

The Constitution, Human Rights and Pluralism in Japan: Alternative Visions of Constitutions Past and Future

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Abstract

Recent moves by the Abe administration to change the Japanese constitution may result in the most fundamental change to Japanese political life since the 1940s. Although there has been widespread debate on the possible revision of Article 9 – the constitution’s Peace Clause – other profound implications of the push for constitutional change have received scant attention. This special issue edited by Tessa Morris-Suzuki and Shinnosuke Takahashi aims to take a broad view of constitutional debates in Japan today by posing two key questions: “What is the purpose of the constitution?” and “What does the constitution mean for a culturally plural and diverse society?”

Keywords

Japan; constitution; human rights; pluralism; Abe administration; Article 9; civil society.

A New Constitution for Japan?

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 (Article 9 of the Constitution of Japan, 1947)

In May 2017, as Japan commemorated the 70th anniversary of the enactment of its postwar constitution, Prime Minister Abe announced a proposal to alter the constitution’s most famous and controversial section, Article 9, which renounces the nation’s right to wage war and to maintain armed forces. Abe suggested a revision that would not remove any of the wording of the article’s existing two paragraphs (quoted above) but would add a third paragraph formally legitimizing the existence of Japan’s existing military force, which today boasts the world’s eighth largest military budget.¹ More surprisingly, perhaps, while directly mentioning only this modest change to the wording of the document, Abe simultaneously proclaimed his intention to give Japan a “new constitution” (not just a modified version of the old one) by the time of the 2020 Tokyo Olympics.² At the start of 2018, he returned to the theme, urging government and opposition politicians to reach a “broad based consensus” on constitutional change to be put to a national referendum.³ If Prime Minister Abe’s proposal is put into effect, this will mark the first revision of a constitution which has remained unchanged for longer than any other in the contemporary world.

The debate about constitutional change in Japan has been a long one. Indeed, the ink was barely dry on the postwar constitution before various political figures, mostly on the right of the spectrum, were debating reinterpretations of Article 9 and planning for its revision. During the Korean War, the US pressed Japan to rearm by creating the National Police

Reserve, which soon evolved into the Self-Defence Force [*Jietai*], and by the late 1950s Liberal Democratic Party (LDP) figures including Prime Minister Kishi Nobusuke had defined constitutional revision as a top priority for their party.⁴

In practice, though, strong popular support for the postwar constitution ensured that the 1947 constitution survived unchanged into the twenty-first century. Meanwhile, the fiftieth anniversary of the end of the Asia Pacific War evoked a renewed upsurge of constitutional debate in the mid-1990s, with several media organizations and other groups putting forward proposals either to change the constitution or to protect the existing document and implement it more effectively.⁵ In January 2000, both houses of the Japanese parliament established constitutional review committees, and by 2005 both the Liberal Democratic Party (LDP) and the major opposition party – the Democratic Party of Japan (DJP) had published proposals for constitutional change.⁶ By 2012, though, the political climate was changing rapidly, and in April of that year (some nine months before the party returned to power) the LDP published a new proposal for constitutional reform which was much more far reaching than its 2005 draft. Some sense of the difference in tone between the 2005 and 2012 LDP drafts can be seen by comparing their preambles (Appendix 1 of this article). The 2012 draft (discussed in further detail in the essays by Lummis, Okano, and Uemura and Gayman in this special issue) also includes many more revisions to the body of the constitution than the 2005 draft had done.

Prime Minister Abe (like his grandfather Kishi) has been a particularly vocal proponent of constitutional revision, but after coming to power for the second time in 2012, and even after securing the parliamentary majority needed to win Diet approval for revision in July 2016, he remained relatively cautious on the subject, preferring to place emphasis on “re-

interpretation” of Article 9. This changed, though, with his statement in May 2017. An LDP Headquarters for the Promotion of Revision to the Constitution (*Jiyū Minshutō Kenpō Kaisei Suishin Honbu*) was promptly created to draft a new constitution, although the task (as we shall see) seems to be proving a challenging one.

In October 2017, against the background of intense security anxieties about North Korea’s nuclear weapons development, Prime Minister Abe called a snap election, with constitutional revision listed as one of the items on his party’s manifesto, though the party’s campaign rhetoric focused more on economic policy and the North Korean missile issue. The ruling LDP and its ally Kōmeitō predictably won a very large majority (313 of the 465 contested seats), but in other respects the election failed to follow the expected course. Tokyo Governor Koike Yuriko’s Hope Party (*Kibō no Tō*), which also favours constitutional revision, was expected to emerge as a leading opposition force. Its chances seemed to have been boosted when – in the midst of the campaign – the existing main opposition group, the Democratic Party, dissolved its lower house caucus, and the party leader urged party members to join forces with Koike’s grouping. But in fact, the Hope Party failed to make the expected impact. Instead, another newly-formed force, the Constitutional Democratic Party (CDP – *Rikken Minshutō*), consisting largely of former DPJ members who disagreed with Koike’s hawkish policies, put in a better performance, winning 55 seats in the new parliament compared with the Hope Party’s 50. A key feature of the CDPs policies, as the party’s name suggests, is respect for the existing constitution, and particularly for its emphasis on democracy, human rights and peace.⁷

The political mood surrounding the election has left Abe’s government in a rather curious position. It has the two-thirds supermajority in both houses of parliament needed for

constitutional change, but all the signs suggest that most of the Japanese public – who would have the final say on the matter through a referendum – are unenthusiastic about Abe’s constitutional ambitions. A Kyodo opinion poll conducted soon after the 2017 election showed that, although the Abe cabinet enjoyed a healthy approval rating, just over 50% of people opposed Abe’s plans for constitutional reform, while just under 40% supported them.⁸ Even within the government itself, opinions on the subject are divided. The constitutional review committee created in May 2017 intended to produce a full draft of its proposed revisions by the end of the year, but was in fact only able to come up with a summary of four key points, and even on two of these (the content of the revision to Article 9 and proposed state of emergency provisions) the committee had failed to reach a consensus.⁹



Protesters opposing constitutional revision gather outside the National Diet Building.

The committee’s four-point summary echoes the brief statement on constitutional change made in the LDP’s election manifesto, and gives some sense of the direction in which the government plans to take the debate from here. The four points are: that Article 9 should be revised in some way (either by leaving the existing wording as it is and adding an extra paragraph, or by deleting and replacing part of

its second paragraph); that new emergency powers of should be given to the government (though there are divided views on what those powers should be); that the constitution should be revised to prohibit the creation of electoral districts larger than a single prefecture, and to “clarify” the status of local government; and that Article 89 of the constitution should be revised as part of a policy of “enriching education” for all Japanese citizens.¹⁰

The last two points need some explanation. The proposal on electoral districts aims to reverse recent revisions of electoral boundaries, which were undertaken to prevent a rural gerrymander from which the Liberal Democratic Party has traditionally benefitted. These revisions have created some Upper House electorates which combine two prefectures (e.g. an electorate of “Tottori and Shimane”), a situation which is fiercely opposed by a number of regional-based LDP politicians. The meaning of “clarifying the status of local government” remains obscure, but it is worth noting that the 2012 LDP draft constitution includes a proposal to explicitly ensure that residents who are not Japanese citizens would be constitutionally prohibited from voting in local elections.¹¹ The proposed revision of Article 89 also has potentially far-reaching implications. It is presented by its proponents as being a move to improve the quality of Japanese education by removing restrictions on the funding of private schools. But Article 89 not only prohibits state funding to any educational enterprise “not under the control of public authority” but also, more importantly, prohibits payments from the state to religious organizations. Revision of this article could therefore become a major step away from the separation of state and religion enshrined in Japan’s postwar constitution.

What is a Constitution?

Proposals for constitutional revision have for

decades generated intense debate in Japan and beyond. Most of the debate, though, has focused on specific clauses – most notably on Article 9, and recently also on Article 96, which sets out the processes for constitutional revision. These are important matters, and they are addressed in essays in this special issue: Douglas Lummis’ essay presents a fresh perspective on Article 9, while Okano Yayo highlights the significance of Article 96. But here we also aim to take a broader view of constitutional debates by posing two key questions: “What is the purpose of the constitution?” and “What does the constitution mean for a culturally plural and diverse society?”



Protesters rally to save Article 9.

Debates about constitutional change tend to be based on an assumption that participants have a shared understanding of what the constitution is and why it exists. The discussion then generally focuses on the content and wording of the constitutional document, rather than its essential nature. But as Judith Pryor and others have pointed out, the meaning of the word “constitution” is not as simple as it may appear.¹² In the broadest sense, the term “national constitution” refers to the way in which a nation is made up or operates: how the nation is constituted. More often, we understand the word as referring to a set of foundational rules or principles on which subsequent law-making or policy-making must

rest: even though (as in the case of Britain’s famously “unwritten constitution”) these principles may not necessarily be set out in a single written text. More commonly still, though, when we speak of a nation’s constitution, we are referring to a single written document which is understood as containing those fundamental principles of national political life.

Constitutions which emerge from revolutions or independence struggles, or which (like Japan’s) are products of a radical political transformation following military defeat, are often ringing statements about the values and vision of the nation. The opening words of Japan’s postwar constitution (see Appendix 1) are a resonant example. But many constitutions are much longer, more arcane and more unreadable documents, because they have been created over centuries of accretion, or have emerged through compromise and negotiation out of older political arrangements whose residues still cling like moss to the surface of the political edifice.

A key issue is the relationship between the constitution as a foundational written document and the way that a nation is actually constituted and operates in practice. If there is virtually no correspondence between the two, then a written constitutional document clearly does not mean very much at all. The Constitution of the Democratic People’s Republic of Korea (North Korea), for example, states: “Citizens are guaranteed freedom of speech, of the press, of assembly, demonstration and association” (Article 67); “Citizens have freedom of religious beliefs” (Article 68); and “The citizens shall have freedom to reside in and travel to any place” (Article 75); none of which has any real bearing on the realities of life in North Korea.¹³

At the same time, though, the relationship between written text and lived practice is fluid and dynamic. Written constitutions are

constantly reinterpreted, and parts of the constitutional text that are not perfectly reflected in the everyday life of the nation may still be important as statements of aspiration or future goals. In the Japanese context, it is sometimes argued that Article 9 serves to limit pressures for Japan to become engaged in military action, even though everyone knows that the promise that “land, sea, and air forces, as well as other war potential, will never be maintained” has in practice been violated for decades. A recent book by Arthur Stockwin and Kweku Ampiah argues that “Article 9 has helped to shape a post-war Japanese mind-set and character – passed on from one generation to the next – in a population that is constantly reminded, through formal and informal education, of the dangers of war. As such, there is a consciousness in Japan about peace as a national value that should be protected”.¹⁴ This is an appealing argument, but there is a counter-argument: that it may be dangerous to maintain a significant constitutional clause which is persistently violated in practice. For, if it comes to be taken for granted that the second paragraph of the peace clause can be reinterpreted to mean the opposite of what it says, what is to stop politicians from deciding (for example) to reinterpret the constitution’s guarantees of free speech to mean the opposite of what they say?

The Constitution in a Diverse Japan

There are no simple answers to this dilemma, and the essays in this special issue neither present simple answers nor speak with one voice. But they do suggest a range of ways of reconsidering the meaning of the constitution, and of re-examining the relationship between (on the one hand) the Japanese constitution as embodied in the 1947 constitutional document, and (on the other) the way in which the Japanese state is constituted in practice. Douglas Lummis’ essay highlights the role of

constitutions as “seizures of power”. If we see constitutions in this way – as radical moments in which power is transferred from one set of hands to another – the central question becomes “just who is wresting what power from whom?” In this light, the grammar of the constitution becomes particularly important: who is the subject and who is the object of the constitution’s clauses? Lummis shows how current government proposals for constitutional change radically alter that grammar, with far reaching implications. But his examination of Article 9 also reminds us that postwar Japan has been shaped, not simply by its formal constitution, but also by the interaction between the constitution and other documents, most notably the security treaty with the United States. The refractory relationship between Article 9 and the security treaty may be relatively easy to ignore from the perspective of Tokyo, but becomes glaringly obvious from the perspective of Okinawa, from where Lummis writes.

Okano Yayo also focuses attention on the meaning of constitutions. The key danger in current schemes for constitutional change, she argues, is that they obscure and undermine the core function of a democratic constitution, which is to place limits on the power of the state. The Abe government’s approach treats the constitution as though it were any normal law which the state has the power to change at will. Okano’s analysis also highlights the cultural underpinnings of the Abe government’s vision of a new constitution. A crucial element, she suggests, is a denial of the individuality of citizens. Rather than emphasising individual rights, the LDP’s version of a new constitution treats nationals – *kokumin* – as possessing citizenship only by virtue of being embedded in the communal ties of family and nation. In this sense, current proposals for constitutional revision are inextricably connected to historical revisionism, and to efforts to entrench that revisionism in the school curriculum. This approach is particularly alarming for Japanese

citizens or residents whose ancestral background lies outside the historical bounds of the Japanese state (for example, descendants of twentieth century Korean or Chinese immigrants).

Noah McCormack's essay "Affirmative Action Policies Under the Postwar Japanese Constitution" focuses on an instance where the visions of equality in the postwar Japanese constitution empowered a movement that has transformed sections of Japanese society. Although the constitution makes no specific mention of so-called *Dōwa* or *Buraku*¹⁵ areas, the clauses enshrining the right to equal treatment under the law, free choice of marriage partner and the right to a reasonable standard of "wholesome and culture living" gave new impetus to the long struggle for *Buraku* rights. This was reflected in a series of affirmative action measures which aimed to overcome the discrimination and disadvantage faced by residents of *Buraku/Dōwa* areas. McCormack's study highlights the magnitude of the changes that resulted. But at the same time, important problems remain. The reduced gap in living standards and life styles between *Dōwa* and non-*Dōwa* areas has not meant an end to cultural discrimination and stereotyping, and has in some ways intensified controversy around notions of *Dōwa* identity. As declining relative deprivation weakens the sense of distinct *Dōwa* identity, the people of *Dōwa* areas are increasingly confronted by a dilemma: whether (in McCormack's words) "to achieve liberation in Japanese society from *Buraku* discrimination while remaining *Burakumin*, or to seek the erasure of the categories of *Buraku* and *Burakumin* from Japanese society in the process of achieving liberation and becoming 'regular Japanese'". As the debate continues, the Japanese Diet in 2016 passed a new law for the "Promotion of the Elimination of *Buraku* Discrimination". Whether this should be seen as a welcome step to protect human rights or as an assimilationist measure which re-inscribes the borders of

"Japaneseness" remains debatable. But the relatively neglected history of postwar *Dōwa* policy and its consequences forms a crucial part of the constitution of Japan in its broad sense, and offers an important example of the implications which constitutional principles can have for the shaping of social diversity.

Uemura Hideaki and Jeff Gayman, focusing on the question of indigenous rights, present a starker picture of repeated constitutional refusals to recognise Japan's diversity. Uemura and Gayman take the story of constitutionalism and pluralism back to the Meiji Constitution of 1889, observing that, throughout Japan's modern history, the nation has been constituted in a way that failed to address the distinctive rights and histories of Japan's indigenous people. Critical debates on the constitution, they argue, have not yet adequately addressed this crucial lacuna. Uemura and Gayman's careful analysis shows how the interaction between the constitution and other decrees and laws has negated the rights of Ainu and Okinawans. In the prewar era, this denial of rights was reinforced by imperial decrees imposed on the colonies as well as on "Japan proper" (*naichi*). But even the democratic constitution of the postwar era contained no recognition of the distinctive history and status of Ainu and Okinawans, while the constitutional interpretations of liberal scholars often dismissed the problems of these groups as a mere matter of "small numbers".

Despite this, Uemura and Gayman show how Ainu and Okinawan activists have used the fundamental notions of human rights and equality enshrined in the 1947 constitution as a basis for asserting their claims to recognition and justice. These efforts have achieved some important results, including (in the Ainu case) the 1997 Nibutani Dam judgement, which recognised Ainu as an indigenous people, and a 2008 resolution of both houses of the Diet reaffirming that recognition. But the current LDP proposals for constitutional change, rather

than accepting and embodying this development, fly in the face of recent achievements by re-asserting the myths of emperor-centred cultural homogeneity. The response from critics, Uemura and Gayman suggest, should be, not simply to defend the existing constitution, but to aim for a more far reaching and imaginative rethinking of the constitution of a multicultural Japan.

The need for such radical rethinking seems particularly important in the twenty-first century context, when a growing share of Japan's population are long term foreign residents who do not possess formal Japanese nationality. It is often pointed out that the democratic reforms of the occupation period, which extended the franchise to women, simultaneously excluded Korean and Taiwanese former colonial subjects living in Japan from voting rights. Okinawan citizens – as residents of a region now occupied by the United States – were also excluded from voting rights at this time, though these were restored with the reversion of Okinawa to Japan. In the Japanese version of the 1947 constitution, the words which are rendered in English as “the Japanese people” become “*Nihon kokumin*” (literally “Japanese nationals”), excluding those without formal Japanese citizenship from the scope of constitutional protections. The LDPs 2012 constitutional draft hardens that exclusion by explicitly denying local government voting rights to foreigners.¹⁶ In this context, Uemura's and Gayman's proposal to “involve citizens in wide-reaching discussions” to challenge the government on questions of constitutional pluralism has particular importance for the intensifying debate on the constitution.

Constituting the Constitution

The essays in this special issue remind us of the central role of ordinary citizens in shaping and reinterpreting constitutional debates. Okano Yayo's article, for example, explores the rise of

new forms of activism to resist the Abe government's plans for constitutional change, while McCormack, Uemura and Gayman remind us how minority rights activists have mobilised constitutional principles to advance their cause. Ever since the 1880s, when Ueki Emori, Nishi Amane and others put forward their own personal proposals for a Japanese constitution, Japan has had a history of imaginative engagement with the constitution.

In the current debate, what matters is not only the proposed changes to the wording of the constitutional document, but also the way in which the debate itself is conducted. The structure of the constitutional debate taking place in Japan today speaks volumes about the way in which contemporary Japanese democracy is constituted. On the one hand, there is lively and generally unfettered grassroots debate about the constitution. But on the other, this debate seems almost entirely disconnected to the deliberations of government, and channels to link the two are signally lacking.

In addition to the “Civil Alliance for Peace and Constitutionalism” discussed by Okano, one of the most interesting current examples of grassroots constitutional debate has been the emergence of the phenomenon of “constitution cafés” [*kenpō café*] which have popped up all over the country over the past decade. The first of these appeared in the town of Hakodate in Hokkaido in July 2005, when local teachers, lawyers and others gathered to talk about constitutional issues in a relaxed and informal setting over cups of coffee.¹⁷ During and after the first Abe prime ministership from 2006-2007, as debate on constitutional change intensified, the concept spread to other places, drawing in members of the public who would be unlikely to attend more formal lectures or classes on constitutional issues. As the organizer of one group in Kyoto put it, the idea was “to lower the hurdle [to participation] by meeting in a different sort of space for relaxed

conversation, and first of all to spread a move to *get to know* the constitution".¹⁸ According to one recent estimate, there have been over one thousand "constitution café" meetings in various parts of Japan since the idea was initiated.¹⁹

The phenomenon is an intriguing one, not least because it replicates the process through which the modern notion of democracy itself grew out of debates in the coffee houses of Europe in the eighteenth century. But what is also striking is how completely the constitution café movement is divorced from the formal process of constitutional change currently being pursued at the national government level. Indeed, in the whole recent discussion of the issue there has been remarkably little official interest in public consultation or listening to the voices of the public (other than in the most restrictive sense of conducting occasional opinion polls to gauge responses to proposals handed down from on high). The current formal debate about constitutional change is taking shape within the relatively narrow spheres of the parliamentary constitutional review committees and in closed negotiations between the ruling Liberal Democratic Party and its political partner Kōmeitō. Rather than constitutional change being seen as a process which must be driven by citizens themselves, as the possessors of sovereign power, it almost seems as though the proposed new constitution is a gift to be bestowed upon the people by the Prime Minister, in much the same way as the Meiji Constitution was presented to the Japanese people as a gift bestowed by the Emperor.

Japan's constitutional debates are taking place at a moment of pivotal change in the East Asian political order. The rise of China, heightened tensions on the Korean Peninsula and uncertainties surrounding the US role in the region reflect a shifting of the region's political tectonic plates. The decisions taken about Japan's constitution over the coming year or two could either heighten regional tensions and

mark a radical weakening of the democratic underpinnings of the Japanese system, or provide an opportunity to put forward new visions of a diverse, dynamic and democratic Japan. The crucial test will be whether the debate can be broadened and deepened to engage all sections of Japanese society, and whether the voices of society can reach the ears of those in power, and not merely the other way around. The essays in this special issue seek to make a small contribution to that process of broadening and deepening.

APPENDIX 1

Three Preambles

1. Preamble to the existing (1947) Constitution of Japan

Official Translation

日本国民は、正当に選挙された国会における代表者を通じて行動し、われらとわれらの子孫のために、諸国民との協和による成果と、わが国全土にわたつて自由のもたらす恵沢を確保し、政府の行為によつて再び戦争の惨禍が起ることのないやうにすることを決意し、ここに主権が国民に存することを宣言し、この憲法を確定する。そもそも国政は、国民の厳粛な信託によるものであつて、その権威は国民に由来し、その権力は国民の代表者がこれを行使し、その福利は国民がこれを享受する。これは人類普遍の原理であり、この憲法は、かかる原理に基くものである。われらは、これに反する一切の憲法、法令及び詔勅を排除する。

日本国民は、恒久の平和を念願し、人間相互の関係を支配する崇高な理想を深く自覚するのであつて、平和を愛する諸国民の公正と信義に信頼して、われらの安全と生存を保持しようと決意した。われらは、平和を維持し、専制と隷従、圧迫と偏狭を地上から永遠に除去しようと努めてゐる国際社会において、名誉ある地位を占めたいと思ふ。われらは、全世界の国民が、ひとしく恐怖と欠乏から免かれ、平和のうちに生存する権利を有することを確認する。

われらは、いづれの国家も、自国のことのみに専念して他国を無視してはならないのであつて、政治道徳の法則は、普遍的なものであり、この法則に従ふことは、自国の主権を維持し、他国と対等関係に立たうとする各国の責務であると信ずる。

日本国民は、国家の名誉にかけ、全力をあげてこの崇高な理想と目的を達成することを誓ふ。

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.

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

2. Preamble to the 2005 Liberal Democratic Draft for a Proposed Revised Constitution -

(author's translation)

日本国民は、自らの意思と決意に基づき、主権者として、ここに新しい憲法を制定する。

象徴天皇制は、これを維持する。また、国民主権と民主主義、自由主義と基本的人権の尊重及び平和主義と国際協調主義の基本原則は、不変の価値として継承する。

日本国民は、帰属する国や社会を愛情と責任感と気概をもって自ら支え守る責務を共有し、自由かつ公正で活力ある社会の発展と国民福祉の充実を図り、教育の振興と文化の創造及び地方自治の発展を重視する。

日本国民は、正義と秩序を基調とする国際平和を誠実に願い、他国とともにその実現のため、協力し合う。国際社会において、価値観の多様性を認めつつ、圧政や人権侵害を根絶させるため、不断の努力を行う。

日本国民は、自然との共生を信条に、自国のみならずかけがえない地球の環境を守るため、力を尽くす。

We, the Japanese people, on the basis of our own will and decision and as sovereign subjects, establish this new constitution.

The symbolic emperor system will sustain this. Moreover, the sovereignty of the people, democracy, respect for freedom and fundamental human rights, as well as the fundamental principles of pacifism and international cooperation, will be maintained as unchanging principles.

The Japanese people share a duty to support and protect the country and society to which they belong with love, responsibility and strong spirit, and to work towards the development of a free, just and dynamic society and towards the enhancement of the welfare of the nation's people, while also placing emphasis on the advancement of education, the generation of culture and the development of local government.

The Japanese people, truly desiring international peace based on justice and order, will work together with other countries to realise these aims, and while recognising diversity of values, will constantly strive to eradicate oppression and violations of human rights.

The Japanese people, believing in symbiosis with nature, will make every effort to protect the environment, not only of our own country but also of the globe.

3. Preamble to the 2012 Liberal Democratic Draft for a Proposed Revised Constitution

The version given below is the author's translation, which references the translation made by the NGO "Voyce"

日本国は、長い歴史と固有の文化を持ち、国民統合の象徴である天皇を戴く国家であって、国民主権の下、立法、行政及び司法の三権分立に基づいて統治される。

我が国は、先の大戦による荒廃や幾多の大災害を乗り越えて発展し、今や国際社会において重要な地位を占めており、平和主義の下、諸外国との友好関係を増進し、世界の平和と繁栄に貢献する。

日本国民は、国と郷土を誇りと気概を持って自ら守り、基本的人権を尊重するとともに、和を尊び、家族や社会全体が互いに助け合って国家を形成する。

我々は、自由と規律を重んじ、美しい国土と自然環境を守りつつ、教育や科学技術を振興し、活力ある経済活動を通じて国を成長させる。

日本国民は、良き伝統と我々の国家を末永く子孫に継承するため、ここに、この憲法を制定す。

Japan is a nation with a long history and unique culture, having the Emperor as the symbol of the unity of the people and governed, under the sovereign power of the people, on the basis the separation of legislative, administrative and judicial powers.

Our nation has overcome and developed from the ruins of the last war and of many great disasters, and now occupies an important position in the international society, promotes amicable relations with foreign countries and contributes to the peace and prosperity of the world under a doctrine of peace.

The Japanese people will defend the nation and homeland with pride and strong spirit, and respecting fundamental human rights, value harmony and form a nation state where families and the whole society assist one another.

We esteem freedom and discipline, and while defending our beautiful territory and natural environment, promote the development of education, science and technology and the growth of the country through vigorous economic activity.

The Japanese people, in order to pass on our good traditions and our nation state to our descendants in perpetuity, hereby establish this Constitution.

SPECIAL ISSUE

A New Constitution for Japan?

Edited by Tessa Morris-Suzuki and Takahashi Shinnosuke

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Noah McCormack, [Affirmative Action Policies Under the Postwar Japanese Constitution: On the Effects of the Dōwa Special Measures Policy](#)

Uemura Hideaki and Jeffry Gayman, [Rethinking Japan's Constitution from the Perspective of the Ainu and Ryūkyū Peoples](#)

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Notes

¹ Nan Tian, Aude Fleurant, Peter D. Wezeman and Siemon T. Wezeman, [Trends in World Military Expenditure](#), 2016, SIPRI Fact Sheet, April 2017, p. 2., accessed 10 October 2017.

² See, for example, "Kurōzappu 2017 - Abe Shūshō, Kaiken Hatsugen: Aete 9-jō, Yotō mo Konwaku", *Mainichi Shinbun*, 4 May 2017, p. 3; Kimura Kyōko, "2020-nen Kaiken: Shiji to Fushiji no Kikkō", *Nihon Keizai Shinbun*, online edition, 18 May 2017.

³ Sithanka Siripala, [Japan's Prime Minister Seeks 'Broad-Based Agreement' on Constitutional Revision](#), *The Diplomat*, January 31, 2018, (accessed February 5, 2018).

⁴ Axel Berkofsky, *A Pacific Constitution for an Armed Empire: Past and Present of Japan's Security and Defence Policies*, Milan: FrancoAngeli, 2012, p. 331.

⁵ See Glenn D. Hook and Gavan McCormack eds., *Japan's Contested Constitution: Documents and Analysis*, London and New York, Routledge, 2001.

⁶ Michael T. Segal, "Questioning the Rationale for Changing Japan's Peace Constitution", in

Joseph A, Camilleri et al. eds., *Asia-Pacific Geopolitics: Hegemony vs. Human Security*, London, Edward Elgar, 2007, pp. 75-92.

⁷ See [the Party's platform](#), published on 26 December 2017 (accessed 28 December 2017)

⁸ Kyodo, "[Abe's Cabinet Approval Rating Improves, but Constitutional Reform still Unpopular, Survey Says](#)", *Japan Times*, 3 November 2017, (accessed 28 December 2017).

⁹ "Consensus Needed on Revising the Constitution", *Japan Times*, 27 December 2017.

¹⁰ Jiyū Minshutō Kenpō Kaiei Suishin Iinkai, "[Kenpō Kaisei ni kansuru Ronten Torimatome](#)", 20 December 2017, (accessed 28 December 2017).

¹¹ See the Japanese and English versions of the LDP 2012 "[Draft for the Amendment of the Constitution of Japan](#)" on the website of the NGO "Voice" (accessed 29 December 2017).

Some 40 countries around the world (including Japan's neighbour South Korea) allow permanent residents who are not citizens to vote in local elections, and New Zealand also allows permanent resident non-citizens to vote in national elections. In Japan, Korean and Taiwanese male colonial subjects who lived in Japan had voting rights until Japan's defeat in the Pacific War. These rights were then rescinded, and any the descendants of these colonial subjects who have not acquired Japanese citizenship are still unable to vote, even though they may be 3rd or 4th generation residents in Japan. For this reason in particular, civil society groups have campaigned for local voting rights for permanent resident non-citizens, but this is vehemently opposed by many LDP politicians.

¹² Judith Pryor, *Constitutions: Writing Nations, Reading Difference*, London: Birkbeck Law Press, 2008.

¹³ See "[Korea \(Democratic People's Republic of Korea's Constitution of 1972 with Amendments through 1998](#)".

¹⁴ Arthur Stockwin and Kweku Ampiah, *Rethinking Japan: The Politics of Contested Nationalism*, Lanham NJ: Lexington Books, 2017, p. 196.

¹⁵ This refers to areas inhabited by groups identified as descendants of so-called "outcaste" groups as defined by the social status systems of Japan before the Meiji Era.

¹⁶ A small number of Japanese municipalities have allowed non-citizen residents to vote in local referendums, and over 1,400 have passed resolutions urging that foreign permanent residents should have the right to vote in regular local elections. However, controversy surrounds the question of whether or not the postwar constitution allows non-Japanese nationals to vote in elections for local officials, and so far the normal local franchise remains restricted to people with Japanese nationality.

¹⁷ "Hakodate ni 'Kenpō Kafe', Raigetsu Kaikan - Kyōkai Isshitsu Riyō: Shimin Dantai ga Kikaku", *Asahi Shinbun*, 30 July 2005, p. 30.

¹⁸ "Marūku Kenpō Shirou: Wakate Bengoshira Kōza - Ocha Tsuide Shitashinde", *Asahi Shinbun*, 15 April 2014, p. 39.

¹⁹ "Kenpō - Giron no mae ni Shirou: Kafe Tegarū ni 1000-kai - Bengoshi no Kōshiyaku", *Mainichi Shinbun*, 4 May 2017, p. 23.