

Introduction and Accommodation of the Democratic Constitution in Postwar Japan

HONG-NACK KIM

I

Forty three years after her surrender to the Allied Powers in World War II, Japan has emerged as one of the most prosperous and democratic nations in the world. The transformation of Japan from one of the most authoritarian to one of the most democratic political systems in that short span of time owes more to the democratic reforms introduced by the United States during the Allied Occupation of Japan (1945~1952) than any other single factor.

It is the purpose of this study to examine the scope and nature of the constitutional change introduced by the Supreme Commander of the Allied Powers (SCAP) in Japan during 1945~1946 and the fate of the new constitution after the Allied Occupation of Japan in 1952. A major contention of this paper is that the new democratic constitution has not only laid down the foundation of Japan's democratic political system, but also has become widely accepted and popular among the majority of the Japanese people who enjoy numerous benefits and privileges under the new constitution. In spite of the foreign authorship of the new constitution, more people support the retention of the basic features of the constitution without any revision than ever before because it has served the Japanese people well since its adoption in 1946. So long as the new constitution is perceived as desirable and necessary for Japan's democracy, so long as the Japanese people want to retain the framework of the new constitution, no drastic constitutional change is likely to occur in Japan.

II

Japan's acceptance of the terms of the Potsdam Declaration of July 26, 1945, brought World War II to its conclusion on August 15, 1945. Following the signing of the instrument of surrender on September 2, 1945, the task of remolding Japan into a peaceful and democratic nation as stipulated in the Potsdam Declaration was begun in earnest under the Allied Occupation of Japan. Demilitarization and democratization were the twin cornerstones on which a new political system was to be built in Japan by the Allied Powers.

In implementing the occupation policy, the Supreme Commander for the Allied Powers (SCAP), General Douglas MacArthur, maintained from the outset that constitutional revision was essential for realizing the goals envisaged in the Potsdam Declaration and stipulated in the United States Initial Postsurrender Policy for Japan, because any reforms without constitutional revision would be vulnerable to the whims of future Japanese government leaders.¹⁾ MacArthur was not the only one to argue such a position. In fact, there was a general consensus among U.S. officials on the need for constitutional reform in Japan.²⁾ In a policy paper entitled "Reform of the Japanese Government System" (known as SWNCC-288),³⁾ transmitted to General MacArthur on January 11, 1946, the State-War-Navy Coordinating Committee (SWNCC) laid down broad guidelines of policy for MacArthur to follow in this field. Among other things, it contained a list

1) Robert E. Ward, "The Origins of the Present Japanese Constitution," *American Political Science Review*, Vol. 50, No. 4, December 1956, p. 984.

2) *Ibid.*, p. 989.

3) For the text, see Theodore H. McNelly (ed.), *Sources in Modern East Asian History and Politics* (New York: Appleton-Century-Crofts, 1967), pp. 177~187.

of general political objectives for Japanese government reform, including the establishment of a responsible government and executive branch, a representative and powerful legislative branch, a broad guarantee of civil rights, fiscal accountability, and the abolition or reform of the imperial institution.⁴⁾ Without exception, all of these formal recommendations were eventually embodied in the new Japanese constitution.

Although the "ultimate form of government of Japan" was, in accordance with the Potsdam Declaration, to "be established by the freely expressed will of the Japanese people," according to the text of SWNCC-288, "the Allies ... as part of their overall program for the demilitarization of Japan, are fully empowered to insist that Japanese basic laws be so altered as to provide that in practice the government is responsible to the people, and that the civil is supreme over the military branch of government."⁵⁾ This meant that certain of the terms upon which Japan surrendered were regarded by the United States to be more fundamental than others; and the guarantee that the "freely expressed will of the Japanese people" was properly to be interpreted only within the context of and subordinate to other more basic terms and policies, and as a condition precedent to the termination of the Occupation. Accordingly, the SWNCC had stipulated: (1) that constitutional revision was necessary and desirable in Japan; (2) that the terms of surrender did not preclude the Allies from requiring such revision, and (3) that, while it was preferable that constitutional reforms be initiated by the Japanese, if they refused to do so, the Supreme Commander might "as a last resort" order the effectuation of a specific list of constitutional changes.⁶⁾

4) Ward, *op. cit.*, p. 990.

5) *Ibid.*, p. 990. See also, McNelly, *op. cit.*, pp. 180~181.

6) Ward, *op. cit.*, p. 991. See also, Justin Williams, "Making the Japanese Constitution; A Further Look," *American Political Science Review*, Vol. 59, No. 3, September 1965, pp. 665~679; and Justin Williams, Sr., *Japan's*

As early as October 1945, some high ranking Japanese officials had been informed that SCAP considered revision of the Meiji Constitution essential in order to accomplish the basic objective of establishing "a peacefully inclined and responsible government" in Japan.⁷⁾ To cope with the problem of constitutional revision, the Japanese government appointed two committees to investigate the scope and nature of necessary constitutional revision. The first one, headed by Prince Fumimaro Konoe as an adjunct of the office of Lord Privy Seal, produced no results of durable consequence and ceased operations in November 1945. The second one, headed by State Minister Joji Matsumoto, produced two documents by the beginning of February 1946: (1) "Gist of the Revision of the Constitution" and (2) "General Explanation of the Constitutional Revision Drafted by the Government."⁸⁾ These documents represented very partial and restricted revisions of the Meiji Constitution and were based on the assumption that the Meiji Constitution itself with minor modification could be used for the development of a democratic government in Japan. However, the Matsumoto plan was totally unacceptable to SCAP, for it ignored what seemed to the Occupation authorities the essential ingredients of a democratic constitution.⁹⁾

General MacArthur reacted sharply to the Matsumoto plan when it

Political Revolution under MacArthur: A Partisan's Account (Athens, GA: University of Georgia Press, 1979), pp. 98~121.

- 7) On October 4, 1945, General MacArthur suggested to Prince Fumimaro Konoe to take the lead in democratizing the Japanese constitution. A week later, MacArthur suggested to new Prime Minister Kijuro Shidehara that the realization of needed political and social reforms would "unquestionably involve a liberalization of the Constitution." See Theodore H. McNelly, "Induced Revolution: The Policy and Process of Constitutional Reform in Occupied Japan," in Robert E. Ward and Yoshikazu Sakamoto (eds.), *Democratizing Japan: The Allied Occupation* (Honolulu: University of Hawaii Press, 1987), p. 77.
- 8) Robert E. Ward, "The Constitution and Current Japanese Politics," *Far Eastern Survey*, Vol. 25, No. 4, April 1956, p. 52.
- 9) McNelly, *op. cit.*, p. 79.

was reported in the *Mainichi Shimbun* on February 1. He ordered General Courtney Whitney to draft a complete rejection of the Matsumoto plan. Two days later, MacArthur ordered General Whitney to prepare a draft constitution, because he felt the "most effective method of instructing the Japanese government on the nature and applications of these principles he considered basic would be to prepare a draft constitution embodying those principles."¹⁰ The three basic principles MacArthur considered essential were: (1) to define the Japanese Emperor as the head of state with no political power; (2) to renounce war and the maintenance of armed forces and the right of belligerency; and (3) to abolish the feudal system in Japan.¹¹

Starting on February 4, 1946, the Government Section of SCAP began to work for an appropriate constitutional draft and produced a remarkable document after six days' hard work. The draft was submitted on February 10 to General MacArthur who approved it with minor changes. Three days later, it was presented to the Japanese government's representatives. At this meeting, General Whitney informed the Japanese representatives that the "proposals of the Matsumoto committee were totally unacceptable," and that the Supreme Commander had ordered a draft constitution which would embody "a detailed statement of those principles he deemed basic."¹² The Japanese government was advised to give this draft "the fullest consideration and use it as guide in its renewed efforts to prepare a revised constitution."¹³ Whitney told the Japanese further that although there was no compulsion upon them to take further action, General MacArthur was determined that the constitutional issue should be brought before the people well in advance of the general election (scheduled for April 10), and that in the event the

10) SCAP, *Political Reorientation of Japan: September 1945 to September 1948* (Wash. D.C.: Government Printing Office, 1948), Vol. 1, p. 102.

11) *Ibid.*

12) *Ibid.*, p. 105.

13) *Ibid.*

Japanese government failed to take appropriate action on the matter, he was "prepared to lay the issue before the people."¹⁴ This ostensibly non-coercive statement undoubtedly frightened the Japanese conservative leaders, for the implications were that unless the Shidehara Government complied with the SCAP demands on the constitutional revision, the constitution might be worked out by unexpected sources in unpredictable manner.

To intensify the pressure, according to a Japanese source, General Whitney also informed the Japanese representatives that if they did not adopt a revised constitution similar to the SCAP draft, "the person of the Emperor could not be guaranteed."¹⁵ In view of the traditional reverence of the Japanese for the Emperor and the obsession of government leaders with the preservation of the imperial institution, it is not too difficult to imagine the impact of such a statement on the Japanese government leaders, who subsequently displayed a remarkable docility in accepting the SCAP draft virtually in its entirety.

Following the meeting of February 13, 1946, the Shidehara Government tried vainly to secure substantial concessions from SCAP, but it was rebuffed on practically all important points. Following Prime Minister Shidehara's meeting with General MacArthur on February 21, the Japanese government gave in reluctantly and decided to draft a new constitution following closely the "MacArthur Draft."¹⁶

On February 26, 1946, the Shidehara Government began to prepare in strict secrecy what is known as the "First Japanese Government Draft of the Constitution." Under strong pressure from SCAP, this was completed by March 2 and delivered to the SCAP Government Section

14) *Ibid.*

15) Kenpo Chosakai, *Kenpo Seitei no Keika ni Kansuru Shoiinkai Hokokusho*, Kenpo Chosakai Hokokusho Fuzoku Bunsho Dai 2-go, 1964 nen. pp.346~369. See also, Tatsuo Sato, "Nihonkoku Kenpo Seiritsushi," *Juristo*, No. 82 (May 15, 1955), p.13.

16) Ward, "The Origins of the Present Japanese Constitution," p.1000.

on March 4. Following extensive negotiations between Japanese and American representatives, there emerged the "Second Japanese Government Draft" or the "Cabinet Draft."¹⁷⁾ The English text was controlling and, except for the Substitution of a bicameral legislature for a unicameral one, the Cabinet Draft as a whole resembled more to the "MacArthur Draft" than the First Japanese Government Draft of March 2. The Shidehara Government, seeing no practical alternative, decided to submit it on March 5 to the Emperor, who promptly approved it.¹⁸⁾ On the following day, the text of this new draft was published in both Japanese and English together with an imperial rescript. General MacArthur also issued a statement of strong approval of the document. In general, Japanese popular reactions to the proposed draft were favorable. So were Japanese newspapers and political parties, except for the Communist party which advocated a people's republic.¹⁹⁾

In the campaign for the April 10, 1946 general election, all parties but the Communist approved the draft constitution in principle. Following the election in which the Liberal Party won a plurality in lower house, the Japanese government submitted what is known as the "Third Japanese Government Draft" to SCAP.²⁰⁾ With the SCAP approval, it was submitted to the Privy Council for its approval. On June 20, with the Privy Council's approval, a "Fourth Japanese Government Draft" with slightly altered style and terminology was introduced as a bill of constitutional amendment into the House of Representatives by the newly established government headed by Prime Minister Shigeru Yoshida. It was duly debated beginning June 25th, and was adopted by a vote of 421

17) For the English text, see SCAP, *op. cit.*, Vol. 2, pp.631~636. For the Japanese text, see *Juristo*, No. 86 (July 15, 1955), pp.52~56.

18) Kenpo Chosakai, *op. cit.*, p.402. According to Masumi, the Emperor approved the "model constitution" drafted by SCAP on February 23, 1946. See Masumi, *op. cit.*, p.128.

19) Ward, *op. cit.*, p.1003. See also, Kenpo Chosakai, *op. cit.*, pp.418~419.

20) Ward, *op. cit.*, p.1004.

to 8 on August 24. Six of the eight opponents were Communists. The bill was then sent to the House of Peers, which approved it with minor changes on October 3 by a vote of 298 to 2. The House of Representatives gave its concurrence to the changes proposed by the House of Peers and the amended bill was approved and promulgated by the Emperor as the new "Constitution of Japan" on November 3, 1946. It was to take effect six months later on May 3, 1947.

While the draft constitution was before the Diet, SCAP closely monitored the proceedings of the Diet. "Consultations were carried on almost continuously, and all proposed amendments were checked with Government Section," according to the official SCAP report, "but only on one occasion did the Supreme Commander instruct the Japanese Government to take any specific step."²¹ With the single exception noted, there was no order or instruction from SCAP on the constitutional revision during the whole process. In a sense, no formal instruction or order was necessary, because the Japanese Diet members were aware of the constraints placed by the Occupation authorities. They knew SCAP officials were the real authors of the new constitution and its strongest proponents. They were also conscious of the implications of SCAP's very thoroughgoing political purge in the spring and summer of 1946.²² With further purges being rumored, many conservative politicians had to be

21) SCAP, *op. cit.*, Vol. 1, p. 111.

22) For a detailed analysis, see Hans H. Baerwald, *The Purge of Japanese Leaders Under the Occupation* (Berkeley: University of California Press), Publications in Political Science Vol. VIII. See also, John D. Montgomery, *Forced To Be Free: The Artificial Revolution in Germany and Japan* (Chicago: University of Chicago Press, 1957), pp. 1~57. Some 210,287 persons were removed and excluded from office. See *ibid.*, p. 26. According to Masumi, 321 Diet members were purged by failing to qualify to be politically acceptable before the April 1946 election, and 7 more were purged after being elected in the 1946 parliamentary election. See Masumi, *op. cit.*, p. 174. Among 466 members elected, 381 (or 81.8 percent) were new comers, while 85 served in the prewar Diet. See Masumi, *op. cit.*, Vol. 2, Appendix IV, p. 27.

careful in voicing their views on the constitutional revision. Furthermore, they knew also that the Japanese government had already committed itself in principle to the adoption of the proposed constitutional draft and would use, if necessary, the power of dissolution of the lower house.

The new constitution thus adopted was based on the "MacArthur Draft" in content and spirit. As Robert Ward points out, with few significant exceptions, it is "almost a precise copy" of the SCAP draft.²³⁾ The few significant changes the Japanese were permitted included a bicameral legislature for the unicameral one proposed in the SCAP draft. In addition, the final Japanese version granted an unlimited power of judicial review of all constitutional questions to the Supreme Court, whereas in the original SCAP draft the court should have unlimited judicial review powers only over cases involving civil rights. The court's decisions in other spheres were to be subject to reversal by an extraordinary vote of the Diet. Other changes of some importance included a guarantee of universal adult suffrage, the requirements that cabinet ministers be civilians and the premier a Diet member, and the inclusion of a principle of local autonomy.²⁴⁾

It is therefore no exaggeration to state that, for all practical purposes, the "MacArthur Draft" became the new constitution of Japan.²⁵⁾ Accordingly, General MacArthur had reasons to be proud of creating this new constitution of Japan which he called "the single most important accomplishment of the Occupation."²⁶⁾

III

The American-authored new constitution of Japan is in spirit and

23) Ward, "The Constitution and Current Japanese Politics," p. 54.

24) *Ibid.*

25) *Ibid.*

26) Douglas MacArthur, *Reminiscences* (New York: McGraw-Hill, 1964), p. 302.

provisions drastically different from its predecessor, the Meiji Constitution of 1889. Unlike the latter, which was designed to protect the legal and political prerogatives of the Emperor and a traditionally oligarchic and authoritarian political system against popular encroachments, the new constitution provides concepts and institutions that are among the world's most democratic and progressive.²⁷⁾ As Ward points out, "It is difficult to conceive of two modern constitutions more diametrically opposed in spirit and in basic mechanics."²⁸⁾ In keeping with its American origins, the new constitution bears the unmistakable impress of Western liberal democratic constitutionalism.

Both in basic ideology and principles, it differs drastically from the Meiji Constitution of 1889. It is generally agreed that the three basic principles of the new constitution are: (1) the principle of popular sovereignty; (2) pacifism (i.e., renunciation of war); and (3) the guarantee of fundamental human rights.²⁹⁾ All three can be attributed directly or indirectly to the SCAP's occupation policy and objectives: the democratization and demilitarization of Japan.

The sovereignty of the people is undoubtedly the most important and revolutionary of the constitution's three basic principles, because by supplanting the concept of imperial sovereignty incorporated in the Meiji Constitution, it became the guiding principle of the entire instrument. Since the prime objective of the Allied Occupation was to destroy Japanese militarism and to remake Japan into a democratic nation, it is not surprising that this important principle was adopted by SCAP in drafting a new democratic constitution for Japan. The new constitution proclaims that "sovereign power resides with the people" (preamble) and

27) Robert E. Ward, "The Commission on the Constitution and Prospects for Constitutional Change in Japan," *Journal of Asian Studies*, Vol. 24, No. 3, May 1965, p. 401.

28) *Ibid.*, p. 401.

29) Naoki Kobayashi, *Kenpo to Nihonjin* (Tokyo: Tokyo Daigaku Shuppankai, 1987), pp. 45~48. See also, McNelly, *op. cit.* p. 98.

that "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 1). These are most explicit expressions of the doctrine of popular sovereignty, a doctrine quite alien to Japanese thought. As Kawai points out, until the adoption of the new constitution, "no one of consequence had ever seriously considered that it would be applicable to Japan."³⁰ As a result of the adoption of the principle of popular sovereignty, the locus of the sovereignty is transferred from the Emperor to the people.

To understand the extent of the change introduced by the doctrine of popular sovereignty, it is necessary to compare the status and power of the Emperor under the new constitution with the old. The Meiji Constitution stipulated that Japan had been and should be "reigned over and governed by a line of Emperors unbroken for ages eternal." It stipulated further that "the Emperor is sacred and inviolable" (Article 3) and that "the Emperor is the head of the Empire, combining in Himself the rights of sovereignty." (Article 4). Under the new constitution, however, the Emperor is only "the symbol of the State and of the unity of the people," deriving his position from their will. In order to make abundantly clear his symbolic role, Article 4 declares that the Emperor shall perform only certain "acts in matters of state" and that "he shall not have powers related to government." Even in matters of state, which are purely ceremonial and symbolic, he can perform his functions only with the advice and approval of the cabinet. This narrow delimitation of the powers of the Emperor was designed to achieve two goals: to eliminate the excessive powers that had formerly centered on the throne and to ensure that the throne would never again be used politically, especially in any attempt by undemocratic elements to destroy the democratic constitutional system in Japan. As a natural corollary

30) Kazuo Kawai, "Sovereignty and Democracy in the Japanese Constitution," *American Political Science Review*, Vol. 49, No. 3, September 1955, p. 663.

of the doctrine of popular sovereignty, the Diet elected directly by the people is elevated to the "highest organ of state power" under the new constitution.³¹⁾ In short, the doctrine of popular sovereignty with its implication of the social compact theory, as embodied in the present constitution, is "revolutionary" in nature.³²⁾

Another important principle is pacifism. The renunciation of war as stipulated in the famous Article 9 of the constitution is undoubtedly the most dramatic provision and has generated substantial controversy between the conservatives and the progressives in Japan. By virtue of this important provision, Japan has not only renounced war as a sovereign right but also the maintenance of war potential such as an army, navy, and air force. It has also renounced the right of belligerency.

The link between the Allied Powers' occupation policy of demilitarization and disarmament and the renunciation of war in Article 9 is quite clear. Nevertheless, the authorship of the war renunciation clause into the constitution has not been clearly ascertained so far. According to General MacArthur, the idea originated with Prime Minister Shidehara at their meeting on January 24, 1946, when Shidehara proposed that "when the new Constitution became final it include the so-called no-war clause. He also wanted to prohibit any military establishment whatsoever."³³⁾ Many Japanese, on the other hand, believe it was General MacArthur who actually proposed the idea of incorporating the renunciation of war clause in the constitution. For example, former Prime Minister Shigeru Yoshida stated that "I have the impression that it was General MacArthur who suggested it ... to which Baron Shidehara could very well have replied with enthusiasm."³⁴⁾ To be sure,

31) Chapter IV, Article 41, The Constitution of Japan.

32) Kobayashi, *op. cit.*, p. 57. See also, Toshiyoshi Miyazawa, *Kenpo* (Tokyo: Yuhikaku, 1969), p. 47.

33) MacArthur, *op. cit.*, pp. 302~303. See also, Courtney Whitney, *MacArthur: His Rendezvous with History* (New York: Alfred A. Knopf, 1955), pp. 257~258.

it was General MacArthur who was ultimately responsible for incorporating the new clause in the constitution, even if he may not have initiated the idea, because it would not have been included in the constitution without his approval.

The third basic principle of the new constitution is the guarantee of fundamental human rights. The constitution bestows on the Japanese a really imposing list of rights. They include: the freedoms of thought, conscience, religion, assembly, association, speech, press, choice of residence and employment, and academic activity; freedom from discrimination "in political, economic, or social relations because of race, creed, sex, social status, or family origin"; equality under the law; the right to choose public officials and to dismiss them; universal adult suffrage; the right of peaceful petition to government. In addition, it also provides the right "to maintain the minimum standards of wholesome and cultural living"; the right to an equal education; the right to work; the right to own or hold property; and the right to due process of law. Balanced against this array of rights and freedom is a significant list of duties and responsibilities such as refraining from the abuse of any freedom or right; the responsibility for utilizing rights and freedoms for the public welfare; the constant endeavor to maintain rights and freedoms; the obligation to work; and liability to taxation.³⁵⁾

To safeguard civil rights and liberties from the abuses of the old legal system, the constitution guarantees several important procedural rights: freedom from deprivation of life, liberty or the imposition of other criminal penalty except "according to procedure established by law"; freedom of access to the courts; no arrest except upon warrant; no arrest or detention without immediate notification of the nature of the charges; privilege of counsel; security of home, papers, and effects except under

34) Shigeru Yoshida, *The Yoshida Memoirs* (London: Heinemann, 1961) (trans. by Kenichi Yoshida), p.137. See also, Masumi, *op. cit.*, pp.127~128.

35) Chapter III, Articles 10-30, The Constitution of Japan.

warrant; security against torture or cruel punishments; the right to "speedy and public trial by an impartial tribunal"; right of examination of witnesses; freedom from compulsion to testify against oneself; freedom from ex post facto laws or double jeopardy; and the right to sue the state for redress after acquittal following arrest or detention.³⁶⁾

These constitutional provisions have drastically changed the basis of political power as well as the relationship between the government and the people in Japan. A full-fledged democratic constitutional government was to replace an authoritarian regime by guaranteeing the people extensive civil rights and liberty and the right to elect and oust members of the Diet, members of legislative bodies of local government, and, local government officials including prefectural governors formerly appointed by Tokyo. These, coupled with a modification of the emperor's position to "a symbol of the state" and elevation of the Diet as "the highest organ of state power," to which the cabinet is responsible, laid the basis for shifting allegiances in the direction of a parliamentary democracy based on popular sovereignty.³⁷⁾

IV

Following the promulgation of the new constitution by the Emperor on November 3, 1946, SCAP introduced a massive campaign of political education to acquaint the Japanese people with the contents and underlying meaning of the new constitution, and to persuade them to accept the new basic law. In popularizing the new constitution, SCAP employed the latest in advertising techniques in combination with censorship and guidance of the mass media. In addition to utilizing the Japanese press

36) Chapter III, Articles 31-40, The Constitution of Japan.

37) Ralph Braibanti, "The MacArthur Shogunate in Allied Guise," in Robert Wolfe (ed.), *Americans as Proconsuls: United States Military Government in Germany and Japan, 1944-1952* (Carbondale, Ill.: Southern Illinois University Press, 1984), p. 84.

and media and public lectures, SCAP also employed the Emperor as a supporter of the new constitution by continuing the process of humanizing the person and institution of the Emperor. The central organization in the media campaign was the Society for the Popularization of the Constitution (Kempo Fukyukai), an official agency headed by conservative leaders Hitoshi Ashida and Tokujiro Kanamori with the blessing of Prime Minister Shigeru Yoshida. These leaders played a key role in pushing the constitutional revision through the Diet in 1946, and explaining and defending the constitutional draft in the Diet. The Society distributed to schools and homes millions of copies of a small illustrated pamphlet entitled "The New Constitution: A Bright Life." In the foreword, Ashida hailed May 3, 1947, as the "birthday of a new Japan" in which the new constitution would set the standards for the realization of democracy and a bright and happy life. In order for our country to be reborn as a worthy nation," Ashida declared, "the new constitution must become part of our flesh and blood so that it will live."³⁸ The text explained the basic features of the new constitution, such as popular sovereignty, the Emperor as symbol of the state, the heightened authority of the Diet and the Supreme Court, the renunciation of war, guarantees of human rights and freedoms, and equality of the sexes.

In addition, the Society undertook other activities to popularize the constitution. It conducted a six-day training course at nine regional centers in Japan for the members of local assemblies, educational institutions, and youth groups by enlisting the service of Diet members, scholars and journalists supportive of the new constitution. Numerous public lectures were also held under the auspices of the Society. Furthermore, the Society sponsored essay contests on the new constitution. On top of these projects, the Society was to organize a week of public

38) Ashida's foreword as quoted in Marlene Mayo, "Popularizing Japan's Postwar Constitution," *Japan Society Newsletter* (New York: Japan Society), October 1987, pp. 3~4.

events and entertainment, culminating in a public ceremony in the imperial plaza on May 3, 1947, attended by the Emperor.³⁹⁾

SCAP also closely monitored the mass media during this period.⁴⁰⁾ SCAP officials held conferences with editors, writers, filmmakers and radio programmers to provide guidance on popularizing the new constitution. The Japanese media as a whole was quite cooperative in this venture. The great majority of the metropolitan and provincial newspapers, for example, published the text of the constitution together with favorable editorials. In order to reach Japanese school children and teachers, SCAP worked with the Ministry of Education and a fifteen chapter primer was adopted for junior high school students to explain the basic principles of the new constitution.⁴¹⁾

SCAP also effectively utilized the radio network of the Japan Broadcasting System(NHK). Radio programs were seen as vital in reaching Japanese of all ages, particularly women, whom SCAP believed to be ill-informed on current events. Through the Women's Hour, the Farm Hour, the Labor Hour, the School Hour and the Youth Hour, numerous speakers explained the basic provisions of the new constitution and their implications on the individual and family(e.g., parental power, divorce, inheritance) as well as guarantees of civil rights and liberty.⁴²⁾ There can be no doubt that massive educational campaigns did help popularize the new constitution among the Japanese.

V

As the new constitution was authored by SCAP and departed radically

39) *Ibid.*, pp. 4~5.

40) For a detailed analysis of SCAP censorship of Japanese media and publications, see Osamu Nishi, *Nihonkoku Kenpo no Tanjo o Kensho suru* (Tokyo: Gakuyo Shoho, 1986), pp. 228~277.

41) Mayo, *op. cit.*, p. 6.

42) *Ibid.*, p. 7.

from the traditionally accepted political culture and institutions of Japan, it generated much controversy after the outbreak of the Korean War in 1950, as the war stimulated discussion and debate on the effects and implications of Article 9. As the termination of the Allied Occupation of Japan in 1952 removed constraints on constitutional revision imposed by the Allied Powers, advocates of constitutional revision stepped up their campaigns. Basically, three different types of revisionism were advocated by the critics of the "MacArthur Constitution."⁴³⁾ The first group aimed at amending one or more specific provisions (e.g., the status of the Emperor, judicial review, etc.) in the 1947 constitution without questioning its basic legitimacy or principles. As the amendments desired were so diverse, it was ineffective in organizing a movement to push win their adoption.⁴⁴⁾

The second type of revisionism was primarily focused on the need for amending Article 9. The advocates of the revision believed that armed forces were essential for the survival of the Japanese people in the contemporary world in which every nation but Japan is armed. They called for the amendment of Article 9 with a view to legitimizing and strengthening the Japanese Self-Defense Forces. However, public support for the revision of the Article 9 did not increase but actually declined after the formation of the LDP in 1955, as Japan was able to expand its defense forces in size and equipment through flexible interpretations of the meaning of Article 9.⁴⁵⁾

The third type of revisionism called for total rewriting the 1947 constitution to make it an "autonomous constitution" in conformity with the traditional Japanese political culture. It was advocated by purged former bureaucrats and politicians who were influential within conser-

43) Haruhiro Fukui, "Twenty Years of Revisionism," in Dan F. Henderson (ed.), *The Constitution of Japan: Its First Twenty Years 1947~1967* (Seattle: University of Washington Press, 1968), p.41.

44) *Ibid.*, pp.52~53.

45) *Ibid.*, pp.53~58.

vative parties, particularly in the Democratic Party. Although this type of revisionism enjoyed a degree of popularity immediately after the termination of the Allied Occupation of Japan in 1952, it gradually lost its appeal for the Japanese people who became beneficiaries of the new constitution. They began to realize that, because carried to its logical conclusion, such drastic change would dismantle the entire democratic political and social systems introduced under the Allied Occupation. Nevertheless, for a while it enjoyed substantial support within the Democratic Party led by Ichiro Hatoyama, while being opposed by Prime Minister Yoshida and his Liberal Party prior to the merger of the two parties in 1955.⁴⁶⁾

Following the resignation of Prime Minister Shigeru Yoshida in December 1954, Ichiro Hatoyama became Prime Minister. In his policy speech delivered before the Diet in December 1954, Hatoyama declared his intention to seek constitutional revision. In December 1955, he reiterated his insistence on constitutional revision as one of three basic tasks of his government, contending that to revise the constitution "commensurate to the autonomous and independent posture is essential for remaking Japan a truly independent nation."⁴⁷⁾ Under Hatoyama's leadership, the Liberal Democratic Party (LDP) adopted the platform advocating the revision of the constitution at the time of the formation of the party in November 1955. Hatoyama's plan for constitutional change was supported by the Dietmen's League for the Realization of Autonomous Constitution, which came into being in July 1955. In the meantime, to oppose the Hatoyama Government's attempt to rewrite the constitution, the opposition parties organized the National Coalition for the Defense of the Constitution in the spring of 1955.⁴⁸⁾ Since the opposition held more than one third of

46) *Ibid.*, pp. 58~62.

47) Jiyu Minshuto, *Jiyu Minshuto-shi* (Tokyo: Jiyu Minshuto, 1987), p. 143. See also, Robert E. Ward, "The Constitution and Current Japanese Politics," pp. 49~52.

48) Jiyu Minshuto, *op. cit.*, pp. 150~151. According to Ward, it was organized as early as January 1954. See Ward, *op. cit.*, p. 51.

the parliamentary seats in both houses of the Diet, Hatoyama was not able to push his revision plan through the Diet. In 1956, he succeeded, however, in enacting legislation for the establishment of the Commission on the Constitution in the cabinet to conduct necessary studies on constitutional revision.

The Commission was entrusted with the power to investigate various aspects of the new constitution for the purpose of recommending constitutional revision to the Japanese government. It was strongly supported by the ruling LDP, whereas the Socialists and Communists boycotted the commission. As a result, the commission operated with less than full membership (i.e., 38 out of 50 members nominated by the LDP) from August 13, 1957, to July 3, 1964, when it submitted a final report to the Japanese government.⁴⁹⁾ The report contained both the views of the proponents (the majority) and opponents (the minority) of constitutional revision. The major contentions of the revisionists centered around four basic themes: (1) the alien authorship of the new constitution; (2) the necessity to enhance the power and the status of the Emperor; (3) the inadequacy of renunciation of war clause (Article 9) for national security; and (4) the need to balance individual freedoms and the public welfare.⁵⁰⁾

First, the revisionists argued that the present constitution, written on the basis of the SCAP draft and therefore imposed on Japan, represented an alien estimation of what was good for the Japanese. As such, they maintained that it was painfully humiliating, especially for a people with a national tradition as old and rich as the Japanese.⁵¹⁾ Arguing from the "imposed" and "un-Japanese" nature of the present constitution, they advocated that the Japanese write a new constitution of their own on

49) Ward, "The Commission on the Constitution and Prospects for Constitutional Change in Japan," pp. 405~406. See also, John M. Maki, "The Documents of Japan's Commission on the Constitution," in Henderson (ed.), *op. cit.*, pp. 279~299.

50) For detailed analysis, see Kobayashi, *op. cit.*, pp. 160~187.

51) Ward, *op. cit.*, p. 409.

the basis of the history, tradition, and national sentiments of the Japanese people.⁵²⁾ The overwhelming majority (31 out of 38 members) of the commission shared this sentiment, while the minority was of the opinion that the present constitution was a product of cooperative Japanese-American endeavor.

Second, there was also fairly general support among the revisionist group for the proposition that the Emperor should be designated as "chief of state."⁵³⁾ They regarded the imperial system as the spiritual and symbolic foundation of Japan's nationhood, maintaining that this was perfectly compatible with the principle of popular sovereignty. They did not object to the retention of the present phrase "a symbol of the State", but wanted to interpret in such a manner as to carry with it the status and dignity of "chief of state." The majority of the commission favored the retention of the existing provisions, believing their flexible interpretation could serve immediate needs.⁵⁴⁾

Third, with regard to Article 9, which is the single most controversial feature of the new constitution, the majority agreed that Japan as a sovereign state enjoys the right of self-defense; that the maintenance of the so-called "self-defense forces" is not unconstitutional; and that Japan has the right to participate in collective security systems or to cooperate with the United Nations for defensive purposes.⁵⁵⁾ The majority also maintained that Article 9 in its existing form was divisive, harmful to morale and performance of the armed forces, and undesirable both domestically and internationally. They recommended its change and clarification while retaining the dual principles of pacifism and the abandonment of the use of force as an instrument of aggressive national policy.⁵⁶⁾

52) Kobayashi, *loc. cit.*, pp.178~180.

53) *Ibid.*, pp.166~171. See also, Ward, *op. cit.*, p.412.

54) *Ibid.*, p.413.

55) *Ibid.*, p.412.

56) *Ibid.*, p.413.

Fourth, with regard to constitutional provisions on the civil rights and liberties of the people, there was a sharp division of opinion within the commission. The revisionists argued that the existing civil rights stipulations represented the ideals of eighteenth century democracy rather than a twentieth century "welfare state"; that these provisions tended to place people and government in antagonistic postures and thus failed to do justice to the need for social and communal solidarity. They also contended that the provisions were out of accord with Japan's traditional family system, and that the society was paying a heavy price for its neglect of the constructive values of this system.⁵⁷⁾

In addition, they also argued that there was too much stress in the constitution on individual rights and too little on individual duties such as respect for law, order, and the public welfare, civil loyalty, and the duty to defend the peace and the national territory. To be sure, all these contentions were refuted by a minority of the Commission.

The revisionists within the Commission also discussed several other types of desired constitutional changes: balancing the executive-legislative relations by proposing more explicit statement of the essential equality of the three branches of government, thus undercutting the claims of the Diet to supreme status. With regard to the judiciary, the majority of the Commission also recommended the establishment of at least two special tribunals forbidden by the existing constitution: a court of labor litigation and a court of administrative litigation.⁵⁸⁾

The majority of the Commission also favored the abolishment of the constitutional requirement for a popular referendum on the record of supreme court judges at ten year intervals. They also advocated the relaxation in the procedural requirements for constitutional amendment, contending that the existing provisions were too rigid and inflexible.⁵⁹⁾

The ruling LDP hailed the final report submitted by the commission

57) Kobayashi, *loc. cit.*, pp.172~178.

58) Ward, *op. cit.*, p.414.

59) *Ibid.*, p.417.

for defining and clarifying the problems of the existing constitution. It promised to set up at an "appropriate time" a commission on the constitution in the Diet for the adoption of a truly autonomous constitution.⁶⁰⁾ The opposition parties, however, condemned the revisions recommended by the commission as reactionary and anti-democratic, charging that the adoption of the commission's recommendations would mark reversion to positions closer to prewar Japanese practices. Prime Minister Hayato Ikeda decided, however, not to pursue the matter further in the Diet, largely because the LDP lacked the necessary votes to push for constitutional revision.⁶¹⁾ His successors have basically maintained a similar stance on constitutional revision, despite the fact the LDP has retained its original platform advocating the constitutional revision.⁶²⁾

60) Jiyu Minshuto, *op. cit.*, p. 400.

61) *Ibid.*, pp. 399~400.

62) The LDP has changed its policy from seeking "immediate or early constitutional revision" to the revision based on the national consensus. See Joji Watanuki, *Nihon Seiji no Bunseki Shikaku* (Tokyo: Chuo Koron sha, 1976), pp. 154~155. According to the LDP, the party's Committee on the Constitution conducted a study on constitutional revision and submitted an interim report on August 11, 1982. According to the report, the revisionists wanted to retain the first paragraph of Article 9, while deleting the second paragraph (i.e., not to possess war potential and the renunciation of the right of belligerency). They also wanted to empower the Prime Minister with the right to declare "the state of defense emergency" with the consent of the Diet to cope with national crises. Opponents of the proposed revision stressed that there was no need to amend Article 9 in view of the role played by the Japanese constitution in bringing about peace and prosperity to the Japanese people, who have generally accepted it. Furthermore, they also pointed out the wariness of Asian and other countries about Japan's reemergence as a major military power. As a result, the LDP has decided to postpone further action on constitutional revision. See Jiyu Minshuto, *op. cit.*, pp. 878~879. For the LDP's position on constitutional revision, see Hiroshi Masujima, *Gendai Nihon no Seito to Seiji* (Tokyo: Otsuki Shoten, 1968), pp. 179~188. See also, Ryutaro Nakakita, "Kenpo Kaiaku no Doko to Jinken, Heiwa, Minshushugi no kiki," in *Minshu no Hyogen no Jiyu o Kakuritsu suru ka* (ed.), *Gendai Nihon ni okeru Ukeika no Kozo* (Tokyo: JCA Shuppan, 1982), pp. 86~107.

VI

None of the constitutional changes recommended by the Commission on the Constitution has been adopted since the Commission submitted its report to the Japanese government in July 1964. Although numerous conservative politicians have advocated constitutional revision since then, no such change through formal amendment has been made so far and is not likely to succeed in the near future. This is because the proponents of constitutional revision have continued to confront a formidable array of hurdles.

First is the legal hurdle. According to Article 96, constitutional amendment should be initiated through a concurring vote of two-thirds or more of all the members of each house of the Diet and should be approved by the majority of the votes cast in a popular referendum or "at such election as the Diet shall specify." To secure the support of a two-thirds majority of all members of both houses of the Diet for any constitutional revision is an almost hopeless proposition in Japan. The conservative LDP has 304 out of 512 seats in the lower house (or 59 percent), while its share of the seats in the upper house is even smaller (144 out of 252 or approximately 57 percent). There is no guarantee that the LDP can be united on the constitutional issue, even if it were able to secure the required majority in the Diet.

Second, most of the opposition parties are implacably opposed to any constitutional change proposed by the conservatives. "Defense of the constitution" is not only one of the Socialist Party's most salient and best known stands, but the same is true for the Komeito, the Communist Party and the Democratic Socialist Party. All have claimed that the main reason for the LDP to advocate constitutional revision is its desire to restore political conditions and institutions more comparable to those of the prewar Imperial Japan. They have appealed to the Japanese

voters, who are fearful of involvement in war, of a possible revival of militarism, of adverse effects resulting from any alteration in the status or powers of the Emperor, or of any changes that might affect their existing Bill of Rights. The opposition parties have succeeded in convincing many voters of serious consequence of any tampering with the present constitution, while identifying themselves as the dedicated defenders of peace, democracy, and civil rights against imminent subversion by the allegedly reactionary and militaristic Liberal Democrats. Since the Socialists and their allies have benefitted politically by opposing the constitutional revision advocated by the LDP, they are unlikely to alter their position on the constitutional question.

A third important factor is the continuing decline in the popularity of the revisionist movement since the early 1960s. Total revision of the constitution as advocated by ultra conservative leaders has become unacceptable to many Japanese voters, who have benefitted in one way or another from the postwar constitutional reforms. Since a total revision would involve rewriting every chapter and article of the new constitution with ominous implications of a complete repudiation of the existing constitution, it was an untenable proposition from the very beginning. As Fukui points out, the generally negative reaction of public opinion indicated the "psychological gap" not only between prewar and postwar generations but also between the bureaucratic elite and masses. The failure to enlist popular support for the total revision reflected that "psychological gap," because the masses "consciously or unconsciously, have identified themselves as beneficiaries, rather than victims, of the occupation regime and the new constitution."⁶³⁾ The advocates of total revision not only frightened away many who might have supported a more limited revision but also "introduced elements of confusion and uncertainty."⁶⁴⁾ Support for the revisionist movement was further eroded

63) Fukui, *op. cit.*, p. 64.

64) *Ibid.*, p. 69.

by factionalism within the conservative party. Also, the LDP's ability to expand Japan's self defense forces through flexible interpretations of Article 9 defused a feeling of real urgency for constitutional revision. In view of these developments, it is not surprising that official LDP pronouncements underwent a substantial change by 1962, when it stated in its platform that the proposed revision "should not aim at restoring the principle of imperial sovereignty, or the prewar family system, instituting conscription, or suppressing the fundamental human rights." Thus, by the latter part of the 1960s, "[no] significant group in... Japan seems to be seriously interested in working for total rewriting of the 'occupation made' constitution" against these formidable odds.⁶⁵⁾

Fourth, it has become politically risky and unpopular to advocate constitutional revision in Japan. Careless remarks about the existing constitution can bring about the downfall of government leaders. A case in point is Seisuke Okuno, who was forced to resign from the cabinet post in 1980 when his controversial remarks for constitutional revision angered the opposition members in the Diet.⁶⁶⁾ In an attempt to mollify the opposition, Prime Minister Suzuki declared that his government had "no intention to consider any constitutional revision," and that "our present constitution is an excellent basic law."⁶⁷⁾ As it is extremely risky to advocate openly constitutional amendment by government leaders, shrewd politicians tend to shy away from it. Even a hawkish Prime Minister like Nakasone Yasuhiro had to modify his position on the new constitution. For many years, Nakasone was an outspoken leader of the revisionist wing of the LDP. Following his victory in the LDP Presidential election, on November 25, 1982, in fact Nakasone hinted that he might recommend the revision of constitution by declaring at a press conference that it was proper and necessary "to make the present

65) *Ibid.*, p. 69.

66) Jiyu Minshuto, *op. cit.*, pp. 877~878.

67) *Ibid.*, p. 878.

constitution a better one on the basis of the postwar experience."⁶⁸⁾ However, after becoming the Prime Minister, he did not make any move to revise the constitution. In fact, by October 1985, he indicated a complete change in his attitude toward the existing constitution to a group of the LDP freshmen Diet members by saying that "When I returned from the war, I felt humiliated because the present constitution was imposed on us by the United States. I wanted to revise it as soon as possible." He added, however, that "such a thinking on my part has changed" because "it is not right to revise the constitution purely on the basis of nostalgia for the prewar period."⁶⁹⁾ Thus, Nakasone made no formal attempt to revise the new Japanese constitution during his tenure as the Prime Minister (1982~1987).

Instead of seeking constitutional change through formal amendments, conservative governments have effectuated necessary changes by adopting administrative means and by legal and judicial interpretations of the existing constitution.⁷⁰⁾ These approaches have succeeded in altering substantially the original intent of several important provisions of the 1947 constitution, such as the disarmament clause of Article 9, provisions regarding the right of labor in Chapter II, and the local autonomy provisions.

For example, through the famous Sunakawa case in 1959, the Nagatsuma case in 1976, and the Hyakuri case in 1977,⁷¹⁾ the Japanese courts upheld the constitutionality of the U.S.-Japan Security Treaty and the Japanese Self Defense Forces. The court maintained that Japan's inherent right to self-defense is not abridged by Article 9, and that the

68) *Yomiuri Shimbun*, August 20, 1987.

69) *Ibid.*

70) Kobayashi, *op. cit.*, pp. 164~166.

71) For the summary of these cases, see J.A.A. Stockwin, *Japan: Divided Politics in a Growth Economy* (London: W.W. Norton Co., 1982), pp. 208~209, and 213~214. See also Hyakuri case, *Asahi Nenkan* 1978, p. 290. For a detailed analysis of the Sunakawa case, see Kisaburo Yokota, "Political Questions and Judicial Review: A Comparison," in Henderson (ed.), *op. cit.*, pp. 146~152, 176~181.

maintenance of the self-defense forces for defensive purposes would not contravene Article 9. Thus, there is no real need to amend Article 9. To be sure, if the intention for seeking such a revision were to rearm fully Japan and free it from every constraint placed on it by Article 9, then flexible interpretation of the constitutional provisions will be inadequate to meet such requirements. On the other hand, if the intention is to maintain modest arms and armed forces primarily for defensive purposes, then there is obviously no need for constitutional amendment.

VII

It is no exaggeration to state that the basic principles of the new Japanese constitution of 1946 have been widely accepted by the Japanese people. The people as a whole seem to have become used to their new constitution and, insofar as they think about it at all, they do so in favorable and generally supportive terms. According to opinion surveys conducted by Japanese newspapers and other pollsters, there has been a growing tendency among the Japanese people for the acceptance of key principles of the new Japanese constitution.

For example, according to an opinion survey conducted by the *Yomiuri Shimbun* in April 1986, over 56 percent of the respondents favored retaining without change the existing constitution, while 22 percent of the respondents favored constitutional revision.⁷²⁾ Being asked whether they liked the existing constitution as a whole or not, 82 percent replied favorably, while 7 percent replied negatively.⁷³⁾ In a similar survey conducted by *Mainichi Shimbun* in April 1987, 68 percent of the respondents maintained that "the spirit of the new Japanese constitution as a whole has been firmly accepted by the Japanese people," whereas

72) *Yomiuri Shimbun*, April 14, 1986.

73) *Ibid.*

26 percent disagreed with 6 percent giving no answer.⁷⁴⁾

With regard to Article 9, which has been the most controversial clause, according to a survey conducted by the *Mainichi Shimbun* in the spring of 1987, 80 percent of the respondents supported the retention of Article 9, whereas those opposing the same article constituted 16 percent of the respondents.⁷⁵⁾ The remainder either gave no answer (6 percent) or different answers.

With regard to the status of the Japanese Emperor, according to the *Mainichi Shimbun's* April 1987 survey, 81 percent of the respondents favored his retention as a "symbol" as stipulated in the present constitution, while 11 percent of the respondents wanted to abolish that clause.⁷⁶⁾ Only 5 percent of the respondents favored enhancing the Emperor's authority more than is provided under the existing constitution. The remaining 3 percent gave no answer to the question.

With regard to the freedom of press, publication, and media, about 72 percent of the respondents in the *Yomiuri Shimbun's* April 1986 survey indicated that such freedom was guaranteed either fully or to a certain extent, whereas 16 percent did not believe it is adequately guaranteed.⁷⁷⁾ Only 1 percent of the respondent maintained that it is not guaranteed at all. Somewhat similar results were also indicated with regard to other civil rights guaranteed by the Japanese constitution. For example, with regard to the constitutionally guaranteed right to stage rallies, demonstrations, and strikes, over 63 percent of the respondents believed that such a civil right was either fully or to a certain extent protected under the existing constitution, whereas 22 percent believed it is not well protected: 12 percent did not answer the question. Less than 2 percent maintained that such a right is not protected at all under the

74) *Mainichi Shimbun*, April 29, 1987.

75) *Ibid.*

76) *Ibid.*

77) *Yomiuri Shimbun*, April 14, 1986.

existing constitutional system.⁷⁸⁾

With respect to the civil right to enjoy the minimum level of "healthy and cultural life" guaranteed by the existing constitution, over 74 percent of the respondents believed that it is protected either fully or to a certain extent, while nearly 20 percent believed it is not adequately protected. Only 1 percent believed that it was not protected at all with the remaining 4.9 percent giving no answer to the question.⁷⁹⁾

Less than a positive or favorable response was given by the respondents in the *Yomiuri Shimbun* survey with regard to the theory and practice of local autonomy and the same for the principle of equality under the law. Many indicated the existence of either "irrational discrimination or inequality" on the basis of gender, family background, educational background, nationality, or physical handicaps.⁸⁰⁾

VIII

From the foregoing analysis, a few basic conclusions can be drawn:

First, the present constitution of Japan is based on the "MacArthur Draft" of 1946. Although the basic law was enacted under the SCAP guidelines, it has proved to be effective and enduring in establishing a democratic political system in postwar Japan, for it contains essential principles and features necessary for a viable democratic constitutional system. This is why the Japanese have retained it in its entirety without a single amendment in spite of the predictions that it would not outlive the Allied Occupation.

Second, the successful experimentation with the new democratic constitution in Japan should be credited to not only the enlightened policy of SCAP in drafting the new constitution but also the determination and

78) *Ibid.*

79) *Ibid.*

80) *Ibid.*

willingness of the Japanese people to live under a democratic constitutional government. Immediately after the war, there was a genuine massive revulsion of popular feeling against the war, the losses and the suffering caused thereby, and the military leaders and their policies that had brought about defeat and despair to Japan. Although some conservative leaders wanted to retain the Meiji Constitution of 1889 with minor modification, the people who had suffered indescribable hardship during the war years were ready to welcome a drastic overhauling of the Japanese constitutional system, lest the nation repeat the same mistakes and tragedy again. Furthermore, viewed as a political document, the new constitution of Japan represented one of the greatest assortment of political favors crafted in recent history.⁸¹⁾ As the SCAP staff worked hard to publicize political and legal gains for the major segments of the Japanese people, it became increasingly difficult for conservative governments to oppose openly constitutional reforms that had appeals to important parts of the Japanese society (e.g., women, youth, intellectuals, Burakumin, workers, political parties).

Third, with the generational change in Japan, the support for the retention of the democratic constitution became even stronger as the new postwar generation has invariably received political socialization that stressed the values of a democratic political system.⁸²⁾ Unlike the prewar generation, the new generation of Japanese has no nostalgia for the prewar period. Not only they have less affection for the prewar system, however, they are also more supportive of the postwar democratic system. Thus, they are unwilling to be swayed by the emotional appeals of constitutional revisionists, particularly those who advocate total revision of the democratic constitution of 1947, for tampering with the existing constitution could dismantle the whole democratic constitutional system in Japan.

81) Robert E. Ward, "Conclusion," in Robert E. Ward and Yoshikazu Sakamoto (eds.), *Democratizing Japan: The Allied Occupation* (Honolulu: University of Hawaii Press, 1987), p. 420.

82) John M. Maki, "The Japanese Constitutional Style," in Henderson (ed.), *op. cit.*, pp. 26~28.

Fourth, the willingness of the opposition parties to play the role of champions of the new constitutional system has also been an important factor in preserving the new democratic political constitution in Japan. Socialists and liberals supported the basic features of the new constitution from the beginning⁸³⁾ and persisted in their uncompromising opposition to the conservatives' attempts to revise the democratic constitution. So long as the opposition maintains more than one-third of the seats in either one of the two houses of the Diet, it is impossible for the conservatives to amend the constitution.

Lastly, it is also clear that the present constitution is not only widely accepted but also quite popular with the majority of the Japanese people. Many of the controversial provisions, such as the renunciation of war, the status of the Emperor as the symbol of the state, and the doctrine of popular sovereignty, have been accommodated as desirable constitutional principles by the growing number of the Japanese people. In this sense, the democratic constitution of 1947 has acquired the status of naturalized basic law of Japan, in spite of its foreign authorship.

The growing popularity of the new constitution among the Japanese voters is, in a sense, natural, for the Japanese under the new constitution have been able to establish and enjoy one of the most democratic political systems in the world. In addition, the Japanese have been able to benefit from unprecedented prosperity and peace throughout the post World War II period. To be sure, it was not the new constitution alone which made these things possible. Nevertheless, it is no exaggeration to state that Japan owes more to the democratic constitution of 1947 than any other single factor in reaching where it is today.

83) The JSP attempted to incorporate more progressive social welfare provisions in the new constitution during the Diet deliberations of the "MacArthur Draft" in 1946. However, it has supported the basic features of the new Japanese constitution since the adoption of the new constitution. For a more critical analysis of the JSP's position on constitutional revision, see Nishi, *Nihonkoku Kenpo no Tanjo o Kensho suru* (Tokyo: Gakuyo Shoho, 1986), pp. 184~225.