

Changes in Modern Japanese Social and Cultural Currents (1)

Changes in Outlook on the Constitution

By Nakano Osamu

Highways and byways of history

From a sociological viewpoint, a constitution embodies a concept. It is subject to the restrictions of the times during which it was enacted, and is dictated by the interests of the social class in authority which enacted it. It thus symbolizes an ideology not free from the workings of political power in the process of its enactment. At the same time, it undeniably reflects the ideals, and sometimes even the illusions, that the people of those times dreamed of.

The Constitution of Japan is no exception. While all of the episodes and inside stories concerning the process of its enactment will never be made public (though it is a theme worthy of study), there can be no doubt that the Constitution of Japan strongly advocates a certain ideology.

The fact that a constitution embodies an ideology and is a product of a particular time period (or a product restricted by a certain period) often leads to an untoward situation. Clearly, the history of human beings (or the history of human society) does not remain static. Times change. For this reason, it is difficult to believe that a constitution and its fundamental principles formulated in one time period will remain the principles of the existence of a state and society in a later time period. Thus, it is not surprising that there is a school of thought which envisages the solution of problems with values, standards, rules and, among other things, by winning the consent of as many people as possible in every time period, instead of enacting a constitution. This is nothing more than common sense.

On the other hand, there is a school of thought, as in Japan, which regards a constitution as a code of laws that will be in effect forever. Proponents of this theory assert that since a constitution represents the foundation of the existence of a state and society and that

of the lives of its people, expedient changes of the definition of the basic wording from time to time will only cause problems. So, their theory goes, a constitution must remain unchanged and that when challenges arise, they must be dismissed because they are wrong.

The actual process of enactment of the present Japanese Constitution has not been completely made public. Yet, the process of setting the basic principles (or the role) which govern the society, state and people's lives, was very extraordinary. It is easy to understand the extraordinary nature of the process if one reads the preamble of the Constitution. The preamble incorporates, rightly and in an elegant style, the human ideal of eliminating disputes which humans have been involved in countless times throughout history. Yet the style of the preamble is that of a translation. In other words, it was written with the sole purpose of precisely expressing in the Japanese language what was written originally in the English language. Strictly speaking, it is not written in the Japanese style. Since the Meiji period, there had existed in Japan a literary movement advocating the adoption of the style of Western languages in the exemplary Japanese writing style or writing Japanese in the style of Western languages. Even so, some people say, understandably, the Constitution, and its preamble, gives one a clear impression that its translation cannot be condoned, even though what it says is right. Is there any other country which has a constitution first written in a foreign language and then translated directly into the native language?

Given such a background, campaigns for enacting a constitution on Japan's own initiative began as soon as Japan regained independence in 1952 and triggered debates and conflicts, though on a small scale, against the forces supporting the Constitution. Since a consti-

tution symbolizes an ideological pattern, it was a matter of course that both anti-Constitution and pro-Constitution forces were ideological. But, moves for revising the Constitution have failed to gain momentum and have not gone beyond the establishment of a Constitution Study Council in the ruling Liberal Democratic Party. The pro-Constitution forces have remained a majority and the minority group advocating an independent constitution have been little more than the subject of laughter, ridicule, derision, and contempt, even if its intentions were serious.

The pro-Constitution forces contend that maintenance of the Constitution is the primary duty of Japanese people in view of the criminal actions Japan committed in the process of its modernization since the Meiji period, including the unilateral atrocities committed during World War II. They regard the contents and value of the Constitution as absolute. Existence of other (or conflicting) ideological patterns, thus, is unthinkable for them.

However, there are various types of constitution (some countries do not have a constitution), and the constitution of one country embodies only a relative ideological pattern. In addition, it is apparent to everyone that renunciation of war, one of the centerpieces of the Japanese Constitution, is extremely exceptional.

Talking in down-to-earth terms, some of my young university students, who are soccer devotees, agreed in a discussion that the absence of a conscription system in Japan was behind Japan's poor performance in Asia's World Cup qualifying tournament. They said Japanese soccer had done well up to the Mexico City Olympics because members of the Japanese team then had been educated while the conscription system still existed. Those days are gone, so Japan's chances of being represented in the World Cup may be slim.

I am not sure whether they are right or not. But, from their conversation I caught a glimpse of what they think of the Japanese Constitution. Their way of thinking was a surprise to me. When I said that conscription would involve revision of the Constitution, one of them replied, "Let's revise the Constitution, then. Article 9 (which provides for renunciation of war) is open to question. Even Germany and South Korea have conscription. Japan can never beat them."

They may not have been serious, but it is certain they do not regard the Constitution as absolute. Most probably, their perception of the Constitution has something to do with the low turnout rates in national and local elections in recent years.

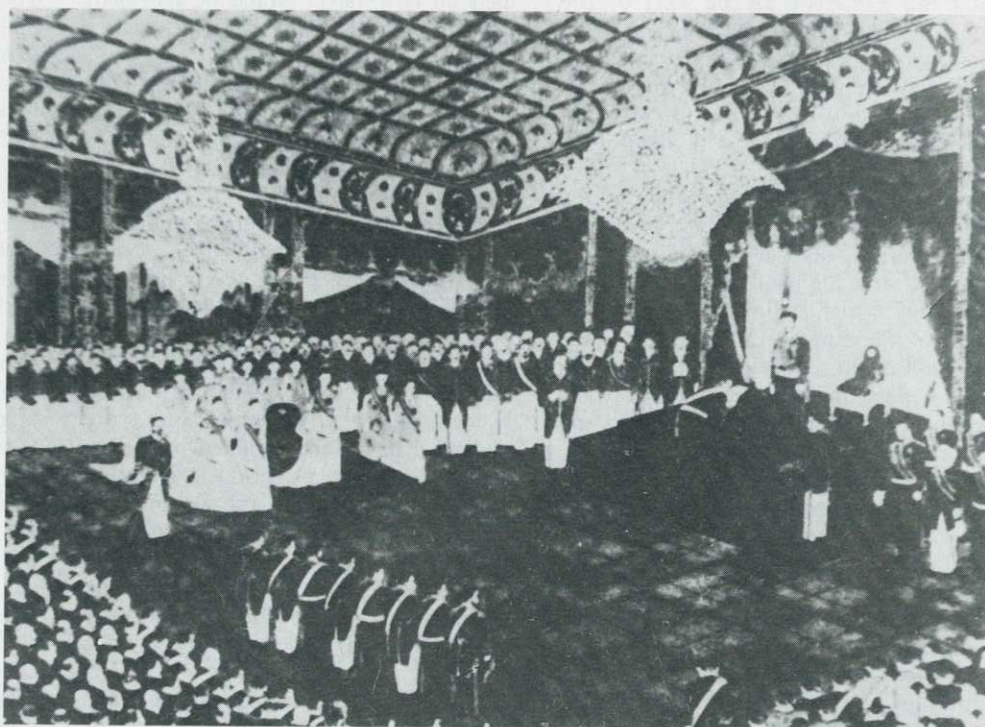
The Japanese Imperial Constitution, which existed before the present Constitution was enacted, stipulated that the Emperor rules the state and society and positioned the Emperor as an inviolable, absolute being. It is not easy to summarize the debates that took place ever since the beginning of the Meiji period over the position and role of the Emperor in Japan's modernization and over the handling of the Emperor in the process of enactment of the Imperial Constitution. However, it is an established fact that young low-class samurai and radical court nobles, who were the driving force that pushed for the Meiji Restoration, likened the Emperor to a king in chess. Although they eventually made the Emperor an absolute being in enacting the Imperial Constitution, it is inconceivable that their outlook concerning the Emperor had changed completely. Not a few scholars say that there were heated debates on the constitutional position of the Emperor in that process. Had the Emperor been a real absolute being, such an argument would never have occurred, nor would it ever have been allowed. That they did argue over the Emperor's position indicates there was a tacit understanding

among them that the Emperor was something like a chess king and not an absolute being. Judging from the way conflicting arguments took place, the truth is that the Emperor was described as an inviolable being in the Imperial Constitution only for the convenience of those people who pushed for the Meiji Restoration, and later became virtual rulers of the country and enactors of the Constitution. The arguments testify to the fact the Emperor was a relative existence and, theoretically the Imperial Constitution also was a relative ideological pattern. It was the top leaders of the Meiji Era, who enacted the Imperial Constitution, who knew this best.

An academic theory regarding the Emperor as nothing more than a "relative existence described as an absolute being"—that is, an ideological (or spiritual) "structural organ" for ruling the Japanese nation state, society and people—carried much weight during the Taisho period (1912-1926) when democracy was a force to be reckoned with in Japan. The theory expressed

academically what had been considered common sense by top Japanese leaders since the Meiji Restoration. The theory, known as the "Emperor-as-organ theory," undoubtedly implied the relativity of the ideological pattern symbolized by the Constitution, since constitutional scholars were supposed to have compared the Imperial Constitution with similar documents in foreign countries.

The question of whether a nation state and society can be ruled without the appointment of an absolute being is disputable. Even in the United States, which does not have a monarch, (or maybe because the U.S. does not have a monarch), the Bible is an indispensable part of the presidential inauguration ceremony, which shows that it is difficult to reasonably separate rule and an absolute being. Accordingly, it is no wonder that Japan, which was struggling during the Meiji period to formulate a modern nation, assumed the Emperor as an absolute being for this purpose. It may have been an unavoidable option for the government, which



A "puppet-king" monarchy: The Imperial Constitution was designed to make the Emperor an absolute monarch

Photo: Kyodo News Service

was studying constitutions in advanced Western countries. This was not surprising because even in the socialist system, which was then regarded as the most democratic society, violation of the absoluteness of the authority of Karl Marx, which was arbitrarily and manipulatively defined, was not permissible.

It was an irony, or maybe a tragedy, of history that what was common sense for constitutional scholars during the Taisho period, (that is, the Emperor is an organ) ceased to be so. Japan, which mistakenly thought that it was the equal of advanced Western countries after World War I, judged itself to be in a difficult situation, partly subjectively and partly in reality.

Thus, Japan felt that it had no choice but to resort to aggression and secure colonies in order to improve its situation. But such moves led to new tensions, putting the nation in a vicious cycle. Japan needed strength, physically and spiritually, to withstand the tension and the vicious cycle. The formulation of ultra-nationalistic ideology positioning the Emperor as the axis of the nation was a choice, or rather an inevitability, to secure the necessary spiritual strength. What else was available as the source of such strength when Japan chose to rank itself with Western powers.

The provision concerning the position of the Emperor in the Imperial Constitution was put to maximum use in the formulation of ultra-nationalistic ideology which called for the deification of the Emperor, the absoluteness of the Emperor's inviolability, redefinition of *lèse majesté*, absoluteness of the Emperor's rule of the military, and irrational tenets focusing on spirit.

The war that lasted for 15 years until Japan surrendered in 1945 shed light on the absurdity, unreasonableness, comedy and the criminal nature of the ultra-nationalistic ideology. The driving forces behind such ideology were extremists in the military and some right-wing activists. It is not so clear, and this involves problems, to what extent the ultra-nationalistic ideology went beyond its sphere of influence and

permeated among the masses, particularly intellectuals. In any event, the relativity of the Emperor and the Imperial Constitution, which had been common sense since the Meiji period, were abandoned for the first time because of this ideology. Both the Emperor and the Constitution became absolute and ideas regarding the Emperor and the Constitution as relative organs of the state were considered desecration of the Emperor. The physical aggressiveness of this ideology, as well as its impact and grip on Japan's spiritual climate up to the nation's surrender in World War II, was absolute.

Yet, during that 15-year war period, there existed a small group of people which looked at the war-time national structure and ideological situation, as well as the modality of the Emperor and the Constitution, with a relative viewpoint as much as possible. They did not publicly leave what was thought and said in original form. However, to the best of my knowledge, they recognized the inevitability of the 15-year war, anticipated Japan's defeat, deliberated on how Japan would be defeated, and about what would come about after the war.

The basic framework of their thought was relativism. Whether or not relativism in general is right is open to question. It is true, however, that relativism was an effective way of maintaining spiritual independence under the extraordinary situation which prevailed during the 15-year war, since it enabled a proper grasp of the situation both during and after the war. To a certain extent, relativism accurately inherited a kind of pragmatism shared by key players of the Meiji Restoration, and the international-minded intellectualism of the Taisho period, which was the driving force of the democratic movement then prevailing in Japan.

After the war, these people never publicly spoke about what they thought during the war, probably because they had endorsed the war. They were implicitly criticized for the cynicism embodied in the calmness, coolness and indifference they maintained during the 20 years prior to the 15-year war.

Personally, however, I positively evaluate the relative viewpoint by which they looked at the series of events and regard their relativism as an intellectual heritage.

Not surprisingly, the ultra-nationalists still remained a considerable force after the surrender. However, they were left bewildered by the Emperor's decision to surrender and were at a loss as to what to do with a ravaged nation and destitute people. Socialist ideologues, who alone struggled against the war, were also helpless, having failed to envisage a postwar society clearly. The relativist forces mentioned before were scattered and had no intention of asserting themselves because of their intrinsic qualities. They were far from becoming a social force. Irritated by the absence of initiatives on the Japanese side, the Allied Occupation authorities, led by the New Deal group in Supreme Commander Gen. Douglas MacArthur's staff, understandably drafted a new constitution in the English language.

In the course of deliberations on the draft constitution in the Japanese Diet, Tokuda Kyuichi, then secretary general of the Japan Communist Party, grilled Prime Minister Yoshida Shigeru over Article 9, which provided for Japan's renunciation of war. Tokuda wondered if there could be an independent country that had no armed forces. Tokuda merely asked very sensible questions from the viewpoint of modern history.

However, a majority of the Japanese people, inspired by the Emperor who declared himself a human being and by the sentiments expressed in the peace-oriented preamble and the Article 9 war-renunciation clause, ignored the reality of international relations dictated by national reason, self-centered justice and national egoism, and refused to recognize the Cold War structure set up immediately after the war, rejected everything achieved in the process of Japan's modernization after the Meiji Restoration, and chose to adhere only to the ideals and ideas of the Constitution. This ideological framework, which may be called the "New Constitution Doctrine," gripped not only the so-called renovationist



Photo: Kyodo News Service

From god to human being: The late Emperor Hirohito greets the people at the celebration of the New Constitution

forces from the Japan Communist Party to the Japan Socialist Party, but also not a few elements in conservative parties. These people would later constitute a majority group known as the "pro-Constitution group."

Forces calling for the enactment of an "independent constitution" launched campaigns for a review and possibly a revision of the Allied occupation-sponsored constitution. However, as mentioned earlier, these forces have remained a minority and thus have failed to make much social impact.

When a powerful earthquake hit the Kobe-Osaka region in January 1995, then-Prime Minister Murayama Tomiichi, who headed the Socialist Democratic Party, was criticized for having been slow to mobilize the Self-Defense Forces for emergency relief operations, which otherwise would have substantially reduced the number of casualties. The prime minister's action reflected the pro-Constitution group's position that the SDF should be prevented from doing anything, even if this resulted in an increase in the number of casualties. This was a good example of how the ideals of the Constitution had been made absolute.

The pro-Constitution group asserts that the Japanese people have a respon-

sibility to propagate this extraordinary ideal of the Constitution to countries around the world and encourage other countries to renounce war. However, the extraordinary, unilateral renunciation of war has won no endorsement from any other country in the world, nor is there any sign that the Japanese people's upholding of the ideal is winning the respect of the world.

Though the Constitution clearly provides for renunciation of war, Japan does maintain the SDF, and foreign countries may still be dubious of Japan's aggressiveness and belligerence. Japan asserts peace, and objects to nuclear armament, arming itself with non-nuclear weapons and long-range missiles, and keeping defense spending to a minimum, so that it can maintain economic growth. It seems to me that foreign countries view such a country as somewhat offensive and troublesome. In other words, foreign countries do not see anything idealistic in what Japan is doing. Rather, the self-serving, complacent nature of the pacifism and idealism of the pro-Constitution group are stark through the cold, analytical eyes of foreign countries.

Just as ultra-nationalist forces made the Imperial Constitution an absolute

existence, the pro-Constitution group, led by the postwar renovationist forces, strongly advocated upholding of the Constitution. Both positions are contradictory in terms of the principle and theoretical structure of the Constitution. The two types of ideology, which seem to be far apart, may in fact be very close to each other. Incidentally, I am reminded of a once-common maxim, now obsolete, which said "Just as the Imperial Army controlled prewar and wartime Japan, the General Council of Trade Unions (which was the core of the postwar renovationist forces) controlled post-war Japan."

Going back to the principles of the Constitution, the Emperor is strictly an organ, instrument and means, and the Constitution can be revised. Making either the Emperor or the Constitution absolute runs counter to the principles of the Constitution itself. Leaders of the Meiji Restoration had drafted several versions of the Imperial Constitution. Liberal elements during the democratic movement in the Taisho period recognized the Constitution as a means and regarded the Emperor as an organ. Wartime minority groups cynically viewed the ideology of the Imperial Constitution and predicted the inevitability of Japan's defeat and surrender. Contemporary young people advocate the introduction of conscription to make the Japanese soccer team strong enough to be represented in the World Cup.

Although these groups are seemingly not related to each other, they may actually be close to each other in that their perception of the Constitution is more healthy and more sensible than the constitutional views of the socialist prime minister, who was reluctant to mobilize the Self-Defense Forces at the time of the Osaka-Kobe earthquake, and are more understandable from the viewpoint of the generally accepted ideas of the world.

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