Japanese ‘War Legislation’: International and Domestic Threat Assessment

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The two Japanese security laws which came into force on March 29, 2016, have faced severe domestic and international criticism. They are seen as representing a dramatic policy change in violation of due process and international norms, and representing a threat to international peace and security. This paper finds that while the direct implications of the “war” legislation are neither threatening nor without precedent, what the legislative process says about the nature of governance under Abe is deeply troubling. The disdain shown by the Abe administration to due process and constitutional procedures is what threatens domestic and international governance stability.

Keywords
Japan, Security Legislation, Threat, Legality, Governance, Peace, Article 9

1. Introduction

The Japanese National Diet passed two contentious security laws in September 2015. Entered into force on March 29, 2016, these laws have been heralded as marking a historic change in Japan’s pacifist postwar defense posture.¹ The legislation faced stiff opposition and fierce criticism in and out of Japan. Indeed, Liu Tian of the

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Chinese state-run Xinhua media organization claimed “Japan’s security laws push Asia-Pacific region into abyss of instability.”

This paper assesses the extent to which the legislation represents a significant departure from preexisting Japanese defense postures. It then considers whether such ‘war legislation’ poses a threat to Japan’s neighbors and regional stability. This is followed by international legal justifications for security legislation reform, and domestic legal challenges. Finally, the paper asks what the legislation tells us about the nature of the current Abe administration in Japan.

The research tells us that while many commentators overestimate the direct international implications of the legislation, the legislative process under the Abe administration is deeply troubling. Even if, under international law, Japan is allowed to pass such legislation, and it does not pose a significantly heightened threat to neighboring States, the disdain shown by the Abe administration to due process and constitutional procedures could manifest in domestic and international instability.

2. A Watershed Moment?

The “Permanent International Peace Support Law” aims at facilitating the deployment of Japan Self-Defense Force (“JSDF”) logistical support assets abroad. The “Legislation for Peace and Security” is supposed to provide a foundation for reinterpretation of the constitution by amending ten existing laws. They have caused outrage in the region. In theory, the new legislation lifts the ban on collective self-defense, allowing Japan to defend its allies, even when not under attack itself. Proclaimed a “landmark defense policy shift in a country with a war-renouncing Constitution,” it is doubtful whether it amounts to ‘war legislation,’ and whether it marks a significant break with pre-existing policy-making.

As pointed out by Jennifer Lind, while the legislation represents a ‘significant moment’ in the evolution of Japanese national security, it does not mark “Year

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