



## Lessons on the Japanese Constitution

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Japan's current constitution was written in 1946 and adopted in 1947, while Japan was under Allied occupation following World War II. On the occasion of its adoption, one Japanese politician called the document an "ill-fitting suit of clothes," totally inappropriate as a governmental blueprint for Japan. Observers predicted that the constitution would be replaced as soon as the Occupation ended. Debate over the workability of Japan's constitution has been a political constant; yet, the document has not been amended since its inception. Much of the ongoing controversy stems from the context in which the document was brought into being.

Following a brief exploration of the history of Japan's 1947 Constitution, this digest introduces recent scholarship and offers examples of how that scholarship deepens the story of Japan's postwar constitutional process. In its final section, the digest provides ways in which study of the postwar constitution can enrich social studies instruction.

**Historical Overview.** When the constitution was presented to the Japanese people in 1946, official commentary explained that the Japanese government, with significant input from the emperor and feedback from Occupation authorities, had written the document. Quickly, however, the explanation of Japanese authorship was replaced with a version acknowledging the strong hand of Supreme Commander of the Allied Powers (SCAP) General Douglas MacArthur and Occupation personnel in the constitution-making process. Early in the Occupation, Americans charged with overseeing the democratization of Japan identified the Meiji Constitution of 1887 as a flawed document that had enabled militarists to take control and lead Japan into war. The Potsdam Declaration, which had set the terms for Japan's surrender and reconstruction at the end of WWII, provided the rationale for modifying the Meiji Constitution by requiring that Japan remove all obstacles to democracy and ensure basic freedoms and rights. SCAP called upon Japan's leaders to revise the constitution in accordance with the Potsdam Declaration. When Japanese government leaders made only cosmetic changes, MacArthur concluded that it was within SCAP's authority to draft a completely new government charter for Japan. During one week in February 1946, a committee of 24 Americans, both military and civilian, drafted a democratic constitution for Japan. MacArthur approved it and SCAP presented it to Japan's foreign minister as a *fait accompli*.

This account of the making of Japan's postwar constitution has been the accepted history until recent years. The account credits the making of Japan's postwar constitution as an essentially American story. In it, U.S. government and Occupation forces are the key actors and authors. Japan, represented by its government, is a minor and, in fact, reluctant player. Although this account casts the United States in the role of bearer of democracy, it has led to the more negative but common sentiment that the United States imposed a constitution on Japan. This raises the crucial question of how an alien political document survived in a reluctant nation. If Japan was resistant to the document and to the democracy it put in place, how did this foreign constitution stay in place? Why did this exercise in democracy building succeed when many others have failed?

**Japan's 1947 Constitution: A New Narrative.** Recent scholarship has led to more complex understandings of Japan's postwar constitutional story. Over the past two decades, American and Japanese historians and political scientist have re-examined the birth of Japan's 1947 Constitution. Looking beyond the initial drafting convention of February 1946 and taking advantage of documents that were classified until the 1970s, researchers have uncovered a story of democracy building in Japan that involved intricate debate and collaboration within and across national lines. Their research has brought into focus diverse Japanese as well as American roles in the constitution-making process, integrating Japanese chapters into what had been an American-centered story.

**Japanese Involvement.** Current research reinforces the narrative that Japan's postwar leaders resisted changes to the Meiji Constitution. However, such scholars as John Dower argue that focusing on the role of Japan's political leaders obscures the supportive role played by common Japanese people. While Japanese government response to SCAP's call for constitutional revision did stall, Japanese people responded to the opportunity. Between late 1945 and spring 1946, SCAP received 12 proposals for constitutional revisions from outside the Japanese government. Proposals came from liberal and conservative sources, including the Communist, Liberal, Progressive, and Socialist parties, the grassroots Constitutional Research Association, and individuals. Suggestions included the abolition of the emperor; retention of the emperor with limits on authority or exclusively symbolic duties; economic rights; gender equity; and the right to education. A number of these popularly generated suggestions correlated with SCAP interests and with provisions SCAP ultimately included in its own draft.

**Not Simply an American Replica.** American writers from SCAP's government section, charged by MacArthur with writing a draft constitution, took note of suggestions for the document contributed by Japanese people and groups. They also chose not to limit themselves to creating an American replica for Japan. They looked within but also beyond the U.S. Constitution. Many on the American writing committee embraced the expansive human rights of the New Deal. These ideals were not reflected in the U.S. Constitution, nor necessarily embraced by conservatives within American occupation personnel. Beate Sirota Gordon, a young and idealistic member of the committee, has recorded her search through Japanese libraries for sample constitutions from other nations that might provide models for a progressive Japanese document. In its original form, Gordon's human rights section for the Japanese constitution articulated rights far more progressive than anything in the U.S. Constitution. In the constitution's final version, articles on women's rights significantly surpassed U.S. guarantees. Other features in the American draft clearly reflected compromise with Japanese tradition. Notable, of course, was the maintenance of the emperor. While the 1947 Constitution demotes the emperor from his earlier position as sacred and inviolable, it maintains a hereditary throne as a symbol of the state, making the Japanese governmental system comparable to the British.

**The Adoption Process.** Japanese input in the constitutional process became more pronounced after SCAP presented the American draft to the Japanese government in February 1946. Adoption was an arduous process that entailed months of intergovernmental, parliamentary, and popular discussion. As the document moved through multiple drafts, it was translated from the original English into Japanese, then back into English for SCAP review. Some scholars argue that, in this process, the original American draft underwent "Japanization," becoming more representative of Japanese thought. The following example illustrates the process by which Japanese writers influenced conceptual issues through translation.

American political philosophy rests on the concept of popular sovereignty: ultimate power resides in the people. This principle was fundamental to Occupation efforts to rebuild the Japanese government. The preamble in SCAP's draft constitution established popular sovereignty within Japan; sections on human rights underscored it.

But for their part, Japan's postwar governmental elite had not swayed from the position in the Meiji Constitution that the Emperor commanded ultimate and inviolable power. When Japanese leaders received the American draft, their first task was to translate it into Japanese. Translators dropped the American-authored preamble altogether, thus circumventing the troubling issue of popular vs. imperial sovereignty. Required by SCAP to reinsert the concept of popular sovereignty, Japanese translators used the archaic word *shiko*, meaning "supreme

height.” A term out of use in 1940s Japan, *shiko* was meaningless in conveying the concept to Japanese readers. Through this word choice, the Japanese government obscured the meaning of a political concept they did not endorse (Dower: 379-382). SCAP, in turn, re-translated the Japanese version into English and succeeded in catching most of the conceptual changes that the Japanese had introduced. Translation continued to be an issue through six revised drafts in the Japanese Diet.

**Opportunity for Revision.** MacArthur invited Japanese review and revision of the constitution between 1948 and 1949 to insure that it reflected the free will of the Japanese people. Constitutional scholar Shoichi Koseki has noted that there was little response, despite vocalized concern over foreign authorship. The Japanese government established a review committee, but received only a few proposals for minor revisions. Although it could have done so, the government did not invite public response to the constitution through a national referendum. According to Koseki, the fact that the Japanese government and people disregarded the opportunity to change the constitution when invited to do so, indicates an early level of support that renders the claim of foreign imposition moot (249-254).

**Article Nine.** Early in the occupation, MacArthur identified the abolition of war as a critical principle to be included in any revision of Japan’s constitution. MacArthur drew on the idea of a world without war expressed in the 1928 Kellogg-Briand Pact. However, the no-war provision as it appears in the final constitution is very much a negotiated principle, going beyond American mandate or authorship. MacArthur stipulated that Japan would abolish war as a sovereign right of the nation. War would be renounced as a means to settle disputes and as a means to preserve security. Japan would not have the right to build or maintain a Japanese Army, Navy, or Air Force, and would relinquish the right of belligerency (Gordon: 104). This wording would have denied Japan the right to use military force for any reason, including defense. In the February 1946 draft constitution, Charles Kades, chair of SCAP’s constitutional committee, deleted the reference to national defense, but broadened the prohibition against military forces and supplies.

Once in their court, Japanese Diet members debated the clause, particularly its implications for national defense. Many within the Diet argued that this meant Japan could not defend itself from attack. Others countered that the right of national defense was irrevocable and so Article Nine could not prohibit it. Still others cautioned that the Pacific War had been waged in the name of national defense. Some argued that Article Nine would keep Japan out of the United Nations by precluding Japan from contributing to international peacekeeping and thus, be ultimately self-defeating. While politicians argued, the Japanese people embraced the no-war provision. John Dower suggests that they did so because Article Nine offered this devastated, defeated people a positive national result from the war. While they might be proud of little in their recent national past, Japanese could be proud to lead the world in outlawing war (398).

Following months of debate, the final version of the “no-war” clause came from Japan’s House of Representatives:

*Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as a means of settling international disputes.*

*In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.*

Most analysts agree that the failure to clearly define national defense left the meaning of Article Nine open to debate for all time. Article Nine’s ambiguity came into play almost immediately with the communist victory in the Chinese Civil War, and then again with the Korean War. In the Cold War context of a regional communist threat, U.S. and Japanese governments interpreted Article Nine to support rearmament for national defense.

**The Japanese Constitution in American Classrooms.** What are the lessons worth teaching in Japan’s constitutional story? Why is changing historiography on this topic relevant in the classroom? Where can Japan’s constitution be taught in the social studies curriculum and to what purpose?

On one level, multiple narratives of Japan’s postwar constitution over half a century offer students a living case study in how history is constructed, modified, and enriched by ongoing research and new access to previously unavailable historical sources. Japan’s constitution also provides a case for examining national perspectives in the intersection of two nations’ histories. The conventional narrative that Americans authored Japan’s postwar constitution claims the story as an American story. Newer research makes it a binational and negotiated story.

In civics classes, students can examine what has been seen as an example of successfully transplanting American democracy. In considering the complex story that has emerged, students can better appreciate the multiplicity of factors in that success. Study of Japan’s constitution should take students beyond the story of the American “constitutional convention” and engage them in an analysis of the players and conditions in Japan that enabled constitutional democracy to take root. In looking at Japan’s governmental blueprint, students should be encouraged to look for American influences as well as examine provisions of the document that tie it to other national models and recognize elements that make Japan’s 1947 Constitution unique.

For students in government, history, or international relations classes, Article Nine offers a case study of an enduring constitutional issue affecting Japan in the world. The meaning of Article Nine, and the larger question of whether to amend the constitution regarding this provision, has been brought to the fore repeatedly: during the Korean War, in a 1954 constitutional assembly, during the 1960 U.S.-Japan security treaty protests, and during military build-up in conjunction with the Vietnam War. In the 1990s, the U.S. criticized Japan for limiting its Mideast peacekeeping contributions to financial and humanitarian aid under Article Nine.

Most recently, Article Nine underlies the controversy over Japanese response to the 2001 terrorist attacks on the United States. Factions within the ruling Liberal Democratic Party argue that new global realities call for Japan to sever the reins of Article Nine and revise the constitution. Critics across the political spectrum argue that Article Nine has been bent to the breaking point in 2002 as Japan has redefined its “defensive” role to include sending Self-Defense Forces to aid U.S. forces in the Pacific, carrying munitions, and refueling war equipment. In April 2002, the Koizumi government proposed a set of “emergency-contingency” bills designed to give the national government power in case of foreign military attacks. Critics noted that the bills, initiated in the name of self-defense, would legalize national preparation for war, an arguably offensive measure. While the “emergency-contingency” bills were defeated, controversy over constitutional reform related to Article Nine grows. Students can track this ongoing constitutional issue through online access to English-language Japanese newspapers such as *The Japan Times* <http://www.japantimes.com>, *The Mainichi Daily News* <http://mdn.mainichi.co.jp/>, and *The Asahi Shimbun* <http://www.asahi.com/english/english.htm>.

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