

# “Constitution of Japan 1946”, A New Japan

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## **Abstract:**

This paper examines the transformation of Japan’s political and constitutional structure following World War II, with particular focus on the 1946 Japanese Constitution. It traces Japan’s rapid modernization during the Meiji Restoration, its military rise and imperial expansion, and the catastrophic impact of WWII. In response to wartime atrocities, the United States supervised Japan’s post-war reconstruction and occupation, leading to the drafting of a new constitution that redefined Japan’s government as a liberal democracy grounded in popular sovereignty and fundamental human rights. This constitutional shift not only reshaped Japanese society but also contributed to international peace and stability in the postwar era.

**Keywords:** Meiji, Constitution, WWII, Military

## **Historical Background and Context**

On August 6th, 1945, the United States dropped an atomic bomb on Hiroshima, causing a death toll of 140,000 people; two days later, the United States detonated a second bomb on Nagasaki. Neither Hiroshima or Nagasaki were military targets. The United States demanded an unconditional surrender, and the two nuclear bombs forced Japan to give up and officially ended World War II. Post-war Japan required a significant effort to recuperate due to the massive destruction caused by the war and the atomic bombs. Two-thirds of the buildings had to be rebuilt, and approximately 210,000 deaths were recorded. Following the war, the United States occupied Japan for seven years and helped Japan recuperate from the nuclear destruction. The international community acted very differently after WWII than it had after WWI. Specifically, international organizations like NATO and the UN were formed in the interest of collective security. Despite the Cold War, civil wars in Africa and former colonies, poverty, famine, and ethnic conflicts around the world, there has not been a nuclear

war or WWII. Japan’s 1946 Constitution, drafted by the United States (General MacArthur, Supreme Commander for Allied Powers), contributed in part to the post-war world peace by emphasizing pacifism through limits on the military, liberal democracy through popular sovereignty, and more fundamental human rights in response to the atrocities of WWII.

About fifty years before WWI, Japan opened its gates from a two-hundred-year period of isolationism under the Tokugawa Shogunate. The Meiji Restoration (1868-1889) was a period of rapid industrialization and modernization which transformed Japan into a world power with an advanced military. The Meiji Constitution of 1889 established a government that restrained the power of the Emperor on paper, claimed to protect the civil rights of its citizens, and abolished part of the feudal system. It was drafted secretly and discussed by top government officials under Ito Hirobumi, the former prime minister, and Inoue Kowashi, a statesman. The Constitution was considered a gift from the Emperor to his prime minister and the people. The 11th Article of the Constitution established a dependent military that the Emper-

or had supreme command over. It also granted liberty of the press, right of property, and right of trial to people, but all were made conditional on “limits established by law.” The convening of an elected legislative body, the Diet, shows that Japan was ruled by law. Suffrage was limited to men of substantial property, only about 1% of the population. However, “...a constitutionally mandated, elected national assembly with more than advisory powers now existed as a result of the constitution” (Gordon, 2017).

Following the Meiji Restoration, Japan’s rapid industrialization, including its military, was demonstrated through its victories in the Sino-Japanese War, Russo-Japanese War, and the attack on Pearl Harbor. In 1895, Japan won the First Sino-Japanese War against the Qing Dynasty in China. As a result of the war, Japan gained Taiwan and expanded its empire. In 1905, Japan’s defeat in Russia in the Russo-Japanese War alarmed Western countries of its strength. It transformed the balance of power in Asia and Europe, resulting in Japan’s emergence as a great power. Five years later, Japan added Korea to its empire. From 1914-1918, Japan played a little-known but significant role in the Great War as a member of the Allies by securing the sea lanes in the West Pacific and Indian Oceans. However, Japan’s bombing of Pearl Harbor in December 1941 brought the United States into WWII. When Germany surrendered in May 1945, Japan refused to surrender unconditionally. Consequently, on August 6th and 8th, the United States dropped two atomic bombs on Hiroshima and Nagasaki. Japan was forced to surrender. Between 1945 and 1952, the United States occupying forces led by General Douglas A. MacArthur (SCAP) enacted widespread military, political, economic, and social reforms, including supervising the writing of the Constitution of 1946.

Although Emperor Hirohito referred to the new Constitution as a revision of the Meiji Constitution, the document is modeled after the United States Constitution. Quigley Harold S argued that “it was an entirely new instrument of government. Japan’s fundamental law has been fundamentally changed” (Quigley, 1947). Verbally, there were fewer terms like “empire” or “imperial” because they focused more on the public than the privileges the Emperor had. “In phraseology, the new instrument is somewhat rhetorical, less definite, and legalistic than Ito Hirobumi and his co-drafters of the Meiji Constitution” (Quigley, 1947).

Compared to the Meiji Constitution, more rights were provided legally to the citizens, and the Emperor’s authority was reduced as the political system transformed from monarchy to liberal democracy. Joji also explained that sovereignty had been transferred to the people from the Emperor, fundamental human rights had replaced the rights of people accorded by the Emperor, and “No legal

continuity between the old and new constitution” (Tagami, 1951). Compared to the United States Constitution, words like “inalienable rights” and “deprived of the people” appeared in both documents. Under the United States’ guidance, its self-defensive military is maintained today.

#### Analysis of the Constitution of Japan 1946

The Constitution of 1946 altered the previous political system by limiting the power of the Emperor, introducing popular sovereignty, and expanding political rights. It was also known as the MacArthur Constitution because much of the drafting was done under the supervision of General MacArthur. The document’s first section emphasized its commitment to liberal democracy by expanding the national legislature and increasing suffrage. The first sentence of the Preamble reads, “We, the Japanese people, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves....” (Prime Minister of Japan and His Cabinet, 1947). This clearly shows the influence of the Preamble on the United States Constitution, which begins with a similar phrase, “We the people...” and establishes the principle of republicanism, a government with elected officials. The same paragraph states that “Government is a sacred trust of the people, the authority for which is derived from the people...and exercised by the representatives of the people.” This reflects the commitment to popular sovereignty. The first Article further emphasizes sovereign power by stating, “[The]Emperor shall be the symbol of the state...deriving his position from the will of the people with whom resides sovereign power.” Andrew Gordon, the author of a recent book on Japanese history, maintains that “The postwar constitution downgraded the emperor from absolute monarch to a ‘symbol of the state and of the unity of the people’” (Gordon, 2017). Hirohito still held the position of Emperor. However, the Japanese Constitution clarified that his power and rights had been diminished and came from the citizens. In addition, Article 15 accentuates the idea of liberal democracy by stating, “People have the inalienable right to choose their public officials and to dismiss them...All public officials are servants of the whole community....” This explains in very straightforward language that the people of Japan have the right to choose their representatives, and that these representatives are public officials of the people.

Modeled after the United States’ structure of government, Japan’s constitution is also based on the idea of separation of powers. The government of Japan consists of legislative, executive, and judicial branches. Although Hirohito still held the title of Emperor, in fact, he had no real political power. Like in Great Britain, the Prime Minister directs and controls the government. “The Prime Minister is nominated by the National Diet and appointed to office

by the Emperor” (Wikipedia contributors, 2023). The National Diet, the legislative branch, is bicameral, “consisting of two houses with the House of Councilors being the upper house, and the House of Representatives being the lower house” (Wikipedia contributors, 2023). As in the United States, the members of the legislative branch are directly elected by the people. The Judicial branch consists of one Supreme Court and other lower courts, and again like the United States, the Judiciary is independent of the other branches of government.

Another significant change in Japan created by the new Constitution was the reduction of the military in hopes of preserving peace and avoiding future wars. Article 9 clearly states, “The Japanese forever renounce war.” The same Article states, “Land, sea, and air forces, as well as other war potential, will never be maintained.” Prior to WWII, Japan had a mighty navy. Giving up its naval forces meant giving up the advantages it used to have. However, this did not mean Japan had no military forces. Since 1954, Japan still has an armed force with an annual budget of \$42 billion, but they are considered “self-defense forces” instead of “armed forces.”

The new Constitution also focused on fundamental human rights, civil liberties, and the rights of the accused. The Preamble states, “We recognize that all peoples of the world have the right to live in peace, free from fear and want.” “Following the directive and MacArthur’s orders, the successor government led by Prime Minister Shidehara released 3000 political prisoners and abolished the so-called “Thought Control Law” along with 15 other laws and statutes” (Berkofsky, 2010). This promises fundamental human rights to all citizens regardless of race, class, or gender. Article 11 states that fundamental human rights are “eternal and inviolate rights.” Everyone shall be respected as individuals (Article 13), and no one is superior to anyone else. In addition, Article 19 declares, “Freedom of thought and conscience shall not be violated.” These principles reflect the influence of the United States and the newly formed United Nations, especially after the atrocities committed during WWII.

## United States occupation

The United States occupied Japan from 1945 to 1952 and influenced Japan politically, economically, and militarily. “The Allies have declared it to be their purpose: “a. To ensure that Japan will not again become a menace to the peace and security of the world; b. To bring about the earliest possible establishment of a democratic and peaceful government which will carry out its international responsibilities...” (Masland, 1947). Initially, Matsumoto sent a draft of the new Constitution to the United States, includ-

ing only minor changes from the Meiji Constitution. General MacArthur rejected Matsumoto’s draft and sent back what would become the Constitution of 1946. The United States pressured the Japanese government to approve it without delay. Additionally, some Japanese groups supported liberal democracy, so the Constitution was able to pass in the end (Berkofsky, 2010). It also prevented Japan from becoming a second “Germany after WWI.” Germany was humiliated, but the United States helped Japan to rebuild its country. Reducing Japan’s military is to preserve peace and ensure that Japan will not be able to start another war as revenge for the nuclear bombs.

Although the United States’ main goal was to suppress Japan’s military power so that it could not cause any future wars, a secondary goal of the occupation was to keep Japan away from communist influence. Following WWII, President Truman acted on his belief that political and economic instability makes nations susceptible to totalitarianism. If Japan’s economy was weak, the United States feared Japan might be vulnerable to a communist takeover. “Between 1946 and 1952, Washington invested \$2.2 billion — or \$18 billion in real 21st-century dollars adjusted for inflation — in Japan’s reconstruction effort” (Christy, 2014). This was almost like a Marshall Plan for Japan. Japan’s economy was easily rebuilt because it had a strong industrial base. The unprecedented expansion of industrial production led to an enormous domestic market and an aggressive export trade policy. The United States also exported goods to Japan with an estimated value of \$86 billion. Most importantly, decreased spending on military and defense forces encouraged Japan’s economic miracle.

## Conclusion

Today, many Americans drive Japanese cars, and Japan is one of America’s most important allies and trading partners. Japan is a mature democracy and has the world’s third-largest economy. After two world wars and the possibility of nuclear destruction, most countries longed for peace. Article 9 of the Japanese Constitution of 1946 inevitably contributed to World Peace by limiting Japan’s military capability. There were many countries that were demilitarized after WW2, Japan is one of the leading ones. Perhaps, Japan would not have rebuilt so quickly after WWII if the United States had not helped draft its Constitution and supported Japan financially. This raises the question, what might have happened to Japan without the United States’ occupation?

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