

# GOVERNMENTAL STRUCTURE

## Changing with the times



### Diet Building

Completed in 1936, the Diet Building is built from domestically quarried granite and covers an area of 12,400 square meters. (Photo courtesy of AFLO)

## Separation of Powers

The Constitution of Japan, which came into effect in 1947, is based on the principles of popular sovereignty, respect for fundamental human rights, and the advocacy of peace. Japan's political system is one of constitutional democracy. In accordance with the principle of "separation of powers," the activities of the national government are formally divided into legislative, judicial, and executive organs.

The emperor is "the symbol of the State and unity of the people." The emperor appoints the prime minister and chief judge of the Supreme Court as designated by the Diet, and performs "only such acts in matters of state" as provided for in the constitution along with the advice and approval of the cabinet, such as promulgation of amendments of the constitution, laws, cabinet orders and treaties, convocation of the Diet, dissolution of the House of Representatives, and so forth.

The Constitution of Japan proclaims a system of representative democracy in which the Diet is "the highest organ of state power."



It is formally specified that the Diet, as the core of Japan's system of governance, takes precedence over the government's executive branch. The designation of the prime minister, who heads the executive branch, is done by resolution of the Diet. Japan practices a system of parliamentary cabinet by which the prime minister appoints the majority of the cabinet members from among members of the Diet. The cabinet thus works in solidarity with the Diet and is responsible to it. In this respect, the system is similar to that of Great Britain, but different from that of the United States, where the three branches of government are theoretically on a level of perfect equality.

The Diet is divided into two chambers: the lower chamber, or the House of Representatives, and the upper chamber, or the House of Councillors. The House of Representatives may introduce "no-confidence motions" with respect to the cabinet. The cabinet, on the other hand, is able to dissolve the House of Representatives. It also has the authority to designate the chief judge and appoint the other judges of the Supreme Court. It is the Supreme Court that determines the constitutionality of any law or official act. The constitution authorizes the Diet to "set up an impeachment court from among the members of both houses in order to try any judges against whom removal proceedings have been instituted."

## The Diet as the Legislative Branch of Government

Japan's Diet is designated in the constitution as "the highest organ of state power." The Diet is made up of members who are directly elected by citizens of at least 20 years of age. The political parties, to which almost all Diet members belong, are the basic units of political activity. Thus Japan is said to practice party politics. The prime minister is chosen by the Diet from among its members. The prime minister then forms a cabinet, and the cabinet controls the executive branch of government.

The Diet is the "sole law-making organ of the State." All legislations must follow a

process leading to final approval in the Diet. The Diet has additional important functions, such as approving the national budget, ratifying international treaties, and setting in motion any formal proposals for amending the constitution. Three categories of Diet sessions are held: ordinary, extraordinary, and special. The ordinary session, which is convened once a year during January with a term of 150 days, plays the central role because that is where Diet members deliberate on the next year's budget and the laws necessary to implement that budget.

Although the House of Councillors and the House of Representatives share power, the latter predominates in decisions on legislation, designation of the prime minister, budgetary matters, and international treaties. For example, if a bill is passed by the House of Representatives but the House of Councillors deliberates otherwise (rejecting the bill or insisting on alterations), the bill will nevertheless become law if resubmitted to the House of Representatives and approved by two thirds of the members present.

One must be at least 25 years old to be eligible for election to the House of Representatives. As of 2013, the number of members of the House of Representatives is 480. Of these, 300 are chosen according to the single-seat constituency system, by which just one person is elected from each district. The other 180 are chosen as per a proportional representation system whereby seats are distributed to preferred party members according to the proportion of the vote received by the party. Members of the House of Representatives are elected for four-year terms, but the cabinet may dissolve the House of Representatives before the end of a full term.

One must be at least 30 years old to be elected to the House of Councillors. In 2001 the total number of members was reduced from 252 to 247, and in 2004 it was reduced to 242. As of 2012, of the 242 current seats, 146 are filled according to the electoral district system and the remaining 96 are filled based on a proportional representation system. All members are chosen for six-year terms. Half of the total number are chosen every three years. Members of the House of Councillors remain in their positions whether or not there is a dissolution of the House of Representatives.

## The Cabinet and the Executive Branch of Government

The cabinet, the majority of whose members must come from the Diet, is the supreme decision-making organ of the executive branch of government. The prime minister, who heads the cabinet, has the right to appoint and dismiss ministers of state (*kokumu daijin*) who make up the cabinet. He or she presides over cabinet meetings and may exercise his or her right to control and guide the various sectors of the state administrative apparatus. So-called cabinet resolutions are reached on the basis of a unanimity of views. The prime minister and all members of the cabinet must be, according to the constitution, civilians.

The constitution also states, “executive power shall be vested in the Cabinet.” However, the cabinet has under its control and coordination a number of ministries and other central administrative organs to which it delegates the exercise and control of many routine tasks of Japan’s central government.

As part of reform efforts that were aimed at increasing the efficiency and effectiveness of government operations, in January 2001 the executive branch of the government underwent an extensive reorganization in which the number of existing ministries and ministry-level commissions and agencies, 22 at that time, was cut almost in half. In addition to the newly created Cabinet Office, the cabinet includes 11 ministries, the 11th being created in January 2007 when the Defense

Agency became the Ministry of Defense. As of 2011, each ministry is headed by a minister of state appointed by the prime minister. Each minister is assisted by one or two senior vice-ministers and up to three parliamentary secretaries. These officials are usually members of the Diet.

The Cabinet Office was created by the 2001 reorganization in order to strengthen cabinet functions and the prime minister’s overall policy leadership capability. Headed by the prime minister, the Cabinet Office drafts plans and provides comprehensive coordination from a level one step above other government ministries and agencies. The Cabinet Office oversees the Imperial Household Agency and three external bureaus: Fair Trade Commission, National Public Safety Commission, and Financial Services Agency. In addition to the ministers of state for special missions, the Cabinet Office also includes the following three important policy councils: Council for Science and Technology Policy, Central Disaster Management Council, and Council for Gender Equality.

Taken together, the Cabinet Office, the ministries, and the various agencies and commissions are known as the central government offices (*chuo shocho*). As of 2011, Japan’s central government offices operate according to a system based on a pyramidal structure of rank. Responsibility for setting the boundaries of authority of the posts within each ministry and agency rests in the hands of the cabinet members.

In Japan, persons who are engaged in administrative activities in the various central government offices, including vice ministers (*jimu jikan*) and all ordinary public servants of lesser rank, are selected on the basis of national public service examinations; their jobs are not political appointments nor are they subject to being lost as a result of political power changes at the cabinet level.

After the reorganization of government ministries, the privatization of Japan National Railways, and the recent privatization of the postal service in 2007, the number of national public servants (excluding members of the Japan Self-Defense Forces) stood at 340,613 as of 2011. At the end of January 2001, before the ministries were reorganized, the

number of public servants totaled 1.268 million.

The constitution specifies that “all public officials are servants of the whole community and not of any group thereof.”

## The Supreme Court

In Japan, the independent standing of the judicial branch of government is protected, and the constitution stipulates that “no disciplinary action against judges shall be administered by any executive organ or agency.” All legal conflicts, whether of a civil, administrative, or criminal nature, are subject to judgment in courts of law. Established by the constitution, the Supreme Court is Japan’s highest judicial organ. There are four types of lower courts, whose numbers and English designations (as of December 2013) are as follows: 8 high courts, 50 district courts, 50 family courts, and 438 summary courts. According to the constitution, no so-called extraordinary tribunal is to be established, “nor shall any organ or agency of the Executive be given final judicial power.”

According to article 6 of the constitution, “the Emperor shall appoint the Chief Judge of the Supreme Court, as designated by the Cabinet,” while the cabinet directly appoints the other 14 Supreme Court judges. To be eligible for nomination, as indicated in the Law on Courts, one must be a person “of high discernment, well grounded in law, and at least 40 years old.” A minimum of 10 members must be selected from among those who distinguish themselves as judges, public prosecutors, lawyers, and professors or assistant professors in legal science in universities; the rest need not be jurists. All judges of the Supreme Court must be reviewed by the people in the first general election following appointments, and every 10 years thereafter. The retirement age is 70.

Supreme Court hearings and judgments are made by either the grand bench, which requires the presence of at least nine court justices, or by one of three petty benches, each consisting of from three to five justices. The grand bench examines cases, referred by

one of the petty benches, that involve constitutional questions, precedents, and so on.

In addition to its authority as the sole court of last resort, the Supreme Court has the authority to set rules on litigation procedures, together with other special rights of judicial administration, including the nomination of a list of persons from which the cabinet appoints judges for the lower courts.

Japan’s court system is basically a three-trial system in which parties to a dispute—following a court hearing and decision—have the right to undergo two additional court hearings and decisions, as stipulated by the procedures for appeal (*koso*) and, ultimately, final appeal (*jokoku*). However, the number of court judges is small in comparison with the number of court cases submitted for judgment. As a result, court decisions usually take a long time.

In May 2004, the Act Concerning Participation of Lay Assessors in Criminal Trials was passed based on the recommendations of the Judicial Reform Council, which was instituted for a two-year period beginning July 1999. The lay judge system, in which ordinary individuals chosen from among Japan’s citizens deliberate alongside judges at designated criminal trials, went into effect on May 21, 2009. The first trial under the new system took place on August 3 at the Tokyo District Court.