

Who Wrote the Pacifist Clause (Article 9) of the Japanese Constitution? A Historical Inquiry

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日本国憲法は第九条故に比類なく「平和的」であるが、この条項が現在に至るまで議論の焦点になっていることも事実である。第二次世界大戦直後、このような革新的条項を憲法に書き入れたのは誰だったのか。この主題をめぐる本論は、関連資料を検討し、それが幣原首相とマッカーサー元帥との共同作業の産物であったという結論を導き出そうとするものである。

Article 9 of the Japanese Constitution, which makes the Constitution uniquely "pacific", has been the source of controversial debates in postwar Japan. This paper focuses on the issue of authorship: who actually wrote the revolutionary clause in the wake of the Second World War? The examination of relevant evidence and ensuing discussions suggest that it was primarily a joint product of Japanese Premier Shidehara and American General MacArthur. The implications of this will be considered.

Introduction

The Japanese Constitution has been widely called (particularly in Japan) a "Peace Constitution" (*heiwa kenpō*) mainly because of its Article 9 which renounces war as a national policy as well as the possession of standard military forces. The uniqueness of this pacifist clause largely rests not with its renunciation of war but with its self-imposing ban on military forces, for it was unprecedented in world history (McNelly 1979: 260; 1986: 82). Although the present interpretation of the Japanese government on this latter point of constitution is different (in such a way as to justify the existing Self-Defense Forces), a substantial number of people still believe that Article 9 actually prohibits Japan from maintaining military forces that can engage in armed conflicts.

There has been a long-term debate over the authorship of Article 9 among historians and concerned scholars in other fields. It has been generally agreed by many that the author of the clause was either Kijūrō Shidehara (the Prime Minister of Japan, October 1945-May 1946) or Douglas MacArthur (the Supreme Commander for the Allied Powers and the Head of the Occupation, 1945-1951). Yet, there has been no unanimous view on which should be regarded as the real author. The primary cause of disagreement seems to be twofold: firstly, the precise content of the Shidehara-MacArthur meeting on 24 January 1946 (where they were supposed to have discussed the matter) has not been established; secondly, several important findings and testimonies relevant to the question provide conflicting answers.

Besides, perhaps more importantly, the whole question has been rendered more complicated because of the political implication of the truth for a wider debate about constitutional revision. If Shidehara was the real author, Article 9 is a Japanese product and therefore it has no reason to be modified or deleted on the basis of its "foreign" origin as alleged by the revisionist group within conservative political forces. On the other hand, if MacArthur was the real author, Article 9 can be seen as an "imposed burden" by the victorious United States and therefore a revisionist claim that Article 9 (or the Constitution as a whole) should be reviewed

in accordance with the interests of the Japanese themselves does not seem totally unjustifiable.

However, a historical truth must be established independently from the contemporary political context. Or, if we ever consider a political context, it must be that of the time when Article 9 was born. In this sense the majority of scholars who have supported either Shidehara's or MacArthur's sole authorship have made mistakes. Evidence examined in this paper will suggest that both Shidehara and MacArthur were responsible for the making of Article 9. In other words, the pacifist clause was a joint product of the Japanese and the Americans. While this conclusion is by no means new in the debate, it needs reconfirming with clear evidence since there still exists confusion where a mistaken view can be presented.¹

In what follows, two primary causes of confusion surrounding Article 9's origins will first be examined: Shidehara's silence about his meeting with MacArthur and the unreliability of MacArthur's recollections. Secondly, Shidehara's part in the process of writing Article 9 will be critically discussed in view of some vital pieces of evidence which have often been neglected by contemporary scholars. Thirdly, the examination of MacArthur's qualification as a possible author and the final stages of the drafting process will be undertaken in order to confirm that MacArthur played a vital role in the process. The final section will consider how the question of the Emperor System (*tennô-sei*) drove Shidehara and MacArthur to make a "deal" consisting of the insertion of the pacifist clause in the Constitution and the retention of the imperial institution.

The Causes of Confusion

Shidehara's Silence

On 24 January 1946 Shidehara visited MacArthur on the pretext of wishing to thank the general for the penicillin which had helped cure his illness. But the meeting, which was joined by no one else (for Shidehara was fluent in English), lasted for about two and a half hours (Whitney 1964: 257-258). There is little doubt in view of its date that the meeting was spent to discuss various important political issues including the question of the imperial institution and the re-writing of the Constitution. Since October 1945 when Shidehara formed his cabinet, the imperial institution had undergone one of the most difficult periods in its modern history, faced with a growing anti-imperial movement in occupied Japan. Also, the cabinet's Constitution Problem Investigation Committee (*kenpô mondai chōsa iinkai*) under the chairmanship of Joji Matsumoto (Minister without Portfolio) had been working on the revision of the Constitution. As there was no third party witness to the meeting, the precise content of their discussion can only be told by the two leaders and it is here that one fundamental source of confusion lies. While MacArthur repeatedly told a story that confirmed the initiative of Shidehara in proposing the principles of what was to become Article 9, Shidehara himself never revealed any details of the meeting.

Some scholars argue that Shidehara did in fact write that the idea of the pacifist clause was born in his own mind, the evidence being the following remarks in his memoirs: "irrespective of other people's opinion, for my part, the policy to abolish war and its preparation...was born out of my conviction which I have repeatedly stated on previous occasions" (Shidehara 1951: 213). However, this part

of his memoirs did not specify exactly when the idea came to take the shape of Article 9. The important point is that he never explicitly wrote that he had put such a policy to MacArthur in their meeting on 24 January in the form of a proposed provision in the new Constitution.² One cannot draw any definitive account of his part in the meeting from his own writing. One might consider this silence as a manifestation of a code of conduct that he had learnt through working with Henry W. Denison, an American special advisor to the Foreign Ministry of Japan between 1880 and 1915—a conduct based on modesty and self-denying attitude. (Takemoto 1977: 15-16) Yet, this seems a weak explanation: why did Shidehara not decide to write nothing about the idea of war-renunciation, if he really wanted to perfect that conduct of modesty?

Complicating the matter further is the fact that Shidehara eventually expressed his ardent support for Article 9 in a number of public speeches after March 1946. For example, on 27 August 1946, he addressed the House of Peers:

Article 9...is to express our country's will to occupy the leading position of a thorough peace movement in the world by renouncing war. Still today, as a principle to regulate international relations, some rationalize and legalize a certain degree of use of force. But such a principle will cause the recurrence of the past mistakes, and therefore, it is not what our country is prepared to follow. Civilization and war are not compatible...With this conviction, I agreed to this Constitution Reform Bill [i.e., the new Constitution incorporating Article 9]. (Shidehara Heiwa Zaidan [hereinafter SHZ] 1955: 694)

Although on formal occasions as above Shidehara never clarified his initiative, the uncompromising tone of his words in defense of the clause has naturally given an impression that he might have been its author. Moreover, as will be examined later, he is said to have informally alluded to his initiative before a few friends. But the question remains why he did not publicly admit it. Was it because he was only a supporter, not the author of the article? Or, was there any particular reason for him to hide the truth about the origin of Article 9 from the public? One should address these questions before advocating Shidehara's authorship.

The Unreliability of MacArthur's Recollections

In striking contrast to Shidehara, MacArthur left a vivid recollection of the meeting. Witness the famous passage from his *Reminiscences*:

[In the meeting on 24 January 1946] He [Shidehara] then proposed that when the new constitution became final it include the so-called no-war clause. He also wanted it to prohibit any military establishment for Japan—any military establishment whatsoever. Two things would thus be accomplished. The old military party would be deprived of any instrument through which they could someday seize power, and the rest of the world would know that Japan never intended to wage war again....

...I could not have agreed more. For years I have believed that war should be abolished as an outmoded means of resolving disputes between nations... I have fought with or against the soldiers of practically every country in the world, and my abhorrence reached its height with the perfection of the atom bomb.

When I spoke in this vein, it was Shidehara's turn to be surprised. His amazement was so great that he seemed overwhelmed as he left office. Tears ran down his face, and he turned back to me and said, "The world will laugh and mock us as impractical visionaries, but a hundred years from now we will be called prophets." (MacArthur 1964: 303)

Courtney Whitney, who escorted Shidehara to MacArthur's office, also left an identical description of the event.³ It was a moving and dramatic story, and thus would seem ideal to some people for the origins of such a revolutionary pacifist clause as Article 9—but only if it is true.

Many historians have in fact questioned the accuracy of this anecdote. To be sure, there were a few strong incentives for MacArthur to place the responsibility for the idea of the pacifist clause on the Japanese premier even irrespective of what was actually said in their 24 January meeting. One was that it was strongly desired by the occupation authorities that the draft Constitution was presented to the occupied nation as a Japanese rather than American product⁴ (although MacArthur had been prepared to put it to a national referendum as a GHQ [General Headquarters of the Allied Occupation Forces] draft in case it was rejected by the Japanese government.)⁵ In particular, as Article 9 clearly negated the sovereign right of Japan to wage war, even a defensive war (as it was interpreted then), its idea was preferred to have come from the Japanese. Otherwise, it was feared, there would emerge a popular resentment against the imposition of such a constitutional limitation by a foreign ruler. (Indeed, post-occupation Japan has seen the rise of an anti-Constitution movement instigated, most persistently, by conservative/nationalist forces within the Liberal Democratic Party.)⁶

The other incentive for MacArthur was the political context in the United States of the time when the above-mentioned recollections were written. Theodore McNelly notes that "by 1953 most American leaders acquainted with Article 9 of the Japanese constitution regarded it as a blunder." (McNelly 1989: 52) A typical example of such criticism was made by Richard Nixon in 1953, then the Vice President of the United States. Nixon told the America-Japan Society in Tokyo:

It wasn't the Japanese, although they were willingly to embark on that program, but it was at the insistence of the United States that Japan disarmed.

Now if disarmament was right in 1946, why is it wrong in 1953? And if it was right in 1953, why doesn't the United States admit for once that it made a mistake? And I'm going to do something that I think perhaps ought to be done more by people in public life. I'm going to admit right here that the United States made a mistake in 1946. (Nippon Times 1953: 8)

In the circumstances, MacArthur was forced to defend himself. To be sure, he had never claimed responsibility for the war-renunciation clause (which laid down the legal basis of Japan's disarmament); since 1950 he had advocated that the Constitution actually did not negate Japan's sovereign right to self-defense, in an apparent shift from the original interpretation in the growing shadow of the Cold War. In his New Year's Address of 1950 to the Japanese people, MacArthur stated:

Should the course of the world events require that all mankind stand to arms in defense of human liberty and Japan comes within the orbit of immediately threatened attack, then the Japanese too, should mount the maximum defensive power which their resources will permit. Article 9 is based upon the highest moral ideals, but by no sophistry of reasoning can it be interpreted as complete negation of the inalienable right of self-defense against unprovoked attack. It is a ringing affirmation by a people laid prostrate by the sword, of faith in the ultimate triumph of international morality and justice without resort to the sword.

It must be understood, however, that so long as predatory international banditry is permitted to roam the earth to crush human freedom under its avarice and violence, its high concept will be slow in finding universal acceptance. (MacArthur 1964: 304)

Why, then, did he have to defend himself? It was largely because, as Nixon here explicitly maintained, the American leaders perceived Article 9 as an American product and moreover, a mistake for which the Supreme Commander was implicitly responsible. Viewed in this light, MacArthur might have felt it necessary to continue stressing the Shidehara's authorship to dismiss such an accusation. This may be too cynical a view. But a number of historians have come to share it (McNelly 1989; Hata 1976; Harries 1987; Kataoka 1991).

Finally there is another point to be made in relation to the unreliability of MacArthur's recollections in general. His *Reminiscences* has been subject to severe criticism by contemporary historians and biographers for exaggerations, interpolations, and even fabrications. John Dower points out various errors in the memoir pertaining to Emperor Hirohito and an apparent gap between MacArthur's public and private appraisals of the Emperor. While in the memoir the general described him as "an Emperor by inherent birth" and "the First Gentleman of Japan in his own right" (MacArthur 1964: 288), in private he is said to have called him a "Complete Charlie McCarthy" after the puppet of a very popular American ventriloquist (Dower 1995: 346). Masamichi Morikawa's biographic study of MacArthur's life even finds some serious "lies" in the memoir. For example, the general delineated in some detail active battlefields of the Russo-Japanese War in Manchuria, China, which he "saw" as an "observer". But the fact is that when he arrived in Japan on 29 October 1905 to join his father, Arthur, who had been on observer mission since March that year, the actual combat had already terminated. Therefore, MacArthur's vivid description of the fighting between the Russian and the Japanese troops turns out to be a complete fabrication. (Morikawa 1978: 72) All in all, one needs to be very careful in using his recollections to reconstruct past events—including the 24 January meeting with the Japanese premier.

Shidehara's Authorship: Re-examination of Indirect Evidence

The perceived problems with "direct evidence" (such as MacArthur's memoirs) inevitably lead us to consult "indirect evidence", i.e., the recollections and testimonies of people who were close to the affair in question. But those of MacArthur's subordinate officials will not be examined here, as they are more or less identical to their former commander's or have already been referred to in the existing literature. The following discussion will therefore focus on the recollections of the Japanese who worked closely with Shidehara at the time. These invaluable pieces of evidence were most comprehensively collected by the Constitution Investigation Committee (*kenpō chōsa-kai*) which conducted a seven-year period investigation between 1957 and 1964 on the origins and provisions of the Constitution to see if there was any defect requiring the remedy of its revision. The re-examination of some of the evidence will throw doubts on the view of Shidehara's sole authorship as advocated by some historians, but confirm his role as an initiator.

Evidence and Testimonies That Raise Suspicions

The majority of relevant writings of those who were close to Shidehara deny, or are at least quite skeptical about, Shidehara's authorship. One salient example is the diary of Hitoshi Ashida, the Social Welfare Minister of the Shidehara cabinet. On 21 February 1946 Shidehara visited MacArthur again after the inconclusive cabinet deliberation of the GHQ draft two days earlier. The cabinet had been split over the acceptance of the American draft, and Shidehara came to check how serious the commitment of the Americans to it was. The following day the Prime Minister reported his conversation with the Supreme Commander to the cabinet, which was recorded in the Ashida diary as follows:

MacArthur started, as usual, his speech: "I am sincerely working for Japan's sake. Since I met the Emperor, I have endeavored to safeguard the Emperor...the Soviet Union and Australia are worried that Japan will carry out a war of revenge, and so are opposed to it [the preservation of the Emperor System]....What we call basic forms are Article 1 and the war-renunciation clause of the [GHQ] draft. The reason why the popular sovereignty is clearly stipulated is to declare the principle that the Emperor willingly occupies the position [of monarch] based on people's trust. This way, I am convinced, the authority of the Emperor will be enhanced."

"Also, a provision concerning the military force is removed [from GHQ draft]. At this juncture, the Japanese government should care about concerns of foreign countries rather than internal opinions. What will foreign countries say if a provision concerning the military force is retained? They will obviously think that Japan is planning to rebuild its armed forces. Therefore, for Japan's sake, Japan should rather take the moral leadership by clearly stating that it renounces war as a national policy as in Chapter 2 [of the GHQ draft]."

Then Shidehara interrupted and said: "You talk about leadership, but no other country will follow."

MacArthur replied: "Without followers, Japan will have nothing to lose. The fault lies with those who do not follow...but if you do not accept the American draft, Japan will lose the best chance [to save the Emperor]." (Ashida 1986: 78-79)

Shidehara's interruption in this citation is interesting. It seems to show rather explicitly his suspicions about the (moral) merits of the unilateral war-renunciation clause as expounded by MacArthur. If Shidehara had been the one who had enthusiastically proposed the inclusion of such an article in the Constitution, his attitude here would have been contradictory or incomprehensible. Did he really propose the principles of Article 9 to MacArthur on 24 January?

Apart from Ashida, other members of his cabinet had their doubts. Shigeru Yoshida (Foreign Minister), Wataru Narahashi (Cabinet Secretary), Tatsuo Satō (Director General of the Cabinet Legislation Bureau) were unequivocally skeptical of the view that their Prime Minister had gone so far as to propose Article 9 himself, although they admitted that he might have found some congenial spirit with MacArthur (Kenpō Chōsakai Shō-iinkai [hereinafter Kenpō Chōsakai] 1961: 262). Jōji Matsumoto, the minister in charge of constitutional revision, completely denied any initiative on the part of Shidehara, citing that he had given his consent to Matsumoto's explanatory notes submitted to the GHQ in defense of the Japanese draft (which retained military-related clauses.) (ibid.: 265) In the light of these testimonies it seems difficult to say that Shidehara was *the* author of Article 9.

Shidehara's Role as an Initiator

Nonetheless, there is other evidence which supports the thesis of Shidehara's authorship. On 30 January 1946, a week after his meeting with MacArthur, the cabinet held the first intensive meeting to discuss the draft Constitution prepared by Matsumoto's committee. According to the recollections of Toshirō Irie, then the Deputy-Director General of the Cabinet Legislation Bureau, when provisions concerning the military forces (Article 11 and 12) of the Matsumoto draft were examined, Shidehara stated: "It is for sure that the Allied Powers will murmur about preserving the military clauses in the Constitution. I now find it problematic to retain these provisions on the premise that one day Japan's military forces can be re-established" (Irie 1975: 72-73). He repeated the same argument later in the meeting. Viewed in this light, Shidehara apparently knew that the Allied Powers would grumble about the retention of the military provisions in the new Constitution, and thus repeatedly insisted on their deletion. This indicates the possibility that Shidehara and MacArthur had discussed the matter in their 24 January dialogue.

For this and other reasons, Irie argues that Shidehara was "the initiator [of Article 9] per se." (ibid.: 97) However, it is worthwhile noting that Irie did not identify Shidehara as the author of Article 9. Why? The reason may be simple. At the meeting on 24 January, Shidehara did not know that the GHQ would write its own version of the Japanese Constitution. Nor did MacArthur intend, at that point, to do so. Matsumoto's committee was solely entrusted with the task until 1 February.⁷ So any interpretation which suggests that "Shidehara presented his article to MacArthur on 24 January in a well-conceived, unique set of sentences" (Schlichtmann 1995: 54) is not merely speculative, but erroneous. Since his cabinet alone was preparing the draft, it is strange to think that he "probably made a definite proposal, and may already have prepared the wording of what was to become the pacifist clause in the Constitution" and "present[ed] it to MacArthur." (ibid.: 52) If Shidehara had ever prepared such wording, would he not have first presented it to Matsumoto? Also, under the Meiji Constitution, would he not have had to consult such an important matter with the Emperor?

There is another vital evidence that informs us of Shidehara's (allegedly) own account of the 24 January meeting: the so-called "Hamuro Memo".⁸ According to this document, Shidehara

was talking about various issues. Then he started to disclose what he had thought over [while he had been ill]—an ideal vision of the world without arms and the renunciation of war as the only way to make all the nations not to wage war. MacArthur suddenly stood up, grabbed Shidehara's hands, and, with tears in his eyes, said: "That's right." Shidehara was a little surprised.

Further, Shidehara seemed to have talked out other thoughts such as that Japan should clearly declare to the world that she would never go to war again—this is the only thing Japan could say to the world and the only way to retrieve [international] confidence in a defeated country. (Kenpo Chosakai 1961: 268)

This, again, denotes that the idea of war-renunciation was among the topics discussed on 24 January. Yet, there is one point which deserves particular attention. If this record is fairly accurate, then the renunciation of military forces, which was to become the most controversial aspect of Article 9 in connection with Japan's right of self-defense, may not have been discussed by Shidehara and MacArthur.⁹

To be sure, the incorporation of a provision which renounces war as a national policy in constitutions was not really new: witness the French revolutionary government in the late 18th century, and such countries as Brazil, Spain and the Philippines which by 1946 had already adopted similar war-renunciation clauses in their respective constitutions (SHZ 1955: 692). The Kellogg-Briand Pact of 1928, signed by more than 50 countries by then, had also outlawed war as a means to settle international disputes. Given their professional backgrounds as diplomat and military commander, both Shidehara and MacArthur must have known these precedents. After all, it is not surprising, nor particularly dramatic, that they were united in having Japan declare it to the world.

However, Shidehara must have been surprised, if not shocked, later at receiving the GHQ draft and discovering that one of its provisions not only renounced war but also forbade Japan's possession of standing military forces. Some have suggested that MacArthur had misinterpreted, intentionally or unintentionally, the Japanese leader's message. For example, Shidehara's son, Michitarô, suspects that his father used the word "*seikaijû* (all the nations)" to clarify his view that war-renunciation should be declared multilaterally and simultaneously (to be effective in practice), but it was purposefully replaced by a unilateral Japanese renunciation (Shidehara Michitarô 1980: 15). Another possibility has been pointed out that MacArthur failed to understand Shidehara properly, confused with the meaning of war-renunciation and arms-renunciation (McNelly 1979: 215, 259; Kenpô Chôsakai 1961: 266).

In summary, while to disconnect completely Shidehara from the origins of Article 9 does not appear convincing, it seems equally doubtful, in the light of the evidence examined here, that he can be reckoned as the sole author of the provision. Rather, it is more appropriate to view that he was an "initiator" of the process leading to the birth of Article 9. Commencing the process by just talking enthusiastically about the value of war-renunciation would not automatically confer upon him the full responsibility. Then, what was MacArthur's role in the process? Did Shidehara play any part in the making of Article 9 after 24 January? These questions should be addressed in order to draw a more accurate and balanced picture of the affair.

The Making of the Final Version of Article 9

MacArthur's Qualifications as a Possible Author

MacArthur was essentially a professional military man. For this reason, those who support Shidehara's sole authorship tend to disqualify him as a possible author of such a pacifist clause as Article 9 (Schlichtmann 1995: 56). However, such disqualification cannot be easily justified in the light of some evidence. At the Japanese surrender ceremony on the *U.S.S. Missouri* on 2 September 1945, MacArthur said: "The utter destructiveness of war now blots out this alternative [way of the crucible of war]." Here he already regarded war as an outmoded means to settle international disputes. Moreover, after April 1946 the general continued to advocate the adoption of a provision similar to Article 9 of the Japanese Constitution by other countries. In April 1946, addressing the first gathering of the Allied Council of Japan (ACJ) in Tokyo, he contended:

The United Nations Organization...can only survive to achieve [its noble aims] if it accomplishes as to all the nations just what Japan proposes unilaterally to accomplish through this constitution—abolish war as a sovereign right. Such a renunciation must be simultaneous and universal. It must be all or none. (McNelly 1989: 45)

Even after being dismissed from the Supreme Command in Japan, MacArthur did not stop his efforts for this particular cause. In April 1951 he told the US Congress that "I have long advocated its [war's] complete abolition as its very destructiveness on both friend and foe has rendered it useless as a means of settling international disputes." (ibid.: 48) In December 1952, he also urged "the United States and the Soviet Union to undertake to endeavor to have incorporated in their respective constitutions a provision outlawing war as an instrument of national policy, with all the other nations invited to adopt similar moral limitations." (ibid.: 49) One can infer from the above-mentioned statements that MacArthur was consistently in favor of the ideas underpinning the war-renunciation clause. Disqualifying him on the basis of his military background alone is not convincing.

The First Phase: GHQ's Composition

The process of the making of Article 9 can be broadly divided into two phases: in the first phase, the fundamental principles were laid down by MacArthur on which the first version of the clause was composed by his subordinate officials; and in the second, significant amendments to its text were proposed and added on the initiative of Hitoshi Ashida with the tacit consent of GHQ. The following brief review of the process will show how small a part Shidehara actually played in the process that engendered the final version of Article 9.

The very original phrases of the clause were presented by MacArthur on 3 February 1946 as one of three basic principles with which the GHQ's Constitution draft should be threaded:

War as a sovereign right of the nation is abolished. Japan renounces it as an instrumentality for settling its disputes and even for preserving its own security. It relies upon higher ideals which are now stirring the world for its defense and its protection.

No Japanese Army, Navy or Air Force will ever be authorized and no rights of belligerency will ever be conferred upon any Japanese force. (Takayanagi et.al. 1972: 99-100)

As these principles were announced only ten days after the MacArthur-Shidehara meeting on 24 January, it is possible that Shidehara had exerted some influence upon their wording through the American general.¹⁰ Yet, beyond this point Shidehara had virtually no opportunity to affect the wording.

Immediately following the presentation of MacArthur principles, the steering committee for the draft writing was set up within the Government Section (GS) of GHQ. Under the leadership of Rowell, Kades and Hussey the draft was quickly completed by 12 February. "Article 9" in this draft read as follows:

War as a sovereign right of the nation is abolished. The threat or use of force is forever renounced as a means for settling disputes with any other nation.

No army, navy, air force, or other war potential will ever be authorized and no rights of belligerency will ever be conferred upon the State.

In comparison with MacArthur's original phrases, one sentence which clearly indicated the renunciation of Japan's right of self-defense was deleted because

drafters found the whole idea too idealistic to be stipulated in the Constitution (McNelly 1979: 258). After the GHQ draft was presented to the Japanese government, the Japanese officials attempted to lower the posture of the war-renunciation clause by suggesting its transfer into the Preamble. But this effort met with no success (Takayanagi et.al. 1972: 392).

Having been granted the Emperor's approval on 22 February, the Japanese government announced its new draft, a duplication of the GHQ draft in essence—on 6 March, which was then approved by the Privy Council on 8 June. The draft, now named "the Constitution Reform Bill" was subsequently brought up for review by the House of Representatives on 25 June.

The Second Phase: the Ashida Amendment

It was during the deliberations of the draft in the House of Representatives that significant amendments were made to the text of Article 9 slightly rewritten by the Japanese government. The amendments were proposed by Ashida, then the chairman of a special committee of the House on the constitutional revision. The Ashida amendments were passed by the House on 21 August, with an informal approval of GHQ having been given a little earlier.

Although the Ashida amendments were initially deemed by many observers in Japan as changes of a minor nature, they later turned out a potentially radical alternation to the meaning of Article 9. The final version (current wording) of Article 9 incorporating the Ashida amendments (in *italics*) is as follows:

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.

McNelly argues that "Paragraph 1 of Article 9 as amended may be interpreted to mean that war and the threat or use of force are renounced only as a means of settling international disputes. War and force might therefore be permissible for self-defense. The phrase at the beginning of paragraph 2...could be interpreted as qualifying the renunciation of land, sea, and air forces. Thus, although armaments for settling international disputes are banned, armaments for other purposes, such as self-defense, are not renounced" (McNelly 1987: 92-93). In fact, this interpretation is very close to that of the Japanese government in justifying the creation and maintenance of SDF after 1951.

At the time the Ashida amendments were discussed, the "official" standpoint of the government (now under Prime Minister Yoshida) as to Article 9 was that the clause did not repudiate Japan's right of self-defense but prohibited the country from maintaining any kind of "war potential" even to protect this right (the so-called "Kanamori interpretation"). Although the amendments strongly connoted contradiction to this stance, both the Japanese government and GHQ gave them acquiescence. Under the circumstances, some members of the Far Eastern Commission (FEC), a superior international organ which was supposed to supervise the occupation policies, were outraged. The Chinese delegate to FEC regarded the revised Article 9 as "a trick by the Japanese militarists to deceive the world into

thinking that Japan was absolutely renouncing military forces when actually they planned to rearm the country using the loopholes created by the textual changes in the constitution" (McNelly 1987: 94).

Consequently, FEC insisted that the establishment of civilian control over the military be clearly stipulated in the Constitution. Premier Yoshida initially resisted complying with this demand for there would be no military personnel in Japan as the result of Article 9. But FEC was adamant on the issue and GHQ officials finally persuaded members of the House of Peers, who were then debating the Constitution, to include such a provision. In early October 1946, the draft Constitution including the amended Article 9 as well as the civilian-minister clause (Article 66)¹¹ was approved by both the Houses of Peers and of Representatives. The Emperor promulgated the Constitution on 3 November.

What can be inferred from the preceding review is that Shidehara could not possibly be held accountable for the wording of what we know as Article 9 today. As long as there is no evidence to prove that Shidehara authored MacArthur's principles, MacArthur remains as the first candidate for having spelled out the pacifist clause though in a crude form. Moreover, Shidehara could not play any vital role in the process after he went out of office in May 1946. A most balanced scenario would be that while Shidehara might have first inspired MacArthur with his talk on 24 January (thus initiating the whole process), it was the latter who actually prepared the original wording of Article 9. In short, both of them were key figures with different functions in the making of the pacifist clause.

A Political Deal: Article 9 In Exchange for the Retention of the Imperial Institution

The Imperial Institution in Crisis

Finally, it is essential to consider the political context of occupied Japan in which Article 9 was born. This consideration will make it even clearer why Shidehara and MacArthur have to be held co-responsible for the clause. To indicate the main point first, Article 9 was born to primarily serve the realization of their most important political objective at the time, namely, the retention of the imperial institution.

After a row over the release of political leaders with the occupation authorities sank the Higashikuni cabinet, Shidehara formed his own, for the first time in his political career, on 9 October 1945. The following day witnessed the release of all the political prisoners. The majority of them were the sturdy, angry communists and they wasted no time in launching an anti-imperial campaign. Upon their release, the two principal communist leaders, Yoshio Shiga and Kyūichi Tokuda, issued the defiant statement "Appeal to People" which declared that one of the primary goals of the reviving Japan Communist Party be "the overthrow of the Emperor System" (Tokuda et.al. 1945).

The communist move might not have surprised the population (particularly its conservative segment) as the communists' anti-imperial ideology had been well-known since the pre-war time, but its favorable receptions by the media surprised them. Having been similarly "released" from the repressive regime, the Japanese press was generally sympathetic to the radical dissenters and prepared to give them a fair space in their respective instruments. Moreover some newspapers started to

publish their own reports and editorials critical of the imperial authority. The term *tenno-sei* (the Emperor System), whose mere use had been banned in wartime because of its communist origin, appeared rather frequently in headlines (Ikeuchi and Okazaki 1956: 111).

In this grim social climate, the Shidehara cabinet adopted a resolution entitled "Regarding the War Responsibility" on 5 November 1945. The purpose of announcing this document was essentially to refute suspicions and allegations arising within the public about Emperor Hirohito's accountability for the war. The first three "General Principles" of the resolution were as follows:

1. It is believed that the [Japanese] Empire waged the Great East Asian War for inevitable reasons in view of the surrounding situation;
2. His Majesty the Emperor has persistently desired a peaceful conclusion of negotiations with the United States of America [prior to the attack on Pearl Harbor in 1941];
3. His Majesty the Emperor did not reject decisions made by the Government and the War Operation Headquarters (*daihonei*) in regard to the commencing of the war and the conduct of the war operations in compliance with the custom established in the application of the [Meiji] Constitution. (Awaya ed. 1980: 341)

In the meantime, GHQ embarked upon a major reformation of the imperial institution: on 15 November, the property of the imperial household was frozen; on 24 November, the exceedingly empowered Department of the Privy Seal (*naidaijin-fu*) was dismantled. The anti-Emperor campaign mobilized by the communists reached its height in December 1945 when it organized a nation-wide "People's Rally to Accuse War Criminals". The rally held in Tokyo was attended by an impressive five thousand supporters, and the name of Emperor Hirohito was denouncingly cited as one of the principal war criminals together with hundreds of other war-time leaders across the social spectrum (Gayn 1981: 11-12).

The Emperor's new year rescript of 1946, more popularly known as "Declaration of Humanity" (*ningen sengen*), served to mitigate the rather hostile social climate against him, yet it was still uncertain whether the Emperor could escape from being indicted at the international war crimes tribunal due to open in May that year. Nor was it certain whether the imperial institution itself would be allowed to exist. On 23 January, MacArthur received a memorandum from Washington, which stated that "the Australian delegation at the United Nations War Crimes Commission meeting in London had begun to make preparations for the prosecution of Emperor Hirohito and sixty-one wartime leaders as major war criminals" (Nakamura 1992: 90).

This was the socio-political context in which Shidehara and MacArthur met on 24 January. Accordingly, it is not unreasonable to assume that their foremost concerns at that time were directed at the issues of the Emperor and the imperial institution. It is probable that they discussed matters concerning the new Constitution too, but as one of the "means" to secure their most important objectives.

It is also necessary to remind ourselves of the fact that MacArthur sent his decisive message regarding the treatment of Emperor Hirohito to Washington on 25 January—the next day following his dialogue with the Japanese premier. In this message, the Supreme Commander strongly objected to the indictment of the

Emperor, and even threatened the political leaders in the capital with the opinion that if the Japanese monarch was to be tried as a war criminal, "a minimum of a million troops would be required which would have to be maintained for an indefinite number of years" (Ward 1987: 16). This was an absolutely unacceptable option for the American leadership as the public pressure to demobilize soldiers was mounting at home. As far as Washington was concerned, the political decision not to indict the Emperor was effectively taken by this message.

It seems that the new Constitution was deemed to serve the accomplishment of the other objective, namely, the preservation of the Emperor as an institution. Viewed in this light, one can understand the significance of several basic principles of the new Constitution (drafted by GHQ) including that embodied in Article 9. In addition, MacArthur had to encourage (or even threaten) the Japanese government to accept the new Constitution as quickly as possible, for fear of negative interference from external organs such as FEC and ACJ whose leaders had been very critical of his occupation policies.¹²

Shidehara's Decision

In a sense, Shidehara and MacArthur made a political deal. However, it was not "MacArthur trading acceptance of the American draft of the Constitution in return for complying with the Prime Minister's request to promote and introduce Article 9" (Schlichtmann 1995: 56) but Shidehara trading the preservation of the person and institution of the Emperor in return for acceptance of Article 9. Peace-oriented though Shidehara was, he probably stopped short of fully supporting all the principles of Article 9. Specifically speaking, he did not seem to have been comfortable with the ideas of unilateral war-renunciation and of arms-renunciation. Thus, in the 21 February meeting, he voiced strong skepticism about the effect of "the moral leadership", which the American general claimed would guarantee Japan's security.

Nonetheless, as Shidehara came to know that Article 9 was one of the fundamental propositions for the retention of the imperial institution, he decided to bolster MacArthur's draft. Also, after resigning from office in April 1946 which gave him a freer political position, he seemed to have decided to express his ardent support for the original spirit of Article 9. It was probably not only because he found little difficulty in doing so given his personal inclinations but also because he was a responsible politician who would not easily change his stance on decisions made under his full accountability. Therefore, on a number of subsequent occasions until his death, he urged the Japanese people to adhere to the pacifist clause. It is rather ironic that MacArthur who had originally expounded the utility of taking moral leadership by adopting Article 9 eventually abandoned that position, whereas Shidehara, who had initially been skeptical about such utility, later became the foremost proponent of it. The author of his official biography also arrived at the same conclusion (SHZ 1955: 692-697).

Conclusion

The foregoing discussion indicates that Article 9 was a joint product of Shidehara and MacArthur, and also was the product of the particular political context of early occupied Japan. The key factor in the whole process was the issue of

the Emperor, which set limitations upon the framework within which Shidehara and MacArthur deliberated their policy objectives and the ways of implementation.

For Shidehara as the Prime Minister of Japan and a loyal "subject" of the Emperor, preventing the Emperor from being indicted as a war criminal and the imperial institution from being abolished had to be secured at any cost. Also, as a senior diplomat, he believed that the past mistake of Japan, waging a war of aggression, must not be repeated. Fully aware that even after the most devastating world war international society had not reached the point of renouncing war as a policy tool, Shidehara put the idea of war-renunciation to MacArthur, probably with reference to the new Constitution. The rationale for the proposal was that if Japan gave up the sovereign right to wage war, the world would be assured that a new Japan was safe even with the imperial institution.

For MacArthur as the Supreme Commander of the occupation forces, it had become clear by 24 January 1946 that the retention, or rather, utilization, of the Emperor was vital to rendering the occupation successful. It might have been primarily for this reason that he welcomed the Japanese premier's suggestion of a war-renunciation clause as a condition for the retention of the Emperor. As he embarked upon writing his own draft of the new Constitution later, he extended Shidehara's idea even further to incorporate the principle of arms-renunciation, which would perpetuate the demilitarization of Japan already completed under the occupation. Shidehara was evidently confounded by this unexpected development of his own initiative, but in the end decided to accept it for the sake of the monarchy.

Unfortunately, the truth about the origin of Article 9 was, from the very beginning, destined to be distorted. Despite his significant role as the "initiator" in the making of the pacifist clause, Shidehara never publicly admitted it. It was probably because he had not been its sole author and also because to reveal the truth would have caused some awkward problems. The nationalists in post-war Japan would have been infuriated that the Emperor had been exchanged for a provision which they regarded as a humiliating burden imposed by the United States. Some sections of the populace might have been disappointed that Article 9 did not emerge out of their genuine desire for world peace that representatively manifested itself in Shidehara's mind.

Perhaps, out of similar concerns, MacArthur immediately attributed the full responsibility for the clause to Shidehara and presented himself as a mere supporter on the American side. As Article 9 became even more controversial in later years and in a manner unfavorable to him, he continued to firmly maintain this position.

Despite its sheer idealism for peace, the process in which Article 9 was born was not unaffected by mundane political bargaining. Yet, if the pacifist clause was the joint product of the Japanese and the Americans, it can be rendered as a symbol of peace between the two nations rather than merely that of Japanese pacifism. Putting aside the details of the creation process, the very message of Article 9—the denial of war—is worthy of positive appreciation by many nations, as the two authors might have genuinely believed in 1946.

Notes

¹ For example, Klaus Schlichtmann strongly indicates that Shidehara was the sole author, (Schlichtmann 1995: 43-67) while other historians such as Ikuhiko Hata,

Tetsuya Kataoka, Merion and Susie Harries and Richard B. Finn have all suggested the opposite. (Harries 1987: 213-219; Kataoka 1991: 36-37; Finn 1992: 103)

² The official biography of Shidehara denotes this: "What did Shidehara think about [the disputes over the authorship of Article 9]? How did he really act then? It is a pity that there is no clear evidence." (Shidehara Heiwa Zaidan 1955: 691) On one occasion (in autumn 1950), Tokujirô Kanamori, the Director of the National Diet Library, requested Shidehara to make a record of his account of the occupation process. But he declined saying, "It is too early to tell the story." (691) As he died the following year, no authentic account was produced.

³ Whitney recounted: "MacArthur explained what it [the meeting] was: Prime Minister Shidehara...had proposed that when the new constitution was drafted, it contain[s] an article renouncing war and the maintenance of a military establishment once and for all. By this means, Shidehara had said, Japan could safeguard itself against the re-emergence of militarism and police terrorism and at the same time offer convincing proof even to the most skeptic of the free world that Japan intended to pursue a future course of pacifism...MacArthur could not have agreed more" (Whitney 1964: 258).

⁴ In reply to "Note of Japanese government of August 10 [1945]," the Allied Powers had declared: "The ultimate form of government of Japan shall, in accordance with the Potsdam Declaration, be established by the freely expressed will of the Japanese people." In view of this statement, the new Constitution which would institutionalize the new political structure of Japan was seen to have been made by the Japanese themselves.

⁵ On 13 February 1946 when a GHQ draft was unexpectedly handed to the Japanese officials, Whitney, the chief of the Government Section of GHQ said: "The Supreme Commander is determined that this constitutional issue shall be brought before people well in advance of the general election and that they shall have full opportunity freely to express their will on constitutional reform. General MacArthur is prepared...to leave the sponsorship of the document to your government with his firm approval, but failing in that, if necessary, he is prepared to lay it before the people himself" (Takayanagi et.al. 1972: 332-334).

⁶ Since 1952 campaigns for the revision of an 'imposed' Constitution have been maintained by conservative politicians and some newspapers such as the *Yomiuri Shimbun*. In 1953 the Japanese government attempted to put this question to a national referendum (but the plan was retracted even before discussed in the Diet) The most significant event was the establishment of the Constitution Investigation Commission in 1957 under the initiative of the LDP government led by Premier Kishi. However, after seven years of comprehensive investigation and deliberations, the Commission found no reason for the Constitution to be revised. Since then the revision campaign had waned, but it has more recently been revived due partly to growing debate over the relationship between Japan's international roles and constitutional limitations.

⁷ On 1 February 1946 Nishiyama Ryûzô, a journalist for the *Mainichi Shimbun*, scooped the content of the draft Constitution just approved by the Shidehara cabinet.

Examining this draft, GHQ reckoned that the Japanese government would not be able to propose a "democratic" Constitution. Also, through monitoring the public opinion on the constitution question, GHQ concluded that a more progressive constitution could win the majority support. In the circumstances, MacArthur decided to have his officials write GHQ's own draft.

⁸ This memo was based on what Shidehara had apparently told his close friend, privy councilor Komatsuichi Ôhira, about the meeting. Ôhira later had his daughter, Michiko Hamuro, record the story.

⁹ Incidentally, the latter part of the Hamuro memo seems to correspond not to the 24 January meeting but to the 21 February one, because the words 'this draft constitution' (*kono sôan*) appeared. There existed no draft of any kind when Shidehara and MacArthur met on 24 January.

¹⁰ In fact, Rowell and Lisor, two GHQ officials who participated in the writing of the GHQ draft, recalled that, when MacArthur's principles were shown to them, Whitney told them that the war-renunciation part had been proposed by the Japanese government. (Kenpô Chôsakai 1961: 271)

¹¹ The second paragraph of Article 66: 'The Prime Minister and other Ministers of State must be civilians.'

¹² MacArthur had been uneasy with the arrival of the fact-finding mission of FEC on 9 January 1946, which had criticized him for being too "soft" on the Emperor question (Takeda 1988: 134-136). It is well-known that MacArthur was, from the very beginning, unhappy with the creation of FEC and ACJ as advisory bodies to GHQ in Tokyo. MacArthur later described FEC as "little more than a debating society" and ACJ as "nuisance and defamation" (MacArthur 1964: 293).

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