

The original  
report of the  
Committee on  
Civil Rights

21-0-2-1

The Powell  
Report on  
Constitutional  
Revisions

Chapter III  
Civil Rights

I. GENERAL

1. The people of Japan are entitled to the enjoyment without interference of all fundamental human rights that do not conflict with the equal enjoyment of those rights by others.

2. The enumeration in this Constitution of certain freedoms, rights and opportunities shall not be construed to deny or disparage others retained by the people.

3. The freedoms, rights and opportunities provided by this Constitution derive from the self-disciplined cooperation of the people. They therefore involve a corresponding obligation on the part of the people to prevent their abuse and to employ them always for the common welfare. Hence every freedom entails a corresponding responsibility, every right a corresponding duty, and every opportunity a corresponding effort on the part of those who benefit by it.

4. No subsequent amendment of this Constitution<sup>and</sup> and no future ~~amendment~~, law or ordinance shall in any way limit or cancel the rights to absolute equality and justice herein guaranteed to the people; nor shall any subsequent legislation subordinate public welfare, democracy, freedom or justice to any other consideration whatsoever. ~~Any existing legislation in conflict with the principles embodied in this Constitution shall be null and void.~~

5. All Japanese by virtue of their humanity shall be respected as individuals. Their right to life, liberty and the pursuit of happiness, <sup>within the limits of the general welfare</sup> shall be the supreme consideration of all law, and of all governmental action.

6. <sup>Normal</sup> All persons are equal before the law. <sup>INSERT</sup> No discrimination shall be authorized or tolerated in political, economic, educational, and domestic relations on account of race, creed, sex, caste or national origin. No special privilege shall accompany any ownership or grant of title, honor, decoration or other distinction; nor shall any such ownership or grant of distinction, whether now existing or hereafter to be conferred, be valid beyond the lifetime of the individual who owns or may receive it.

7. The people are the ultimate arbiters of their government. They have the inalienable right to <sup>choose</sup> ~~elect~~ their public officials, and to dismiss them ~~by due process of impeachment or recall.~~ All public officials are servants of the whole community and not of any special groups. ~~The right of universal suffrage shall not be limited.~~ In all elections, secrecy of the ballot shall be kept inviolate, nor shall any voter be answerable, publicly or privately, for the choice he has made.

8. Every person has the right of peaceful petition for the redress of grievances, as well as for the enactment, repeal or amendment of laws, ordinances or regulations; nor shall any person ~~or organization~~ be in any way discriminated against for making such a petition.

9. Every citizen has the right to compensation for damage inflicted or loss sustained by any official act not in accordance with the law.

10. Aliens shall be entitled to the <sup>equal</sup> protection of ~~Japanese~~ laws, ~~provided they recognize the obligations of observing the~~ <sup>Special</sup> ~~law.~~ When charged with any offense they are entitled to use assistance of their diplomatic representatives and of interpreters of their own choosing. ~~Naturalization shall not be made compulsory.~~

## II. Freedoms

11. ~~Freedom of person is the inalienable right of all law-abiding Japanese. No individual unless convicted of crime shall be held in enslavement, serfdom <sup>or</sup> of bondage of any kind. Involuntary servitude including compulsory labor for a term where payment in advance has been made is prohibited.~~ <sup>such person</sup> <sup>except as a punishment for crime</sup>
12. Freedom of thought and conscience shall be held inviolable. ~~No legislation or decree of any kind shall ever be issued that would in any way limit it or interfere with it.~~
13. Freedom of religion is guaranteed to all. No religious organization shall receive <sup>special</sup> privileges from the State ~~or its national or local authorities, nor may ecclesiastical functionaries abuse their spiritual authority for political purposes.~~ <sup>nor exercise political authority.</sup>
- No person shall be compelled ~~or pressed~~ to take part in any religious acts, celebrations, rites or practices. ~~No religious body will be recognized as such if under the disguise of religion, it should stir up and practice antagonism to others or should weaken instead of strengthen public order and morality.~~ The State and its organs shall

refrain from religious education or any other religious activity.

- 14. Freedom of speech and press are guaranteed, including the right to criticize any public official, agency or practice, or to urge the enactment, amendment or repeal of any law. No censorship shall be maintained, nor shall the secrecy of any means of communication be violated, ~~except in cases of criminal investigation.~~

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This freedom shall not be interpreted to permit slander, black-mail, libel, the deliberate spreading of falsehoods or malicious rumors, nor the deliberate excitation of hatred against any law-abiding group, nor the wanton incitement of disturbance or violence. All persons shall be held accountable for the consequences of their words or actions.

- 15. Freedom of assembly is guaranteed to all persons for the peaceful consideration or public demonstration of whatever matters may concern them. Such meetings shall at all times, except in the event of uncontrolled disorder or violence be free from interruption or interference by any governmental authority; but leaders and speakers will be held responsible for the direct consequences of their activity.

16. Freedom of movement, <sup>and</sup> choice of domicile, and ~~choice of~~ ~~occupation~~ <sup>are</sup> is guaranteed to every person, provided they do not ~~infringe upon the rights of others.~~ <sup>conflict with the general welfare.</sup>

All persons shall be free to emigrate if they so desire and if the laws of the country of their choice permit their entrance and residence; but no Japanese citizen can be banished from Japanese territory.

17. Freedom of academic teaching, <sup>and</sup> study, and <sup>and choice of occupation</sup> ~~lawful research~~ are guaranteed to all adults. Any teacher who misuses his academic freedom and authority shall be subject to discipline or dismissal only upon the recommendation of the national professional organization to which he belongs or in which he has a right to membership.

18. It shall be the duty of government to protect the people in these freedoms.

### III. Specific Rights and Opportunities

18. The family is the basis of human society and its traditions for good or evil permeate the nation. Hence marriage and the family are protected by law, and it is hereby ordained that they shall rest upon the undisputed legal and social equality of both sexes, upon mutual consent instead of parental coercion, and upon cooperation instead of male domination. Laws contrary to these principles shall be abolished, and replaced by others viewing choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family from the standpoint of individual dignity and the essential equality of the sexes.
19. Expectant and nursing mothers shall have the protection of the State, and such public assistance as they may need, whether married or not. Illegitimate children shall not suffer legal prejudice but shall be granted the same rights and opportunities for their physical, intellectual and social development as legitimate children.
20. No child shall be adopted into any family without the explicit consent of both husband and wife if both are alive,



nor shall any adopted child receive preferred treatment to the disadvantage of other members of the family. The rights of primogeniture are hereby abolished.

21. Every child shall be given equal opportunity for individual development, regardless of the conditions of its birth. To that end free, universal and compulsory education shall be provided through public elementary schools, lasting eight years. Secondary and higher education shall be provided free for all qualified students who desire it. School supplies shall be free. State aid may be given to deserving students who need it.
  
22. Private educational institutions may operate insofar as their standards for curricula, equipment, and the scientific training of their teachers do not fall below those of the public institutions as determined by the State.
  
23. All schools, public or private, shall consistently stress the principles of democracy, freedom, equality, and justice, and social obligation; they shall emphasize the paramount importance of peaceful progress, and always insist upon the observance of truth and scientific knowledge and research in

the content of their teaching.

24. The children of the nation, whether in public or private schools, shall be granted free medical, dental and optical aid. They shall be given proper rest and recreation, and physical exercise suitable to their development.
  
25. There shall be no full-time employment of children and young people of school age for wage-earning purposes, and they shall be protected from exploitation in any form. The standards set by the International Labor Office and the United Nations Organization shall be observed as minimum requirements in Japan.

26. Every adult Japanese has the right to earn a living by productive work. Insofar as a suitable occupation cannot be found for him, provision shall be made for his necessary maintenance. ~~Women shall have the right of access to all professions and occupations, including the right to hold office, and shall receive the same compensation as men for equal work.~~
27. In all spheres of life laws shall be designed only for the promotion and extension of social welfare, and of freedom, justice and democracy. All laws, agreements, contracts or relationships, public or private, which restrict or tend to destroy the welfare of the people shall be replaced by others which promote it.
28. The State shall assume the burden of extensive public health measures. Peaceful sports shall be encouraged.
29. Adequate systems of social insurance, including old age pensions, dependency allotments, mothers' assistance, accident -, health -, disability -, unemployment -, and

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life insurance, shall be provided by law under terms and provisions meeting at least the minimum standards approved by the International Labor Office and the United Nations Organization. Special protection shall be afforded to women, children, and underprivileged groups. It is the duty of the State to protect its citizens against all want and neglect not wilfully incurred.

30. All workers are entitled to adequate rest, leisure and recreation. Minimum standards for working conditions, wages and hours shall be prescribed by law in accordance with International Labor Organization standards. Employers shall be obliged to grant their employees such free time (without loss of earnings) as is required for the performance of the employee's civic duties and the exercise of his civil rights.
31. Japanese citizens have the right to organize freely in societies, unions or associations for any peaceful purposes; but secret political, militaristic or ultra-nationalistic organizations are prohibited, as shall be all organizations cultivating civil, international or interracial antagonism

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and strife.

32. Employers and employees shall have the right to collective bargaining. Labor, except in essential services, shall have the right to strike; but the deliberate wrecking of employer - employee cooperation by outside labor - or employer organizations is prohibited.
33. Intellectual labor and the rights of authors, artists, scientists and inventors shall be protected by law, whether they be Japanese or foreign.
34. All forms of expression other than speech and press shall be accorded the same essential freedom, but legal measures for the suppression of indecent or degrading literature, plays, moving pictures, radio - broadcasts, and exhibitions shall be permissible for the protection of youth and the maintenance of high public standards.
35. The right to own property is inviolable, but property rights shall be defined by law, in conformity with the public welfare.

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36. The ultimate title to the land and to all natural resources resides in the State as the collective representative of the people. Hence the ownership of land and its resources is to be interpreted as a lease, the right to which is forfeited by misuse or continued non-use, and the transfer of which is a transfer of leasehold rights subject to regulation by law, not a transfer of private property.
37. Private property may be inherited, but the right of the State to share in inherited estates is undeniable and shall be fixed by law.
38. Contracts are protected by law, but usury is prohibited, and legal transactions which are contrary to public policy are null and void. The State shall not grant any monopolies
39. Property imposes obligations. Its use by the owner shall at the same time serve the public good. Where the public interest is clearly served better by public ownership, private property may be expropriated on the basis of law, and only upon fair compensation.

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40. The organization of Japan's economic life must conform to the principles of justice and democracy, to the end that all citizens may be guaranteed a decent standard of living. Within these limits the economic liberty and rights of the individual shall be assured.
41. Cooperative as well as private enterprise shall be encouraged. Only such enterprises shall be transferred from private to public ownership as are deemed suitable for socialization by finding of an impartial, non-political economic council on which the government, labor, management and the public are equally represented. Such transfers are to be regulated by law.

ARREST

42 - No person, save those arrested in the act of law-breaking shall be apprehended except upon warrant issued by a competent officer of a court of law specifying the offense upon which the person may be charged.

No person shall be arrested or detained without being at once informed of the charges against him nor without the privilege of counsel; she shall not be held incommunicado nor detained without adequate cause which must be immediately shown in open court upon demand of the accused or of his counsel.

No person shall be deprived of life, liberty or property except according to procedures established by the Diet under this constitution nor shall any person be denied the right of appeal to the courts.

SEARCH & SEIZURE

43 - The right of the people to be secure in their persons, <sup>homes</sup> ~~houses~~, papers and <sup>e</sup> effects against unreasonable searches and seizures shall not be violated, nor shall any warrant be issued except upon probable cause, supported by oath, and particularly describing the place to be searched and the person or things to be seized.

Each search or seizure shall be made upon separate warrant issued for the purpose by a competent officer of a court of law.



## TORTURE; BAIL.

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The use of torture, whether physical or mental, is absolutely forbidden to any public officer and strict punishment shall be inflicted upon any officer found guilty of such abuse.

Excessive bail shall not be required, nor cruel and unusual punishments inflicted.

## TRIAL

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In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal. He shall be clearly informed of the nature and cause of the accusation immediately upon arrest, or within 24 hours of such arrest; he shall, at his trial, be confronted with all the witnesses against him and be permitted through counsel to cross-examine such witnesses, and he shall have the right of compulsory process for obtaining witnesses, at public expense, in his favor. At all times the accused shall have the assistance of competent counsel who shall, if the accused be unable to secure the same by his own efforts, be assigned to his use by the government.

No person shall be twice placed in jeopardy for the same offense.

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EX POST FACTO LAWS

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No ex-post facto law shall be enacted, nor any punishment inflicted penalizing any person for an act lawful at the time it was committed.

No person shall be declared guilty of a crime except upon fair and open trial wherein the accused shall be properly represented by competent counsel, nor shall any person be deprived of civil rights without a trial.

Trial by jury shall be accorded to anyone charged with a capital offense, and to anyone accused of a felony, at the request of the accused.

add to Article called "Trial" (d)

\* @ = Testimony.

T O P S E C R E T

## Testimony

~~confession~~

No person shall be compelled to testify against himself, nor shall the testimony of a wife or husband be accepted in evidence against the spouse of such wife or husband.

No confession shall be valid unless made in the presence of counsel for the accused, nor shall it be valid if made under compulsion or torture or threat.

No person shall be convicted and punished in cases where the only proof against him is his own confession.

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### Extradition

The right of extraditing persons from Japan who have fled from or escaped justice in foreign countries shall not be denied in such cases when official representatives of such foreign nations may request it.