

March 4, 2014

Position regarding changes in interpretation of the Constitution pertaining to the right of collective self-defence

DPJ's Next Cabinet

The Democratic Party of Japan believes that it is essential from the standpoint of constitutionalism to clarify the limitations placed upon changes in the interpretation of the Constitution by the Cabinet, and having done so, carry out various reviews. Considering this, in view of our responsibility as a political party aiming to take over the government we have decided to make clear our position on this issue.

1. We do not deny that, considering the basic principles of legal interpretation, there is scope for the Cabinet to change the interpretation of the Constitution when giving careful consideration to changes in various circumstances and the new demands arising from them. However, whatever the events and the subsequent demands arising from them, the scope for such interpretations is limited to one which can be logically derived and which endeavours to maintain consistency with existing interpretations. Changes made opportunistically and deliberately by the Cabinet run counter to constitutionalism and the rule of law and are unacceptable.
2. In the context of the fundamentals of constitutionalism and the rule of law, it is unacceptable to directly deny the existing Cabinet interpretation relating to the exercise of the right of collective self-defence, which states that it is not permissible under Article 9 of the Constitution and does not permit its use, and to change the interpretation to permit the exercise of the right of collective self-defence in general
3. If the Cabinet carries out opportunistic and deliberate changes of interpretation with regard to Article 9, this will create particularly difficult issues. If the scope of the 'use of force' which our nation is permitted to take can be arbitrarily expanded and contracted, or changed depending upon decisions taken by the Cabinet, causing a situation to arise wherein things which were previously considered to be legal might in future be judged as illegal, there is a risk that this may cause issues internationally. In addition, there will inevitably be confusion among Self-Defense Forces on the ground when engaging in implementing the 'use of force'. Therefore, changes in

interpretation which will create a loss of legal stability and pose such risks are unacceptable.

4. The Democratic Party of Japan will call on the Abe Cabinet to make it clear that their deliberations over the right of collective self-defence obey such basic principles, as well as to make it known that they will not engage in opportunistic and deliberate changes of interpretation, but will maintain a logical interpretation which is consistent with the existing interpretation of the Constitution.
5. Furthermore, based on our 2005 “Constitution Proposal” and with reference to changes in the various circumstances surrounding our nation, the Democratic Party of Japan will continue to tirelessly consider whether new demands have arisen, and take the necessary response. This will take place from the perspective of protecting our nation’s territory, territorial waters, and the lives and property of citizens, and from the viewpoint of fulfilling our international obligations based on collective security. However, we will honour the aforementioned basic principles with regard to the Constitution, and firmly maintain a logical interpretation which is consistent with the existing interpretation. Moreover, should the Abe Cabinet engage in moves which could be construed as changing the interpretation of the Constitution, we will rigorously scrutinize these from the perspective of constitutionalism and the rule of law, and confirm whether their interpretation is logical and consistent with the existing interpretation.
6. There are huge problems from the standpoint of the democratic process in the Abe Cabinet’s way of proceeding with such a significant debate as that regarding changes to the interpretation of the Constitution relating to the right to collective self-defence. The Democratic Party of Japan calls on the Abe Cabinet to engage in a thorough and open debate regarding the interpretation of the Constitution pertaining to the right to collective self-defence in the Diet which will involve the general public, before it is approved by the Cabinet, rather than discussing the issue exclusively between the ruling parties and then presenting it for Cabinet approval, thereby ensuring that the matter is already a *fait accompli* before debate takes place for the first time in the Diet when related legislation is submitted.