

A DRAFT OF
NEW CONSTITUTION
OF
JAPAN

Toshio Suzuki

WORLD GOVERNMENT INSTITUTE JAPAN

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Toshio Suzuki

World Government Institute Japan

1-158 Nakakanasugi Matsudo City, Chiba Prefecture, 270-0007, Japan

Web Site: <http://www.w-g.jp/>

E-mail: <http://www.w-g.jp/e-mail.htm>

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PREAMBLE

This is the Constitution of Japan. This Constitution shall be the supreme law of the State. No other law and treaty shall have legal force without following this Constitution. All people who have the nationality of Japan must respect and follow this Constitution.

When we think about what we must do in order to make our society better, we must have a clear and definite criterion for the top priority that we must give. The top priority that we must give changes according to the situation of age. It seems that in the primitive age we had to think of the happiness of local people rather than the world peace and the protection of the environment of the Earth. In the feudal age, it seems that we had to give the top priority to the peace and the happiness of people in each country while it was meaningless to think of the world peace and the protection of environment. But in the present age, 21st century, we must think of the world peace and the protection of environment of the Earth before thinking of the benefits of each country. Namely, we must not give the top priority to the benefits of each country. This Constitution was written based on the thought that we must give the top priority to the benefits of world as a whole or society as whole. If the world becomes better, each country will become better. If each country becomes better, our life will become better. So, we must think of the benefits of world as a whole. In the present age, when we think of the benefits of world as a whole or society as a whole, it seems that the termination of war, the eradication of poverty, and the protection of environment are the most important matters. We must think how we tackle these matters.

In the world or in our society, excluding our private life, the most important factor for our happiness is the political and economic system. The best political and economic system is possible under the separation of politics and religion. Here, the separation of politics and religion does not mean that we must not have faith in religion. We cannot spend a happy life without having faith in religion. But, religion of people is different from people to people. So, every religion must be allowed and respected under the political and economic system of society. This is why politics and religion must be separated. But, it is inevitable that religion affects the politics customarily. The separation of politics and religion means that the budget of government must not be allocated and particular facilities by government must not be given to particular religious organizations. Religious organizations may exist under the system of separation of politics and religion. Namely, religious organizations are maintained on the basis of offerings of believers. So, religion may customarily affect the politics even if the religion has no legal power.

Political power shall be divided into three powers, legislation, administration, and judicature. In these political powers, the President who is the top officer of the administration shall be the most important and responsible officer in politics. People must

respect and follow her or him. This is the basic structure of the democratic political system of state.

This is the constitution for people who are the members of international society and who give the top priority to the benefits of world as a whole or society as a whole. Namely, this is the constitution of the World Citizen. The World Citizen is composed of people of all races, and religion is not an obstacle for any people to be a World Citizen. Here, we specify the Constitution of Japan for people who are the members of world society, namely, for people who are the World Citizen.

Chapter I SOVEREIGNTY

Article 1 Sovereign of Japan

The sovereign of Japan is the people who have the nationality of Japan. This right, sovereignty, is not alienable.

Article 2 Exercise of Sovereignty

People who have the nationality of Japan shall exercise their sovereignty through the election of the National Diet members and the local assembly members and through the referendum for the amendment of constitution. People without the nationality of Japan shall have no right to stand for and to vote for the election of the National Diet members and the local assembly members and shall have no right to vote for the referendum.

Article 3 Nationality and Territory

The nationality of Japan and the territory of Japan shall be fixed by law.

Chapter II INTERNATIONAL RELATION

Article 4 Position in the International Society

All Japanese people shall understand that Japan is an independent country and, at the same time, a member of international society. And also all Japanese people shall understand and respect the justice, the happiness of people, and the benefits and the peace of world as a whole.

Article 5 International Policy

Basic international policy of Japan shall be to establish and maintain the world democracy. Government of Japan shall make efforts to establish and maintain democratic international organizations that include the World Parliament.

Chapter III DUTIES AND RIGHTS OF PEOPLE

Article 6 Duty to Maintain the Security

All people shall have the duty to maintain the security of Japan by the constant endeavor respecting and following the President who is the most responsible officer of administration. After performing the duty, all people may have the rights guaranteed by this Constitution or fixed by law.

Article 7 Duty to Pay Taxes

All people shall have the duty to pay taxes following law.

Article 8 Duty and Right to Receive Education

1. All people shall have the duty and the right to receive education correspondent to their ability following law.
2. All people shall be obliged to have all children under their protection receive ordinary education.
3. Compulsory education shall be free.

Article 9 Duty and Right to Work

All people shall have the duty and the right to work.

Article 10 Right to Live as a Human

1. All people shall have the right to live happily as a human, and this right is not alienable.
2. In all spheres of life, the State shall have the duty to promote the happiness of all people.

Article 11 Equality under the Law

All people shall be equal under the law regardless of race, faith, sex, social status, family origin, education, property or income.

Article 12 Freedom of Religion

Freedom of religion is guaranteed. Any law of the State shall be neutral with regard to religion.

Article 13 Freedom of Thought and Conscience

Freedom of thought and conscience is guaranteed.

Article 14 Freedom of Assembly and Association

Freedom of assembly and association is guaranteed.

Article 15 Freedom of Expression

Freedom of speech, publication, and all other forms of expression is guaranteed.

Article 16 Academic Freedom

Academic freedom is guaranteed.

Article 17 Marriage

1. Marriage shall be based on the consent of both sexes that have the equal rights.
2. With regard to choice of spouse, property rights, inheritance, divorce, and other matters related to marriage and family, laws shall be enacted from the standpoint of the individual dignity and the essential equality of both sexes.

Article 18 Freedom of Migration and Changing Nationality

Freedom of migration to foreign country and that of changing nationality is guaranteed.

Article 19 Right of Workers

The right of workers to gather and to bargain collectively is guaranteed.

Article 20 Right of Private Property

1. All people shall have the right to own private property. The property rights shall be defined by law.

2. Private property may be taken by government for public use on condition that government compensates for it.

Article 21 Right to Choose and Remove Public Officials, Role of Public Officials, Universal Suffrage, and Secret Ballot

1. All people shall have the inalienable right to choose and remove, following the procedure stipulated by law, their public officials such as the National Diet members, the local assembly members, the chief executive officers of local public bodies, and other public officials stipulated by law.

2. All public officials shall be servants of the whole community and not servants of any partial group of the community.

3. Universal adult suffrage shall be 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 and privately, for the voter's choice.

Article 22 Right of Access to the Courts

No person shall be deprived of the right of access to the courts.

Article 23 Right of Petition

Every person shall have the right of peaceful petition for the redress of damage, for the removal of public officials, for the enactment or repeal or amendment of laws, and for other matters. Any person shall not be discriminated for implementing such a petition.

Article 24 Right for Seeking Redress against the State or Public Body

Every person may sue for redress from the State or a public body following law, in case the person has suffered damage through illegal act of any public official.

Article 25 Crime and Punishment

1. All People who committed crime must be punished through the procedure stipulated by law.

2. No person shall be deprived of life or liberty, and no other criminal penalty shall be imposed without following the procedure stipulated by law.

Article 26 Procedure for Arrest

No person shall be arrested without warrant with clearly specified reason issued by a judge, except being arrested red-handed.

Article 27 Searches of Home and Seizures of Belongings

Home of all people shall not be searched and belongings of all people shall not be seized without warrant with clearly specified reason issued by a judge, except being arrested following the previous article

Article 28 Right of the Accused

1. In all criminal cases, the accused shall enjoy 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 she or he shall have the right of compulsory process for obtaining witnesses on her or his behalf at public expenses.

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 her or his own efforts, be assigned to her or his use by the State.

Article 29 Prohibition of Torture

Torture by public officer and cruel punishments are absolutely forbidden.

Article 30 Invalidity of Forced Confession

1. No person shall be forced to testify against her or himself.

2. Confession by torture shall not be evidence.

3. No person shall be convicted in cases where the only proof is her or his own confession.

Article 31 Prohibition against Retroactive Punishment and Double Jeopardy

1. No person shall be held criminally liable for an act that was lawful at the time it was committed or for an act that has been acquitted.

2. No person shall be placed in double jeopardy.

Article 32 Right to Require Criminal Indemnity

Any person, in case she or he is acquitted after she or he has been arrested, may sue the State for criminal indemnity following law.

Chapter IV LEGISLATION

Article 33 Legislative Power

The legislative power shall belong to the National Diet except the case stipulated by this Constitution.

Article 34 Bicameral Legislature

1. National Diet shall consist of House of People and House of World Citizen.
2. Bill may be submitted to either House except the case stipulated by this Constitution.

Article 35 Organization of Both Houses

1. Members of both Houses of National Diet shall be elected by people.
2. The number of members of each House shall be fixed by law.

Article 36 Qualification of Member and Elector

Members of both Houses and their electors must have the nationality of Japan, and the age shall be fixed by law. However, there shall be no discrimination because of race, faith, sex, social status, family origin, education, property or income.

Article 37 Term of Office of Members of House of People

1. The term of office of members of House of People is 4 years.
2. When it is necessary, the President may dissolve the House of People before the term is completed.

Article 38 Term of Office of Members of House of World Citizen

The term of office of members of House of World Citizen shall be 6 years, and election for half the members shall be conducted every 3 years.

Article 39 Matters Related to Election

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

Article 40 Ordinary Session of Both Houses

1. An ordinary session of both houses of the National Diet shall be convoked by the President once in a year.

2. The number of days of the session shall be fixed by law.

3. Both houses may open the session and resolve when one-third or more of members is present.

Article 41 Extraordinary Session

1. The President may convoke the extraordinary session of both Houses.

2. When a quarter or more of the total members of either House demands, the President must convoke the extraordinary session.

3. The number of days of the session shall be fixed by law.

4. Both houses may open the session and resolve when one-third or more of members is present.

Article 42 Election of Officials, Rules for Each House, and Dismissal of Member

1. Each House shall elect the chairperson and other officials.

2. Each House shall establish its rules pertaining to meetings, internal discipline, and punishment of members for their disorderly conduct.

3. In each House, when two-thirds or more of members present resolves on the dismissal of a member, the member shall lose the seat of the National Diet member.

Article 43 Resolution

1. A bill shall be passed, in both Houses, by more than a half of members present, except the case stipulated by this Constitution, and in case of a tie, the presiding chairperson shall resolve about the issue.

2. The vote may not be entrusted to other member.

3. A bill shall become a law when it is passed in both Houses, except the case stipulated by this Constitution.

Article 44 Superiority of House of People in Resolution

1 In case a bill that has been passed in the House of People is refused in the House of World Citizen, if House of People passes the bill again by more than two-thirds or more of members present, the bill shall become a law.

2. In case the resolutions in each House are different, the House of People may hold the joint committee of both Houses following law.

3. In case a bill is passed in the House of People, and the House of World Citizen cannot draw a conclusion on it within 60 days excluding the days session was closed, the House of People may judge that the House of World Citizen has rejected the bill.

Article 45 Superiority of House of People on the Budget Bill

1. The budget bill must first be submitted to the Houses of People.

2. In either case below, the resolution in the House of People shall be the resolution of the National Diet.

i. The budget bill has been passed in the House of People but has been rejected in the House of World Citizen, and no agreement can be reached even through a joint committee of both Houses.

ii. The budget bill that has been passed in the House of People is not passed in the House of World Citizen within 30 days excluding the days session was closed.

Article 46 Superiority of House of People on the Ratification of Treaty

The second and the third paragraph of preceding article shall apply also to the ratification of treaties by the National Diet.

Article 47 Dissolution of House of People

1. When the House of People is dissolved, general election must be held within 40 days from the day of dissolution, and the National Diet must be convoked within 30 days from the day of election.

2. When the House of People is dissolved, the House of World Citizen is closed at the same time. However, the President may, in time of national emergency, convoke the House of World Citizen in emergency session.

3. Measures taken in the above emergency session are provisional. If the measures are not recognized by the House of People within 10 days after the opening of next session, they shall lose their force.

Article 48 Publicity of the Session and of the Record of the Proceedings

1. Session of each House shall be publicized to the public. However, a secret session

may be held when two-thirds or more of the members present resolve on it.

2. Each House shall keep a record of proceedings, and this record shall be published. However, when two-thirds or more of the members present resolve to keep it in secret, it may be kept in secret.

3. Upon demand of one-fifth or more of the members present, votes of members on any matter shall be recorded in the record of the proceedings.

Article 49 Prohibition of Simultaneous Membership

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

Article 50 Compensation to National Diet Members

Members of both Houses shall receive appropriate compensation from the national treasury in accordance with law.

Article 51 Privilege of National Diet Member of Exemption from Arrest

Except in cases provided by law, members of both Houses shall be exempt from arrest while the National Diet is in session. Any members arrested before the opening of the session shall be freed during the term of session upon demand of the House.

Article 52 Privilege of National Diet Member of Exemption from Liability

Members of both Houses shall not be liable outside the House for their speeches, debates, and votes cast inside the House.

Article 53 Right to Conduct Investigations in Relation to Policy of Government

Each House may conduct investigations in relation to the policy of government, and, in this investigation, may demand the presence and the testimony of witnesses, and the presentation of records.

Article 54 Rights and Duties of the President and Other Ministers of State to Appear in Either House

1. The President and other Ministers of State may, at any time, appear in either House to speak on bills, regardless of whether they are members of the House or not.

2. If the House resolves that they must appear, they must appear in order to give answers or explanation.

Article 55 Impeachment Court

1. The National Diet shall set up an impeachment court that is composed of members of both Houses in order to try judges against whom removal proceedings have been instituted.
2. Matters relating to impeachment shall be fixed by law.

Chapter V ADMINISTRATION

Article 56 Supreme Authority

The supreme authority of the administration shall be the President. The President shall be civilian. At the time of inauguration, the President shall swear to people that she or he will follow the Constitution and will do best in order to accomplish her or his mission.

Article 57 Election and Qualification of the President

1. The President shall be directly elected by people following the procedure fixed by law.
2. The President must have been born in Japan and shall have the nationality of Japan.
3. The President shall be 30 years old or older.

Article 58 Term of Presidency

The term of the Presidency shall be 4 years. The President may be elected for 2 terms only.

Article 59 Functions of the President

The President shall perform the following functions:

- i. Perform the general administrative functions.
- ii. Administer the law faithfully and conduct affairs of the State.
- iii. Exercise control and supervision over various administrative branches.
- iv. Submit bills to the National Diet.
- v. Conclude treaties. However, it shall obtain prior or, depending on circumstances, subsequent approval of the National Diet.
- vi. Report on general national affairs and international relations to the National Diet.
- vii. Prepare the budget bill, and submit it to the National Diet.

viii. Enact government ordinances. However, such government ordinance shall not include penal provisions unless authorized by law.

ix. Dissolve the House of People when it is necessary.

x. Decide on amnesty, on restoration of rights, and on other related issues.

Article 60 Vice President

1. The Vice President shall be appointed and removed by the President.

2. The Vice President shall function as the President when the President cannot accomplish her or his duty. When the Vice President cannot accomplish her or his duty, one of the Ministers of State shall function as the President. At least 3 ministers who function as the President and the order of substitute by the ministers shall be specified by the President.

3. When the President has passed away, the Vice President shall be the President and shall appoint the Vice President and other substitutes. The term of the new president shall be the remaining term of the former president.

Article 61 Ministers of State and Ministries

1. President shall appoint and remove the Ministers of State of each ministry. More than half of Ministers of State shall be the member of National Diet, and Ministers of State shall be civilian.

2. Ministers of State shall appoint and remove any officers in the ministry, except the case stipulated by law, and shall administer the Ministry of State.

3. Ministries and their functions shall be stipulated by law.

4. President may appoint and remove any government officers including officers in ministry but excluding judges of court. This right is superior to that of the Ministers of State, and no law shall deny this right.

Article 62 Defense Forces

1. Japan shall have its own defense forces. Structure of defense forces shall be stipulated by law.

2. The President shall be the Commander-in-Chief of the defense forces. The President may appoint and remove any officers in the defense forces.

Article 63 Competence of Investigations

1. The President shall have the competence to conduct the investigations on the policy of each office of the government and on all the people in the State on condition that the investigation is opened to the public.

2. The President shall have the competence to demand the presence and the testimony of people in the meeting that the President convokes on condition that the meeting

is opened to the public, and shall have the right to demand the presentation of records.

Article 64 Signature to Laws and Government Ordinance

All laws and government ordinances shall be signed by the competent Minister of State and countersigned by the President.

Article 65 Privilege of Minister of State

The Minister of State shall not be subject to legal action without the consent of the President. However, the right to take that action is not impaired hereby.

Article 66 Resignation of the President

1. The President may resign her or his presidency when she or he thinks it necessary.
2. In case the budget bill is not passed within the period fixed by this Constitution, the President shall resign.
3. Election for the new President shall be conducted within 40 days from the resignation. The term of the new President shall be 4 years.

Article 67 Impeachment

1. The process of the impeachment of the President shall start when two-thirds or more of the attending members resolve in both Houses to carry out the national referendum for the impeachment.
2. When more than half of votes of the national referendum support the removal of the President, the President shall be removed from the office. The process of the referendum shall be fixed by law.
3. After the removal, the Vice President shall become the President, and the election for the new President shall be conducted within 40 days from the removal. The term of the new President shall be 4 years.

Article 68 Veto

The President may veto the resolutions made by the National Diet. When a resolution is vetoed, it shall be effective if the vetoed resolution is passed by two-thirds or more of members present in both Houses.

Chapter VI JUDICIARY

Article 69 Judicial Power

1. The whole judicial power shall be vested in a Supreme Court and other inferior courts. Here, inferior courts shall be established following law.

2. The Supreme Court shall be the court of last resort with power to determine the constitutionality of any law, treaty, order, regulation, and official act.

3. No extraordinary court shall be established, except the case National Diet sets up a court of impeachment following this Constitution.

4. No administrative organ or agency shall be given the final judicial power.

5. All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws.

Article 70 Rule-Making Power of Supreme Court

1. The Supreme Court shall be vested with the rule-making power that determines the procedures of trial, the matters relating to attorneys, the internal discipline of the court, and the clerical procedures of judicial affairs.

2. Public prosecutors, attorneys, and others relating to trial shall be subject to the rules fixed by the Supreme Court.

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

Article 71 Judges of the Supreme Court

1. The judges of the Supreme Court shall consist of a Chief Judge and other judges. The number of judges shall be fixed by law. The Chief Judge and other judges shall be appointed by the President.

2. The term of office of the judges of the Supreme Court shall not be limited. However, the judges of Supreme Court shall be retired when they reached the age fixed by law.

3. The judges of Supreme Court shall receive, at regular intervals, adequate compensation that shall not be decreased during their terms of office.

Article 72 Judges of the Inferior Court

1. The judges of inferior courts shall be appointed by the President from the list submitted by the Supreme Court.

2. The judges of inferior courts shall hold office for a term of 10 years, may be reappointed, and shall be retired when they reached the age fixed by law.

3. The judges of inferior court shall receive, at regular intervals, adequate compensation that shall not be decreased during their term of office.

Article 73 Guarantee of Status of Judge and Impeachment of Judge

1. Judges shall not be impeached by any procedure except the following procedures:
 - i. All Judges may be impeached when the Court of Impeachment that is composed of members of both Houses of National Diet resolves on it.
 - ii. All Judges may be removed when a trial has judged them to be mentally or physically incompetent to perform official duties.
 - iii. Judges of Supreme Court may be impeached by referendum. If more than half of voters support the removal, the judge is removed. The procedure of referendum is fixed by law.
2. No disciplinary action against judges shall be administered by any administrative organ or agency.

Article 74 Open Trial

1. Trials shall be opened to the people.
2. Where a court unanimously determines that publicity is dangerous to public order or moral, a trial may be conducted without publicizing it. But trials of cases of political offences, cases related to the press, and cases related to the rights of people guaranteed in this Constitution shall be conducted publicly.

Chapter VII FINANCE

Article 75 Principle of Finance

The power to administer the national finance shall be exercised following the resolutions by the National Diet.

Article 76 Taxation

No new taxes shall be levied or no existing ones shall be modified without following law.

Article 77 National Expenditures and Debts

Expenditures of the money of the State and the creation of debts of the State shall be possible under the authorization of the National Diet.

Article 78 Budget

1. President shall formulate a budget bill for each fiscal year and submit it to the National Diet for its consideration and resolution.

2. In case the budget bill is not passed in the National Diet before the beginning of the fiscal year concerned, President may implement necessary expenditure following law for 3 months and within the expenditure of one-fourth of the budget of last fiscal year. When the budget bill is not passed within 3 months and within the expenditure of one-fourth of the budget of the last fiscal year, the President shall resign.

3. In case the expenditure has been implemented without passed budget bill, it shall be reported to the National Diet after the fact.

Article 79 Reserve Fund

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

2. The payments from the reserve fund shall be reported to the National Diet.

Article 80 Limitation on Use of Public Fund and Property

No public fund or other property shall be expended for any religious organizations, or, for any charitable or educational organizations that are not under the control of the public authority.

Article 81 Submission of the Final Accounts

1. Final accounts of the revenue and expenditure of the State shall be audited annually by a Board of Audit. In the next fiscal year, the President shall submit the final accounts to the National Diet.

2. The organization and competence of the Board of Audit shall be stipulated by law.

Article 82 Report on the State of National Finances

At least annually, the President shall report the state of national finances to the National Diet and the people.

Chapter VIII LOCAL AUTONOMY

Article 83 Principle of Local Autonomy

Organization of local public bodies shall be stipulated by law.

Article 84 Local Assembly and Election

1. The local public bodies shall establish the local assemblies following law.
2. The chief executive officers of all local public bodies, the members of their assemblies, and the other local public officials specified by law shall be elected by the direct vote of residents in local communities concerned.

Article 85 Competence of Local Public Bodies

1. Local public bodies shall have the competence to manage their property, affairs, and administration and to enact their own regulations within law.
2. Local tax may be levied by enacting the regulations within law.

Chapter IX AMENDMENT AND OTHERS

Article 86 Amendment

1. Amendment to this Constitution may be initiated by either House of National Diet.
2. The bill of amendment shall be passed when two-thirds or more of all the members of each House support the amendment in both Houses. The passed bill of amendment is sent to national referendum following the procedure specified by law. When more than half of votes support the amendment, the Constitution shall be amended.
3. When the Constitution is amended, the President shall pledge the allegiance to the Constitution, and the Constitution shall be immediately promulgated by the President.
4. The amended constitution shall be enforced 6 months after the promulgation.
5. When the first President has not been elected yet, the Prime Minister shall perform the function of the President.

Article 87 Validity of Existing Laws

1. All laws that have existed under the previous constitution shall be valid as far as they are not amended.
2. New laws shall follow the new constitution.

Article 88 Members of National Diet and Local Assembly

1. Under the new constitution, members of House of the Representatives shall be the members of the House of People, and members of the House of Councilors shall be the

members of the House of World Citizen.

2. Under the new constitution, members of local assemblies shall be the members of the same assembly.

Article 89 Contradiction between the Existing Laws and the New Constitution

1. In international and domestic issues, in case an existing law that has existed under the previous constitution contradicts with the new constitution, the President may decide a policy following the new constitution.

2. In local issues, in case an existing law that has existed under the previous constitution contradicts with the new constitution, the chief executive officers of local public bodies concerned may decide a policy following the new constitution.

3. Decisions made by the President or the chief executive officers following the new constitution without following the existing law shall be, immediately after the fact, reported to the National Diet or to the local assembly.