

## **Biden's Remark and Japanese Constitution**

Yoichi Shimada

U.S. Vice President Joe Biden's remark on the Japanese constitution on August 15 has become controversial in Japan. When criticizing Republican presidential nominee Donald Trump, Biden said, "Does he not understand we wrote Japan's constitution to say they couldn't be a nuclear power?"

In response to the remark, Japan's opposition Democratic Party leader Katsuya Okada said: "The Japanese Diet deliberated on and made the constitution. It is inappropriate for the vice president to say the United States wrote it... The fact that the Japanese people have nurtured the constitution for 70 years is more important than whether a draft for the constitution was written by the General Headquarters of the Allied Powers or not." However, Okada's reaction missed two essential points.

### **It's clear the U.S. wrote it**

First, the constitution was drafted by some 20 GHQ staff in less than 10 days. The draft was partly revised later but all revisions were made under the instruction or approval of the Occupation Forces. Clearly, the intension of the lawmaker (i.e. the Occupation Forces) for drafting the constitution, particularly Article 9 on the renunciation of war, was to weaken Japan.

As indicated by Biden, the current constitution was imposed on Japan by the Occupation Forces. However, we cannot shift the blame to the United States for leaving the constitution unchanged for 70 years after World War II.

The requirement for a two-thirds majority of all the members of both the Houses of Representatives and Councilors to initiate amendments to the constitution is tougher than the U.S. requirement for a two-thirds majority of attending members each in the House and Senate. For example, however, 88% of all the members in the House of Councilors, or 213 of the 242 members in the chamber, voted for a bill to establish the National Security Council on November 27, 2013. A two-thirds majority of all the members in a chamber is not an impossible requirement.

However, most of opposition camp lawmakers and a considerable number of ruling party lawmakers are opposed to or negative about amending Article 9 of the constitution. What are lawmakers willing to do by establishing the NSC on the

vulnerable national security base of Article 9?

### **Possession of nuclear weapons not unconstitutional**

Second, the Japanese government has officially explained on nuclear weapons as follows.

(1) The constitution does not prohibit Japan from possessing the minimum necessary potential for self-defense and allows the country to possess and use even nuclear weapons as far as they are limited within the potential.

(2) Japan has made it policy to prohibit the possession of nuclear weapons by sticking to the three non-nuclear principles and complying with the provisions for peaceful use of nuclear energy under the Basic Act on Atomic Energy and with the obligations as a non-nuclear power under the Nuclear Nonproliferation Treaty.

This means that the Biden's remark is incorrect in describing the constitution as prohibiting Japan from possessing nuclear weapons.

When signing the NPT in February 1970, the then Eisaku Sato cabinet issued a statement that Japan takes note of the NPT's Article 10 saying: "Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country." The statement reaffirmed Japan's right to withdraw from the NPT. On the three non-nuclear principles, then Prime Minister Sato told the Diet that the principles were combined with Japan's dependence on U.S. nuclear deterrence.

At present, it is unrealistic and inconceivable for Japan to possess nuclear weapons. However, if U.S. nuclear deterrence is not dependable, Japan must consider having its own deterrence. If Japan chooses not to go nuclear, politicians must offer answers how to develop powerful and effective deterrence with the striking power of conventional weapons.

*Yoichi Shimada is Planning Committee Member, Japan Institute for National Fundamentals, and Professor at Fukui Prefectural University.*