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Analysis

The Challenges for Japan's "Counterstrike Capability"

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Abstract

Japan's pursuit of counterstrike capability exposes tensions between the self-defense limits in Article 9 of its constitution, the evolution of an exclusively defensive defense posture, and international legal standards. Expanding self-defense to include counterstrike requires reconciling constitutional constraints, strategic necessity, and strict tests of necessity and proportionality under Article 51 of the UN Charter. These pressures show that counterstrike is not a technical upgrade but a fundamental challenge to Japan's legal identity, strategic doctrine, and credibility in the Indo-Pacific.

Keywords: Japan; National Security; Decision Making; International Law; International Politics

Introduction

In December 2022, the Kishida administration announced three new security documents: the National Security Strategy (NSS), the National Defense Strategy, and the Defense Buildup Program. The Japanese government felt the need to renew the 2013 NSS in order to respond to the significant changes in the regional and global security environment. Russia's invasion of Ukraine deepened the Japanese people's realization of the country's vulnerability caused by its surrounding neighbors that include Russia, China, and North Korea.

The NSS recognizes Japan's domestic challenges, including a declining population and a severe fiscal condition, which is weakening Japan's relative economic power. In order to maintain a favorable international environment, Japan needs to strengthen its diplomatic capability backed by a stronger defense capability to face the increasingly severe regional security environment in the Indo-Pacific region.

One of the highlights of the defense documents noted above was the authorization of the so-called "counterstrike capability." It is defined as the Self-Defense Force (SDF)'s capability "to mount effective counterstrikes against the opponent's territory in accordance with the Three New Conditions for the 'use of force' as a minimum necessary self-defense measure that cannot be avoided to prevent such an attack" (Ministry of Defense 2024: 220). The three conditions are legal criteria set by the 2015 Peace and Security Legislation, including the existence of a threat to Japan's survival, the absence of any other appropriate means, and the use of force being limited to the minimum necessary.

Japan has relied on its missile defense capability and U.S. strike capability against possible missile attacks. However, North Korea's intensifying missile launches and the increasing, modernizing, and diversifying missile arsenal of China, as well as the Russian attack on Ukraine, made the Japanese people more willing to accept the development of its own counterattack capability. The 2026 American attack on Iran that consumed a large portion of U.S. missile inventory further reinforced Japan's perception that it could not rely exclusively on U.S. assets in a major Indo-Pacific contingency, and encouraged Tokyo to accelerate the development of its own counterstrike capability.

This capability would strengthen Japan's diplomatic standpoint in any regional contingency in the Indo-Pacific. In case of a Taiwan contingency, China would impose military threats against Japan's support of Taiwan and the United States. Japan's counterstrike capability is not designed for "deterrence by punishment," which threatens an aggressor with costs so severe that attacking becomes irrational, but "deterrence by denial," which makes aggression unlikely to succeed. It should work as an effective deterrent to discourage China's attack on U.S. military and SDF bases in Japan.

This article examines how Japan has acquired counterstrike capability within its constitutional framework and traditional defense strategy. It first introduces the historical background of counterattack in postwar politics. Then, it explores challenges in relation to the Constitution, the exclusively defense-oriented policy (EDOP), and international law.

Historical background

An argument about Japan's counterattack capabilities first officially came out during Diet deliberations at a Lower House

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Cabinet Committee in 1956. Director General of the Japan Defense Agency (JDA), Ataru Funada, read the statement prepared for Prime Minister Ichiro Hatoyama, stating that "If Japan faced an imminent attack by such as a guided missile, I simply cannot believe that the spirit of the Constitution requires that we merely sit and wait to die . . . If we do not have any other measures available, attacking missile bases could be legally justified in terms of the right of self-defense and possible" (House of Representatives 1956).

In 1959, JDA Director General Shigejiro Ino repeated Hatoyama's argument that attacking enemy bases was constitutional if there were no other alternative measures. But he added a statement that as the current international environment provided very little possibility for missile attacks, it is unconstitutional for Japan to have an offensive attack capability available always (House of Representatives 1959). In 1971, JDA Defense Bureau Chief Takuya Kubo provided a professional assessment that it was justifiable as the right of self-defense to attack enemy missile bases when the enemy is about to shoot a missile and the country faces destruction (House of Councilors 1971). Yet throughout the Cold War period, Japan did not try to equip itself with a counterstrike capability.

The argument for Japan's counterattack capability next came out in August 1998, when North Korea test-fired a Taepodong long-range missile over northern Japan. Now there was increasing possibility for Japan to be the target of a missile attack from a neighboring country. Instead of equipping itself with counterstrike capability, Japan moved to introduce a ballistic missile defense (BMD) capability with the United States in December 2003 and ended the discussion on the counterstrike capability. Even during the Diet deliberation on the national security legislation under the second Shinzo Abe administration, the controversial discussion on the counterstrike capability was buried in order to secure the passage of the legislation (House of Councilors 2015).

The political discussion on the counterstrike capability came back again after Defense Minister Taro Kono announced the cancellation of the plan to deploy an Aegis Ashore land-based missile interception system in Yamaguchi and Akita prefectures in June 2020. Two months later, the Liberal Democratic Party's Policy Research Council announced the Proposal for Improved Deterrence to Protect the People. The proposal urged finding an alternative for the Aegis Ashore system and stressed the importance of coming up with new schemes, including "the capability to prevent ballistic missile attack even in the enemy's territory" (LDP 2020). In response to this proposal in December 2020, Prime Minister Shinzo Abe and his cabinet made a decision to introduce two vessels with the Aegis system, but just mentioned continuing discussion on the counterstrike capability (Cabinet Decision 2020).

The administration of Fumio Kishida held 17 meetings with experts for the preparation of a new NSS from January 2022. The government officials asked the experts about the counterstrike capability. Some experts questioned the deterrent effect of such a capability, but the majority of them recognized the need for Japan to possess the capability (Cabinet Secretariat 2022; House of Councilors 1972a). As a result, the 2022 NSS stated that "A key to deterring invasion against Japan is counterstrike capabilities that leverage stand-off Defense capability and other capabilities." The reason for the need was explained thus: "In recent years, in Japan's surroundings, there have been dramatic advances in missile-related technologies, including hypersonic weapons, and practical skills for missile operations, such as saturation attack . . . . Missile attacks against Japan have become a palpable threat" (Cabinet Decision 2022: 18). As explained, this is a very different situation from 1959 when the JDA official claimed missile attacks were not probable.

Constitutional constraints

Article 9 of the Constitution prohibits Japan from having war potential but is interpreted as allowing minimum defense capability, as stated by Prime Minister Ichiro Hatoyama (House of Representatives 1955a). Therefore, the Japanese SDF have not obtained offensive military capabilities. It is questionable whether the counterstrike capability is considered as offensive military capabilities. In 1970, JDA Director General Yasuhiro Nakasone stated in the Diet that it was prohibited for Japan to have direct threat to other territories, and introduced examples of offensive weapons, such as the B52, intercontinental ballistic missiles, and middle-range ballistic missiles (House of Representatives 1970).

The government interpreted Article 9 of the Constitution to allow Japan's use of armed force only when the following three conditions are met: 1) when there is an imminent and illegitimate act of aggression against Japan; 2) when there are no appropriate means to deal with such aggression other than by resorting to the right of self-defense; and 3) when the use of armed force is confined to be the minimum necessary level (Ministry of Defense 2020). The first condition was relaxed in the 2015 national security legislation to allow Japan to exercise the right of collective self-defense. The new condition states, "When an armed attack against Japan occurs or when an armed attack against a foreign country that is in a close relationship with Japan occurs and a s a result threatens Japan's survival and poses a clear danger to fundamentally overturn people's right to life, liberty and pursuit of happiness" (National Security Legislation 2015).

In order for Japan to counterstrike, it is necessary to identify that the enemy's missile is aimed at Japan or a country in a close relationship with Japan. Japan's counterstrike must be the minimum necessary level. It is questionable whether counterstrike can be aimed at the command and control system of the enemy. Although U.S. Forces may have a counterstrike capability, it is not considered as other appropriate means. International law does not prohibit the right of self-defense even when an ally has military capability (Tanaka 2021).

Within the exclusively defense-oriented policy

The counterattack capability remains to be within Japan's traditional frame work of the EDOP. The expression of the EDOP was first introduced by JDA Director General Arata Sugihara at a 1955 Lower House Cabinet Committee meeting.

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It was just one year after the SDF were created, and the Air SDF was newly introduced. Sugihara used the expression of "exclusively defense-oriented" (*senshu boei*) to illustrate that the Air SDF would not be offensive as are other Air Forces (House of Representatives 1955b).

This expression, however, did not take a firm hold in the defense policy community until Yasuhiro Nakasone became JDA Director General in 1970. In the JDA, officials had described Japan's basis stance as "strategic defense" (*senryaku shusei*). Nakasone did not like this expression as it sounded too technical, and started using the EDOP instead (House of Councilors 1977). In the first issue of *Defense of Japan* (1970), it was declared that Japan's basic defense posture was the EDOP, which was defined as "defense capabilities to exercise the inherent right of self-defense for our independence and peace with posture of strategic defense."

Nakasone's successor, Keikichi Masuhara, was critical of Nakasone's expression. Masuhara stated in an interview with *Asahi Shinbun* (July 12, 1972) that the EDOP was the wrong expression, but "strategic defense" was the correct term. This statement was highly criticized at the Diet as denying Japan's basic defense posture. At the Upper House Audit Committee, however, Masuhara withdrew his opinion by stating that strategic defense was the same as EDOP and that even with this basic posture Japan would be able to tactically take offensive actions (House of Councilors 1972b). As a result, the EDOP became an established expression for Japan's basic defense strategy.

The same year, Prime Minister Kakuei Tanaka declared at the Lower House Plenary Session that the EDOP was meant to focus mainly on defense of our territory and its surrounding areas, and not to attack enemy bases (House of Representatives 1972). This imposed a stricter limitation on Japan's defense actions.

The clear definition of the EDOP was stated by Prime Minister Zenko Suzuki at the October 1980 Upper House Plenary Session: 1) defensive force is used only after the event of an attack; 2) the extent of the defensive force is kept to the minimum necessary for self-defense; and 3) the defense capabilities to be possessed and maintained by Japan are limited to the minimum necessary for self-defense (House of Councilors 1980). This definition appeared in the 1981 edition of *Defense of Japan* and has been included in the consecutive issues. In the April 2022 Diet session, Prime Minister Fumio Kishida stated that the EDOP was the basic defense posture in accordance with the spirit of the Constitution and that he would not change its definition (House of Councilors 2022).

In terms with international law

Under the United Nations Charter, member countries should refrain from the threat or use of force (Article 2). The use of force is allowed only for collective measures under the UN (Article 1) and for self-defense (Article 51). Article 51 states that the right of self-defense can be exercised "if an armed attack occurs against a Member of the United Nations."

The question is how to judge when an armed attack has occured. In 1999, Director General of the Japan Defense Agency Yoshinari Norota defined an armed attack as occuring "when an armed attack is undertaken (*chakushu*)," and stated "it is legally possible for Japan to exercise the right of self-defense and attack enemy bases even when an actual damage has not occurred" (House of Representatives 1999). Then, another question was how to judge when an armed attack is undertaken. Norota answered that it would be case by case, depending on the international environment, the expressed intention of the other country, the measure of armed attack, and so on. This government position does not pose any problem with international law.

The International Court of Justice (ICJ) made it clear in 2003 that it is the responsibility of the country that exercises the right of self-defense to prove that it has been the victim of an armed attack by the other country. In 1992, Iran filed a case to the ICJ against the United States for the destruction of Iranian oil platforms in 1987 and 1988. The United States filed a counterclaim that U.S. actions were in the exercise of self-defense against an Iranian missile attack on a Kuwait oil tanker, registered at a U.S. port, during the Tanker War phase of the Iran–Iraq War. The court decided that "the United States could exercise such a right of self-defense only if it had been the victim of the armed attack by Iran and the United States actions must have been necessary and proportional to the armed attack against it" (International Court of Justice 1992). Then, the court found that the United States had not succeeded in showing that these conditions were satisfied.

When Japan attacks the other country before the launching of a missile, it would be very difficult to prove if Japan is a victim of the attack, and if its counterattack was necessary and proportional. Furthermore, even after the first missile attack occurs, it would be difficult for Japan to prove that its counterattack on the second strike attempt would be necessary and proportional.

Conclusion

Japan's pursuit of counterstrike capability exposes the complex interplay between constitutional interpretation, strategic doctrine, and international legal norms. Article 9 of the Constitution has historically prohibited offensive military potential, permitting only the minimum necessary force for self-defense. Recent reinterpretations—particularly the 2015 security legislation—have broadened the scope of permissible action to include collective self-defense, and allowed Japan to acquire counterstrike capabilities that may constitute offensive force against an external attack.

Successive governments have sought to reconcile new capabilities within the framework of the EDOP. The historical debates surrounding EDOP—from Nakasone's redefinition in 1970 to Kishida's reaffirmation in 2022—illustrate the persistent tension between maintaining a defensive posture and acknowledging the tactical necessity of new measures in order to adapt to external.

International law further complicates the legitimacy of counterstrike capability. Although Article 51 of the UN Charter recognizes the inherent right of self-defense, the ICJ has emphasized the burden of proof, necessity, and proportionality. For Japan, demonstrating victimhood and

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proportionality in the context of preemptive or retaliatory strikes against missile threats presents significant evidentiary and normative challenges.

Taken together, these constraints reveal that Japan's counterstrike capability is not merely a technical adjustment to its defense posture but a fundamental test of its constitutional order, strategic doctrine, and international credibility. Whether Japan can operationalize this capability without undermining its traditional principles or violating international law will determine the sustainability of its security policy in the Indo-Pacific.

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