

August 26, 2022

## Is the Kishida Cabinet Serious about Constitutional Reform?

By UDAGAWA Keisuke

Constitutional reform had always been Shinzo Abe's favorite agenda. The establishment of an "independent constitution" has also been one of the longstanding party platforms of the LDP. The Constitution of Japan was, admittedly, established pursuant to the amendment process stipulated in the constitution that had existed previously—the Meiji Constitution (formally known as the Constitution of the Empire of Japan). However, it is also true that it was established at a time when Japan lacked sovereignty (given that it was under Allied Occupation) and its provisions were drafted largely by people who were not Japanese, despite the Constitution proclaiming, "We, the Japanese people..." Although the Constitution was theoretically promulgated at the behest of Emperor Showa (Showa Tenno) pursuant to the Meiji Constitution, its provisions were finalized without the consent of the Japanese people. Contrarily, it was imposed upon the people. Abe frequently alluded to the "imposed constitution" (*oshitsukekenpō*). Constitutional reform has now become a burning political issue following the LDP's resounding victory in the Upper House election.

Although it appears to have been imposed, the Constitution serves as the source of legitimacy to Japan's system of government, meaning that no government can arbitrarily change it, ignoring the constitutional process. Accordingly, even proponents of the "imposed constitution" narrative acknowledge that any attempt at constitutional reform would need to adhere to the amendment procedure provided in the existing constitution. Therefore, how does one go about constitutional reform? It is relatively sufficient to argue that the Constitution, particularly Article 9, is riddled with problems; but reformists tend to flounder when challenged to specify which provisions to amend and how they should be amended; it seems that no one has a realistic answer.

Accordingly, the first step to constitutional reform must include a thorough process of deliberation. As the present Constitution provides an established legal procedure for amendments, it is imperative to follow it. The procedure involves meeting two requirements: amendments must be initiated by the Diet with a vote of at least two-thirds of the members of each House. Subsequently, they must be

approved by a majority of voters in a referendum. With its recent electoral success, the LDP maintains sufficient political capital to surmount the first hurdle, but surprisingly, there is limited focus on overcoming the second one: ensuring that enough voters will ratify such an amendment in the ensuing referendum.

The second hurdle suggests that constitutional reform will only ever succeed if the reform agenda is popular enough to win over a majority of voters in the referendum. Abe was committed to constitutional and educational reforms. Illustrating this commitment, Abe, shortly after becoming LDP leader (again) during the DPJ's reign, set up LDP policy study meetings on both the Constitution and education.

Neither constitutional nor educational reforms have ever been vote-winners. Therefore, while many politicians believed that both were necessary, only those politicians commanding firm electoral support could afford to practically advocate for them. Most voters are least concerned about constitutional reform, and moreover, advocating for reform would incur the disadvantage of galvanizing opposition, as such advocacy would necessarily involve hot-button issues such as the constitutional situation of the Self-Defense Forces. Meanwhile, pushing for educational reforms offered limited prospects of winning votes, considering that the beneficiaries of such reform were too young to vote. Despite neither reform agenda being a vote-winner, Abe gave paramount importance to both. Therefore, by leveraging his considerable political influence, he strongly led both agendas.

However, following Abe's assassination, it remains to be seen how many lawmakers would comprehend the significance of Abe having thrown his political weight behind constitutional and educational reforms, despite neither of them being vote-winners, and how many would be ready to stake their political careers on such agendas. Crucially, where does Prime Minister Kishida stand in all this? As already noted, constitutional reform has always been a plank in the LDP's platform, but it was Abe's political influence that had pushed it to the top of the party's agenda. Now with Abe gone, the LDP's commitment to constitutional reform appears uncertain. The party may pay lip service to constitutional reform amid concerns of alienating its conservative base, but a half-hearted commitment will never be enough to surmount the two hurdles.

If an election is a process in which voters choose candidates based on party platforms, then the results of the recent Upper House election definitely implies an overwhelming public support for constitutional reform. However, whether this would translate into political action is another matter. Basically, governments seldom follow up on every manifesto pledge, and the Kishida government only made a vague commitment to constitutional reform, meaning that it has little imperative to act in

a concrete manner.

Following Kishida's overwhelming electoral victory, a majority of lawmakers now favor constitutional reform. However, this does not imply that the shape of constitutional reform has been decided. Nevertheless, the election has reset the political landscape, opening up many new possibilities for Kishida. It remains to be seen how Kishida navigates this new landscape sans Abe, the LDP's earlier heavyweight.

**(This is an English translation of the article written by UDAGAWA Keisuke, Writer/Journalist, which originally appeared on the e-forum "Hyakka-Somei (Hundred Ducks in Full Voice)" of CEAC on July 25, 2022.)**