Japan’s Policy towards the War on Terror in Afghanistan

Katsumi Ishizuka
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Today's globalised world has witnessed astonishing political and economic growth in the regions of Asia and Africa. Such progress has been accompanied, however, with a high frequency of various types of conflicts and disputes. The Afrasian Research Centre aims to build on the achievements of its predecessor, the Afrasian Centre for Peace and Development Studies (ACPDS), by applying its great tradition of research towards Asia with the goal of building a new foundation for interdisciplinary research into multicultural societies in the fields of Immigration Studies, International Relations and Communication Theory. In addition, we seek to clarify the processes through which conflicts are resolved, reconciliation is achieved and multicultural societies are established. Building on the expertise and networks that have been accumulated in Ryukoku University in the past (listed below), we will organise research projects to tackle new and emerging issues in the age of globalisation. We aim to disseminate the results of our research internationally, through academic publications and engagement in public discourse.

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Introduction

In the current post-9.11 periods, counter-terrorism operations are significant measures necessary to maintain international security and order. Afghanistan is one country being given a lot of attention by the international community regarding counter-terrorism. Osama bin Laden was captured and assassinated by the US troops in Pakistan in May 2011. The US troops are also scheduled to be pulled out of Afghanistan by the end of 2014. However, the over-optimism of the scenario can be recognized by the fact that the security situation in the state has been deteriorating due to terrorist attacks by Taliban insurgents (The Economist 2011).

Meanwhile, Japan is a state which officially expressed its support for the policy of the US-led counter-terrorism in Afghanistan in the earliest period after the 9.11 attacks. It means that Japan has become vulnerable to international terrorist attacks. Therefore, Japan is required not only to protect its citizens in its territory from the threats of terrorists as national defense, but also to show physical commitment abroad to combat international terrorists.

This paper deals with Japan’s policy towards the war on terror in Afghanistan. This paper starts by examining the general background of Japan’s policy towards international terrorism. It then focuses on the factual description about the domestic dispute on the enactment of the Anti-terrorism Law allowing for the dispatch of the Japanese Self-Defense Forces (SDF) to the oil-fueling missions in the Indian Ocean. It, then, discusses Japan’s passive position in the common counter-terrorism policy advocated by the G8 states. This paper then focuses on the debate over “the Ozawa Paper” which supports the participation of the SDF in ISAF (International Security Assistance Force) in Afghanistan. This paper also examines the negative impact on Japan due to the termination of its fueling missions in the Indian Ocean in January 2010, and introduces alternative measures initiated by the Japanese Ministry of Defense (MoD).

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1. The Background of Japan’s Policy towards International Terrorists

In fact, there are several concerns of the terrorist threat in Japan. First of all, Japan has good and strong relations with the US. Many Japanese people believe that the economic miracle of their country in the post WWII period materialized due to the concentration of its national budget on spending for economic and industrial improvement. It was secured by the permanent stationing of US troops in Japan allowing the state to spend less on national defense. The maintenance of good diplomatic relations with the US has been regarded as central to Japanese international relations. It is widely known that in 1983 Japanese Prime Minister Yasuhiro Nakasone described that he desired Japan to become an “unsinkable aircraft carrier” to protect the security of the US and Japan from the Soviet Union. However, the stronger relations with the US which Japan has had, the more vulnerable the state has been to the threat from international terrorists, especially, from Muslim fundamentalists. On 12 November 2002, in his message aired by Al-Jazeera, Osama bin Laden named the major western states such as the US, the UK, France, Germany, Italy, Canada and Australia as enemies of al-Qaeda. However, it is considered that Japan may be listed as the target country of its terrorist attack since Japan is an important ally of the US. In fact, after the Madrid train bombings in 2004\(^1\), the Abu hafs al-Masri Brigade, the Muslim fundamentalists responsible for the terrorist attacks, claimed that the next target might be Japan, the US or Italy (Oizumi 2004, 186). In 2006 Japan and the US completed a Defense Policy Review Initiative, in which the Japanese and US Governments issued a joint statement stressing their shared global objectives: the eradication of terrorism and the prevention of the proliferation of weapons of mass destruction (Katzenstein 2008, 16-17). If the anti-terrorist security system in the US becomes too strict and tight for international terrorists, then it is plausible that its allies including Japan will be the next target for them.

Second, Japan has good diplomatic and economic ties with Southeast Asia. For example, in terms of the Official Development Assistance (ODA), Japan’s ODA to Asia has accounted for more than 40 percent of all delivered to the world, and that to Southeast Asia has accounted for about 25 percent. (Ministry for Foreign Affairs 2010) Japan has traditionally had steady political relations with Indonesia, the largest Muslim state in Southeast Asia, originating from the Sukarno and Suharto periods. The economic relationship between Japan and Indonesia was codified when two states signed the Economic Partnership Agreement (EPA) in July 2008 (Ibid.). It is to be noted that several militant Islamic organizations such as Jemaah Islamiyah conducted serious terrorist attacks, such as the Bali car bombing on October 12,

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\(^1\) The Madrid train bombing consisted of a series of coordinated bombings against the commuter train system of Madrid, Spain on the morning of 11 March 2004, three days before Spain’s general elections, killing 191 people and wounding 1,800. The attacks were directed by an al-Qaeda-inspired terrorist cell, the Abu Hafs al-Masri Brigade.
2002, in Indonesia.\footnote{Jemaah Islamiah is also strongly suspected of carrying out the 2003 JW Marriott hotel bombing in Kuningan, Jakarta, the 2004 Australian embassy bombing in Jakarta, the 2005 Bali terrorist bombing\footnote{2005 Bali terrorist bombing} and the 2009 JW Marriott and Ritz-Carlton hotel bombings.} In the Philippines, Abu Sayyaf, a military Islamist separatist group, has carried out bombings, kidnappings, assassinations and extortion for an independent Islamic province in the state. In 2002, fighting Abu Sayyaf became a mission of US troops’ \emph{Operation Enduring Freedom (OEF)} and part of the US war on terror. It is to be noted that al Qaeda has been transferring its military facilities and bases from Afghanistan to other countries including Southeast Asia since the inception of the US military operations in Afghanistan. Al Qaeda has had strong network with the terrorist groups in Southeast Asia. In fact, al Qaeda is now sponsoring Jemaah Islamiyah (Oizumi 2004, 90). Therefore, Islamic extremism in Southeast Asia poses a serious threat to Japan and its interest (Mizukoshi 2003, 53).

Third, the threat from several international terrorists has been mounting. In his article “Al-Qaeda Strikes Back”, Bruce Riedel argues that al-Qaeda has regained its strength after suffering setbacks since 9.11. Owing to Washington’s stronger commitment to the war in Iraq than in Afghanistan, al-Qaeda has had a solid base in Pakistan and a secondary but independent base in Iraq. Furthermore, it has an expanding reach even in Europe where it can enjoy the support of some Muslim residents. In short, al-Qaeda today conducts global operations (Riedel 2007, 24-40). Riedel claims that the US and “its partners” should implement a comprehensive strategy over several years, one focused on both attacking al-Qaeda’s leaders and ideas and altering the local conditions that allow them to thrive (Ibid.). Meanwhile, the prolonged turmoil in Afghanistan triggered a rise in other international terrorist organizations. Lashkar-e-Taiba, for example, one of the largest militant Islamist terrorist organizations based in Pakistan, has been regarded as a bigger threat than al-Qaeda by the Pentagon. While the primary area of their operations is the Kashmir valley with their original aim of targeting Indian citizens, Israeli and European citizen on Indian soil have been targeted. Furthermore, they have started targeting \emph{OEF} and ISAF in Afghanistan (Ibid.). Thus, the mounting threat of international terrorists should be an increasing source of security concern for Japan.

\section*{2. Japan’s Response to International Terrorism after 11 September 2001}

The terrorist attacks in the US on 11 September 2001 had a huge impact on perspectives about how to maintain international peace and security against terrorists. On the day after the attacks, the UN Security Council unanimously adopted Resolution 1368 (2001), which called on member states “to work together urgently to bring to justice the perpetrators, organizers and sponsors of these terrorist attacks” (UN 2001a). On 28 September 2001, Resolution 1373
(2001) to combat international terrorism was also adopted unanimously. Resolution 1373 provided a wide-ranging list of measures which all states are legally obliged to implement, such as preventing the financing of terrorist acts, preventing the movement of terrorists by effective border controls, and finding ways of intensifying and accelerating the exchange of operational information regarding the actions of terrorists and networks (UN 2001b). The adoption of these resolutions indicated that Japan’s policy towards international peace and security in the post-11 September era should also respond to more complicated international crimes.

The day after the terrorist attacks in the US, Prime Minister Junichiro Koizumi ordered his cabinet members to consider the possibility of dispatching the SDF for counter-terrorism activities in the near future (Yomiuri Shimbun 2001a). He subsequently mentioned in a press interview that Japan would fully support the US and not hesitate to provide the necessary assistance and cooperation to the international community (Yomiuri Shimbun 2001b). The Director of the Liberal Democratic Party (LDP), the ruling party, Taku Yamazaki, also said: “It is against the national interests not to use the SDF for counter-terrorism measures. It is possible under the current PKO law for the SDF to conduct humanitarian activities even in non-peacekeeping areas [such as counter-terrorism] under UN resolutions as long as international organizations actually ask Japan to do so” (Yomiuri Shimbun 2001c). On 23 September, the Japanese Government and the LDP agreed to create a new law to enable the SDF to join counter-terrorism operations. Thus, the prompt response to the 9.11 incidents witnessed not only the government’s strong desire to overcome the “trauma” of the Gulf War in 1991 but also its commitment to contribute to the international community in this crisis.

The US expected Japan to play a diplomatic role and to provide intelligence. In fact, President Bush positively evaluated Japan’s role in the Afghan conflict in sharing intelligence and providing US$40 million in financial aid to Pakistan to bolster its anti-terrorism stance (Yomiuri Shimbun 2001e). However, in the final analysis, the primary request from Washington to Tokyo in the Afghan conflicts was to “show the Japanese flag” or to play a physical role in the operational areas” (Yomiuri Shimbun 2001d). Therefore, on 21 September 2001 the Japanese navy accompanied the aircraft carrier United States Ship (USS) Kitty Hawk and other ships as they left coastal waters in Japan for their destination in the Middle East, even before the passage of the new bill for counter-terrorism. Furthermore, Prime Minister Koizumi committed three destroyers and other ships to provide support for US forces in the Indian Ocean (Katzenstein 2008, 236).

The result of public opinion polls supported the enactment of this bill. When asked whether they supported American preparations to use military force against terrorist organizations in
Afghanistan in a *Yomiuri Shimbun* poll conducted between September 24 and 25, 2001, 44.1 percent of Japanese respondents supported such preparations while 26.7 percent opposed, with the reminder unable to decide one way or the other (Eldridge and Midford 2008, 15).

The SDF Anti-terrorism Bill was passed on 29 October 2001 after exceptionally speedy deliberations in the Diet. Koizumi contended that: “The focus of the legislation was whether we think of the terrorist incidents in New York and Washington on September 11th as other people’s business or as our own affairs.” (*Yomiuri Shimbun* 2001f). This Anti-terrorism Law covered such activities as providing supplies and services, including medical treatment to US forces and their allies. It also legalized search-and-rescue activities and humanitarian relief to refugees overseas with the consent of host governments.

Paul Midford emphasized that it was rather the domestic factors that prompted the speedy passage of the bill. First, he argued that it was a good fortune of the LDP-led government to enjoy majorities in both houses in the Diet by building a long-term coalition with the Komei Party. Second, Prime Minister Koizumi’s remarkably high approval ratings (averaging around 80 percent) enabled him to boldly and successfully push the bill through the Diet. Third, the Japanese public as well as politicians felt a sense of personal and national shame over Japan’s inability to make a human contribution to the Gulf War in 1991. Therefore, participation in the post-September 11 coalition can be seen as a way for Japan to recover from this shame (Midford 2003, 336-338).

The Anti-terrorism Law legalized the dispatch of the SDF to the Indian Ocean to support US combat troops in Afghanistan with water and fuel supplies. This Anti-terrorism Law contrasted significantly with the PKO Law which was created after the heated debates in June 1992. Under the PKO Law, the SDF would be involved in operational areas where conflicts had ended, and the SDF would take a neutral position. The Anti-terrorism Law put the SDF into volatile areas — albeit limited to logistic missions — and committed Japan to the “universal objectives” of exterminating terrorists. Whereas under the PKO Law the SDF was allowed to use weapons only for self-defense, the Anti-terrorism Law approved the use of weapons to protect those under the SDF’s care including refugees and wounded foreign service members. In order to add flexibility to current restrictions on the use of force, this law would have a two-year time limit. Furthermore, the government was obliged to seek Diet approval within days of an SDF dispatch (*Japan Times* 2001b).

The response from foreign states was largely positive. US Ambassador Baker said that the move was an important step for the bilateral alliance (*Japan Times* 2001a). The Pakistani President stated that his country would warmly welcome the SDF since the Japanese force
was different from those of other countries (Yomiuri Shimbun 2001g). In a press interview the Thai Prime Minister expressed his support for the SDF dispatch to the Indian Ocean (Yomiuri Shimbun 2001h). Meanwhile, in South Korea a senior official appreciated that the legislation was aimed to eradicate terrorism, although he expressed a concern that the new laws should never be allowed to harm peace and stability in Asia.

The prompt passage of this bill indicated the government’s enthusiasm to react to the 9.11 incident. Meanwhile, it should be noted that in the Diet debate very few argued the constitutional validity of the expected operations in terms of the issues of collective security or collective defense. A vague but general consensus on this issue in the Diet was that logistical support would not be “unified with combat.” In addition, the SDF would not be allowed to supply and transport armed equipment and ammunition. However, in reality, missions that were conducted under this law would, in fact, be part of collective security missions. Furthermore, in counter-terrorism measures, it would be highly probable that urgent situations would inevitably require the Japanese SDF to engage in actions that go beyond limits of the new law. This urgent, flexible and expedient decision bypassed the controversial issue of collective security in Japan.

It is also to be noted that there is a disparity in the understanding of combating areas between the US, the leading actor in the war on terror in Afghanistan, and Japan. In the US, the Authorization for Use of Military Force (AUMF) Against Terrorists, was enacted on 18 September 2001. The AUMF became a lawful authority of OEF led by the US troops afterwards. The AUMF legalized the combating operations of the US troops not only to nations but also to organizations and persons, as indicated in its Section 2- Authorization for Use of United States Armed Forces:

(a) IN GENERAL- That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.  

Thus, the AUMF moved the US in a huge distance away from traditional international laws which have defined wars as “a condition of armed hostility between states.” Meanwhile, in

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3 “Unified with combat” is a popular term among the government and the Diet in assessing the SDF activities in terms of collective defense.
4 Section 2, the Authorization for Use of Military Force Against Terrorists, 18 September 2001
Japan, the definition of combat operations was interpreted officially as follows in the debate of the House of Representative on 3 March 2004:

\[\text{In terms of military operations} \] there are genuine combating warfare between states, and security-keeping operations such as combating pirates. It is in a former case that the logistic operations such as medical or transportation tasks by Japanese SDF will not be constitutional. However, in the latter case, such SDF’s logistic operations are constitutional since there will not be any combating operations, say, by the US or UK troops on the ground.\[5\]

In short, the Japanese Diet defined a combat operation only as a traditional international conflict between states in accordance with traditional international laws. Therefore, in Japan, SDF’s participation in the OEF as a logistic unit was considered to be constitutional since the OEF was interpreted as an officially non-combating operation between states, while the US considered the OEF as an officially combating operation in accordance with the AUMF. This contradiction should be recognized by the US and Japanese Governments, and further discussion and consensus should be needed in the Japanese Diet.

3. Great Powers’ Response to the Operations on Counter-terrorism in Afghanistan

How have the great powers responded to international terrorism? The Group of Eight (G8) leaders established the Counterterrorism Action Group (CTAG) at the 2003 Evian Summit with a view to enhancing global counterterrorism capacity-building assistance (Rosand 2009, 1). In the G8 Summit in Gleneagles in 2005, its leaders denounced all terrorist acts as criminal, and reiterated that there can be no excuse, no justification for such slaughters in their official statement on counter-terrorism. They put forward several initiatives in disrupting current terrorists, preventing new generations of terrorists, and protecting communities against terrorist attacks. For example, they announced the Secure and Facilitated International Travel Initiative (SAFTI) with a 28-point action plan. In the Initiative, the G8 worked in measures to counter attacks on aviation using surface to air missiles, to restrict the proliferation and smuggling of these weapons, and improve flight-deck security.\[6\] Therefore, it can be said that the G8 had adopted a positive and concrete policy towards international terrorism.

How, then, have the G8 states adopted the policy of counter-terrorism in Afghanistan? In fact, the counter-terrorism operations in Afghanistan have been conducted by the multiple

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5 Sources by Research Unit, House of Representatives, on the Anti-Terrorist Law, September 2008
6 G8 Statement on Counter-Terrorism, G8 Leaders’ Meeting, Gleneagles, 8 July 2005
frameworks of plural international operations, which are OEF, ISAF, PRT and OEF-MIO (Maritime Interdiction Operation).

The main purpose of OEF is to conduct warfare against the Taliban, al-Qaeda and like-minded terrorist warlords. Therefore, OEF is the main stream of counter-terrorist measures in Afghanistan. G8 states also claimed that the immediate imperative is to reduce the threat from those already intent on terrorism and that they have been “working relentlessly to track down known and suspected terrorists and their collaborators” (Ibid.).

ISAF has been authorized by the UN Security Council, and has conducted operations in Afghanistan not only to reduce the capability and will of the insurgency but also to support the Afghan National Security Forces (ANSF). ISAF consists of troops from NATO and 37 other countries. It is to be noted that ISAF has adopted full-blown counter-insurgency including counter-terrorism since 2003-2004. Therefore, many US forces originally deployed in OEF have joined ISAF since 2005 (Ishizuka 2011).

PRT (Provincial Reconstruction Team), which was originally innovated by the US, works to support reconstruction efforts in Afghanistan, consisting of military officers, diplomats, and other experts on reconstruction. The main purpose of PRT is to empower local governments to govern their constituents more effectively. 22 countries are providing reconstruction assistance by way of the PRTs. The G8 Statement on Counter-terrorism in 2005 also emphasized the importance of social and political reconstruction as a counter-terrorism measure, saying “we must promote social and political rights and democratic reform, counter intolerance, encourage public debate and tolerant education, and foster understanding between cultures.”

OEF-MIO is an operation in the Indian Ocean to prevent and deter proliferation of terrorists and their related materials. For example, 137,000 queries and 11,000 boarding and searching operations against suspicious vessels had been conducted in five years since September 2001. In May 2005, the OEF-MIO team confiscated 4,200 pounds (2.1 tons) of hashish in a vessel through boarding and searching. In May 2005, about 550 guns and ammunition were confiscated in a vessel (Ministry of Foreign Affairs 2005). The G8 Statement on Counter-terrorism in 2005 also recognized the significance of cutting off terrorists’ funding, impeding their planning and disrupting their network, and denying them safe haven (Ibid.). On the whole, in terms of counter-terrorism one has to consider not only of fighting against terrorism physically, but also of enhancing domestic security forces, of building social and

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7 G8 Statement on Counter-Terrorism, G8 Leaders’ Meeting, Gleneagles, 8 July 2005
economic reconstruction of fragile states vulnerable to terrorists, and of cutting terrorism networks and finance.

Table 1 indicates G8 states’ participation in the above operations on counter-terrorism in Afghanistan. As can be seen from the Table, the USA, the UK, Italy, Germany, Canada and France have been contributing extensively to counter-terrorist operations. Japan, so far, focuses only on the maritime interdiction operations in the Indian Ocean. In fact, according to the *Daily Yomiuri*, prior to resuming the fueling mission in 2008, the SDF personnel had been raising questions about whether the refueling activities were the best assistance that they could offer. The Japanese Government also considered dispatching air force units consisting of The Lockheed P3-C Orion reconnaissance planes for offshore surveillance in addition to the refueling activities. ISAF also informally asked Japan to send Ground Self-Defense Force (GSDF) helicopters to undertake peacekeeping activities. Furthermore, NATO asked the Japanese Government if the SDF could take over missions from New Zealand Provincial Reconstruction Team (PRT) which was conducting reconstruction activities with civilians in central Afghanistan. However, the plan of dispatching the P3-C planes did not materialize due to the difficulty in securing an airfield to park and guard the aircraft. The request to participate in PRT was not even studied because the SDF personnel were not legally empowered to protect civilians in their operational areas (*The Dairy Yomiuri* 2008a). In short, participating in the above missions required new legislation.

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*Source: Jimbo (2008)*

On one hand, it was understandable that Japan’s participation in *OEF* and ISAF might be difficult on the grounds of its Peace Constitution which forbids it from engaging in warfare
overseas. On the other hand, however, counter-terrorism would not be effective unless it is tackled with the multiple frameworks and with a grand vision. Since Japan is a member of G8 which is a symbol of “great powers’ club” and the G8 officially expressed its grand vision against international terrorists, Japan could not be an exceptional state simply because of its domestic legal constraints. The Japanese Government and Diet were required to pay more attention to the multiple frameworks and the grand vision on counter-terrorism in Afghanistan, as well as the significance of collective defense and collective security in tackling the globalization of international terrorists.

4. The Debate on the Ozawa Paper on Counter-terrorism in Afghanistan and its Analysis

In November 2007, the debate on Japan’s policy towards the war on terror in Afghanistan was heated up by one paper written by Ichiro Ozawa, a major figure in the new Democratic Party of Japan (DPJ). In his paper “The Principles of International Security System Should be Created in Japan Now” published by an intellectual monthly journal Sekai (“world” in Japanese) in November 2007, Ozawa criticized the US for launching a war on terror in Afghanistan without the authorization of the UN Security Council. He pointed out that the isolationism and excessive arrogance of the US has disturbed the harmony of the international community including the UN. Therefore, he insisted that Japan, as a true ally of the US, should advise America that it should behave properly as an important member of international society. He also criticized the policy of the then ruling Liberal Democratic Party (LDP) in that while the party considered that the use of force by the SDF in UN operations is unconstitutional, it allowed the fueling missions of the SDF in the non-UN operation, in the war on terror in Afghanistan. He insisted that the logistic operations such as the fueling missions are strongly unified with the use of force, and therefore he strongly opposed the presence of the SDF in the Indian Ocean as an oil supplier for the OEF. He also argued that a policy of counter-terrorism should not be limited to participation in a war with US troops. It should start from the control of immigration and money-laundering. In Afghanistan, he argued that the UN-authorized ISAF should also be included in counter-terrorism operations. Ozawa emphasized the Preamble to the Japanese Constitution, saying “we desire to occupy an honored place in an international society striving for the preservation of peace…,” which, Ozawa argued, encourages Japan to positively participate in UN peacekeeping operations. Ozawa argued that UN peacekeeping operations should prioritize the principle of self-defense led by national sovereignty, since the former, which contribute to international peace and security, should exist at different dimension from the latter. Therefore, he stated that if the DPJ became the ruling party, he would insist on the participation of the SDF in ISAF in Afghanistan (Ozawa 2007, 148-153).
His controversial “Ozawa Paper” received various and numerous responses from intellectuals, which were also published in Sekai in December 2007. Takichi Nishiyama, a journalist, positively evaluated the Ozawa Paper since it raised the essential themes such as Japan’s counter-terrorism policy and Japan-US relations which have been avoided to raise as the agenda by the LDP-led conservatives for a long time. In other words, he argued that the paper gave the opportunity to consider the position and role of Japan in the international community in the 21st century without the reinforcement of Japan-US military relations (Nishiyama 2007, 147-150).

Meanwhile, in reality, there were more critical responses to the Ozawa Paper than positive ones. Shigeru Ishiba, the then Minister of Defense opposed Ozawa’s argument that the fueling missions by the SDF are unified with the use of force. He claimed that the Japanese SDF has been operating in non-combatant areas in the Indian Ocean, complying with the Anti-terrorism Law. He also claimed that the missions of SDF in the Indian Ocean did not involve collective defense, which is defined as exerting forceful means on enemies attacking its own allies. Ishiba asserted that the activities of the SDF in the Indian Oceans have been contributing to the deterrence of a flow of weapons, drugs, money and terrorists themselves through the Ocean from and to Afghanistan, Pakistan and Iran. He also opposed the argument in the Ozawa Paper that UN-led operations should prioritize the principle of self-defense led by national sovereignty. He claimed that it is totally impossible that state power will be emasculated by UN authorization. In other words, he asserted that the UN is never the world government. Furthermore, he regarded it even constitutional for the SDF to rescue allied troops such as Australian, Dutch and British soldiers, since the enemy are terrorist groups, not troops from nation states: only the latter applies to the condition of self-defense or collective defense from a legal perspective (Ishiba 2007, 142-147).

Masahiro Sakata, the former Director-General of the Cabinet Legislation Bureau, supported Ishiba’s arguments. He argued that it is constitutional if the SDF missions are not unified with the US troops and does not conduct any military actions. He argued that such missions should be defined similar to the supply of military bases and financial resources. Sakata also asserted that military sanctions by UN resolutions based on Chapter VII, unlike economic sanctions, are not obligatory. In other words, the former does not impose member states to dispatch their own troops to conflicting areas and conduct military actions immediately. Therefore, the dispatch to UN missions to conduct military operations depends on the decision of the government of each member state. If so, there is no legitimacy of Ozawa’s position that the use of force in UN operations is not conducted by troops of sovereign states. Therefore, the use of force by the Japanese SDF even in UN operations should be considered unconstitutional. Furthermore, Sakata considered that it is unreasonable that the Japanese
Constitution expects even the use of force by the SDF for our “desire to occupy an honored place in an international society striving for the preservation of peace.” He claimed that non-combatant missions by the SDF such as the fueling missions in the Indian Ocean based on the current Anti-terrorism Law will be suitable to meet the requirements in the Constitution (Sakata 2007, 153-156).

Kan Endo, a scholar on international politics at Hokkaido University, demonstrated a strong opposition to the Ozawa Paper supporting the participation of the SDF in ISAF. He asserted that Japan should consider its participation in ISAF on the grounds of the local situation and the effectiveness of its participation. Endo argued that Afghanistan was now a very dangerous area since the state has been losing the capability to govern. The Taliban had gained its power due to increasing public support caused by the deterioration of public welfare and anti-US emotions. The internal ethnic conflicts in Afghanistan had also been increasing due to Taliban’s attack on other ethnic groups. Furthermore, he pointed out that Pakistan and its intelligence agency ISI were supporting Taliban and al-Qaeda. However, in fact, the British troops in ISAF had to depend on ISI for the intelligence sources on terrorists for the protection of its troops and citizens. Furthermore, the Canadian and German Governments had complained of ISAF since there had been a number of casualties against their troops in Afghanistan (70 and 20 casualties, respectively). In sum, Endo expected that the possibility that ISAF would succeed in Afghanistan was slim. Therefore, it would be difficult to expect that the SDF in ISAF would play an effective role in improving the deteriorating situation in Afghanistan. He even said that it would be an absurd scenario for Japanese domestic politics. He asserted that Japan should have a policy that the government can decide not to intervene even if the intervention is compatible with both the Japanese Constitution and UN resolutions (Endo 2007, 160-163).

Akira Kodera, a scholar of international law at Tokyo University, stated that the Ozawa Paper confused UN forces with multi-national forces. While ISAF is authorized by the UN, it is financed and commanded by individual states and individual troops. Therefore, Kodera pointed out that ISAF should be categorized as a multi-national force. He concluded that the use of force by the SDF in multi-national forces such as ISAF is unconstitutional (Kodera 2007, 156-160).

Thus, contrary to the Ozawa Paper, most of the commentators mentioned above supported the legitimacy of the participation of SDF in the fuel-supply mission in the US-led war on terror, namely OEF, and did not support its participation in the UN-authorized ISAF. Apart of the argument of Endo, most of the arguments opposing the Ozawa Paper were related to the Constitution, and the definition of use of force, collective security and self-defense. Most
pointed out the inconsistency of Ozawa’s arguments from legal viewpoints. On the one hand, it is understandable that such legal experts focused on legal perspectives of the issue on the war on terror in Afghanistan. On the other hand, it is considered uncommon from the global viewpoint that Japanese intellectual society and media pay attention only to domestic legal affairs in the issue of the dispatch of the SDF to overseas operations including counter-terrorism operations (Ishizuka 2005, 67-86). The phrases “unified with force” or “the use of force by the SDF” in the legal analysis became jargon in the debate of overseas dispatch of the SDF. Even Endo’s argument lacked wide perspectives. His argument that the SDF should not participate in ISAF because Afghanistan is dangerous might be considered a self-centered perspective. As Endo stated, the troops of Canada and Germany are still deployed in Afghanistan despite the huge number of their casualties. However, it can also be said that their continuous deployment in ISAF is compatible with their strong commitment to counter-terrorism which they pledged at the G8 Summits in Evian, 2003, and in Gleneagles, 2005.

5. The Significance of the Fueling Missions in the Indian Ocean from the Viewpoint of the SDF

After the legislation of the Anti-terrorism Law on 29 October 2001, the Japanese Ministry of Defense (MoD) promptly applied the law to the fueling mission in the Indian Ocean. On 9 November 2001, three fleets from the Maritime Self-Defense Force (MSDF) including an escort vessel left for the Indian Ocean. These fleets were initially used for the fact-finding mission. After the implementation outline of the SDF in the Indian Ocean was finalized by the Japanese Government, these fleets initiated the fueling activities for the US troops. On 25 November 2001, another three vessels left for Karachi, Pakistan, for relief supply for Afghan refugees, and two of three fleets joined the fueling missions in the Indian Ocean in its aftermath. Thus, five MSDF corps in the Indian Ocean was the second largest contribution after the US missions.

The MSDF fleets continued their mission in the Indian Ocean for the next eight years. The MoD reported that in eight years the MSDF fleets supplied about 137 million gallons of fuel oil over more than 1,000 trips and some 2.8 gallons of water over about 200 trips. The fuel was supplied to a dozen countries including the US, the UK, France, Germany and Pakistan (Yoshihara and Holmes 2011, 1). The MSDF mobilized 73 fleets and 13,300 personnel for this logistics mission. The Japanese government spent over $700 million in total on the mission in the Indian Ocean.

The MSDF was operating for the fleets conducting OEF-MIO, the operations in the Indian
Ocean, to prevent and deter proliferation of terrorists and their related materials. However, the fueling mission as a floating supply depot in the Ocean required a high level of skill and technique, and therefore the number of fleets which can conduct the floating logistic mission was limited. Furthermore, as the war on terror in Afghanistan lingered, the number of the fleets participating in \textit{OEF-MIF}\textsuperscript{8} was gradually decreasing. Thus, the Japanese fueling fleets staying in the Indian Ocean received positive evaluation and further positive expectations. It also contributed to international recognition that the MSDF had a high level of operational capability and professionalism (Yoshida 2001, 15).

The participation of the MSDF in the fueling mission in the Indian Ocean developed the relations between the MSDF and the US Navy Forces. Admiral Masanori Yoshida in the MSDF explained that due to its fueling mission the operation of the MSDF expanded from Japan to the Middle East geographically, expanded from emergency to peace periodically, and expanded from deterrence to response and stabilization functionally. Consequently, the MSDF expanded its counterparts in the US Navy Forces including US Central Command and US Fifth Fleet operating in the Middle East. It provided the opportunity of consultations among the Joint Chiefs of Staff to broadly discuss the stability of the Indian and Pacific Oceans (Ibid. 17).

Furthermore, there would be several benefits deriving from the participation of the SDF in overseas operations:

1. It provides experience of an operational nature which cannot be gained in training in Japan.
2. It provides an opportunity to develop and evaluate the leadership of SDF officers under operational conditions.
3. It reinforces home training, enabling personnel to practice and develop individual and team skills.
4. By working as part of an international force or as observes, it provides an opportunity to evaluate strengths and weaknesses \textit{vis-à-vis} other nationalities and troops.
5. It has a positive effect on morale (Ishizuka 2004, 137-157).

6. \textbf{The End of the Fueling Missions in the Indian Ocean and its Aftermath}

The fueling mission by the MSDF in the Indian Ocean was completed in January 2010 when a new coalition led by the DJP allowed the Anti-terrorism Law to expire. Not only the coalition government but also the Japanese public also expressed less enthusiasm towards the

\footnotesize{\textsuperscript{8} \textit{OEF-MIF} stands for Operations Enduring Freedom, the Military Interception Force.}
country’s response in Afghanistan. It was reflected in the results of the opinion polls conducted by Yomiuri Shimbun. A significant shift in opinion had occurred. In October 2001, 65 percent of respondents gave a “positive” evaluation, and only 30 percent “not positive.” By September 2007, that had changed to 29 percent “positive,” 39 percent “not positive,” and 29 percent answering “none of the above” (Chuokoron 2007, 46).

Instead of the fueling missions, the DPJ-led Government pledged about $7 million of humanitarian assistance to Afghanistan and Pakistan over five years. However, the humanitarian assistance projects there have not been assessed properly and lacked concrete perspectives of the future (Miyasaka 2011, 79). Furthermore, the Karzai Government in Afghanistan has lacked its security-building and good-governance capabilities, and therefore, the question remains whether Tokyo’s financial assistance will be distributed properly and legitimately in Afghanistan.

The expiry of the Anti-terrorism Law and the withdrawal of the MSDF from the Indian Ocean would result in a negative impact on Japan’s policy towards international terrorism and its foreign policy generally. First, as have been indicated in Table 1, Japan’s contribution to the counter-terrorism operations in Afghanistan had already been a minimum among the G8 countries. Since more than 40 countries including almost all major Western major powers have joined ISAF, the termination of the MSDF fueling missions in the Indian Ocean would be far from appreciated. The Economist in the title “Don’t furl the flag; Japan” said “so, is this the Japan of old: self-absorbed, unashamed at leaving others to do the hard military tasks?” (The Economist 2007).

Second, this government decision would, more or less, influence the Japan-US security alliance. This decision was not compatible with US President Barack Obama’s new anti-terrorism strategy shifting the focus of US military efforts from Iraq to Afghanistan. In fact, the US had been mounting pressure on Japan, requiring more contribution to the war on terror in Afghanistan. US Ambassador to Japan Thomas Schieffer said if Afghanistan failed as a civil state and became a habitat for terrorists, all countries (including Japan) would be endangered (The Dairy Yomiuri 2008b).

Third, the withdrawal of the MSDF from the Indian Ocean marginalized the perspective on Japan’s national economic interests. In other words, the presence of the MSDF in the Indian Ocean was in the national interest of Japan: 89 percent of the total national consumption of oil came from the Middle East, and transported it through the Indian Ocean to Japan.

Fourth, the declining interest of Japanese public in counter-terrorism in Afghanistan does not
mean the declining risk of the terrorist attacks to the Japanese. As mentioned above, international terrorist attacks have frequented all over the world including the UK, Spain and Indonesia as well as the US, and Japan will not be exceptional. However, the termination of the MSDF mission in the Indian Ocean might give a more optimistic view of terrorism to the Japanese public.

7. **An Alternative?: The Capacity-building Assistance Project led by the MoD**

In 2011, the MoD advocated the Capacity-building Assistance Project in Asia. As the background of the advocacy of the Project, it has been universally recognized that due to the current tendency in global security problems, the issues on the so-called “non-traditional security sector” including humanitarian assistance, emergency relief operations, mine-sweeping, and counter-terrorism and anti-piracy operations, should be tackled collectively by the international community. Therefore, the purpose of the Capacity-building Assistance Project led by the MoD is to support the enhancement of capacity-building in the non-traditional security sector in the developing countries in Asia, and subsequently to contribute to the stabilization not only in Asian but also in global security. In other words, the Project is a new activity to create regional stability by building the states’ capability to tackle non-traditional security threats, by means of a continuous supply of expert-training and technical assistance by dispatching the Japanese SDF personnel to the region. The Outline of Japan’s Defense Plan in 2010 also strongly support capacity-building in the region by making positive use of the capability of the SDF in the non-traditional sector. In 2011, the MoD opened the special section for the Capacity-building Assistance Project in the Department of International Policy, the Bureau of Defense Policy of the MoD. Presumably, this Project, which is a preventive measure and is considered to be comparative advantage for Japan’s SDF, will be an alternative to counter-terrorism operations in Afghanistan in the long run.

**Conclusion**

Japan responded to international terrorists by the legislation of the Anti-terrorism Law after the 9.11 attacks, in October, 2001. The law legalized the dispatch of the Japanese SDF to support the US-led coalition troops fighting a war on terror in Afghanistan as an oil-fuelling mission in the Indian Ocean. However, the missions were completed in 2010 when the new DPJ Government allowed the Law to expire.

On the one hand, Japanese society paid most attention to domestic legal affairs in the issue of the dispatch of the SDF to counter-terrorism operations. Therefore, it is suggested that Japan should continue the debate on how far the SDF can conduct counter-terrorism operations
under the current laws or on the possibilities of amending them to enhance Japan’s policy towards counter-terrorism operations.

On the other hand, the debate in Japan has lacked arguments based on the more global views with wider international issues, which ask “why” Japan should essentially contribute to counter-terrorism operations in Afghanistan and in the wider world. So, what are the arguments taking a more global view?

First, it is important for Japan to join international activities in building the framework of the global order. Afghanistan, the Middle East, and Africa are, for example, the regions which have potential to seriously influence peace in the international community. If such regions continue to be fragile, they could be the strategic footholds for international terrorists or illegal armed groups, and then the international community including Japan would eventually have to pay a huge price for it. In Afghanistan, the Japanese Government tends to consider the possibility of dispatching the SDF in the context of the Japan-US security alliance. While this consideration is important, Japan should rather consider that it dispatch its troops to Afghanistan with its like-minded partners, including the G8 states, as part of its national effort to improve the entire circumstances of international security based on the value of democracy, and that such efforts will be compatible with the interest of the Japan-US security alliance at the same time.

Second, it is also a priority for Japan to strengthen solidarity with other states in making global order by participating in counter-terrorism operations in particular. In Afghanistan, the deployment of only NATO troops has not been enough for security-building in the extremely fragile state of Afghanistan. That is why ISAF consists of the troops from 47 states including almost all of the Western states and several Asia-Pacific states such as South Korea and Australia. In other words, it will enhance Japan’s reputation as a significant ally in counter-terrorism operations if Japan dispatches its personnel to fragile states where the international community is tackling terrorism.

In terms of the argument of the Ozawa Paper, it might be optimistic for Japan to decide to immediately participate in the US-led multi-national force, ISAF, under the current Japanese legal system. However, it is also too optimistic for the state to continue its non-military presence for counter-terrorism operations in Afghanistan. Meanwhile, the Capacity-building Assistance Project led by the MoD would be a suitable option as an alternative and tentative measure.

On the whole, Japan should take responsibility by contributing more to the creation and maintenance of international security, such as participation in counter-terrorism operations, as a member of the international community.
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