

The Building of the Meiji State and Constitutional Government

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Abstract

Was the Meiji Restoration a “Revolution” in a modern world? If so, what kind of revolution was it? These questions have been debated to this day. Revolutions since the beginning of the nineteenth century have usually signified the abolition of monarchies, and monarchs have generally been unable to voluntarily implement fundamental social reforms. However, in the case of Japan, restored imperial rule (government by the imperial court) served as the axis for modern reforms when the new government opened up Japan, immediately implemented modern reforms, and built a centralized constitutional state. Such a turn of events is uncommon in world history. While the Japanese parliamentary system, which is at the core of the country’s constitutional system, risked collapse on several occasions, it has remained intact to this day. Instead of a discussion of whether the Meiji Restoration was a revolution, this paper focuses on why a constitutional system of government—parliamentarism—was adopted as one of the outcomes of that “revolution” and took hold in Japan, and discusses the operational features it had.

Was the Meiji Restoration a “Revolution?”

Was the Meiji Restoration a “Revolution” in a modern world? If so, what kind of revolution was it? These questions have been debated to this day. What we know for certain is that, even if we agreed that the Restoration was a revolution accompanied by civil wars, the number of victims it claimed was small. The Boshin War that preceded the Restoration claimed 8,200 lives and the Satsuma Rebellion that followed it claimed 12,000 victims. Including executions, the total number of deaths was still fewer than 30,000. By contrast, the victims of the French Revolution numbered more than 1 million if we include the Napoleonic Wars, and the Russian and Chinese Revolutions claimed even more lives.

Likewise, if we look at the change of political system, the birth of the new government through the overthrowing of the *Bakufu* (shogunate) system and the return to monarchical rule (the imperial court) was a coup d’état that restored imperial rule, but this process of creating a government cannot be termed a revolution. However, if we are to understand the *sonnō jōi* movement (“revere the emperor, expel the barbarians”) in the wake of Commodore Matthew Perry’s Expedition as a sustained movement calling for the establishment of an emperor-centered unified government and independence from foreign interference, then we may call the Restoration a “nationalist revolution” (Kitaoka 2011, 32–33).

At the same time, some years after the restoration of imperial rule, a social transformation appropriate to a modern revolution took place. The transformation entailed reforms beginning with the abolition of feudal domains and the establishment of prefectures in 1871, as well as the

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penetration of the effects felt throughout society. In particular, the introduction of conscription, which aimed to build military power on a broad popular base, came as a major shock. The government's order concerning conscription at the end of 1872 squarely rejected the *raison d'être* of the traditional samurai warrior class and extolled the "equality of all people." In early-modern Japan, all people belonged to a social group and it was almost impossible to move between groups. This framework was removed, individuals came to possess equal rights, and people were left to compete with each other. The exception was the peerage, consisting of former feudal lords and court nobility. In 1876, in the wake of a ban prohibiting samurai from carrying swords, hereditary pension bonds were issued and stipend payments were discontinued. This measure allowed the government to cut expenditures by a third. For the lower-class samurai, said to number 2.5 million when including their families, the discontinuation of stipends, the dismantling of the system that sustained their status, and the elimination of warrior privileges were major blows (Mitani 2012, 4–10; Sansom 1966, 77).

Reforms such as the dismantling of status systems and the redistribution of rights created many sources of capable personnel and imparted dynamism to the process of state formation in modern Japan. On the other hand, why were these far-reaching social changes in the form of large-scale social liberalization and removal of privileges accepted, especially by the dominant samurai class, without much resistance? It is true that some warrior clans rebelled, but the rebellions were not on a scale that caused massive casualties.

We cannot interpret the acceptance of change as the realization of the will of a conqueror who sought to impose democracy following defeat in a war against a foreign enemy, as was the case during the US occupation of Japan after the Second World War. The opening of Japan in the *bakumatsu* period during the final years of the Tokugawa shogunate was not the result of a war with a foreign power, but the result of treaty negotiations. If that is the case, we still do not have an adequate explanation for why major changes such as the collapse and reorganization of the status system happened (Mitani 2012, 1–20, 84–92).

This paper is not a discussion of whether the Meiji Restoration was a revolution. It focuses on why a constitutional system of government—parliamentarism—was adopted as one of the outcomes of that "revolution" and took hold in Japan, and discusses the operational features it had. The Ottoman Empire was the first non-Western country to introduce constitutional form of government, but the first Turkish constitution was short-lived. Yet, while the Japanese parliamentary system, which is at the core of the country's constitutional system, risked collapse on several occasions, it has remained intact to this day. Exploring the significance of the system's survival is a project that seeks to uncover the historical characteristics of Japan's state-building.

Revolutions since the beginning of the nineteenth century have usually signified the abolition of monarchies, and monarchs have generally been unable to voluntarily implement fundamental social reforms. However, in the case of Japan, restored imperial rule (government by the imperial court) served as the axis for modern reforms. To many, the "return to imperial rule" meant going back to Japan's Edo-period seclusion. Yet on the contrary, the new government opened up Japan, immediately implemented modern reforms, and built a centralized constitutional state.

Such a turn of events is uncommon in world history and is not easily understood, but I would like to focus on two historical factors. I first examine the characteristics of the early-modern political structure that preceded the Meiji Restoration. In other words, this is a search for conditions of modernization in the political structure of early-modern Japan. My second focus is the Western powers' demands for the opening of Japan, what we can call the "Western shock." As is well-known, China and Korea were likewise directly exposed to the Western shock in the nineteenth century. However, all three nations ended up walking their own path. This had to do with each country's early-modern political structure, so I will start by briefly discussing this topic using existing research.

Political Development in East Asia

In the 1960s, when the comparative study of modernization was popular, a theory of Japanese exceptionalism was proposed, arguing that Japan's modernization was possible because it was the only country in Asia to have experienced feudalism. Subsequently, this type of research receded, and researchers shifted their focus to looking for the conditions that enabled each East Asian country's political development during its early-modern history.

One study argues that Chinese dynasties since the Song absorbed the military strength of regional powers and transferred the governance of territories from landowners to bureaucrats who were recruited through imperial civil service examinations. In line with the conditions of China's economy, a simple state organization was formed where the emperor was in direct control of the land and people. Confucianism (Zhu Xi Neo-Confucianism) later spread across East Asia as the preeminent doctrine for operating such a system (Miyajima 2004). Korea was the classic example of this kind of East Asian early-modern state.

The centralized systems of China and Korea, legitimized by Neo-Confucianism and supported by a civil service bureaucracy recruited through competitive exams, were difficult to destroy, both from within and from without. By contrast, the reception of Neo-Confucianism in Japan was incomplete and there was no Neo-Confucian civil service. Japan was governed by hereditary warriors rather than civil officials and so was passive in its reception of Neo-Confucianism, the opposite of Korea where it was wholeheartedly embraced (Miyajima 2004, Mitani 2012, 253–257).

Western civilization was imported into China and Korea as well, but in China's case, the bureaucrat class that made up the core of the political structure did not actively seek to study Western science. In Korea's case, there were bureaucrats who showed an interest in Western science, but they were eliminated during the political strife of the early nineteenth century. In Japan, Christianity was indeed considered taboo, but Japanese were tolerant of Western culture. In China and Korea, the intellectuals discouraged Western culture, but early-modern Japan actively studied the West and spread the acquired knowledge. Japanese intellectuals' interest in the natural sciences made them receptive to modernization and built the foundation for understanding industrial technology (Sato 1992, Mitani 2012).

This analysis focusing on the bureaucratic system based on Confucianism and civil service examinations was suggested by Sato (1979). Sato went further, saying that *Kokugaku* (National/Native Learning) and other innovative schools of thought rapidly rose to eminence because not even the type of Confucianism sponsored by the *Bakufu* ever became established as orthodoxy in Japan. Put differently, he argued that the country's intelligentsia enjoyed greater intellectual freedom and had a more open attitude toward Western civilization, compared with their counterparts in neighboring Asian countries.

Moreover, Sato argued that while the *Bakufu* was powerful in the governance structure of Edo-period Japan, its legitimacy depended on the imperial court, and governing was largely delegated to the domains. This multidimensional political system of more than 250 relatively independent rival domains made the swift mobilization of people on a national scale impossible, making it difficult to deal with foreign threats in the short term. However, the possibility of change is greater in a multidimensional system, which increases the ability to adapt to crises in the long term.

The leadership of each domain strongly identified with their domains, were keenly interested in the economic development of their own domain, and were free from the anti-commercialism of Confucianism. In some of the domains that experienced significant economic development, society was highly sophisticated and administrative needs grew, which promoted the development of bureaucratic organization and improved the people's literacy and numeracy (reading, writing, arithmetic). On the other hand, during the *bakumatsu* period, the formation of nationwide networks for goods and information fostered a sense of national unity (Sato 1992).

Summarizing the above, in terms of the initial conditions needed for commencing modernization, early-modern Japan was in a better position than China or Korea. It is difficult to connect each of these factors in causal relationships to the introduction of constitutional forms of government, which is the aim of this essay, but we can see that a favorable environment for the reception of Western constitutionalism had been formed.

Making one further addition, I would argue that an important condition for a functioning constitutional system is that people are trained in equal and free debate, with public opinion being formed on the basis of debate. Society in early-modern Japan was organized based on the social status of people, but at the same time, there was room for discussion that transcended the lines of social status (Mitani 2017). For example, the Shoheizaka Academy (founded 1797), which was under *Bakufu* protection, was opened up to teachers and students from domains across Japan, rather than just *Bakufu* retainers. The Academy taught not only Confucianism but the humanities, geography, and other subjects as well. Graduates went on to build a network that transcended social status and domanical affiliation (Makabe 2007). These activities supported the introduction of parliamentary politics.

Foreign Crisis and the Emergence of the Consultative System of Governing in Japan

It is too simplistic to say that the sudden exposure to the West laid down the initial conditions for political modernization in early-modern Japan, which in turn led to a constitutional system of government. It is true that the conditions for modernization were steadily developing in early-modern Japan, but reforms for enabling modern political systems were not making progress. This gap was allowed to be remained by the long peace sustained by a policy of seclusion.

The national seclusion policy served as a defense against foreign threats, but it also hindered the development of political society and social mobility. The *Bakufu*'s clever conciliatory measures vis-à-vis the Daimyo (feudal lords) nipped their opposition in the bud. Edo and Osaka merchants were gaining economic strength as commerce developed, but they did not seek independence from the *Bakufu*. In a context of national seclusion, trade partners were not to be found abroad, so the merchants had nowhere to turn but to the domestic warrior class. In this way, there existed no new political power that could replace the authority of the *Bakufu* until the *bakumatsu* period (Sato 1992, 72–73).

At the same time, early-modern Japan was a highly integrated society, so the appearance of powerful external enemies strengthened that society's identification with a shared destiny that transcended region and social status, and created an urge for solidarity to resist external enemies. The foreign crisis that tested the system was the arrival of Perry's fleet.

Satsuma, Choshu, and other influential domains known as *yūhan* strongly demanded the *Bakufu* relax measures including the *sankin kōtai* policy of forcing feudal lords to alternate where they lived between their domain and the capital of Edo. The *yūhan* further urged the *Bakufu* to pay closer attention to the opinions of all of the domains, so as to strengthen national unity. At the same time, the *Bakufu* not only instructed the domains to assist the strengthening of coastal defenses around the time of Perry's arrival; the *Bakufu* also asked the domains for their opinions about opening the country, despite their status as outsiders in the *Bakufu*'s policymaking process. This served to expand the *Bakufu*'s consultative tradition through the formation of public opinion by debate. The *Bakufu* used consultative mechanisms involving elders (*rōjū*) and other close associates to aid the shogun's decision-making, and this was selected as the political strategy for dealing with the foreign crisis (Mitani 2017, 61–62).

The consultative system had two aims. It aimed to reflect the opinions of feudal lords (daimyo) in *Bakufu* administration, as well as allowing political groups to check one another by preventing any particular group from accumulating too much power. Neither was in anticipation of a future

parliamentary system, but the latter aim of limiting power was regarded as especially important. In order to realize impartial politics, it is necessary to place restraints on the exercise of power. The idea that a constitution and a parliament can create checks on power was also adopted by Kato Hiroyuki and Fukuzawa Yukichi, who studied Western constitutionalism. They saw constitutionalism as characterized by the idea of placing limits on the person or persons who are sovereign—be they a monarch or the people as a whole. (Sugawara 2014)

The *Bakufu* repeatedly emphasized “national unity” in the face of foreign crisis and lent an ear to the domains’ opinions, but was wary of the political emergence of the *yūhan* and became extremely passive when it came to their participation in *Bakufu* administration. The fact that the *Bakufu* changed its seclusion policy yet was passive with regard to regime change for the sake of national unity caused the *yūhan* to distrust the *Bakufu*’s leadership and undermined the legitimacy of the *Bakufu* (Sato 1992, 84).

This was made strikingly obvious by the issue of the imperial approval of the treaties of commerce. In 1858, the *Bakufu* sought to prevent criticism from the *yūhan* and weather its crisis of legitimacy by trying to obtain imperial approval for five treaties of commerce. However, the imperial court refused to grant its approval out of fear of opening the country to foreigners—a move that further weakened the *Bakufu*’s leadership.

Despite the *Bakufu*’s loss of authority, there existed no powerful political group to take its place. The court had strengthened its authority to rival that of the *Bakufu* but was otherwise weak in power politics, while even the stronger domains were incapable of overwhelming others on their own. Furthermore, there were conflicting opinions among *yūhan* on issues such as expelling foreigners and opening the country to the world, making it difficult for the *yūhan* to form a federation of domains. In spite of such turmoil, Japan did not descend into a major civil war or domestic conflict. That is because the sense of foreign crisis served to suppress such developments.

The Centralization of Power and Political Participation

The sense of foreign crisis in the wake of Perry’s arrival was shared by both the *Bakufu*, which had no way of dealing with the foreign pressure without daimyo cooperation, and the daimyo, who suppressed their challenge to the *Bakufu* system in the face of foreign pressure. The civil war between the new government and the old *Bakufu* forces was gradually wound down by the two antagonists, thereby avoiding a lengthening of the conflict and foreign intervention. The objective of the anti-*Bakufu* movement had less to do with breaking down the old order and was more aimed toward overcoming political opposition to allow for a unified response to the foreign crisis. The anti-*Bakufu* movement moved to position the emperor as a figure with authority that surpassed that wielded by the *Bakufu*, consolidate various groups under that authority, and institute reforms. The result was the declaration of the restoration of imperial rule in January 1868.

The declaration of the restoration of imperial rule was a statement that the new government would take the *Bakufu*’s place and would govern the country in the emperor’s name. The new Meiji government quickly sought other countries’ approval of its legitimacy and simultaneously announced domestically that its first foreign policy would be to engage with other countries in accordance with international law (February 1868). When the new court-centered government was established with the declaration of the restoration of imperial rule, many people were astonished as they had believed the new government would return to a policy of expelling foreigners and national seclusion.

The declaration of the restoration of imperial rule followed the reform principle of *kōgi*, often translated as “public opinion.” The principle of *kōgi* signified that influential daimyo would take part in politics through debate. Both the pro-*Bakufu* camp (the Tokugawas) and the anti-*Bakufu*

forces that sought to make the imperial court the center of politics (Satsuma and Choshu) agreed that the court should not play an active role in conducting politics, but that there was a need for politics to be conducted through *kōgi* by including the participation of the daimyo (Suzuki 2002). The pro- and anti-*Bakufu* forces agreed that future political power, whatever its form, must be based on the principle of *kōgi* (Mitani 2017, 64–65).

Furthermore, as the new government required the support of many domains for the sake of domestic stability, the emperor summoned nobles and lords in March 1868 to announce the Charter Oath as the new state's basic policy for national administration. The first clause declared that "Deliberative assemblies shall be widely established and all matters decided by public opinion." The intention of the oath was to reject despotism in politics and expand political participation, to build a society in which individuals could exercise their talents, and to acquire knowledge by joining the ranks of the international community, especially developed countries, without adhering to old customs. The imperial notice promulgated at the same time as the Charter Oath explained the aim of the restoration with reference to the international situation, saying that a continuation of the *bakufu* regime would have incurred the disdain of foreign states and brought about disadvantages, making it necessary for the emperor to take control over politics in order to confront the Western powers. The oath was signed by roughly 500 nobles and chief retainers from various domains (Suzuki 2002, 12–22).

Next, a statement known as the Document of the Form of Government was promulgated in June. A political body called the Grand Council of State, modeled after the traditional political organization of the imperial court, was created. Basic governance mechanisms and procedures, including the centralization of power in the Grand Council, the separation of powers, and the election of officials, were established. The intent was to distribute authority within the Grand Council of State, even as power was being centralized there, in an effort to avoid giving too much power to any single figure. However, while decision-making authority was mainly vested in the legislative body (*Giseikan*), the authority and role of the organization corresponding to the lower house of parliament (*Kakyoku*) was severely limited. The *Kakyoku* was abolished after three months. Yet, the failure of the *Kakyoku* did not eliminate the need for the formation of public opinion. A body for conducting debate continued to be maintained, under different names such as *Kaigisho* and *Shūgi'in* (Mitani, 2012).

In the initial years of the Meiji period, what was called the parliament was nothing more than an assembly for lords where domain representatives gathered to discuss their views on the government. The assembly was transformed into a parliament that functioned as a core component of the constitutional system only after a series of reforms that followed the abolition of domains and establishment of prefectures in 1871, as well as through knowledge gained from the experience of leaders who visited the West—in particular the Iwakura Mission of 1871–1873.

In particular, the elimination of domains as independent administrative units transformed the domains into prefectures that were directly controlled by the new government. This not only facilitated rapid progress toward the creation of a centralized state, but also expanded the potential of the parliamentary system as a space for forming public opinion on a national scale.

Visions for a Constitutional System

The nineteenth century was a time when the concepts of the nation state and nationalism—the products of Western modernity—began circulating throughout the international community. The objectives of the Mission were to learn from Western civilization, decide on the state's policy for system reform, and lay down the groundwork for revising the treaties that Japan had been forced to sign. Kume Kunitake, who left a detailed record of the mission, visited Belgium and wrote, "A nation that lacks an autonomous populace will see its power wane, and it will be difficult to maintain that nation." The challenge of a civilized nation is to develop its people's patriotism and

nationalism, and Kume viewed the constitution as the tool for fostering such feelings. This focus on Western civilization was shared by all leaders in the mission (Takii 2003, 60–61).

In July 1873, Kido Takayoshi, who returned home ahead of the rest of the Iwakura Mission, submitted a memorandum to the emperor, arguing that it was imperative to expand the Charter Oath and establish a constitution. Securing the independence, wealth, and power of the state was possible only by mobilizing the people under the sovereign. He argued for the need of imperial rule and strong leadership by the emperor-led government through the establishment of a constitution. Kido opposed the “conquer Korea argument” (*seikanron*) by prioritizing domestic reform, and did so in line with his plan for constitutional reform. Kido initially advocated an autocracy, but his ideal was a constitutional monarchy coupled with a growth in national consciousness.

Kido’s vision of the constitutional system almost exactly matched Okubo Toshimichi’s idea of constitutional government. In the memorandum he wrote in 1873 after returning to Japan, Okubo presented three types of government that would allow for the centralization of power. These were 1) an autocracy with a constitution, 2) constitutional popular “co-governance” (democracy), and 3) “co-governance” by the monarch and the people (constitutional monarchy). He argued that of these, type 3) was the most suitable for Japan to stimulate the people’s political participation. Type 1) was not advisable for Japan as it was only possible when the people are ignorant and cannot be otherwise governed. Type 2) was ideal but was only possible in a country such as the United States where the people had freed themselves from tradition. The second choice also came with the risk of intensifying factional antagonism and political chaos, which could lead to tyranny. This made constitutional monarchy desirable, but the Japanese population was not enlightened enough to manage the workings of a constitution on their own. Thus, they had no choice but to create a political system using the emperor’s authority until political structures were developed enough to facilitate a constitutional monarchy (Sato 1992, 179–206). After suppressing the Satsuma Rebellion led by Saigo Takamori, Okubo attempted to create a regional administrators’ assembly (assembly consisting of governors) in preparation for the opening of the parliament (Mitani 2012, 160–161) before he was assassinated in 1878.

In this way, the leaders of the new government envisioned a constitutional monarchy that was based on the introduction of a parliamentary system as the political system best suited to Japan, and began working toward establishing a constitution. The biggest issue in the debates about a constitution was how much power the parliament should have. In other words, the question was about how they could secure the people’s participation, which was needed in a constitutional system of government.

Debates on Constitutional Government

Kato Hiroyuki (1867) was likely the first to introduce the Japanese term *rikken seitai* as a concept corresponding to constitutional government. In 1875, the proclamation of the Imperial Edict on Gradual Constitutional Government caused the concept to quickly take root, and the movement calling for the opening of a parliament gained momentum. However, the nature and power of the parliament at the heart of the constitutional government were subject to various interpretations.

Amid such developments, the memorandum submitted to the government by Okuma Shigenobu at the end of 1879 positioned political parties at the center of constitutional government. Until Okuma’s memorandum, political parties had not been considered in discussions about constitutional government, so this triggered debate. The memorandum was one of the causes of the 1881 Political Crisis, but it also created an irreversible momentum toward constitutional government in modern Japan (Suetsake 2011, 30–33).

Okuma’s concept of a constitutional government called for the leader of a party gaining a parliamentary majority to be given both legislative and executive power. If no majority is gained,

a leader or political leader from another party should be picked and the government replaced, according to Okuma. Inoue Kowashi criticized this practice adopted by British-style party cabinet systems of placing legislative and executive power in the parliament, noting that the cabinet in Prussia was the sovereign's cabinet and not the parties' cabinet. Inoue also argued that the government should be the sovereign's government and not the parliament's government, meaning that the government exists outside the influence of the political parties. Inoue emphasized that the Prussian king was not swayed by the parties but is a figure who governs within the scope of the constitution, and proposed to Iwakura Tomomi that a Prussian-like monarchy was the form of government Imperial Japan ought to choose.

Inoue was opposed by Okuma as well as by Fukuzawa Yukichi. Fukuzawa held that the evolution of civilization cultivates a "progressive spirit" yet also creates friction in society, and came to advocate the party cabinet system as a political system capable of absorbing such friction and antagonism. At the same time, Fukuzawa expected the emperor to fulfill a function of "capturing the spirit of the Japanese people" by withdrawing from governance and removing himself from political conflict (Suetake 2011, 34–38).

However, Inoue was vehemently opposed to placing the emperor in such a symbolic position of reigning without ruling. He argued that as Japan headed toward the adoption of a constitutional system, the country ought to maintain the distinctive feature of imperial governance—direct rule—that is, the emperor ruling the nation in person. Inoue repeatedly explained the benefits of the Prussian system to Ito Hirobumi and Inoue Kaoru. Japan thus began heading in the direction of a Prussian-style constitutional monarchy as a model for its political system. The opening of parliament was promised to take place in 1890, and both the government and the private sector started to prepare for the event. Many political parties were born in the 1880s, but they were all short-lived. The significance of the parties within the constitutional system was not understood until after the establishment of the Meiji Constitution (Suetake 2011, 40–62).

The Significance of the Separation of Powers

A Prussian-style constitution gave stronger authority to the executive than a British-style constitution, making the choice of who should be in charge of administration a significant question. It became important to establish an executive branch that could withstand criticism from the parliament, and which possessed greater legitimacy than parliament. Ito Hirobumi took on the role of creating such an executive.

In 1883, upon his return from Europe, where he had studied the continent's constitutions, Ito began working to create Japan's imperial house and peerage systems. The enactment of the Imperial Household Law sought to protect the imperial house from parliamentary influence. Work on a peerage system was a prerequisite for the establishment of the House of Peers. These steps were taken in pursuit of the national goal of creating a nation on par with European monarchies. In 1885, when Ito became prime minister, he created a cabinet system and strengthened its executive power. The cabinet system implemented a strict separation between the imperial house and the government. On the one hand, this system relieved the emperor of any political responsibility, but it also allowed the cabinet to administer the country regardless of the emperor's wishes.

However, opposition from Inoue Kowashi, who feared that the strengthening of the cabinet would threaten the emperor's sovereignty, prevented the Meiji Constitution from containing any references to the cabinet's position and authority or even its existence. There was another factor hindering the emergence of a strong cabinet. It was the introduction of an advanced separation of powers in the structure of the Meiji Constitution (Mitani 2017).

The separation of powers had been a central part of the Meiji government's constitutionalist vision since the declaration of the restoration of imperial rule. The restoration of imperial rule

meant recovering the emperor's authority and making imperial governance the cornerstone of the state. Imperial governance did not mean the revival of the *Bakufu's* absolute power, and the imperial system needed a mechanism for eliminating absolute power. The separation of powers was thought to be an effective means of curbing power. The separation of power that was realized through the practices of the *Bakufu's* consultative system was a political strategy that had been selected to deal with the foreign crisis of the mid-19th century. The consultative system of aggregating diverse opinions through discussions among the elders functioned to prevent power from being concentrated in any one political group. The system had sought to enable the Tokugawa shogunate to exercise leadership in an environment of greater administrative specialization that had been created with the establishment of national *Bakufu* rule (Mitani 2017, 42–44, 67–68).

The *Bakufu's* consultative system was in a broad sense a way of forming “public opinion.” This evolved into the “public opinion government” at the core of the new Meiji government's vision of the constitutional state. The principle of “public opinion,” as embodied in the concept of *kōgi*, contained within it the seeds of two ideas: parliamentarism and the separation of powers. The notion of *kōgi* gave legitimacy to imperial governance, acted to effectively stimulate popular dynamism, and helped establish the first operational constitutional monarchy in Asia.

If we take the principle of constitutional government to mean placing checks on power using rules, and expanding popular political participation through parliament, then we can agree that the idea of public opinion had its origins in the concept of *kōgi*—used by the *Bakufu* in political management.

The Emperor System and Constitutionalism

There are two ways of understanding the Meiji Constitution. One is to interpret it as a set of basic governing principles in accordance with Western constitutionalism. This revolves around an interpretation of the Meiji Constitution as *lex scripta*, or written law. It acknowledges that the establishment of a constitution was a prerequisite to entering the West-centered international community of the nineteenth century on equal terms. The other way of interpreting the Meiji Constitution is to focus on the unwritten rules and customs that regulated the state system alongside the explicit text of the constitution, as well as their historical background. In fact, the Meiji Constitution was not unrelated to the basic rules of the past state system in Japan, including the *ritsuryō* legal system and the *Bakufu*–domain system, and its text alone was not sufficient to cope with various matters of statecraft.

With regard to the latter understanding, the view of the emperor as a superior being whose status did not have to be put in writing, or as transcending the constitution, had a major influence on how the constitution was managed and interpreted. As explained in the constitution's commentary (*kenpō gikai*), the emperor's position in the Meiji Constitution did not start with the establishment of the constitution, and was seen as originating in the “native national polity.” The concept of *kokutai*, often translated as the “national polity,” has been interpreted in various ways, but in the Meiji Constitution, Japan was seen as a state governed since antiquity by the emperor, whose continuity was emphasized. However, while the emperor's legitimacy was supported by all forms of authority and power throughout Japan's long history, it had been common practice for the emperor to entrust the actual exercise of power to the political system of the era. Unlike the West, the emperor had almost never ruled as an absolute monarch.

In the West, constitutional systems of government generally developed from absolute monarchies. The concept of an absolute monarchy did not exist in Japan, so it was not possible to introduce constitutional systems of government without first creating something resembling an absolute monarch. Thus, when establishing the Meiji Constitution, the document's drafters created a theoretical construct that assumed the existence of the emperor as an absolute

monarch and held that the emperor voluntarily limited his own absolute power. As such, the Meiji Constitution provided for the emperor's supreme authority, but it also limited the exercise of that authority in accordance with advice from supporting government institutions. In this way, the emperor's position in the Meiji Constitution was interpreted as possessing the dimensions of both a constitutional and absolute monarch (Kitaoka 2010, 76–77). If the aspects of an absolute monarch were emphasized, the emperor would literally rule as a sovereign and bear the responsibility of all decisions made (the imperial sovereignty doctrine). By contrast, emphasizing the aspects of a constitutional monarch would highlight the functions of parliament and cabinet as the emperor's advisory bodies.

In this way, the constitutional theory behind the Meiji Constitution combined the ideas of those who interpreted the constitution through the concept of imperial sovereignty, as expounded on by scholars such as Hozumi Yatsuka, and those who espoused a stance emphasizing the parliament. The doctrine of imperial sovereignty fundamentally rejected parliamentarism and party politics. In the 1930s, the doctrine received overwhelming support from government officials and military authorities who valued administrative expertise and consistency in policy. However, even when the military began to assert itself in politics, the parliament was far from powerless. As previously discussed, one factor that helped sustain parliamentarism was the fact that the ideology and customs of *kōgi*, which stressed the importance of free debate that went beyond the boundaries of social status during the *Bakufu* era, were never rejected.

Another factor goes back to Fukuzawa Yukichi's *On the Imperial Household* (1882), which separated the emperor from politics and made him the nation's spiritual and moral center (Suetake 2011, 38–40). This idea was adopted and carried forward by Minobe Tatsukichi and others, and the fact that it did not lose its legitimacy as one of many interpretations of *kokutai* can be said to have acted as a breakwater protecting constitutionalism from the doctrine of absolute imperial sovereignty. Moreover, the traditional idea that the emperor and the people had never been adversaries throughout history, but rather had worked together in the management of the state in a cooperative relationship, as well as concepts such as *wachū kyodō* (harmonious cooperation) and *kunmin kyōchi* (joint rule by the monarch and the people) provided support for the factors that helped sustain parliamentarism.

Japanese constitutionalism sought to come to terms with the limitations of the doctrine of separation of powers through struggle. The relationship between the emperor, the parliament, and the cabinet was shaped by the interaction between the political interpretation of the constitution held by the government of the day and the ideals of those who drew up the constitution. For example, Ito Hirobumi sought to limit the power of the parliament when drafting the constitution, but was not seeking to reject parliament or political parties. The constitutional politics envisioned by Ito consisted of harmonious interactions between the three agencies of the sovereign, the parliament, and the administration. In particular, he regarded as crucial the collaboration between the government and the parliament based on an independent executive branch (Takii 2003, 116–118).

The legislative and executive branches were theoretically able to exercise their own authority in accordance with the separation of powers, but a complete separation between the legislative and executive branches was never possible. Successive governments have continued to worry about how to regulate the branches and facilitate their cooperation. Modern-day systems of governance still face the exact same problem.

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