APPENDIX I

The Constitution of the Empire of Japan
(1889)

Imperial Oath Sworn in the Sanctuary in the Imperial Palace (Tsuge-bumi)

We, the Successor to the prosperous Throne of Our Predecessors, do humbly and solemnly swear to the Imperial Founder of Our House and to Our other Imperial Ancestors that, in pursuance of a great policy co-extensive with the Heavens and with the Earth, We shall maintain and secure from decline the ancient form of government.

In consideration of the progressive tendency of the course of human affairs and in parallel with the advance of civilization, We deem it expedient, in order to give clearness and distinctness to the instructions bequeathed by the Imperial Founder of Our House and by Our other Imperial Ancestors, to establish fundamental laws formulated into express provisions of law, so that, on the one hand, Our Imperial posterity may possess an express guide for the course they are to follow, and that, on the other, Our subjects shall thereby be enabled to enjoy a wider range of action in giving Us their support, and that the observance of Our laws shall continue to the remotest ages of time. We will thereby to give greater firmness to the stability of Our country and to promote the welfare of all the people within the boundaries of Our dominions; and We now establish the Imperial House Law and the Constitution. These Laws come to only an exposition of grand precepts for the conduct of the government, bequeathed by the Imperial Founder of Our House and by Our other Imperial Ancestors. That we have been so fortunate in Our reign, in keeping with the tendency of the times, as to accomplish this work, We owe to the glorious Spirits of the Imperial Founder of Our House and of Our other Imperial Ancestors.

We now reverently make Our prayer to Them and to Our Illustrious Father, and implore the help of Their Sacred Spirits, and make to Them solemn oath never at this time nor in the future to fail to be an example to our subjects in the observance of the Laws hereby established.

May the heavenly Spirits witness this Our solemn Oath.

Imperial Rescript on the Promulgation of the Constitution

Whereas We make it the joy and glory of Our heart to behold the prosperity of Our country, and the welfare of Our subjects, We do hereby, in virtue of the Supreme power We inherit from Our Imperial Ancestors, promulgate the present immutable fundamental law, for the sake of Our present subjects and their descendants.

The Imperial Founder of Our House and Our other Imperial ancestors, by the help and support of the forefathers of Our subjects, laid the foundation of Our Empire upon a basis, which is to last forever. That this brilliant achievementembellishes the annals of Our country, is due to the glorious virtues of Our Sacred Imperial ancestors, and to the loyalty and bravery of Our subjects, their love of their country and their public spirit. Considering that Our
subjects are the descendants of the loyal and good subjects of Our Imperial Ancestors, We doubt not but that Our subjects will be guided by Our views, and will sympathize with all Our endeavors, and that, harmoniously cooperating together, they will share with Us Our hope of making manifest the glory of Our country, both at home and abroad, and of securing forever the stability of the work bequeathed to Us by Our Imperial Ancestors.

**Preamble (or Edict) (Joyu)**

Having, by virtue of the glories of Our Ancestors, ascended the throne of a lineal succession unbroken for ages eternal; desiring to promote the welfare of, and to give development to the moral and intellectual faculties of Our beloved subjects, the very same that have been favored with the benevolent care and affectionate vigilance of Our Ancestors; and hoping to maintain the prosperity of the State, in concert with Our people and with their support, We hereby promulgate, in pursuance of Our Imperial Rescript of the 12th day of the 10th month of the 14th year of Meiji, a fundamental law of the State, to exhibit the principles, by which We are guided in Our conduct, and to point out to what Our descendants and Our subjects and their descendants are forever to conform.

The right of sovereignty of the State, We have inherited from Our Ancestors, and We shall bequeath them to Our descendants. Neither We nor they shall in the future fail to wield them, in accordance with the provisions of the Constitution hereby granted.

We now declare to respect and protect the security of the rights and of the property of Our people, and to secure to them the complete enjoyment of the same, within the extent of the provisions of the present Constitution and of the law.

The Imperial Diet shall first be convoked for the 23rd year of Meiji and the time of its opening shall be the date, when the present Constitution comes into force.

When in the future it may become necessary to amend any of the provisions of the present Constitution, We or Our successors shall assume the initiative right, and submit a project for the same to the Imperial Diet. The Imperial Diet shall pass its vote upon it, according to the conditions imposed by the present Constitution, and in no otherwise shall Our descendants or Our subjects be permitted to attempt any alteration thereof.

Our Ministers of State, on Our behalf, shall be held responsible for the carrying out of the present Constitution, and Our present and future subjects shall forever assume the duty of allegiance to the present Constitution.

**CHAPTER I. THE EMPEROR**

Article 1. The Empire of Japan shall be reigned over and governed by a line of Emperors unbroken for ages eternal.

Article 2. The Imperial Throne shall be succeeded to by Imperial male descendants, according to the provisions of the Imperial House Law.

Article 3. The Emperor is sacred and inviolable.
Article 4. The Emperor is the head of the Empire, combining in Himself the rights of sovereignty, and exercises them, according to the provisions of the present Constitution.

Article 5. The Emperor exercises the legislative power with the consent of the Imperial Diet.

Article 6. The Emperor gives sanction to laws, and orders them to be promulgated and executed.

Article 7. The Emperor convokes the Imperial Diet, opens, closes, and prorogues it, and dissolves the House of Representatives.

Article 8. The Emperor, in consequence of an urgent necessity to maintain public safety or to avert public calamities, issues, when the Imperial Diet is not sitting, Imperial ordinances in the place of law. (2) Such Imperial Ordinances are to be laid before the Imperial Diet at its next session, and when the Diet does not approve the said Ordinances, the Government shall declare them to be invalid for the future.

Article 9. The Emperor issues or causes to be issued, the Ordinances necessary for the carrying out of the laws, or for the maintenance of the public peace and order, and for the promotion of the welfare of the subjects. But no Ordinance shall in any way alter any of the existing laws.

Article 10. The Emperor determines the organization of the different branches of the administration, and salaries of all civil and military officers, and appoints and dismisses the same. Exceptions especially provided for in the present Constitution or in other laws, shall be in accordance with the respective provisions (bearing thereon).

Article 11. The Emperor has the supreme command of the Army and Navy.

Article 12. The Emperor determines the organization and peace standing of the Army and Navy.

Article 13. The Emperor declares war, makes peace, and concludes treaties.

Article 14. The Emperor declares a state of siege. (2) The conditions and effects of a state of siege shall be determined by law.

Article 15. The Emperor confers titles of nobility, rank, orders and other marks of honor.

Article 16. The Emperor orders amnesty, pardon, commutation of punishments and rehabilitation.

Article 17. A Regency shall be instituted in conformity with the provisions of the Imperial House Law. (2) The Regent shall exercise the powers appertaining to the Emperor in His name.

CHAPTER II.
RIGHTS AND DUTIES OF SUBJECTS
Article 18. The conditions necessary for being a Japanese subject shall be determined by law.

Article 19. Japanese subjects may, according to qualifications determined in laws or ordinances, be appointed to civil or military or any other public offices equally.

Article 20. Japanese subjects are amenable to service in the Army or Navy, according to the provisions of law.

Article 21. Japanese subjects are amenable to the duty of paying taxes, according to the provisions of law.

Article 22. Japanese subjects shall have the liberty of abode and of changing the same within the limits of the law.

Article 23. No Japanese subject shall be arrested, detained, tried or punished, unless according to law.

Article 24. No Japanese subject shall be deprived of his right of being tried by the judges determined by law.

Article 25. Except in the cases provided for in the law, the house of no Japanese subject shall be entered or searched without his consent.

Article 26. Except in the cases mentioned in the law, the secrecy of the letters of every Japanese subject shall remain inviolate.

Article 27. The right of property of every Japanese subject shall remain inviolate. (2) Measures necessary to be taken for the public benefit shall be any provided for by law.

Article 28. Japanese subjects shall, within limits not prejudicial to peace and order, and not antagonistic to their duties as subjects, enjoy freedom of religious belief.

Article 29. Japanese subjects shall, within the limits of law, enjoy the liberty of speech, writing, publication, public meetings and associations.

Article 30. Japanese subjects may present petitions, by observing the proper forms of respect, and by complying with the rules specially provided for the same.

Article 31. The provisions contained in the present Chapter shall not affect the exercises of the powers appertaining to the Emperor, in times of war or in cases of a national emergency.

Article 32. Each and every one of the provisions contained in the preceding Articles of the present Chapter, that are not in conflict with the laws or the rules and discipline of the Army and Navy, shall apply to the officers and men of the Army and of the Navy.

CHAPTER III.
THE IMPERIAL DIET

Article 33. The Imperial Diet shall consist of two Houses, a House of Peers and a House of Representatives.
Article 34. The House of Peers shall, in accordance with the ordinance concerning the House of Peers, be composed of the members of the Imperial Family, of the orders of nobility, and of those who have been nominated thereto by the Emperor.

Article 35. The House of Representatives shall be composed of members elected by the people, according to the provisions of the law of Election.

Article 36. No one can at one and the same time be a Member of both Houses.

Article 37. Every law requires the consent of the Imperial Diet.

Article 38. Both Houses shall vote upon projects of law submitted to it by the Government, and may respectively initiate projects of law.

Article 39. A Bill, which has been rejected by either the one or the other of the two Houses, shall not be brought in again during the same session.

Article 40. Both Houses can make representations to the Government, as to laws or upon any other subject. When, however, such representations are not accepted, they cannot be made a second time during the same session.

Article 41. The Imperial Diet shall be convoked every year.

Article 42. A session of the Imperial Diet shall last during three months. In case of necessity, the duration of a session may be prolonged by the Imperial Order.

Article 43. When urgent necessity arises, an extraordinary session may be convoked in addition to the ordinary one.
(2) The duration of an extraordinary session shall be determined by Imperial Order.

Article 44. The opening, closing, prolongation of session and prorogation of the Imperial Diet, shall be effected simultaneously for both Houses.
(2) In case the House of Representatives has been ordered to dissolve, the House of Peers shall at the same time be prorogued.

Article 45. When the House of Representatives has been ordered to dissolve, Members shall be caused by Imperial Order to be newly elected, and the new House shall be convoked within five months from the day of dissolution.

Article 46. No debate can be opened and no vote can be taken in either House of the Imperial Diet, unless not less than one-third of the whole number of Members thereof is present.

Article 47. Votes shall be taken in both Houses by absolute majority. In the case of a tie vote, the President shall have the casting vote.

Article 48. The deliberations of both Houses shall be held in public. The deliberations may, however, upon demand of the Government or by resolution of the House, be held in secret sitting.
Article 49. Both Houses of the Imperial Diet may respectively present addresses to the Emperor.

Article 50. Both Houses may receive petitions presented by subjects.

Article 51. Both Houses may enact, besides what is provided for in the present Constitution and in the Law of the Houses, rules necessary for the management of their internal affairs.

Article 52. No Member of either House shall be held responsible outside the respective Houses, for any opinion uttered or for any vote given in the House. When, however, a Member himself has given publicity to his opinions by public speech, by documents in print or in writing, or by any other similar means, he shall, in the matter, be amenable to the general law.

Article 53. The Members of both Houses shall, during the session, be free from arrest, unless with the consent of the House, except in cases of flagrant delicts, or of offenses connected with a state of internal commotion or with a foreign trouble.

Article 54. The Ministers of State and the Delegates of the Government may, at any time, take seats and speak in either House.

CHAPTER IV.
THE MINISTERS OF STATE AND THE PRIVY COUNCIL

Article 55. The respective Ministers of State shall give their advice to the Emperor, and be responsible for it.

(2) All Laws, Imperial Ordinances, and Imperial Rescripts of whatever kind, that relate to the affairs of the state, require the countersignature of a Minister of State.

Article 56. The Privy Councillors shall, in accordance with the provisions for the organization of the Privy Council, deliberate upon important matters of State when they have been consulted by the Emperor.

CHAPTER V.
THE JUDICATURE

Article 57. The Judicature shall be exercised by the Courts of Law according to law, in the name of the Emperor.
(2) The organization of the Courts of Law shall be determined by law.

Article 58. The judges shall be appointed from among those, who possess proper qualifications according to law.
(2) No judge shall be deprived of his position, unless by way of criminal sentence or disciplinary punishment.
(3) Rules for disciplinary punishment shall be determined by law.

Article 59. Trials and judgments of a Court shall be conducted publicly. When, however, there exists any fear, that such publicity may be prejudicial to peace and order, or to the
maintenance of public morality, the public trial may be suspended by provisions of law or by the decision of the Court of Law.

Article 60. All matters that fall within the competency of a special Court, shall be specially provided for by law.

Article 61. No suit at law, which relates to rights alleged to have been infringed by the illegal measures of the administrative authorities, and which shall come within the competency of the Court of Administrative Litigation specially established by law, shall be taken cognizance of by Court of Law.

CHAPTER VI.
FINANCE

Article 62. The imposition of a new tax or the modification of the rates (of an existing one) shall be determined by law.
(2) However, all such administrative fees or other revenue having the nature of compensation shall not fall within the category of the above clause.
(3) The raising of national loans and the contracting of other liabilities to the charge of the National Treasury, except those that are provided in the Budget, shall require the consent of the Imperial Diet.

Article 63. The taxes levied at present shall, in so far as they are not remodelled by a new law, be collected according to the old system.

Article 64. The expenditure and revenue of the State require the consent of the Imperial Diet by means of an annual Budget.
(2) Any and all expenditures overpassing the appropriations set forth in the Titles and Paragraphs of the Budget, or that are not provided for in the Budget, shall subsequently require the approbation of the Imperial Diet.

Article 65. The Budget shall be first laid before the House of Representatives.

Article 66. The expenditures of the Imperial House shall be defrayed every year out of the National Treasury, according to the present fixed amount for the same, and shall not require the consent thereto of the Imperial Diet, except in case an increase thereof is found necessary.

Article 67. Those already fixed expenditures based by the Constitution upon the powers appertaining to the Emperor, and such expenditures as may have arisen by the effect of law, or that appertain to the legal obligations of the Government, shall be neither rejected nor reduced by the Imperial Diet, without the concurrence of the Government.

Article 68. In order to meet special requirements, the Government may ask the consent of the Imperial Diet to a certain amount as a Continuing Expenditure Fund, for a previously fixed number of years.

Article 69. In order to supply deficiencies, which are unavoidable, in the Budget, and to meet requirements unprovided for in the same, a Reserve Fund shall be provided in the Budget.
Article 70. When the Imperial Diet cannot be convoked, owing to the external or internal condition of the country, in case of urgent need for the maintenance of public safety, the Government may take all necessary financial measures, by means of an Imperial Ordinance. (2) In the case mentioned in the preceding clause, the matter shall be submitted to the Imperial Diet at its next session, and its approbation shall be obtained thereto.

Article 71. When the Imperial Diet has not voted on the Budget, or when the Budget has not been brought into actual existence, the Government shall carry out the Budget of the preceding year.

Article 72. The final account of the expenditures and revenues of the State shall be verified and confirmed by the Board of Audit, and it shall be submitted by the Government to the Imperial Diet, together with the report of verification of the said board. (2) The organization and competency of the Board of Audit shall of determined by law separately.

CHAPTER VII.
SUPPLEMENTARY RULES

Article 73. When it has become necessary in future to amend the provisions of the present Constitution, a project to the effect shall be submitted to the Imperial Diet by Imperial Order. (2) In the above case, neither House can open the debate, unless not less than two-thirds of the whole number of Members are present, and no amendment can be passed, unless a majority of not less than two-thirds of the Members present is obtained.

Article 74. No modification of the Imperial House Law shall be required to be submitted to the deliberation of the Imperial Diet. (2) No provision of the present Constitution can be modified by the Imperial House Law.

Article 75. No modification can be introduced into the Constitution, or into the Imperial House Law, during the time of a Regency.

Article 76. Existing legal enactments, such as laws, regulations, Ordinances, or by whatever names they may be called, shall, so far as they do not conflict with the present Constitution, continue in force. (2) All existing contracts or orders, that entail obligations upon the Government, and that are connected with expenditure, shall come within the scope of Article 67.
APPENDIX II
The American Draft of the Constitution.

CONSTITUTION OF JAPAN

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 the sovereignty of the people's will and do ordain and establish this Constitution, founded upon the universal principle that government is a sacred trust 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; and we reject and revoke all constitutions, ordinances, laws and prescripts in conflict herewith.

Desiring peace for all time and fully conscious of the high ideals controlling human relationship now stirring mankind, we have determined to rely for our security and survival upon the justice and good faith of the peace-loving peoples of the world. We desire to occupy an honored place in an international society designed and dedicated to the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance, for all time from the earth. We recognize and acknowledge that all peoples have the right to live in peace, free from fear and want.

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

To these high principles and purposes we, the Japanese People, pledge our national honor, determined will and full resource.

CHAPTER I. The Emperor

Article I. The Emperor shall be the symbol of the State and of the Unity of the People, deriving his position from the sovereign will of the People, and from no other source.

Article II. Succession to the Imperial Throne shall be dynastic and in accordance with such Imperial House Law as the Diet may enact.

Article III. The advice and consent of the Cabinet shall be required for all acts of the Emperor in matters of state, the Cabinet shall be responsible therefore.

The Emperor shall perform only such state functions as are provided for in this Constitution. He shall have no governmental powers, nor shall he assume nor be granted such powers.

The Emperor may delegate his functions in such manner as may be provided by law.

Article IV. When a regency is instituted in conformity with the provisions of such Imperial House Law as the Diet may enact, the duties of the Emperor shall be
performed by the Regent in the name of the Emperor, and the limitations on the functions of the Emperor contained herein shall apply with equal force to the Regent.

Article V. The Emperor appoints as Prime Minister the person designated by the Diet.

Article VI. Acting only on the advice and with the consent of the Cabinet, the Emperor, on behalf of the people, shall perform the following state functions:

Affix his official seal to and proclaim all laws enacted by the Diet, all Cabinet orders, all amendments to this Constitution, and all treaties and international conventions;

Convoke sessions of the Diet;
Dissolve the Diet;
Proclaim general elections;
Attest the appointment or commission and resignation or dismissal of Ministers of State, ambassadors and those other state officials whose appointment or commission and resignation or dismissal may by law be attested in this manner;
Attest grants of amnesty, pardons, commutation of punishment, reprieves and rehabilitation;
Award honors;
Receive ambassadors and ministers of foreign States; And
Perform appropriate ceremonial functions.

Article VII. No grants of money or other property shall be made to the Imperial Throne, and no expenditures shall be made by the Imperial Throne, unless authorized by the Diet.

CHAPTER II. Renunciation of War

Article VIII. War as a sovereign right of the nation is abolished. The threat or use of force is forever renounced as a means for settling disputes with any other nation.

No army, navy, air force, or other war potential will ever be authorized and no rights of belligerency will ever be conferred upon the State.

CHAPTER III. Rights and Duties of the People

Article IX. The people of Japan are entitled to the enjoyment without interference of all fundamental human rights.

Article X. The fundamental human rights by this Constitution guaranteed to the people of Japan result from the age-old struggle of man to be free. They have survived the exacting test for durability in the crucible of time and experience, and are conferred upon this and future generations in sacred trust, to be held for all time inviolate.

Article XI. The freedoms, rights opportunities enunciated by this Constitution are maintained by the eternal vigilance of the people and involve an obligation on
the part of the people to prevent their abuse and to employ them always for the common good.

Article XII. The feudal system of Japan shall cease. All Japanese by virtue of their humanity shall be respected as individuals. Their right to life, liberty and the pursuit of happiness within the limits of the general welfare shall be the supreme consideration of all law and of all governmental action.

Article XIII. All natural persons are equal before the law. No discrimination shall be authorized or tolerated in political, economic or social relations on account of race, creed, sex, social status, caste or national origin.

No patent of nobility shall from this time forth embody within itself any national or civic power of government.

No rights of peerage except those of the Imperial dynasty shall extend beyond the lives of those now in being. No special privilege shall accompany any award of honor, decoration or other distinction; nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

Article XIV. The people are the ultimate arbiters of their government and of the Imperial Throne. They have the inalienable right to choose their public officials and to dismiss them.

All public officials are servants of the whole community and not of any special groups.

In all elections, secrecy of the ballot shall be kept inviolate, nor shall any voter be answerable, publicly or privately, for the choice he has made.

Article XV. Every person has the right of peaceful petition for the redress of grievances for the removal of public officials and for the enactment, repeal or amendment of laws, ordinances or regulations; nor shall any person be in any way discriminated against for sponsoring such a petition.

Article XVI. Aliens shall be entitled to the equal protection of law.

Article XVII. No person shall be held in enslavement, serfdom or bondage of any kind. Involuntary servitude, except as a punishment for crime, is prohibited.

Article XVIII. Freedom of thought and conscience shall be held inviolable.

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

No person shall be compelled to take part in any religious acts, celebrations, rites or practices.

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

Article XX. Freedom of assembly, speech and press and all other forms of expression are guaranteed. No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

Article XXI. Freedom of association, movement and choice of abode are guaranteed to every person to the extent they do not conflict with the general welfare.

All persons shall be free to emigrate and to change their nationality.
Article XXII. Academic freedom and choice of occupation are guaranteed.

Article XXIII. The family is the basis of human society and its traditions for good or evil permeate the nation. Marriage shall rest upon the indisputable legal and social equality of both sexes, founded upon mutual consent instead of parental coercion, and maintained through cooperation instead of male domination. Laws contrary to these principles shall be abolished, and replaced by others viewing choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family from the standpoint of individual dignity and the essential equality of the sexes.

Article XXIV. In all spheres of life, laws shall be designed for the promotion and extension of social welfare, and of freedom, justice and democracy.

Free, universal and compulsory education shall be established.
The exploitation of children shall be prohibited.
The public health shall be promoted.
Social security shall be provided.
Standards for working conditions, wages and hours shall be fixed.

Article XXV. All men have the right to work.

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

Article XXVII. The right to own property is inviolable, but property rights shall be defined by law, in conformity with the public welfare.

Article XXVIII. The ultimate fee to the land and to all natural resources reposes in the State as the collective representative of the people. Land and other natural resources are subject to the right of the State to take them, upon just compensation therefor, for the purpose of securing and promoting the conservation, development, utilization and control thereof.

Article XXIX. Ownership of property imposes obligations. Its use shall be in the public good. Private property may be taken by the State for public use upon just compensation therefor.

Article XXX. No person shall be apprehended except upon warrant issued by a competent officer of a court of law specifying the offense upon which the person is charged, unless he is apprehended while committing a crime.

Article XXXI. No person shall be arrested or detained without being at once informed of the charges against him nor without the immediate privilege of counsel; he shall not be held incommunicado; he shall not be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Article XXXII. No person shall be deprived of life or liberty, nor shall any criminal penalty be imposed, except according to procedures established by the Diet, nor shall any person be denied the right of appeal to the courts.

Article XXXIII. The right of the people to be secure in their persons, homes, papers and effects against entries, searches and seizures shall not be impaired except upon judicial warrant issued only for probable cause, and particularly describing the place to be searched and the person or things to be seized.
Each search or seizure shall be made upon separate warrant issued for the purpose by a competent officer of a court of law.

Article XXXIV. The infliction of torture by any public officer is absolutely forbidden.

Article XXXV. Excessive bail shall not be required, nor cruel or unusual punishments inflicted.

Article XXXVI. In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal

He shall be permitted full opportunity to cross-examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense.

At all times the accused shall have the assistance of competent counsel who shall, if the accused be unable to secure the same by his own efforts, be assigned to his use by the government.

Article XXXVII. No person shall be declared guilty of a crime except by a court of competent jurisdiction.

No person shall be twice placed in jeopardy for the same offense.

Article XXXVIII. No person shall be compelled to testify against himself.

No confession shall be admitted in evidence if made under compulsion, torture or threat, or after prolonged arrest or detention.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

Article XXXIX. No person shall be held criminally liable for an act lawful at the time it was committed.

CHAPTER IV. The Diet

Article XL. The Diet shall be the highest organ of state power and shall be the sole lawmaking authority of the State.

Article XLI. The Diet shall consist of one House of elected representatives with a membership of not less than 300 nor more than 500.

Article XLII. The qualifications of electors and of candidates for election to the Diet shall be determined by law, and in determining such qualifications there shall be no discrimination because of sex, race, creed, color or social status.

Article XLIII. Members of the Diet shall receive adequate compensation from the national treasury as determined by law.

Article XLIV. Members of the Diet shall in all cases, except those specified by law, be free from arrest while attending the sessions of the Diet or while travelling to and from such sessions; and for any speech, debate, or vote in the Diet, they shall not be held legally liable elsewhere.

Article XLLV. The term of the members shall be four years, but it may be terminated at an earlier date by dissolution of the Diet as provided herein.
Article XLVI. The method of election, apportionment, and voting shall be determined by law.

Article XLVII. The Diet shall convene at least once in every year.

Article XLVIII. The Cabinet may call special sessions and shall do so on petition of not less than twenty per cent of the members of the Diet.

Article XLIX. The Diet shall be the sole judge of the elections and the qualifications of its members. The denial of a seat to anyone who is certified to have been elected and whose right to the seat has been questioned shall require the vote of a majority of the members present.

Article L. A quorum to transact business shall consist of not less than one-third of all the members. Except as otherwise provided herein all actions of the Diet shall be by majority vote of those present. In case of a tie the presiding officer shall cast the deciding vote.

Article LI. The Diet shall choose its presiding officer and other officials. It may determine the rule of its proceedings, punish members for disorderly behavior and expel them. On a motion for expulsion of a member a vote of not less than two-thirds of the members resent shall be required to effect such expulsion.

Article LII. No law shall be passed except by bill.

Article LIII. The deliberations of the Diet shall be public, and no secret sessions shall be held. The Diet shall maintain and publish a record of its proceedings and this record shall be made available to the public. The individual votes of members on any question shall be recorded in the journal upon the demand of twenty percent of those present.

Article LIV. The Diet shall have the power to conduct investigations, to compel the attendance and testimony of witnesses and the production of records, and to punish for refusal to comply.

Article LV. The Diet by a majority vote of those present shall designate the Prime Minister. The designation of a Prime Minister shall take precedence over all other business of the Diet.

The Diet shall establish the several Ministries of State.

Article LVII. The Prime Minister and the Ministers of State whether or not they hold seats in the Diet may at any time appear before that body for the purpose of presenting and arguing bills, and shall appear when required to answer interpellations.

Article LVIII. Within ten days after the passage of a resolution of non-confidence or the failure to pass a resolution of confidence by a majority of the total membership of the Diet, the Cabinet shall resign or order the Diet to dissolve. When the Diet has been ordered dissolved a special election of a new Diet shall be held not less than thirty days nor more than forty days after the date of dissolution. The newly elected Diet shall be convoked within thirty days after the date of election.

Article LIX. The Diet shall constitute from among its members a court of impeachment to try members of the judiciary against whom removal proceedings have been instituted.

Article LXX. The Diet shall enact all laws necessary and proper to carry into execution the provisions of this Constitution.
CHAPTER V. The Cabinet

Article LX. The executive power is vested in a Cabinet.

Article LXI. The Cabinet consists of a Prime Minister, who is its head, and such other Ministers of State as may be authorized by the Diet.

In the exercise of the executive power the Cabinet is collectively responsible to the Diet.

Article LXII. The Prime minister shall with the advice and consent of the Diet appoint Ministers of State.

The Prime Minister may remove individual Ministers at will.

Article LXIII. Whenever a vacancy occurs in the office of Prime Minister or upon the convening of a new Diet, the Cabinet shall collectively resign and a new Prime Minister shall be designated.

Pending such designation the Cabinet shall continue to perform its duties.

Article LXIV. The Prime Minister introduces bills on behalf of the Cabinet, reports to the Diet on general affairs of State and the status of foreign relations, and exercises control and supervision over the several executive departments and agencies.

Article LXV. In addition to other executive responsibilities, the Cabinet shall:

Faithfully execute the laws and administer the affairs of State;

Conduct foreign relations;

Conclude such treaties, international conventions and agreements with the consent of the Diet by prior authorization or subsequent ratification as it deems in the public interest;

Administer the civil service according to standards established by the Diet;

Prepare and submit to the Diet an annual budget;

Issue orders and regulations to carry out the provisions of this constitution and the law, but no such order or regulation shall contain a penal provision; and

Grant amnesty, pardon, commutation of punishment, reprieve and rehabilitation.

Article LXVI. The competent Minister of State shall sign and the Prime Minister shall countersign all acts of the Diet and executive orders.

Article LXVII. Cabinet Ministers shall not be subject to judicial process during their tenure of office without the consent of the Prime Minister, but no right of action shall be impaired by reason hereof.

CHAPTER VI. Judiciary

Article LXVIII. A strong and independent judiciary being the bulwark of the people’s rights, the whole judicial power is vested in a Supreme Court and in such inferior courts as the Diet shall from time to time establish.

No extraordinary tribunal shall be establish, nor shall any organ or agency of the Executive be given final judicial power.
All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws enacted pursuant thereto.

Article LXIX. The Supreme Court is vested with the rule-making power under which it determines the rules of practice and of procedure, the admission of attorneys, the internal discipline of the courts, the administration of judicial affairs, and such other matters as may properly affect the free exercise of the judicial power.

Public procurators shall be officers of the court and subject to its rule-making power.

The Supreme Court may delegate the power to make rules for inferior courts to such courts.

Article LXX. Removals of judges shall be accomplished by public impeachment only and no disciplinary action shall be administered them by any executive organ or agency.

Article LXXI. The Supreme Court shall consist of a chief justice and such number of associate justices as may be determined by the Diet. All such justices shall be appointed by the Cabinet and shall hold office during good behavior but not after the attainment of the age of 70 years, provided however that all such appointments shall be reviewed at the first general election held following the appointment and thereafter at every general election held immediately following the expiration of ten calendar years from the next prior confirmation. Upon a majority vote of the electorate not to retain the incumbent the office shall become vacant.

All such justices shall receive, at regular, stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article LXXII. The judges of the inferior courts shall be appointed by the Cabinet from a list which for each vacancy shall contain the names of at least two persons nominated by the Supreme Court. All such justices shall hold office for a term of ten years with privilege of reappointment and shall receive, at regular, stated intervals, adequate compensation which shall not be decreased during their terms of office. No judge shall hold office after attaining the age of 70 years.

Article LXXIII. The Supreme Court is the court of last resort. Where the determination of the constitutionality of any law, order, regulation or official act is in question, the judgment of the Supreme Court in all cases arising under or involving Chapter III of this Constitution is final; in all other cases where determination of the constitutionality of any law, ordinance, regulation or official act is in question, the judgment of the Court is subject to review by the Diet.

A judgment of the Supreme Court which is subject to review may be set aside only by the concurring vote of two-thirds of the whole number of representatives of the Diet. The Diet shall establish rules of procedure for reviewing decisions of the Supreme Court.

Article LXXIV. In all cases affecting ambassadors, ministers and consuls of foreign states, the Supreme Court has exclusive original jurisdiction.

Article LXXV. Trials shall be conducted and judgment declared publicly. Where, however, a court unanimously determines publicity to be dangerous to public order or morals, a trial may be conducted privately, but trials of political offenses, offenses of the press, and cases wherein the rights of citizens as reserved in Chapter III of this Constitution are in question, shall be conducted publicly without exception.
CHAPTER VII. Finance

Article LXXVI. The power to levy taxes, borrow money, appropriate funds, issue and regulate the value of coins and currency shall be exercised through the Diet.

Article LXXVII. No contract shall be entered into in the absence of an appropriation therefor, nor shall the credit of the State be pledged except as authorized by the Diet.

Article LXXIX. The Cabinet shall prepare and submit to the Diet an annual budget setting forth the complete government fiscal program for the next ensuing fiscal year, including all proposed expenditures, anticipated revenues and borrowings.

Article LXXX. The Diet may disapprove, reduce increase or reject any item in the budget or add new items.

The Diet shall appropriate no money for any fiscal year in excess of the anticipated income for that period, including the proceeds of any borrowings.

Article LXXXI. In order to provide for unforeseen deficiencies in the budget a reserve fund may be authorized to be expended under the direct supervision of the Cabinet.

The Cabinet shall be held accountable to the Diet for all payments from the reserve fund.

Article LXXXII. All property of the Imperial Household, other than the hereditary estates, shall belong to the nation. The income from all imperial properties shall be paid into the national treasury, and allowances and expenses of the Imperial Household, as defined by law, shall be appropriated by the Diet in the annual budget.

Article LXXXIII. No public money or property shall be appropriated for the use, benefit or support of any system of religion, or religious institution or association, or for any charitable, educational or benevolent purposes not under the control of the State.

Article LXXXIV. A final audit of all expenditures and revenues of the State shall be made annually by a board of audit and submitted by the Cabinet to the Diet during the fiscal year immediately following the period covered.

The organization and competency of the board of audit shall be determined by the Diet.

Article LXXXV. At regular intervals at least annually the Cabinet shall report to the Diet and the people on the state of public finances.

CHAPTER VIII. Local Government

Article LXXXVI. The governors of prefectures, the mayors of cities and towns and the chief executive officers of all other subordinate bodies politic and corporate having taxing power, the members of prefectural and local legislative assemblies, and such other prefectural and local officials as the Diet may determine, shall be elected by direct popular vote within their several communities.
Article LXXXVII. The inhabitants of metropolitan areas, cities and towns shall be secure in their right to manage their property, affairs and government and to frame their own charters within such laws as the Diet may enact.

Article LXXXVIII. The Diet shall pass no local or special act applicable to a metropolitan area, city or town where a general act can be made applicable, unless it be made subject to the acceptance of a majority of the electorate of such community.

CHAPTER IX. Amendments

Article LXXXIX. Amendments to this Constitution shall be initiated by the Diet, through a concurring vote of two-thirds of all its members, and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majority of all votes cast thereon at such election as the Diet shall specify.

Amendments when so ratified shall immediately be proclaimed by the Emperor, in the name of the People, as an integral part of this Constitution.

CHAPTER X. Supreme Law

Article XC. This Constitution and the laws and Treaties made in pursuance hereof shall be the supreme law of the nation, and no public law or ordinance and no imperial rescript or other governmental act, or part thereof, contrary to provisions hereof shall have legal force or validity.

Article XCI. The Emperor, upon succeeding to the throne, and the Regent, Ministers of the State, Members of the Diet, Members of the Judiciary and all other public officers upon assuming office, shall be bound to uphold and protect this constitution.

All public officials duly holding office when this Constitution takes effect shall likewise be so bound and shall remain in office until their successors are elected or appointed.

CHAPTER XI. Ratification

Article XCII. This Constitution shall be established when ratified by the Diet by roll-call vote of two-thirds of the members present.

Upon ratification by the Diet, the Emperor shall immediately proclaim, in the name of the People, that this Constitution has been established as the supreme law of the nation.
The Constitution of Japan
(1947)


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.

CHAPTER I.
THE EMPEROR

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

Article 2. The Imperial Throne shall be dynastic and succeeded to in accordance with the Imperial House law passed by the Diet.

Article 3. The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor.
Article 4. The Emperor shall perform only such acts in matters of state as are provided for in this Constitution and he shall not have powers related to government
(2) The Emperor may delegate the performance of his acts in matters of state as may be provided by law.

Article 5. When, in accordance with the Imperial House law, a Regency is established, the Regent shall perform his acts in matter of state in the Emperor's name. In this case, paragraph one of the article will be applicable.

Article 6. The Emperor shall appoint the Prime Minister as designated by the Diet.
(2) The Emperor shall appoint the Chief Judge of the Supreme Court as designated by the Cabinet.

Article 7. The Emperor, with the advice and approval of the Cabinet, shall perform the following acts in makers of state on behalf of the people:

(i) Promulgation of amendments of the constitution, laws, cabinet orders and treaties;
(ii) Convocation of the Diet;
(iii) Dissolution of the House of Representatives;
(iv) Proclamation of general election of members of the Diet;
(v) Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law, and of full powers and credentials of Ambassadors and Ministers;
(vi) Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights;
(vii) Awarding of honors;
(viii) Attestation of instruments of ratification and other diplomatic documents as provided for by law;
(ix) Receiving foreign ambassadors and ministers;
(x) Performance of ceremonial functions.

Diet. Article 8. No property can be given to, or received by, the Imperial House, nor can any gifts be made therefrom, without the authorization of the

CHAPTER II.
RENUNCIATION OF WAR

Article 9. Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as a mean of settling international disputes.

(2) In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

CHAPTER III.
RIGHTS AND DUTIES OF THE PEOPLE

Article 10. The conditions necessary for being a Japanese national shall be determined by law.
Article 11. The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Article 12. The freedoms and rights guaranteed to the people by this Constitution shall be maintained by the constant endeavor of the people, who shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare.

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

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

(2) Peers and peerage shall not be recognized.

(3) No privilege shall accompany any award of honor, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

Article 15. The people have the inalienable right to choose their public officials and to dismiss them.

(2) All public officials are servants of the whole community and not of any group thereof.

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

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

Article 16. Every person shall have the right of peaceful petition for the redress of damage, for the removal of public officials, for the enactment, repeal or amendment of law, ordinances or regulations and for other matters, nor shall any person be in any way discriminated against sponsoring such a petition.

Article 17. Every person may sue for redress as provided by law from the State or a public entity, in case he has suffered damage through illegal act of any public official.

Article 18. No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.

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

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

(2) No person shall be compelled to take part in any religious acts, celebration, rite or practice.

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

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

(2) No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.
Article 22. Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare. (2) Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article 23. Academic freedom is guaranteed.

Article 24. Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis. (2) With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes.

Article 25. All people shall have the right to maintain the minimum standards of wholesome and cultured living. (2) In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health.

Article 26. All people shall have the right to receive an equal education correspondent to their ability, as provided by law. (2) All people shall be obligated to have all boys and girls under their protection receive ordinary educations as provided for by law. Such compulsory education shall be free.

Article 27. All people shall have the right and the obligation to work. (2) Standards for wages, hours, rest and other working conditions shall be fixed by law. (3) Children shall not be exploited.

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

Article 29. The right to own or to hold property is inviolable. (2) Property rights shall be defined by law, in conformity with the public welfare. (3) Private property may be taken for public use upon just compensation therefor.

Article 30. The people shall be liable to taxations as provided by law.

Article 31. No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.

Article 32. No person shall be denied the right of access to the courts.

Article 33. No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offense with which the person is charged, unless he is apprehended, the offense being committed.

Article 34. No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

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

(2) Each search or seizure shall be made upon separate warrant issued by a competent judicial officer.

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

Article 39. In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

(2) He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense.

(3) At all times the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the State.

Article 38. No person shall be compelled to testify against himself.

(2) Confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence.

(3) No person shall be convicted or punished in cases where the only proof against him is his own confession.

Article 39. No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy.

Article 40. Any person, in case he is acquitted after he has been arrested or detained, may sue the State for redress as provided by law.

CHAPTER IV.
THE DIET

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

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

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

(2) The number of the members of each House shall be fixed by law.

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

Article 45. The term of office of members of the House of Representatives shall be four years. However, the term shall be terminated before the full term is up in case the House of Representatives is dissolved.

Article 46. The term of office of members of the House of Councillors shall be six years, and election for half the members shall take place every three years.
Article 47. Electoral districts, method of voting and other matters pertaining to the method of election of members of both Houses shall be fixed by law.

Article 48. No person shall be permitted to be a member of both Houses simultaneously.

Article 49. Members of both Houses shall receive appropriate annual payment from the national treasury in accordance with law.

Article 50. Except in cases provided by law, members of both Houses shall be exempt from apprehension while the Diet is in session, and any members apprehended before the opening of the session shall be freed during the term of the session upon demand of the House.

Article 51. Members of both Houses shall not be held liable outside the House for speeches, debates or votes cast inside the House.

Article 52. An ordinary session of the Diet shall be convoked once per year.

Article 53. The Cabinet may determine to convoque extraordinary sessions of the Diet. When a quarter or more of the total members of either house makes the demand, the Cabinet must determine on such convocation.

Article 54. When the House of Representatives is dissolved, there must be a general election of members of the House of Representatives within forty (40) days from the date of dissolution, and the Diet must be convoked within thirty (30) days from the date of the election.

(2) When the House of Representatives is dissolved, the House of Councillors is closed at the same time. However, the Cabinet may in time of national emergency convoke the House of Councillors in emergency session.

(3) Measures taken at such session as mentioned in the provison of the preceding paragraph shall be provisional and shall become null and void unless agreed to by the House of Representatives within a period of ten (10) days after the opening of the next session of the Diet.

Article 55. Each House shall judge disputes related to qualifications of its members. However, in order to deny a seat to any member, it is necessary to pass a resolution by a majority of two-thirds or more of the members present.

Article 56. Business cannot be transacted in either House unless one third or more of total membership is present.

(2) All matters shall be decided, in each House, by a majority of those present, except as elsewhere provided in the Constitution, and in case of a tie, the presiding officer shall decide the issue.

Article 57. Deliberation in each House shall be public. However, a secret meeting may be held where a majority of two-thirds or more of those members present passes a resolution therefor.

(2) Each House shall keep a record of proceedings. This record shall be published and given general circulation, excepting such parts of proceedings of secret session as may be deemed to require secrecy.

(3) Upon demand of one-fifth or more of the members present, votes of the members on any matter shall be recorded in the minutes.
Article 58. Each house shall select its own president and other officials. (2) Each House shall establish its rules pertaining to meetings, proceedings and internal discipline, and may punish members for disorderly conduct. However, in order to expel a member, a majority of two-thirds or more of those members present must pass a resolution thereon.

Article 59. A bill becomes a law on passage by both Houses, except as otherwise provided by the Constitution. (2) A bill which is passed by the House of Representatives, and upon which the House of Councillors makes a decision different from that of the House of Representatives, becomes a law when passed a second time by the House of Representatives by a majority of two-thirds or more of the members present. (3) The provision of the preceding paragraph does not preclude the House of Representatives from calling for the meeting of a joint committee of both Houses, provided for by law. (4) Failure by the House of Councillors to take final action within sixty (60) days after receipt of a bill passed by the House of Representatives, time in recess excepted, may be determined by the House of Representatives to constitute a rejection of the said bill by the House of Councillors.

Article 60. The Budget must first be submitted to the House of Representatives. (2) Upon consideration of the budget, when the House of Councillors makes a decision different from that of the House of Representatives, and when no agreement can be reached even through a joint committee of both Houses, provided for by law, or in the case of failure by the House of Councillors to take final action within thirty (30) days, the period of recess excluded, after the receipt of the budget passed by the House of Representatives, the decision of the House of Representatives shall be the decision of the Diet.

Article 61. The second paragraph of the preceding article applies also to the Diet approval required for the conclusion of treaties.

Article 62. Each House may conduct investigations in relation to government, and may demand the presence and testimony of witnesses, and the production of records.

Article 63. The Prime Minister and other Ministers of State may, at any time, appear in either House for the purpose of speaking on bills, regardless of whether they are members of the House or not. They must appear when their presence is required in order to give answers or explanations.

Article 64. The Diet shall set up an impeachment court from among the members of both Houses for the purpose of trying judges against whom removal proceedings have been instituted. (2) Matters relating to impeachment shall be provided by law.

CHAPTER V.
THE CABINET

Article 65. Executive power shall be vested in the Cabinet.

Article 66. The Cabinet shall consist of the Prime Minister, who shall be its head, and other Ministers of State, as provided for by law. (2) The Prime Minister and other Minister of State must be civilians.
(3) The Cabinet, in the exercise of executive power, shall be collectively responsible to the Diet.

Article 67. The Prime Minister shall be designated from among the members of the Diet by a resolution of the Diet. This designation shall precede all other business. (2) If the House of Representatives and the House of Councillors disagrees and if no agreement can be reached even through a joint committee of both Houses, provided for by law, or if the House of Councillors fails to make designation within ten (10) days, exclusive of the period of recess, after the House of Representatives has made designation, the decision of the House of Representatives shall be the decision of the Diet.

Article 68. The Prime Minister shall appoint the Ministers of State. However, a majority of their number must be chosen from among the members of the Diet. (2) The Prime Minister may remove the Ministers of State as he chooses.

Article 69. If the House of Representatives passes a non-confidence resolution, or rejects a confidence resolution, the Cabinet shall resign en masse, unless the House of Representatives is dissolved within ten (10) days.

Article 70. When there is a vacancy in the post of Prime Minister, or upon the first convocation of the Diet after a general election of members of the House of Representatives, the Cabinet shall resign en masse.

Article 71. In the cases mentioned in the two preceding articles, the Cabinet shall continue its functions until the time when a new Prime Minister is appointed.

Article 72. The Prime Minister, representing the Cabinet, submits bills, reports on general national affairs and foreign relations to the Diet and exercises control and supervision over various administrative branches.

Article 73. The Cabinet, in addition to other general administrative functions, shall perform the following functions:

(i) Administer the law faithfully; conduct affairs of state;
(ii) Manage foreign affairs;
(iii) Conclude treaties. However, it shall obtain prior or, depending on circumstances, subsequent approval of the Diet;
(iv) Administer the civil service, in accordance with standards established by law;
(v) Prepare the budget, and present it to the Diet;
(vi) Enact cabinet orders in order to execute the provisions of this Constitution and of the law. However, it cannot include penal provisions in such cabinet orders unless authorized by such law.
(vii) Decide on general amnesty, special amnesty, commutation of punishment, reprieve, and restoration of rights.

Article 74. All laws and cabinet orders shall be signed by the competent Minister of state and countersigned by the Prime Minister.

Article 75. The Ministers of state, during their tenure of office, shall not be subject to legal action without the consent of the Prime Minister. However, the right to take that action is not impaired hereby.
CHAPTER VI.
JUDICIARY

Article 76. The whole judicial power is vested in a Supreme Court and in such inferior courts as are established by law.
(2) No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive be given final judicial power.
(3) All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws.

Article 77. The Supreme Court is vested with the rule-making power under which it determines the rules of procedure and of practice, and of matters relating to attorneys, the internal discipline of the courts and the administration of judicial affairs.
(2) Public procurators shall be subject to the rule-making power of the Supreme Court.
(3) The Supreme Court may delegate the power to make rules for inferior courts to such courts.

Article 78. Judges shall not be removed except by public impeachment unless judicially declared mentally or physically incompetent to perform official duties. No disciplinary action against judges shall be administered by any executive organ or agency.

Article 79. The Supreme Court shall consist of a Chief Judge and such number of judges as may be determined by law; all such judges excepting the Chief Judge shall be appointed by the Cabinet.
(2) The appointment of the judges of the Supreme Court shall be reviewed by the people at the first general election of members of the House of Representatives following their appointment, and shall be reviewed again at the first general election of members of the House of Representatives after a lapse of ten (10) years, and in the same manner thereafter.
(3) In cases mentioned in the foregoing paragraph, when the majority of the voters favors the dismissal of a judge, he shall be dismissed.
(4) Matters pertaining to review shall be prescribed by law.
(5) The judges of the Supreme Court shall of retired upon the attainment of the age as fixed by law.
(6) All such judges shall receive, at regular stated intervals, adequate compensation, which shall not be decreased during their terms of office.

Article 80. The judges of the inferior courts shall be appointed by the Cabinet from a list of persons nominated by the Supreme Court. All such judges shall hold office for a term of ten (10) years with privilege of reappointment, provided that they shall be retired upon the attainment of the age as fixed by law.
(2) The judges of the inferior courts shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article 81. The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act.

Article 82. Trials shall be conducted and judgment declared publicly.
(2) Where a court unanimously determines publicity to be dangerous to public order or morals, a trial may be conducted privately, but trials of political offenses, offenses involving the press or cases wherein the rights of people as guaranteed in Chapter III of this Constitution are in question shall always be conducted publicly.
CHAPTER VII.
FINANCE

Article 83. The power to administer national finances shall be exercised as the Diet shall determine.

Article 84. No new taxes shall be imposed or existing ones modified except by law or under such conditions as law may prescribe.

Article 85. No money shall be expended, nor shall the State obligate itself, except as authorized by the Diet.

Article 86. Cabinet shall prepare and submit to the Diet for its consideration and decision a budget for each fiscal year.

Article 87. In order to provide for unforeseen deficiencies in the budget, a reserve fund may be authorized by the Diet to be expended upon the responsibility of the Cabinet. (2) The Cabinet must get subsequent approval of the Diet for all payments from the reserve fund.

Article 88. All property of the Imperial Household shall belong to the State. All expenses of the Imperial Household shall be appropriated by the Diet in the budget.

Article 89. No public money or other property shall be expended or appropriated for the use, benefit or maintenance of any religious institution or association or for any charitable, educational benevolent enterprises not under the control of public authority.

Article 90. Final accounts of the expenditures and revenues of State shall be audited annually by a Board of Audit and submitted by the Cabinet to the Diet, together with the statement of audit, during the fiscal year immediately following the period covered. (2) The organization and competency of the Board of Audit shall be determined by law.

Article 91. At regular intervals and at least annually the Cabinet shall report to the Diet and the people on the state of national finances.

CHAPTER VIII.
LOCAL SELF-GOVERNMENT

Article 92. Regulations concerning organization and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy.

Article 93. The local public entities shall establish assemblies as their deliberative organs, in accordance with law. (2) The chief executive officers of all local public entities, the members of their assemblies, and such other local officials as may be determined by law shall be elected by direct popular vote within their several communities.

Article 94. Local entities shall have the right to manage their property, affairs and administration and to enact their own regulations within law.
Article 95. A special law, applicable to one local public entity, cannot be enacted by the Diet without the consent of the majority of the voters of the local public entity concerned, obtained in accordance with law.

CHAPTER IX.
AMENDMENTS

Article 96. Amendment to this Constitution shall be initiated by the Diet, through a concurring vote of two-thirds or more of all the members of each House and shall thereupon be submitted to the people for ratification which shall require the affirmative vote of a majority of all votes cast thereon, at special referendum or at such election as the Diet shall specify. (2) Amendments when so ratified shall immediately be promulgated by the Emperor in the name of the people, as an integral part of this Constitution.

CHAPTER X.
SUPREME LAW

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

Article 98. This Constitution shall be the supreme law of the nation and no law, ordinance, imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity. (2) The treaties concluded by Japan and established laws of nations shall be faithfully observed.

Article 99. The Emperor or the Regent as well as Ministers of State, members of the Diet, judges, and all other public officials have the obligation to respect and uphold this Constitution.

CHAPTER XI.
SUPPLEMENTARY PROVISIONS

Article 100. This Constitution shall be enforced as from the day when the period of six months will have elapsed counting from the day of its promulgation. (2) The enactment of laws necessary for the enforcement of this Constitution the election of members of the House of Councillors and the procedure for the convocation of the Diet and other preparatory procedures for the enforcement of this Constitution may be executed before the day prescribed in the preceding paragraph.

Article 101. If the House of Councillors is not constituted before the effective date of this Constitution, the House of Representatives shall function as the Diet until such time as the House of Councillors shall be constituted.

Article 102. The term of office for half the members of the House of Councillors serving in the first term under this Constitution shall be three years. Members falling under this category shall be determined in accordance with law.
Article 103. The Ministers of State, members of the House of Representatives, and judges in office on the effective date of this Constitution, and all other public officials, who occupy positions corresponding to such positions as are recognized by this Constitution shall not forfeit their positions automatically on account of the enforcement of this Constitution unless otherwise specified by law. When, however, successors are elected or appointed under the provisions of this Constitution, they shall forfeit their positions as a matter of course.
APPENDIX IV


Preamble

Proposed text

We, the Japanese people, hold sovereign power in Japan and, ultimately, our will shall dictate all state decisions. Government is entrusted to our duly elected representatives, who exercise their power with the trust of the people.

We, the Japanese people, desire peace for all time, respect the spirit of international cooperation and pledge to use our best efforts to ensure the peace, prosperity and security of the international community.

We, the Japanese people, aspire to a free and vigorous society, where basic human rights are duly respected, and simultaneously strive for the advancement of the people’s welfare.

We, the Japanese people, acknowledge the inheritance of our long history and tradition and the need to preserve our fair landscape and cultural legacy while promoting culture, arts and sciences.

This constitution is the supreme law of Japan and is to be observed by the Japanese people.

Chapter 1 - Sovereign power of the People

(Newly Chaptered)

Article 1 (the People's sovereign power)

Sovereign power in Japan resides with the Japanese people.

Article 2 (Exercise of sovereign power)

The people shall exercise their sovereign power through their duly elected representatives in the diet, and at national referenda held to consider amendments to the Constitution.

Article 3 (The conditions for being a Japanese national)

The conditions necessary for being a Japanese national shall be determined by law.

Chapter 2- The Emperor

(Currently Chapter)

Article 4 (The position of the Emperor)

The Emperor shall be the symbol of the State and of the unity of the people of Japan. The Emperor’s position shall be based on the sovereign will of the people.

Article 5 (Succession to the Imperial Throne)

The Imperial Throne shall be dynastic and succeeded to in accordance with the Imperial House Law passed by the Diet.

Article 6 (Limits to the Emperor's functions, delegation of his performance of state acts and Regencies.)

1) The Emperor shall perform only such acts in matters of state as are provided for in this constitution and shall have no powers related to government.

2) The Emperor may delegate the performance of his acts in matters of state as may be provided for by law.

3) When, in accordance with the Imperial House Law, a Regency is established, the Regent shall perform his acts in matters of state in the Emperor's name, and Paragraph 1 of this Article shall apply subject to necessary changes.

Article 7 (Advice and approval of the Cabinet on the Emperor's acts in matters of state)

The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor.

Article 8 (The Emperor's power to appoint officials)

1) The Emperor shall appoint Prime Minister such person as designated by the House of Representatives.

   The Emperor shall appoint Chief Justice of the Constitutional Court such person as designated by the House of Councilors.

Article 9 (The Emperor's acts in matters of state)

The Emperor, with the advice and approval of the Cabinet, shall perform the following acts in matters of state on behalf of the people:

1) As the representative of the State, receiving foreign ambassadors and ministers and attesting commissions of full power, credentials of ambassadors and ministers, instruments of ratification and other diplomatic documents as provided for by law;

2) Promulgation of amendment to the Constitution, laws, Cabinet orders and treaties;

3) Promulgation of Imperial rescripts for the convocation of the Diet;

4) Promulgation of Imperial rescripts for the dissolution of the House of Representatives;

5) Proclamation of general elections of members of the House of Representatives and ordinary elections of the House of Councillors;

6) Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law;

7) Attestation of general and special amnesties, commutations of punishment, reprieves, and restorations of right;

8) Attestation of award of honors;

9) Performance of ceremonial functions.

Chapter 3 – National Security
(Currently Chapter 2 Renunciation of war)

Article 10 (Rejection of war and ban on weapons of mass destruction)

1) Aspiring sincerely to an international peace based on justice and order the Japanese people shall never recognize war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

2) Seeking to eliminate from the world inhuman and indiscriminate weapons of mass destruction, Japan shall not manufacture, possess or use such weapons.

Article 11 (Organisation for self-defense, civilian control and denial of forced conscription)

1) Japan shall form an organization for self-defense to secure its peace and independence and to maintain its safety.

2) The Prime Minister shall exercise supreme command authority over the organization for self-defense.

3) The people shall not be forced to participate in organizations for self-defense.

Chapter 4 International cooperation

(New Chapter)

Article 12 (The ideal)

Japan shall aspire to the elimination from earth of human calamities caused by military conflicts, natural disasters, environmental destruction, economic deprivation in particular areas and regional disorder.

Article 13 (Participation in international activities)

In order to accomplish the aim of the preceding article, Japan shall lend active cooperation to the activities of the relevant well-established and internationally recognized organizations. In case of need, it may dispatch public officials and provide a part of its self-defense organization for the maintenance and promotion of peace and for humanitarian support activities.

Article 14 (Observance of International laws)

Japan shall faithfully observe those treaties it has concluded and those international laws well established and recognized by the international community.

Chapter 5- Rights and Duties of the People

(Currently Chapter 3)

Article 15 (Basic declaration)

The people possess all fundamental human rights. The fundamental human rights guaranteed by this constitution are inviolable and eternal rights.

Article 16 (Responsibility for maintenance of freedoms and rights)

The freedoms and rights guaranteed to the people by this constitution shall be maintained by the constant endeavour of the people, who shall always make efforts to harmonize them with the public welfare and who shall refrain from any abuse of them.
Article 17 (Individual dignity)

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

Article 18 (Equality under the law)

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

2) No peers and peerage shall be recognized.

3) No political or social privilege shall accompany the award of any honor or decoration. However, a reasonable annuity or other economic benefit may be granted when so enacted especially.

4) No such award of honor shall be valid beyond the lifetime of the individual who now holds or hereafter may receive the same.

Article 19 (Right of privacy)

1) Every person is guaranteed the right not to have his name, repute, honor, trustworthiness, or other aspects of his character unduly impugned.

2) Every person shall have the right to keep his private affairs, family and household safe from unreasonable interference.

3) The secrecy of communications shall be inviolable.

Article 20 (Freedom of thought and conscience)

The right to freedom of thought and conscience shall be inviolable.

Article 21 (Freedom of religion and limitation of public expenditure)

1) Every person is guaranteed freedom of religion.

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

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

4) No Religious organization shall receive privileges from the State or exercise political influence.

5) No public money or other public property shall be spent or appropriated for the use, benefit or maintenance or any religious organization or body.

Article 22 (Freedom of expression)

1) Freedom of speech, press and all other forms of expression are guaranteed.

2) No censorship shall be maintained.

Article 23 (Freedom of assembly and association)

Every person is guaranteed freedom of assembly and association.

Article 24 (Freedom to choose and change residence and to shed nationality).

1) Every person possesses the freedom to choose and change his residence to the extent that it does not interfere with the public welfare.

2) All people are guaranteed freedom to move to a foreign country or divest themselves of their nationality.
Article 25 (Academic freedom)

Academic freedom is guaranteed.

Article 26 (Individual dignity in family life and equality between the sexes)

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

2) Legislation paying due regard to the dignity of the individual and the essential equality of the sexes shall be enacted to regulate the choice of spouse, property right, succession, choice of domicile, divorce and other matters pertaining to marriage and the family.

Article 27 (Right of subsistence and the State's social duty)

1) All people possess the right to maintain the minimum standards of wholesome and cultural living.

2) In all spheres of life, the state shall use its endeavours for the promotion and extension of social welfare and security and of public health.

Article 28 (Rights relating to the Environment)

1) Every person possesses the right to enjoy a favorable environment and is obliged to preserve the same.

2) The State shall endeavour to maintain the environment in a favorable condition.

Article 29 (Right to receive education)

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

2) All people shall be obliged to have all children under their protection receive ordinary education as provided for by law. Such compulsory education shall be free of charge.

Article 30 (Right and obligation to work)

1) All people shall have the right and the obligation to work.

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

3) Children shall not be exploited.

Article 31 (Right of workers to organize)

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

Article 32 (Freedom to choose occupation and conduct business)

Every person possesses the right freely to choose his occupation and to conduct his business to the extent that it does not interfere with the public welfare.

Article 33 (Property rights)

1) The right to own or to hold property is inviolable.

2) Property rights shall be defined by law, in accordance with the public welfare.
3) Private property may be taken for public use upon just compensation being made therefore.

Article 34 (Liability to taxation)

The people shall be liable to taxation as provided by law.

Article 35 (Guarantee of due legal procedure)

No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.

Article 36 (Right of access to the courts)

All persons possess the right of access to the courts.

Article 37 (Conditions for arrest)

No person shall be apprehended except upon warrant issued by a judge which specifies the offense with which the person is charged, unless he is apprehended while committing a crime.

Article 38 (Conditions for arrest or detention and guarantee against unjust arrest or detention)

No person shall be arrested or detained without being at once informed of the charges against him, or without the immediate privilege of counsel; nor shall he be detained without adequate cause. Upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Article 39 (Searches and seizures)

1) The right of all person to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired without warrant issued for adequate cause or except as provided by Article 37.

2) Each search or seizure shall be made upon separate warrant which shall describe the place to be searched or the things to be seized.

Article 40 (Ban on torture and cruel punishments)

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

Article 41 (Rights of an accused)

1) In all criminal cases the accused shall enjoy the right to a speedy trial by an impartial tribunal.

2) The accused shall be permitted full opportunity to examine all witnesses, and shall have the right of compulsory process for obtaining witnesses on this behalf at public expense.

3) At all times the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the state.

Article 42 (Invalidity of forced testimony and confession)

1) No person shall be compelled to testify against himself.

2) Confession made under compulsion, torture or threat, or after unduly prolonged arrest or detention, shall not be admitted in evidence.

3) No person shall be convicted or punished in cases where the only proof against him is his own confession.

Article 43 (Prohibition against retroactive punishment and double jeopardy)
No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy.

Article 44 (Right to receive criminal redress)

Any person, acquitted after arrest or detention, may sue the State for redress as provided by law.

Article 45 (Right to choose and dismiss public officials, characterization of public officials, guarantee of universal suffrage and ballot secrecy)

1) The people have the inalienable right to choose and dismiss their diet members, municipal heads and assembly members and other public officials.

2) All Public officials are servants of the whole community and not of any group thereof.

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

4) The secrecy of the ballot shall not be violated in any election. No voter shall be answerable, publicly or privately, for the choice he has made.

Article 46 (Right of petition)

Every person shall have the right of peaceful petition of the redress of damage, for the removal of public officials, for the enactment, repeal or amendment of laws, ordinances or regulations and for other matters, nor shall any person be in any way discriminated against for sponsoring such a petition.

Article 47 (Redress for damage from the State or a Public entity)

Every person who has suffered damage through the illegal act of any public official may sue for redress as provided by law from the state or a public entity.

Chapter 6- The Diet

(Currently Chapter 4)

Article 48 (Legislative power of the Diet)

Power to legislate shall pertain exclusively to the Diet.

Article 49 (Bicameral system)

The Diet shall consists of two Houses, namely the House of Representatives and the House of Councillors.

Article 50 (Composition of the Diet)

1) Both Houses shall consists of elected members

2) The members of the Houses shall represent all the people.

3) The number of the members of each House shall be determined by law.

Article 51 (Qualifications of members of both Houses and their electors)

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

Article 52 (Term of office of members of the House of Representatives)
The term of office of members of the House of Representatives shall be four years. However, if the House of Representatives is dissolved, the term shall be terminated before the full term has expired.

Article 53 (Term of office of members of the House of Councillors)

The term of office of members of the House of Councillors shall be six years, and elections for half the members shall take place every three years.

Article 54 (Matters pertaining to elections)

Electoral districts, method of voting and other matters pertaining to the method of election of members of both Houses shall be determined by law.

Article 55 (Ban on being members of both Houses of the Diet)

No person shall be permitted to be a member of both houses simultaneously.

Article 56 (Annual salary for Diet members)

Members of both Houses shall receive appropriate annual payment for the national treasury in accordance with law.

Article 57 (Diet members exemption from apprehension)

Except as provided by law, members of both Houses shall be exempt from apprehension while the Diet is in Session, and any members apprehended before the opening of a session shall be freed during the term thereof upon demand of the Houses of which he is a members.

Article 58 (Non-liability outside the house of its members for their speeches, debates or votes inside the House)

Members of both Houses shall not be held liable outside the House for speeches, debates or votes made, participated in, or cast inside the House.

Article 59 (Ordinary session of the Diet)

An ordinary session of the Diet shall be convoked once per year.

Article 60 (Extraordinary session of the Diet)

The Cabinet may determine to convoke extraordinary sessions of the Diet, and shall do so when a quarter or more of the total members of either House so demands.

Article 61 (Dissolution and special sessions of the House of Representatives and emergency sessions of the House of Councillors)

1) When the House of Representatives is dissolved, there shall be a general election of members of the House of Representatives within forty (40) days from the date of dissolution, and the Diet shall be convoked within thirty (30) days from the date of the election.

2) When the House of Representatives is dissolved, the House of Councillors shall simultaneously be closed. However, the Cabinet may in time of national emergency convoke the House of Councillors in emergency session.

3) Measures taken at such session as is mentioned in the proviso to the preceding paragraph shall be provisional and shall lapse unless agreed to by the House of Representatives within a period of ten(10) days after the opening of the next session of the Diet.

Article 62 (Adjudication of disputes about the qualification of members)

Each house shall judge disputes related to the qualifications of its members. However, in order to deny a seat to any members, it shall be
necessary to pass a resolution by a majority of two-thirds or more of the members present.

Article 63 (Quorum and voting)
1) The quorum required for the transaction of any business in either House shall be one-third or more of all current registered members.
2) All matters shall be decided, in each House, by a majority of those present, except as elsewhere provided in the Constitution, and, where there is no clear majority, the presiding officer shall decide the issue.

Article 64 (Deliberations to be public; record of proceedings; record of votes)
1) Deliberations in each House shall be public. However, a secret meeting may be held where a majority of two-thirds or more of those members present passes a resolution therefor.
2) Each House shall keep a record of proceedings. This record shall be published and given general circulation, accepting such parts of the proceedings of secret session as may be deemed to require secrecy.
3) Upon demand of one-fifth or more of the members present, the votes of the members on any matter shall be recorded in the minutes.

Article 65 (Selection of officials; rules for the Houses; punishments)
1) Each House shall select its own president and other officials.
2) Each House shall establish the rules pertaining to its meetings, proceedings and internal discipline, and may punish members for disorderly conduct. However, in order to expel a member, a majority of two-thirds of more of those members present must pass a resolution to that effect.

Article 66 (Voting on bills, and precedence of the House of Representatives)
1) A bill becomes law when passed by both House except as otherwise provided by the Constitution.
2) A bill which is passed by the House of Representatives, and upon which the House of Councillors makes a decision different from that of the House of Representatives, shall become law when passed a second time by the house of Representatives by a majority of three-fifths or more of the members present.
3) The provision of the preceding paragraph shall not preclude the House of Representatives from calling for a meeting of a joint committee of both Houses, as provided for by law.
4) Failure by the House of Councillors to take final action within sixty (60) days after receipt of a bill passed by the House of Representatives, time in recess excepted, may be determined by the House of Representatives to constitute a rejection of said bill by the House of Councillors.

Article 67 (Precedence of the House of Representatives in deliberations and decisions on the budget bill)
1) The annual budget bill must first be submitted to the House of Representatives.
2) Upon consideration thereof, when the House of Councillors makes a decision different from that of the House of Representatives, and when no agreement can be reached even through a joint committee of both Houses, as provided by law, or in the case of failure by the Houses of
Councillors to take final action within thirty (30) Days, periods in recess excluded, after the receipt of the budget bill passed by the House of Representatives, the decision of the House of Representatives shall be the decision excepted, may be determined by the House of Representative to constitute a rejection of the said bill by the House of Councillors.

Article 68 (Precedence of the House of Councillors in treaty approval)
1) Treaties must first be submitted to the House of Councillors.
2) Upon consideration of treaties, when the House of Representatives makes a decision different from that of the House of Councillors, and when no agreement can be reached even through a joint committee of both Houses, as provided by law, or in the case of failure by the House of Representatives to take final action within thirty (30) days, periods in recess excluded, after the receipt of the treaties passed by the House of Councillors, the decision of the House of Councillors shall be the decision of the Diet.

Article 69 (Precedence of the House of Councillors in personnel matters)
1) Appointments to important public posts provided for by law shall require the approval of the Diet.
2) The approval specified in paragraph 1 hereof shall be subject too the provisions of the preceding article.

Article 70 (The Diet's power to investigate governmental matters)
Each House may conduct its own investigations in relation to government, and may demand the presence and testimony of witnesses, and the production of records.

Article 71 (Minister’s right to, and duty of, presence in the Diet)
The Prime Minister and other Ministers of state may, at any time, appear in either House for the purpose of speaking on bills, regardless of whether they are members of the House or not. Further, they shall appear when their presence is required in order to give answers or explanations.

Article 72 (Judge impeachment court and judge indictment committee)
1) The House of Councillors shall set up a judge impeachment court from among its members for the purpose of trying those judges against whom removal proceedings have been instituted by the following paragraph.
2) The House of Representatives shall set up a judge indictment committee from among its members for the purpose of indicting those judges described in the preceding paragraph.
3) Matters relating to judge indictment and judge impeachment shall be provided for by law.

Chapter 7 The Cabinet
Currently Chapter 5

Article 73 (Executive power)
Executive power shall be vested in the cabinet.

Article 74 (composition of the Cabinet and its collective responsibility to the Diet)
1) The Cabinet shall consist of the Prime Minister and other Ministers of State, as Provided for by law.
2) The Prime Minister shall represent the Cabinet and Exercise control and supervision over Ministers of State.

3) The Prime Minister and other Ministers of State must be civilians.

4) The Cabinet, in the Exercise of executive power, shall be collectively responsible to the diet.

Article 75 (Designation of the Prime Minister and the House of Representatives Precedence)

The Prime Minister shall be designated from among the members of the House of Representatives by a resolution thereof. This designation shall precede all other business.

Article 76 (Appointment and dismissal of Ministers of State)

1) The Prime Minister shall appoint the Ministers of State. However, a majority of their number must be chosen from among the members of the Diet.

2) The Prime Minister shall have sole discretion in the Removal of Ministers of state.

Article 77 (The Cabinet's power to dissolve the House of Representatives and the consequence of a non-confidence decision against the Cabinet)

1) The Cabinet may dissolve the House of Representatives.

2) If the House of Representatives passes a no confidence resolution, or rejects a confidence resolution, the Cabinet shall resign en masse, unless the House of Representatives is dissolved within ten (10) days.

Article 78 (Vacancy in the post of Prime Minister, convocation of a new Diet, and resignation of the Cabinet en masse)

When there is a vacancy in the post of Prime Minister, or upon the first convocation of the Diet after a general election of members of the House of Representatives, the Cabinet shall resign en masse.

Article 79 (The Cabinet after its resignation en masse)

In the Cases mentioned in the Two preceding articles, the Cabinet shall continue its functions as defined in this constitution until a new Prime Minister shall be appointed, provided always that it shall not exercise its power to dissolve the House of Representatives until such appointment has been made.

Article 80 (The Prime Minister's duties)

The Prime Minister, representing the Cabinet, submits bills, including the annual budget bill, and other measures to the Diet and reports on general national affairs and foreign relations to the Diet.

Article 81 (The Prime Minister's power of command and control)

The Prime Minister shall exercise general control and supervision over the various departments of the executive branch.

Article 82 (The Prime Minister pro-tempore)

1) When the Prime Minister is incapacitated or where there arises a vacancy in his post a minister of State designated as Prime Minister pro tempore shall discharge the Premier's duties.

2) In order to anticipate the contingencies described in the preceding paragraph, the Prime Minister shall designate in advance a minister of state as his pro tempore.
Article 83 (The Cabine’s duties)

1) Administer the law faithfully and exercise due control over, and management of, administrative affairs of the state;
2) Manage foreign affairs;
3) Conclude treaties, subject to prior, or, in appropriate circumstances,
4) Administer the civil service, in accordance with the standards established by law;
5) Convoke the Diet;
6) Draft the annual budget bill and present it to the Diet;
7) Enact Cabinet orders in order to implement the provisions of this Constitution and of the law. Such orders may not include penal provisions unless authorized by law;
8) Decide on general and special amnesties, commutations of punishment, reprieves, and restorations of right;
9) Decide on the conferment of honors.

Article 84 (Privileges of the Minister of State)

The ministers of State, during their tenure of office, shall not be subject to legal action without the consent of the Prime Minister. However, the right to take that action shall remain intact after his dismissal.

Chapter 8 The Justice

(Currently Chapter 6)

Article 85 (Judicial power, courts and ban on extraordinary tribunals)

1) Judicial power shall be vested exclusively in a Constitutional Court, a Supreme Court and in such inferior courts as are established by law.
2) No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive be given ultimate judicial power.

Article 86 (Constitutional Court’s power to determine the constitutionality of legislation)

The constitutional Court shall be the sole arbiter of the constitutionality of any treaty, law, order, rule or other official act.

Article 87 (Jurisdiction of the Constitutional Court)

The Constitutional Court shall perform the following functions;

Judge the constitutionality or lack thereof under the law of matters related to any treaty, law, order, rule or other official act upon demand by the Cabinet or a one-third or more majority of the members of the House of Representatives or of the House of Councillors;

1) Judge the constitutionality under law of matters related to specific trials upon request by the Supreme Court or an inferior court;
2) Determine, as provided for by law, appeals founded on point of constitutional law raised by appellants against Supreme Court decisions in specific trials.

Article 88 (Validity of the judicial decisions by the Constitutional Court)
Where the Constitutional Court Pronounces unconstitutional any treaty, law, order, rule or other official act, such decision, except as provided for by law, shall thenceforth be binding upon all the organs of the State.

Article 89 (Term of office, retirement age and compensation of Constitutional Court Justices)

1) The Constitutional Court shall consist of a Chief Justice and eight other Associate Justices. The Justice excepting the Chief Justice shall be designated by the House of Councillors and appointed by the Cabinet.

2) The term of office of Constitutional Court Justices shall be eight years, with no provision for re-appointment.

3) Constitutional Court Justices shall be retired upon the attainment of the age fixed by law.

4) Constitutional Court Justices shall receive adequate compensation, at regular stated intervals; such compensation shall not be decreased during their terms of office.

Article 90 (The Supreme Court as a Court of last Non-Constitutional resort)

The Supreme Court shall be the court of last resort in matters outwith the jurisdiction of the Constitutional Court.

Article 91 (Term of office, retirement and compensation of Supreme Court Judges)

1) The Supreme Court shall consist of a Chief Judge and such number of Associate Judges as may be determined by law, all such judges excepting the Chief Judge shall be appointed by the Cabinet.

2) The term of office of Supreme Court Judges shall be five (5) years with the Privilege of reappointment.

3) Judges of the Supreme Court shall be retired upon the attainment of the age fixed by law.

4) All such Judges shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article 92 (Term of office, retirement and compensation of inferior court judges)

1) The judges of the inferior courts shall be appointed by the Cabinet from a list of persons nominated by the Supreme Court. All such judges shall hold office for a term of ten(10) years with the privilege of reappointment, provided that they shall be retired upon the attainment of the age fixed by law.

2) Judges of the inferior courts shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article 93 (The Constitutional Court's and Supreme Court's rule-making power)

1) The constitutional Court and the Supreme Court are empowered to make rules governing practice and procedure, matters relating to attorneys, the internal discipline of the courts and the administration of judicial affairs.

2) Public procurators shall be subject to the rule-making power described in the preceding paragraph.

3) The Supreme Court may delegate the power to make rules for inferior courts to such courts.

Article 94 (Judges' independence and security of tenure)
1) All Justices and judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws of the land.

2) No Justices or judges shall be removed except by due impeachment process unless judicially decided mentally and physically incompetent to perform official duties. No disciplinary action against judges shall be administered by any executive organ or agency.

Article 95 (Open trial)

1) Trial shall be conducted, and judgments declared, publicly.

2) Where a court unanimously determines publicity to be dangerous to public order, good morals or the interests of the private lives of those persons concerned, a trial may be conducted privately, but trials of political offenses, offenses involving the press or cases wherein the right of the people as guaranteed in Chapter 5 of this Constitution are in question shall always be conducted publicly.

Chapter 9 Finance

(Currently Chapter 7)

Article 96 (Basic principles of financial management)

The power to administer national finances shall be exercised by the Cabinet as the Diet shall determine. The State shall endeavor to maintain and manage its finances in a sound and proper manner.

Article 97 (Taxation)

No new taxes shall be imposed or existing ones modified except by law or under such conditions as law may prescribe.

Article 98 (State expenditure and financial obligations)

No money shall be expended, nor shall the state obligate itself, except as authorized by the Diet.

Article 99 (Budget bills)

1) The Cabinet shall prepare and submit to the Diet for its consideration and decision a budget bill for each fiscal year.

2) When a continuing expenditure is needed in special circumstances, it shall require the Diet's approval as a continuing expense, but the Period during which it is permitted to continue shall be limited.

Article 100 (Reserve fund)

1) In order to provide for unforeseen deficiencies in the budget, a reserve fund may be authorized by the Diet to be expended upon the responsibility of the Cabinet.

2) The Cabinet must get subsequent approval of the Diet for all payments from the reserve fund.

Article 101 (Imperial Household property and expenditures)

All property of the Imperial Household shall belong to the State. All expenses appropriated by the Diet in the Budget.

Article 102 (Final accounts audit and a Board of Audit)
1) Final accounts of the expenditures and revenues of the state shall be audited annually by a Board of Audit and submitted by the Cabinet to the Diet, together with the statement of audit, during the fiscal year immediately following the period covered.

2) The organization and competency of the Board of Audit shall be determined by law.

Article 103 (Report of national finances)
At Regular intervals and at least annually the Cabinet shall report to the Diet and the people on the state of national finances.

Chapter 10 Local Self-government

(Artually Chapter 8)

Article 104 (Basic principle of local autonomy)
Regulations concerning organization and operations of local public entities shall be fixed by law paying due regard to the principle of self-government by local residents and local public entities.

Article 105 (Election of Chief executive officers, assemblies, and officials of local public entities through direct popular vote)

1) The local public entities shall establish assemblies in accordance with law.

2) The chief executive officers of all local public entities and the members of their assemblies shall be elected by direct popular vote within their several communities.

Article 106 (Functions and regulation making power of local public entities)
Local public entities shall have the right to manage their property, affairs and administration and to enact their own regulations within the spirit of the law.

Article 107 (Plebiscite on special law)
A special law, applicable only to certain local public entities, cannot be enacted by the Diet without the consent of the majority of the voters of local public entity concerned, obtained in accordance with law.

Chapter 11 Amendments

(Artually Chapter 9)

Article 108 (Amendment procedure; promulgation of amendments)

1) Amendments to this Constitution shall require to be approved by the concurrence of the majority of valid votes cast by the members of each House present and voting, and shall be submitted to the people for ratification. Such amendments shall be considered at a meeting of the Diet at which two-thirds or more of all current registered members are in attendance.

2) Notwithstanding the terms of paragraph 1 of this Article, if, at a meeting of the Diet at which two-third of more of all current registered members are in attendance, a majority of two-third or more of the members of each House present and voting vote in favor of the amendment under consideration, such amendment shall be passed.
3) Such ratification as is mentioned in paragraph 1 of this Article shall require a concurring majority of the valid votes cast either at a national referendum held specially for the purpose, or at a special voting held concurrently with such election as the Diet may specify.

4) Amendments to this constitution may be proposed by members either of the Diet or of the Cabinet.

5) An amendment ratified under paragraph 1, or passed under paragraph 2, of this Article shall immediately be promulgated by the Emperor in the name of the people.

We have deleted the current Constitution's Chapter 11 on Supplementary Provisions (Articles 100-3), since it contained only transitional provisions which were to apply until the current Constitution came into force. Any new supplementary provisions will be similar, if not identical, and purely procedural in phraseology. Hence, we feel no need to duplicate supplementary Provisions in this book.
Appendix- V

Sekai, ‘Peace and regional Security in the Asia-Pacific’
A Japanese Proposal (1993-94)2


A proposal for a basic peace law:
Toward a resolution of the problem Japan’s Self-Defense Forces in keeping with the sprit of the constitution

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, Constitution of Japan)

The Cold War era, which for nearly half a century gripped the world within its tensions, has ended. It is also the end of that ‘age of world wars’ which from he beginning of this century led to great powers to pour out vast sums in military expenditure, and to form alliances opposing one another on a global scale.

The end of the cold War on a global scale demands an end in Japan to the various argument and confrontations which have long continued within its domestic politics. It goes without saying that the biggest argument in the post-war period has been that regarding the issue of Article 9 of the Japanese constitution, the Japanese Self-Defence Forces (SDF), and the US-Japan Security Treaty. Because of Article 9, which, under the flag of ‘pacifism,’ make clear its stance of ‘renunciation of war’ and ‘non-possession of war potential,’ the Japanese Self –Defense Forces lack the dimension of a conventional military force in terms of command,’ operations, and deployment, and the right to wage war, although they poses huge war-making potential, similarly, the US-Japan Security Treaty has had to function as an irregular system, not in the form of a conventional modern state). Furthermore, since the security debate died down in the 1970s, this structure was simply set aside without any pretence of a solution, and on the surface appeared to be forgotten.

Herein lies the reason for the continuing dissatisfaction of those, mainly in conservative and government circles, who demand a ‘normal state.’ While the spirit of the constitution has been distorted by the SDF and the security treaty, so, conversely, the SDF and the security treaty may also be said to have been the conventional modern state). Furthermore, since the security debate died down in the 1970s, this structure was simply set aside without any pretence of a solution, and on the surface appeared to be forgotten.

However, the contradictions and the gap between the Constitution, the SDF and the treaty cannot simply be set aside in this way. The problem henceforth is whether to try to correct the distortions while adhering to the spirit of the constitution, or alternatively to correct them by holding fast to the security treaty and the SDF.

The latter position is that of constitutional revision, which is now vociferously advocated. The common strain of thinking in this argument is that which advocates ‘normal statehood’ with a ‘normal army’ for Japan along with

international 'great power' status in the international community represented by a permanent seat on the UN Security Council, and to that end international contribution and the overseas dispatch of armed forces.

Basically, we advocate the former position. Apart from the act that the main consensus among the Japanese people is the aspiration for peace and justice, the renunciation of war and the ability to wage war, and respect for international cooperation, all set out in the constitution, we consider it a position that most adequately reflects the spirit of the present age in which wars on a world scale are a thing of the past.

Classical warfare, in the sense of state armies being pitted against each other or wars fought by the forces of several states forming military alliances as was once the case, has become unimaginable, at least among the advanced industrial countries. The best chance for the spirit of the Japanese Constitution to match that of the current age has arrived. It must be stated however, that our position is not that of the established constitutional defense party, Gokenron which calls for the immediate abolition of the Self-Defense Forces as unconstitutional. As will be explained further on, we are advocating not complete disarmament, but a new type of Self-Defense Force, wielding the minimum necessary defensive force, which, subject to meeting various conditions, could be maintained constitutionally. This position could be described as Sokenron, or 'creative constitutionalism.'

While still adhering to the spirit of the constitution, how are we to resolve the contradiction between the Self-Defense forces and the constitution that the divided public opinion for so long, and achieve a national consensus on this matter? We wish to propose the creation of a semi-constitutional law that in legal terms would be derivative from Article 9, and which would adhere to its spirit, which we have named the Basic Peace Law.

This basic Peace Law as we propose it is not merely the exposition of an ideal but a practical foundation to consolidate Article 9 of the constitution, specifying procedures and processes to embody its ideals. Furthermore, it reverses the gradual erosion of the ideals of the constitution consistently practiced by successive post-war conservative governments, and would amount to a vow of non-use of force, 'renunciation of war' and disarmament' to both the Japanese people and the people of the entire world, not particularly the peoples of Asia. The Japan Defense Agency (JDA) and Self-Defense Forces, which, because of unconstitutional elements contained within them, could be described as in an unconstitutional state, would be re-structured into a new organization, provisionally named he National Guard (Kokudo Keibitai). This could be regarded as a transitional entity pointing towards the Minimum Defensive Force that would be constitutional and lacking in any attacking capacity. So far as Japan's international contribution of a non-military kind is concerned, that would be entrusted to a separate organization. Furthermore, the Japanese people would be able to launch court actions based on this law, hence shifting the current debate over interpretation from the constitution to this Basic Peace law.

Firstly, we will present the following points which we feel should be incorporated into the Basic Peace Law. It goes without saying that the following is not a formal draft law, and as such it is not presented in strictly legal form. Then secondly, we will explain its background.

Outline of a Basic Peace Law (Draft)

A. Objectives

This law affirms the basic principle and ideals regarding security embodied in the Japanese Constitution, and is here promulgated in order to detail concrete methods and procedures by which to maintain the security of the
Japanese people and contribute positively towards world peace, striving for the implementation of the universal ideals embodied in the constitution, in particular the spirit of those sections of the constitution which state that the Japanese people have

resolved that never again shall we be visited with the horrors of war through the action of government. (Preamble)

[that] We, the Japanese people... have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world (Preamble)

[that] Aspiring sincerely to an international peace based on justice an order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as a means of settling international disputes... 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)

THE RIGHT TO LIVE IN PEACE

The Japanese people are guaranteed 'the right to live in peace' under the Constitution of Japan. The government bears the responsibility of security in order to protect the people's lives from various threats.

THE RIGHT TO SELF-DEFENCE

Although Article 9 of the constitution by paragraph one rejects aggressive war and prohibits the use of force as a means of settling International disputes, the right to individual self-defense is recognized by Article 51 of the United nations Charter. Sufficient force may be maintained to defend the peoples lives from any invasion of sovereignty. However, because paragraph of Article 9 prohibits all war potential and renounces the right to Defensive Force, the mode of its organization and equipment, and the methods by which it may exert force, must be limited and restricted.

PROHIBITION OF CONSCRIPTION

Since the Constitution of Japan forever renounces war as a sovereign right of the nation, no emergency power for such purpose may be adopted, the government does not have the right to declare a war or sue for peace, the establishment of courts martial is prohibited, and the duty of state defense shall not be imposed upon the people. Based on the spirit of the constitution, the government shall not impose conscription or any other analogous duties upon the people.

OBLIGATION OF DISARMAMENT

Since the constitution prohibit our nation from he use force as a means of settling international disputes, the duty to strive ceaselessly for disarmament, both in Japan and in the world, is imposed on Japan.

C. Security not reliant on military force

RELATIONS WITH NEIGHBORING COUNTRIES

The basis of the security to which the Constitution of Japan aspires is 'trust in the justice and faith of the peace-loving peoples of the world.' Previously, Japan committed the error of employing force to make colonies of its neighboring countries, threatening and invading them with force, and inflicted numerous sufferings and losses upon them. The first thing that Japan must do to regain the trust of these nations and the secure the peace and security of Japan by trusting in the 'justice and faith of the peace-loving people of the world' is to
pledge never to repeat those errors, and to apologize and compensate for them. The Japanese people must not be allowed to forget this reality.

COMMON SECURITY

Regional collective security The peace and security of the Asia-Pacific region is an indispensable actor in the security of Japan. By avoiding the construction of hypothetical enemies, deepening of mutual economic, political, and cultural exchange, and gradual and continuous effort toward building and encouraging mutual trust in this region, Japan should exert itself to get mutual declarations construct a regional collective security apparatus, as was prescribed in a future-oriented way in the United Nations Charter. Furthermore, every effort shall be made to inform the other people of Asia of the ideals embodied in Article 9 of the constitution, and of the Japanese people's sincere commitment to these ideals.

Common security based on the United Nations Charter The United Nations Charter and the Constitution of Japan are both rooted in the common spirit of the same period in terms of their renunciation of the use of force as a means for settling international disputes and their aspiration toward international security based on rejection of war. Furthermore, the peace of Japan cannot be realized without a stable international peace and order. From this perspective, along with positive participation in the various UN activities, every effort shall be made toward what can be termed common security on a global scale in the form of a UN-centered collective security apparatus. Also, every effort shall be made toward the democratic reform of the United Nations, and a position of responsibility should be adopted to pursue such reform.

However, so far as the 'use of military forces' against threats to peace or against aggressors as prescribed by Article 7 of the UN Charter is concerned, in consideration of the fact that the 'war potential' and war methods employed by United Nations member-states is completely different from that envisaged in the period during which the Charter was established, we make this concrete proposal for cooperation with other states towards the establishment of a 'United Nations Army' suited to the contemporary world.

Comprehensive Security. Security means the protection of the lives of the people from all sorts of threat. To accomplish it, we must strive by diplomatic effort, stabilizing and improving domestic politics, stressing the non-military aspects of scientific and technological, economic and industrial progress, to transform the international environment in desirable directions and to promote a security which will ease antagonisms in order to effect favorable change on the international environment. Furthermore, we recognize that the increasing wealth gap between North and South is the major source of Conflict, and shall make every effort to rectify it.

Prohibition of military alliances. In accordance with its Constitution, Japan should not belong to any military alliance. Taking note of the new post-cold war circumstances, we look to the demilitarization of the post-cold war US-Japan Security Treaty and its development and merger into regional collective security system.

The three non-nuclear principles. Japan shall never possess, store, or develop either nuclear weapons or the means to transport them. Furthermore, Japan shall not export armaments to any country, or repair or modify the weapons possessed by another country.

D. Minimum defensive force

TASK

Its task is to respect the spirit of the constitution and defend the people from any act in violation of territorial sovereignty.
COMMAND

The Prime Minister shall command and supervise it.

MINISTRY FOR PEACE AND DISARMAMENT

As for the possession and management of a strictly-controlled minimum defensive force, a provisionally named Ministry of Peace and Disarmament (or alternatively, Ministry of Peace and Security) shall be established. A civilian shall be appointed to head this Ministry (Article 66:2, Constitution of Japan).

BASIC PRINCIPLES

The Minimum Defensive Force cannot engage in defense activities beyond the boundaries of Japanese sovereign air, sea, or land space. The position of resort to the use of force only after prior use by an opponent shall be maintained.

Furthermore, the decision to deploy the Minimum Defensive Force shall be subject in principle to the prior resolution and approval of the National Diet.

COMPOSITION AND EQUIPMENT

Levels of personnel, budget, composition and equipment appropriate within the limits appropriate to conducting the tasks outlined by the Basic Peace Law require the decision and approval of the Diet. Furthermore, in regard to scale, every effort shall be made to adhere to the principle of consultation with neighboring countries and mutual approval.

CIVILIAN PRIORITY

The Ministry for Peace and Disarmament shall be managed according to the principle of civilian priority.

PUBLIC DISCLOSURE OF INFORMATION

The Minimum Defensive force shall have a duty to publish for the Diet all information pertaining to matters of equipment, operations and information collection.

RIGHTS OF MEMBERS

The democratic rights (including the right to public association) of personnel who volunteer to participate in the Minimum Defensive Force shall be respected in the same manner as the normal rights of all public servants.

OBLIGATING OF FULFILLMENT AND PENALTIES

This law imposes upon the government concrete obligations – including in respect of disarmament –of fulfillment, and appropriate penalties for breach. Accordingly, in the event that either the general public or the members of the Minimum Defensive force have reason to believe that these principles have been violated, they may resort to the courts.

E. Transitional measures

Following the establishment of the Basic Peace Law, the current Self-Defense Force shall be reorganized into a National Guard (Kokudo Keibitai; a provisional title) with different duties. Furthermore, an International Relief Force (Kokusai Kyunantai: a provisional title) shall be hived off as a separate organization, comprising volunteers, for non-military activities associated with UN Peacekeeping Operations and other duties relating to international contribution. Continuing employment will be guaranteed to all personnel.

A disarmament program, designed to bring about the Minimum Defensive Force, shall be spelled out, according to which reductions of equipment and personnel shall be effected in harmony with the disarmament process of
neighboring countries. (At the time of establishment of the Basic Peace Law, the Diet shall proclaim the constitutionality of the National Guard.)

**F. Non-military methods for a positive contribution towards world peace**

The Japanese government and the Japanese people must contribute towards world peace through non-military methods in accordance with the spirit of the constitution. We must deepen mutual understanding and trust through diplomacy, striving for a global nuclear ban and for reductions in conventional armaments and the banning of weapons exports, and also for the implementation of a Official Development Assistance (ODA) policy that will contribute towards the narrowing of the North-south gap in a way without harming the environment or the peoples of any other country, and through the positive advancement and promotion of Non-Government Organizations (NGOs) and the positive promotion of things like textbook exchanges.

**HOW TO INTERPRET THE PRESENT AGE**

The end of the Cold War may be considered as the conclusion of an age of worldwide war that spanned the entire twentieth century. Great powers formed global military blocks and confronted each other; regional conflict always threatened to expand into global hostilities between the military blocks, and on two occasions – the First and Second World Wars-did actually evolve into world war. Such an age has now finished.

State socialism, which was born out of the hostilities of the world wars and became one of the major actors of this age, met its end in Russia and Eastern Europe. Furthermore, with the dissolution of the Soviet Empire, the military superpower, the Soviet Union, and the other military superpower, the United States, have also in a sense come to an end. It could be described as the end of the American empire. Upon the end of the Cold war, former US president Bush spoke of the victory of the Untied States but this can scarcely be considered to be true.

During the nuclear arms race, the main resources of the former Soviet Union were poured into the production of weapons. At the same time, the economy of the United States also became a grossly weapons-centered system. Now that the two countries have ceased to be enemies, large numbers of overseas-deployed troops, huge nuclear capacity, chemical weapons, the Central Intelligence Agency and KGB and other specialist organs, are all becoming redundant. What is called for now is to move away from a world of military confrontation rooted in hate and fear. The basic orientation of the history that begins now is that of disarmament and demilitarization.

What begins with the passing of the age of world wars is the age of economics, the economic center of this age is Japan, which has built up a highly-efficient, growth economy through non-military development, and Germany, which in the same manner through non-military development became the economic leader of Europe.

Japan suffered defeat in the Second World War, and was democratized under the occupation of the US, its military forces disbanded. With its peace constitution, Japan was promptly able of its own accord to remove itself from the age of world wars. The anti-war and anti-military feelings of beings fed-up with war and sick of armies were sentiments only to be expected from a people that had been the first in history to suffer the horror of nuclear weapons. The Japanese people had sung the praises of its army and supported overseas expansion for half a century after the Sino-Japanese War (1894-5). The transformation into a country without conscription was remarkable.

However, we must also acknowledge that the unprecedented spiritual demilitarization of the Japanese people might actually have been based upon a
lack of genuine feeling of responsibility about the war. This can be well understood if Japan and Germany are compared.

At the end of street-fighting in the German capital, the parliament was occupied, and Germany finally surrendered. As a result of the defeat, the country, and even the capital Berlin, was divided. West Germany later revised its new constitution and established a conscription army, but this army was part of the North Atlantic Treaty Organization (NATO) and in the main only operated under NATO command, not sending troops outside of NATO territory. Germany has created relations of such trust with France, a country with which it fought two world wars, as to be able to constitute a joint force with it. This state of affairs however, is linked firmly to the fact that is West Germany the war responsibility of the Hitler regime and Nazism was pursued thoroughly, and de-notification limitations was lifted with respect to the pursuit of Nazi war criminals, and compensation to the victims of Nazism undertaken through the responsibility of the German people and industry. The German people punished Nazi Crimes and thereby reflected upon their own responsibility. Furthermore, it may well be that through continuing to question their own responsibility for the war, they have managed to put the responsibility of the military into proportion, without going so far as to negate it outright.

In Japan, as part of the Cold War strategy of the US, all responsibility for the war was ascribed to Tojo and the military, and the war responsibility of the Showa Emperor (Hirohito) was not pursued. In addition, because it was easier for most Japanese not to question their own responsibility but to blame the military, the idea of compensating the victims of Japan's aggressive war never occurred to them. The military was completely negated, but at the same time their own responsibility was forgotten. Emotionally, the Japanese people turned their backs on wars and armies, even though the age of worldwide conflict continued. The US and the Soviet Union became centers of this age, forming world-wide military blocks and confronting each other with nuclear weapons, Japan was denied the exercise of collective self-defense rights under its constitution, but basically belonged to the US camp, allowed the establishment of US bases within its territory, and in this way chose to entrust its security to a quasi-military alliance with the US. Also, within this security arrangement it constructed on a limited scale a quasi-army known as the Self-Defense Forces. Although such a move was inherently in conflict with the constitution, it explained it to the people in terms of the right to individual self-defense. This was the beginning of constitutional revision by interpretation. In addition, the policy of concentration upon economic growth through non-military development was taken by the Yoshida government.

Later, the Liberal-Democratic party (LDP) called for constitutional revision in order to resolve the contradiction between the constitution and the military, but the people did not give the constitutional reform proposal the necessary two thirds of parliamentary seats. In due course, popular support for article 9 of the constitution became fixed, and support within the LDP for express constitutional revision weakened. Nevertheless, the constitution was systematically belittled by the governing party. Under this weak state in which conscription did not exist, 'companyism' advanced with great strides, and economic high, growth was achieved though development of mass production of consumer goods based on non-military, civilian technologies. The fact that the political opposition, and almost a third of the general public, insisted that the existence of the Self-Defense Forces was unconstitutional under Article 9, both made the Yoshida doctrine possible in the first place and sustained it, but also served as a constraint and a brake on its expansion, and served to hold military cooperation with the US to a minimum.

So, what does the end of the age of world conflict portend?
First of all, because the military blocks have been dissolved, or lost their meaning, the concept of collective self-defense by military alliances has also become meaningless. The US-Japan alliance has likewise lost its meaning as something confronting the ‘soviet threat.’ It is common security' on a global scale that must now be aimed for. It is only natural that the concept of collective security conceived at the formation of the United Nations should now be reconsidered.

The fact that the age of world wars has now passed does not mean that there is no more war but that regional wars are more possible since there is no fear of them escalating into world war. Superpower Soviet-American controls no longer operate, and with the force of ideology diminishing, ethnic emotions and long-held resentments that had been held down by this power explode and regional warfare becomes rampant. The neglected questions of the influence of colonial control, and the scars of aggressive wars, again generate antagonisms. In addition, in the age of the world economy, as the wealth gap between North and South widens it carries the potential for even greater conflicts. Disputes over resources and territory are already occurring.

Even considering such antagonisms and wars, the activities of a UN which stood on the principle of common security become important, without being one-sidedly swayed by the interest of the larger powers, the UN should continue its activities, taking a stance of fairness and respecting the equal status of all its constituent states. However, the deeply-rooted antagonisms or wars which stem from them will not be resolved by military means. There cannot be true resolution other than by exercising political, economic and cultural effort designed to stir the people of the region concerned to a new awakening and to make their own effort.

Also important are factors which make it impossible for the US and the (former)Soviet Union to push ahead with arms reduction, despite its urgency. The disposal of these (military) white elephants is enormously expensive, and people get laid off as a result, swelling the ranks of the unemployed. The process of transformation of the munitions industry to civilian industry is fraught with difficulties, whether in the former Soviet Union or in the US. Disarmament must proceed slowly but surely, though the deepening of mutual trust between both countries, and it needs to be expanded into a framework of regional cooperation. It is necessary for countries other than the USSR and the US to cooperate positively in the disarmament process.

What does this current situation mean for Japan?

Although the end of the age of world wars means that Japan must endeavor to fulfill its responsibility as a leading power, Japan is not ready for this. It has neither a political position nor a philosophy which is sensitive to this new era and so has issued almost no message to the world. Under these circumstances, it is fatal for there to be no consensus regarding the constitution, and precisely because this is the case we must now tackle the main point of constitutional contention, the problem of the Self-Defense Forces.

The problems of apology, reflection and compensation for war and colonial rule ought to have been settled after the end of the Second World War, but were set aside and left unresolved. Above all else, we must first begin the efforts to establish at a national level an understanding of Japan’s colonialism and aggressive war, and show repentance over them. The history of aggression must be taught to the next generation, and compensation made to those who suffered.

The Self-Defense forces and the security treaty are problems left over from the Cold war. They must be resolved in a new spirit appropriate to our third
'postwar' constituted by the end of the age of world wars. We will not be able to enter this new period unless we do this.

TOWARD THE IMPLEMENTATION OF ARTICLE

Although the 'left' in post-war Japan adopted the preservation of Article 9 as its raison d'être, their explorations of what concretely was meant by preserving Article 9 did not go very deep.

Domestically, as a result of having renounced armaments and the use of force, little concrete consideration was given to the question of how to advance Japan's security. Unarmed neutrality may have been one of the possibilities considered, but it was assumed to be unrealistic amid the realities of the Cold War, and subsequent opinion surveys and elections show that the majority of the people did not choose this option. The people firmly rejected constitutional revision, but they accepted the contradictory reality involved in recognition of the existence of the SDF.

Internationally, concrete consideration was not given to how Japan might contribute to the resolution of world conflict. Whatever fears there may have been about being embroiled in another war, little practical consideration was given to how to manifest to the world its peace constitution spirit of aspiring sincerely to an international peace based on justice and order.

For this reason, the world 'constitutional defense' came to be ridiculed as meaning 'one country pacifism.' The main responsibility, however, should attach to governments which, faced with this situation, high-handedly possessed and expanded 'war potential' whose possession was clearly forbidden by the constitution, without amending the constitution, merely saying we can possess it because it is not war potential. Not once was the contradiction between constitution and armed forces made clear to the people, and not once were they given the opportunity to choose to resolve it. The people simply gave up thinking deeply about the issue and lapsed into thinking they might as well just enjoy the 'peace' they had.

Now that the age of world wars is over, what is required of us, both nationally and internationally, in order to preserve the spirit of the constitutions, is the wisdom to implement article 9. We must put an end to the sterile arguments about what is constitutional or non-constitutional, and shift the focus of the debate toward finding a creative constitutionalist path to breathe life into the spirit of the constitution.

As mentioned earlier, the peace constitution was historically prophetic in charter. When considering how to implement it this is a point which should first be recognized. That force is of no use in the settlement of conflict has been demonstrated anew both by the way the Cold War ended and by the course of post-Cold War regional disputes. Unlimited military expansion exhausts economies and comes to threaten security itself. If we look at the examples of the Gulf War and the civil war in Yugoslavia, we should be able to understand that the fundamental causes of conflict cannot be eliminated by force. Although it is still possible to imagine situations where force might be necessary, the spirit of the peace constitution, which rejects force as means of settling disputes, is not only not outdated but is very much in keeping with the times.

Furthermore, another perspective to keep in mind when considering the implementation of the constitution is that the gap between legal norms and reality should not be ignored any longer. That the court has used the argument of tochi koi to avoid making any judgment on the constitutionality of the Self-Defense Forces means that there are limits to the extent to which any resolution of the problem may be sought through the legal system. Since the courts defer their judgment to the government, there is no alternative to entrusting thee
political wisdom of the people to find a solution. The constitution is the basic norm which determines the way politics should be conducted and the condition of the state and as such it must be clear and understandable to the people. What is needed is to strive towards formulation of clear norms, not an explanation of reality by means of interpretations.

Let us here set out the main categories of interpretation of the constitution.

It goes without saying that there are two positions with respect to Article 9, that the SDF is constitutional and that it is unconstitutional, but within both of these there are differences of nuance about interpretations of the right to self defense and of war potential.

The established view of those who affirm the existence of the SDF is that since 'Article 9 paragraph One of the constitution does not go so far as to deny the existence of the right to self-defense, accordingly a minimum necessary force (hisutsuyo saishogendo no jitsuryoku) may be maintained based on paragraph Two. This is the constitution interpretation favoured by the conservative mainstream. And it became the official viewpoint of successive Liberate Democratic Party governments (argument A). although belonging to the same affirmative view, there is another interpretations of this genre which claims that Understating that Article 9 prohibits war of aggression, but not defensive wars, a defensive force may be maintained under paragraph Two. This was the interpretation of Prime Minister Ashida, and until recently was also favored by a majority of scholars. Of late the Ozawa Study Group's understanding of the constitution is of the same type, arguing that Self-Defense Forces may participate in exercising force for security in accord with the decision of the United Nations (argument B). Interpretation B takes the view that, as a normal state, Japan's possession of an army is natural, and restricts the meaning of the constitution to a certain restraint on the exercise of that force.

Even among those who believe that the existence of the SDF is unconstitutional, there are differences of interpretation. The conventional understanding interprets article 9 as meaning 'Article 9 paragraph One renounces all forms of war, and the maintenance of war potential of any kind is forbidden under paragraph Two (argument C). A further interpretation (D) claims that 'Article 9 does not deny the right to self-defense, but because the possession of war potential is prohibited in paragraph Two, in effect even defensive war is prohibited. According to D, in the case of aggression, defense would be pursued through non-military police forces and civilian sabotage. This argument was adopted in the first judgment in the Naganuma case.

Our own stance, which rates highly the constitution's pacifism, and tries to pursue its implementation, is this D position, this is because we feel that position C does not permit room for the realization of any other security option than immediate unarmed neutrality, leaving no room for discussion of methods of security to realize the ideal.

Furthermore, the core of implementation of Article 9 is the pursuit of security through methods other than traditional military force. What is necessary towards this end is a transformation in the established ideas of war and army, based on the large historical turning-point of the end of the age of world wars. In this age, even if another country were to be invaded and subdued by force, there is no state able to bear to cost of such war and the costs of controlling the conquered territory. Accordingly at least among advanced countries, classical warfare in which soldiers of rival state armies engage in fighting based on the right of state belligerency, has become inconceivable.

Military blocks have broken down, and the threat to be faced as changed from enemy states or blocks of states seeking conquest to the level of
international terrorism and armed refugees. If so, then what this means is that the sort of self-defensive organizations would be much smaller than the required in the traditional scenario of confrontation with another country's regular army, and the scope to construct a new type of defensive organization not prohibited by Article 9 may be discerned.

What was problematic about the interpretation of Article 9 by previous governments was its possession of inherent attack capability a its equipment was steadily upgraded despite the words 'Self-Defense'. In so far as the SDF was for defense against the regular forces of some other country, there was nothing to hold its expansion in check. This aroused suspicion among both the Japanese people and the peoples of neighboring Asia. In keeping with the change in the nature of the threat, the possibility has emerged for construction henceforth a self-defense organization without attacking capability.

We wish to call this new type of defensive organization 'Minimum Defensive Force' (Saishogen bogyoryoku). Since much discussion will be needed on the actual scale, equipment, and personnel of such a force, and because there will be changes in accord with international circumstances, we have avoided spelling it out too clearly within the substance of the law. So far as the basic principles are concerned, we have restricted ourselves to what is outlined above. The sort of spider-web defensive organization proposed by Maeda Tetsuo could serve as a draft proposal. It would be a defensive organization without offensive equipment or orientation, but equipped to deal with disasters and conflicts beyond the scope of a conventional police force or fire brigade.

The gap between the present Self-Defense forces and our proposed Minimum Defensive Force is large. The SDF, under pressure from the US, expanded greatly during the Cold War and especially during the 1980s, to the point where they could not possibly be described as 'constitutional.' In order to switch the SDF to a constitutional Minimum Defensive Force, transitional measures, in accordance with a demilitarization program to be debated in the Diet, will be necessary.

What is necessary in sum is to establish a formula for subjecting the new style military to the control of civil society. Most pressing is to put an end to mobilization for keeping the public peace (with certain political movements in mind) as prescribed under Articles 3 and 78 of the Self-Defense Force Law. Furthermore, for civilian control of the military, openness of information is vital. In addition, the enshrinement of the dead at Yasukuni Shrine, which is evocative of the former Imperial Japanese Army, and illegal gathering of intelligence on the civil society should probably also be stopped.

Furthermore, the scale of the Minimum defensive Force will also change depending on the extent to which the UN's collective security system and East Asian regional security systems are provided. If a regional security organization encompassing the US, Russia, china, North and South Korea (or a United Korea) is formed, it could be that a coastguard plus small number of ground troops would be enough for the defense of Japan's territory.

The constitution of Japan order the Japanese people to make ceaseless effort toward the accomplishment of security and the resolution of disputes by more peaceful means and by increasing avoidance of force. Continuing discussion on concrete constitutional means will be needed to cope with this permanent movement.

\textbf{Restriction of the Self-Defense Forces}

Until now, the Japanese government has held that it was internationally under-stood that the SDF were maintained as an inherent right of a sovereign
state prescribed under the UN Charter. It has continued to develop its position on the constitutionality of the SDF. However, although this idea of individual self-defense has been accepted in Japan as an absolutely self-evident national right, we should realize that there is no clear definition of it, and it is not only vague but potentially dangerous as a basis for legitimacy.

This is because, as pointed out by Prime Minister Yoshida at the constitutional Reform Committee (June 26, 1946) many of the wars of recent years have been waged in the name of self-defense. Furthermore, because the geographical limits of self-defense are not defined, one cannot rule out the possible emergence of irresponsible politicians claiming that Japan's self-defense right extends from 1,000 nautical miles to the Malacca Straits or even the Gulf area.

Certainly, Article 51 of the UN Charter states that 'In the interim before the UN Security council takes necessary steps for the preservation of peace and security, nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations.' (Even the 1928 Treaty of Non-Aggression includes the qualification that 'Since all sovereign states possess a self-defense right, and since it is assumed in all treaties, therefore all states, regardless of what is stipulated in any treaty, possess the freedom to defend their own territory from attack or aggression.').

However, the reason why we propose a reinterpretation of the notion that the 'self-defense right' is an 'inherent right' of a sovereign state, lies in the collective security system envisaged by the United Nations. In that self-defense is recognized as a temporary measure pending the adoption of measures based upon the collective security system, the judgment of whether or not something is a self-defense right is entrusted to each sovereign state. The problem inherent in this is that of abuse of the self-defense right.

If pacifist Japan can be said to have the right to self-defense, the problem of how to interpret excessive use of this right must be seen as inescapable, and the scale, deployment, and any restrictions on the military force of the proposed Minimum Defensive Force becomes relevant to it.

The use of force and even resort to war in case of conflict between states used to be recognized, but in the course of the present century the view that war is illegal has progressed, and within this trend the United Nations has outlawed both the 'use of force' and the 'threat of force' permitting force only for sanctions or self-defense.

Within the UN collective security system, broad restrictions have been imposed upon the 'use of force,' especially war. The collective sanctions by the UN against illegal 'use of force' or 'threat of force' have been recognized as legal responses, and the exercise of a self-defense right recognized as a temporary measure pending the coming into operation of such sanctions. However, even if the right to self-defense is exercised as a temporary measure, the possibility remains that the self-defense power may be abused if it is seen as an 'inherent right' of sovereign states.

To construct a system which would prevent such abuse, the 'self-defense right' might be seen as a right stemming from the UN's collective security system rather than as an 'inherent right' of a sovereign state. The possession by a sovereign state of a 'self-defense right' does not vary in accordance with whether the right is inherent or given, but if the self-defense right were to be reconstituted as a right bestowed under the collective security system it should be easier to prevent its abuse.
The 'Basic Peace Law' which we have proposed here can be described as the first step toward a political declaration on the limitation of the self-defense right, and in order to realize it, it might be worth considering the international exchange of documents pertaining to the Basic Peace Law, either through the United Nations or on a regional level.

At the heart of the current UN collective security system is the recognition of the 'use of military force' against breaches of the peace and aggressive acts. However, the essence of an army is 'victory over the enemy,' 'annihilation' and 'destruction.' In principle, what collective security requires should be not the use of the military, but police activity based upon the law to restrain the breaches of the law. There should be no such thing as an 'enemy.'

In addition, in the event of such international (UN) policing activities, it should be possible to establish a new type Japanese unit, not an army and completely separate from the Minimum Defensive Force, which could be internationally, or UN trained and led.

In fact, if Japan is to entrust its security to such an international policing system, one would expect that it would want to participate positively in it. This is because as the international police system grew in strength, the Minimum Defensive Force protecting Japanese territory could gradually be reduced. (So far as any United Nations army is concerned, our position is that great prudence should be exercised regarding any participation by Japan, and that participation in any other multinational force is out of the question).

Of course, we realize that conditions in either the UN or East Asia are not conducive to the immediate formation of a collective security system involving a strengthened police along these lines. However, if we are to be committed to the pacifism demanded by the constitution in this new post-world war age, we must strive to move the reality in the direction of the ideal.

Japan is indeed a 'special state' which has voluntarily relinquished part of its military sovereignty. There are voices, not only from the Liberal-Democratic Party but also from within the political opposition, which would have this 'special state' become a 'normal state'. Even in some circles in Germany the call to become again an 'ordinary state; is gaining strength. But what is wrong with being a 'special state'? Might not the abandonment of part of our sovereignty indicate rather a certain foresight? This is after all the age in which the modern state itself, its borders, its centralized government, its education system and its national economy, are being seriously questioned.

We believe that it is precisely through inheriting and further developing the idea of a 'collective security system' that was born out of the horrors of repeated war, and by exploring both in juridical theory and in practice the idea of UN based collective security and regional security, that our 'special state' may be made into a normal state while retaining its 'specialness.'

What we have developed here is not an argument for the constitutionality of the Self-Defense Forces. Even less is it an argument for leaving things be, by accepting the current situation as it is. It is instead a prescription for putting an end to the Cold War era within our country by our own efforts. For the resolution of conflict, both political wisdom and sincere effort on both sides is necessary. We must attempt to disentangle ourselves from the inertia of the 'Cold War mentality' and 'confrontational thinking' that were nurtured within the Cold War structure.

The political parties that are the political expression of the will of the people, in particular the Social Democratic Party of Japan and the Liberal-Democratic Party, are called upon to exert the utmost efforts towards achieving a mutual understanding and a consensus on this problem.
Furthermore, without the participation and supervision of the people, whatever laws are drawn up will be meaningless. This is so much more the case in dealing with the problem of the military, the most difficult of all problems facing a democracy. A lively debate is called for from the people on this issue.

Appendix- VI


A path Toward a non-military contribution to the world

Asahi Shimbun’s 6 Proposals

1. Enact an International Cooperation law to Upgrade External assistance.
2. Create a Peace Support Corps for taking part in traditional peacekeeping operations.
3. Idealistic Article 9 of the Constitution does not need to be revised.
4. Scale down the SDF into a force exclusively for defending the country.
5. Overcome security arrangements for the Cold War and give emphasis to peace in Asia as a whole.
6. Take the Initiative for reforming the UN into a healthier world body.

What is Japan to do to save the human race and this planet? In opening a new chapter in the history of Japan fifty years after our defeat in the war, Asahi Shimbun has conducted a company-wide discussion on this question for the past five years. Today, constitution Day, we present an editorial feature package on the theme of ‘International cooperation and the constitution’ based on the outcome of the discussion. We hope it will serve as a reference for readers to consider the issue.

Our conclusions can be summarized in two points: first, that the present constitution has not lost its brilliance. We are opposed to its revision, because amending it would do much more harm than good. Second, Japan should make purely non-military contributions to the world community. In cooperating with the rest of the world, we should adopt an activist attitude, even more so than other countries.

Such an attitude could also be characterized as a non-military activist state. Though we are aware that a nation differs from an individual, we aspire to be a nation that is, figuratively speaking, a conscientious objector.

Conscientious objection by individuals is already well-established in the United States, Britain, France and many other developed Countries. Germany’s Basic Law (in effect its constitution), for example, stipulates that no one shall be forced into military service with weapons against his or her conscience. We suggest that this principle of conscientious objection be applied to our nation.

Those who interpret international cooperation to mean the shedding of one’s own blood may criticize our ideas as selfish or cowardly. In fact, conscientious objectors have long been excoriated and persecuted. But to be faithful to a belief, whether for an individual or a nation, under the precept of Thou shalt not kill, that is the only way.

Furthermore, conscientious objection demands considerably strong will and patience. In most countries that accept conscientious objection, conscientious objectors are required to perform alternative service. They are engaged in medical care, or other social welfare services in ways that are sometimes even more demanding than military service. The same would be true for a nation that claims conscientious objection.

We have compiled six proposals as guidelines for a path toward such a non-militarist, activist state - a nation that claims conscientious objection.

In making the accompanying proposals, we have used as a goal for attainment the period around the year 2010. These are certainly turbulent times. Asahi Shimbun intends to make unceasing effort to reexamine the proposals, chiefly by editorial writers, in response to changes in the world.

Our first proposal charts in specific terms the course Japan should take at the forefront of non-military international cooperation.

Let us imagine the world of 2010. With the living environment being aggravated as a result of the population explosion, antagonism over the issue of poverty and the gap in wealth among people would have escalated in acrimony. If it is left unattended, regional conflicts can proliferate and the number of refugees could increase dramatically.

To prevent this, remedial measures must be applied now. In particular, an International Cooperation Law should be enacted that expresses the resolve of the Japanese people to spread peace and respect for human right more widely in the world.

We also advocate qualitative improvement of our official development assistance - foreign aid-and reinforcement of the role of NGOs in tandem as essential elements of such aid.

Our second proposal is creation of a peace support Corps. Besides taking preventive steps for the future, what else can be done for people who cannot live as humans because of conflict or natural disaster now?

The Peace Support Corps - an entity separate from the SDF- would respond swiftly with such humanitarian relief and rescue operations in natural disasters.

The Peace Support corps would also be an active part of UN peacekeeping operations in strictly non-military areas. Although some members of the corps would carry small arms for their own protection, the corps activities are completely different from those of a regular army because the corps is not a combat force. Nor does it take part in peace enforcement activities or in multilateral forces.

In our third proposal, we express our strong opposition to revision of the present constitution, especially its Article 9, after having clearly stated our position that the constitution does not prohibit possession of self-defense force, based on the right of a nation to defend itself.

Article 9, which renounced war and use of force, is an idealistic norms that embodies that wish of mankind ahead of other nations. The framework that the constitution set up for post-war Japan, especially the ironclad element of not giving precedence to military matters over other matters, is more precious than anything else. That principle must not be sacrificed by revision of the constitution.

What, then, should be the organization for self-defense that is within the scope of the constitution? The criteria and the limits of such an organization are presented in our fourth proposal.
The equipment and organization of such a force are to be strictly limited to defensive defense, and no combat troops would be sent abroad. Because there are strong reservations about the SDF as presently constituted, overstepping the bounds of a force for self-defense, a considerable reduction in the SDF should be made, after which its mission, organization and make-up should be completely overhauled.

Given the strategic environment among the countries of the world, the likelihood of Japan being directly invaded is slight at least until early in the next century. Though there is no denying the uncertainties of China and the Korean peninsula, the present SDF, organized in Cold War years and reinforced on the assumption of a Soviet threat, is too large. Phased reduction in personnel by half the present level in the Ground Self-Defense Force, for example, would not put the national security at immediate risk. And if such a reduction encourages arms reduction in neighboring nations, Japan's own security would be enhanced all the more.

Our fifth proposal concerns establishing an organization for peace in Asia and Japan's role in creating it. It is important that Japan and the United States revamp the security arrangements that are oriented towards the Cold War, especially to dismantle or scale back the American military base presence in Japan. The two nations should make a concerted effort to establish an organization that would work for preventive diplomacy and arms control in Asia—similar to the Organization for Security and Cooperation in Europe by the end of this century.

Last, we would like to propose that Japan stand at the forefront of specific reform of the UN. We suggest that the veto powers for the permanent members of the Security Council be phased out and that Discussion of the new permanent seats at the Security Council be made not merely for Japan and Germany but also for three other countries each representing Africa, Asia and Latin America.

Our efforts in these proposals are based upon our assumption that the years after two wars—the Cold War and the Persian Gulf War—will be still more cataclysmic changes in the world.

For a start, the Soviet bloc disintegrated with the end of the Cold War and the tide of market economics has reached the borders of the socialist nations, old and new, and those in what is referred to as the South. While stagnant societies have revived, the shift to market economies has brought with it wide wealth gaps and a surge in refugees and environmental destruction. As exemplified by the relentless fall of the dollar, the importance of the US economy has diminished and Americans are about to lose their status as the nation of the World's key currency.

If the world thus becomes unstable and the cross-border exchanges in money and goods are stalled, it is Japan, which is heavily dependent on overseas countries, that is hit hardest. It will be necessary for Japan to be more heedful of the fact that its efforts for preventing future deterioration in the economies of the developing world and rectifying its own trade imbalance will be beneficial not merely to the cause of peace in the world but also to its own interest.

The Gulf War, on the other hand, narrowed international cooperation to exclusively military contribution, even though temporarily. Only a few years after the war, however, cases of trouble proliferated that are impervious to mainly military approach. It has become clear that there can be no improvement in the situation unless the root causes of trouble are dealt with.
With the lessened danger of another world war, security arrangements have come to cover wider fields other than the military. Measures for preventing or minimizing damage from natural disasters like earthquakes and man-made disasters like explosions have become even more important.

Despite such obvious changes in the world, some in Japan still clamor for revision of the constitution in a way that would increase the dependence upon military might. We think that such an attitude represents a failure to learn from history and an inability to see the future.

If we are genuinely to protect the constitution and want to be part of a nation that practices conscientious objection – which is directly linked to the spirit of the constitution – the Thou shalt not kill precept must become an article of faith for every one of us. We must be fully prepared for such a task. Without such a will, there is danger that safeguarding the constitution will become a mere slogan.

Because we accepted the constitution that renounced war while leaving the responsibility for the last war ambiguous, is not our awareness about the war still incomplete? Did we not turn a blind eye to harsh realities despite endless conflict in the world and detest being implicated in them?

Or, being intoxicated by postwar prosperity, did not many Japanese fail to pay due attention to the rest of the world and to be considerate to others and extend a helping hand? Were they not too indifferent to the misfortunes of starvation, poverty and violation of human rights that befell others?

We want to call these points into question anew. Fortunately, volunteer activities demonstrated by the young at the time of the Great Hanshin Earthquake give courage to us. When our international cooperation which is freed from condescending attitude of handling out doleouts, our constitution will shine even more brilliantly.

### Proposal 1: Enact a law on international cooperation

**Enact an International Cooperation Law expressing the people's resolve to propagate peace and respect of human rights. In order to eradicate poverty from the face of the earth and prevent environmental pollution, it is necessary to extend outright grants and badly increase personnel in charge of assistance.**

**Arrangements for provision of assistance are to be radically reformed and an International Cooperation Agency directly responsible to the Prime Minister is to be established. Vigorous NGOs and Official Development Assistance should be nurtured as the heart of Japan's external assistance.**

Japan's Official Development Assistance in 1993 increased to US$ 11.2 billion, three times as much as a decade earlier, to be larger than the contributions of any other nation for three consecutive years. In part, that was due to the yen's strength. But more important was the fact that the government made specific efforts for making quantitative improvement in aid budget appropriate as the centerpiece of Japan's non-military cooperation with the community of nations.

Now that Japan has become a big power in terms of external assistance, does it occupy 'an honored place in an international society' as the preamble to the Constitution says? Have the people of Japan become confident and proud of living in the community of nations?

Unfortunately, the answer to these questions is no.
The problem lies in the quality of Japan’s assistance even if it is small, must be one that reaches poor people on the developing world and helps them to stand on their own. Assistance can be put to a good use only if it is backed up by a national effort to send not only money, but people who will roll up their sleeves and test their brains beside those they are helping.

Until now, the question of whether Japan’s assistance was really useful to developing nations was a matter of secondary importance to the Japanese government. In the year of rapid economic growth, Japan used its increased aid to other nations as leverage to promote exports and secure resources. After becoming an economic power, Japan was conscious of its world reputation and pressure from the United States, to which the nation was obligated in security and for which it has felt guilt even if Japan were to succeed in pleasing the governments of developing nations.

In response to criticism here and abroad that Japan’s overseas assistance is faceless, Japan belatedly adopted an Outline of Official Development Assistance at a Cabinet meeting in 1992. The outline cites humanitarian considerations for the hungry and impoverished as the basic tenet for aid, and asserts that stability and development of such nations are essential for world peace and prosperity. We are in accord with the notion for it accords with the spirit of the Constitution in striving to propagate peace and respect for human rights in the rest of the world.

But why is such a philosophy contained in the government policy outline, but not in legislation? The government contends that if aid discussion is held at the Diet level, the administration could be put into an embarrassing position in conducting diplomacy. Such secretiveness, in which aid and how to give it are the exclusive domain of the administration, has become the key reason for shady relationships between the governments of recipient nations and Japan’s trading companies, and has reduced Japan’s aid to arbitrary handouts that elude control over their use.

We would first propose that an International Cooperation Law be enacted, incorporating Japan’s philosophy in its international cooperation and organizational makeup for external aid and a Peace Support Corps, and requiring that assistance report be made to the Diet. Such a law would make it clear that the administration is accountable to the Diet for its international cooperation, and such changes will also make it easier for the government to have the understanding and support of the people who pick up the tab.

We also propose that the Upper and Lower Houses of the Diet form permanent International Cooperation Committees and have the government report by region its plans for allocating aid and how it would be used. The International Cooperation Committees of both houses are to hold public hearings from time to time on after-the-fact review of Japan’s assistance programs by inviting experts from here and abroad.

Though the Outline of Official Development Assistance stipulates ad policy of paying sufficient attention to military spending and recent developments in regard to weapons of mass destruction in the recipient countries, that principle has become devoid of substance in cases of big powers like China because of the government’s short-term diplomatic consideration. If the diet has more to say about foreign aid, Japan’s principle in providing aid would be more persuasive to the receiving nations.

We believe that Japan’s provision of assistance should be made more consistent and transparent by creating an International Cooperation Agency through overhaul of the present complex government machinery responsible for foreign aid: to prevent layers of diplomacy practiced by the new agency and the Foreign Ministry the agency should be overseen by the Prime minister. Such an
agency should be independent of the Foreign Ministry. That is because the government should not handle international cooperation policy but rather deal with it as the question of the highest priority for a country that lives among the community of nations.

The divisions and sections of the Foreign Ministry, the Finance Ministry, the Ministry of International Trade and Industry and the Economic Planning Agency dealing with yen loans and external assistance should be transferred to the new agency. The divisions and sections of other ministries that deal with gratuitous aid should also be merged into the new agency. Such merger will also help slim the government machinery.

The present approach to assistance and the arrangements for foreign aid should also be radically revised. This is because the present approach to yen loans, appropriate for industrial infrastructure-building, especially in East Asia, and the present understaffed situation cannot properly address the new needs of a post-Cold War world.

Priority projects in East Asian countries that should be built by our aid are those that rectify the widening gap between rich and poor resulting from the headlong rush toward market economics, expansion of the urban slums and pollution, and not construction of an industrial infrastructure.

It is also urgent that the living standard be raised for the 1.3 billion poor in West Asia, Africa and other parts of the world who struggle to even attain subsistence livelihood. There is also an urgent need to deal with population explosion, global warming, acid rain and a surge in refugees.

Poverty and environmental problems can better be addressed by grants and assistance that involve people rather than yen loans, because these are not areas in which investment results in profit.

Grants, which include gratuitous aid, technical assistance and contributions to international organizations, account for only a little over 40 percent of its total Official Development Assistance – the lowest level among donor nations. We urge that a target be established to raise the proportion of grants to 80 percent the average level among donor nations at present – in ten years.

To attain that goal, outright grants must be increased significantly and yen loans gradually reduced. Through such changes West Asian and African nations that now get just a modest part of Japan’s foreign aid, would get larger shares. And the proportion allocated for purposes directly related to improving the people’s lives such as healthy and hygienic, education, food self-sufficiency and environmental protection would be raised.

In changing our aid policies, it would be more efficient to establish a new enforcement organization responsible to the International Cooperation Agency by integrating the Overseas Economic Cooperation Fund, which handles yen loans, and the Japan International Cooperation Agency, which is responsible for technical cooperation.

By doing so, duplication of work can be avoided for the choice of the projects to be given assistance, dispatch of investigating teams and dealing with the recipient governments in the developing world. It will also become possible to make comprehensive plans for providing assistance.

The precondition for providing meaningful aid to developing nations to enable them to stand on their won is through research into the political, economic and development. We propose establishment of an International Cooperation Research Institute attached to the International Cooperation Agency, with the Institute of Developing Economies forming the core of the new
Institute which will be buttressed by absorbing research divisions of the existing aid-providing agencies. It is important that talented people in developing nations should be actively recruited as researchers and their opinions be brought to bear on our aid to such nations.

Such changes in the government machinery should come by the year 2000. In the years before 2000, preparation should be made, and recent accords among the ruling coalition parties regarding integrating the Overseas Economic Cooperation Fund with the Export –Import Bank of Japan and the Institute of Developing Economies with the Japan External Trade Organization – simply a gimmick for appearance’s sake – should be scrapped. We cannot condone the mutual back scratching between politicians and bureaucrats, devoid of any sense of policy.

In comparison with large yen loans projects directed mainly to building dams and roads, assistance for eliminating poverty and environmental pollution consumes far more manpower. Though the amount of money involved is small for each case, the amount of paper work involved does not differ much from that required for much larger projects. Larger staff is also needed to advise recipient nations and guide those who will deal with the programs on the ground.

The number of officials now engaged in external assistance posted at government missions abroad and international assistance organizations is just 1,800. That is far fewer than the number from Western countries and all they can do now is to handle budget allocations. We suggest a bold, ten-year program that would vastly increase the staff to 5,000 to improve the quality of aid, rather than just efficiency. Such an increase in staffing should be achieved by moving people from the government agencies and related public corporations whom would be otherwise made redundant by the streamlining of the government agencies.

The staff of specialists must also be increased, especially for technicians, medical personnel and teachers, and members of the Japan Overseas Co-operation Volunteers. Although more retired people have applied as volunteers to work in developing nations, it is important to include those who are actively employed in the private sector. Companies would be making a great contribution to the aid program if they adopted voluntary leave policies that would encourage their employees to participate in foreign aid projects while being paid by the companies and enable them to return to their jobs after a specific volunteer period.

Help provided by NGOs can sometimes achieve more than the official development assistance because it is more responsive and more detailed. Such resources outside the government realm which are still tenuous, should be nurtured into robust bodies.

Many NGOs are voluntary organizations without legal protection and financially weak. If they were incorporated, they could more easily solicit contributions and have the benefit of tax breaks. It should be possible for well – organized, even if small, organizations to gain corporate status by relaxing the conditions for pro bono corporate bodies.

We take heart in knowing that a wider range of people in local governments, on business foundations and labor organizations are becoming part of the international aid picture. If international cooperation institutions are properly organized and the government and the people work together for the
benefit of the world, Japan will be welcomed into the international community with esteem.

Proposal 2: Create a Peace Support Corps

A Peace Support Corps is an organ affiliated with the International Cooperation Agency and is to be staffed by about 2,000 members, including part-timers. Its peacekeeping operations are to be confined to conventional ones that abstain from use of force. The corps members are to be sent abroad with the prior approval of the Diet. Its initial work will be limited to transport, logistics, communications and similar duties. The next step is to be taken after ascertaining the success of operations in the initial stage and actual work on peace-keeping operations.

Although the Cold War has ended, the suffering has not. Helping those who suffer and promoting peace are the most important tasks of the international community. And such efforts are essential components of Japan’s international cooperation.

We believe that humanitarian aid to those who are suffering should be accompanied by active participation in UN-led peacekeeping operations.

Troops on peacekeeping missions intervene between parties to a conflict that have agreed to a cease-fire. They patrol and monitor the activities of the warring parties, so that the cease-fire will not be violated until a permanent peace agreement is signed. If there is a cease-fire violation, they investigate it and report their findings to the UN. It is hoped that these activities deter violations and promote negotiated peace.

The UN peacekeeping force was organized to intervene in the 1956 Suez crisis. Dag Hammarskjold, then UN Secretary-General, established the principle of non-use of force—a principle that bars peacekeepers from using arms except in self-defense.

This has long been observed as a basic rule of peacekeeping, together with the principle of consent—allowing troop dispatches only when the warring parties accept their presence—and the principle of neutrality and impartiality, which prohibits peacekeepers from siding with any of the warring parties.

A spate of domestic conflicts since the end of the Cold War led UN Secretary-General Boutros Boutros-Ghali to abandon these principles and introduce a new kind of peacekeeping operation, one for ‘peace enforcement.’

This formula of deploying UN troops who are prepared to use force against uncooperative warring parties failed disastrously in Somalia, forcing Boutros-Ghali to revert to peacekeeping rules.

The ‘peace support corps,’ which we propose to create, would take part in conventional peacekeeping operations, not those of the ‘peace enforcement’ type.

Why, many people may wonder, is a new organization needed when units of the SDF have already been sent abroad on peacekeeping missions?

Our answer is that we believe units of the SDF, whose duty is limited to the defense of our own territory under the constitutions, should not be sent abroad.

Considering the fact that Japan colonized Korea, waged aggression against China and sent soldiers in combat boots trampling on countries of
Southeast Asia, we believe the SDF should be led with as much restraint as possible.

Certainly, few Asia countries criticized Japan over the dispatch of an SDF contingent to Cambodia, and some Asian leaders say Japan should no longer apologize for its past deeds. But Japan has yet to show remorse and offer a proper apology.

Under these circumstance, we should assume responsibility for history by deeds, not just words, making it clear that no SDF unit shall be sent abroad again.

We believe most people support this view.

Members of the SDF have already been sent abroad several times. But many people, having misgiving about this practice, must nevertheless be resigned to the fact that there is no alternative organization that has the means to send peacekeepers to trouble spots.

The popular sentiment makes politicians hesitant about the dispatch of SDF troops and seeks to impose detailed conditions on troops that are sent.

For example, opposition within the government, for a time, threatened decision to send SDF troops to Mozambique. It took time for the three ruling parties of the coalition administration to resolve their differences and agree to the dispatch of SDF personnel to help Rwandan refugees.

This shows no doubt that the democratic process is at work. But if it is at the expense of speedy decisions for dispatch, it is not what the people want.

The only way around the dilemma is to form a separate organization apart from the SDF to render international cooperation.

Peacekeeping duties are suited for an organization of experts, not a military body like the SDF.

It has been said that since peacekeeping centers on military duties, it is difficult for a Japanese organization outside the SDF. To be sure, such operations, which entail stepping in to separate warring parties in an area where fighting has just come to an end, has military overtones. But the mission is not to fight. When provoked, the peacekeeping team is supposed to calmly talk the adversarial party into ending hostilities.

Peacekeeping troops sent by Finland at the time of the Yom Kippur War, which represented an Egyptian attempt to win back the Sinai Peninsula, were deployed in the suburbs of Suez. When Israeli troops tried to destroy a UN checkpoint, the Finns blocked it by laying down their arms and forming a human wall.

This was an act true to the spirit of peacekeeping operations.

What the Finns did is entirely different from the duty of soldiers, which is to conquer the enemy with force. Exercises for war, like those of the SDF, are not needed to do something like that. Instead, it is important to study the language and customs of regions in conflict, and learn how to carry out checkpoint inspections without being provocative.

Countries send troops for peacekeeping operations in the absence of expert teams. But the fact remains that an organizations of specialists is better suited for the job than troops.

What kind of peace support corps do we have in mind? First of all, let it be clear that the corps would operate on the premise that it would not use force.
The corps would belong to a new International Cooperation Agency, a government agency. It would be in charge of participation in UN peacekeeping operations, humanitarian relief, and disaster relief.

The proposed corps would have a headquarters, under which there would be three units that would be sent abroad—a specialist unit, an administrative unit, and a general unit. A training center would be established in Japan. The total number of people would be about 2,000 including part-time staff.

The specialist unit would contribute to peacekeeping operations with the skills of its members. It would also provide humanitarian assistance and conduct disaster relief activities.

The elements comprising the unit would be the headquarters in the host country, a medical team, a team of staff for prevention of epidemics and water supply, a communications team and a rescue team.

The rescue team of qualified technicians and aides would work to save lives in disasters and support initial recovery efforts.

A small, rapid-deployment team would be ready to respond within twenty-four hours of being summoned, and would be staffed by full-timers. Some members would also serve full-time in obtaining needed equipment and supplies and in liaison and coordination among other members. But volunteers would be recruited for other jobs.

The part-time recruits would be registered with the corps. They would be required to go through training periodically, so that they could be sent abroad when needed.

The administrative units would mainly be in charge of peacekeeping operation. It would be composed of a civilian police team and an autonomy team that would provide guidance on election supervision and the like.

Volunteers would be recruited from among police officers and civil servants in general. As with volunteers for the specialist unit they would be registered with the corps and required to go through training periodically to serve abroad in the future.

The general units would do what peacekeeping operations are supposed to do. It would also handle rescue operation.

Elements of the unit would be the headquarters in the host country, a guard team, a transportation team. A civil engineering team and a UN liaison team.

The member of the general service corps would be full-time staff.

The training center would teach members the principles for them to stand by when they join a peacekeeping operation or provide humanitarian assistance, how to deal with various situations that may arise, and how to protect themselves. It would also instruct them on the state of affairs and customs in the host country and provide linguistic training.

Those engaged in a peacekeeping operations are theoretically immune to attack as they take up their duties only after warring parties have agreed to their present. Actually, however, there is no absolute guarantee that they would not come under attack from a group that is not controlled by parties to the cease fire agreement, or from a group left out of the accord.

Can anyone send unarmed peacekeepers into such a situation?

Assuming that the protection of the specialist unit and the administrative unit would be left to the UN, we would like to allow the general unit to have a guard team for self-defense.
However, in light of the duties of the general unit, the guard team's arms should be of a light of defensive nature. Small firearms and non-lethal weapons for peacekeeping should be developed that could temporarily incapacitate assailants.

We believe that a peace support corps with severely restricted equipment, as we have outlined, could participate in the main tasks of peacekeeping falling short of the use of force, such as patrols of the disengagement of forces, and monitoring disarmament.

But peacekeeping operations are still going through a period of trials and errors, which generate distrust and anxiety remaining among the people about participating in them.

The projected peace support corps should start with such tasks as transportation, supplies, communications and road construction.

The performance of the corps should be watched for about five years, during which the reality of peacekeeping operations should be determined. Then a study should be undertaken on what to do next, assuming that a national consensus on such action emerges by that time.

The government would be empowered to send members of the peace support corps on humanitarian aid and disaster relief mission on its own. But in the case of peacekeeping operations, they could be sent only to join conventional operations based on UN resolutions. A decision to send them would require advance approval of the Diet. Depending on developments, the Diet would be able to pass a resolution on their withdrawal halfway and give advice to that effect to the government.

The peace support corps would of course be barred from taking part in a Persian Gulf War-type multinational force.

Member of the corps participating in a peacekeeping operation would be pulled out if any of the attached conditions — the existence of a cease-fire agreement, the consent of warring parties to the presence of peacekeepers from Japan and other countries and the observance of strict neutrality — were not satisfied. The five existing principles that guide peacekeeping operations, including a provision that members should use their arms only to protect their lives, would be strictly applied to the corps.

We have outlined the proposed peace support corps. This is still a bare-bones proposal. A number of details remain to be worked out, such as the status and pay of corps members and compensation for those killed on duty. There may need to be some changes. What we hope to accomplish in presenting this idea is to provoke debate.

Proposal 3: Do not revise Article 9

Article 9 of the constitution, which renounces war and use of force, is an idealistic norm that preemptively undertakes the task facing all making. It is now time to consider how it should be put to best use in overhauling the SDF and security arrangements.

Article 9 established the framework for not giving preference to military matters in the post-war society. Now that the Cold War is over, revision of the article to give greater emphasis to military matters runs counter to the times and does more harm than good.
Although the Cold War has ended, the suffering has not. Helping those who suffer and promoting peace are the most important tasks of the international community. And such efforts are essential components of Japan's international cooperation.

Japan's constitution, founded on the three principles of absolute pacifism, the sovereignty of the people and respect for basic human rights, has decisively influenced the nation's postwar history. Had there been the slightest tinge of nationalism, Japan would have been utterly different in freedom, affluence and other aspects.

However, the will of the people who had seen enough of the devastation of war and of the militarism that led to war, was reflected in the constitution in its own way in the course of its drafting through Diet discussion. The constitution that resulted was welcomed by the vast majority of the people. Had it not been for the constitution as the overarching guideline for new nation-building, Japan could not have freed itself of a character that marked pre-war Japan.

In particular, Article 9 of the constitution, which renounces war and use of force, is an idealistic provision that embraced the duty of all mankind to seek the path of lasting peace. In an age characterized by military square off between East and West such a proclamation did not seem very realistic. But it has taken on added significance with the end of the Cold War.

What underpins the ideal of Article 9 is a resolve contained in its Preamble to preserve our security and existence, trusting in the justice and faith the peace loving peoples of the world.

As weapons have come to have horrifyingly destructive power and as cities and civilization have become sophisticated, a modern state can no longer withstand war or use of force. And, party as a result of democracy taking root in wider parts of the world, worldwide gains of the concept of human rights and ever deeper mutual economic dependence among nations, the world is entering into an age when a hot war among developed countries is hardly likely.

If a long – range look is taken at the world in post-Cold War year and the future of our planet, now is precisely the time for Article 9 to recover its brilliance. While we certainly have far to go, 'the possibility of translating the constitutions' ideal into practice is at last upon the horizon.

There have been widely differing interpretations of the overall purpose of article 9 and the wording of individual provisions. And the most divisive issues in post-war politics has revolved around the question of how the SDF should be understood in the context of the article.

Article 9 was understood as calling for being 'absolutely unarmed' at the time of the promulgation of the constitution. That was in accord with what was uppermost in the minds of the people and the actual condition of being completely disarmed immediately after our defeat in the war. It was supported by the naïve popular expectations of the peacekeeping function of the UN. In response to questions in the constitutional assembly in June 1946, then prime Minister Yoshida Shigeru said: 'As a result of any armament and the right of belligerency not being recognized, we renounced war as a means of exercise of the right of self defense.

When the Korean War broke out in 1950, however, the Allied occupation forces compelled the Japanese to organize the Police Reserve Forces, and the US –Japan Security Treaty was signed when the Peace Treaty came into force somewhat later. The government embarked on upgrading defense forces by changing the Police Reserve Forces into the National Security Forces and then into the SDF.
In consequence of the SDF's subsequent modernization and introduction of heavier artillery and other equipment carried out as proof of Japan's being a member of the West, the SDF today ranks as one of the most advanced in the world, especially in quality of its equipment. In view of the government interpretation of the constitution and the ideal of begin 'Absolutely unarmed' accepted by the people at the time of its promulgation, Article 9 must be said to have gradually been stripped of its spirit against the international background of an aggravating Cold War.

The Japanese, in the meantime, have continued to highly evaluate Article 9 of the constitution. Now that we find ourselves under a completely different situation, what is necessary in ushering in the next century is to reassess Article 9 and give profound thought to applying the provisions of the article to good use in the face of the realities of the ASDF and national security policies.

In the context of Article of the constitution we have serious doubt about the present status of the SDF. How we think of the force for self-defense that is permitted by the constitution will be elaborated in Proposal 4. We do not think that Article 9 rules out the use of force in self-defense. A state is allowed the right of self-defense as a course of last resort in resisting or repelling aggression or use of force by a foreign country. And we do not believe Article 9 went so far as to discard that right.

Asahi Shimbun has long held such views.

On December 16, 1953, it said: 'The majority of the people think at their heart that effective force for self-defense is necessary. We are of the same opinion.

On may 3 1968, it said:

The constitution does not deny the right of self-defense, which is the basic right of a state. It also recognizes the minimum force necessary for self-defense. Though such a force must be used against imminent and unjust aggression by foreign country, such a force should be sued strictly within the frame work of the provision of the constitution.

As long as there are countries that have no qualms in the use of force, force for self-defense cannot, regrettably, be rules out. Unarmed resistance and uprisings alone cannot make people feel secure.

What is important in the interpretation of the constitution is an attitude to flexibly search for its meaning based on the ideals and objectives of its provisions. Too sclerotic as interpretation becomes at times out of step with the times and can undermine the very spirit of the constitution.

The constitution of the United States has a history of more than 200 years and yet it is kept intact save some revision, including the first ten amendments that were added as the Bill of Rights. It should be remembered that flexible interpretation and precedents in response to changes in American society have served as the lifeblood of the American Constitution.

The constitution is a body of supreme legal codes. But as the principles of government, governmental machinery and rights and obligations of the people are contained in concise and abstract provisions, there is often much room for divergent interpretation. Heated controversy thus arises over the constitutionality of certain policies of pieces of legislation, resulting in bitter political conflict. That is why constitutions are said to be 'political norms' as well as 'legal norms.'

That is neither messy nor unhealthy, however. Controversy should be positively appraised for its role as a safety valve to ensure that Japan's basic policies remain democratic and sound.
In that sense, it would be one-sided to think that Article 9 was ‘hollowed out’, or that it has lost its meaning as a norm by being interpreted differently. We think that, objectively speaking, article 9 has served its role well in guiding the national and its people for half a century.

During that period, Japan neither sent its troops abroad to kill other peoples nor manufactured weapons for export. Though the SDF have been reinforced, the manner of their operations and their behavior have not been unconstrained. That was because they were constantly subjected to scrutiny in the context of Article 9 of the constitution and to discussion among the people.

Much of the framework for Japan’s defense policies – such as the denial of the collective self-defense, prohibitions against sending combat troops abroad, the three non-nuclear principles, denial of the conscription system, banning weapon exports and restraint on defense spending – are results of Article 9 and debate about it.

More important is that the notion of putting much emphasis on military matters has been rejected. Military matters are liable to take precedence over legislation and government’s administration over civilian matter on the ground that military matters are ‘the basic tasks of a state’. Under Article 9 of the constitution, however, national defense has been treated on the same footing as the government administration in other field and has not been given preferential treatment.

The fact that the basic framework for not bestowing privileges or giving preferential treatment to military matters has taken root in post-war Japan and that the country does not pose much military threat to neighboring countries clearly owes to the functioning of Article 9.

The SDF are treated as ‘military forces’ on the international scene. but the SDF units are not ordinary military forces with the same powers and functions as those of other nations.

The SDF is subject to a maze of regulations, such as prior or ex post facto approval of the Diet in taking action for defense purposes. According to the government interpretation, exercise of the right of self-defense is contingent upon (1) imminent and unjust aggression against Japan, (2) non-availability of any other means, and (3) use of force to the minimum extent necessary. The SDF can act only on or near Japan’s territory, its territorial waters and air space.

Though there is much ambiguity and vagueness in the government’s interpretation, the SDF is considerably constrained in its action if those conditions are strictly observed. The SDF can be regarded as not much different from the police and the Maritime Safety Board in that they are subject to many constraints in their action.

Moreover, it is not permitted to limit the rights of the people provided for by the constitution on the pretext of an emergency. And there is neither military tribunal nor legislation authorizing secrecy. It was the pressure of the wide spectrum of the people. Who had great faith in Article 9 of the constitution, that has thwarted many attempts to enact laws for dealing with contingencies.

Political action was repeatedly taken, ranging from the contention, made soon after it was promulgated, that the constitution was ‘foisted off upon Japan, to the more recent notion that cast doubt upon it as limiting Japan’s ability to make an international contribution now want to revise it purportedly to stop its virtual amendment by farfetched interpretation.

The constitution is not sacrosanct. It is essential that it be examined in the present context. But as far as Article 9 is concerned, what the times require is not that Japan gets free of military constraint but the reverse. Obviously the
importance of military power has diminished with the end of the Cold War. The revision of the constitution in such a way as to give greater emphasis to military power clearly runs counter to the trend of the times. We cannot endorse such a move.

It is desirable that defense policy is always open to debate in political processes and a subject to public discussion, as is true in many developed nations. In Japan, Article 9 is the centerpiece of such discussion.

Ultimately, it should be stressed that Article 9 is highly regarded abroad for its ability to check the possibility that Japan could become a country that seeks after its own national interest by sword-rattling. To Asian neighbors, the article is a symbol of what prevents Japan from becoming a dangerous country.

Revision of Article 9 under the present conditions will surely invite wariness and concern in other countries and could trigger an arms race in East Asia. That would hurt, rather than serve, Japan's security interest.

Proposal 4: Changeover of self-defense forces

Use of force for self-defense permitted under Article 9 is limited to being within bounds of genuine self-defense. There are strong doubts that the Self-Defense Forces as presently constituted exceed those bounds in both equipment and scale.

Plans should be made annually for scaling them back to an organization for protection of the nation's territory with the years 2010 as a goal. Ground Self-Defense Force strength should be halved and Aegis vessels and P-3C anti-submarine patrol planes should be significantly reduced.

The public approves both Article 9 of the constitution and the existence of the SDF, as has frequently been shown by opinion polls. Most Japanese accept the SDF's existence, even though they put more hope in their relief role in disasters rather than their primary duty in defense and have always been reluctant to support strengthening them.

However, whether the SDF as presently constituted is in accordance with the constitution must be examined separately. In a ruling handed down in 1959 by its full bench on the Sunagawa case, in which the constitutionality of the presence of US forces in Japan was challenged, the Supreme Court found that Article 9 of the constitution does not negate the right of Self-defense, and said that the government 'can take measures necessary for self-defense in order for this country to maintains its peace and security and fully preserve its existence.'

The Supreme Court has not, however, ruled on whether the SDF, in its present form, is constitutional.

The government's official view regarding Article 9 in recent years is that it is legal to 'maintain forces for self-defense to the minimum extent necessary' within the rights inherent in a nation. Even with such interpretation of the constitution, a self-defense organization established on the right to self-defense would be unconstitutional if it oversteps the bond of minimum force necessary for self-defense in scale, equipment, duty or basic action doctrines.

Successive past administrations however, have strengthened the SDF's combat capability using rationale that can only be described as subterfuge.
without thoroughly examining these points. By qualifying the minimum with the world 'necessary' they made 'minimum' limit meaningless for practical purposes.

Many wars have been waged in the name of 'protection of interests' or 'self-defense.' If thought is given to that fact, the 'force for self-defense' which will be tolerated under the constitution must be viewed as a limited one which really remains within the bounds of 'self-defense.'

Unlike the government, we think that what is permitted under the Constitution is possession of force that is only sufficient to protect the people and the nations land from local aggression or use of force that can realistically be assumed.

How much force and what equipment are permitted under the constitution? It is the politicians responsible for civilian control of the SDF, and ultimately the voting public, that set the limits to the force for self-defense. But until now, diet members have tended to be preoccupied with semantic exegesis over whether or not the SDF's very existence is constitutional. Obviously the Diet has neglected constructive discussion on the SDF's management and their limitation after having defined their proper place in the nation's administrative machinery.

What is force for self-defense permitted by Article 9 of the constitution? We see it this way:

1) The right of self-defense is exercised only in a case of armed attack against the people and their territory. The use of force for self-defense is confined within Japan's territory, territorial waters and air space. This is what is termed 'exclusively defensive defense.'

2) The SDF's equipment and organization must remain within the scale and capability that are appropriate to such objectives. For instance, possession of any weapons that could be used to attack other nations is to be restrained to the utmost.

3) No Combat troops will be sent abroad and the right of collective self-defense will not be exercised. Participation in the United Nations peacekeeping operations and any other forms of our international cooperation will be undertaken by a Peace Support Corps, which will be newly created.

4) Great importance will be attached to the SDF's duty of relief activities in natural disasters in order to protect the lives and properties of the people.

Viewed from such perspectives, it is very doubtful that the SDF in its present form is within the boundaries, either in personnel strength or equipment, as set by the constitution.

When Japan’s defense spending is the second largest in the world and the country ranks at the second or the third place in the league table of arms import, is Japan's force for self-defense in its present form a minimum force necessary, even though, admittedly, there may be some problems in making simple comparison of defense spending in dollar terms? In particular, the equipment for the Air and Maritime Self-Defense Forces is the most advanced in the world in both quality or quantity.

In no other nations have F-15 fighters and P-3C anti-submarine patrol aircraft been deployed so densely throughout the land. Such a situation conflicts with the message that the pacifist constitution sends to the rest of the world. That is why Japan is being criticized as a 'contradictory country.'
Moreover, there have been some signs of self restraint in acquiring weapons for exclusively defensive purposes being eased still further in recent years. Typical of such changes is the development of the FSX, the next generation of fighter support aircraft. And plans are also afoot to procure refueling aircraft and large transport vessels one after another.

We think that the aggrandized SDF should be reorganized into a smaller force of a National Defense of the Japanese Archipelago by the target year of 2010, fifteen years hence. It is time to re-examine the SDF, in terms of both quality and quantity, and quantity, for reorganizing them into a force dedicated exclusively to the defense of the country.

This is a proposal made not simply from the standpoint of the constitutionality of the SDF.

Some may be worried about possible contingencies. However it has become practically impossible for a hot war to break out between developed countries after the end of the Cold War. Secondly, there is very little likelihood of a regional conflict occurring directly on Japanese soil, even through military build-up in China and uncertainty in the Korean situation are problems besetting the nation. It is precisely the time for Japan to stand at the forefront of a disarmament drive and strive to debunk the perception of armament as something with which to meet threats from others. By doing so, Japan will be inducing neighboring countries to reduce their arms.

The first step toward that end is a large reduction in the Ground Self-defense Force. As the likelihood of full scale landings on the Japanese land from the north - which were assumed in the Cold War years - has been dramatically reduced, it is not necessary now to have heavy concentration of Ground Self-Defense Force units in the northern part of the country. It is also possible to have smaller divisions.

As it has become even more unrealistic to assume a decisive battle on Japanese soil, a deep cut can be made in the number of large tanks and artillery. The law should also be revised to strike down the SDF’s duty of ‘dealing with indirect aggression,’ which is, in a way, a vestige of the days when law and order in the country were insecure.

Of the equipment of the Maritime Self-Defense Force and the Air Self-Defense Forces, the numbers of Aegis destroyers, P-3C anti-submarine patrol aircraft and AWACS (Airborne Warning and Control System) planes, which have been consistently upgraded for the purpose of dealing with supposed threat from the Soviet Union, should be largely reduced.

To a Japan dependent on import for most of major natural resources, it is, of course, very important to secure the safety of maritime traffic. But that does not justify expanding the scope of the Maritime Self-Defense Force’s action. It will be desirable for Japan to sign agreements on safety on the seas with neighboring countries while cooperating with them in their endeavor for security on the seas.

At the same time it will be necessary to upgrade transport capability for more efficiently operating the reduced Self-Defense Force and improving the quality of equipment used exclusively to defend against an enemy landing on our soil. Small, high-powered vessels and various types of helicopters, for instance, will be in greater need. It is also important to have better equipment for fighting natural and chemical disasters.

Such reorganization needs to be phased in on the basis of yearly plans while paying attention to possible changes that might be made in the Japan-US security arrangements.
The first stage (until 2000)- The build-up in the defense power, which has been almost consistently carried out since fiscal 1958 on the basis of the Defense power Build-up Programs, is to be put to an end with the termination of the current Midterms Plan which ends in this fiscal years. The government should launch a National Security Council by the end of 1996 to invite its opinion on how the defense power should be at peacetime in post-cold war years, what the relationship between the Japan –US security arrangements and the SDF should be and the prospective military technology and defense industry in the years to come, and draw up a blueprint for the National Defense Force by 1998 in line with Article 9 of the constitution.

Force for self-defense is to be reduced for the time being in the order of freezing, reduction in quantity and slowdown in replacement in quality. In carrying out such reduction, a temporary goal for the scale down should be a return to the level set by the concept of Basic Defense Capability adopted by the government of Prime Minister Miki Takeo.

The Miki government's plan-which was based on the principles of (1) Japan does not adopt a doctrine of countering external threat with force, (2) the target of improvement in the defense power is force that is necessary in peace time, and (3) the scenario dealing with an invasion should be a limited one-was subsequently turned into meaningless words. But the perception that formed the basis of the plan is still relevant.

The second stage (until 2005) the government should officially pronounce the reorganization of the SDF into a National defense corps, legislate the three non-nuclear principles and the three principles of non-export of weapons and begin consultation on security matters with neighboring countries.

The government is to make yearly plans for scaling back the defense power and changing or abolishing equipment, and further press ahead with reduction in arms described for the first stage. In making such plans, the government should avoid entirely depending on officers in uniform. It should take advantage of a consultative body composed of representatives of political parties and specialists in the private sector.

The third stage (until 2010)this is the period for implementing the reduction in arms planned for the second stage and reviewing the plans itself. The troops in the Ground Self-defense force should be approximately halved.

Such efforts for phased reorganization of the SDF will be more effective if they are made in parallel with diplomatic activities for ensuring relaxation of tensions in the region and multilateral security.

Proposal 5: Pull away from Cold-War security arrangements

Multilateral talks and consultations should be repeatedly held and a target should be set for forming an organization in Asia, similar to the Organization for Security and Cooperation in Europe, for preventive diplomacy and arms control. The emphasis in the new organization is to deal with new threats such as arms buildup and disputes over resources and economic issues.

One of the most remarkable changes since the end of the Cold War has been the emergence of prospering East Asian nations. A decade ago who could have taken seriously a prediction that the combined economic scale of China plus Hong Kong and Taiwan, South Korea and Southeast Asian nations would approach that of the Untied Stages in 2010? What were once theaters of Japan's aggression have become strategic plant sites and markets that drive the global economy.
How are we, living in an insular country on the eastern tip of Asia, to face such changes?

First, we should deepen mutual dependence with neighboring countries, and extend a helping hand to their development. Our doing so will contribute to peace in the region by entrenching democracy in those countries and stabilizing their external policies.

It is also important to contribute to creation of a stable security environment. For nothing is more important than peace to economic and social development of these countries.

The days are long gone when the only thing we had to do was to simply scream — along with the Untied States-about a Soviet threat. How can we establish a lasting peace and property in east Asia in the new age? Japan’s diplomatic capability will be put to a more pointed text than ever.

We think that the tasks facing us are threefold as described below.

The first is to put into practice our resolve to never against pose a military threat to other countries- through our own disarmament and participation in peace-keeping operation — and continue to strive to dispel concerns about us on the part of our neighbors. That is the starting point for Japan’s taking part in East Asian politics.

The second is to enhance confidence among nations by frequent multilateral talks and consultations for preventing conflict; it is hoped that the results of such talks will lead to formation by the end of this century of a body similar to the Organization for security and cooperation in Europe dedicated to maintenance of peace, reduction in armaments and cooperation in security matters.

The third is to press ahead with reexamination of the Japan-US security arrangements at the same time. That means we make efforts for reshuffling the arrangements-made primarily for containing the Soviet Union – into those that will contribute to peace in Asia, while keeping in mind the course that Japan should take as a peace-loving nations.

Hope and anxiety coexist in this region. Though the danger of immanent clashes is reduced, there are still roots of conflicts.

North Korea’s isolationist foreign policies and its military oriented economy are causes for serious concern. China’s squabbling with the Philippines and other nations over the Spratly Islands is entangled by possible existence of oil resources. Relations between China and Taiwan are also delicate.

Countries in Southeast Asia are very wary of future China. They fear that China, a big power without any doubt, may eventually embark on a strong-arm diplomatic policy on the strength of its military power.

It was for that reason that these countries welcomed the policy of the United States government to maintain its 100,000-strong force in the East Asia and pacific region for the next ten years.

Not a few are also afraid Japan many become a militarily big power in course to China if China poses a military threat. Against Such a background, southeast Asian countries are hurriedly importing state- of -the -art weapons for modernizing their armaments.

What is most effective is severing the chain reaction that heightens mistrust and tension is for the countries in the region to build up a framework for nipping the causes of disputes in the bud and protecting peace in cooperation with other countries outside the region.
An experiment is already under way for directing the momentum for nascent economic integration toward that direction: the ASEAN Regional forum. The forum is the first arena for multilateral talks on pace in the region involving nearly all the interested parties.

To resolve the issue of suspected nuclear development by North Korea, the Korean Energy Development Organization was established, and the new Organization has support of China as well. That is another new attempt at regional security. And it is also expected that the Asia-Pacific Economic Cooperation Forum will have increased political weight in coming years.

To take steps toward a security system, talks and consultations have to be conducted on a variety of subjects at many different levels.

For instance, pollution of the air in China and other environmental problems are too be discussed among neighboring countries. If the mobility of labor increases in the region and talks are held on labor markets and working conditions, such talks will also be useful to prevent gaps in the levels of economic development from turning into strains among nations. Cooperation for space development and greater exchanges of students and other people will also contribute to building confidence.

Japan has started talks with China and Russia over security matters, Japan should also try to realize a six-nation consultation by Japan, the United States, China, South Korea, Russia and North Korea on the subject. Such consultations will be meaningful in creating a favorable atmosphere for solution of the territorial dispute between Japan and Russia. Japan can also contribute to mediation in the dispute over the Spratlys and preparing the ground for international cooperation in matters concerned with the safety of maritime traffic and relief in disasters.

Hopefully the series of those efforts will lead to systematization of confidence building measures. Making overtures to these countries for such purposes is an important role for Japan.

There is another unavoidable task; reducing the threat of nuclear weapons. Joining hands with Southeast Asian countries and other non-nuclear powers, Japan should have talks with the United States, China and Russia over non-use of nuclear weapons and regulation of their deployment while giving support to the denuclearization of the Korean peninsula. That will be the first step toward establishment of a nuclear free zone in the future. Most, probably, that is in accord with the wish of the majority of the nations and is also a way for extricating Japan itself from America's nuclear umbrella.

Conventional military alliances do not work against new threats that arise from such issues as natural resources, territories, refugees and environmental destruction. As East Asia is a grouping of diverse countries, the climate was not favorable to creation of arrangements to take the place of military alliances. The major players here are still bilateral alliances led by the United States and organized in Cold War years.

In particular, work is under way in the American administration for 'redefining' the US-Japan Security Treaty—which was, along with the North Atlantic Treaty Organization in Europe, a bastion for the West for nearly half a century – to have the alliance take over the function of maintaining peace in the region.

Japan should ponder, however, whether the security arrangements between Japan and the United States as they are- will contribute to peace in Asia in the long run.
From a historical standpoint, there is no doubt that those arrangements helped stabilize the relations between Japan and the United States and formed a basis for Japan's economic development—which is termed as miraculous—with the United State and formed a basis for Japan's economic development—which is termed as miraculous—with the United States as its trading partner. It is an undeniable fact that some people in Asian countries and the United States think that without the Japan-US security arrangements Japan would not have abided by its pacifist constitution and would have become a military power.

But it should not be overlooked that such arrangements also contain contradictions. It is claimed that Japan did not require more than light weapons precisely because of its security arrangements with the United States. But did not the American Pressure for Japan's arms build-up aggrandize Japan's Self-Defense Forces and thereby fuel the neighboring countries' sense of being threatened by Japan?

Action taken by American troops in Japan beyond the limit of the Far East, for practical purposes if not in theory, set by the security treaty and ambiguity in the nature of prior consultation (which is to be conducted when the American troops make important changes in their deployment of equipment in Japan and when they are engaged in combat operations from their Japanese bases) have harmed healthy relations between Japan and the United States. Massive amounts spent on supporting the stationing of the American troops in Japan attests to the fact that the security arrangements between the two countries have changed, in practice, into those of mutual obligations and benefits instead of one-sided favor. The security arrangements have also had immeasurable 'negative utility' in giving military consideration out of all proportion to the United States and having thus hindered Japan's own diplomacy in relation to Asian nations.

The security arrangements between Japan and the United States may have been an unavoidable choice for Japan to return to community of nations under the wing of United States and achieve development soon after our defeat in the war. In the light of the ideal of the Constitution, however, Japan's participation in a military alliance, which could implicate Japan into America's wars, was a transitional and exceptional choice.

As long as there are no credible regional security arrangements and many countries in the region pin hope on deployment of American troops as deterrent to conflicts and also on Japan's assistance, however, it is necessary to take an incremental approach to changes in the Japan-US security arrangements. That is because we fear that instability arising as a result of abrupt change can stem the tide of rapprochement.

But some problems demand immediate attention. The first is a reduction or dismantling of the American military bases in Okinawa, which burden inhabitants in the prefecture, and solution of the noise problem around bases elsewhere in Japan. It is necessary to review the Japan-US agreement on the status of the American troops in Japan, which is much more indulgent to the American troops in their manoeuvres and use of facilities than similar arrangements in the countries of the North Atlantic Treaty Organization.

A fresh look should also be taken at the management of the security arrangements between the two countries based on the Cold War assumptions, such as planning joint operations. Those are part of the work for eliminating 'negative utility'.

The second is to discuss the deployment of American forces and their preparedness at the ASEAN Regional Forum and other multilateral meetings. Talks at such conference tables will not only enhance the deterrent effects on
conflicts but also prevent American military action from becoming counterproductive.

The only way possible for the regional security arrangements in the years ahead is unceasing efforts to be made by the countries in the region for preventing conflicts and build on such efforts to develop them into a comprehensive collective security system which is capable of taking sanctions and conducting peacekeeping operations, even though such a process may be time-consuming.

Japan’s close relations with the United States will continue to be the most important asset to Japan. And the importance to the world community of cooperation between Japan and the United States, two economic powerhouses in the world, for helping the growth of the world economy and providing assistance to developing countries will never diminish.

But there is little doubt that in the next century the world’s political and security order centered around the United States will be gradually weakened and its military presence in the region will begin to decline. To try to construct a full-fledged regional security system, carried out with American cooperation, is to prepare for that.

Proposal 6: Leading reform of the United Nations

Broaden powers of the General Assembly in the interest of democratizing the United Nations and phasing out the veto power to make the Security Council a fairer body.

Establish a strong socio-economic Security Council to give greatest priority to keeping disputes from growing.

Scrap the passivist perception of the United Nations and take the lead in reforming the world body to achieve a better world. What is important for a non-nuclear Japan that makes no military contribution is not that it has a permanent seat on the Security Council, but what it does after getting it.

Japan’s postwar diplomatic policies have been based on the two major principles of ‘Japan’s –US relations as the corner-stone of diplomacy and United Nations-centered diplomacy. If the former was a very realistic policy of establishing the nation security by an alliance with the Untied States, the latter was an expression of Japan’s intention to strive to realize the ideals of the United Nations Charter, which Japan recognized was resonant with the spirit of the constitutional, as Japan envisioned an ideal future international community centered on the United –Nations.

The United Nation, which was formed as a result of the soul-searching over two world wars, wanted above all to spare future generations from the scourge of war and obliged all members nations by the Charter to peaceful settle international disputes and refrain from the use or threat of force. The Untied Nations aspired to be a body for collective security, by which the members nations act together to take sanctions against violators and take coercive measures by force when necessary. But the proper Untied Nations force for ensuring peace through the world body has not yet come into being.

Responding to such an ideal of the Untied Nations Charter, Japan’s constitution proclaimed renouncing war and the threat or use of force as a means for settling international disputes.
Soon after its founding, however, the United Nations sailed into the rough waters of the Cold War and has not lived up to expectations in the half-century of its existence. Still, liberation of colonies and independence for about eighty nations since then should have been unimaginable without the United Nations. And it was the United Nations that has sought to end racial and sexual discrimination and enhanced the awareness of the states and people about such problems as population explosion and environmental destruction.

Nor should it be forgotten that the United Nations offered a precious arena to medium and small countries for pleading their positions out of a desire to prevent international politics from being driven by the selfish interests of big power.

Fifty years after the end of the last war, however, the world is very different from the time of the foundation of the United Nations, discrepancy between what the world expects of the United Nations and the actual United Nations has become much too great.

The United Nations, which started with fifty-one victors in the Second World War as its charter members, has evolved into a universal international organization with 185 members. As it evolved, however, strains in the composition of the major United Nations organizations such as the Security Council and the economic and social council and imbalance in the powers of those organizations have become so conspicuous that they can no longer be tolerated.

Japan, a ‘former enemy’ according to the Charter, makes financial contributions to the world body second largest among members nations, Japan is also expected to provide 15.65 percent of all contributions – about equal to the combined contributions of four permanent members of the Security Council excepting the United States – in 1997. the fact that permanent seats for Japan and Germany at the Security Council are talked about in connection with reform of the United Nations is symbolic of the changes that that have taken place in the last half century.

The charter of the problems that threaten international peace and security referred to in the Charter has also clearly changed. Regional conflicts and ethnic disputes have proliferated while people are freed from the nightmare of a nuclear show-down between the United States and the Soviet Union.

In place of ideological confrontation, poverty, environmental destruction and various gaps in societies have come to be perceived as major problems confronting the world. Shift of emphasis from military – oriented security to human-centered security for stopping the spread of conflict has been gaining ground.

The 1994 version of the Report on Human Development prepared by the United Nations Development Program notes that one fifth of the population in poor countries suffer from starvation and a quarter do not have basic necessities while large quantities of food are thrown away and needless weapons are produced abundantly in right countries.

Nor does the problem end there. In a borderless age, national boundaries no longer have the same meaning. Regions are being integrated. Nations are no longer the exclusive players in international politics, and problems facing making cannot be addressed properly without joining forces with nongovernmental organizations and regional bodies.

It is obvious that the United nations lags behind such changes in the times. The world body is confronted with an urgent need for radically reexamining its organizational makeup and priorities in its activities.
From such a viewpoint, we propose that Japan stand at the forefront of reform of the United Nations. It is hoped that the proposal will serve as a guideline for Japan, a big power half a century after the end of the war, in adopting future-oriented political and diplomatic policies.

The major targets of the reform are: (1) to strengthen the power of the General Assembly for the sake of democratization of the United Nations, (2) to phase out veto powers to make the Security Council a fairer and more transparent organization, (3) to create an Economic and Social Council to meet the requirements of the times, (4) to clearly define peacekeeping operations in the Charter.

The starting point for the reform of the United Nations is a laboratory for human beings to bring the reality in the world closer to its ideals. What is important is the ability to have visions about the manner of our participation in the world body in light of the world as it should be and the course that Japan should take and to act on such vision.

Some in Japan advocate revising its constitution to make more active ‘international contribution under a reinvigorated United Nations. However, we should neither unquestioningly accept the United Nations as it is nor impetuously change its basic policies. Japan should take the lead in the reform of the United Nations while making serious efforts toward international contribution that is appropriate to Japan.

**Strengthening the power of the General Assembly for democratization of the United Nations** The lifeblood of the United Nations is the member nations confidence in it. It is important that rules and principles are fairly applied regardless of the size and strength of the member nations. That is why democratization comes at the top of our objectives.

The countries in the South are increasingly concerned that the United Nations has tended to be driven by major countries. The power of the General Assembly should be strengthened so that the voices of the developing countries are better reflected in United Nations activities.

The resolutions adopted by the General Assembly are not binding at present. And Article 12 of the Charter stipulates that without the Security Council’s explicit request, the General Assembly shall not make any recommendation on matters related to peace and security if the security Council is performing its duties in such matters.

Because the Security Council is very powerful, it is not healthy that the United Nations lacks in Institutional arrangements for examining the relevance of the decisions and other action of the Security Council. The Charter Should be revised to enable the General Assembly to always keep track of the Security Council and oversee it. It should also be made possible for the General Assembly to make recommendation on peace and security from perspectives that are different from those of the council.

**Phasing out veto power for a fairer Security Council** The reform of the Security Council the focal point in the overhaul of the United Nations, should be made with the greatest emphasis placed on securing greater transparency in discussion at the council and thereby ensuring fairness.

The veto power should be abolished. In the first phase, which is to be put into effect by the end of this century, change is to be made in the veto power in such a way that it is effective only when two or three permanent council members concur and secondly, it is abolished outright by the target year of 2005.
Japan and Germany are regarded as important candidates for new permanent members of the Security Council. But any reform worth its name would call for inviting three other countries, each representing Africa, Asia and Latin America, as new permanent members. Moreover, nonpermanent members should be increased by about five seats so that smaller countries and those in the South are better represented.

In the second phase of reform the security Council should be entirely overhauled by around 2010.

The five permanent members of the Security council are all nuclear powers and major suppliers of weapons. Export of weapons by these countries accounted for 86 percent of the total arms trade in the world in 1993. While the danger of proliferation of nuclear arms and modern weapons to developing countries is more and more serious, the root cause of the danger is traced to the five countries that assume greatest responsibility for maintaining peace and security in the world.

A breakthrough will be found by changing the Security Council so that it can make an honest effort at nuclear disarmament and regulation of transfer of conventional weapons.

Japan, unique in its three non-nuclear principles, refusing to export weapons and not making military contribution to the world community, should stand at the forefront of reform of the United Nations. And if it is so requested, Japan should become a permanent member of the council. What is important is not that Japan has a permanent seat on the Security Council but what it does after getting it.

Defining peacekeeping operations in the Charter: Peacekeeping operations are not formally defined in the charter and the peacekeeping efforts are described as action based on Chapter 6 and half because they are in between Chapter 6, which provides for pacific settlement of disputes and Chapter 7, which stipulates sanctions and use of military power.

The conventional peacekeeping operations were based on principles of (1) consent of the parties to the dispute, (2) nonparticipation by permanent members of the Security Council and parties to the dispute, and (3) not taking military action. Departing from the tradition after the end of the Cold War, however, the Untied Nations attempted to impose peace through force. But the failure in Somalia put the prestige of the Untied Nations at risk and Secretary-General Boutros Boutros-Ghali expressed his intention to return to traditional peacekeeping efforts. It is desirable to clearly define peacekeeping in the chapter so that it will not overstep the mark in future.

Japan should actively take part in such operations through its nonmilitary organizations.

Chapter 6 of the Charter should more clearly define the course of action for peace, such as a guideline on mediation.

Creation of an Economic and Social Security Council: To thwart growth of disputes, emphasis in UN activities should be placed on such problem as poverty, human rights and the environment. But the present Economic and Social Council is not powerful enough for that. Many specialized organizations have branched out of the United Nations in these fields and their functions partly duplicate. But under the present circumstance, the Economic and Social Council cannot properly make comprehensive plans and control or adjust specialized agencies.

An economic and Social Council should be established in these fields with power commensurate with the power of the Security Council in peace and
security. Special attention should be paid to joining forces with non-
governmental organizations and the role of the non-governmental organizations
should be clearly defined in the Charter.

These are only some of the tasks in reforming the United Nations. But
every one of them will put Japan to a test in regard to its basic policies and its
diplomatic and political capability. It is hoped that Japan, while promoting reform
of the Untied Nations and disarmament in the countries of the world, will be a
country that takes steps forward without losing sight of the day when the United
Nations will have a credible United Nations police Force.
Appendix VII

Ozawa Ichiro, 'A Proposal Reforming the Japanese Constitution' (1999) 4

Ozawa Ichiro, President of the Liberal Party of Japan, translation by Julia Parton.

The Japanese Constitution was adopted by the House of Representatives (Lower House) plenary session on August 24, 1946. It was promulgated on November 3, and came into effect on May 3 the following year. It is also widely known that MacArthur, the Supreme Commander of the Allied Forces, proposed the draft of the constitution to the government. Today, over half a century later, it remains without a single amendments.

This constitution shall be the supreme law of the nation and no law, ordinance, imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity.

This is the provision of Article 98 of the Japanese constitution which establishes the constitution as 'the supreme law' amongst all other laws. A constitution represents the rules that a nation decides upon in order to protect the lives, property and rights of the people, enabling them to live in peace. Although it is natural for these rules to change with time our constitution has not been revised for over fifty years. There have been no addition to reflect the changing values of each new era, and we as a nation have become attached to a fossil. Despite this, there are many people who talk about the current constitution as if it were almost perfect.

At the risk of being misunderstood, it seems abnormal to me that a constitution imposed by the occupation authorities continues to function after Japan has become an independent nation. In civil law, it is a self-evident truth that a contract is invalid when imposed while under imprisonment or through coercion. Despite this, when discussion turns to the constitution, the spirit of the law is ignored through arguments which posit that 'although the constitution was introduced during the occupation, it was debated in the Diet and established after following correct procedure.'

In 1946, Japan was under military occupation. It was not an environment where Japanese people were able to express themselves freely. A constitution which is decided under abnormal conditions is invalid under international law.

This is a principle enshrined in the Hague Convention of 1907; and even in the Potsdam Declaration, which Japan accepted after the war, there is a clause which states that the form of Japanese sovereignty 'should follow the freely expressed will' of the Japanese people.

Looking at the constitutions of other countries, it is written in the constitution of the Republic of France, for example, 'No amendment procedure shall be commenced or continued where the integrity of the territory is jeopardized.' It is stated in the constitution (the 'Basic Law') of the Federal Republic of Germany, the former West Germany, that 'this Basic Law, which is valid for the entire German people following the achievement of the unity and freedom of Germany, shall cease to be in force on the day on which a constitution adopted by a free decision of the German people comes into force.

For a long time in Japan, people have hesitated about even discussing revision of the constitution. If politicians like me asserted the need for reform,

they were labelled as 'right-wing reactionaries' by those who are grateful for our' peace constitution.' Of course, I do not believe that all of the constitution is wrong simply because it was established during the Occupation. On the contrary, I regard it quite highly. When I was at school, I wanted to be a lawyer, and often pored over the constitution. However, what exactly is 'peace'? What exactly is 'the constitution'? Is it not time to reconsider what these words mean?

The constitution established under the Occupation is invalid

To state my conclusion first, Japan should have used the opportunity, presented when it was internationally recognized as an independent country with the conclusion of the San Francisco Peace Treaty in 1951, to announce that the constitution established under the Occupation was invalid, that it was returning to the Imperial Constitution, and that it would then establish a new constitution. Of course, no problem would be posed if the newly established constitution were 'the Japanese Constitution.'

This is not an original idea of my own. In fact the question of whether the constitution was invalid as a document established under the Occupation was a common topic of discussion. This opinion was typical of the Kyoto School, including the scholars Sasaki Soichi and Oishi Yoshio.

A rather unique mentality developed in our country under the so-called '1955 system,' where Japan strove to achieve high-speed economic growth under the background of Soviet-US confrontation. Named 'constitutional protectionism,' it presented itself as a firmly held belief, but rather represents an understanding that the status quo should not be breached. An irresponsible way of thinking permeated deeply throughout Japanese society, where people told themselves that the current system was fine, and there was no need to think about such difficult matters. A particularly Japanese idea dominated that, 'We must defend the constitution, therefore we cannot debate it.' The constitution became immutable, with the ruling Liberal-Democratic Party suspending its call for the establishment of an 'independent constitution' which was included in its party platform at the time, and the main opposition Socialist Party continuing to defend the 'Peace Constitution.' The insights of the scholars of Kyoto University, including Sasaki and Oishi, also came to be forgotten.

As we approach the beginning of the twenty-first century there are few who could deny that Japan is entering into a period of great change. It is impossible for Japan to respond to these domestic and international changes while maintaining the system of Japanese 'collusionism.' Surely there is not a single citizen who wants to go back to the isolation of the Edo period, and therefore then the only path open to us is to change the people's consciousness to bring it in line with the rest of the world. In order to achieve this goal, it is necessary to reconsider whether the imperfections embedded in the constitution, which is at the root of our legal system, can be neglected. Through discussion of constitutional reforms, the potential exists to break through the blockade we are confronting.

I will soon have spent over thirty years as a politician, and have resolved it is time to speak out against Japan's post-war taboos. It was decided recently in the Diet to establish a committee to investigate reform of the constitution. Although this committee is in the ambiguous position of having no right to make any proposals, it can be considered a step forward given the situation up until now. Here I would like to present my own thoughts on constitutional reform as honestly and openly as I can, and encourage people to make a reasoned judgement of my proposals.

Let me start by pointing out that I am not a specialist in law so, from a legal perspective, there are probably many examples of inappropriate wording.
and unpolished phrasing. It should therefore be understood that these proposals simply represent my opinions with regard to the constitution.

**Simplifying expression**

The Japanese Constitution, which came into effect in 1947, starts with a preamble of only 600 characters.

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.

Firstly, it should be pointed out that constitutional interpretation cannot use historical context as basis for a decision. In interpreting the law, the motives of its writers should not be included, but it should be interpreted as much as possible according to its provisions. For example, the circumstances at the time the constitution was established meant that the American Occupation forces wanted to prevent Japan from having the ability to fight another war. They thought that the Japanese were a fanatical race who regarded the Americans and the British as barbarians. This policy changed with the consolidation of the Cold War structure between the US and the USSR but one of the fundamental principles of interpreting law is that such historical circumstances should not be included in the interpretation of a constitution.

The basic principles of the Japanese Constitution are written in the preamble: the principles of pacifism; respect for fundamental human rights; sovereignty of the people; and, what I would like to emphasize, the principle of international cooperation. There is no need to change these four principles, in my opinion.

I have used modern, simplified Chinese characters here, but the actual constitution is written using pre-war characters, which makes it difficult to read. I do not, however, intend to touch upon this, or other stylistic problems. Rather, I would prefer to concentrate on the content of the constitution, having said that, it is preferable that the constitution be expressed in the simplest terms possible.

Moreover, I am in basic agreement with the argument that the preamble of the constitution should also elaborate the unique characteristics of the Japanese, which stem from our traditions and culture.

Furthermore, abstract principles, which should be recorded in the Preamble, are contained in the various articles, causing confusion in the courts. For example, Article 25, which states that: 'All people shall have the right to maintain the minimum standards of wholesome and cultured living,' should really be in the preamble of the constitution, whereas principles such as international cooperation should be included in the body.

**The Emperor is the Lead of the Japanese State**

The articles related to the 'Emperor' are recorded in Chapter I (Articles 1-8). The following is the first article of the first chapter of the Japanese Constitution:

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

In other words, those who think that the constitution is simply a 'peace constitution,' as the post-war left wing claim, are mistakenly swept along by the principles recorded in the preamble. The Japanese Constitution is based on the
principle of a constitutional monarchy. The fact that the emperor is in the very first provision should make this clear.

The claim of Miyazawa Toshiyoshi, former professor at the University of Tokyo, and others, that 'the Prime Minister is the head of state,' is wrong. Miyazawa's argument regards the Japanese Constitution to be republican in character, in comparison to the Japanese Imperial Constitution. However in Article 6, for example, it is the emperor who appoints the Prime Minister and the Chief Judge of the Supreme Court, in the name of, or as a representative of, the people. Moreover, the emperor acts as head of state in foreign affairs, and is treated as such abroad. These facts should remove any doubt that the emperor is the head of state. Some want it to be clearly stated that the emperor is the head of state, but the emperor is already the head of state according to the current constitution. I often studied Miyazawa's theory while a student, but it appears to me to follow the argument employed by the post-war left wing, and which has continued through post-war society to the present day.

Following the order of the constitution, let us move on to Chapter 2: 'the renunciation of war' (Article 9).

**Right of self-defense**

1. 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.

2. 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.

The contents of Article 9 have been the most debated topic in post-war Japan. This is the principle that we should limit the exercising of a sovereign right, that is to say, the right to self-defense, whether it be individual or collective defense. To put it plainly, we will not use force to counter attack unless we come under direct attack. The sub heading for Article 9 should be 'Exercising the right of self-defense,' rather than 'Renouncing war potential,' or 'Denying the right of war.'

Self-defense can be likened to the legitimate right of defense every individual enjoys. This type of right is properly recognized as a 'natural right,' and cannot be denied by any laws, including, of course, the constitution as the supreme law, or international treaties. In countries that have a criminal law system with the power of enforcement, the legitimate right to defense and emergency refuge are recognized. In international society, which does not have a unified legal order with the power of enforcement, it is a natural right of a state as a matter of course. A constitution cannot exist if a state's legitimate right of defense is not recognized. Accordingly, Article 9 should be changed thus:

(Right of self-defense)

1. 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.

2. 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.
3. The regulation in paragraph 2 does not prevent the maintenance of military power for the purpose of exercising Japan's right of self-defense against military attack by a third country.

(Ozawa Proposal)

Article 9 starts with the words: 'aspiring sincerely to an international peace based on justice and order.' Moreover, it is stated in the Preamble that '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,' which is an expression of Japan's positive role in the creation of peace. However, how should Japan support justice and order in international society?

I believe that the only way for Japan to participate in peacekeeping activities is through the United Nations, to which the nations of the world belong and which is the only global organization for peace. It is desirable that 'peaceful cooperation with all nations,' as recorded in the Preamble, should also be specifically referred to in the body of the constitution. Thus, following on from Article 9 in Chapter 2, a new article should be created, which would make clear the principle of 'peaceful cooperation with all nations,' for which the constitution aims.

(International Peace)

In order to maintain, and restore, international peace and safety from threats to, the collapse of, or aggressive actions against, peace, the Japanese people shall contribute positively to world peace, through various means including taking the lead in participating in international peacekeeping activities, and supplying troops. (Ozawa Proposal)

The spirit of this article is the same as Chapter 7 of the United Nations' Charter and, moreover, has the same tenor as the statement released when Japan joined the UN.

Having approved the UN Charter upon joining, it is inconsistent to say that 'participation in UN-recognized peacekeeping activities is not allowed according to the domestic constitution.' As I said earlier, the principle of 'peaceful cooperation with all nations' runs right through the Preamble of the constitution. If we explicitly express the notion of pacifism in the new era based on this principle, we can avert the fears and misunderstandings of neighboring countries that Japan is gradually becoming a military power. It is written in the current Preamble to the constitution that 'we desire to occupy an honored place in ... international society.' We must make every effort in order to occupy that honored place. Simply providing money is no longer enough.

Creating a 'UN standing army'

Japan maintains the Self-Defense Forces (SDF) as a minimum military force in order to repel a direct military attack. In addition, as a member of the United Nations and in cooperating with peacekeeping activities as a member of the UN, Japan is able to participate in planning for the creation of a 'UN standing army,' disarmament, and the abolition of nuclear weapons, and can incorporate such aims into law (the Basic Security Law).

In order to maintain peace and survive as we approach the next century, Japan must align itself further with international society. There is no other way to do this than to participate actively in all activities led by the UN. For this reason, I believe that Japan should take the lead in proposing a plan for a UN standing army. The development of weapons and technology has meant that the traditional theory of the sovereign state no longer holds water. It is no longer
It is possible to defend national peace solely through individual or collective self-defense. The only way to maintain order is through the concept of collective security, in other words, policing power on a global scale. The SDF will end its historical mission, and will be scaled down. Instead, Japan should provide both human assistance and financial power to a UN standing army.

At the time of the Meiji Restoration, the Imperial Court did not possess any military power. It had no police, or authority, so an Imperial Guard was created centred on the Satsuma and Chosa clans. Today's UN is in a similar position to the Imperial Court after the Meiji Restoration. Because it does not have its own military strength, when an incident occurs, it calls upon its members to form a multi-lateral force to be used in peacekeeping operations. As a result, there are times when swift action cannot be taken in response to emergencies, due to the concerns or circumstances of individual countries, which often leads to ineffective interventions. I believe, therefore, that we should take a step forward by creating a standing army for the UN rather than continuing in the present vein. Japan could not exist without international cooperation, so it is Japan that should actively call for the establishment of a standing army. While the US may not support this idea, we should work to persuade them of its merits. Japan should also actively advocate the establishment of a standing army to all countries that have the necessary economic and military power, and should be seen taking the lead in realizing this goal.

When discussing collective security centered on the UN, National interest is of course also involved. At the time of the Gulf War, there were those who claimed that America's motive was the protection of a major oil supply. Certainly, there is some truth in saying that America sent troops to protect its own interests. It is pointless, however, to criticize American in such a simplistic way. It is a problem of globalization. There are some amongst those who rail against this trend who criticize globalization as 'internationalization based on Anglo-Saxon principles.' Such an assessment, however, offers us no solutions, as the world functions according to these rules. Instead, we must respond to and overcome the challenges we are presented with American would be like Japan going into isolation. If we could assure ourselves that such a course would bring true happiness, then I think that this is one way of living and one philosophy. However, aiming to enjoy increasing material wealth while at the same time complaining about globalization is nothing but Japanese 'self-indulgence.'

In conclusion, active contribution by Japan in order to restore and maintain international peace and security is completely different in character from the 'war as a sovereign right of the nation' mentioned in Article 9 of the constitution.

In other words, by contributing to UN activities based on the UN charter in order to secure everlasting world peace, including through the provision of troops, Japan is ultimately protecting its own peace and security.

Indeed, this is the very starting point of 'cooperation with international society,' which the Japanese Constitution strives to attain.

**Enlightenment of public welfare**

The 'Rights and duties of the people' are laid out in Articles 10-40 in Chapter 3. Of the current constitution.

I have pointed out that one of the faults with the Japanese Constitution is that its abstract language makes it difficult to understand, and this tendency is clearly visible in Chapter 3. The phrase 'public welfare' is particularly noticeable. It appears in Articles 12 and 23, and is also frequently used in Articles 22 and 29. The word 'public' is over-used to the point of abuse, yet the meaning of the
phrase 'public welfare' is not defined anywhere in the constitution. Constitutional debate thus falls into the trap of semantics.

Articles 12 states that

The freedoms and rights guaranteed to the people by this constitution shall be maintained by the constant endeavor of the people, who shall refrain from any abuse of these freedoms and right and shall always be responsible for utilizing them for public welfare.

The 'respect ...[of] individuals,' as stated in Article 13, is only 'to the extent that it does not interfere with the public welfare.' The basic principle of Article 1 of the Civil Code is that 'private rights conform to public welfare,' and it is written that one has an obligation to exercise one's rights and perform one's duties sincerely and in good faith. In contrast to this, in the constitution, the rules of 'public welfare' are not explicit and, because they are buried in the text, they are abstract and undefined. My proposal for reform of both of these articles provides that 'public welfare' be stipulated in Article 12, and the importance of endeavor by the people to protect their liberty and rights be recorded in Article 13. Article 12 and 13 therefore, should be revised as follows. As a result, the use of the phrase 'public welfare' will be unnecessary in the other articles.

(Public welfare)

The fundamental human right guaranteed to the people by this Constitution shall respect public welfare and public order. Matters, regarding public welfare and order shall be stipulated in law.

(Ozawa Proposal)

(The right to pursue happiness)

The right to life, liberty, and the pursuit of happiness guaranteed to the people by this constitution shall be maintained by the constant endeavor of the people. The people shall refrain from any abuse of these freedoms and rights.

(Ozawa Proposal)

The concept of public welfare is not understood in Japan making it impossible to enact laws limiting the rights of the individual. In order for the Japanese to become truly independent, it is necessary to make it clear that the freedom of the individual will be limited at times.

The government also holds some responsibility. The Telecommunications Interception Bill (often referred to as the 'wire-tapping law'), for example, is essential for the maintenance of public safety, including national defense. This fact has been kept from the public, and the government has tried to pass the bill through misrepresentation by saying it is important for investigation purposes. Similarly, creating a citizens' register is not only for tax purposes. Surely this issue should be discussed in terms of the importance of a registration system for crisis management in emergencies and security contingencies.

Japanese politics is misinterpreting its mission. Surely we should be gaining the clear understanding of the people regarding the concept of public welfare, and then proposing a concrete system of crisis management. Then it would be possible to enlighten the public of the disadvantage it is in danger of being placed by organized crime. Of course, abuse of this right by the authorities would also have an adverse effect on the public, also a heavy punishment for such abuses should also be stipulated.
In chapter 3 there are also many articles that can be considered common sense, and so should not be written in the constitution. Leaving in articles which are no longer relevant to the times can be the cause of judicial problems.

There are some instances where the values specified in the constitution are not in accord with the Japanese traditional culture. The Shinto rite of worshipping one's ancestors is very different from the idea of religion in the West. The 'Tamagushiyro Decision' of the Supreme Court against Ehime Prefecture, which declared that making donations to purchase tamagushi was against the Constitution based on the religious freedom of Article 20, would not strike the Japanese (who believe in many gods) as anti-constitutional. Perhaps it would be better to impose restrictions on religious freedom only in order to suppress the development of state-sponsored religious fascism.

Moreover, we should introduce new human rights, such as 'environmental rights,' or 'the right to know.'

**Upper House elections are unnecessary**

The next chapter is problematic.

Chapter 4, 'The Diet' (Articles 41-64), should be completely revised. It is written in Article 42 that: 'The Diet shall consist of two houses, namely the House of Representatives and the House of Councillors.' In other words, Japan has a bicameral system. It is my feeling, however, that this system is not working. Both the House of Representatives and the House of Councillors have approximately the same amount of power, and both are chosen through elections, meaning that the party structure inevitably extends into the House of Councillors. The division of functions with the House of Representatives, which is the aim of the bicameral system, is breaking down.

Although the House of Representatives is superior to the House of Councillors in the passing of budgets, treaties, and the appointment of the prime minister, if the Upper House votes against any bill, it requires a special vote in the House of Representatives, which must obtain a majority of two-thirds of the members present in order to become law. In all other aspects, the two houses are completely equal, leading to criticism of the Upper House as a carbon copy. The current political situation clearly shows that it is impossible to exercise strong leadership even after securing a majority in the Lower House. Because both houses are effectively equal, the opinion expressed by the people in general elections is also poorly reflected in politics. The selection of representatives by the people in elections should be restricted to the House of Representatives, and the House of Councillors should be given the function of serving as a check on the Lower House.

I envisage the House of Councillors being like the British 'powerless House of Lords.' In the UK, 659 Members of Parliament are chosen by direct election approximately one member for every 100,000 people. In the House of Lords, there are approximately 1,300 members. Real power lies with the House of Commons (Lower House) however, so that in a sense the British system can be understood as a unicameral system.

If Japan were to adopt a system which was in essence unicameral like the British and others, then the 500 members of the House of Representatives would represent approximately one Diet member per 250,000 constituents. In terms of population, therefore, it would be reasonable for there to be more than double the number of existing Diet members. However given that the Japanese system has two houses which are equivalent in power and play similar roles, people criticize the system as wasteful, and call instead for a reduction in the number of Diet members.
Therefore, my solution would be to change the system so that membership of the House of Councillors becomes an honorary position which is not decided through election, but is bestowed on those who have admirable achievements or distinguished careers, from a broad cross-section of society. To be elected to office means representing the interests of certain groups in one form or another. The advantage to having Upper House members consisting of people with honorary posts is that any personal interests would be eliminated, allowing them to make fair and neutral decisions. If the House of councillors rejects a bill that has been passed by the House of Representatives, it should be returned to the Lower, where a simple majority would ensure its passage. The real significance of a bicameral system will be realized through an Upper House which is unburdened by vested interests, and functions as a checking mechanism.

When I say the House of Councillors should be like the House of Lords however, I do not mean that it should be a hereditary system. If the honor is limited to one generation, then the abuses of a hereditary system will not materialize. Instead, decorations and titles could be awarded liberally. Article 14 states that while peers and peerage shall not be recognized, honors and awards should. Furthermore, the financial burden on the state would be drastically reduced.

For example, decorations should be awarded to those members of the House of Representatives who have served for twenty-five years, and they should become lifetime members of the House of Councillors. Mrs Thatcher, the former British Prime Minister, became a baroness and moved to the House of Lords. I, for one, would be delighted to move to the House of Councillors. Being awarded such an honor, and not having to fight another election, I suspect that everyone would jump at the chance to move to the Upper House. There would be no need to push for benefits to be provided for the local constituency, and members could give their opinions from a national perspective. For this reason they would do it happily, rather than in order to increase their pensions, and it would also lead to a more youthful House of Representatives.

Revisions to Chapter 4, 'The Diet,' should be as follows.

Firstly, paragraph 1 of Article 43, 'Both Houses shall consist of elected members, representative of all the people,' should be changed to:

Both Houses shall consist of elected members, representative of all the people. The number of the members of each House, and matters concerning elections, shall be fixed by law.

Next, Article 46 would become:

The Emperor shall appoint members of the House of Councillors as designated by the House of Representatives. The term of office shall be for life. (Ozawa Proposal)

(Note: the appointment of members of the House of Councillors will be added to the Emperor's responsibilities in matters of state.)

In addition, paragraph 2 of Article 59 would change as follows:

A bill, which is passed by the House of Representatives, and upon which the House of Councillors makes a decision different from that of the House of Representatives, shall become law if passed a second time by the House of Representatives.

There are other problem areas in Article 4 that should be revised and adjusted after being debated, and it should be adequate to remove passages.
other than those which have an institutional effect on the Diet or the structure of the cabinet. In the same way that the lack of a written constitution does not cause problems in the UK, a functioning set of laws applied properly should be adequate.

Do not allow Cabinet measures which are above the law

Chapter 5 concerns ‘the Cabinet’ (Articles 65-75). Since I have made substantial changes to the role of the House of Councillors in Chapter 4, the following paragraph of Article 67 will also need to be changed: ‘The Prime minister shall be designated from among the members of the Diet by a resolution of the Diet.’

The Prime Minister shall be designated from among the members of the House of Representatives by a resolution of the House of Representatives.

Unlike America, which has an independent administration, Japan has a Cabinet system where the Prime Minister is selected from the majority party in the Diet.

As it is stated in Article 66 that, ‘The Cabinet shall, in the exercise of executive power, be collectively responsible to the Diet,’ the Prime Minister appoints the ministers of state to from a Cabinet, and according to the principle of ‘unanimity of the cabinet,’ acts as a unified body within the Diet. In other words, in a parliamentary Cabinet system, the Diet and the Cabinet are not positioned in opposition to one other. Rather, it is the ruling party and opposition parties that oppose one another. The majority of the Japanese, however, mistakenly believe that Cabinet is superior, and even the ruling party thinks that the Diet and the Cabinet are in positioned in opposition to one another. Also, by separating the government and the ruling party, they are able to further avoid any political responsibility.

The most serious issue concerning the question of the Cabinet is the clear establishment of Cabinet powers during a state of emergency. Not only the LDP, but also other parties and bureaucracies have no understanding of what to do if a state of emergency occurs. Their solution, therefore is to resort to measures that are above the law. This is of grave concern. It is a denial of democracy, and the argument of dictatorship. Acting above the law is to assert that the ruler is the state. Democracy should mean protecting the promises that were agreed to by all, but this becomes a farce when the solution is to act above the law. Clear rules must be established in preparation for a state of emergency. Democracy must always be carried out according to the due process of law.

This not only applies to wars, but also to natural disasters. If any lesson is to be learned from the Kobe earthquake, it is the importance of crisis management.

Therefore, as one of the powers of the Cabinet, a provision should be created to grant it greater authority during a state of emergency.

(State of emergency)

In the case where a state of emergency has arisen which has the potential to have an important influence on the nation or the lives of the people, the Cabinet shall declare a state of emergency. Matters concerning states of emergency shall be fixed by law.

The issue of reporting to the House of Representatives (the Diet) was discussed during the debate over the ‘Guidelines’ bills but, because Japan has a parliamentary Cabinet system whereby the party that occupies a majority forms the Cabinet, fundamentally there should be no question of difference in the will.
of the Cabinet and the Diet. Further, it may perhaps be better for the emperor to make the declaration of a state of emergency as one of his constitutional function.

Finally, concerning the Cabinet system, I would like to point out that arguments for public elections for the Prime minister are mistaken. The public election of the Prime minister would mean the abolition of the emperor system. You cannot build up an argument for public elections, while supporting the emperor system.

One of the emperor's constitutional functions is the attestation of the appointment and dismissal of ministers of state. The speaker of the House of Representatives, however, does not need to be attested by the emperor, nor does the emperor attest Diet members. This is because Diet members are chosen directly by the people, who are the sovereign power. The will of the people as sovereign is final and, at the same time, absolute. That is why there is no need for the attestation of the emperor in the name of the people. The public election of the Prime Minister would mean that the people would be voting directly for the country's highest position of responsibility. The elected Prime Minister would certainly be the head of state, or, in other words, the President, and in these circumstances, it would be impossible to have in place an emperor. Therefore, apart from taking the abolition of the emperor system as a prerequisite, the public election of the Prime Minister is not tenable as a system.

**Establishing a Constitutional Court**

In the next three chapters: Chapter 6, the 'Judiciary' (Articles 76-82), Chapter 7, 'Finance' (Articles 83-91) and Chapter 8, 'Local Self-government' (Articles 92-95), I shall limit myself to pointing out the significant problems.

The biggest problem with the judicial system is that the courts progress extremely slowly. Rather than the constitution, the laws governing procedure firstly need to be reformed. The Japanese judicial system may already be fatigued to breaking point. Courts could be sped up through the rationalization of the legal system.

The other thing that I would like to propose is the creation of a constitutional court. I would like to establish a court for dealing only with constitutional lawsuits.

The whole judicial power is vested in a Constitutional Court, a Supreme court, and in such inferior courts as are established by law. (Ozawa Proposal)

As I have already stated, the Japanese Constitution contains many abstract phrases, resulting in the courts having top deal with a large number of ridiculous constitutional lawsuits, some of which may take ten or twenty years for a decision to be reached. Under normal circumstances, the court should dismiss these cases, but they are approaching constitutional issues in a negative way due to the backlog in civil and criminal cases. Even if one accepts that each issue has its own set of circumstances, courts often avoid coming to a clear decision. They should provide a rational decision, whatever their conclusion might be.

Judicial power is the stronghold of the Constitution. We should establish a Constitutional Court, like that of Germany, France and Italy, and entrust it with the role of determining the constitutionality of any law, order, regulation or official act, and amend Article 81.

The Constitutional Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act. (Ozawa Proposal)
Constitutional Court judges should not be chosen in the same way as other judges, but should be appointed by the Diet or by the Cabinet from former judges or intellectual circles.

Chapter 7, which concerns finance, is said not to have as many problem areas as other chapters. However, it is often said that the country's finances are on the verge of collapse. Annual budgets (Article 86) and the reporting of the state of national finances (Article 91) are subjects which should become issues for discussion in the future.

Article 89 has become a focus of constitutional debate recently, with 'private school subsidies,' based on the Private Schools Promotion Subsidy Law, at issue.

No public money or other property shall be expended or appropriated for the use, benefit or maintenance of any religious institution or association, or for any charitable, educational or benevolent enterprises not under the control of public authority.

Reading this article, it is clear that private school subsidies are against the constitution. Given that the first section, which concerns religious institutions and associations, also overlaps with Article 20 about freedom of religion, I think that Article 89 should be revised as soon as possible.

Regarding 'local self-government,' as I wrote in my book, Blueprint for a New Japan, a 'law on the Fundamental Principles of Local Government' should be established, and the unipolarization of Tokyo reversed. Many local authorities are suffering from financial collapse in the same way as the state. We should revise Article 94, which deals with the right of local public entities to 'manage their property, affairs and administration and to enact their own regulations within law.'

Be resolute, Japanese!

So far I have discussed my proposal for reform of the constitution, but finally we come to a bottleneck. Chapter 9, 'Amendments,' contains only Article 96. Without revising this, arguments for reform have little power of persuasion. Article 96 might as well say, 'this constitution cannot be revised.'

1. Amendments to this constitution shall be initiated by the Diet, through a concurring vote of two-thirds or more of all the members of each House and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majority of all votes cast thereon, at a special referendum or at such election as the Diet shall specify.

2. Amendments when so ratified shall immediately be promulgated by the Emperor in the name of the people, as an integral part of this constitution.

Two-thirds of all the members is an insurmountable barrier. As the term of office of the House of Councillors is six years, even if a party gains an overwhelming majority in the House of Representatives, a two-thirds majority is unattainable. Perhaps it might be possible to revise this in order to allow constitutional amendments through the approval of one-half of members.

According to most recent public opinion polls, the majority of the people of Japan are in favour of reforming the constitution. Even then, two-thirds of the Diet remains an insurmountable barrier to change. The Liberal Party is therefore proposing to establish the legal basis for carrying out referenda in order to revise the constitution. This law provides for the establishment of referendum dates, the provision of information to the electorate, the form of the vote, expenses, penal regulations, and so on. National referendum campaigns are, as
a principle, free the aim is to provoke debate. We must not give up, even if we
cannot amend the constitution.

For example, can the national referendum not be held before the Diet vote? The constitution is for the people. In order to change a constitution which
no longer suits the times, the will of the people as sovereign should be
respected first.

We also have the option of returning to the constitutional debate of the
Kyoto school. That is to say, to put it to the vote whether to declare the current
constitution invalid in the Diet, and to create a new constitution instead.

The Japanese area cautious people, and so find it difficult to make
resolute decisions to change the current situation. Despite this there is the fear
that, should a ‘Taepodong’ missile be fired at Japan, for example, the Japanese
people would end up acting in an extreme way. Media commentary would heat
up, and, without perhaps going as far as calling the Americans and the British
barbarians of the pre-war era, headlines such as ‘Strike North Korea
Immediately! may spring up. This would be little more than history repeating
itself.

Therefore, I ask people to consider calmly what I have said. Each person
should come to their own careful considered conclusion, not just follow what
Ozawa Ichiro has said.
Appendix VIII

JAPAN-U.S. SECURITY TREATY: Use bilateral alliance to promote the international public interest
05/23/2007

Using both the Japan-U.S. alliance and the SDF is the best way to protect Japan. Maintaining both the alliance and Article 9 is simply the most realistic political strategy Japan can take today. Keeping Japan-U.S. trust strong will also promote stability across Asia. For many people, Japan's close ties with the United States may be as natural as air. In fact, few people today question this relationship. American culture is widely popular in Japan. Many people travel back and forth between the two nations, which share close ties in trade, finance and commerce. Even though the two countries' interests clash from time to time, keeping good relations with the United States is a major premise of Japanese diplomacy. The twin pillars supporting this relationship are the Japan-U.S. Security Treaty and the bilateral alliance. Because of the alliance, Japan became a member of the U.S.-led Western bloc during the Cold War. When the summit meeting of the Group of Seven industrialized nations was created, Japan was invited to join because the gathering was also one of major U.S. allies. The benefits of the alliance are obvious. In emergencies, Japan can count on the United States to protect it. Although the Cold War is over, that doesn't mean there are no threats. If Japan were to arm itself to stand alone against attacks, it would cost an exorbitant amount. This is where the United States plays a role. The alliance gives our neighboring countries a sense of security. This is due to the fact that, thanks to U.S. forces, Japan does not need to resort to an excessive defense buildup program.

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Although Japan is not obliged to defend the United States, criticizing the arrangement as "one-sided" is too simplistic. In return for U.S. support, Japan provides a large number of military bases and extensive airspace to the United States and shoulders a hefty portion of the cost to support the U.S. military presence in Japan. The U.S. forces and military installations in Japan are an important keystone of Washington's Asia-Pacific strategy, which extends to the Middle East. Given Japan's geographical conditions and social stability, no country can make a greater contribution than Japan. The advantages to the United States are immeasurable. Access to U.S. markets, meanwhile, is indispensable to the Japanese economy. Furthermore, there is no doubt the close ties between the world's largest and second-largest economies are contributing to greater world stability not only in economic terms but also in politics and diplomacy. Understandably, successive Japanese administrations have always given top priority to U.S. relations. However, there are also problems. Any country that forms an alliance with an extremely strong military and economic power such as the United States will find that if it moves too close, it could be overwhelmed and dragged into conflicts that do not directly concern it. On the other hand, if it keeps the ally at arm's length, it may not be able to count on help in an emergency.

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1 Asahi Shimbun (English daily), May 23, 2007, from 22 Editorials appeared on the day.
Article 9 of the Constitution has proved useful in maintaining the subtle balance between the two countries. While Japan was once criticized for getting "a free ride" with the security arrangement, it has successfully balanced Article 9 with the Japan-U.S. security alliance and the Self-Defense Forces.

After the Sept. 11, 2001, terror attacks, the United States changed its traditional defense strategy from one of preparing for war between countries to one that also takes into consideration terrorism. As a result, the United States is also expanding what it expects of its allies.

How should Japan meet these changing U.S. expectations? Let's look at Japan's problems.

First, to defend Japan, we need U.S. backup. In emergency situations in areas surrounding the archipelago, Japan will provide logistic support. Basically, that is the limit of the alliance as far as military support is concerned.

For activities and areas beyond the limits of the alliance, the SDF may take part only in international security operations as decided by a U.N. Security Council resolution. The SDF's participation should be based on the fundamental principles spelled out in Article 9.

* * *

Japan-U.S. cooperation in political and diplomatic areas is extremely significant. When Japan acts with the United States on policies for Asian peace and stability and on such issues as nuclear nonproliferation and measures against terrorism, international society moves in a desirable direction. This also enhances Japan's influence.

Japan should not only respond positively to U.S. policies to augment the international public interest, but also actively seek U.S. cooperation. In that sense, Japan and the United States should become more closely involved in strategic dialogue.

At the same time, however, even allies as close as these do not always see eye to eye on national interests. In some cases, the goal may be shared, but each may have different views about how to achieve it. Japan must think realistically when considering its response to U.S. demands in such cases.

And as history shows, U.S. policies do not always lead to peace and security on a global scale. At times, the United States seems near-sighted, in fact. As a trusted ally, Japan should offer candid advice to the United States in such situations.

Acting always as the "yes man" simply to maintain the alliance is tantamount to not thinking at all. An attitude like this will only lead the Japanese people to distrust the alliance.

Japan should use its alliance with the United States both to protect national interests and support the international public interest, moves that can only enhance the value of the alliance.

Japan should develop an independent mind-set that is both tough and flexible. (IHT/Asahi: May 23, 2007)

OVERSEAS DISPATCH OF SELF-DEFENSE FORCES: SDF should actively take part in U.N. peacekeeping operations

05/23/2007

Expand the scope of U.N. peacekeeping operations in which SDF personnel can participate.
SDF should take part in international peace-building missions, but on a limited basis.
As a rule, the SDF should not get involved in multinational forces engaged in fighting—even with a Security Council resolution.
The preamble to the Constitution (see Reference 6) is a historic declaration that attaches paramount importance to people's right to live in peace—not just the citizens of Japan, but people the world over.

"Peace-building," in the sense of helping to reconstruct war-torn nations, meets the spirit of the preamble. All too often, society remains unstable in countries ravaged by ethnic conflicts and civil war—even after the conclusion of a peace accord. The establishment of democratic systems and the rule of law hold the key to settling disputes in such areas without resorting to the use of force. That is why "peace-building" to reconstruct nations and maintain peace under the initiative of the United Nations has advanced across the world in recent years.

Primarily, "peace-building" should be aimed at helping to better the lives of local residents. At the same time, however, it has great significance for international security. When the rule of law falls apart as a result of civil war and other conflicts, it makes it easier for terrorists and criminal organizations trafficking drugs or dealing in weapons to set up bases. Threats proliferate from such places, which could turn into "global weak spots." To counter such moves, we need to advance "peace-building."

"Peace-building" has many tasks that are best undertaken by civilians, including bureaucrats and members of nongovernmental organizations. But there are also dangerous situations and places that need to be dealt with by armed forces. That is where the Self-Defense Forces come in.

The dispatch of SDF personnel overseas should be done in a way that suits Japan's role. We want the SDF to be welcomed by local residents. We also want the SDF's peace-building activities to be useful. Any dispatch overseas of SDF personnel should be based on a universal philosophy like the one expressed in the preamble to the Constitution. Japan should not send the SDF overseas just to keep in step with the United States. For that, we believe Japanese troops should only be sent abroad when certain prerequisites are in place.

U.N. peacekeeping operations form the pillar of post-conflict peace-building. Compared with forces of other industrialized countries, few SDF missions have gone overseas. The government should rectify this and expand the scope of SDF duties. Japan established the U.N. peacekeeping operations cooperation law in 1992 and dispatched SDF personnel outside Japan for the first time to participate in Cambodia's reconstruction. Later, it sent troops to take part in U.N. peacekeeping operations in the Golan Heights and East Timor, among other locations. Up to now, the SDF has been involved in helping to rebuild facilities destroyed by fighting as well as providing humanitarian relief in the form of medical services and logistic support.

The law was revised in 2001 and the freeze on the participation in core missions, such as monitoring cease-fires and disarmament and patrolling and stationing of troops in buffer zones, was lifted. Although the SDF has yet to engage in such activities, we believe it would be appropriate for Japan to cooperate in these areas from now on.

SDF troops may open fire with their weapons to perform missions regulated on the basis of Security Council resolutions. Such actions are similar to the use of weapons by police to control crime. It goes without saying that Japanese forces must never be given approval to use their weapons as part of a military action.

Japan should carefully build a solid track record so that it can eventually consider expanding the scope of activities to include such duties as guarding U.N. and public facilities, which are banned under the existing law. As a matter of course, each dispatch of SDF personnel must be decided on a case-by-case basis. Factors such as the
situation on the ground and the level of SDF proficiency must be taken into account. We have to think what other conditions must also be taken into consideration.

In addition to U.N. peacekeeping missions, multinational troops have been routinely deployed in recent years based on U.N. Security Council resolutions on peace-building missions. In these cases, such troops are not placed under U.N. command. Instead, they take orders from commanders of countries that are taking part in the operations so that they may respond quickly to changes in the local situation. The activities of these missions involve the reconstruction of public facilities and medical activities, which are also covered by U.N. peacekeeping operations.

Japan should also send SDF troops to take part in such international operations as long as they conform to logistic support in U.N. peacekeeping operations. This is because the practice could broaden Japan's options in peace-building activities. In doing so, strict conditions should be set, such as prior approval by the Diet and a ban on the use of force. Japan must never support acts that lack legitimacy, such as attacks by "a coalition of the willing" aimed at overthrowing a government. The Iraq war is a typical example. As a basic rule, Japan should not take part in peace-building after such wars.

Finally, the SDF should not be allowed to join multinational forces that are engaged in fighting—even if only to provide logistic support. Japan should firmly stick to this basic principle.

The only exception should be cases that meet all of the following conditions:

1. When an act clearly constitutes a violation of international law such as territorial aggression;
2. When the world community acts as one to exercise collective security (military sanctions) based on a U.N. resolution; and
3. When a situation calls for Japan to carry out its minimum responsibility that also allows it to meet its national interests. But such cases are extremely rare.

Even in such cases, the participation of the SDF should be strictly limited to logistic support within the scope of what is permissible under the Constitution. Prior approval by the Diet must be in place as a major premise.

Under such a framework, we want the SDF to demonstrate its skills and show to people overseas what is unique about Japan. (IHT/Asahi: May 23, 2007)

HISTORICAL SIGNIFICANCE OF ARTICLE 9: Pacifism based on the clause a valuable asset embraced by Japanese

Article 9 is the foundation of Japan's postwar peace and prosperity. It also sent a strong message about Japan's sincere reflection on its history. The limits of military power are apparent. Japan should strive to contribute to a peaceful present and future for all humanity through the example of Article 9.

In the early postwar days, the pacifism movement based on the Constitution's Article 9 did not have a clear form. As the nation rebuilt from the ruins of war, returned to international society and grew to become a major economic power, the Japanese people solidified their belief in peace.
Sixty years ago, when the Constitution came into force, Japan was occupied by the Allied Forces, led by the United States. The once-powerful Imperial Japanese Army and Navy had ceased to exist.

In that sense, Article 9 shaped Japan's disarmament as an "enemy state" and confirmed it no longer had a military force. As is clear from research by many contemporary historians, the creation of a Constitution that incorporated Article 9 was driven by political need. It was needed to prevent the possibility of any revival of militarism and to avoid prosecution of Emperor Hirohito, posthumously known as Emperor Showa, as a war criminal. Indeed, intense political speculation and maneuvering surrounded the writing of Article 9. Afterward, as Japan progressed, it built up a new positive value in this pacifism based on Article 9.

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Roughly speaking, Article 9 is today seen as historically significant for four reasons. First, it has kept Japan from directly taking part in war since it was enacted. Of course, Japan was fortunate not to have any war directly waged against it during this time. The Self-Defense Forces were never sent to fight in the Vietnam War, unlike the South Korean forces. Article 9 also enabled Japan to keep a lid on its defense spending. Because Japan has stuck to its philosophy as spelled out in Article 9 in the past six decades, this country has created a unique brand of peace for itself and is recognized internationally as a "nation that does not go to war" and "that does not force others to bow before military might."

Second, thanks to Article 9, militarism quickly disappeared from postwar society. Prewar values that placed first consideration on military affairs were obliterated. Military conscription was abolished, and secret military trials were no longer held. Article 9 also gave support to freedom of speech in postwar society. Before and during World War II, when "military affairs" held sway, it was not unusual for military officials explaining bills in the Diet to tell lawmakers to shut up during deliberations. Some lawmakers who criticized the military were even expelled.

Constitutional scholar Yoichi Higuchi calls Article 9 "postwar Japan's safety valve."

Third, Article 9 was perceived by international society as Japan's message of reflection on its war of aggression and colonial rule. Postwar Japan and its people were able to recover international trust because Article 9 conveyed their sincere resolve to never repeat the same mistake.

Still, people in our neighboring countries have past wounds that refuse to heal. They pass on their memories and history to their younger generations, who have no experience of war or colonial rule. For this reason, it is crucial that Japan continue to keep sending its message of peace through Article 9.

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Fourth, this article has given people a vantage point from which to think about the potential of remaining nonmilitary. Until the end of the 20th century, military might is what swayed international society. As we entered the 21st century, however, the power of military nations clearly showed signs of cracking. Remember the Sept. 11, 2001, terror attacks. A handful of hijackers armed only with box cutters took over passenger jets and committed horrendous acts of terror. Such situations can no longer be dealt with using traditional military thinking. War is no longer a straightforward conflict between countries.

The reality is that even the United States, with all its mighty armies, is helpless in Iraq. The world is facing more situations in which militaries are powerless—terrorism, proliferation of weapons of mass destruction, infectious diseases and environmental problems, to name a few.
What should mankind do? While soldiers and battalions have not become completely useless, there are situations that cannot be settled by military force. In the end, we must rely on diplomacy to hammer away at solutions through dialogue, international cooperation and multilateral agreements.

The philosophy of peace as stated in Article 9 and the Constitution's preamble has an underlying strength that seem to have predicted events in the 21st century. Our proposal to make Japan a nation that contributes to the well-being of the Earth is also based on the same idea. In the 21st century, Japan must work hard to deal with threats that cannot be solved through force, using the philosophy of the Constitution. In Editorials 15 and 16, we called for Japan to work positively with the peace and human security initiatives of the United Nations. In U.N. peacekeeping operations, the SDF can play a substantial role as a work force.

But Japan should stick strictly to nonmilitary affairs and broaden the scope of its activities to include projects that involve nongovernmental organizations and the private sector. Such are the demands of the times.

Japan should strive to become a "coordinator of the international public interest" and contribute to a peaceful present and future for humanity. The limits of military power have become more than apparent.

We are confident that the philosophy of Article 9 can grant new power to Japan. We see no reason whatsoever to discard it. (IHT/Asahi: May 23, 2007)

DEBATE ON REVISING ARTICLE 9: There's too much to lose by discarding Japan's unique brand of peace

05/23/2007

Changing Article 9 would upset postwar Japan's axis of balance. We could lose a major deterrent against U.S. unilateral pressure. Article 9 serves as the foundation of trust in Japan as a 'coordinator of the international public interest.'

Should Japan revise Article 9 of the Constitution and become a country with a full-fledged military that can exercise the right of collective self-defense without restraint? This is the most important question in the debate on whether to amend the Constitution. Would making this epoch-making change to the basic law of the land hurt or enhance Japan's position in the world? Let's look at both sides.

The first advantage cited by proponents of constitutional revision is that it will eliminate the "distortion" between the Constitution and reality. While on paper, Japan renounces all right to maintain a military force in anticipation of war in Article 9, in reality there are the Self-Defense Forces (SDF).

If the Constitution is changed to reflect reality, it would end all talk of the SDF being unconstitutional. It would also set straight the varied interpretations of Japan's defense policy, say proponents of the change.

The second point they make is that the move would abolish the rules limiting Japan's defense policy that are based on Article 9, such as not exercising the right to collective self-defense and not using force overseas. This would enable Japan to strengthen its alliance with the United States.

Third, some proponents insist that because Article 9 was "imposed on" Japan by occupational forces, it should be changed. Possessing a military force is a natural right of a sovereign nation, they say.

In contrast, those who defend the current Constitution believe that what the proponents call advantages are actually disadvantages. As we stated in Editorial 17 in this series,
changing the Constitution would cause postwar Japan to lose the positive value that it has built up in support of peace.

If Japan comes to assume a military role as a U.S. ally, it will eventually be faced with no choice but to go to war in conflicts in which the United States plays a leading role. We do not believe the Japanese people are ready to agree to such a situation.

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The difference between the SDF and regular armed forces is that it stands by the two principles of not exercising the right to collective self-defense and not using force overseas. Article 9 is the pillar underlying Japan's "pledge never to wage war again," based on its reflections after World War II. If this important article is abolished, postwar Japan's axis of balance will become out of kilter. The move could cause our neighbors to become suspicious and raise tensions in the region.

Furthermore, as we mentioned in Editorial 14, Article 9 has served as a shield to deflect excessive demands by the United States, a very powerful ally. Without that limit on its military involvement, Japan might be easily swayed by U.S. policy to become mired in conflicts.

Our political leaders ought to provide a deterrent and protect this cherished pledge for peace. Some people believe that a democratically elected Diet and Cabinet can be trusted to make proper decisions based on the public's will.

Such thinking may be reasonable. But when we look at postwar Japan-U.S. relations, which are characterized mainly by the word gaiatsu (external pressure), it is questionable whether politics today can really protect the public interest.

Look back at when Japan dispatched the SDF to Iraq. That happened because former Prime Minister Junichiro Koizumi supported the U.S. decision to invade Iraq, and chose to send the SDF. One of his main reasons was the Japan-U.S. alliance.

In other words, he showed that Japan often has no choice but to go along with what the United States asks.

When the Ground SDF returned home safely, Koizumi proudly said the troops had never been caught in fighting and had suffered no casualties. While that may be good, it was also because the SDF chose a relatively safe corner in Iraq, where it performed duties that involved little danger so as not to deviate from the principle of Article 9.

Although the dispatch was questionable in light of Article 9, the constitutional restrictions were also its salvation.

Without Article 9, Japan's troops might have stood on the front lines fighting side by side with U.S. forces from the onset of the war. Japan could have ended up like Britain, which lost many soldiers.

The value of Article 9 as a safety valve on the Japan-U.S. alliance is too great to give up. Most important, Japan has too much to lose by discarding its hard-won image as a country that advocates peace, a position cultivated over the past 60 years. Although Japan is a major economic power, it has drawn a clear line against taking up arms again.

Japan's unique stance is well known around the world, which now regards it as an important soft power. Only when we make good use of such influence will the world trust Japan to be a "coordinator of the international public interest."(IHT/Asahi: May 23,2007)

**SELF-DEFENSE FORCES:** New 'basic law on peace and security' should define the role of the SDF

05/23/2007
Japan must not allow the SDF to become a military force, nor should it exercise the right to collective self-defense.

Participate in peace-building activities based on U.N. Security Council resolutions.

Stick to non-nuclear policy and make civilian control work properly.

"Land, sea and air forces, as well as other war potential, will never be maintained." This is a passage from Article 9 of the Constitution, which bans Japan from maintaining a military force. In light of this, isn't it unconstitutional for this country to maintain Self-Defense Forces? This argument lies at the core of the controversy that has been brewing for many years concerning the SDF and its relation to the Constitution.

The government stands by its interpretation that the Constitution does not deny the right to self-defense as an inherent right nor does it ban Japan from maintaining the minimum necessary defense capability.

The history of the SDF exceeds half a century. During that time, there have been heated Diet debates on this issue as well as citizen-led anti-SDF and anti-U.S. bases movements. Meanwhile, the SDF continued to expand both in size and functions.

Amid such discord, a basic framework for Japan's security policy that imposes strict rules on SDF armaments and operations was formed. While there were various deviations, questions and twists and turns concerning the SDF dispatch to Iraq and the provision of support to U.S. forces, as a result of long years of accumulation of experience, the framework of pacifism rooted in realism took shape.

Past Asahi Shimbun public opinion polls show the emergence of a moderate realism that accepts Article 9, the SDF and the Japan-U.S. security system at the same time. Many Japanese do not seem to think they have to choose between the Constitution and the SDF. The results suggest the public have developed a basic consensus, which has taken root.

The draft proposal for constitutional revision released by the Liberal Democratic Party calls for the maintenance of a self-defense military. The LDP wants Japan to possess a regular military force, but we are against the idea. We don't want to slight our vow, when Japan made a fresh start after World War II, never to possess a military again.

Also in a recent public opinion poll, 18 percent of respondents supported the idea of changing the SDF into a "self-defense military," while 70 percent said the SDF should stay as it is. We wish to respect such moderate realism. We should use it as a basis to think about Japan's defense and security from now on.

Some people who support the significance of Article 9 still say the SDF should be incorporated in the Constitution. They say it would be easier to understand. The argument is understandable.

But as we have already stated, changing the Constitution involves too many risks and costs.

It would also require tremendous energy and split public opinion. It could add momentum to excessive constitutional revision.

If so, why not establish a basic law that properly defines the position of the SDF separately from the current SDF Law? The new law should stipulate the reasons for possessing the SDF, its purpose and basic ways to use it. We should give shape, in the form of a quasi-constitutional law, to realistic pacifism that we have spent the last six decades building. We wish to call it the "basic law on peace and security."

** The basic law would also have significant meaning as a deterrent against attempts to chip away at the principles of the Constitution by changing its interpretation. The law should incorporate the following four elements:

First, it should spell out the maintenance of the SDF as the minimum necessary defense capability under the philosophy of the Constitution. It should clearly state that the SDF
would observe the principle of "exclusively defensive" defense and not use force overseas nor exercise the right to collective self-defense.

Second, it should incorporate non-nuclear principles as Japan's message to the world as a country that suffered atomic bombings. North Korea's nuclear tests have sparked arguments that Japan should also consider arming itself with nuclear weapons. The law should clarify Japan's determination to fight nuclear proliferation.

Third, the law should stipulate how the SDF ought to engage in international peace cooperation. As we proposed in Editorial 15 concerning the overseas dispatch of the SDF, the law should state that the SDF actively take part in U.N.-led peacekeeping operations and spell out principles governing its activities.

Fourth, it should stress the principle of civilian control. We don't mean it in the narrow sense that civil servants should control those in uniforms. Civilian control should be exercised in a broader sense meaning politics should lead the government and the Diet should control the SDF.

Based on these principles, the number of SDF troops and armaments should be re-examined so they don't grow excessively. At the same time, a close watch should be kept on the international environment.

Finally, we wish to state our position concerning the exercise of the right to collective self-defense. We are against it because it deviates from Article 9 of the Constitution, which recognizes the use of minimum necessary defense capability, and would cause the role of the SDF to expand uncontrollably.

But we don't mean Japan-U.S. cooperation should not be advanced. Escorting U.S. fleets in waters close to Japan can basically be done within the framework of the right to individual self-defense.

How can Japan cooperate with the United States based on the right to individual self-defense and collective security under the U.N. framework, taking into consideration missile defense and other new technologies and participation in peace-building activities? We should study the possibilities while taking a look at the reality of the security situation.

The argument for constitutional revision aimed at paving the way for Japan to exercise the right to collective self-defense is too thoughtless. We need to advance more realistic and calm debate.

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Reference 5:
Article 9 of the Constitution: 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.

Reference 6:
Excerpts from the preamble to the Constitution:
We (Japanese people) 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. (IHT/Asahi: May 23, 2007)
Appendix IX

Looking to Japan's Future:
Keidanren's Perspective on Constitutional Policy Issues

(Outline -tentative translation-)

January 18, 2005

Nippon Keidanren
(Japan Business Federation)

1. Necessity for the New National Foundation

Japan faces challenges both home-grown and external. To better manage the dangers posed by terrorism perpetrated by non-state actors, natural disasters, rising crime rates and viciousness, coupled with a national birthrate below replacement levels and an aging population, drastic measures that will cut incisively into the basic framework on which the nation has thus far been based, are called for. Nothing short of a new foundation is required.

That said, it is important that Japan hold firm to the basic principles on which it was built - democracy, freedom and peace - acting on its own initiative to secure and attain them.

To this end, Keidanren set forth its recommendations aimed at helping Japan realize an idealized image - a state that is trusted and respected by the international community, a state that achieves economic prosperity and spiritual richness, and a state that is just, fair, secure and safe.

2. National Security and Diplomatic Policy

Lacking natural resources, and thus wholly dependent upon trade, it is essential for Japan's prosperity to achieve peace and stability in the international community and cooperate with other nations in solving global community problems. Using its economic and technological strengths, Japan should practice and work to preserve and expand free trade, and enhance mutual relationships focusing on economy and industry. For this, skilled diplomacy is required.

Japan should maintain and strengthen the Japan-US security alliance. Japan should also work actively to become a permanent member of the United Nations Security Council. Beyond the security considerations, it should build closer, cooperative relationships with the US through human exchanges and candid discussions that will deepen mutual trust.

To enhance cooperation with countries in East Asian region, Japan should enter into Economic Partnership Agreements (EPAs) with South Korea, China and the ASEAN countries. In addition, an East Asia Free Economic Zone should be created as soon as possible, in which Japan should exert leadership. In promoting this, the relationship between China and Japan is quite important.

In the field of international security, Japan should engage in the fields of conflict prevention and assistance in reconstruction as well as development. Japan's Self-Defense Forces (SDF) having been highly regarded in cooperative activities with the international community, and these should be expanded. In doing so, a basic policy on SDF activities, including the scope and the extent of overseas activities, should be clearly delineated, and a general law to that effect - not "special measures" provisions - should be enacted.

The "Security Council of Japan" should be fundamentally reinforced. Under the leadership of the prime minister, a system should be established to deal with national security issues continually and comprehensively. Recovering a level of public safety and ensuring sea-lane security are both pressing issues. In addition, it is necessary to improve the ability to gather, analyze and control information and intelligence for strategic diplomacy, prevention of crises, and so forth. Better coordination between government ministries and agencies would do much to further these goals.

3. Revision of the Constitution

As it stands today, Japan's present Constitution, especially in the preamble and Article 9, seems outmoded. Among other things, debate over interpretation of Article 9 has long been "theological" and seemingly endless. Public confidence in the Constitution has substantially declined as a result.

Specifically, while Paragraph 1, Article 9, which is built on the philosophy of "peace" should be retained, Paragraph 2 shows obvious divergence from the reality. The existence of the Self-Defense Forces in order to exercise the sovereign right of self-defense should be recognized in constitutional terms. It should also be explicitly stated that the role and duty of the SDF are to protect
Japan's sovereignty and independence, preserve peace, and both contribute to and cooperate with the international community in activities for international peace.

The Constitution should also make clear that the right of collective self-defense may be exercised to secure Japan's national interests and international peace. At the same time, a fundamental law on security should be enacted to provide for rules and measures to limit and control the exercise of such rights - such as requiring advanced approval by the Diet, taking international situations, as well as areas and types of activities, into consideration.

Without waiting for a formal amendment of Japan's Constitution, necessary measures should be implemented immediately to lift the constraints from a rigid interpretation of the current Constitution, which would legally permit necessary activities for security.

In addition, requirements for amending the Constitution are too strict. Conditions for revision, including the motion to propose for the constitutional revision, should be eased so that necessary revisions become available promptly based on the will of the people whenever necessary. As an immediate matter, it is essential that new legislation providing for a national referendum on revisions to the Constitution be enacted as soon as possible.

As an initial step, Paragraph 2 of Article 9 (not to maintain war potential) and Article 96 (revising the Constitution) both of which diverge greatly from reality today should be revised as a precursor to an indispensable - and overdue - nationwide debate on the Constitutional revision.

4. Building a More Democratic and Efficient Government

In order to accurately reflect the opinions of the public, it is necessary to fairly and equally allocate the electoral seats to the House of Representatives among each electoral district corresponding to the change in population. At the same time, new voters should be educated about social rules so that they can more responsibly participate in the political arena and engage in civil discourse.

Voluntary political contributions are important means for people to participate in politics. Political parties should use donations from the private sector to strengthen their ability to draft and promote policy recommendations. Full and transparent public disclosure of campaign finances is necessary as well. Legal and tax systems should be established or improved, including a fundamental review of the Political Funds Control Law.
Rights and obligations, freedom and responsibility, are two sides of the same coin. Accordingly, government itself must become more efficient and accountable. As to the legislative branch, the functional distinction between the House of Representatives and the House of Councillors is blurring. The roles and functions of each House must be distinguished based upon each unique character, and the legislature must utilize the benefit of bicameral system. At the same time, Members of Diet should not depend too much on the government's bill proposals and drafting. Instead, they should enhance their policy making ability and actively engage in legislative drafting.

As to the executive branch, it is necessary to review the reorganization of ministries and agencies comprehensively, to strengthen the functions of the Cabinet Office, to eliminate bureaucratic sectionalism, to drastically reform the civil service system, to expand political appointments and to seek the sources of government officials widely from the private sector.

And as to the judicial branch of government, it is necessary to strengthen the Supreme Court's power to determine the constitutionality of a law. Relationships between the government and local municipalities should be reviewed.

5. Other Fundamental Issues

(1) Education

Moving beyond the concept of homogeneous human resource development - the foundation of Japan's post-war prosperity - Japan should carry out bold education reforms based on the principles of diversification, competition and evaluation. It is important that a system be established that allows diverse parties to participate in education. A system should be introduced to distribute subsidies for education based on the choices by the students and their parents. It is also important to review education related to tradition, culture, history, politics and religion, and to evaluate teachers and schools.

(2) Decline in Population

As of 2007, Japan will experience, for the first time in its post-WWII history, a declining population. Accordingly, it should create social mechanisms enabling the fuller utilization of women and the elderly. At the same time, as it expands measures to deal with a falling birthrate, it should promote the acceptance of foreign workers.
(3) Science and Technology

The government's role in science and technology is manifold: to promote long-term and/or large-scale research and development projects that are too costly for private industries to adequately pursue; to maintain and develop technologies the nation must possess for its technological security; and to provide the infrastructure for, and guide the development of technologies into, new industries for the prosperity of the nation. Human resources must support the development of science and technology. Reformation of the education system so as to secure the necessary people in technical fields is urgent.

(4) National Budget

Japan's national budget is in a critical state. Action is simultaneously needed in three areas: controlling government spending; securing revenues by increasing the consumption tax; and stimulating economic growth. The most important issue in control of government spending is reform of the social security system. The most effective way to secure revenue is to raise the consumption tax rate.

(5) Energy, Environment, and Food

Japan's Achilles' heel is energy. A stable energy supply must be secured, consistent both with environmental and economic concerns. Sources should be diversified to avoid the risk of over-concentration. Japan should strengthen its cooperative efforts to secure energy, and to develop energy resources, etc., with China and other countries in East Asia, that are also likely to generate vigorous energy demand. Japan should also make further efforts to develop energy and environment related technologies.

Japan also depends on other countries for food. It should ensure a stable supply of food by appropriately combining imports, stocks, improvements to the competitiveness of domestic production, and international cooperation.

IIPS Draft for Revising the Constitution

Preamble

We, the Japanese people, inhabiting beautiful islands in East Asia washed by the Pacific waves, and holding the Emperor, who has lived in harmony with us for ages untold, as the symbol of the unity of the people, have developed a distinctive culture and characteristic national lifestyle.

We shall formulate a new state structure consistent with our long history and maintain our integrity and independence, and aspire to achieve the ideal of harmony among all humankind.

The Japanese state is a democracy in which sovereignty resides in the people. The national government is the responsibility of the people’s representatives based upon popular trust and is intended to benefit the people.

We firmly adhere to a state structure based upon respect for freedom, democracy, human rights and peace.

We sincerely desire international peace based on justice and order and will serve in the international community to achieve this.

We will work to promote the development of Japanese society with freedom, fairness and vitality and to enhance the popular welfare. While placing special emphasis on education, we will strive to co-exist in harmony with nature and make every effort to preserve the global environment.

We will contribute proactively to the development not only of Japanese culture but of other world cultures as well, recognizing the importance of culture in fostering global harmony and solidarity.

We the Japanese people, cognizant of the historical significance of the Meiji Constitution of 1889 and the Showa Constitution of 1946, do hereby adopt, in the name of our people, this Constitution as the basic charter for the Japanese state in this new era.

(Status of the Emperor)

Article 1. The Emperor shall be the head of state of Japan wherein sovereignty resides in the people, and the symbol of their unity.
Chapter I. Popular Sovereignty

(Popular sovereignty and the exercise thereof)

Article 2. Sovereignty resides in the people, and this sovereignty shall be exercised by electing representatives to the national Diet and voting in national referenda.

(Elections)

Article 3. The election and dismissal of public officials is a right reserved to and a responsibility of the people.
2. Universal adult suffrage, free and secret ballots, and equal weighting of all ballots shall be guaranteed in the election of public officials.
3. No voter shall be answerable, publicly or privately, for the choice he has made.

(Political parties)

Article 4. The people shall be able to form political parties freely.
2. Political parties shall respect the principle of popular sovereignty, cooperate in the creation of the popular political will, and work for the development of democratic government.

(Accountability)

Article 5. The state shall disclose information relating to affairs of state and be fully answerable to the people so as to contribute to the exercise of their sovereignty as provided by law.

Chapter II. The Emperor

(The Imperial House Law)

Article 6. The Imperial Throne shall be dynastic and succeeded in accordance with the Imperial House Law passed by the Diet.

(The Emperor's authority)

Article 7. The Emperor shall perform only such acts in matters of state as are provided for in this Constitution and shall have no powers related to government.
2. The Emperor may delegate the performance of his acts in matters of state as may be provided by law.
3. The advice and approval of the Prime Minister shall be required for all acts of the Emperor in matters of state, and the Prime Minister shall be responsible therefor.

(Regency)

Article 8. Should a Regency be established in accordance with the Imperial House Law, the Regent shall perform his acts in matters of state in the Emperor’s name. In such case, paragraph one of the preceding Article shall apply mutatis mutandis.

(The Emperor’s appointive authority)

Article 9. The Emperor shall appoint the Prime Minister as designated by the House of Representatives.
2. The Emperor shall appoint the Chief Justice of the Constitutional Court as designated by the Diet.
3. The Emperor shall appoint the Chief Justice of the Supreme Court as designated by the Prime Minister.

(The Emperor’s performance of acts of state)

Article 10. The Emperor shall perform the following acts in matters of state with the advice and approval of the Prime Minister on behalf of the people.

a. Promulgation of amendments to the Constitution, laws, cabinet orders, and treaties.
b. Issuance of promulgation convening the Diet.
c. Issuance of promulgation dissolving the House of Representatives.
d. Proclamation of general election of members of the House of Representatives and ordinary election of members of the House of Councillors.
e. Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law, and of full powers and credentials of ambassadors and ministers.
f. Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights.
g. Awarding of honors.
h. Attestation of instruments of ratification and other diplomatic documents as provided for by law.
i. Receiving foreign ambassadors and ministers.
j. Performance of ceremonial functions.

Chapter III. National Security and International Cooperation
Article 11. Aspiring sincerely to advocate 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.

2. Japan shall possess a defense force to preserve its own peace and independence and to ensure the security of the state and of the people.

3. Japan may have its defense force take part in activities under the auspices of international organizations and international cooperative frameworks so as to preserve international peace and security and to provide humanitarian assistance.

4. The authority to direct and supervise the defense force shall be invested in the Prime Minister. Prior approval or ex post facto approval as appropriate by the Diet shall be required should the Prime Minister direct the defense force to engage in actions involving use of force.

Chapter IV. Rights and Responsibilities of the People

Article 12. The conditions necessary for being a Japanese national shall be determined by law.

Article 13. All people inherently possess all fundamental human rights. These fundamental human rights are guaranteed to the people of this and future generations as eternal and inviolate by this Constitution.

2. The rights in the preceding paragraph are equally guaranteed to non-Japanese as well, except when they are intrinsically limited to Japanese nationals.

Article 14. The freedoms and rights guaranteed to the people under this Constitution shall be maintained by the constant endeavor of each and every person, who shall refrain from any abuse of these freedoms and rights.

2. All people shall respect each other's freedoms and rights.

Article 15. All people shall be respected as individuals. Their right to life, liberty, and
the pursuit of happiness shall be respected to the utmost in legislation and in other governmental affairs to the extent that such is compatible with the public welfare.

(Equality before the law)

**Article 16.** All people are equal under the law and there shall be no discrimination in political, economic, or social relations because of race, creed, sex, place of residence, or social status.

2. Peers and peerage shall not be recognized.

3. No privilege shall accompany any award of honor, decoration, or any distinction. The awarding of honors, decorations, or distinctions shall be as determined by law.

4. No award shall be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

(Public officials' essential status)

**Article 17.** All public officials are servants of the whole community and not of any part thereof. All public officials shall constantly endeavor to manifest the freedoms and rights guaranteed under this Constitution.

(Freedom of thought and conscience)

**Article 18.** Freedom of thought and conscience shall not be violated.

(Freedom of religion and prohibition of privileges from the state)

**Article 19.** Freedom of religion is guaranteed to all. No religious organization shall receive any privileges from the State nor exercise any political authority.

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

3. The State and its organs shall refrain from any activity that supports, assists, promotes, suppresses, or interferes with any specific religion.

(Freedom of expression)

**Article 20.** Freedom of speech, press, and all other forms of expression is guaranteed.

2. Censorship shall be prohibited.

3. The secrecy of any means of communication shall not be violated.

(Freedom of assembly and association)

**Article 21.** Freedom of assembly and association is guaranteed.
(Academic freedom and freedom of creative activity)

Article 22. Academic freedom is guaranteed.
2. Freedom of arts, scholarship, science and technology, and other creative pursuits is guaranteed. Intellectual property rights are protected as specified by law.

(Individual integrity)

Article 23. No person’s good name, trustworthiness, or reputation shall be unjustly besmirched.
2. All people shall be protected from inappropriate interference with their private affairs and family affairs and shall have the right to refuse to disclose same.

(Freedom from servitude)

Article 24. No person shall be subject to involuntary servitude of any kind, except as punishment for crime.

(Freedom of residence and mobility)

Article 25. All people shall have the freedom to choose and change their residence.
2. All people shall have the freedom to move to a foreign country and to divest themselves of their nationality.

(Freedom of occupation and business)

Article 26. All people shall have the freedom to choose and pursue their occupation and business to the extent that such is not detrimental to the public interest.

(Property rights)

Article 27. The right to own or hold property is inviolable.
2. Property rights shall be defined by law, consistent with the public interest.
3. Private property may be taken for public use upon just compensation therefor.

(Individual dignity and equality of the sexes in the family)

Article 28. The household is the basic unit of society. All people shall endeavor to maintain and define the families of which they themselves are members.
2. Marriage shall be based on the mutual consent of the sexes and shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis.
3. The family, as premised upon individual dignity and the essential equality of the sexes, is defended by the state.
4. Laws shall be enacted regarding choice of spouse, property rights, inheritance, choice of residence, divorce, and other matters pertaining to marriage and the family from the standpoint of individual dignity and the essential equality of the sexes.

(Right to life and state obligation)

Article 29. All people shall have the right to maintain the minimum standards of wholesome and cultured living.

2. In all spheres of life, the State shall endeavor to promote and extend social welfare, social security, and public health.

(Environmental rights)

Article 30. All people shall have the right to enjoy a wholesome environment and shall be responsible for endeavoring to maintain same.

2. The State shall endeavor to maintain a wholesome natural environment.

(Right to education)

Article 31. All people shall have the right to receive an education correspondent to their abilities as provided by law.

2. All people shall be obligated to have all children under their protection receive at least minimum education as provided by law. Such compulsory education shall be free.

(Right and obligation to work)

Article 32. All people shall have the right and the obligation to work.

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

3. Children shall not be exploited.

(Right to organize)

Article 33. The right of workers to organize and to bargain and act collectively is guaranteed.

(Duty to pay taxes)

Article 34. All people shall be liable to taxation as provided by law.

(Responsibility to defend peace and independence)

Article 35. All people shall be responsible for defending the peace and the independence of the State.
(Guarantee of due process)

Article 36. No person shall be deprived of life or liberty, nor shall any other criminal or administrative penalty be imposed, without due process of law.

(Right to trial)

Article 37. No person shall be denied the right of access to the courts.

(Conditions for arrest)

Article 38. No person shall be apprehended except upon warrant issued by a competent judge which specifies the offense with which the person is charged, unless he is apprehended in the act of committing the offense.

(Conditions for detention)

Article 39. No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

(Inviolability of the home)

Article 40. Except as provided in Article 38, no person shall be subject to entries, searches, and seizures of his residence, papers, or other belongings without due cause and, in the case of searches and seizures, the showing of a warrant.

2. Each search or seizure must be made upon separate warrant issued by a competent judge.

(Prohibition of torture and cruel punishment)

Article 41. The infliction of torture by any public official is absolutely forbidden, as is cruel punishment.

(Rights of the accused)

Article 42. In all criminal cases the accused shall have the right to a speedy and public trial by an impartial tribunal.

2. The accused shall be permitted full opportunity to examine all witnesses and shall have the right of compulsory process for obtaining witnesses on his behalf at public expense.
3. The accused, including while in custody, shall at all times have the assistance of competent counsel who shall, if the accused is unable to secure same by his own efforts, be assigned to him by the State.

(Defendant rights)

Article 43. No person shall be compelled to testify against himself.

2. No confession made under compulsion, torture or threat, or after prolonged arrest or detention shall be admitted in evidence.

3. No person shall be convicted or punished in cases where the only proof against him is his own confession.

(Prohibition of retroactive application and double jeopardy)

Article 44. No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy.

(Right to redress for unlawful detention)

Article 45. Any person, in case he is acquitted after he has been arrested or detained, may sue the State for redress as provided by law.

(Right of peaceful petition)

Article 46. Every person shall have the right of peaceful petition for the redress of damages, for the removal of public officials, for the enactment, repeal, or amendment of laws, ordinances, or regulations, and for other matters, and no person shall be in any way discriminated against for sponsoring such a petition.

(Right to redress for illegal acts)

Article 47. Every person who has suffered as a result of any illegal act of any public official may sue the State or public entity for redress as provided by law.

Chapter V. The Diet

(Legislative authority)

Article 48. The authority to enact laws shall reside in the Diet.
(Bicamerality)

Article 49. The Diet shall consist of two Houses: the House of Representatives and the House of Councillors.

(House structure)

Article 50. Both Houses shall consist of elected members, representative of all the people.
2. The number of members of each House shall be fixed by law.

(Diet members and electors’ qualifications)

Article 51. The qualifications of members of both Houses and their electors shall be fixed by law. There shall be no discrimination because of race, creed, sex, place of residence, social status, education, property, or income.

(House of Representatives term)

Article 52. The term of office of members of the House of Representatives shall be four (4) years. However, the term shall be terminated before the full term is up in case the House of Representatives is dissolved.

(House of Councillors term)

Article 53. The term of office of members of the House of Councillors shall be six (6) years, with election for one-half the members taking place every three (3) years.

(Elections)

Article 54. Electoral districts, method of voting, and other matters pertaining to the method of election of members of both Houses shall be fixed by law. Provided, however, that members of the House of Representatives shall be directly elected by the people.

(Prohibition of simultaneous membership)

Article 55. No person shall be permitted to be a member of both Houses simultaneously.

(Compensation of members)

Article 56. Members of both Houses shall receive appropriate annual compensation from the national treasury in accordance with law.
(Immunity from arrest)
**Article 57.** Except in cases provided by law, members of both Houses shall be exempt from apprehension while the Diet is in session, and any member apprehended before the opening of the session shall be freed during the term of the session upon demand of the House.

(Non-liability outside the House)
**Article 58.** Members of both Houses shall not be held liable outside the House for speeches, debates, or votes cast inside the House.

(Annual ordinary sessions)
**Article 59.** An ordinary session of the Diet shall be convened once per year.

(Convocation of extraordinary sessions)
**Article 60.** The Prime Minister may determine to convene extraordinary sessions of the Diet. Provided, however, that the Prime Minister must determine to convene such a session should one-fourth or more of the total members of either House so demand.

(Dissolution of the House of Representatives and emergency sessions of the House of Councillors)
**Article 61.** Should the House of Representatives be dissolved, there must be a general election of members of the House of Representatives within forty (40) days after the date of dissolution, and the Diet must be convened within thirty (30) days after the date of the election.

2. When the House of Representatives is dissolved, the House of Councillors is closed at the same time. However, the Prime Minister may convene the House of Councillors in emergency session in time of national emergency.

3. Measures taken at such session as provided in the preceding paragraph shall be provisional and shall become null and void unless agreed to by the House of Representatives within ten (10) days after the opening of the next session of the Diet.

(Adjudication of member qualifications)
**Article 62.** Each House shall judge disputes related to qualifications of its members.
However, denying a seat to any member shall require a resolution passed by a majority of two-thirds or more of the members present.

(Quorum and voting)

**Article 63.** Votes cannot be held in either House unless one-third or more of the total membership is present.

2. All matters shall be decided, in each House, by a majority of those present, except as otherwise provided in this Constitution; and in case of a tie, the presiding officer shall decide the issue.

(Public and closed sessions, record to be kept)

**Article 64.** Deliberation in each House shall be open to the public. However, a closed session may be held should a majority of two-thirds or more of those members present pass a resolution therefor.

2. Each House shall keep a record of its proceedings. This record shall be published and given general circulation, excepting such parts of proceedings of closed sessions as may be deemed to require secrecy.

3. Upon demand of one-fifth or more of the members present, the votes of the members on any matter shall be recorded in the minutes.

(Election of officers and establishment of rules)

**Article 65.** Each House shall select its own presiding officer and other officials.

2. Each House shall establish its rules pertaining to meetings, proceedings, and internal discipline and may discipline members for disorderly conduct. However, in order to expel a member, a majority of two-thirds or more of those members present must pass a resolution thereon.

(Passage of bills and primacy of the House of Representatives)

**Article 66.** A bill becomes a law upon passage by both Houses, except as otherwise provided by this Constitution.

2. A bill which is passed by the House of Representatives and upon which the House of Councillors makes a decision different from that of the House of Representatives becomes law when passed a second time by the House of Representatives.

3. The provision of the preceding paragraph does not preclude the House of Representatives from calling for a meeting of a joint committee of both Houses as provided for by law.
4. The second passage by the House of Representatives as provided for in paragraph two shall take place after sixty (60) days following the decision by the House of Councillors, time in recess excepted.

5. Failure by the House of Councillors to take final action within sixty (60) days after receipt of a bill passed by the House of Representatives, time in recess excepted, may be determined by the House of Representatives to constitute rejection of said bill by the House of Councillors.

(House of Representatives to consider a budget bill first and to have primacy)

**Article 67.** A budget bill must be submitted first to the House of Representatives.

2. Upon consideration of a budget bill, should the House of Councillors make a decision different from that of the House of Representatives, and should no agreement be reached even through a joint committee of both Houses as provided for by law, or should the House of Councillors fail to take final action within thirty (30) days, time in recess excluded, after the receipt of the budget bill passed by the House of Representatives, the decision of the House of Representatives shall be the decision of the Diet.

(Treaty ratification and primacy of the House of Representatives)

**Article 68.** Paragraph two of Article 67 shall apply *mutatis mutandis* to the Diet approval required for the ratification of treaties.

(Consent on the appointment of public officials)

**Article 69.** The appointment of important public officials as designated by law shall require the consent of the House of Councillors.

(Investigative authority)

**Article 70.** Each House may conduct investigations in relation to government and may demand the presence and testimony of witnesses and the production of records. Such investigations must be conducted when they have the support of one-tenth or more of the members of each House.

2. Both Houses, in conducting investigations pursuant to the provisions of the preceding paragraph, shall keep a record of the results and shall disclose said record to the public, except in such cases as are deemed to require extraordinary secrecy.
(Cabinet members’ obligation to answer questions and right to attend sessions)

Article 71. Both Houses shall be able to request the attendance of the Prime Minister and Ministers of State for the purpose of obtaining answers or explanations. Upon said request, the Prime Minister and Ministers of State shall attend the House session.

2. Regardless of whether they are members of a House or not, the Prime Minister and Ministers of State may speak at any time in either House to the issues before the House and their handling.

(Impeachment and removal)

Article 72. The House of Councillors shall empanel an impeachment court from among its members for the purpose of trying those judges against whom removal proceedings have been instituted.

2. The House of Representatives shall empanel a removal proceedings committee from among its Members for the purposes of deciding whether or not to institute the removal proceedings of the preceding paragraph.

3. Matters relating to removal proceedings and impeachment shall be provided by law.

Chapter VI. The Prime Minister

(Executive authority and responsibility to the Diet)

Article 73. Executive authority shall be vested in the Prime Minister.

2. In exercising executive authority, the Prime Minister shall be responsible to the Diet.

(Nomination of the Prime Minister)

Article 74. General elections shall be conducted to elect the members of the House of Representatives and to nominate the Prime Minister.

2. In general elections, each political party shall clearly indicate its candidate for Prime Minister.

(Designation of the Prime Minister)

Article 75. The Prime Minister shall be designated from among the members of the House of Representatives by a resolution of the House of Representatives. This designation shall precede all other business.
2. Should no candidate receive the endorsement of a majority of the votes cast in the designation in the preceding paragraph, a run-off vote shall be conducted between the two candidates who have received the largest numbers of votes and the candidate winning the larger number of votes shall be designated.

(Right to dissolve the House of Representatives and no-confidence motions)
Article 76. The Prime Minister shall be able to dissolve the House of Representatives.
2. The Prime Minister shall dissolve the House of Representatives if it passes a non-confidence resolution or rejects a confidence resolution.

(Composition of the Cabinet)
Article 77. The Cabinet shall consist of the Prime Minister and such supporting Ministers of State as provided for by law.
2. The Prime Minister and Ministers of State must be civilians.

(Appointment and removal of Ministers of State)
Article 78. The Prime Minister shall appoint the Ministers of State. Provided, however, that a majority of their number must be chosen from among the members of the Diet.
2. The Prime Minister may remove Ministers of State at his discretion.

(Resignation of the Cabinet)
Article 79. The Cabinet shall resign en masse upon the first convocation of the Diet after a general election of members of the House of Representatives.
2. In the event of resignation under the preceding paragraph, the Cabinet shall continue to perform its duties as stipulated under this Constitution until such time as a new Prime Minister is designated.

(Prime Minister pro tempore)
Article 80. Should the Prime Minister be incapacitated or the office of the Prime Minister be vacant, the pre-designated Minister of State shall perform the functions of Prime Minister pro tempore.

(Responsibilities of the Prime Minister)
Article 81. The Prime Minister shall be responsible for deciding the basic directions for important Cabinet policies.
2. The Prime Minister shall submit legislation, budget bills, and other motions to the Diet for deliberation and shall report to the Diet on general matters of state and foreign affairs.

3. The Prime Minister shall direct and supervise the executive branch.

(Responsibilities of Ministers of State)

Article 82. Ministers of State shall supervise the conduct of executive actions in their areas of portfolio as provided by law.

2. Ministers of State shall be responsible for conducting executive actions in their areas of portfolio in keeping with the basic directions set forth by the Prime Minister.

(Duties of the Prime Minister)

Article 83. The Prime Minister shall perform the following duties, in addition to other general executive functions, with the support and assistance of Ministers of State.

a. Administer the law faithfully and conduct affairs of state.
b. Manage foreign affairs.
c. Conclude treaties. Provided, however, that this shall require obtaining the prior or, depending upon circumstances, subsequent approval of the Diet.
d. Manage public officials in accordance with standards established by law.
e. Prepare the budget bill.
f. Issue cabinet orders in order to execute the provisions of this Constitution and of the law. However, such cabinet orders cannot include penal provisions unless authorized by such law.
g. Decide on general amnesties, special amnesties, commutations of punishment, reprieves, and restorations of rights.

(National referenda)

Article 84. The Prime Minister shall be able to submit bills that he has submitted to the Diet to national referenda.

2. In the case of submitting a bill to a national referendum under the provisions of the preceding paragraph, the motion shall first have had to have gained the support of one-third or more of the members of each House of the Diet.

3. The Prime Minister shall have a duty to report and explain the results of the referendum to the Diet.

4. Should a bill be submitted to national referendum, the Diet shall be bound by the results of said referendum.
5. Provisions relating to the holding of national referenda shall be decided by law.

(Signing of laws and Cabinet orders)

Article 85. All laws and Cabinet orders shall be signed by the competent Minister of State and countersigned by the Prime Minister.

(Special privileges of Ministers of State)

Article 86. Ministers of State shall not be subject to legal action without the consent of the Prime Minister during their tenure of office. However, the right to institute such legal action is not impaired hereby.

(Declaration of state of emergency and command authority)

Article 87. Should a situation arise that infringes upon or threatens to infringe upon the nation’s independence or security or the people’s lives, persons, and property, the Prime Minister shall, should he deem such necessary to deal with said situation, be able to declare a state of emergency in all or part of the nation as provided by law.

2. Should the Prime Minister declare a state of emergency, he shall assume direct command of not only the defense force but also the police, maritime safety agency, fire departments, and other executive organs, as well as the heads of local public entities.

(Need for Diet approval for and lifting of the state of emergency)

Article 88. Should the Prime Minister declare a state of emergency, he shall submit the action to the Diet within twenty (20) days for approval. Should the House of Representatives be dissolved, he shall seek the approval of the House of Councillors in extraordinary session.

2. Should the Diet not approve the Prime Minister’s having declared a state of emergency or deem such to have been unnecessary, the state of emergency shall be promptly lifted.

(Respect for fundamental human rights and due process during a state of emergency)

Article 89. Should the Prime Minister declare a state of emergency, he shall be able to curtail the freedoms and rights guaranteed by this Constitution only to the minimum extent necessary as provided by law to protect the people’s lives, their persons, and their property.

2. In taking such action under the provisions of the preceding paragraph, the Prime Minister shall nonetheless respect fundamental human rights.
3. The measures under paragraph one must be taken in accordance with fair and appropriate procedures, and measures must also be taken promptly to compensate the people for the abridgement of their rights and interests.

Chapter VII. The Judiciary

(Judicial authority, prohibition of special tribunals, and independence of court officials)

Article 90. The whole judicial authority is vested in a Constitutional Court, a Supreme Court, and such lower courts as established by law.
2. No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive be given final judicial authority.
3. All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws.

(Constitutional Court to determine constitutionality)

Article 91. The Constitutional Court is the court of last resort with power to determine the constitutionality of any treaty, law, order, regulation, or official act.

(Constitutional Court’s jurisdiction)

Article 92. The Constitutional Court shall have jurisdiction over the following.
a. Determining, in the event of a petition by the Cabinet or one-third or more of the members of either House of the Diet as provided by law, whether any treaty, law, order, regulation, or other act of government is compatible with this Constitution.
b. Determining in specific court cases whether or not a specific item is in accord with this Constitution when so requested by the Supreme Court or any lower court as provided by law.
c. Passing judgment on specific court cases when petition is filed contesting the verdict of the Supreme Court as provided by law.

(Force of Constitutional Court verdict of unconstitutionality)

Article 93. Should the Constitutional Court render a judgment that any treaty, law, order, regulation, or official act is unconstitutional, such judgment shall thereafter be binding on the State and all local public entities.

(Constitutional Court justices, terms, and compensation)

Article 94. The Constitutional Court shall consist of a Chief Justice and such number of
justices as may be determined by law, with all but the Chief Justice being appointed half
each by the Diet and the Prime Minister.
2. The term of office of Constitutional Court justices shall be ten (10) years, without the
possibility of reappointment.
3. Constitutional Court justices shall receive, at regular stated intervals, adequate
compensation, which shall not be decreased during their term of office.

(Supreme Court justices, terms, and compensation)
Article 95. The Supreme Court shall consist of a Chief Justice and such number of
justices as may be determined by law, with all but the Chief Justice being appointed by
the Prime Minister.
2. The term of office of Supreme Court justices shall be ten (10) years, with the
possibility of reappointment.
3. All Supreme Court justices shall receive, at regular stated intervals, adequate
compensation which shall not be decreased during their terms of office.

(Lower court judges, terms, retirement, and compensation)
Article 96. Lower court judges shall be appointed by the Prime Minister from a list of
persons nominated by the Supreme Court. The term of office of lower court judges shall
be ten (10) years, with the possibility of reappointment. They shall, however, be retired
upon the attainment of the age as fixed by law.
2. Lower court judges shall receive, at regular stated intervals, adequate compensation
which shall not be decreased during their terms of office.

(Supreme Court and Constitutional Court rule-making authority)
Article 97. The Supreme Court shall be vested with the rule-making authority to
determine the rules of court procedure, and of matters relating to attorneys, the internal
discipline of the courts, and the administration of judicial affairs.
2. Provided, however, that the Constitutional Court shall be vested with the rule-making
authority to determine such matters relating to the Constitutional Court.
3. Public prosecutors shall be subject to the rule-making authority of the Constitutional
Court and the Supreme Court.
4. The Supreme Court may delegate the authority to make rules for lower courts to such
courts.
(Judges not to be removed without due cause)

Article 98. Judges shall not be removed except by public impeachment unless legally declared mentally or physically incompetent to perform their official duties. No disciplinary action against judges shall be administered by any executive organ or agency.

(Open and public trials)

Article 99. Trials shall be conducted and judgments declared publicly.
2. Should a court unanimously determine publicity to be dangerous to public order or morals, a trial may be conducted in camera, but trials for political offenses, offenses involving the press or cases wherein the rights of people as guaranteed in Chapter IV of this Constitution are in question shall always be conducted publicly.

Chapter VIII. Finances

(Basic principle of financial management)

Article 100. The Prime Minister shall manage the nation's finances in keeping with the resolutions of the Diet.
2. The national government must endeavor to ensure sound financial management.

(Taxation)

Article 101. No new taxes shall be imposed or existing taxes modified except by law or under such conditions as law may prescribe.

(Expenditure of public moneys and assumption of public obligations)

Article 102. No money shall be expended, nor shall the State obligate itself, except as authorized by the Diet.

(Budget bills and multiyear expenditures)

Article 103. The Prime Minister shall prepare and submit to the Diet for its consideration and decision a budget bill for each fiscal year.
2. When multiyear expenditures are approved, the number of years shall simultaneously be specified by the Diet.

(Reserve fund)

Article 104. In order to provide for unforeseen deficiencies in the budget, a reserve
fund may be authorized by the Diet to be expended upon the responsibility of the Prime Minister.

2. The Prime Minister must obtain *ex post facto* Diet approval for all expenditures from the reserve fund.

(Imperial Household finances)

**Article 105.** All property of the Imperial Household shall belong to the State. All expenses of the Imperial Household shall be appropriated by the Diet in the budget.

(Restrictions on use of public moneys)

**Article 106.** No public moneys or other property shall be expended or appropriated for the use, benefit, or maintenance of any religious institution or association; nor shall such be expended or appropriated for any charitable, educational or benevolent enterprise not under the control of public authority, as specified by law.

(Settlement and audits)

**Article 107.** Final accounts of the expenditures and revenues of the State shall be audited annually by a Board of Audit and submitted by the Prime Minister to the Diet, together with the statement of audit, during the fiscal year immediately following the period covered.

2. The organization and competency of the Board of Audit shall be determined by law.

(Report on finances)

**Article 108.** The Prime Minister shall report to the Diet and the people on the state of national finances at regular intervals and at least annually.

Chapter IX. Local Government

(Basic principle of local government)

**Article 109.** Local government shall in principle be conducted by local public entities and local residents of their own will and on their own responsibility to deal with matters directly affecting the daily lives of the people who live in the area.

2. Regulations concerning the organization, authority, and operation of local public entities shall be fixed by law respecting the principle set forth in the preceding paragraph.
(Assemblies and direct election of officials)

Article 110. Local public entities shall establish assemblies as their legislative organs in accordance with law.
2. The chief executive officers of all local public entities, the members of their assemblies, and such other local officials as may be determined by law shall be elected by direct popular vote of area residents.

(Local government authority)

Article 111. Local public entities shall have the right to manage their property, affairs, and administration and to enact their own regulations within the scope provided by law.
2. Local public entities shall be able to enact regulations levying taxes as needed for the exercise of their authority. They must, however, endeavor to ensure sound financial management.

(Exceptional local referenda)

Article 112. No extraordinary law applicable to a local government may be enacted by the Diet without the consent of the majority of the voters of the local government jurisdiction concerned as expressed in referendum in accordance with law.

Chapter X. Constitutional Revision

(Procedures and force of revision)

Article 113. Revision of the Constitution shall be initiated by the Diet through a concurring vote of a majority of all the members of each House and such proposed revisions shall thereupon be submitted to the people for ratification: such ratification shall require the affirmative vote of a majority of all votes cast thereon at a national referendum or at such election as the Diet shall specify.

2. The newly ratified articles shall immediately be promulgated by the Emperor in the name of the people, as an integral part of this Constitution.

Chapter XI. Supreme Law

(The Constitution’s supremacy)

Article 114. This Constitution shall be the supreme law of the State and no treaty, law,
regulation, or other act of government, or part thereof, contrary to the provisions hereof shall have legal force or validity.

(Respect for international laws)

**Article 115.** The treaties concluded by Japan and established laws of nations shall be faithfully observed.

(Obligation to respect and uphold the Constitution)

**Article 116.** The Emperor or the Regent as well as the Prime Minister, Ministers of State, members of the Diet, judges, and all other public officials have the obligation to respect and uphold this Constitution.

*N. B. In the above draft “he” is used as a non-gender pronoun.*
Location of Principal SDF Units (As of March 31, 2007)