

***FROM IMPERIAL MYTH TO DEMOCRACY: JAPAN'S TWO CONSTITUTIONS, 1889-2002* by Lawrence W. Beer and John M. Maki.**

**Boulder: University Press of Colorado, 2002. 234 pp. Hardcover ISBN: 0-87081-674-8, \$45.00. Paper ISBN: 0-87081-686-1, \$17.95.**

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This book was a total delight to read. It was so enjoyable that I literally did not want to put the book down to turn to other affairs. I certainly can not say that about most books, especially those dealing with constitutional law and practices anywhere in the world.

Written by two old Japan hands, it is part intro textbook, part memoirs, part research paper. While it covers the history of the subject very well in an overview and survey manner, it is also as absolutely up to the minute as is possible these days. Indeed, I want to congratulate the people at the University Press of Colorado for this, and suggest that anyone who is frustrated by the usual lengthy delays and needless hassles of scholarly publishing to consider UPC for their next book – if this does not result in totally overloading that press, resulting in delays and hassles.

Of course, since it is co-authored, and covers so much material (most lightly, some in great depth), and because the writers are so very familiar with their material and have written portions of it so many times over, it is not clear to me how this book will fare in the hands of people who know and care nothing about Japan, World War Two, and constitutions and constitutional law. For me, while much of it was very familiar, every page held new information and insights, and some pages contained information perhaps published for the first time. I believe this is an excellent companion textbook for any course on Japanese history, culture, economics, or governance, and a wonderful source for anyone interested in Japan at all.

The authors say at the outset that most books about Japan fall into one of two categories. On the one side are the Japan bashers, and on the other are the Japanophiles (while they do not mention a third group that still finds Japan, and the "Orient," inaccessible, mysterious and alien, though perhaps at an elevated level that westerners can never understand much less hope to attain).

Beer and Maki state that they point out the defects as well as the virtues of Japan in an even handed way. And perhaps they do, but when all is said and done, this is a book that finds Japan – and the evolving post-World War II Japanese process of governance – overwhelmingly admirable, in large measure because both are sincerely open to criticism, and constantly engaged in self-criticism and improvement in ways that Americans and their political processes are not. Since I fully share their view, perhaps certain Japan bashers will find fault with this book where I do not.

That brings up another feature of the book: It assumes the reader is an American who has some understanding of America and the American constitution and practice. The book is not strictly speaking written from a "comparative" perspective, but there are constant asides that compare the Meiji and 1947 Constitutions not only with each other, but also with the American Constitution and the laws and practices derived from it. A clear intention of the book is not only to inform the (American) reader about the virtues (and some faults) of Japan and its system of governance but also to encourage the American reader to reflect on the faults (with some virtues) of America and its political beliefs and practices in contrast.

The book is in two parts. After a brief discussion of constitutions and constitutionalism in general, Part One is about Japanese political history (briefly told) during the three hundred year-long feudal (and yet modern-trending) Tokugawa era that led to the quick and comparatively easy transformation of Japan into a modern, but thoroughly undemocratic, nation-state under the Meiji Constitution of Imperial Japan. The authors go to great pains to show that the primary purpose of the Meiji Constitution was not at all to make Japan a democracy, but to make it a nation-state acceptable to the other dominant nation-states of the era. Then, once the Constitution was in place, and other trappings of industrial society were constructed (including a modern educational system that allowed Japan to develop the persons and materiel necessary for a commanding military appropriate to a major nation-state), Japan embarked on a series of wildly successful military adventures that the authors discuss succinctly and well, leaping

from utter isolation to major military dominance in just a few decades—a truly amazing feat which many people have sought to understand and others to emulate.

The authors mention in passing that the constitutions and laws of the other major nations – including the US – were not all that democratic either during the late 19th and early 20th centuries. Japan was certainly only imitating others in its eager desire to fight wars of expansion and conquest.

No less remarkable than the Meiji transformation of Japan was its transformation after its utter defeat in World War II. What made that so remarkable was not only the eager willingness of virtually all Japanese to reject all traces of militarism and to overthrow centuries-long practices and beliefs, but the fact that for a very brief and unprecedented period of time, a small handful of American men and women, most of whom knew little or nothing about Japan and scarcely more about constitutions and laws, worked with Japanese leaders and specialists to create one of the most extraordinarily progressive and democratic constitutions the world has ever known – then or now. What imperfections were built into the original document because of the limitations on both the Japanese and American side have for the most part been later corrected, while most of those still remaining are presently under review and possible revision.

A few years earlier, a few years later, a few different people on either the Japan or American side, and the situation in Japan would now be utterly different from what it is because of that extraordinary combination of events that Beer and Maki describe so well – so breathtakingly well – naming the names and telling a bit about the personalities and motivations of those they name.

The world had a similar brief moment of transformational hope in 1989-90 when citizens in the formerly socialist countries of Europe suddenly decided they had had enough of "communism" and wanted to be "free." But the last thing in the world they became was "free" given the purveyors of American constitutionalism and capitalism who descended on them, brandishing baubles of "democracy" before them.

Imagine what the world might be like now if Russia, the Baltic States, Poland, East Germany, Czechoslovakia, Romania, Bulgaria and Yugoslavia – especially Yugoslavia – had had people like Hirohito, Miyazawa Toshiyoshi, Irie Toshio, Matsumoto Joji, Sato Tatsuo, Shirasu Jiro, Yokota Kisaburo, Miyake Shotaro, Kato Shizue, Tanaka Kotaro, Ashida Hitoshi, Kanamori Tokujiro guiding them, while on the American side there had been people like Douglas MacArthur,

Courtney Whitney, Milo Roswell, Charles Kades, Alfred Hussey, Frank Hayes, Frank Rizzo, Guy Swope, Alfred Oppler, Thomas Blakemore, Ruth Ellerman, Joseph Gordon--and especially Beate Sirota.

But the conditions were ripe, and the Japanese and Americans in Japan in 1946-47 did what was not done in Eastern Europe (in spite of a few people like Vaclav Havel) and seized the opportunity to write a constitution that still is a beacon for democracy of the best kind and form imaginable at the time. That is the story that Beer and Maki tell in Part Two, repeatedly emphasizing that Americans did not "impose" the Constitution on Japan any more than the US Founding Fathers "imposed" the Constitution on the US in 1787-89 (which of course some Patriots do believe they did!).

The two authors examine each section of the 1947 Constitution, showing how and why it was written as it originally was, and discussing the major judicial and political developments through 2002. Considerable attention is of course devoted to Article 9 and the renunciation of war. But in addition, the constitutional provisions and evolving realities of the long list of enumerated rights and duties of Japanese citizens is discussed in satisfying detail. These provisions compare quite favorably as enforceable rights with the more limited American list which itself is becoming more restricted by law and constitutional interpretation every day.

The book closes with a discussion of various attempts, historical and ongoing, to revise (or discard) the 1947 Constitution. The authors show that most Japanese still prefer the Constitution as it presently is and as it is being progressively interpreted. The next major development needs to, and probably will, be in extending citizenship and other rights to certain permanent residents and aliens (rights which were not made part of the 1947 Constitution, the authors note (p. 86), because it was pointed out at the time that they were not part of American constitutional practice in 1947 either). They conclude with a quotation from Owaki Masako: "This Constitution has effectively become Japan's identity. It should be heralded to the world as a constitution that will shine in the 21st Century" (p. 184).

And yet I would be remiss to end the story here, though this is where the authors leave off. Given all the other changes going on in the world it is a wonder and challenge (if not a disgrace) that almost no constitutional scholars have turned their attention to fundamentally critiquing "constitutionalism" as well as the epistemological and technological basis of all current constitutions. Constitutional fundamentalism rules in the US, and few try to counter it with anything other than appeals to a "living constitution" on the one hand and realist/postmodern

interpretations on the other. Yet all constitutions, including that of Japan and all those which resulted from the "Fall of the Wall," are firmly rooted in Newton's and Adam Smith's old clockwork world where self-interested rationality prevails, while all around that tidy pretense quantum quarks, genes, and proteins swarm waiting to be grasped and used as the foundation for new ideas and processes of governance over the 21st Century.

Indeed, there are and have been recently in my Department, and maybe yours, younger generations of American, Japanese, and other Asian scholars and activists who seem ready and able to generate the new insights and actions needed. I will list their names here (as Beer and Maki did for the founders of the new Japanese nation in 1947) so you may check on them fifty years from now when they may have transformed Japan and the world again: Amae Yoshi, Dei Ryota, David Fouse, Kobayashi Yoshie, Kuramachi Akiyo, Brian Masshard, Mita Takashi, Ono Ryota, Sato Atsuko, Seo Yonseok, Takekawa Shunichi, and Anny Wong.

What names would you add to this list?

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