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Constitutional Reform in Japan: Prospects, Process, and Implications

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SYMPOSIUM

CONSTITUTIONAL REFORM IN JAPAN: PROSPECTS,
PROCESS, AND IMPLICATIONS

INTRODUCTION

Nobuhisa Ishizuka

Japan's constitution has remained unchanged for over 70 years since its adoption. With Prime Minister Shinzo Abe's re-election as the leader of the ruling Liberal Democratic Party of Japan (LDP) in 2018, the issue of constitutional revision has gained renewed attention. On March 13, 2019 the Center for Japanese Legal Studies at Columbia Law School co-hosted, with the Council on Foreign Relations, a full-day conference on "Constitutional Reform in Japan: Prospect, Process, and Implications." Three panels of distinguished experts examined the domestic political landscape in Japan, provided comparative legal perspectives, and considered the political, strategic, and social implications of proposed changes.

The following articles are an outgrowth of papers presented at the conference. The intention of the conference was not to advocate for a specific position—pro or con—on constitutional amendment. Rather, it was designed to provide a forum for a diverse group of political scientists, historians, legal scholars, and former government officials to discuss the issues surrounding the constitutional reform debate in Japan from multiple perspectives. The intent of the conference was to select certain aspects of the debate that seemed particularly informative to understanding the current political dynamics within Japan and present new perspectives important to understanding its context, which would be of professional interest to broader observers of the current environment in Asia.

In the first article "Constitutional Reform in Japan", I provide an overall context for the amendment debate, tracing its development from

the promulgation of the Japanese constitution during the Allied Occupation through its evolution during the Cold War and post-Cold War periods. I describe how, through a combination of legislative action, bureaucratic interpretation and judicial deference, the plain text of the document has been adapted to social, political and strategic requirements, and the resulting interpretative tensions arising from such process.

Carol Gluck follows with “Japan’s Constitution across Time and Space,” providing a historian’s perspective on the Japanese constitution, placing its origins in the context of late 19th century and post-World War II constitutional movements in the West. She describes the widespread popular acceptance of the document in Japan and its gradual adaptation to changing social and political circumstances through a process of informal incremental change, such that by the time popular consensus for change emerges it already will have been achieved in fact, without need for the disruptive effects of contentious political debates.

In the third article “Rhetoric and Realism: Debating the Early Contours of Japan’s Military Power,” Sheila Smith explores the history and background of ongoing legislative debates in the Japanese Diet on constitutional interpretation, in particular the disarmament clause of Article 9 – the “Peace Clause.” She illustrates how the debates shaped, within the bounds of the seemingly plain language of the provision, Japan’s political responses to an increasingly and continuously changing international security environment.

Finally, Hideshi Tokuchi builds on the descriptions of the foregoing processes of constitutional interpretation and adaptation with an analysis of their practical effects on Japan’s policymaking, strategic and security choices, including the implications of constitutional amendment on the U.S.-Japan alliance and its potential impact on civil-military relations in Japan. In “Implications of Revision of Article 9 of the Constitution of Japan on the Defense Policy of Japan,” he sets forth an argument for the necessity and advisability of textual and interpretative clarity from the perspective of a former senior policy official with direct experience with the operational constraints imposed by the ongoing constitutional debates.

Other topics discussed in depth during the conference included:

- The prospects for passing constitutional amendments in light of requirements imposed by the legislative and popular referendum process

- The importance of constitutional reform to Japanese voters and the effect of LDP- and opposition-supported proposals on such views
- The determinants of amendment preferences among the Japanese people
- The role of religious movements, political lobbies—and the effect of their convergence—on the revision debate

Audio links to the full panel discussions and keynote speech are available on the website of the Columbia Law School's Center for Japanese Legal Studies at:

<https://jls.law.columbia.edu/content/constitutional-reform-japan-conference>

Participants of the conference were:

Rosalind Dixon

Professor of Law

University of New South Wales, Faculty of Law

Carol Gluck

George Sansom Professor of History

Columbia University

Menaka Guruswamy

BR Ambedkar Research Scholar and Lecturer

Columbia Law School

Helen Hardacre

Reischauer Institute Professor of Japanese Religions and Society

Department of East Asian Languages and Civilizations

Harvard University

Takako Hikotani

Gerald L. Curtis Associate Professor of Modern Japanese Politics and

Foreign Policy

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Jeongchul Kim

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Yonsei University School of Law

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Kenneth McElwain

Associate Professor of Political Science, Institute of Social Science

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Daniel M. Smith

Associate Professor, Department of Government

Harvard University

Sheila A. Smith

Senior Fellow for Japan Studies

Council on Foreign Relations

Hideshi Tokuchi

Visiting Professor, International Security Studies and Senior Fellow,

National Graduate Institute for Policy Studies (GRIPS)

Visiting Professor, National Defense Academy of Japan