

*The Meiji Constitution: The Japanese Experience of the West and the Shaping of the Modern State.* By Takii Kazuhiro. Translated by David Noble. International House of Japan, Tokyo, 2007. xix, 196.

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The decision to adopt the Meiji Constitution of 1889 is conventionally understood as a rearguard action in the struggle between the Popular Rights Movement and the oligarchic elements in the government. The Constitution is viewed as an effort to consolidate the position of the Imperial House and governmental interests before rising democratic pressures could be brought to bear. One might view its origins as inauspicious: drafted in secret by Ito Hirobumi and a small group of associates on a foreign model, adopted with no public discussion, and presented as a “gift” from the Emperor to his people, the Constitution nevertheless survived for five decades. During this period it provided a framework for Japan’s government structure and rapid modernization, and even adapting to party government during the Taisho era.

Takii’s book, originally written for a popular Japanese audience, suggests that this success was largely due to crucial decisions taken by its framers, and his volume is a useful addition to the literature on the topic. The book seeks to place the Constitution in a broader context by focusing on the perceptions of several key leaders during their encounters with the West. It is organized around three fact-finding visits of Meiji

leaders to the West: the Iwakura Embassy of 1871-73, Ito Hirobumi's European constitutional investigations of 1882-83, and Yamagata Arigoto's study tour of 1888-89. Each of these journeys is the subject of a separate chapter that tracks the participants' evolving views on the character of the Japanese state. The Conclusion references another journey, that of Ito's associate Kaneko Kentaro to present the Constitution to various western dignitaries for their reactions, which were generally quite positive.

By placing the study tour at the center of the analysis, Takii illuminates the interaction of the various personalities. This device is humanizing, and there are many interesting anecdotes that arise in the description of the leaders' intellectual encounters on the journeys. The volume traces a gradual shift during the Iwakura mission away from an early faith in international law as a device to ensure Japan's national security. A crucial juncture came in an encounter with Bismarck, in which he disabused the Japanese of any faith in international law as a device to protect their interests. Only national strength, founded in strong institutions, guaranteed autonomy, according to Bismarck. The Iwakura mission returned home with a more sophisticated view of law and a commitment to realpolitik. It also brought a significant amount of information on constitutional institutions, mostly compiled by Kido Takayoshi during a four-month stay in Washington DC.

The book then jumps to the political crisis of 1881 and the decision to send Ito Hirobumi to Europe. Ito's encounters with the legal scholar Rudolph von Gneist were initially disappointing, as Gneist was skeptical of Japan's efforts to draft a constitution. This was consistent with the views of the German historical school of jurisprudence, which emphasized an organic connection between laws and local political conditions, and

the co-evolution of law and society. Gneist urged gradualism: Japan should wait until its institutions were sufficiently developed to have a constitution. Ito also encountered general skepticism about parliamentary government, in keeping with the contemporary scene in newly unified Germany. This led him to become somewhat worried about his ability to accomplish his mission. Ito's spirits improved, however, with his visit to Austria to meet the legal scholar Lorenz von Stein. Stein's theories focused on a balance among monarch, legislature, and executive branch, and in particular he warned of the dangers of dominance by the first two. National stability required, most of all, administrative autonomy and a bureaucracy able to act on its own accord (pp. 74-77). These views shaped Ito's view of the constitution of Japan, writ large, and soon after his return to Japan he began the crucial tasks of building a bureaucracy and developing a structure for insulation of the emperor through the privy council.

The third journey Takii documents was that of Yamagata, who went to Europe from 1888-89 to study military defenses and local government. Takii recounts how Yamagata's encounters with Gneist, Stein and another Austrian, Johann von Chlumecky, broadened his view of the state as a whole. The timing of his visit to Paris, during a bout of popular protest and parliamentary turmoil, reinforced his skepticism toward popular participation in government and presaged his later struggles with Ito. This chapter is less integrated than the others, and its link with the written constitution less clear. But it does share with the earlier chapters a rich and personal account of the journey, and emphasizes the links between the foreign travel and political orientation.

Though the volume includes the Meiji Constitution as an appendix, the text of the Constitution is not really the subject of the book, and readers looking for a discussion of

specific provisions and their intellectual history will largely be disappointed. Nor does the book trace the politics of drafting and adoption, and the grand debates over the role of parliamentary bodies and the Emperor. These debates over the degree of popular control form the implicit background to the text, but are not elucidated here.

Instead, Takii uses what he calls a “cross-cultural” methodological stance to frame a distinctive account. His emphasis is squarely on the perceptions of key agents, as well as the intellectual and political environment of their European interlocutors. The reactions of western legal scholars, including not only Germans such as Jhering and Gneist but common lawyers such as Albert Dicey, Herbert Spencer and Oliver Wendell Holmes, are particularly interesting.

Takii takes as his target the “constitution” in the broadest sense of the word, considering not only the formal document organizing the state but also the deeper structure and orientation of the state itself. He thus draws on the rich connotations of the English language word “constitution” that are absent from the Japanese *kenpo* (pp. xiv-xv). This methodological commitment to focus not on the text but on the broader “constitution” of state structure opens up a standard set of issues in legal thought. Surely, he is correct that an overly narrow focus on written texts would lead the observer to miss many important aspects of state structure. On the other hand, once one seeks to broaden the frame beyond the text itself, one needs a theory to determine what features are to be included in the conceptual “constitution” and what lie outside of it. Takii’s brief discussion is only suggestive here, but we can assume that the “constitution” includes various written and unwritten norms and understandings that shape the nation and its political economy.

This approach suggests, implicitly more than explicitly, why the formal document was so successful: it comported well with the evolving norms of Japanese society and its precarious international situation. The Constitution served the leaders' intense struggle to maintain Japanese independence in a Euro-centric international order by giving the state a European form. But it did not fully address the demands of the Popular Rights Movement, for to do so would have weakened the state during a crucial period. This framework, which itself reflects the German historicism that so influenced the Meiji leaders, puts the document in more positive light than the conventional account as a defensive adaptation by the elite. The Constitution was simply one juncture in a gradualist transformation in the direction of popular sovereignty, providing a framework for further evolution of social and political norms.

Takii's book is not meant to be a stand-alone guide to the framing of the Meiji Constitution, and would be insufficient for that purpose. But as a supplement, telling the human story in cross-cultural perspective, it is a welcome addition to the literature. His account includes many anecdotes of the participants' interactions among themselves as well as with their European hosts. The result is a readable intellectual history that will supplement earlier accounts of this crucial phase in Japanese legal and political history. Finally, it is important to mention that the edition by the International House of Japan is beautiful, with several photographs of the oligarchs and a fine translation by David Noble.