

以下の資料を読み、日本政府が武力行使をどのように正当化しているか、考えてくる。
 講義ではその予習を前提に議論する。

資料は基本的に抜粋であり、全文はリンク先に置かれているので、そちらも見ておく
 ことが望ましい。

1. 台湾出兵 1874 年

會ニ議條款。五立中辦法支據上事。照得各國人民有下應ニ保
 護不致受レ受害之處。應下由ニ各國ニ自行中設レ法保全上。如在ニ
 何國ニ有レ事。應下由ニ何國ニ自行中查辦上。茲以下臺灣生番會
 將ニ日本國屬民等ニ安爲レ加レ害。日本國本意爲ニ該番是問
 遂遣レ兵往レ彼。向ニ該生番等ニ詰責。今與ニ中國ニ議ニ明退
 兵並善レ後辦法ニ開列三條于後。

一日本國此次所レ辦。原爲ニ保民義舉ニ起レ見。中國不ニ指
 以爲ニ不是。

二前次所レ有過レ害難民之家。中國定ニ給撫恤銀兩。日本
 所レ有在ニ該處ニ脩道建房等件。中國願ニ留白用。先行
 議定。籌補銀兩。別有ニ議辦之據。

三所レ有此事。兩國一切來往公文彼此撤回註銷。永爲
 罷論。至於該處生番。中國自宜下設レ法。妥爲約束。
 以期中永保航客。不致能ニ再受ニ兇害。

同治 十三年九月二十二日
 大久保大臣 花 押

明治 七年十月三十一日
 柳原公使 花 押

衙門諸大臣 花 押

日清兩國間互換條款（1874 年 10 月 31 日）『大日本外交文書第 7 卷（明治 7 年・1874 年）』（「1 台湾生蕃討撫一件」）317 頁。

2. 江華島事件 1875 年

大清國朝廷重親陸誠意命駐劄使臣特抵

大清國衙門報知我係朝鮮國一案

我德川氏與朝鮮國修隣交效三百年明治元年皇政革新我朝廷
依禮修書以繼舊交效和親朝鮮國斥而不受爾後發使數次並不
得報客歲外務官員森山從朝鮮東萊府使朴獲修我外務卿書契
更發幹使齋抵東萊府應相接之約文憑具在

我

朝廷若期發往詎料彼復謾言相當違約不接又不受書致森山空
就歸途但以彼未有顯然相絕之語我仍專有期好意相諧矣乃九
月二十日大清〇月〇〇日我火輪船、只向牛莊駛往在朝鮮江華島邊
將需淡水暴爲陸地砲臺所轟擊勢逼危急只得自防我朝廷不知
朝鮮政府心意所在或疑出于其地方官辨擅興暴舉而猶望隣誼
之不泯令發遣特命全權辦理大臣欲使向朝鮮政府一面問江華
島事求所被屈辱之補償一面益表懇信獲彼要領言歸于好以續
三百年之舊交要主妥便結局不敢好多事雖爲未保朝鮮國果作
平穩辦法不免將兵船護使臣然亦知彼无辭于深相拒也但以事
係隣並

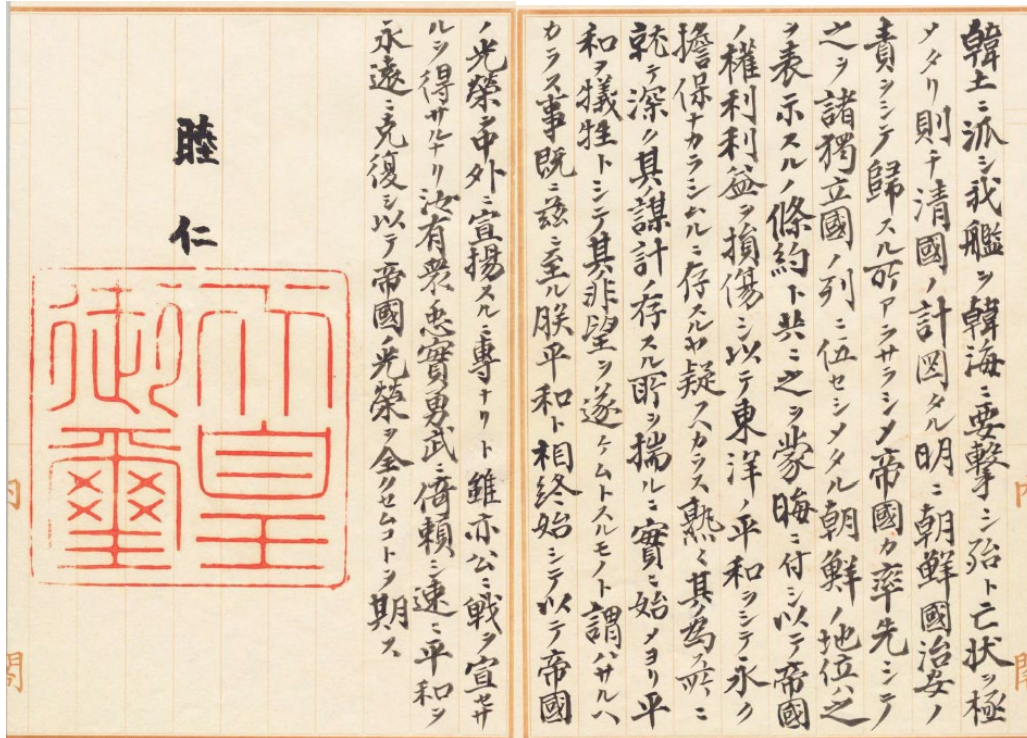
須要明言

大清國朝廷以此一案起由暨我趣意之所向以益表我朝廷與

日本政府から清国政府への報知（1875 年 11 月 20 日）『大日本外交文書第 8 卷（明治 8 年・1875 年）』（「5 朝鮮江華島事件ニ関スル件」）140 頁。

3. 日清戦争 1894 年

(1) 開戦の詔勅 (1894 年 8 月 1 日)



(2) 列強への通告 (1894 年 8 月 1 日)

六八八 八月一日 陸奥外務大臣ヨリ
露國駐劄西公使宛 (電報)

清國トノ開戦狀況各國代表者へ通告シタルニ付右各
公使館へ轉電方訓令ノ件

八月一日發

在 露 陸 奥 外 務 大 臣

西 公 使

第五號

本月三十一日在東京各國代表者へ左ノ通り通告ヲ與ヘタリ
日本國政府ハ日清兩國間ニ存スル紛議ヲ永久至當ノ終局
ニ至ラシメントシテ公明正大ノ手段ノ有ン限リヲ盡シ其
ノ盡力全ク無効ニ屬シタルヲ以テ下名ハ其職務上日清兩
國間ニ於テ戦争ノ狀況存スル旨該代表者へ通告スルノ光
榮ヲ有ス

此邇在歐米ノ各國公使館へ通知セラルヘシ但シ在英公使ハ
除ク

『大日本外交文書 27 卷 2 冊 (明治 27 年・1894 年)』(10 朝鮮国出兵ニ関シ列国ト交
渉ノ件) 324 頁。

(3) フランスからの返答

六九三 八月二日 佛国公使ヨリ
陸奥外務大臣宛

日清開戦通告受領並ニ平和希望通告ノ件

Tokyo, le 2. Août 1894

Monsieur le Ministre,

J'ai l'honneur d'accuser réception à Votre Excellence de sa dépêche en date du 31 juillet dernier par laquelle Elle m'informe que l'état de guerre existe à partir de ce jour entre le Japon et la Chine. Je me suis empressé de porter par la voie télégraphique cette importante nouvelle à la connaissance de mon Gouvernement. Il ne me reste qu'à faire les vœux les plus sincères pour que la bonne harmonie entre les deux grandes nations se rétablisse le plus tôt possible et avec peu de dommage pour leurs intérêts moraux et matériels, ainsi que pour ceux des neutres. Votre Excellence est assurée à l'avance que mon Gouvernement sera toujours heureux de profiter de

toutes les circonstances pour contribuer de tout son pouvoir au rétablissement de la paix.
Veuillez agréer, Monsieur le Ministre, les assurances de ma très-haute considération.

Son Excellence

Monsieur Matsui

Ministre des Affaires Etrangères

J. Harmand

(右譯文)

ジョーアルマン

外務大臣 陸奥宗光閣下

去月三十一日付貴翰披見同日以降日、清、兩國ノ間ニ戦争ノ情狀存在致候旨御通知ノ趣了承直チニ電信ヲ以テ此重大ナル事件ヲ本國政府ヘ報知致置候

二大國ノ間成ルヘク速ニ友誼ノ再定アランコトヲ誠實ニ祈リ且ツ二國并ニ中立諸國ノ爲メニ成ルヘク無形及ヒ有形的損害ノ少ナカラントヲ希望スルノ外最早致シ方無之候佛國政府ハ何等機會ノ生スル毎ニ平和再定ノ爲メニ欣然盡力致スヘキハ前以テ閣下ニ於テ御確信相成度候本使ハ茲ニ閣下ニ向テ重テ敬意ヲ表シ候敬具

4. 義和団事件 1900 年



外務省編『[日本外交年表並主要文書](#)：1840-1945 上卷』（日本國際連合協会、1955年）

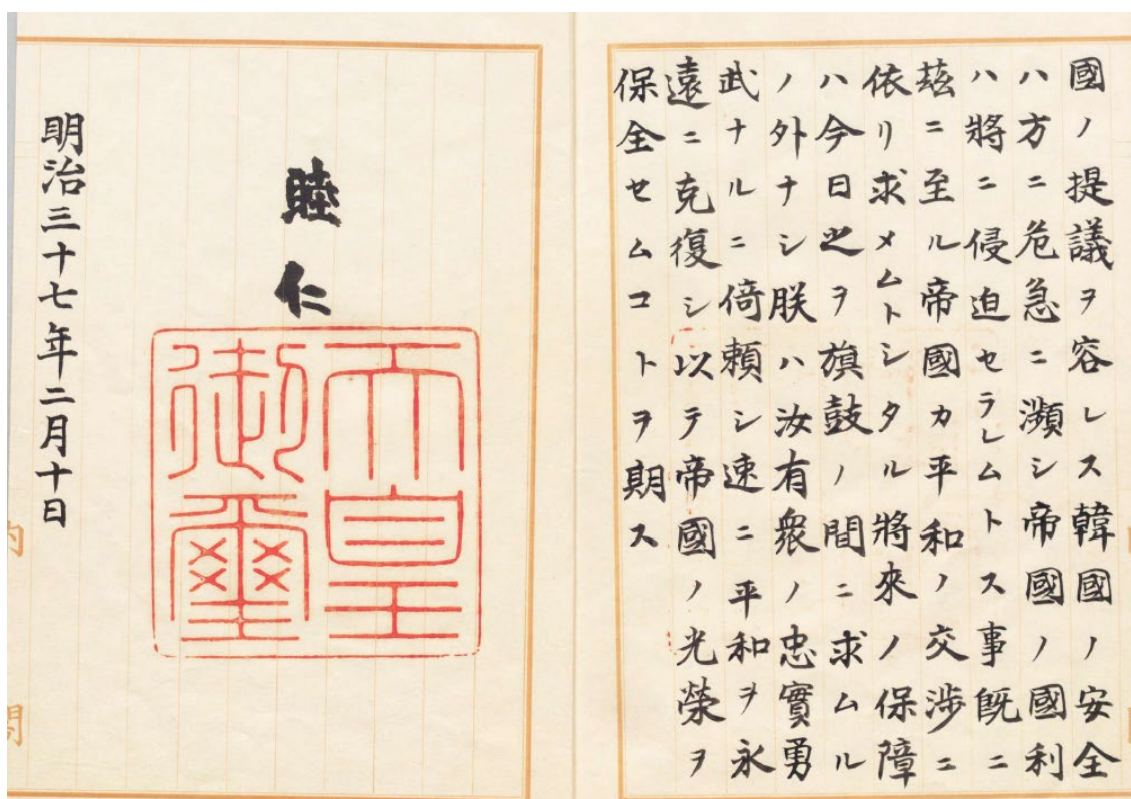
5. 日英同盟 1902 年

[日英同盟協約](#) (1902 年 1 月 30 日)

Article I

The High Contracting Parties, having mutually recognized the independence of China and Korea, declare themselves to be entirely uninfluenced by any aggressive tendencies in either country. Having in view, however, their special interests of which those of Great Britain relate principally to China, while Japan, in addition to the interests which she possesses in China, is interested in a peculiar degree politically as well as commercially and industrially in Korea, the High Contracting Parties recognise that it will be admissible for either of them to take such measures as may be indispensable in order to safeguard those interests if threatened either by the aggressive action of any other Power, or by disturbances arising in China or Korea, and necessitating the intervention of either of the High Contracting Parties for the protection of the lives and property of its subjects.

6. 日露戦争 1904 年



[宣戦詔書](#) (1904 年 2 月 10 日)

7. 第一次世界大戦 1914 年

Considering it highly important and necessary, in the present situation, to take measures to remove all causes of disturbance to the peace of the Far East and to safeguard the general interests contemplated by the Agreement of Alliance between Japan and Great Britain, in order to secure a firm and enduring peace in Eastern Asia, establishment of which is the aim of the said Agreement, the Imperial Japanese Government sincerely believe it their duty to give advice to the Imperial German Government to carry out the following two propositions:-

1st. To withdraw immediately from the Japanese and Chinese waters German men-of-war and armed vessels of all kinds, and to disarm at once those which cannot be so withdrawn.

2nd. To deliver on a date not later than September 15th 1914, to the Imperial Japanese Authorities, without condition or compensation, the entire leased territory of Kiao-chou with a view to eventual restoration of the same to China.

The Imperial Japanese Government announce, at the same time, that, in the event of their not receiving by noon August 23, 1914 the answer of the Imperial German Government signifying an unconditional acceptance of the above advice offered by the Imperial Japanese Government, they will be compelled to take such action as they may deem necessary to meet the situation.

対独最後通牒（1914年8月15日閣議決定）[リンク先](#) PDF14 枚目

8. シベリア出兵 1918 年

官報

號 外

大正七年八月二日

金曜日

印刷局

告示

帝國政府ハ露國竝露國人民ニ對スル舊來ノ隣誼ヲ重シシ露國ノ速ニ秩序ヲ恢復シテ健全ナル發達ヲ遂ケムコトヲ衷心切望シテ止マサル所ナリ然ルニ近時露國ノ政情著シク混亂ニ陥リ復タ外迫ヲ捍禦スルノ力ナキニ乘シ中歐諸國ハ之ニ壓迫ヲ加フルコト愈甚シク其ノ威壓遠ク極東露領ニ浸漸シテ現ニ「チエツクスローヴァック」軍ノ東進ヲ阻碍シ其ノ軍隊中ニハ多數ノ獨逸俘虜混入シ實際ニ於テ其ノ指揮權ヲ掌握スルノ事跡顯然タルモノアリ

抑ミ「チエツクスローヴァック」軍ハ夙ニ建國ノ宿志ヲ抱キ終始聯合列強ト共同對敵スルモノナル故ニ其ノ安危ノ繫ル所延テ與國ニ影響スルコト尠シトセス是レ聯合列強及合衆國政府カ同軍ニ對シ多大ノ同情ヲ寄與スル所以ナリ今ヤ聯合列強ハ同軍カ西比利亞方面ニ於テ獨逸俘虜ノ爲著シク迫害ヲ被ムルノ報ニ接シ空シク拱手傍觀スルコト能ハス業ニ已ニ其ノ兵員ヲ浦潮ニ派遣シタリ合衆國政府モ亦同ク其ノ危急ヲ認メ帝國政府ニ提議シテ先ツ速ニ救援ノ軍隊ヲ派遣セムコトヲ以テセリ是ニ於テ帝國政府ハ合衆國政府ノ提議ニ應シテ其ノ友好ニ酬ヒ且今次ノ派兵ニ於テ聯合列強ニ對シ歩武ヲ齊フシテ履信ノ實ヲ擧クル爲速ニ軍旅ヲ整備シ先ツ

之ヲ浦潮ニ發遣セムトス
 敍上ノ措置ヲ取ルニ方リ帝國政府ハ一意露國及露國人民ト恆久ノ友好關係ヲ更新セムコトヲ希圖スルヲ以テ常ニ同國ノ領土保全ヲ尊重シ併セテ其ノ國內政策ニ干渉セサルノ既定主義ヲ聲明スルト共ニ所期ノ目的ヲ達成スルニ於テハ政治的又ハ軍事的ニ其ノ主權ヲ侵害スルコトナク速ニ撤兵スヘキコトヲ茲ニ宣言ス

大正七年八月二日

- | | |
|--------|-----------|
| 内閣總理大臣 | 伯爵寺内正毅 |
| 外務大臣 | 男爵後藤新平 |
| 海軍大臣 | 加藤友三郎 |
| 陸軍大臣 | 大島健一 |
| 司法大臣 | 法學博士松室致 |
| 文部大臣 | 岡田良平 |
| 逓信大臣 | 男爵田健治郎 |
| 農商務大臣 | 仲小路廉 |
| 大藏大臣 | 勝田主計 |
| 内務大臣 | 法學博士水野鍊太郎 |

官報號外 大正七年八月二日(明治三十二年三月三十一日第三號外紙發給認可)

9. 国際連盟規約 1919 年署名・1920 年発効

[国際連盟規約](#) 15 条 6 項・7 項

If a report by the Council is unanimously agreed to by the members thereof other than the Representatives of one or more of the parties to the dispute, **the Members of the League agree that they will not go to war** with any party to the dispute which complies with the recommendations of the report.

If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the Representatives of one or more of the parties to the dispute, **the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.**

10. 不戦条約 1928 年署名・1929 年発効

[不戦条約](#)

Article 1

The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another.

11. 満洲事変 1932 年

(1) [内田外務大臣帝国議会衆議院演説](#) (1932 年 8 月 26 日)

(2) Notification by the Japanese Government of Its Intention to Withdraw from the League of Nations, 27 March 1933.

The Japanese Government believe that the national policy of Japan, which has for its aim to ensure the peace of the Orient and thereby to contribute to the cause of peace throughout the world, is identical in spirit with the mission of the League of Nations, which is to achieve international peace and security. It has always been with pleasure, therefore, that this country has for thirteen years past, as an original Member of the League and a permanent Member of its Council, extended a full measure of co-operation with her fellow-Members towards the attainment of its high purpose. It is, indeed, a matter of historical fact that Japan has continuously participated in the various activities of the League with a zeal not inferior to that exhibited by any other nation. At the same time, it is and has always been the conviction of the Japanese Government that, in order to render possible the maintenance of peace in various regions of the world, it is necessary in existing circumstances to allow the operation of the Covenant of the League to vary in accordance with the actual conditions prevailing in each of those regions. Only by acting on this just and equitable principle can the League fulfil its mission and increase its influence.

Acting on this conviction, the Japanese Government, ever since the Sino-Japanese dispute was, in September 1931, submitted to the League, have, at meetings of the League and on other occasions, continually set forward a consistent view. This was that, if the League was to settle the issue fairly and equitably, and to make a real contribution to the promotion of peace in the Orient, and thus enhance its prestige, it should acquire a complete grasp of the actual conditions in this quarter of the globe and apply the Covenant of the League in accordance with these conditions. They have repeatedly emphasised and insisted upon the absolute necessity of taking into consideration the fact that China is not an organised State; that its internal conditions and external relations are characterised by extreme confusion and complexity and by many abnormal and exceptional features; and that, accordingly, the general principles and usages of international law which govern the ordinary relations between nations are found to be considerably modified in their operation so far as China is concerned, resulting in the quite abnormal and unique international practices which actually prevail in that country.

However, the majority of the Members of the League evinced, in the course of its deliberations during the past seventeen months, a failure either to grasp these realities or else to face them and take them into proper account. Moreover, it has frequently been made manifest in these deliberations that there exist serious differences of opinion between Japan and these Powers concerning the application and even the interpretation of various international engagements and obligations, including the Covenant of the League and the principles of international law. As a result, the report adopted by the Assembly at the special session of February 24th last,¹ entirely misapprehending the spirit of Japan, pervaded as it is by no other desire than the maintenance of peace in the Orient, contains gross errors both in the ascertainment of facts and in the conclusions deduced. In asserting that the action of the Japanese army at the time of the incident of September 18th and subsequently did not fall within the just limits of self-defence, the report assigned no reasons and came to an arbitrary conclusion, and in ignoring alike the state of tension which preceded, and the various aggravations which succeeded, the incident—for all of which the full responsibility is incumbent upon China—the report creates a source of fresh conflict in the political arena of the Orient. By refusing to acknowledge the actual circumstances that led to the foun-

[League of Nations Official Journal, 1933, p. 657.](#)

(←[電子ジャーナル・データベース認証システム](#))

12. 日中戦争 1937 年

Statement of the Japanese Government regarding Japan's Non-participation in the Conference of the Nine Power Treaty Signatories, October 27, 1937. [リンク先](#) PDF の 8 枚目 (14 頁) から。以下引用部分は 11 枚目 (20-21 頁)。

Japan's action is a measure of self-defence taken in the face of Chinese challenge, and obviously, there can be no question of violation of the Nine Power Treaty. Moreover, as compared with the time when that treaty was concluded, the situation of East Asia to-day has been rendered totally different, owing to the infiltration of Communist influence and the changes of internal conditions prevailing in China.

“[Nine Power Treaty](#)”: 「ワシントン体制」の基礎となる「[九ヶ国条約](#)」。ここでは特にその 1 条が関係する。

13. 太平洋戦争 1941 年



[宣戦詔書](#) (1941 年 12 月 8 日)

14. 国連憲章 1945 年署名・発効

[国連憲章](#) 2 条 4 項