

THE CONSTITUTION OF JAPAN (1947)

Introduction

The American Occupation of Japan was premised on the notion that the thorough demilitarization and democratization of the defeated nation would make the world forever safe from the renewed threat of Japanese aggression. The drafting of a new, democratic constitution was considered essential to Japan's recasting as a peaceful member of the community of nations. After a Japanese commission failed to produce a new national constitution sufficiently progressive for the Occupation's liking, a document was drafted (over the span of only a week's time) in-house by American staff and presented to the Japanese government for translation and enactment. The Japanese had no choice but to follow orders and the new constitution, somewhat awkwardly worded as the result of its English-language origins, was promulgated in November 1946 and came into effect on May 3, 1947. Many scholars have noted the irony of the Occupation installing democratic political institutions in Japan through transparently authoritarian means: the Japanese, it has been said, were "forced to be free" by their American occupiers. Nonetheless, the 1947 Constitution was readily embraced by the Japanese people and has endured (with not a single amendment over the past six decades) as a sound basis for Japan's postwar democracy.

The most celebrated section of the 1947 Constitution is Article 9, often called the "no war" clause. Debate swirled immediately around Article 9, which was very popular among the Japanese people but which proved troubling to the United States. Although American Occupation officials drafted the "no war" clause, American military planners soon sought a remilitarized Japan as an ally in the Cold War and found Article 9 a serious impediment.

Document Excerpts with Questions (Longer selection follows this section)

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Article 9

Article 9. 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 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.

Primary Source Document with Questions (DBQs) on THE CONSTITUTION OF JAPAN (1947)

Questions:

1. Why did the Occupation officials who drafted the constitution include Article 9?
2. How would you have reacted to Article 9 as a Japanese citizen in 1947? What benefits would it bring? Would it worry you for any reason?
3. Would it be realistic for Japan to follow Article 9 to the very letter of the law? Is it possible for a modern nation to give up entirely all “war potential”?
4. Why do you think that the Japanese have never amended or rescinded Article 9?
5. The Japanese now have one of the largest military establishments in the world, called the Self-Defense Forces. How do you think Japan has reconciled this reality with the provisions of Article 9?

Longer Selection with Questions

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Preamble

We, the Japanese people, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful cooperation with all nations and the blessings of liberty throughout this land, and resolved that never again shall we be visited with the horrors of war through the action of government, do proclaim that sovereign power resides with the people and do firmly establish this Constitution. Government is a sacred trust of the people, the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people. This is a universal principle of mankind upon which this Constitution is founded. We reject and revoke all constitutions, laws, ordinances and rescripts in conflict herewith.

We, the Japanese people, desire peace for all time and are deeply conscious of the high ideals controlling human relationship, and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world. 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.

We believe that no nation is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all nations who would sustain their own sovereignty and justify their sovereign relationship with other nations.

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We, the Japanese people, pledge our national honor to accomplish these high ideals and purposes with all our resources.

Chapter I: The Emperor

Article 1. The Emperor shall be the symbol of the State and of the unity of the people, deriving his position from the will of the people with whom resides sovereign power.

...

Article 3. The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor [*sic*].

Article 4. The Emperor shall perform only such acts in matters of state as are provided for in the Constitution and he shall not have powers related to government. . . .

Chapter II: Renunciation of War

Article 9. 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 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.

Chapter III: Rights and Duties of the People

Article 11. The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

...

Article 13. All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.

Article 14. All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status, or family origin.

Peers and peerage shall not be recognized. . . .

Article 15. The people have the inalienable right to choose their public officials and to dismiss them. All public officials are servants of the whole community and not of any group thereof.

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Universal adult suffrage is guaranteed with regard to the election of public officials.

In all elections secrecy of the ballot shall not be violated. A voter shall not be answerable, publicly or privately, for the choice he has made.

...

Article 19. Freedom of thought and conscience shall not be violated.

Article 20. Freedom of religion is guaranteed to all. No religious organization shall receive any privileges from the State, nor exercise any political authority.

No person shall be compelled to take part in any religious act, celebration, rite or practice.

The state and its organs shall refrain from religious education or any other religious activity.

Article 21. Freedom of assembly and association as well as speech, press, and all other forms of expression are guaranteed.

No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

Article 22. Every person shall have freedom to choose and change his residence and to choose his occupation to the extent it does not interfere with the public welfare.

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article 23. Academic freedom is guaranteed.

Article 24. Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis.

With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce, and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes.

Article 25. All people shall have the right to maintain the minimum standards of wholesome and cultured living.

In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health.

Article 26. All people shall have the right to receive an equal education correspondent to their ability, as provided by law.

All people shall be obligated to have all boys and girls under their protection receive ordinary educations as provided for by law. Such compulsory education shall be free.

Article 27. All people shall have the right and the obligation to work.

Standards for wages, hours, rest, and other working conditions shall be fixed by law.

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Children shall not be exploited.

Article 28. The right of workers to organize and to bargain and act collectively is guaranteed.

Article 29. The right to own or hold property is inviolable.

Property rights shall be defined by law, in conformity with the public welfare.

Private property may be taken for public use upon just compensation therefore [*sic*].

...

Article 35. The right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued for adequate cause and particularly describing the place to be searched and things to be seized, or except as provided by Article 33. Each search or seizure shall be made upon separate warrant issued by a competent judicial officer.

Article 36. The infliction of torture by any public officer and cruel punishments are absolutely forbidden.

Chapter IV: The Diet

Article 41. The Diet shall be the highest organ of state power, and shall be the sole law-making organ of the state.

Article 42. The Diet shall consist of two Houses, namely the House of Representatives and the House of Councillors.

Article 43. Both Houses shall consist of elected members, representatives of all the people.

Article 44. The qualifications of members of both Houses and their electors shall be fixed by law. However, there shall be no discrimination because of race, creed, sex, social status, family origin, education, property, or income.

Chapter X: Supreme Law

Article 97. The fundamental human rights by this Constitution guaranteed to the people of Japan are fruits of the age-old struggle of man to 1036 postwar Japan be free; they have survived the many exacting tests for durability and are conferred upon this and future generations in trust, to be held for all time inviolate.

Article 98. This constitution shall be the supreme law of the nation. . . .

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Questions:

1. How does the 1947 Constitution compare to the Meiji Constitution of 1889?
2. Where does sovereignty lie in the 1947 Constitution? What is the role of the Emperor?
3. What rights do Japanese citizens enjoy under this constitution? How do these rights compare to those guaranteed under the U.S. Constitution?
4. What rights do women have under this constitution?
5. As a Japanese person living in 1947, how do you think you would have felt about this constitution and its provisions? How do you think you would feel about the fact that it was written by the American Occupation forces?