

# Right to live in peace in Japan

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## 1, In the Japanese Constitution

(Preamble)

・ ・ ・ We desire to occupy an honored place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize that all peoples of the world have the right to live in peace, free from fear and want. ・ ・ ・

## 2, In the decision of Japanese court

### (1)Naganuma case decision 1973

Sapporo district court ruled that in case of emergencies the place become the goal to be attacked, the missile base could violate “the right to live in peace”, which is stipulated in the preamble of the Japanese Constitution.

It defined “the right to live in peace” as “the right to live in peace and to pursue their happiness”

有事の際には相手国の攻撃の第一目標になるため、憲法前文にいう「平和のうちに生存する権利」（平和的生存権）を侵害されるおそれがあると判断した。

平和的生存権については、「国民一人ひとりが平和のうちに生存し、かつその幸福を追求することができる権利」と明確に判示した。

### (2) The Nagoya High Court Decision on Japanese Forces in Iraq 2008

The Nagoya High Court handed down a judgment in 2008 on Japan's involvement in Iraq. The Court held that the Air Self-Defence Force (ASDF) operations in Iraq violated the limits in the authorizing legislation, and the prohibition on the use of force in Article 9(1) of the Constitution.

This decision recognized the "right to live in peace" as the right to neither be harmed nor do harm in any military violence.

The court said that this right is a "very diverse and broad right" that includes "the right to live in a Japan which does not make war or use force," "the right not to be complicit in taking the lives of others through war or the military against one's will," "the right to live in peace based on one's own peaceful convictions, without being involved in acts that harm the peoples of other countries through military means," and "the right to desire peace based on creed, pursue happiness for all people, and for that purpose live a life of non-combat, nonviolence, and pacifism."

The court also said, "Right to live in peace is violated:

When someone's life, liberty is or about to be infringed by wage of war, use of force, preparation of war against Article 9,

When someone is exposed himself to be enforced to take part or corporate with accomplishment of the war, against Article 9"

9条に違反する行為、すなわち戦争の遂行、武力の行使や戦争の準備行為によって、個人の生命、自由が侵害され又は侵害の危機にさらされ、あるいは現実的な戦争による被害や恐怖にさらされるような場合、

9条に違反する戦争の遂行への加担・協力を強制されるような場合