

CHAPTER III

REINTERPRETING PHILOSOPHY OF ARTICLE NINE

This chapter aims to explain the development of Article Nine in Prime Minister Shinzo Abe era as the gate of Japan once again to activate their military force. In the way to reinterpret The Article Nine, there are pros and contras about the supporting country such as the United States and the rejection of the neighbor countries that did not agree with the movement took by Prime Minister Shinzo Abe.

A. The Story of Reinterpretation of Article Nine

The reinterpretation of Article Nine comes out in the era of Shinzo Abe as the Prime Minister of Japan. Shinzo Abe leads Japan as Prime Minister starting from 2012. He also became the leader of Liberal Democratic Party (LDP) since 2012. Shinzo Abe became the 57th Prime Minister and the third longest serving Prime Minister of Japan since Post War (Nikkei Asian Review, 2017).

The so-called "Reinterpretation" of Article Nine came out after Prime Minister Shinzo Abe pressing and seeking approval to Japan Cabinet to reinterpret Article Nine on 2014. In that event, Prime Minister Shinzo Abe did not seek for amendment of Japan Constitution but the change of meaning and philosophy of Article Nine with the way of Cabinet fiat and without debate, vote and public approval. From the beginning, after Japan declared to be a fully sovereign country in 1952, Article Nine prohibit Japan to use military force to its minimum condition in almost any aspect. Besides that, it does not prohibit the individual self-defense, but the collective self-defense is strictly prohibited, and this shows and affirmed in Sunagawa Judgement on 1960 in The Supreme Court of Japan (Martin, 'Reinterpreting' Article 9 endangers Japan's rule of law, 2014).

Actually, in 1952, Prime Minister Yoshida Shigeru had already given the distinction of "self-defense" which is constitutional and "collective self-defense" that is

unconstitutional. This distinction called Yoshida Doctrine that divided the individual self-defense with collective self-defense and focusing on the economic building. The Yoshida Doctrine became an official interpretation of Article Nine of the government policy in Prime Minister Yoshida's era. Because of doctrine, Article Nine be interpreted to allow Japan to defend itself and continue to ban collective self-defense. There are several principles become the basic of Yoshida Doctrine:

“1. Economic rehabilitation was the prime goal and cooperation with the U.S. was essential to achieve that goal;”

“2. Japan should be lightly armed and avoid international conflict. This would contribute to economic development and avoid internal struggles;”

“3. In exchange for security, Japan would provide bases for the United States military.”

(Port, 2010)

In 1952 Prime Minister Yoshida Shigeru forming a group of advisor called The Cabinet Legislation Bureau (CLB) who becomes an advisory board which provides a legal opinion of the Article Nine interpretation for Prime Minister and Japan Cabinet (Sultenfuss, 2011). According to CLB, JSDF can do self-defense movements according to the certain condition:

“1. There is an imminent and illegitimate act of aggression against Japan;”

“2. There is no appropriate means to deal with this aggression other than to resort to the right of self-defense; and”

“3. The use of armed strength is confined to the minimum necessary level.”

(Curtis J. Milhaupt, 2006)

The hard work of Prime Minister Shinzo Abe slowly to took effects. In new interpretation delivered in the leadership of Prime Minister Shinzo Abe allow Japan to do collective self-defense. Japan starting from 2014 rearming their forces as the evidence of reinterpretation. The reinterpretation also gives much power to JSDF and make them be considered a dominant

regional force even though Japan decide to not producing the nuclear weapon (Robinson, 2010).

In November 2015 Prime Minister Shinzo Abe and his allies approved a pack of 11 bills about the military in the full house of Parliament and took effects on March 29, 2016. Those bills grant JSDF to take actions in overseas combats. Those bills approved by the cabinet called "Peace and Security Preservation Legislation" by its supporters. Because the security condition in the neighborhood is not safe, protecting Japan citizens in the other countries from any threats and protecting Japan sovereignty is the goals of this new bills. Prime Minister Shinzo Abe Said "These laws are absolutely necessary because the security situation surrounding Japan is growing more severe" (Soble, Japan Moves to Allow Military Combat for First Time in 70 Years, 2015).

B. Japan Action After the Reinterpretation of Article Nine

There are actions made by Japan in supporting their new interpretation:

1. Japan Lift Export Ban

Japan did action one by one in strengthening their vision in the new interpretation of Article Nine. Japan as an "anti-militarism" country was written in their law including renounce of military intervention, manufacturing, and settlement of weapon starting to change. Lifting their export ban is one of the major changes in the constitution made by Japan. Nearly 50 years Japan banning Export of military armament finally over on April 1, 2014. This action became a gate of Japan contribution in the world peace (Eva Pejsova, 2016).

Beside to contribute more to maintaining world peace, this action has another goal to make a strong military trade relation with countries which have same thoughts and wariness of Chinas power. By cautiously but unmistakably telling it to the world, Japan companies such as Mitsubishi, Toyota, Kawasaki, Hitachi and the

other military contractor seems have interest in opening the business. This shows that Japan has a serious intention of lifting the arms export ban (Soble, 2015).

The one first step did by Japan in action of arms ban lift is holding an event that has the theme "A Maritime Security Exposition" called MAST Asia 2015 Defense Conference. This expo held in May 2015 and became the first ever military industry trade show in Japan. This event held in Yokohama success to attract more than 100 exhibitors from around the world. This event aimed to promote and show to the world that Japan has a good product in military armament. Manager of Defense Programs at ShinMaywa Industries Ltd., Ryo Motosako, said: "Our profile is still low (in the global arena), so we are excited to promote our products to guests from militaries around the world" (Kameda, 2015).

2. Military Actions in Overseas

After passing those new bills in 2015, Japan conducted their first and second military mission in 2016. For the first time on 2016, Japan joining United Nations Peacekeeping operation in South Sudan. Actually, this action is prohibited under old interpretation of Article Nine because it is included in collective self-defense, but starting from 2015 that allowing Japan to do collective self-defense in strict condition Japan could do this action. Japan had a mission in South Sudan to rescue the United Nations staffs and the other forces that under siege. Japan took a big role in this mission by defending United Nations basecamp. In this peacekeeping operation, Japan had the limitation in using weapons by the strict rules. Japan allowed to do fire warning and return fire when they are in danger or attacked (Sim, 2016). However, in March 2017 Japan withdraw their military troops in South Sudan (Hornung, 2017).

The other Japan mission is to protect United States military vessels and aircraft on May 2017. This mission

following the growing tension with North Korea. This mission engages Japan Self-Defense Force as United State aircraft protector. Japan issued this mission in order to create a strong bond with the United States as its alliance. Prime Minister Shinzo Abe said, "An alliance gets stronger if the partners can help each other, the Japan-U.S. alliance has, without doubt, become stronger than ever" (The Japan Times, 2018).

3. Increasing Military Spending and Military Force

Under the leadership of Prime Minister Shinzo Abe Japan did a change in military spending. Despite to decrease the military spending, Japan chooses to increase its spending through Prime Minister Shinzo Abe proposal in 2016. Prime Minister Shinzo Abe was requesting the increase of military spending to counter China military power and the ballistic missile threat by North Korea. He was proposing to increase military spending up to 5.17 trillion yen, or \$50.2 billion, 2.9% bigger than 2015. This request including the purchase of the new anti-ballistic missiles and upgrading the land-based missile defense system (Rich, 2016).

This proposals reviewed by the Finance Ministry for Cabinet at the end of 2016 and finally approved on December 2016 for next year starting from April 1, 2017. Different from the other budget proposals that usually shrink after reviewed by Finance Ministry for Cabinet, this request proposal approval did not look much different from its original. Prime Minister Shinzo Abe and Cabinet approved 5.13 trillion Yen or \$43.66 billion, less than proposed but not much comparing by the usual proposals (Osaki, 2017). This increase from 2016 military budget spending around \$41.56 billion.

Figure 3.1 Graphic Japan Military and Defense Expenditure 2016



Source: (Trading Economics, 2018)

In 2017 Japan became one of the biggest spending countries in the military. Japan is in ^{the seventh} position in the global rank behind the United States (#1), China (#2), Saudi Arabia (#3), India (#4), United Kingdom (#5), and Russia (#6) (Global FirePower, 2018).

Figure 3.2 Graphic Defense Spending Countries 2017



Sources: Global Firepower (Global FirePower, 2018)

Besides the increase of military spending budget, Japan was also increasing their military capabilities from military arms and the military personnel. This shows in the data of military strength in 2017. In 2017 the number of active military personnel is 248,575 peoples and reserve personnel is 63,300. In total, the number of military personnel is 311,875 personnel. It is increased rapidly since 2012 that had only 255,347 personnel (GlobalSecurity.org, 2013).

In the air power, Japan has 1,594 aircraft strength including 288 aircraft fighter, 287 attack aircraft, 481 transport aircraft, 447 trainer aircraft and 659 helicopter strength. In the ground or army power, Japan has 700 combat tanks, 2850 armored fighting vehicles, 202 self-propelled artillery, 500 towed artillery and 99 rocket projector. In naval strength, Japan has 131 total naval assets. This asset including four aircraft carrier, 42 destroyers, six corvettes, 17 submarines, six patrol crafts, 25 mine warfare vessels and 31 other naval vehicles (Global Firepower , 2017).