Fédérale* n.d.). Thus, we can reasonably presume that a significant portion of the public (almost 60%, as indicated by the participation rates) did not find the issue of SAF participation in UN/OSCE peacekeeping operations and multilateral military exercises to be particularly important, at least not enough to vote. Even among those who voted, opinion was evenly split among those against and for; thus, it can be concluded that there was no significant trend in public opinion regarding this issue.

For neutrality in general, in the Annual "Security" Studies poll conducted in 2001, approval rates for each of the statements ("Switzerland should retain its neutrality"; "Switzerland should take a clear stand for one side or the other in political conflicts abroad but remain neutral in military conflicts"; "Switzerland should take a clear stand for one side or the other in military

conflicts abroad") were 82%, 64%, and 29%, respectively (Aeschimann et al. 2004). Compared to 1995, there is a notable increase in support for the second statement, in addition to a slight decrease for the first and a slight increase for the second. Again, in addition to the overwhelming support for neutrality and strong support for taking a side in political conflicts, the 46% overlap between the first two statements indicate that at least almost half of the respondents did not see a conflict of interest between neutrality and taking a side in political conflicts. Similarly, at least 11% of respondents did not see a conflict of interest with neutrality and taking a side in military conflicts.

III. Understanding Government, Party, and Public Preferences

The first noticeable observation that can be made at all three levels in Switzerland is that constitutional amendment is not discussed whatsoever; neither as an issue in itself or as a means for policy abandonment. Although different actors have different understandings of what neutrality is and/or should be, none have considered policy abandonment of neutrality – they all seem to operate on the assumption that neutrality is an elastic concept (although certain parties, particularly the UDC, do have opinions as to whether the concept should be elastic or not).

The story presented at the government level is very similar for both the 1995 LAAM and the 2001 LAAM revision. First, the Federal Council acknowledges in both cases that neutrality is an irrelevant policy in responding to new threats such as economic warfare and terrorism, yet they elect to retain it. In fact, not only do they retain it, but they redefine it to suit their interests in terms of foreign policy, either to minimize their international obligations, to delay participation in an international organization until it has been proven to be reliable and beneficial (likely encouraged by their history with the League of Nations), or to maintain and/or improve

their international reputation. Thus, the statements of the Federal Council seem to be primarily externally, rather than domestically, motivated.

There is nothing particularly surprising about the observations made at the party level at the time of the 2001 LAAM revision. It was simply that the parties in favor of higher international integration held the majority of seats in the Federal Assembly and were thus able to pass a law that reflected their views. The 1995 LAAM, however, presents a much more interesting case, where the parties against international integration could have blocked the law but did not. One possible explanation for this may be that the negotiating powers of the PSS, PLR and/or the Green Party was strong enough to overcome the structural barrier presented to them by the opposing parties, possibly because the status quo consensus under the so-called "consociational democracy" leans in favor of higher international integration. [11]

Finally, at the public level, in both cases the public seemed to be generally ambivalent about sending SAF troops on peacekeeping missions, as indicated by their lack of request of a referendum for the 1995 LAAM and the low participation rate in the referendum for the 2001 LAAM revision. However, this does beg the question of what exactly was different about the LAAM and its subsequent revision that made the latter subject to a referendum but not the former. The most marked difference between the two, as noted in the previous chapter, is the clarification of participation in UN and OSCE mandated missions; thus, a possible explanation may be that the public is more apprehensive when the specific name of an international organization is mentioned, or that they do not approve of the specific international organization in question. On the other hand, there is a very high attachment to neutrality (a support rate of approximately 80% for both years). As mentioned in the previous sections, however, what is

[11] Consociationalism is a political principle, often informal, for reconciling a diversity of views in the political process, avoiding fragmentation along ethnic, religious, or geographical lines in a political entity, and strengthening government stability.

most surprising is not this high rate of support for neutrality, but rather, the fact that a large portion of the public seems to support both neutrality *and* taking sides in a political conflict (and though to a lesser extent, some even support taking sides in a military conflict). This, of course, presents the questions of how this specific portion of the public reconciles these two clearly conflicting concepts. In addition, the percentage of this overlap has increased by 13% between 1995 and 2001, which indicates a growing elasticity regarding the concept of neutrality.

Chapter 6: Conclusions from Comparisons of Japan and Switzerland

This final chapter will bring together the observations made in the previous four chapters, particularly focusing on how the similarities and differences between the political systems of Japan and Switzerland affect the positions and influences of the government, parties, and public.

I. Comparisons at the Government Level

One difference between the political systems of Japan and Switzerland is how the executive body is structured. In Japan, there is one clear leader, the Prime Minister, who selects the members of the Cabinet. On the other hand, Switzerland has a collective executive body of seven members. The seven seats have historically been distributed formulaically among the four major parties that, unsurprisingly, have very different policy platforms. Thus, it is likely that the executive body of Japan will be more oriented towards the policy goals of the Prime Minister and/or the party in power, especially after the 1994 electoral reform, which aimed to lessen "office-seeking" incentives and increase "policy-seeking" and "vote-seeking" incentives among politicians (Pekkanen, Nyblade and Krauss 2013). In Switzerland, on the other hand, we can expect that the executive body's policies will always lean towards the status quo because it consists of representatives of different parties with contrasting views who nevertheless must come to a consensus. In other words, the structure of the two governments suggests that the Swiss government will likely be more responsive to the views of the parties and the public than Japan.

However, in practice, this does not necessarily seem to be the case. While both the Japanese and Swiss governments have refrained from policy abandonment, the reason given by

the Japanese government for this is because they perceive opposition from the public. In other words, the Japanese government has shelved or delayed the issue of constitutional reform because of presumed public opposition. Thus, in general, the government seems to be highly responsive to public pressure regardless of the structure of the political system. In addition, a noteworthy point is the dominant narrative of the Swiss government as to their self-restraint – perceived benefits in terms of autonomy vis-à-vis the international community. The Swiss government is remarkably frank in admitting that they retain neutrality to suit their interests, whether it is minimizing obligations or boosting national reputation. Although this is not a narrative given by the Japanese government, it seems reasonable to hypothesize that the Japanese government may have similar utility in retaining the vocabulary of Article 9, not only in appeasing the more pacifist domestic forces, but also in allowing them to choose which missions to involve the SDF in on a case-by-case basis.

II. Comparisons at the Party Level

One large difference that stands out between Japan and Switzerland is how parties treat the issue of constitutional reform. In Japan, constitutional reform is an issue in itself, with all major parties articulating a clear policy position regarding the Constitution. This can most likely be attributed to the ambiguous origins of the Constitution (i.e. that it may likely have been externally imposed by the postwar occupation forces), which the LDP have featured in their policy platform as the main reason why constitutional reform is needed. Under the leadership of right-wing politicians such as Nakasone and Ishihara, discussion of constitutional reform has become normalized, especially since the 1990s (Schlichtmann 2009). [12] In addition, there are

[12] Yasuhiro Nakasone is a former Prime Minister of Japan (1982-1987); Shintaro Ishihara is a former Governor of Tokyo (1999-2012). Both are known for their right-wing, nationalist views (Ishihara more so than Nakasone).

also other aspects of the Constitution for which reform has been advocated, such as expanding the list of human rights and restructuring the parliamentary system (National Diet Library 2003-2004). This may make it difficult to utilize constitutional reform simply as a method of policy implementation, because it is linked with so many issues. In Switzerland, on the other hand, the parties do not have any articulated position on constitutional reform. As all the amendments that have been made to the Swiss Constitution demonstrate, constitutional reform is simply a commonly used method of political statement/policy implementation, and requires no discussion as an issue in itself. Thus, when compared to Japan, it can be said that Switzerland has one less barrier to overcome if they wish to pursue constitutional reform.

In addition, another significant party-level difference between Japan and Switzerland is the thresholds each parliament needs to clear in order to pass a law or constitutional amendment. In Japan, laws can be passed with a simple majority in both houses or a two-thirds majority in the Lower House, whereas in Switzerland they can be passed with a simple majority in the process – in addition, of course, to the fact that they will be subject to a compromise process in the case that the bill fails, as well as an optional national referendum. This means that, structurally, the parliament of Switzerland is much more accountable to the public than that of Japan. Regarding constitutional amendment, Switzerland has much lower structural barriers – a simple majority in both houses and in the national referendum – when compared to Japan, which must clear a two-thirds majority in both houses and a simple majority in the national referendum. Thus, structurally, Switzerland should find it much easier to pass a constitutional amendment than Japan.

Despite these two observations, however, Switzerland has not utilized constitutional reform as a method to abandon or replace neutrality. This suggests that that there is something

else that compels them to pass re-interpretative laws instead; most likely the increasing elasticity of the concept of neutrality (discussed further in the following section). Moreover, aside from the issue of the utilization of constitutional amendment, the parties in both countries have demonstrated restraint from executing policy abandonment even when there was a sufficient majority in favor of doing so. In Japan, this can be explained by the parties' sensitivity to public opinion, but in Switzerland, it seemed that it was less due to a response to public opinion as it was to the consociational nature of the Swiss government.

III. Comparisons at Public Level

It goes without saying that the public of Switzerland has much more political power than the public of Japan. The Japanese people only have the direct power to block constitutional amendments in a national referendum, and do not have any direct powers vis-à-vis regular laws. The Swiss people, on the other hand, not only are able to directly block constitutional amendments, they are also able to initiate constitutional amendments and block regular laws. This difference, however, appears to be surprisingly insignificant in practice: as indicated in section I on government level comparisons, even in Japan, public opinion has a very strong influence on government policy.

The more significant finding at the public level is that, for both Japan and Switzerland, there is an unexpected overlap between the supporters of the policy in question (Article 9, neutrality) and the supporters of the increased capabilities of the respective armed forces. In Japan, there is a significant and growing percentage of the population who support SDF participation in UN peacekeeping operations but who are against constitutional amendment, largely due to their belief that Article 9 should remain unchanged. In fact, polls suggest that reinterpretation is become increasingly normalized among the public. The population of

Switzerland is more ambivalent regarding SAF participation in international peacekeeping operations. However, there is a significant percentage of the population who support both taking sides in a political conflict as well as maintaining neutrality. This indicates two things: first, there is a growing ambiguity and elasticity in the public's conceptualization of Article 9 and neutrality, and second, there seems to be a high level of attachment among the public to the respective policies, almost as an ideological concept in and of themselves.

V. Conclusion and Directions for Further Research

Returning to my initial hypotheses laid out in Chapter 1, first of all, we can see that there is indeed a common pattern of government self-restraint in both Japan and Switzerland. The narrative each government provides for the reason behind this restraint is different, however, with the Japanese government pointing mainly to public opposition, and the Swiss government pointing to benefits in international negotiations. With regards to the second hypothesis, party resistance, it seems that it is not as significant of an issue, with parties demonstrating restraint in forcibly pushing through a policy and instead yielding to public opinion in the case of Japan, or the status quo consensus in the case of Switzerland. Finally, with regards to public opinion, there is indeed a strong attachment to the respective policies of Article 9 and neutrality – but perhaps more importantly, there is a high level of ambiguity and subsequent elasticity in the public's understanding of what exactly Article 9 and neutrality mean in terms of policy.

There were also a number of additional points that were uncovered that cannot be fully explained in this study. For instance, the consociational nature of the Swiss government system has explained the Swiss tendency to adhere to the status quo at both the executive and parliamentary level, but it was not clear why the status quo leans towards higher international engagement, rather than the other way around. Why is this the case? Another point is that while

the Swiss government has alluded to the utility of retaining neutrality in that it gives them higher autonomy vis-à-vis international society, Japan has not with regards to Article 9. It does, however, seem like an explanation that is applicable to Japan, too. Could Japan be utilizing Article 9 to increase its bargaining power with other nations and international organizations?

Most perplexing, however, is the ambiguity of the public's understanding of the respective policies. There is a clear contradiction between supporting, in Japan's case, both Article 9 and the SDF's increasing overseas capabilities, and in Switzerland's case, both neutrality and the SAF's increasing overseas capabilities. Yet poll numbers indicate that not only does there exist a significant proportion of the public who do exactly this, but also that the proportion has been growing over time. Why is it that the public do not see – or perhaps do not admit to seeing – this contradiction? Taking into account that public opinion is the most influential factor of all in determining the nature of foreign and security policy – in both Japan and Switzerland, it has been shown that the government (and in Japan's case, the parties as well) yields to public opinion – unraveling this puzzle will be crucial in understanding the general nature of the evolution and persistence of foreign policy principles.

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