

Post-WWII Reforms: How the U.S. Transformed Japan's Domestic Legal System

Yixuan Ma^{1,a,*}

¹School of Humanities and Social Sciences, Xi'an Jiaotong-Liverpool University, Suzhou, Jiangsu, 215000, China

a. Yixuan.Ma21@student.xjtlu.edu.cn

**corresponding author*

Abstract: The deep connection between the U.S. and Japan began at the end of World War II and has transformed from an initial enemy relationship to the U.S. occupation of Japan to the current deep strategic partnership. The U.S. undertook a thorough legal reconstruction during the occupation of Japan. From the representative contents of the changes, the cabinet officials and the Supreme Commander for the Allied Power, who was the U.S.'s all-powerful leader in the legal reconstruction process, the analysis of the entanglement and bargaining between the U.S. and Japan in the process of legal changes and the characteristics of the law after the changes were made. In this way, the fundamental interests of both sides are analyzed. It is found that the U.S. dominated the legal aspects to serve its strategic objectives in Asia. For instance, ensuring that Japan no longer became a threat of war, while using Japan to hamstring socialist expansion in Asia. The Japanese cabinet was not influential enough in reconstructing the law.

Keywords: US-Japan Relations, legislation, post-World War II, Asian strategy.

1. Introduction

On 1945, September 2nd, with the submission of the capitulation signed by the representative of Japan, World War Two officially ended [1]. Then came the period of the American occupation of Japan, with the Post-war Planning Commission specifying the objectives of the occupation in document PWC-110a, followed by document PWC-108b, which identified the two main objectives of the American occupation of Japan. The first is to make Japan no longer a threat to the United States and the rest of the world, and the second is to establish a peaceful and responsible Japanese government for the benefit of the United States [2].

During the period of the US occupation time, the amendment of the constitution faces many different views and has a tortuous experience. Among them, the core interest of the Japanese leadership group is to protect the national body. The government of Kijuro Ojihara and Shigeru Yoshida did not want Japan to be partitioned like Germany after the war, so they had to accept the draft constitution submitted by the Supreme Commander for the Allied Powers in Japan [3].

MacArthur's reform of the nature of Japan marked a significant departure from its pre-existing structures, effectively breaking with the traditional system. Despite the many influences surrounding the drafting of the new Japanese Constitution, the process can be seen as largely dominated by American dictatorship feast, almost resembling a unilateral imposition of U.S. will. As Nakanishi

notes, MacArthur had a strong interest in preventing the Far East Committee from interfering with the Japanese occupation and the constitutional reforms, thereby ensuring that the transformation of Japan adhered closely to American objectives.

This paper will first explain in detail the specific legal changes implemented under MacArthur's direction, highlighting how these reforms diverged from Japan's previous systems. Following this, the paper will explore the distinct interests of both the United States and Japan during this period, examining how the American-led reforms were shaped by the strategic goals of the U.S., while also considering the implications for Japan's sovereignty and future development.

2. How the Law Changed before and after the War

Japan accepted the Potsdam Declaration before the United States launched an attack on its key islands, thus confirming full American occupation and avoiding Soviet intervention. The Potsdam Declaration can be understood as the terms of Japan's surrender and the legal basis for the American occupation reform [3]. It mainly put forward a series of legal reforms to disarm Japan and promote Japanese democracy.

Japan's renunciation of the right to wage war has profoundly impacted Japan's subsequent foreign politics, which is the most unique feature of Japan's new constitution. The "no war clause" of Article 9, paragraph 2, was established in the early post-war period, but the formal drafting of the Constitution did not involve long-term and in-depth thinking [4]. As can be seen, the renunciation of war powers is the most important point of the US government, and other goals are closely followed. This is the primary issue for stabilizing the post-war environment and maintaining peace in Asia. After the war, Japan chose to give up the power of waging war and armed forces, that is, to accept the draft constitutional amendment of SCAP. For Japan at that time, it was a plan to use the guarantee of Western groups led by the United States to meet the needs of the Conservative Party to maintain national unity and the existence of the emperor, while accepting various support from the United States.

However, during the Cold War that followed, Japan was prevented from carrying out any military operations by the explicit provisions of Article 9. This restriction led Japan to rely heavily on the United States for security, particularly during the Korean War. Japan was forced to be content to see the United States take military action on the Korean Peninsula out of concern for the external environment [3]. Japan then searched for moderation of relations with China after the division of the Korean Peninsula but passively chose to sign a peace treaty with Taiwan due to the hostile relationship between the United States and China as belligerent nations [4].

The Japanese Constitution has many inheritances from American law [5]. It can be seen that Japan's new constitution is clearly influenced by the United States. For example, national sovereignty was changed from the original state sovereignty belonging to the emperor to national sovereignty belonging to the people. Article 13 of the Constitution of Japan provides that all citizens, as individuals, have the right to respect life, liberty, and the pursuit of happiness [6]. It is entirely derived from the Declaration of Independence of the United States of America, which was born in 1776, that "all men are equal, and that they are endowed by their Creator with certain non-negotiable rights." At the same time, under the leadership of the United States, the relevant laws are modelled on the experience of Germany's military governance after World War II [7].

3. The Resistance of the Japanese Government

The constitutional amendment process in post-war Japan occurred in two stages, both of which were fraught with difficulties due to Japan's passive approach. According to the Potsdam Declaration, the Constitution was intended to eliminate all forms of Japanese power that was capable of inciting the

people's government of the world, in fact, eliminate Japanese militarism [2]. This is advice from the United States on national defense and security, and there are many similar recommendations.

In October 1945, after the notification from Supreme Court for the Allied Power (SCAP) that Japan needed to revise its Constitution, there was a strong and positive response to the revision of the Constitution from the Japanese populace. Civil groups eagerly began to draft proposals for the new constitution. However, unfortunately, despite this initial enthusiasm, the Japanese authorities did not demonstrate the same level of commitment or urgency toward achieving a comprehensive and meaningful constitutional revision from the very beginning [2].

The first phase of the constitutional amendment process was actively promoted by Fumimaro Konoe, a prominent Japanese statesman. In the process, despite the active support of Fumimaro Konoe in the United States and his strong passion, the effort faced significant challenges. The cabinet of Prime Minister Kijyuro Shideharmei, who resigned the day after the Guard met with MacArthur, failed to provide the proper leadership to drive the constitutional changes forward. Tragically, Fumimaro Kono's efforts were cut short when he committed suicide before he could be tried as a World War II war criminal. The disruption of the cabinet and the indifference of the government doomed what appeared to be very enthusiastic and hardworking attempt at constitutional amendment [2].

The second phase was during the Kij Shidehara cabinet, in which legal scholar Steiji Matsumoto was appointed chairman of the Cabinet's Constitutional Inquiry Committee on October 25, 1945. He did not cooperate with SCAP's expectations as much as Duke Fumimaro Konoe because he believed that constitutional change should be a matter for the Japanese themselves and that the United States should not interfere [2]. He did not even pay attention to the contents of the "Potsdam Declaration" and considered how Japan would be viewed in the world after surrender, especially by the victorious allied camp [2]. He favored a democratic interpretation of the existing constitution and saw no need to amend it [2]. This is fundamentally a conflict between the Western constitutional structure and the local Meiji constitutional structure, as well as between the European and American ideological systems and Eastern thought [2].

As a result, the Matsumoto Committee, driven by its strong autonomy to amend the constitution, lacks human rights concerns and its advanced concept of a legal system completely ignores the expectations of GHQ and SCAP [2]. They maintained that there were no flaws in the Meiji Constitution, and that many of the problems that occurred before the end of the war were guided by the idea that the spirit of the Constitution had been distorted by the influence of the authorities [2].

4. American Interests

In 1948, as the Cold War intensified, the United States primarily aimed to stop the spread of communism emanating from the Soviet Union. The National Security Council documents that have been made public mention that their advisors to President Truman recommended first of all the continuation of peace treaty negotiations with Japan, emphasizing the importance of maintaining military and economic control over the country because of the urgency of Soviet socialist expansion [8]. The primary concern for the United States was security: they insisted on securing the requirements of the American naval base and ensuring that they can maintain long-term control over the possibility of developing Okinawa as a naval base there. At the same time, the second was that the Japanese police agency should also be reassembled at the will of the United States. This was seen as essential to maintaining stability and countering any potential socialist influence.

Equally important to U.S. interests, though secondary to security, was Japan's economic recovery. The United States recognized the necessity of revitalizing Japan's economy, proposing measures to promote in Japan's foreign trade and economic growth. The main features of the U.S. recovery plan, which relied on the specific situation of Japan's economic development in East Asia, were the

proposal that Japan share the government with the United Nations and other relevant departments. The goal was that Japan strove to increase production by expanding production to achieve a balanced internal and external budget [8]. By doing so, these measures could stabilize Japan's economy and ensure it could serve as a bulwark against the spread of communism in the region.

These two aspects – security and economic recovery – best illustrate American considerations during the critical transition period of 1947-1948, as noted by A. Kusunoki [9]. Kusunoki has even criticized the establishment of these constitutional articles, arguing that they represented a betrayal of the original intention behind the U.S. occupation of Japan [9]. The shift in American policy reflected the broader geopolitical realities of the Cold War, where the containment of the Soviet Union became a paramount concern. During the Cold War, in the face of the threat from the socialist camp, the United States and Japan adopted the “Peace Treaty with Japan” and the “U.S.-Japan Security Treaty” [9]. These agreements solidified Japan's role as a key ally in the U.S. strategy for Asia-Pacific security. Since then, Japan has been firmly subordinated to the United States and transformed into a strong strategic partner for the duration of the cold war.

5. Conclusion

The revision of Japan's constitution under American guidance was a complex process shaped by both geopolitical and domestic factors. Guided by the two main goals of demilitarizing Japan and ensuring its alignment with American strategic interests, the new constitution famously included Article 9 and the new Japanese constitution renounces Japan's right to wage war. This clause was designed to prevent Japan from becoming a future military threat, thereby enhancing the security for the United States and its allies. At the same time, the Japanese Constitution was influenced by the modern constitutional systems of European and American countries and came into effect in many important fields such as military affairs, governance, and individual rights.

However, the process of US-led constitutional revision was far from straightforward, which was partly due to the passive cooperation of the Japanese government to the changes imposed by the American occupation authorities. This reluctance stemmed from a mixture of national pride, differing political visions, and concerns over the long-term implications of the imposed reforms. At the same time, the broader context of the early Cold War era heavily influenced the U.S. approach to Japan. The United States focused on preventing the expansion of the socialist camp and the growing influence of the Soviet Union, sought to secure Japan's coastal defense from this perspective, and turning Japan into a solid strategic partner aimed at containing Soviet power. As a result, Japan was transformed into a key strategic partner for the United States, with its constitutional reforms serving both to secure peace and to align Japan's future with American geopolitical interests.

References

- [1] Yang, L. *The Influence Created on Japanese Society which was Due to Unthorough Japan Reforms after WWII*. Shanxi: Shanxi University, DOI:10.7666/d.Y916716. (2006).
- [2] Dower, J. W., *Embracing Defeat: Japan in the Wake of World War II*. New Press, 41(1999).
- [3] *Potsdam Declaration*. Referenced at <https://www.ndl.go.jp/constitution/e/etc/c06.html>. (1945)
- [4] Nakanishi, H. *The Issue of Historical Perspective from the Post-Heisei Era: Looking Back at Meiji from the Postwar Period, and Looking Ahead*. In: Yamauchi, M., Hosoya, Y. (eds) *Modern Japan's Place in World History*. Springer, Singapore. https://doi.org/10.1007/978-981-19-9593-4_13 (2023).
- [5] Li Jun; Jiang Lanxiang. *On the Inheritance of Anglo-American Constitutionalism in Japan after World War II*. *Hunan Social Sciences*, [s. l.], n. 6, 52-54. (2009).
- [6] *Japan, The Constitution of Japan, 1946, August 1, 1996*, Retrieved on September 2nd, 2024. <https://www-gutenberg-org-s.elink.xjtlu.edu.cn/cache/epub/612/pg612-images.html>.
- [7] Moore, Dylan. *Judicial Independence or Legal Technicians? A Historical Analysis of the Effectiveness of Judicial Review in Japan*. 2023. Ohio University, Master's thesis. OhioLINK Electronic Theses and Dissertations Center, http://rave.ohiolink.edu/etdc/view?acc_num=ohiou1681839051464246.

- [8] *National Security Council. 1948. Report by the National Security Council on Recommendations with Respect to United States Policy Toward Japan (NSC 13/2). Retrieved on September 2nd, 2024. Referenced at <https://history.state.gov/historicaldocuments/frus1948v06/d588>.*
- [9] *Kusunoki, A. US Policy for the Occupation of Japan and Changes to It. Springer Nature Singapore. https://doi-org-s.elink.xjtlu.edu.cn:443/10.1007/978-981-19-9593-4_9 112-119, (2023).*