International Relations of the Asia-Pacific Volume 12 (2012) 259–285
doi:10.1093/irap/lcs004

Debating Japan's intervention to tackle piracy in the Gulf of Aden: beyond mainstream paradigms

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Received 25 October 2011; Accepted 29 February 2012

Abstract

The literature on Japan's international security policy, including overseas interventions, since the end of the Cold War has focused on Japan's emergence as a 'normal' state. This discourse is informed by realist theory, which posits that states aim to increase their material power to secure themselves in a hostile anarchical order. This article explores the maritime security role of the Japan Coast Guard (JCG) to elucidate alternative theoretical paths that shed new light on Japan's foreign interventions. Specifically, a critical constructivist approach is applied to demonstrate the unique maritime security responsibilities that the JCG has assumed in line with Japan's pacifist identity and even at the expense of the Maritime Self-defence Forces, as demonstrated in Diet debates on Japan's Anti-Piracy Measures Bill in April 2009. Rather than pressuring states to become 'normal', there is much to be gained from

understanding how identities inform alternative approaches in International Relations.

1 Introduction

The scholarly literature on Japan's international security policy since the end of the Cold War has focused on Japan's emergence as a 'normal' state. In this academic discourse, 'normal' refers to the dilution of Japan's pacifist identity[1] that has hindered Japan's international security role in favor of a proactive international foreign policy by which Japan '[abandon's] many of the self-imposed constraints on its exercise of military power; … [functions] as a more reliable US ally; and … [becomes] an assertive military actor in East Asia and beyond' (Hughes, 2004, p. 9). The evolution of Japan's self-defence forces (SDF) is often interpreted from traditional theoretical lenses, such as realism.

Realists have long sought to understand the conundrum Japan poses as an 'economic giant, but a political pygmy' (Miyashita, 2003, p. 180). The development of the SDF after the Cold War answers this conundrum for realists who perceive Japan as no longer able to rely on its alliance with the United States and, therefore, forced to develop and deploy Japanese military forces to secure Japan against hostile states, such as China and North Korea (Roy, 2006, pp. 72–7; Samuels, 2007, pp. 166–71; Mochizuki, 2009). The realist scholarship therefore asserts that Japanese governments have been able to prevent the US abandonment by persuading Washington of Japan's commitment to play a greater international security role, as well as to demonstrate Japan's contribution to international society in its bid for permanent membership on the United Nations Security Council (UNSC) (Green, 2001, pp. 21–2, 107; Hughes, 2004, pp. 42–7, 147; Samuels, 2007, pp. 151–7, 177–8). This realist literature has noted that the developments in Japan's security posture have been deliberately incremental, from the dispatch of the SDF

1 According to Oros (2008, p. 10), the content of Japan's pacifist identity comprises 'no traditional armed forces, no use of force by Japan except in self-defense, no Japanese participation in foreign wars'. Whilst the core constraint is articulated as the war renouncing Article 9 of the Japanese Constitution, the pacifist norm in Japanese foreign policy is embodied in numerous policies, including the Three Non-Nuclear Principles, the ban on arms exports, the 1% ceiling on defence expenditure, and the peaceful use of space (Hughes, 2004, pp. 31–40).

on peace-keeping operations (PKOs) to the reclassification of the Japan Defense Agency (JDA) as a Ministry in January 2007, so as not to antagonize East and Southeast Asian states that suffered from Japanese imperialism during World War II (Green, 2001, pp. 193–4, 202–3; Hughes, 2004, pp. 21–4, 41–2; Samuels, 2007, pp. 65–7, 93, 109–32) and to gain the Japanese public's full support of the SDF's involvement in United Nations' PKOs (Samuels, 2007, p. 102). Midford (2011, p. 108) qualifies such accounts by noting that the Japanese public, in accordance with anti-militarist values, has endorsed only the dispatch of the SDF in humanitarian relief operations and has not countenanced greater military involvement in PKOs.

In contrast to the realist accounts, this paper explores the maritime security role of the Japan Coast Guard (JCG) to elucidate alternative theoretical paths that shed new light on Japan's foreign maritime interventions. Specifically, a critical constructivist approach is applied to demonstrate the unique maritime security responsibilities that the JCG has assumed in line with Japan's pacifist identity and potentially at the expense of the Maritime Self-defence Forces (MSDF). This paper begins by challenging accounts that subsume the role and identity of the JCG into realist explanations of Japan's foreign security policy, in order to define the JCG in non-military terms. Then it advocates a critical constructivist approach to examine the discourse on Japan's response to maritime piracy. The discourse analyzed comprises Diet debates on the Anti-Piracy Measures Bill in April 2009 to highlight how, in the case of Japan's response to Somali piracy, deploying the JCG not only reaffirms the salience of the pacifist norm, but also that the JCG acts as a norm entrepreneur and the model to be adapted by other states.

2 The canary and the pigeon hole – mainstream interpretations of the JCG

In light of the national and international context since the 1991 Gulf War, academic attention has begun to focus on how the changes in the structure, capacities, and role of the JCG are contributing to Japan's evolving foreign security policy. The JCG has been a key actor in the execution of Japan's foreign policy in at least seven issue areas: North Korean spy ship incursions, territorial disputes, piracy and international maritime crime, maritime terrorism, ensuring the safety of navigation at

sea, protecting and policing the maritime environment, and conducting search and rescue operations. In the most prominent articles in English on the JCG, Richard Samuels hails these developments, stating that 'the JCG has been used to diversify Tokyo's portfolio of overseas development assistance as well as to assuage the concerns of its US ally that Japan will fail to pull its own weight in a crisis. And, in surely what is the most edifying development, transparent enhancement of the JCG has built confidence amongst Japan's neighbors that Japan is willing and able to contribute positively to regional and global security' (2008, p. 112).[2]

Despite the important contribution made by Samuels in terms of articulating the expanding role of the JCG, there remains some confusion as to what the identity of the JCG actually is. Toward the end of the article, Samuels states that the JCG 'is a formidable addition to Japan's diplomatic and military capacity - ironically not least because of its *non-military character*' (2008, 110, emphasis mine), adding shortly after that the JCG is not a navy (Samuels, 2008, p. 111). Yet, Samuels begins the article by stating that '[a]lthough the JCG will not become a 'second navy,' it is already a fourth branch of the Japanese military' (2008, p. 85). Samuels then refers to the JCG as a 'quasi-military unit' because the elite unit of the JCG, the Special Security Team (SST) trains with the US Special Forces, Navy SEALS (2008, p. 92), highlighting again that 'the nascent transformation of the JCG into a de facto *fourth branch of the Japanese military* may be the most significant and the least heralded Japanese *military* development since the end of the Cold War' (2008, p. 95, emphasis mine). Such statements are echoed in Samuel's earlier work, where he states, 'the [Japan] Coast guard trumpets its 'new military [sic] powers' and is becoming more navylike every year' (2007, p. 172).

These contradictory statements by Samuels conflate the roles and missions of the MSDF and JCG in order to strengthen his argument that the expansion of the JCG is laying the ideological and material groundwork for the further operational development of the SDF, summed up in

2 China, South Korea, and North Korea have disputed the JCG's positive contribution to regional and global security in light of the JCG's actions in the 2001 North Korean spy (or suspicious) ship case, the involvement of the JCG in the Proliferation Security Initiative (PSI), and JCG patrols of disputed territories.

his use of David Leheny's metaphor of the JCG as the 'canary in the coal mine' (Leheny, 2006, p. 165 quoted in Samuels, 2008, p. 95, 103). According to Leheny's metaphor, the development of the JCG's international security role acts as a 'canary' to test domestic and international opinion regarding the more important and sensitive development of the SDF. According to Leheny (2006), as the Japanese public responded positively to the JCG chasing a North Korean 'spy ship' in December 2001, which resulted in the 'spy ship' sinking in mysterious circumstances, so the waters are safe for the SDF to expand its international security role. In fact, in the case of North Korean 'spy ships', the reverse is true. Following an earlier incident in March 1999 off the Noto peninsula, in which the JCG were unable to pursue two North Korean vessels, the Japanese government sought to bolster the capabilities of the JCG rather than the SDF to protect Japanese waters (Yamada, 2003, pp. 52–3). Samuels and Leheny's arguments are supported by other realist inspired work which perceives Japan's response to piracy in the Gulf of Aden as a further example of the increasing irrelevance of Japan's pacifist identity (Penn, 2009; Green, 2010, p. 487), allowing Japan to compete with foreign navies by demonstrating their prowess and strengthening their naval presence in the Indian Ocean to counter potential enemies (van Ginkel et al., 2008; see also Penn, 2009, pp. 6–8; Valencia and Khalid, 2009, p. 4).

In contrast to Samuels and Leheny's argument, this paper contends that the 'canary in the coal mine' metaphor is too restrictive; pigeonholing the JCG into no more than an auxiliary branch of the Japanese MSDF designed to further Japan's grand strategy of expanding its military power (Samuels, 2007). Instead, this paper distinguishes between the SDF as a military organization and the JCG as a maritime police and rescue force in accordance with Japanese law (Ogawa, 2002, pp. 106–15, 165–6; Terashima, 2009; Yamada, 2009). As Henmi Masakazu stresses, the JCG is different from the MSDF in that it comes under the jurisdiction of the Ministry of Land Infrastructure and Transport (MLIT) and not the Defence Agency (now Ministry of Defence), the JCG responds to maritime emergencies and crime whereas the MSDF are responsible for the defence of Japan's sovereign territory and do not respond to maritime crime, the JCG are equipped with patrol vessels that are not as well armed and significantly less protected than warships, both organizations have separate laws that determine their legal parameters of action

(2006, pp. 10–6, 87–9). To illustrate the distinction between the MSDF and JCG, the Japanese government did not dispatch the MSDF to Southeast Asian waters on anti-piracy missions because of the actions of the Japanese Imperial Navy in the region during World War II (Sato, 2007, p. 3). Rather the government perceived that the neutral character and maritime policing role of the JCG was a more acceptable alternative to the MSDF for Southeast Asian governments (Bateman, 2006, pp. 43–5; Sato, 2007, p. 8).

The identity of any organization is framed by the specific context in which the organization evolves, as a comparison between the US, Canadian, Japanese, and British coast guards reveals. In the case of the UK, the British government has employed numerous organizations to combat a variety of maritime security and safety issues over the past 200 years. Her Majesty's Coastguard today has relinquished the anti-smuggling operations that comprised its original remit to the Royal Navy, thereby limiting itself to maritime safety and rescue duties (MCA, 2011). The Canadian Coast Guard's (CCG) role has been broadly defined by geography in the sense that ice-breaking duties have determined a large part of the CCG's mandate and equipment. Since its inception, the US government designated the US Coast Guard (USCG) as a fifth branch of the nation's military forces (Stubbs, 1994, pp. 506, 512, 514, 516). In contrast, the Japanese Coast Guard, previously the Maritime Safety Agency (MSA), was established in order to tackle a variety of maritime security issues, ranging from illegal fishing to smuggling in post-World War II Japanese waters, but was specifically limited in terms of its jurisdiction and equipment in order to placate those powers, especially Russia and Britain, that were anxious to avoid the remilitarization of Japan (Auer, 1973). Whilst Western navies have tended to adopt a variety of traditional and non-traditional security functions, the demarcation of naval forces defending national sovereignty versus coast guards' police and rescue duties is becoming an increasingly common one in East Asia (Bateman, 2006, pp. 50–1). Yet, even when a coast guard, like the USCG, is designated as a military force, foreign powers welcome its deployment in their sovereign waters far more readily than they would the US Navy precisely because the image of a coast guard is that of a 'humanitarian and law enforcement' organization (Stubbs, 1994, p. 513).

Not only is it necessary to distinguish between the JCG and the MSDF in terms of their roles and identities, but there are also grounds for arguing that precisely because the MSDF are edging towards a 'normal' naval status through the removal of restrictions against the role and deployment of the SDF generally, that space has opened up for the JCG to play a distinct foreign policy role that the MSDF could never assume precisely because of the continued salience of Japan's pacifist identity. Indeed, the Japanese government has rewarded the JCG's success in combating a myriad of maritime security threats by expanding the JCG's role at the expense of the MSDF. This indicates that, in the case of maritime interventions, the deployment of the JCG could even signal a strengthening of Japan's pacifist security identity.

3 The continued salience of Japan's pacifist identity: a critical constructivist approach

Constructivism provides a salient theoretical lens to examine how people's identities shape their actions and the structure of domestic and international systems, as well as how such identities and systems can be changed through individual and collective action (Vasquez, 1997, p. 667). Actors construct their identities through interaction with others and abide by the social constraints these identities impose (Wendt, 1992, pp. 396–403; Kowert and Legro, 1996, pp. 462–5; Hopf, 1998, p. 175; Farrell, 2002, p. 50, 52). These identities can be observed as they are articulated, inscribed in legislation, and influence foreign policy action, demonstrating both the broad acceptance and the durability of these identities (Sikkink and Finnemore, 1998, pp. 892–3; Farrell, 2002, pp. 60–2). Accordingly, Oros defines security identity as 'a set of collectively held principles that have attracted broad political support regarding the appropriate role of state action in the security arena and are institutionalized in the policy-making process … [that] serves as a structure in which all future policy decisions must operate, providing an overarching framework recognized by top decision makers and by major societal actors under which a state shapes its security practices' (2008, p. 9). This identity is built upon a narrative foundation that establishes 'a collective understanding of how to understand the past, situate the present and act toward the future' (Barnett, 1999, p. 8) and differentiates an individual state from multiple others (Lee, 2006, pp. 342–3). Constructivists

therefore emphasize how individuals, particularly representatives of the state, determine policy and national interests in accordance with the institutionalized identity of the state (Weldes, 1996, pp. 282, 284–5; Banchoff, 1999, p. 278; Barnett, 1999, p. 13) and how failure to abide by this identity results in actors undermining their 'ontological insecurity', namely who they are and what they stand for (Steele, 2005, pp. 525–6, 529).

These key constructivist tenets are emphasized in the work of a number of academics who contend that Japan's pacifist identity remains salient in constraining the international security role that Japan performs (Berger, 1996, 2003; Hook, 1996; Oros, 2008). In a detailed study of public opinion polls, Hook (1996) explains how Japanese citizens continue to oppose the frontline military roles for the SDF in line with Japan's pacifist identity. Berger, in contrast, focuses on the pressure that East Asian states, which suffered under Japanese imperialism, exert on the Japanese government to prevent Japan becoming a 'normal' military power (1996, 2003). For Oros, changes in Japan's security posture in the case of the ban on arms exports, the peaceful use of space, and missile defence remain limited and conditioned by Japan's pacifist identity (2008, p. 7).

Constructivists also seek to determine how foreign policy actors transform a security identity (Koslowski and Kratochwil, 1994, p. 216, 227; Checkel, 2001). Policy-makers do not possess a single, fixed understanding of a security identity, but articulate a myriad of alternative interpretations (Banchoff, 1999, p. 269; Ashizawa, 2008, p. 575), which they employ to frame international issues and events, in order to legitimize new policies for their own strategic ends that reconstruct this security identity over time (Weldes, 1996, pp. 276–7, 280–1; Barnett, 1999, pp. 6–15; Oros, 2008, pp. 27–8, 35). Actors may attempt to transform an identity through such a process as the result of shame for failing to take action inconsistent with their dominant identity when the domestic or international environment changes (Steele, 2005, pp. 526–7). A good example in Japan's case lies in the failure of the Japanese government to dispatch the SDF and intervene in the 1990–91 War in Iraq and the subsequent international condemnation of Japan's 'chequebook diplomacy'. Here, ostensibly realist scholars have done important work in tracking the discourses that seek to transform Japan's pacifist identity in favor of a more 'normal' identity (Hughes, 2004; Samuels, 2007). As Oros (2008,

p. 37) notes, however, they do so by selectively incorporating constructivist concepts to make the case for Japan's inevitable remilitarization rather than explain the persistent constraints of Japan's pacifist identity.

In order to explain the enduring influence of pacifism, Ashizawa's formulation of a value-action framework is useful (2008). Ashizawa focuses on Japan's foreign policy-making process to ascertain how actors conceive of state identity, as well as the values they derive from it and seek to defend (2008, pp. 577–83). Policy-makers articulate competing values, which, through debate, establish a dominant value that generates a particular foreign policy preference (2008, pp. 580–1). The argument in this paper differs from Ashizawa's framework with respect to the content of this dominant value, arguing, contra Ashizawa, that a dominant value does not win out over others in a zero-sum game, but rather that a dominant value is molded through debate and thereby comprises elements of all the values articulated in the debate. It is therefore imperative to sketch out the competing perceptions of a state's security identity in political discourses, such as in the national legislature, a forum which Banchoff contends, 'provide[s] the most reliable evidence of state identity … [whereby] government and opposition leaders situate the state with respect to a given international constellation' (1999, p. 270). The key here is to identify what representatives stress and how, what they omit and why, how references to historical experiences are expressed, and what they aim to achieve to determine whether a state's security identity influences foreign policy outcomes (Banchoff, 1999, pp. 277–9). In the case of debates in the Japanese Diet, it is important to locate evidence that affirms the content of the pacifist identity, namely parliamentarians emphasizing and attentive to constraints on the use of military force beyond self-defence and outside Japanese territory.

A key critique of such a constructivist approach lies in the attempt to simultaneously emphasize the influence of a static identity upon the policy-making process, whilst also stressing the ability of policy-makers to construct policies that transform this supposedly static identity (Kowert and Legro, 1996, pp. 482–97). The problem is essentially a methodological one, namely to demonstrate that a specific identity discourse becomes hegemonic by tracing the constant references to this identity in security debates (Neumann, 2008, p. 61), but also to reveal how actors manipulate this identity in these same debates over time (Howarth, 1995, p. 115) and for what political purposes (Neumann,

2008, p. 62). A discourse analysis method is uniquely suited to the task of tracing salient identities through debates, as policy-makers express the values upon which they legitimate a given foreign policy (Lee, 2006, p. 345; Ashizawa, 2008). These values are revealed in the linguistic and rhetorical tools actors employ, intentionally or otherwise, in what they claim as the truth (Milliken, 1999; Schneider, 2008, pp. 7, 9–11). In the case of Japan's response to piracy in the Gulf of Aden, politicians acting on behalf of their political parties in the Diet challenge each other with a myriad of arguments in support of their preferred values that combine to shape a foreign policy decision. A discourse analysis of these Diet debates reveals the continuing salience of Japan's pacifist security identity in promoting the foreign policy role of the JCG at the expense of the SDF.

4 Discourse on the Gulf of Aden dispatch

Pressure on the Japanese government to respond to Somali piracy first came from the Japan Shipowners' Association (JSA) in early 2008 as attacks on shipping began to rise (Yamamoto, 2009), following a period of comparatively safe waters around Somalia, in terms of piratical attacks, since the end of the Cold War (Figure A1).[3] The JSA redoubled its efforts in the aftermath of an attack on a Japanese ship, the *Takayama*, in April 2008 (Handa, 2009), leading to the Japanese government signing UNSC resolutions 1816 on 3 June and 1846 on 3 December 2008 (MOFA, 2008a,b) that, respectively, permit the arrest of pirates by international naval forces in Somali waters and on Somali sovereign territory (UNSC, 2008a,b). These innovative resolutions enabled an unprecedented coalition of naval forces from 20 states to tackle Somali piracy (Biegon, 2009) and included the European Union's first naval operation (EU NAVFOR, 2010).

In asking the Japanese government to respond to Somali piracy, Captain Handa Osamu, the Managing Director of the JSA, emphasized that the JSA adopted a 'step-by-step' approach. First, Handa contacted the Director of the JCG, Iwazaki Teiji, at the Ministry of Land

3 Penn notes that the rise in piracy along the Somali coast was primarily due to the US-backed Egyptian military together with a loose coalition of Somali warlords, dubbed 'the Alliance for the Restoration of Peace and Counter-Terrorism', ousting the Islamic Courts Union which had cracked down on maritime crime (2009, p. 3).

Infrastructure and Transport (MLIT), who acknowledged that the JCG would be unable to respond to piracy in the Gulf of Aden. The JSA then urged the government to organize a symposium in November 2008, in which possibilities for the dispatch of the MSDF were discussed (Handa, 2009). As a result of the symposium, the Japanese government granted ODA to states in the Gulf of Aden, sent members of the JCG to build the capabilities of maritime authorities in the region based on their experience in combating piracy in Southeast Asia,[4] and dispatched the MSDF with members of the JCG to undertake maritime security measures (MOFA, 2009a,b). On 13 March 2009, the Japanese Cabinet submitted the Draft Law on the Penalization of Acts of Piracy and Measures against Acts of Piracy, also known as the Anti-Piracy Measures Bill, to the Diet for deliberation (MOFA, 2009a). As these deliberations concerning Japan's anti-piracy response demonstrate, the JCG is primarily responsible for tackling maritime crimes, thereby requiring extensive debates in the Diet to pass the Anti-Piracy Measures Bill to ascertain the possible roles the MSDF could perform, when JCG vessels are unable to act.

Before examining the discourse employed in these Diet debates to demonstrate the continued salience of Japan's pacifist identity in determining the nature of Japanese maritime interventions, it is vital to establish the political context surrounding these debates. In February 2009, as Japan's response to maritime piracy emerged in Japan's legislative agenda, opinion polls in the Yomiuri Shimbun showed public support for the Aso Cabinet falling, with only 19.7% of the Japanese population backing the government (Yomiuri Shimbun, 2009c), as the LDP–Komeito coalition government reeled from pension and defence scandals, a series of verbal gaffes by Prime Minister Aso, as well as a failure to reform social security and the postal system. These issues would ultimately bring down the Aso administration, but in Spring 2009, opposition parties were doing their utmost to challenge the government's mandate to rule and force Aso to call a snap election. The political context therefore gave opposition parties, which controlled the Upper House since the July 2007 elections, an added incentive to reject legislation proposed by the LDP–Komeito-controlled Lower House.

4 For more on Japan's response to piracy in Southeast Asia, see Black (2011).

Nonetheless, opinion polls in February 2009 also indicated that public support for both the dispatch of the MSDF to the Gulf of Aden and the proposed Anti-Piracy Measures Bill was high at 57 and 59%, respectively (Yomiuri Shimbun, 2009c).[5] As the debates on the Anti-Piracy Measures Bill began in the Diet in April 2009, the opposition parties were therefore left seeking legitimate reasons to reject the Bill that would convince the public, whilst the ruling coalition maneuvered to justify the Bill by addressing the opposition's concerns. The Diet debates therefore revolved around three key issues, comprising the Constitutional and legal basis for the dispatch of the MSDF, the rationale behind not sending the JCG alone, and the potential to develop an alternative response to piracy focusing on the JCG building the capacity of maritime authorities in the Gulf of Aden. Ultimately, the Upper House rejected the Anti-Piracy Measures Bill stating that the Diet should approve any dispatch of the SDF, thereby compelling the ruling coalition to push the legislation through the Lower House on 19 June 2009 in accordance with the two-thirds majority rule (Ito, 2009), enabling MSDF vessels to escort foreign as well as Japanese vessels in the Gulf of Aden (MOFA, 2009c). Terashima Hiroshi (2009), Executive Director of the Ocean Policy Research Foundation, stressed that though the shipping industry would have preferred a faster response to maritime piracy in the Gulf of Aden, the Diet debates concerning the legality of dispatching the MSDF substantially delayed Japan's response.

Whilst the domestic context largely hindered Japan's response to piracy in the Gulf of Aden, members of the Japanese government, who had actively been pursuing a greater international security role for the SDF, appealed to international peer pressure on Japan to respond to piracy in the Gulf of Aden. These actors were concerned that Japan would be perceived as being slow to act by international society as the dispatch of naval forces from China and South Korea preceded Japan's response. In a Parliamentary session on Japan's Anti-Piracy Measures Bill, the Liberal Democratic Party (LDP) representative, Eto Akinori, stated that as suppressing piracy was the 'duty of all states', Japan should 'keep in step with the international society by actively

5 Since early 2009, the Yomiuri Shimbun had been particularly vocal in stressing that Japan's response to piracy was lagging in comparison to China's efforts and used this issue to push the paper's agenda of developing the role of the SDF (Yomiuri, 2009a,b).

contributing through the passage of meaningful legislation' noting that while Japan dispatched MSDF ships in March 2009, some 20 other members of the international society had been patrolling the Gulf of Aden since 2008 (HoR, 2009a, pp. 2–3). This appeal to support the international society is echoed by a number of LDP politicians and party members, such as Tamura Shigenobu, the chief security specialist in the party, writing in the April edition of *Jiyūminshu*, the LDP in-house journal, who writes that Japan must swiftly respond to the problem of piracy in the Gulf of Aden to meet the expectations of international society (Tamura, 2009, pp. 36–37). Since early 2009, the Yomiuri Shimbun had also been particularly vocal in stressing that Japan's response to piracy was lagging in comparison to China's efforts and used this issue to push the paper's agenda of developing the role of the SDF (Yomiuri 2009a,b). These politicians and supporters thereby used this peer pressure to pass the Anti-Piracy Measures Bill enabling the dispatch of MSDF vessels.

According to Yamada Yoshihiko, a Professor at Tōkai University who helped to draft this law, the passage of this legislation constituted a further break from Japan's pacifist Constitution due to the 'magic of the word piracy' (*kaizoku to iu kotoba no majikku*) (Yamada, 2009). Yamada highlights here the notion that as pirates are deemed enemies of mankind (*hostis humani generis*) according to international law, so the Japanese government could easily sell the dispatch of the MSDF to the Japanese public (ibid.). Nakatani Gen, of the LDP, echoed Yamada in the Diet debates on the Anti-Piracy Measures Bill when he stated that, 'dispatching the military [to respond to Somali piracy] has real meaning … we should aim to be the kind of country that places the proper defence and safety of the seas worldwide at the heart of its national policy and build Japan's rightful place in international society. I think this could be the development of Japan's new power' (HoR, 2009b, p. 16). In this sense, the government discourse supports the arguments of analysts, such as Samuels and Leheny, who argue that Japan uses maritime threats to bolster the international security role of the MSDF and become a 'normal' state in international society.

Nevertheless, such an interpretation glosses over challenges to the dispatch of the MSDF in the Diet and, secondly, ignores the role the JCG played in the Gulf of Aden dispatch as a result of these challenges. In the initial Diet debate on the Anti-Piracy Measures Bill, Eto Akinori

quizzed Kaneko Kazuyoshi, the Minister for Land, Infrastructure and Transport, as to the legal basis for the government to order the MSDF to undertake Maritime Police Action and whether this order was not a violation of Article 9 of the Japanese Constitution, why the JCG could not be dispatched to the Gulf of Aden, and what Japan could do to improve the maritime crime fighting capabilities of Somalia and the surrounding states (HoR, 2009a, p. 3). Eto's three questions are revisited throughout the ensuing Diet debates by members of all political parties to establish the contours of the discourse on the Gulf of Aden dispatch which shaped what would become the legitimate choices of the Japanese governments' foreign policy. Each of these three questions will therefore be visited in turn by examining both the government's response, as well as those of other political parties.

In terms of the legality of the MSDF dispatch, Japan's then Prime Minister, Aso Taro, was first to respond. He stated that as piracy constitutes a crime, as opposed to an act of war, the dispatch of the MSDF would not violate Article 9 of the Constitution, adding that 'as the protection of the Japanese people's property is the most fundamental duty of the government, so I think it is a pressing issue for the Diet to provide a suitable and effective response to piracy, which includes the current emergency maritime security operations [undertaken by the MSDF]' (HoR, 2009a, p. 4). Hence, the Prime Minister attempted to legitimize the dispatch of the MSDF on anti-piracy duties by defining piracy as a maritime crime and eschews any mention of cooperation between the MSDF and other naval forces that might constitute collective self-defence and violate the Constitution. In addition, Aso sought to underline the immediacy of the threat posed by piracy to Japanese citizens to rush the Bill through the Diet.

Nevertheless, government representatives repeatedly stress throughout the Diet debates that responding to piracy is the primary duty of the JCG and that JCG personnel would be dispatched on the MSDF ships to the Gulf (HoR, 2009a, p. 4; HoR, 2009b, p. 58). In response to a question from Komeito representative Fuyushiba Tetsuzō, the then Defence Minister, Hamada Yasukazu, stated that the JCG members on board the MSDF ships dispatched to the Gulf of Aden are there in their capacity as maritime police officials and therefore that they, and not MSDF personnel, have the legal authority to arrest pirates (HoR, 2009b, p. 36; Yamada, 2009); a point reiterated by Kaneko in the debates (HoR,

2009b, p. 70). In addition, Prime Minister Aso emphasized that that is only in exceptional circumstances where the JCG is not able to respond to piracy that the Minister of Defence, having first consulted with the JCG and relevant Ministries and obtained the approval of the Prime Minister, can order the MSDF to undertake maritime security operations according to the Anti-Piracy Measures Bill (HoR, 2009a, pp. 8–9). Other LDP representatives, such as Koike Yuriko, use portions of their question time to reiterate this process (HoR, 2009b, p. 25) and thereby reinforce the stance that the government abides by the Constitution.

Representatives from other parties challenged the government's interpretation by juxtaposing the legality of the JCG to respond to maritime crime with the government's aim to dispatch the MSDF. Yamaguchi Takeshi of the Democratic Party of Japan (DPJ), for example, stressed that as piracy constitutes a crime rather than a military threat, it should be the JCG that responds (HoR, 2009a, p. 5). In the subsequent parliamentary session on 17 April 2009, Tajima Kaname of the DPJ follows up this point, by noting that though the government has repeatedly acknowledged that the JCG is primarily responsible for combating piracy, this exact phrase is not included in the Bill (HoR, 2009c, pp. 19–24). Representatives of other opposition parties, such as Teruya Kantoku, representative for the Social Democratic Party (SDP), were more forceful in their estimation of the Anti-Piracy Measures Bill and dispatch of the MSDF, labeling the Bill as 'a violation of the Constitution … [that] opens the way to the exercise of collective self-defence' (HoR, 2009b, p. 39). Writing in the April edition of *Zenei*, the journal of the Communist Party of Japan (CPJ), Tagawa Minoru of the Party's International Bureau echoes Teruya's position (Tagawa, 2009, pp. 91, 100–1). All these opposition parties stressed an approach involving only the JCG (Akanegakubo, 2009, p. 10; Tagawa, 2009, pp. 96–8; Easley *et al.*, 2010, pp. 14–5), raising the question of why the JCG was unable to respond by itself.

Kaneko noted that because of the distance from Japan, coupled with the threat of well-armed pirates and the fact that all other countries sent naval vessels, the JCG could not be dispatched to the Gulf of Aden (HoR, 2009a, p. 4). He was supported by Yamada Yoshihiko who noted that the JCG was in no position to actually dispatch and rotate patrols to the Gulf of Aden in addition to its existing commitments and that the *Shikishima* is the only vessel in the JCG's fleet with sufficient armor to

patrol international waters in the Middle East (2009). Fuyushiba Testuzō from the government-allied Komeito detailed at length the limited manpower and budget of the JCG compared with the MSDF, despite the wide-ranging duties the JCG is expected to perform, from search and rescue operations, to combating maritime crime, ensuring the safety of maritime transport, and patrolling-disputed maritime territories (HoR, 2009b, pp. 30–3). Fuyushiba then asked how much time and how many *Shikishima* class vessels would be needed to respond to piracy in the Gulf of Aden to which Iwazaki Teiji, Director of the JCG, responded that a total of six *Shikishima* class vessels would be required, costing 175 billion Yen, requiring 500 new personnel, and taking around 4 years (HoR, 2009b, p. 33). The amount of time Fuyushiba spends on this issue enabled him to set out both the extent to which the resources of the JCG are already overstretched and the impracticability of funding a JCG-centered response. His conclusion was that the government's proposed Anti-Piracy Measures Bill should be passed and praises the efforts of Nagashima Akihisa, representative for the DPJ, for putting together the initial proposal for Japan's response to piracy in October 2008 (HoR, 2009b, p. 34), enabling Fuyushiba to rhetorically turn the tables on the opposition members by highlighting that the Anti-Piracy Measures Bill was in many ways the brainchild of the DPJ.

In response to Fuyushiba's comments, Kawauchi Hiroshi, representative for the DPJ, devoted the majority of his question time to understand the government's logic for rejecting a JCG-centered response. In doing so, Kawauchi highlighted that the JCG has vessels, such as the *Mizuho* and *Yashima*, that have sufficient displacement to be dispatched, to which Iwazaki responded that these ships lack the armament to sustain an attack from a rocket launcher (HoR, 2009b, pp. 47–9).[6] Kawauchi pressed this point to reveal that this was essentially the only reason why the JCG could not respond to piracy in the Gulf of Aden and that

6 In fact, Somali pirates have only used rocket-propelled grenade launchers (RPGs) in attacks rather than rocket launchers which are more powerful and accurate. LDP Diet members employed the term 'rocket launcher' to purposively inflate the threat posed by pirates to further their argument that MSDF warships rather than JCG vessels should be dispatched. The only time a reference is made to RPGs in the Diet debates is by Koike Yuriko of the LDP who conflates the two types of weapon; she states, 'as we have already acknowledged, Somali pirates possess powerful new capabilities such as RPGs' (HoR, 2009b, p. 18). Other Diet members also failed to distinguish between these two types of weapon. I am grateful to an anonymous reviewer for highlighting this issue.

representatives of the government did not actually know the amount of armor JCG ships would need to sustain an attack from a rocket launcher (HoR, 2009b, pp. 50–1). In conclusion, Kawauchi stated, 'the Japanese people have to know … why the JCG cannot respond [to Somali piracy] … [and the government] cannot dispel the doubts of the Japanese people' (HoR, 2009b, p. 51). Yamaguchi Takeshi of the DPJ added that the JCG must be strengthened immediately to tackle Somali piracy and developed over the long term to respond to piracy globally. He stated that the JCG could send the *Shikishima*, the largest vessel in its fleet, which is well-enough armored and could be supplemented with vessels and personnel seconded from the MSDF to the JCG, and dispatch the JCG's elite SST to bolster the JCG's capacity to fight piracy (ibid., 6). In addition, Yamaguchi argued that 'if the [Anti-Piracy Measures Bill] indicates that it is the primary responsibility of the JCG to tackle to piracy, then, at least over the medium term, it is necessary to equip the JCG with additional *Shikishima* class vessels' (ibid., 6–7). Akamine Seiken of the Japan Communist Party (HoR, 2009b, p. 85), Shimoji Mikio of the People's New Party (HoR, 2009b, p. 89), and Tajima Kaname of the DPJ (HoR, 2009c, p. 20) also raised the issue of whether the government was considering building *Shikishima* class vessels so that the JCG could respond to piracy in the future. In response to these arguments, Kaneko replied that the government was seriously considering building two such vessels (HoR, 2009b, p. 86, 90). The opposition parties' arguments are significant here as they challenge the government's core premise that as the JCG lacks the capacity to respond to Somali piracy, so the MSDF must intervene. The extent to which Kawauchi, for example, is prepared to pursue this issue is notable as he repeatedly questions why the government does not have any information pertaining to the necessary thickness of armament for a vessel to sustain an attack from a rocket launcher. The government's failure to offer a satisfactory response to such questioning created the discursive space in the Diet debates for a continued emphasis on the JCG's role in the Somali piracy intervention, as well as to enhance the JCG's capabilities over time.

The final question posed by Eto in the Diet queried how the Japanese government could help build the maritime crime fighting capabilities of Somalia and surrounding states. On this point, Kaneko emphasized that the JCG was best placed to fulfill this role (HoR, 2009a, p. 4) and, according to the then Foreign Minister, Nakazone Hirofumi, the

Japanese government would increase security and humanitarian assistance to Somalia and surrounding states (HoR, 2009a, p. 10), as agreed at the January anti-piracy conference in Djibouti (HoR, 2009b, pp. 39, 84). In addition, Nakatani Gen of the LDP highlighted that the JCG was already assisting states around the Gulf of Aden to build their maritime capabilities (HoR, 2009b, p. 10), and Hashimoto Seiko, then Vice Foreign Minister, noted that a survey team comprising MOFA, JCG, and JICA officials would be dispatched to the region from 19 to 23 April (HoR, 2009b, p. 21).

Whilst representatives from all parties support the government's position in the Diet debates emphasizing the JCG's role in building the capabilities of Southeast Asian maritime authorities in order to fight piracy, many speakers go further to advocate a JCG-centered response to piracy more broadly. Abe Tomoko of the SDP advocated that as military forces represent state sovereignty, a point conceded by Kaneko, so coast guard authorities are better placed to respond to piracy across borders (HoR, 2009c, p. 14). In particular, Abe repeatedly stressed the historical precedent set by the JCG in establishing Southeast Asian coast guard authorities in place of military forces to successfully tackle piracy in the region (HoR, 2009c, pp. 12–6), stating, 'I want to say that we should increasingly take a non-military approach with the JCG in the leading role from now on' (ibid., 16). Her comments were followed by Tajima Kaname of the DPJ who adds that the JCG's pivotal involvement in establishing the Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP) in 2006 demonstrates that Japan can adopt an anti-piracy approach that does not involve the MSDF at all (HoR, 2009c, p. 18). Iwazaki, the head of the JCG, responded to these comments by noting that, 'I in no way consider, as concerns piracy [in Somalia], that the JCG will entrust everything to the SDF, rather I think we want to respond to the best of our ability' (HoR, 2009c, p. 19). Iwazaki's comments highlighted the government's position that, in order to legitimize the Gulf of Aden dispatch, the JCG had to play a central role.

On this point, members of the ruling party reiterate the importance of distinguishing between the JCG and MSDF maritime security responsibilities. Koike Yuriko of the LDP, for example, queried the extent to which the missions of the JCG and MSDF are kept distinct from each other and how well these two organizations are able to coordinate their

activities (HoR, 2009b, pp. 25–6) in order to emphasize that these two organizations should not be conflated. Defence and JCG officials responded to Koike's questions to reaffirm the separate roles played by both the MSDF and JCG, highlighting the publication of a Joint Response Manual that clearly delineates each organization's tasks (HoR, 2009b, p. 26). Nakatani also highlighted the need to assuage the concerns of the Japanese people regarding the dispatch of the MSDF, adding that the cooperation of the JCG and MSDF was critical in this regard (HoR, 2009b, p. 16).

The content of these Diet debates shaped Japan's unique response to combating piracy in the Gulf of Aden in line with Japan's pacifist security identity. Unlike foreign navies that engaged in maritime enforcement operations, the role of the MSDF was limited to convoy and surveillance duties. MSDF ships therefore shared only intelligence on suspected pirate vessels with the EU Naval Force (EUNAVFOR) ships and did not participate in the boarding of vessels and capture of pirates. This contrasted with the Chinese navy's involvement in the Shared Awareness and Deconfliction (SHADE) exercise with North Atlantic Treaty Organization (NATO) forces (BBC, 2010). Secondly, as JCG personnel were also on board the SDF vessels dispatched to the Gulf of Aden in their capacity as law enforcement officers, the Japanese government perceives piracy as falling within the purview of a civilian police authority and does not require a military response. If necessary, any arrests, boarding and searching of vessels for evidence or other law enforcement activity, would be conducted by these JCG officers. Thirdly, JCG personnel continue to be engaged in building the capacity of local maritime law enforcement organizations based on the JCG's experience in training Southeast Asian maritime authorities. Finally, ReCAAP's Information Sharing Center, established in Singapore through an initiative led by the JCG and MOFA, has been replicated in the Gulf region to monitor the acts of piracy and coordinate responses, again with Japanese financial support and know-how. Hence, Japan's response to piracy in the Gulf of Aden is best captured through the framework of Japan's pacifist security identity that emphasizes building the capacities of maritime, civilian law enforcement organizations and presents a non-military model for other states to adapt, rather than indicating a remilitarization of Japan's armed forces.

Indeed, the passage of the Anti-Piracy Measures Bill strengthened the maritime security role of the JCG with the passage of subsequent legislation on inspections of North Korean cargo vessels. Though the Aso administration initially intended to propose a Bill enabling the SDF to inspect suspect ships in Japanese waters, members of the ruling coalition, notably Defence Minister Hamada Yasukazu and head of the New Komeito's Policy Research Council, Yamaguchi Natsuo, supported the JCG in such a role, highlighting that the JCG would 'reduce the possibility of encounters with North Korean vessels turning violent' (Kyodo News, 2009). In addition, with the victory of the DPJ in the August 2009 elections, the direction of Japan's foreign policy shifted to emphasize closer ties with East Asian states and a propensity to rely on the JCG where possible (Easley *et al.*, 2010).

5 Conclusions

Contrary to Samuels and Leheny's 'canary in the coalmine' argument, the dispatch of the SDF to combat piracy in the Gulf of Aden did not significantly bolster the SDF's international security role, but rather demonstrated the continued salience of the JCG as an independent maritime police authority. In the Diet debates on Japan's Anti-Piracy Measures Bill, members of the both ruling and opposition parties repeatedly stressed that the primary responsibility of responding to piracy lies with the JCG in line with the JCG and MSDF laws, as well as the Constitution; authorizing the JCG personnel on board MSDF vessels in the Gulf of Aden with the legal mandate to arrest pirates. Representatives from all parties agreed that the JCG should be strengthened over the long term to respond to maritime crime abroad, and that the maritime policing role of the JCG should be kept distinct from the MSDF's mission to protect Japan's sovereignty against attacks by foreign military forces. Japan's unique response to piracy in the Gulf of Aden thereby reproduced Japan's pacifist identity, as significant constraints were placed on the SDF, including limiting cooperation between the MSDF and foreign navies, and the non-military character of Japan's efforts was emphasized through the dispatch of JCG personnel.

By advocating that the primary responsibility for responding to piracy lies with the JCG, so Japan's anti-piracy policy highlights an alternative approach to tackle piracy for other states in international society to

adapt (Black and Hwang, 2010). A critical constructivist approach therefore goes beyond mainstream theoretical accounts to consider how the reproduction of unique security identities through policy-making discourse can generate proactive, non-military interventions. As Samuels notes in more recent work on the North Pacific Coast Guard Forum, the foreign policy role of the JCG encourages non-military multilateral maritime cooperation to provide an alternative to a reliance on naval power in the East Asian region (2009, pp. 20–1). It is essential not to pigeon hole such approaches, perceiving them as evidence of conformity to realist definitions of a 'normal' state, but be attentive to the possibilities of learning across cultures (Agathangelou and Ling, 2009). The ways in which identity informs Japan's foreign policy in the case of piracy therefore highlights the potential for Japanese norm entrepreneurship in other areas of international relations (Sikkink and Finnemore, 1998), including human security, restrictions on arms exports, or the peaceful use of space.

There are, however, limits to Japan's response to contemporary piracy, notably the need to combat the underlying causes of disorder in Somalia (Penn, 2009, pp. 3–4). The Japanese government has made efforts to resolve the Somali civil war by financing the African Union Mission in Somalia (AMISOM) with 37.6 million USD and supporting the Somali Transitional Federal Government (TFG) with 67 million USD (Maritime Security Division, 2009). In addition, concerns about Somalia's internal security were voiced repeatedly in the Diet debates (HoR, 2009a,b,c). Nonetheless, reconstructing the 'failed' Somali state requires more than money and rhetoric. Going forward, it is imperative that the motivations underlying international interventions be critically assessed and the processes of imperialism and Cold War politics that have generated disorder in Somalia be understood (Jones, 2008). Only then it is possible to creatively combine maritime interventions involving naval and coast guard forces with bolstering the capacity of Somali authorities to govern its sovereign territory and provide for its people. This requires international dialogue that appreciates the myriad approaches that different states, including Japan, can offer.

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Appendix

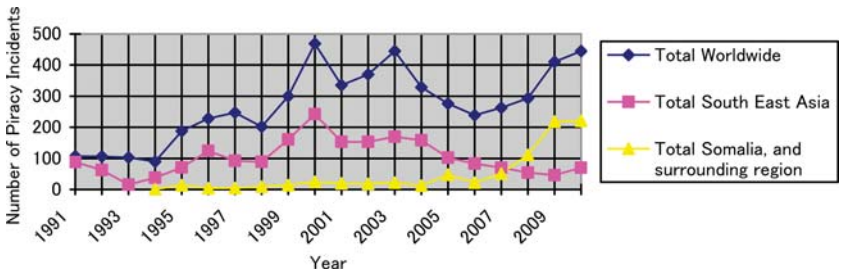

Figure A1 Total numbers of piracy incidents worldwide 1991–2010. *Source*: International Maritime Bureau Piracy Report 2002, 2006, 2010. *Note*: Region surrounding Somalia for which acts of piracy are attributed to Somali pirates comprise the Gulf of Aden, the Red Sea, the Arabian Sea, the Indian Ocean, and Oman.