

The Historical Background and Role of Japan's Strengthening of Support for the Rule of Law

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In recent years, Japanese leaders proposed “rule of law” diplomacy for promoting its Free and Open Indo-Pacific (FOIP) Initiative, as a counter proposal to the Chinese Belt and Road Initiative (BRI), though the two concepts are not necessarily mutually exclusive. How does Japan go about creating a favorable international order for its diplomatic and security environment? The clue lies in addressing the question of what we mean by “rule of law” and why the rule of law is often missing in less developed countries. Is Japan’s new agenda on promoting rule of law diplomacy really contributing to peacebuilding in Asia and the world? This article tries to address these questions using simple game theoretical framework, and suggests that “Higgins’ proposition” can provide some clues and it is conceivable that both China and Japan can gain by cooperating with each other, looking at longer-term gains for both countries.

Keywords: rule of law, Higgins’ proposition, soft law, game theory, Belt and Road Initiative

Introduction

Against the backdrop of rising military tensions in the South China Sea, at the 13th Asian Security Conference (Shangri-La Dialogue), Prime Minister Abe appealed to the importance of a solution based on the “rule of law” of the international community that would also serve to effectively restrain China. The “rule of law” of the international community applies to countries that, in resolving disputes with other nations: (1) make claims that conform to international law; (2) do not rely on power and intimidation; and (3) seek peaceful resolution to conflict.

Originally, “rule of law” was an idea formed in Western countries through the Enlightenment and civil revolution and which involved respect for liberalism, democracy and basic human rights. Today, the majority of the world’s nations support this concept, at least officially. However, it is difficult to apply domestic rule of law directly to international relations. In other words, while “rule of law” in domestic law involves: (a) the absolute superiority of those that restrain selfish policies of policymakers, (b) equality before the law (the absolute superiority of the law as interpreted and applied by the courts), and (c) the presence of human rights to be interpreted and applied by the courts (the Three Principles of the constitutional scholar Dicey), because there is no “world government” in the international community, the first point (a) does not apply, and thus there is no mandatory jurisdiction in international courts, so there are also restrictions on (b) and (c).

On this point, Prussian Prime Minister Bismarck expressed to Tomomi Iwakura, who was dispatched (to Europe) after the Meiji Restoration, a recognition that “the reality of the international order is that while

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universal public laws serve as a public face, when actual interests are inconsistent, power is the ultimate determiner.”¹ According to Komatsu (2015), unlike the days of the Iwakura mission, the effectiveness of the “brute force” has significantly declined in today’s diplomacy and even large countries find it indispensable to make “justifiable efforts based on international law”. Condoleezza Rice, Secretary of State in the Bush administration, had the following to say with regards to this:

“The United States is, and will continue to be, the strongest voice in the world when it comes to developing and defending international laws and regulations. (Omitted) The US has historically been a major player in the negotiation of treaties and the establishment of international mechanisms for the peaceful resolution of conflict. Our main diplomatic efforts today are directed at working together with governments from other countries and private representatives around the world to expand the rule of law not only domestically but also in the area of international relations.”²

Turning our attention to economic characteristics, as a result of the spread of the internet, the 21st century has seen “the world become flat”³ (Friedman, 2005), the assertion being that the globalization of society has accelerated with the role of the state declining accordingly. Indeed, from the viewpoint of international integration, the expansion of the EU/Eurozone has already weakened the role of the state and with the growth in online transactions, it is now possible to use “virtual currencies”, such as Bitcoin. In international transactions, parties no longer have to assume currency risks by using money issued by central banks. On the political side, through the internet, the general public demanded democratization in Taiwan and Hong Kong 2014 and were also behind the so-called “Arab Spring”. The terrorist organization and pseudo-state ISIS is using YouTube to spread fear around the world.

As opposed to strengthening useless theories in international law, these cases have proven useful in enhancing useful theories. There is no doubt that, as the above examples show, with the spread of the internet and globalization, the social expectations for direct state involvement have declined in today’s world. However, the greater the role of private citizens in economic transactions and political activities, the more complicated the interests of stakeholders. Even so, leaving the coordination of interests to private negotiations increases the costs of this coordination. That is why national institutions that can share and enforce rules and norms that govern private transactions are becoming increasingly important.

International Common Law as Soft Law

As defined by the International Court of Justice (ICJ), international common law must fulfill: (1) the objective condition of “state practice” that has been widely accepted by repeated and continued implementation of similar practices by states, and (2) the subjective condition of “legal beliefs” (*opinio juris*) that such practices are not merely international concessions but a reflection of legal rights and obligations. Therefore, ICJ considers that the binding force of international common law is generated if these two requirements are satisfied.

However, just because a binding requirement arises does not mean that it will be observed. In other words, if the essence of international law is regarded as “predetermined rules”, there is room for the defense that emerging countries need not comply because they were not involved in the formation of these laws. The international legal scholar Higgins (1995) sees international law “not as rules themselves, but rather as the

¹ Komatsu, K. (2015). *The Practice of International Law*. Tokyo: Shinzansha, p. 7.

² Komatsu, *ibid*, p. 8.

³ Friedman, T. L. (2015). *The World Is Flat-A Brief History of the Twenty-First Century*. New York: Farrar, Straus and Giroux.

decision-making process or operational system for finding applicable rules". Rather than seeking the sovereign state's "consent" for the basis of the binding power of a law, he states as follows that the linchpin here is "reciprocity":

"Implicit in the norms (omitted) to which a country is bound despite not expressly agreeing with a law or treaty is that the consensus of countries that sometimes exhibit reluctance is a foundation of international law. The reason consensus arises is that there are mutual benefits in ensuring that nations grow naturally. Although violating international law may be beneficial in the short term, it rarely contributes to a nation's long-term interest."⁴

For example, in the case of international laws regulating cross-border economic activity, from the viewpoint of the common interests of the international community, the regulatory authority of the state is adjusted with restrictions placed on the exercise of regulatory authority. As a part of this, these laws: (A₁) are established as treaties between nations and, moreover, (A₂) have legally binding power, such as the agreements between business entities or the regulation of procedures related to contracts or the like; and (B) are documents, declarations, etc., established as consensus-building gauges, principles or guidelines at international organizations and conferences⁵. (A₁) are the official legal regulations for international transactions, while (A₂) are private legal regulations; an example of (B) can be seen in guidelines for development assistance policies by the Organisation for Economic Co-operation and Development (OECD) and the Basel Accords for Banking.

With treaties and contracts that are legally binding, the legal norms to be relied upon in the event of a dispute are clear but, with regards to guidelines and agreements that are only partially legal binding, because no administrative guarantees to manage violations have been established, there is a high risk that nations will seek "short-term profits" and that "brute force" will prevail. This is doubly true for emerging countries.

Rule of Law in Emerging and Transitional Countries (Higgins' Proposition)

During the Cold War, the socialist camp led by the Soviet Union had a different legal system than the West. Put simply, this was not the "rule of law" so prominent in Western European democracies, but rather the "rule by law" of the working class⁶. Since the 1990s, many of these former socialist countries have come to be called "transitional economies". Through the political democratization process of multiparty democracy whereby one-party dictatorship is abandoned, these countries have also come to deny the socialist economic system based on planned production and introduced a capitalist market economy based on free competition, with many former state-owned enterprises incorporated into the market economy through privatization or the introduction of foreign capital.

With regards to issues related to the development of a legal system, rather than being characterized by emerging and transitional countries consolidating undeveloped laws, it is thought that, with regards to the basic principles of governance, there is a transition from the traditional "rule by law" to "rule of law", with the ensuring of legal effectiveness, i.e., the strengthening of enforcement, an essential issue. With regards to the question of why it is difficult to comply with laws and regulations in emerging and transitional countries, we would like to examine Higgins' proposition using "insider trading" regulations as an example.

⁴ Higgins, R. (1994). *Problems and Process: International Law and How We Use It*. New York: Oxford University Press, p. 16.

⁵ Nakagawa, J. et al. (2003). *International Economic Law*. Tokyo: Yuhikaku, pp. 3-7.

⁶ As an example of the rule of law, the NPC, the highest decision-making body in China (equivalent to the Diet in Japan, but also approving the Communist Party's de facto rule) has the right to interpret the constitution and law (Article 67 of the Chinese constitution).

Insider trading has been conceptualized and legislated with a focus on Anglo-American law. The legal basis for regulations (to fight insider trading) is that an individual functioning as a company official can obtain undisclosed information when carrying out transactions and that this constitutes a violation of the principles of faith and trust and in some cases, a violation of fiduciary duty. Moreover, as an economic basis, contrary to the premise of perfect competition, these transactions presuppose incomplete information and thus provide the argument that public welfare is damaged due to inefficiencies.

Although few in number, there were those who advocated for insider trading in the 1960s. The basis of this advocacy was that insider trading would serve as a rational form of compensation for management and that it reflected unpublished information in the stock price and thus made the market more efficient⁷. It did not end up gaining support, however.

Japanese Law (the Financial Instruments and Exchange Law) stipulates in detail that dealings with corporate personnel based on internal information (Article 166) and with personnel involved in tender offers related to outside information (Article 167) are prohibited. With regards to “important facts related to operations of publicly-listed companies and similar entities”, company officials (including those who ceased affiliation with the company less than one year earlier) may not “subsequent to the announcement of important facts related to the person’s duties or the like, acquire securities by sale or other paid transfer or assignment, merger or split of the listed company or entity” or (participate in) “derivative transactions” (Article 166, Paragraph 1). The same prohibition also applies to the parties to a tender offer (Article 167, Paragraph 1) and recipients of this information (Paragraph 3 of the same Article). Important matters (Article 166, Paragraph 2) include decisions⁸, occurrences⁹, changes in finances¹⁰, comprehensive provisions¹¹ and important matters related to subsidiaries.

Although violators were initially not treated harshly, penalties in insider trading began to be strengthened in Japan in response to trends in Europe and the United States, with the Financial Instruments and Exchange Act making insider trading punishable by criminal penalties and fines. Violators may be imprisoned for up to five years (Article 197 of 2) and pay fines up to ¥5 million (Article 207). In addition, the violator must pay an amount equivalent to the interest earned or loss avoided (Article 175).

Following the example of other countries, legislation concerning insider-trading regulations has been promoted in developing and transitional countries as well. However, despite the introduction of such legislation, including penal provisions, it seems that results have been mixed at best. While the strengthening of penalties

⁷ Kuronuma, E. (2013). *Introduction to Financial Transaction Law*. Tokyo: NihonkeizaiShimbunsha, p.146.

⁸ When a decision-making body of a listed company has decided to implement certain matters, or decides to not implement these after announcing that they will implement them, including issuance of stock/disposal of treasury stock, decreases in capital, decreases in additional paid-in capital/legal reserves, acquisition of treasury stock, allocation of free shares, surplus dividends, stock exchanges, stock transfers, mergers, splits, transfer of all or part of a business, dissolution, commercialization of new products/technologies, and matters specified by Cabinet Order (166II①).

⁹ Refers to damages caused by disasters or occurring in the course of business operations, major shareholder changes, facts that may cause delisting or cancellation of registration of specified securities or options related to specified securities, or facts specified by a Cabinet Order (166II②).

¹⁰ With regards to sales of the listed company, etc., ordinary income or net income, dividends, sales of the corporate group to which the listed company belongs, etc., refers to the case where there is a difference in the forecast value newly calculated by the listed company, etc., or the settlement of accounts for the current fiscal year compared to the latest announced forecast value (166II③).

¹¹ Refers to important facts related to the operation, business or property of a listed company that significantly affect investors’ investment decisions (166II③).

for violations of laws and regulations helps to deter crime, once a crime has been committed, there is no incentive to refrain from engaging in further criminal activity, and, instead, the possibility arises that the perpetrator will attempt to conceal his or her violation of laws and regulations.

This problem can also be seen in the relationship between hard law (where violators are subject to legal sanctions by the state) and soft law (a code of conduct shared between parties that is not sanctioned by the state) in corporate activities. In other words, if sanctions due to hard law are excessive, this may lead to reduced economic activity and in some cases contribute to the concealment of violations. On the other hand, if the concerned parties agree on a method of compensation should personal conduct by a concerned parties lead to damages (soft law), hard law is not imposed and negative externalities related to economic activity (for example, pollution) are internalized, making it possible to implement corporate and production activities at socially desirable levels. In economics, a few researches¹² have been done from the viewpoint of law and economics in discussions established as “course theorem”. Let’s consider this point using the following simple game theory.

Law Enforcement in Emerging and Transitional Countries

Using the following conceptual case, let us illustrate the legal compliance model in transitional economies:

Ex.: Compliance with insider trading regulations for securities trading.
 1. A and B are “company insiders” able to execute transactions using internal information.
 2. A and B can choose arbitrarily to comply with laws (no trades) or violate them (trade).
 3. Should one party violate the law and the other comply, the violator is rewarded with r and the non-violator is rewarded with v . That is, we establish that $r > v$.
 4. If both comply with the law, each will receive a reward of $s > 0$.
 5. If both violate the law, each will receive a reward of t . However, $s > t$.

To make this easier to understand, let’s consider specific examples with numerical values. Suppose that there are an investor A and investor B living in Shanghai, both of whom are “related parties”. Now, let’s assume that should the authorities become aware of any insider trading, a fine of approximately ¥6 million is to be imposed. However, the authorities do not have the ability or means to monitor internal transactions, so both A and B have an incentive to engage in illegal transactions. However, in the unlikely event that the fine is levied, their respective enterprises would fail. The rewards for a single transaction are assumed to be $r = ¥5$ million, $s = ¥4$ million, $t = ¥2$ million, $v = -¥1$ million (Figure 1).

		Investor B	
		Compliance	Non-compliance
Investor A	Compliance	s, s	v, r
	Non-compliance	r, v	t, t

Figure 1. Compliance game: insider trade law. (Note. $r > s > t > v$)

Investor A engages in insider trading, thinking that B will not do so, attempting to earn the ¥5 million all for himself/herself. However, Investor B’s thinking is exactly the same, so both A and B violate the law and eventually gain only ¥2 million. If both A and B had been compliant, they would have been able to earn ¥4 million. This is the so-called “prisoner’s dilemma”. In other words, while the Nash equilibrium, which is a non-cooperative solution, is achieved in this transaction, it is not the best option for both parties.

¹² In Japan, an example of this is the Global COE program at the University of Tokyo (“Soft Law in State-Market Interaction”).

So, exactly how do we go about enforcing legal compliance in this situation? In order to solve this problem, rather than a game that is to be completed only once, the problem is set up as a “repeated game” that is performed several times as shown below.

	1	2	3	...	T
Investor A	500	200	200	...	200
Investor B	-100	200	200	...	200
Cooperative solution	400	400	400	...	400

Figure 2. Repeated prisoner's game: “trigger strategy”.

In this example, if Investor A violates the law and Investor B complies with the law, Investor A gains ¥5 million while Investor B loses ¥1 million. Feeling betrayed, when trading with Investor A the second time, Investor B attempts to profit by violating the law, thus imposing a “private” sanction (This type of strategy where the other party imposes sanctions for a violation is referred to as “trigger strategy”). With the third transaction, both Investor A and Investor B violate the law, so a counterstrategy is taken in the form of sanctions. In this way, subsequent to the second transaction, each party applies private sanctions by trigger strategy, and, as a result, only ¥2 million can be gained after the second transaction. On the other hand, if both parties decided to comply with the law from the beginning, each transaction would have netted them ¥4 million. Because there is no need to sanction the other party after the second transaction, a strategy for legal compliance is selected. However, should the authorities detect any fraud, a surcharge of ¥6 million will be levied (Figure 2).

When it is possible to arrive at a cooperative solution, investor gains for each scenario are accumulated up to period T , with these gains determined by the comparative weight of the numerical value representing the current value (present value) and comparative measures of present values of cooperative solutions (cumulative). Considerations of present value depend on whether the investor tends to invest from a short-term perspective or from a long-term one. If the investor is rational, he or she will select a strategy where future gains are treated in the guise of present value.

Let's say that this securities transaction is carried out periodically (for example, once a month), and that the discount rate for converting the economic value one month in the future into the present value is δ (delta). Assuming that the discount rate is constant, if Investor A violates the law on the first transaction and is sanctioned as a result of the trigger strategy beginning with the second transaction, the present value of the total gain up to time T would be expressed as $500 + \frac{200}{1+\delta} + \frac{200}{(1+\delta)^2} + \dots + \frac{200}{(1+\delta)^T}$ (A). If the game is played indefinitely (if the number of transactions can be equated), i.e., if $T \rightarrow \infty$, it will converge to $500 + \frac{200\delta}{1-\delta}$ (A)' as per the recurrence formula.

Similarly, because the present value of the cooperative solution when $T \rightarrow \infty$ is $\frac{400}{1-\delta}$ (B) according to the recurrence formula, when (B) > (A) is satisfied, the soft law functions effectively. In the above case, $\delta > \frac{500 - 400}{500 - 200} = 0.333$, i.e., the soft law is valid (compliant with existing law) only when the monthly discount rate is 0.33 (rounded down). Conversely, if the value is less than 0.33, the soft law will not function.

If we set aside our specific example and attempt to explain this again using our general model $\frac{s}{1-\delta} > r + \frac{\delta t}{1-\delta}$, soft laws can only function when $\delta > \frac{r-s}{r-t}$ holds. The smaller the numerator ($r - s$) and the larger the denominator ($r - t$), the smaller the value to the right of δ becomes. So even if the value of δ is small, this inequality is likely to hold. This is thought to be the case (in a society) where information is shared equally between the parties. Detailed mathematical proof will be provided in a separate paper but when the other party is in compliance, $r - s$ is the difference between the profits obtained by investors when violating laws and regulations and when complying with laws and regulations. This is because the difference is considered to be smaller when information is widely shared, as opposed to being unevenly distributed.

Let's turn our attention to just what discount rate δ should indicate. In investment theory, this is generally referred to as the "time preference rate". The idea here is that, if $\delta = 0$, future value will be equal to present value, so to use a subjective expression, this favors the patient investor. Conversely, as δ approaches 1, future value is lower than present value, so this favors the short-term investor who values quick gains.

According to the above interpretation, if information related to transactions is widely shared throughout society, even if the value of δ is low, the inequality expression (B) > (A) will hold. Conversely, in a society where information is not widely available, inequality will not hold if δ does not have a significantly high value.

On the other hand, δ can be considered to indicate the psychological risk that investors bear. Generally, when investment risk is high, there is an elevated level of concern regarding the future, so the incentive to realize short-term gains increases. Such risk is felt to be present in transitional countries and developing countries where no legal order has been established in the financial system. This could mean that soft laws operate in a functional direction. Or it could rather suggest a situation where the social order cannot be maintained unless the state takes extra-legal measures. In such societies, the state does not obey the law; rather, such societies are thought to indicate the "development dictatorship model" where the state dictates the law as seen in some Asian countries (South Korea, the Philippines, Indonesia, etc.) prior to democratization.

Compliance With International Common Law as Soft Law

Using the above conceptual (game-theoretical) framework, we examined methods of ensuring enforcement of laws developed in emerging countries. Pursuant to establishing a legal system, enforcement is not ensured only by hard laws that simply strengthen penalties for violations. Using a simple game theory model and numerical examples, this paper shows that, through compliance with soft law consisting of normative consciousness and the formation of common intent between traders, the aims of the legal system may be perpetuated. However, it is by no means the case that hard law is completely meaningless; rather the implication is that, if soft laws are not adhered to, the threat of costly penalties can also serve as a deterrent enforce compliance with soft laws.

Does foreign aid help strengthen rule of law? Can Japan promote "rule of law" in Asia and beyond without major conflict of interests with China?

In the past, Japan has provided support to countries such as China, Laos, Cambodia and Vietnam through the Ministry of Justice. Japan's system of legal support is characterized by the fact that Japan has developed a rule of law that combines legal systems—Anglo-American law with continental law—that are inherently incompatible, and which has been evaluated as having supported the development of legal systems that suit

local conditions as opposed to being forcibly imposed by the government. However, in order to make the rule of law a reality, in addition to the doctrines of localism and the temporalism, sometimes a more drastic approach is needed.

In these emerging and transitional countries, the “governance of law” shared by Europe, the United States and Japan has not taken root, and it seems there are no situations under which a mindset of obeying international law will become more commonplace, presenting a high hurdle for compliance.

A New International Order and the Chinese Way

As of writing, China seems to be rewriting international rules created by Western powers. Following “nationalization” of the Senkaku Island in the East China Sea by the Japanese government in 2012, the Chinese government announced the establishment of an air defense identification zone over a wide area of the East China Sea, including above the Senkaku Islands, in 2013. The public confrontation between Japan and China over territorial and historical issues has intensified, and Japan-China relations have fallen to their lowest level since the renewing of diplomatic relations.

The tension between the two nations worsened. In May 2014, China set up an oilrig near the Paracel Islands in the South China Sea, a disputed area with Vietnam, and commenced drilling operations. This led to anti-Chinese riots in Vietnam, with ships of both countries facing off in the South China Sea and tensions between the two countries rapidly escalating.

In April 2012, warships of the Philippines and China confronted each other at the Scarborough Reef in the South China Sea, an area that the Philippines and China both claimed sovereignty over. Moreover, ever since Xi Jinping assumed power, China has promoted the construction of man-made islands at a rapid pace in the South China Sea¹³. Many countries, including the US and the Philippines, have responded by protesting that China is trying to strengthen its effective control in the region.

In this way, from Japanese perspective, China is increasingly viewed as having increased its political and military influence even as it continues to experience economic growth, and has abandoned its policy of “hiding its strength and biding its time” and begun to follow a harder line. Given these circumstances, the BRICS New Development Bank and the Asian Infrastructure Investment Bank (AIIB), with which China plays a leading role, have also started operations. AIIB is gradually gaining prominence as an important funding source for the BRI. Fearing that this might be a movement to change the global financial order centered on the World Bank and IMF, the United States and Japan are displaying caution, while European countries seem to be more open to these changes. In 2019, Italy was the first EU member state to consent to China's One Belt, One Road Policy, and to develop its main ports using Chinese capital.

Conclusion and Policy Implications

In concluding, there are a few points as policy implications. First, it is important to share the recognition and behavior of “emergency powers” as they relate to international rules. Nearly 75 years have passed since the end of the Pacific War. During this time, the international community has been transformed, with Japan never having faced such a harsh environment. This is particularly true in recent years, when the rapid rise of China

¹³ In the disputed waters of the South China Sea, China is building infrastructure on islands that are also effectively controlled by the sovereign claims of Vietnam and other countries. However, the scale of landfills in China is much larger than the sovereign claims of other countries.

has greatly changed the diplomatic security environment surrounding Japan. This change in the balance of power is especially pronounced in East Asia. In the Asia-Pacific region, the US administration has become more involved in a policy of “rebalancing”, while China, which has risen rapidly to prominence, has established an air defense identification zone in the East China Sea and is also moving to strengthen its effective control in the region.

About ten years ago, China's economic power (GDP) was about 40% of that of Japan's, and its defense expenditures were lower than that of Japan's. However, by 2015, these numbers had increased to be almost twice that of Japan. This trend has been especially pronounced since the Russia threat has subsided, but the relative decline in Japan's economic power has further changed the Chinese government's attitude towards Japan. Japan is troubled by Chinese behavior of seemingly ignoring international rules. In particular, China has deviated from, or actively rejected, traditional international practices and rules in its methods of increasing its influence (Maritime Silk Road, BRICS Development Bank, Asian Infrastructure Investment Bank) and even in its advances in Africa.

Meanwhile, India, like China, is an emerging power that challenges Western value standards on the one hand, even as it adopts Western democracy on the other and also creates new value standards. Moreover, ever since the 1990s, with the exception of a period of time during which the proliferation of nuclear weapons created a chill, Japan, Europe and US have strengthened political and economic ties. India has traditionally been an ally of Japan, and has an affinity for Japanese culture and traditions. Meanwhile, up until the crisis in Ukraine in 2014, Russia was seen as cultivating economic and political relations with Japan and also negotiated with Japan over the northern territories for a time. However, with Japan joining the West's economic sanctions against Russia, this relationship has since cooled.

Second, in light of this international situation, it is increasingly necessary in a modern international society symbolized by globalization and information revolution to seek out the construction of a new order and rules, as opposed to “unipolar” or “multipolar” structures. This can, in a sense, then be synchronized with the new order that emerging powers are attempting to create.

Japan must present itself robustly and establish a strategic foreign policy. Specifically, it must win the information war of the “smartphone/SNS era” by enhancing its public technology and winning over public opinion overseas. To this end, Japan has a historical mission to willingly participate and play a proactive role in international norms and the creation of the new international framework that the emerging powers are trying to challenge. This is because Japan itself is an “old” emerging power that has, since the Meiji Restoration, internalized Western European legal systems and values to realize its own unique development.

So how exactly does Japan go about creating a favorable international order for its diplomatic and security environment? The answer lies in strengthening alliances with India and other countries that share its values pursuant to creating a new international order. In this sense, the Abe administration's “diplomatic view of the world” is a big step forward.

However, there are a variety of gaps in Japan's system of legal support. It is therefore necessary to shift the country's security policy from that of the “positive list” (limited enumeration) method hereto utilized, to a “negative list” (limited enumeration) one. For example, NATO is of the opinion that actions are permissible as long as they don't violate the North Atlantic Treaty. An example of this can be found in a legally limited and wholly inadequate 2015 revision to the treaty that was to pave the way for the right to exercise collective self-defense. In the future, appropriate policy changes (or constitutional discussions) should be made, and paths

for participating in collective security should again be investigated. Furthermore, the Three Principles on Transfers of Defense Equipment and Technology are consistent with budget austerity, while increasing defense spending commensurate with the country's power is another option worth considering.

With regards to developing countries, Japan must emphasize its economic cooperation and value-based business philosophy more than ever. On this point, even given an anti-Japanese political climate, the fact that so many Chinese entrepreneurs and managers are so eager to stealthily study Japanese management philosophy is noteworthy. With the Chinese government exhibiting an anti-Japanese response, Japan most certainly needs to devise a truly robust yet realistic diplomatic strategy without inadvertently stepping on any toes.

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