

# Whose Constitution?

## Partners for Democracy: Crafting the New Japanese State under MacArthur

By Ray A. Moore and Donald L. Robinson  
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To the extent that Japanese citizens have an awareness of their Constitution—the supreme law of the land—most of them cite four features: The document was drafted by GHQ during the Occupation; Article 9 forswears war and military force; the Constitution contains many individualistic and basic human rights; and it has never been amended. The last three are points of particular pride for most people.

*Partners for Democracy* sets out to show that Japan's 1947 Constitution was not merely imposed on the Japanese by the American occupiers. In doing so, it establishes that rather there were Japanese "conspirators" who assisted in ensuring that the U.S. draft was accepted in Japan with only a few, arguably cosmetic, changes.

Authors Ray Moore and Donald Robinson wrote this book to give their own interpretation of the creation of the Constitution on the heels of working together to edit historical documents on its drafting. Given the vastness of the primary resources available, it is good for those of us interested in Japan's constitutional history that Moore and Robinson have provided this distillation.

The account begins, as it should, with the initial Japanese attempts at constitutional reform—minor revisions to the 1889 Meiji Constitution. This section of the book is rather muddled and the chronology is unclear. But perhaps this is an accurate reflection of the situation in Japan at that time.

It was predictable that mere revision of the Meiji Constitution would be unacceptable to the Americans, who had become convinced that its flaws were a primary cause of the Japanese aggression leading to World War II. It was probably not as predictable that the Americans would decide to actually draft a new constitution themselves, al-

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though this is precisely what happened. The result was a document that "smelled of butter," meaning the Western influence was patently obvious.

The Japanese text was written in colloquial Japanese, rather than the usual formal style used for legal documents, and contained unwieldy concepts and phrases that revealed its foreign origins. Nonetheless, the Japanese politicians charged with creating a new constitution took this sow's ear and did their best to make a silk purse.

Where possible, they tidied up the language. Arguably, in some cases, they altered the concepts at the same time, although often subtly so as not to upset the Americans.

In the meantime, U.S. Gen. Douglas MacArthur was under some pressure from the Far East Commission, a Washington-based Occupation authority comprising 13 Allied nations, because he was forcing rapid constitutional revision without the commission's input. This action appears to be

part of MacArthur's strategy to control and influence the shape of post-war Japan, particularly in regard to the Emperor.

The Emperor's role, defined in the U.S. draft as a symbol of the people, was particularly problematic for the Japanese, for whom the Emperor was inextricably bound to *kokutai*, which the authors define as a uniquely Japanese form of patriotism that almost mystically centers on the Emperor.

In the end, the Japanese accepted the "symbolic" status of the Emperor as an evil necessary to protect him and ensure the continuation of the Imperial line, but there is ample public debate on this point.

The practicalities of some of the most significant changes represented by the new Constitution were debated in detail in both houses of the Diet. These included the renunciation of war, the role of the courts, changes to individual rights (particularly those relating to family life and women), and the Emperor's new symbolic status.

In some cases, no resolution was ever found and it could be argued that some constitutional provisions are, even today, mere *tatemae*. Indeed, in the interests of saving time, the new Constitution was promulgated as an amendment of the Meiji Constitution, which technically remains in force today. One problem with the entire process that was never satisfactorily addressed was how the Constitution, never submitted to a vote by the people, could be regarded as fulfilling the mandate of the Potsdam Declaration to democratize the nation based on the "freely expressed will of the Japanese people."

The book concludes with a quick survey of how the Constitution has actually worked in its 55 years of history. This includes discussions of the impracticality of amending it, despite campaigns from various quarters to do so, and of the sophistry used to allow the existence of the Self-Defense Forces in spite of Article 9.

In some ways, this discussion is too quick to be satisfactory. There is not enough information on the actual role of the Constitution in the governing of the country. Is it, in fact, merely an heirloom sword that one keeps as a decoration, but never uses except in an emergency?

The authors are not clear. They prefer to simply conclude that the Constitution serves its purpose.