



*Is the Japanese Monarchy in Crisis  
Due to Its Gender Bias?*

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## Is the Japanese Monarchy in Crisis Due to Its Gender Bias?

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**Abstract:** Japanese monarchical succession is restricted to male offspring of imperial lineage, with the order of succession being primogeniture. This rule is not written in the 1947 Constitution—which prohibits sex discrimination in Article 14—but rather in the Imperial House Law of 1947. Given the current gender composition of the imperial family, it is not difficult to imagine a future in which the existence of the imperial system is threatened by a lack of legitimate male heirs. The article takes this reality as its starting point and evaluates the divergent attitudes of fundamentalist, orthodox, and egalitarian monarchists towards male-line primogeniture and the case for a gender-neutral monarchy in Japan. The article advocates an egalitarian view of monarchy as being most consistent with international law, Japan’s 1947 Constitution, comparative practice in contemporary monarchies, and the historical record that includes eight Japanese empresses who ruled in their own right. The article then turns to consider the contemporary role of the Emperor. Although the Japanese monarchy is comparable to others due to its exclusively symbolic and religious nature, the article notes its uniquely gendered aspects, such as the lack of public involvement and visibility of female members of the imperial family. Politicians, however, are reluctant to amend the Imperial House Law, which presents a structural barrier to gender-neutral monarchy.

**Keywords:** succession; primogeniture; gender-neutral monarchy; historical precedents

ince the Meiji Restoration in 1868, which proclaimed that the emperor<sup>1</sup> shall reign as a politically significant monarch instead of as simply the guardian of culture and spirituality that he was under the Tokugawa Shogunate, Japan has had five emperors: Meiji (r. 1867–1912), Taisho (r. 1912–1926), Showa (r. 1926–1989), Heisei (r. 1989–2019)<sup>2</sup> and Reiwa (r. 2019–).<sup>3</sup> Until 1947, Imperial family members and their

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<sup>1</sup> The translated appellation of *Tenno* is emperor, rather than king or monarch, presumably reflecting the ambition of Meiji-era Japan which called itself the Great Empire of Japan. Why it continued to be translated as “emperor” in the 1947 Constitution, supposedly drafted by the Occupying Allied Forces, and which guarantees popular sovereignty, is a question in which no one, at the moment, seems to be interested. Compare the Constitution of the Great Empire of Japan of 1889 (hereinafter referred to as the 1889 Constitution) with the Constitution of Japan of 1947 (hereinafter referred to as the 1947 Constitution). Article 1 (1889) reads, “The great empire of Japan is governed by the Emperor by the virtue of his divine ancestry unbroken for ages eternal,” whereas Article 1 (1947) reads: “The Emperor shall be the symbol of the State and of the unity of the People, deriving his position from the will of the people with whom resides sovereign power.”

<sup>2</sup> Emperor Heisei released a video message through the Imperial Household Agency on 8 August 2016 vaguely suggesting that he would like to hand over the status of emperor to the next generation. In response to that message, which received popular support, the Diet enacted *Tenno no taii to ni kansuru koshitu tenpin tokurei ho*, or the Special Act to the Imperial House Law concerning matters relevant to the Abdication of the Emperor, Law No.

spouses were often described as descendants of emperors Meiji, Taisho, and Showa, including those descended from daughters of Meiji who were married to persons of distant imperial lineage. Since 1947, the imperial family members became exclusively comprised of male offspring of Taisho and their immediate family members.

The dominance of male-line primogeniture and the accompanying concept of *ie*, “the house,” that defined the pre-World War II Japanese society, still influences people and their thoughts on succession and inheritance. The logic behind *ie* is that once a daughter marries, she has left her natal family and is no longer considered a member. Furthermore, *Kosbitsu tempan*, or Imperial House Law (IHL) No. 3 of 1947, although enacted after the promulgation of the 1947 Constitution, does not include any reference to the dignity of individuals (Article 13), equality of sexes (Article 14), or mutual consent of marrying parties (Article 24). Thus, a princess becomes a commoner unless she marries another member of the imperial family, because she has left “the house.” Of course, there is always an exception to the rule: for commoners, the groom could marry into the bride’s family and “the house,” take her family name as his own, assume the status of the son and successor of “the house,” and shoulder the responsibility to continue the family name. Unfortunately for princesses who might wish to marry and yet to remain as a member of the imperial house, the aforementioned Imperial House Law prohibits adoption of daughter’s husbands by the Emperor and by princes (IHL Article 9) and explicitly states that an imperial princess will forfeit her status as a member of the imperial house unless her spouse is an emperor or another member of the imperial house (IHL Article 12). Anyone who left the imperial house and became a commoner by choice (IHL Article 11), or by marriage (IHL Article 12), cannot revoke or rescind that decision and return to their former status (IHL Article 15) in “the house.” Accordingly, the idea that a royal princess is forever a royal princess is alien to the Imperial House Law, although endogamy has never been denied. Unmarried daughters remain royal princesses, but daughters of the imperial family who married individuals outside of the imperial house (which has been the case for all eight princesses who married after 1947) are not members of the imperial house anymore.

There are, in 2020, two male fourth-generation members<sup>4</sup> of “the house,” the Emperor Emeritus, aged 86 and his younger brother, aged 84; two male fifth-generation members, the present Emperor Naruhito, aged 60 and his younger brother, the heir presumptive, aged 54; and one sixth-generation member, Hisahito, aged 13, within the Imperial family. All the other members are spouses, widows, or unmarried daughters. Although the 1947 Constitution does not expressly exclude a female as an emperor as the 1889 Constitution did,<sup>5</sup> the Imperial House Law stipulates that the legitimate male offspring in the male line belonging to the imperial lineage shall succeed to the throne, and the current succession order follows the rule of male-line primogeniture. The rule of succession is exactly the same as the common law case

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63 on 16 June 2017 without opposition.

<sup>3</sup> The Cabinet declared on 1 December 2017 that Heisei shall abdicate on 30 April 2019 and that the Crown Prince Naruhito shall be the 126th emperor on 1 May 2019. The transition took place at midnight and the status was formalized on the morning of 1 May 2019, and Naruhito became Reiwa. The enthronement/ coronation ceremony took place on 22 October 2019.

<sup>4</sup> That is, counting Meiji as the first-generation.

<sup>5</sup> Compare Article 2 (1889), “The Imperial Throne shall be dynastic and succeeded to by male through male lineage in accordance with the provisions of the Imperial House Law,” with Article 2 (1947): “The Imperial Throne shall be dynastic and succeeded to in accordance with the Imperial House Law passed by the Diet.”

of fee tail or entail male.

Given this situation, it is not difficult to imagine a Japan some years from now in which the members of this imperial house become all female or, even worse, extinct. People in Japan generally react in a few different ways to this scenario. First, a fundamentalist monarchist would insist that we should observe the divine promise that an emperor is a male descendent of goddess Amaterasu, and whose ancestry can be traced back “unbroken for ages eternal.”<sup>6</sup> These fundamentalists have difficulty explaining the existence of eight female emperors who each ruled in their own right. Fundamentalists acknowledge that monogamy and the exclusion of children born out of legitimate marriage will inevitably lessen the chance of male lineage survival. Therefore, many fundamentalists argue for the necessity of a concubine system and to include illegitimate males fathered by emperors or princes born out of wedlock to increase the number of eligible male descendants. This group maintains that emperors must be males of male imperial lineage.

Secondly, an orthodox monarchist would prioritise the imperial male lineage but would not reject a female emperor, referring to the fact that there had been female emperors in the past. When asked who would succeed after her to the throne, the answer is to revert to someone who is qualified as an emperor selected from the closest male lineage, in other words, a female emperor’s reign functions as a bridge between the reigns of the previous and future male emperors.<sup>7</sup> A fundamentalist would quickly point out that of those eight empresses, none had a spouse or a consort at the time she reigned, as four had not married and the other four had been married either to an emperor or to the son of an emperor who had passed away before her reign. The children of imperial consorts who became female emperors were eligible to succeed the throne through the male line, and thus their heirs did not provide precedent for matrilineal or female-line succession. In other words, having a female emperor was just a stop-gap for an orthodox monarchist, giving time to search for a person eligible to ascend the imperial throne through male lineage. A caveat to the female emperor scenario is whether it is possible to find a suitable or even acceptable consort for an imperial princess today when there is no candidate within the imperial family.

Third, in this age of the Convention on the Elimination of All Forms of

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<sup>6</sup> According to Japanese mythology, based on *Nihonshoki* and *Kojiki*, Tenno as a system of governance has existed for over 2600 years and all emperors are direct descendants of the first emperor, Jinmu. Jinmu was called Iwarehiko in his youth and was a son of Ugayafukiaezu, son of Hoori, son of Ninigi, son of Amenooshihomimi, son of Amaterasu, the goddess of sun. He conquered all rebels and became the first emperor, on 11 February 660 BCE, and reigned for 120 years. Historians agree that this is a myth, although the myth appears to be ingrained as history rather than story in many people’s mind. There is no agreement academically as to who really was the first emperor we can be certain of, based on historical evidence: Sujin (r. 97–30BCE), Ojin (r. 270–310), and Keitai (r. 507–531), who is supposed be the great-great-great-grandson of Ojin, are some of the names that historians mention as possible candidates. A recent influential theory states that before Keitai succeeded Buretsu (r. 499–506), emperors were chosen among powerful lords and were not necessarily related. See: Makoto Takemitsu, *Yamato chotei to tennoke* (Tokyo: Heibonsha, 2003).

<sup>7</sup> There have been two obvious examples: Meisho (r. 1629–1643) was a daughter of Gomizoo (r. 1611–1629) and an older sister to Gokomyo (r. 1643–1654); Gosakuramachi (r. 1762–1771) was a daughter of Sakuramachi (r. 1735–1747) and an older sister to Momozono (r. 1747–1762). Gomomozono (r. 1771–1779) was the son of Momozono, who passed away at the age of 22 when Gomomozono was only 4, although Momozono was only 6 when he inherited the throne, so age probably was one of many factors. Both Meisho and Gosakuramachi had not married and it was not possible to form female lineages.

Discrimination against Women (CEDAW), an egalitarian monarchist should be looking forward not just to the advent of a female emperor but also for her descendants to be eligible to ascend to the throne. Three factors should work in favor of such egalitarian monarchists: (i) equality of sex in succession has become the rule in many monarchies today; (ii) the 1947 Constitution provides for a nondiscrimination principle based on sexes;<sup>8</sup> (iii) the importance of a populace's familiarity with the expected heir to the throne and the popular support which could be generated in the age of media publicity and celebrity. The last point would be evident in a choice between an emperor's grandson through his daughter and an obscure male descendent whose ancestor can be traced back to a fourteenth-century emperor.<sup>9</sup> Unfortunately, this line of thinking is more likely to be rejected by the majority of monarchists as foreign, because it clashed with the belief that that Japan under Tenno is unique. In March 2016, the Committee on the Elimination of Discrimination against Women (CEDAW) quietly dropped a reference to the Imperial House Law excluding women from the line of succession as discrimination against women in its Concluding Observations.<sup>10</sup> Newspaper articles indicate that the Government had explained the historical background and the non-discriminatory purpose to a committee member.

Egalitarian theorists reject hereditary monarchy in principle, regardless of how benign and egalitarian the system appears. A hereditary monarchy assumes that a monarch is inherently different from all other people, based on the immutable fact of birth. Nevertheless, if one is pressed to deal with the existing constitutional monarchy,<sup>11</sup> and the spirit of CEDAW and other human rights treaties, one might expect sovereign people to choose an emperor, perhaps by election.<sup>12</sup> As the 1947 Constitution Articles 1 and 2 provide that the position of an emperor "derives from the will of the people with whom resides sovereign power" and that the "Imperial Throne shall be dynastic,"<sup>13</sup> it is possible to conceive of an election by the people who are of imperial lineage. This qualification does not exclude females as long as they satisfy "being dynastic."

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<sup>8</sup> Article 14 (1947): "All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin. Peers and peerage shall not be recognized. No privilege shall accompany any award of honor, decoration or any distinction, nor shall any such award be valid beyond lifetime of the individual who now holds or hereafter may receive it."

<sup>9</sup> Fushimi Hiroaki (1932–) is the 27th generation male descendant of a male lineage from Gofushimi (r. 1298–1301) and the 25th generation from Suko, but he has three daughters and no son.

<sup>10</sup> CEDAW/C/JPN/CO/7-8 (10 March 2016).

<sup>11</sup> There is some debate about defining Japan as a constitutional monarchy. A typical explanation is that the sovereignty resides in people (Article 1) and that it is not a republic does not make it a monarchy *per se*, especially because emperors do not have any political power.

<sup>12</sup> An argument against an election of emperors would be that the Imperial House Law is legislation enacted by the Diet which represents the people, and therefore, the present rule of succession amply reflects the choice of the sovereign people. This does not prevent the Imperial House Law from being amended by the Diet.

<sup>13</sup> According to the 1947 Constitution, the emperor's position derives "from the will of the people with whom resides sovereign power" (Article 1), and the "Imperial Throne shall be dynastic," (Article 2). Thus, being male is not a requisite of this constitution. Legalistically, one could argue that the Diet, representing the will of the people, has enacted the Imperial House Law as it is, leaving the succession matter to the whim of nature.

## The Eight Female Emperors

Officially, Japan has had eight empresses, two of whom ascended the throne twice: Suiko (r. 592–628), Kogyoku (r. 642–645, and who reigned again as Saimei, 655–661), Jito (r. 686–697), Genmei (r. 707–715), Gensho (r. 715–724), Koken (r. 749–758, whose second reign as Shotoku lasted 764–770), Meisho (r. 1629–1643), and Gosakuramachi (r. 1762–1770). These women were not consorts to their spouses but regnant rulers in their own right: in other words, they were female emperors. In addition, three women are no longer included in the ‘official’ list of emperors provided by the Imperial Household Agency, but they were nevertheless considered to be true female emperors at various points in history: Jingu (r. 201–269), Iitoyo (r. 484–485), and Akiko (called “Nun-Mother,” 1161–1211).

The female emperors of the sixth and seventh centuries ascended to the throne in their own right, being daughters of previous emperors. Each had been a politically active figure in her time. They were also consorts to emperors, indicating that the male had priority when they both had competing claims to the imperial throne.

In 697 when Jito abdicated the throne to her grandson, Monmu (r. 697–707), the traditional theory had been that his father-in-law Fujiwara Fuhito seized political power for himself.<sup>14</sup> More recent academic writing<sup>15</sup> indicates that it was a triumvirate of Jito, Monmu, and Fujiwara Fuhito who shared power. After Monmu passed away, his mother Genmei—who was a daughter of Tenji (r. 668–672), and the consort of Prince Kusakabe (662–689), son of the emperors Jito and Tenmu—succeeded to the throne. Genmei abdicated in 715 and her daughter Gensho became the emperor. The typical understanding of Gensho’s role is as a bridge between Genmei, who was already 54 years old in 715, and Shomu (r. 724–749), her nephew who was then only 14 years old. Fujiwara Fuhito was said to be unwilling to support the transition of the throne to Shomu at that time unless Shomu accepted Fuhito’s daughter Komyoshi, instead of some princess from the imperial family, as his consort. Shomu succeeded Gensho in 724, but Gensho continued to be actively involved in governance. For instance, her edict of 744 to move the capital from Kuni (Kitsugawa) to Naniwa (Osaka) while Shomu was in Shigaraki (Koga), could even be seen as usurping Shomu’s power. Shomu eventually issued an edict in 745 to move the capital to Shigaraki (Koga).<sup>16</sup>

Koken (r. 749–758) was the only surviving child of Shomu and his wife Komyoshi, who was a scion of the powerful Fujiwara clan, and she succeeded Shomu in 749. Shomu, who was the great-grandson of Tenmu, had assigned one of Tenmu’s grandsons (Funado) as the next emperor in his will. Yet, Koken ignored this and nominated Ooi, another of Tenmu’s grandsons, as her successor in 757, who eventually succeeded her as Jun’nin (r. 758–764). Jun’nin was expelled from the throne by Koken who reigned again as Shotoku. Even though Koken/Shotoku dethroned him and did not allow him to be considered as an emperor, Jun’nin, also known as the Deposed Awaji, was finally added to the emperors list by the Imperial Household Agency in 1870. Koken/Shotoku conduct had been explained as being influenced by an ambitious monk/courtier. Recent historians see the conflict between Koken/Shotoku and Jun’nin as pertaining to the claim of superior lineage and legitimacy to the

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<sup>14</sup> See: Takashima Masato, *Fujiwara Fuhito* (Tokyo: Yoshikawa kobukan, 1997).

<sup>15</sup> See: Tsuchihashi, Yutaka, *Jito tenno to Fujiwara Fuhito* (Tokyo: Chuokoron Shinsha, 1994).

<sup>16</sup> See: Toshio Kakei, *Kodai oken to ritsuryo kokka* (Tokyo: Azekura shobo, 2002).

throne. Jun'nin apparently defined himself not as the next in line to Koken but as the designated heir of Shomu and thus an equal with Koken/Shotoku, whereas Koken/Shotoku regarded him as coming from an inferior branch, even though he was a grandson of Tenmu, whereas she was a great-great granddaughter to Tenmu.<sup>17</sup>

When the emperor system was resurrected as a politically meaningful institution at the Meiji Restoration (1868) and prescribed in the 1889 Constitution, the fact that Koken/Shotoku was not married and had been greatly influenced by a person of dubious background became the reason why women were not seen as fit to be emperors and should be excluded. In other words, in light of what had happened during the Koken/Shotoku era, Gensho's role was re-interpreted as the bridge between two proper (male) emperors, rather than an emperor on her own right, and the existence of four powerful female emperors of the sixth to seventh centuries was totally ignored. It is true that the two female emperors of the Tokugawa period could be explained as bridges to maintain male lineage, but should that be sufficient evidence to ignore what the other female emperors achieved in their reigns?

An interesting case from late twelfth century is that of Royal Princess Akiko (1137-1211), who was her father, Toba's (r. 1107–1123) favourite child.<sup>18</sup> It was written in one of the early thirteenth-century writings<sup>19</sup> that Toba seriously considered that she should succeed Konoe (r. 1142–1155) when the boy passed away in 1155 aged 16. In the end, her elder half-brother Goshirakawa (r. 1155–1158) ascended to the throne and she was designated as the formal mother, or adopted mother, to future emperor Nijo (r. 1158–1165) and his younger brother Mochihito, who were both Goshirakawa's sons. When Goshirakawa abdicated and Nijo ascended to the throne, her formal appellation became Hachijo-in, the Nun-Mother. Goshirakawa was notable for fighting against the rising warrior class who were led by Taira no Kiyomori (1118-1181).<sup>20</sup> Hachijo-in was said to be so influential financially and politically that Kiyomori, on many occasions, could not ignore her wishes to help her protégés even though those protégés rebelled and fought against Kiyomori and his clan.

### **The Exclusion of Female Heirs**

One definite turning point is how to interpret what Koken/Shotoku did: whether she really believed in her superior lineage (which is a plausible reading of contemporary materials) or was manipulated by her favorite courtier because she was a woman. The latter opinion was influential during the drafting of the 1889 and 1947 Imperial House Law, in line with a view that female sexuality needs to be controlled and subjugated. The 1889 Imperial House Law was considered part and parcel to the 1889 Constitution—that is, a higher law not amenable to the

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<sup>17</sup> See: Takinami, Sadako, *Nihon kodai kyutei shakai no kenkyu* (Kyoto: Shibunkaku, 1991).

<sup>18</sup> Unlike her sisters, Royal Princess Akiko was apparently brought up together with her younger brother Konoe (r. 1142–1155) at her father's side, and was very close to her parents.

<sup>19</sup> *Gukansho* (1220), written by Jien (1155-1225), a learned monk of Kamakura period, was a history that evaluated each ruler, including emperors, on whether they reigned according to "reason." Although he was from the powerful Fujiwara clan and an important member of the imperial court, he had accurately described in *Gukansho* that the actual power had already shifted from the imperial court and aristocracy to the warrior class.

<sup>20</sup> Taira no Kiyomori was the leader of the first warrior-dominated administration (1167–1185). He reinforced his political influence by his daughter Tokuko's marriage to Takakura (r. 1168–1180), another of Goshirakawa's sons, and by having his grandson Antoku (r. 1180–1185) enthroned thereafter.

normal legislative process. It defined who is entitled to be a member of the imperial family. Information made available by the Government<sup>21</sup> has revealed that the first draft of the 1889 Imperial House Law provided for not just a female emperor in her own right but also an emperor from female lineage when there was no one eligible from the male lineage. Inoue Kowashi, the Head of the Drafting Office at that time, attacked this idea as very alien to Japanese tradition. Because all female emperors' reigns were, in his mind, meant to be temporary and were thus a form of regency, and the draft constitution planned to exclude women from political participation in general, it would be illogical to designate a woman as the Sovereign of the State. Accepting an emperor from a female lineage would be totally against the concept of unbroken imperial line because it would introduce a different bloodline to the Imperial House. Even if it were acceptable to copy institutions of Europe on matters pertaining to politics, law and others, the imperial institution in Japan has existed from the beginning as the foundation of the country, seemingly unchanged. After Inoue's fierce criticism, no further drafts referred to female emperors or to succession through female lineage.

Inoue's description of female emperors as temporary and regency-in-reality does not reflect historical facts. Nevertheless, the rhetoric has been so powerful that the concept dominates the discussion of female emperors then<sup>22</sup> and now.<sup>23</sup> In other words, it is not the historical facts but their interpretation during Tokugawa and Meiji periods which has made it difficult for the public to accept the idea of female emperors, until recently.

In 2004, faced with the fact that there were no males born to the Imperial Family for over forty years, Prime Minister Koizumi Jun'ichiro established a so-called advisory council, chaired by Yoshikawa Hiroyuki, to discuss the succession issue and eventually to recommend amendments to the 1947 Imperial House Law. *Koshitsu tenpan ni kansuru yushikisha kaigi*, or the Advisory Council on the Imperial House Law, prepared a final report in November 2005, stating that female emperors and female lineage would be acceptable as long as males have priority in succession.<sup>24</sup> By the time the Cabinet began its preparation to revise the Imperial House Law, it became known that another sixth-generation child was expected. As a boy was

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<sup>21</sup> See: *Koshitsu tenpan ni kansuruyushikisha kaigi hokoku sho* (the Report of the Advisory Council on the Imperial House Law), which was not attached to the English version of the Report. See also the papers submitted by six scholars at the meetings of 31 May and 8 June 2005 that reflect the contemporary understandings of the issue of female emperors by scholars of different persuasions.

<sup>22</sup> In 1880, Genroin (the Senate) submitted *Nihon koku kokuken an* (the Constitution of the State of Japan) to Meiji, which allowed female emperors and female lineage. A 1885/87 draft of the IHL known as "*Koshitsu seiki*" also included female emperors and female lineage as a possibility. Before the Meiji Government began drafting the 1889 Constitution, there were several proposals by private entities, most of which supported constitutionalism, a guarantee of civil rights, and a democratically elected legislature. In 1882, Omeisha, a political organization established in 1878, invited eight prominent people to join a public debate "whether to enthrone a female emperor." Three were against and five were for a female emperor. The details of the debate are available in: Shigeki Toyama, *Tenno to Kazoku: Nihon kindai shiso taikai*, vol. 2 (Tokyo: Iwanami shoten, 1988).

<sup>23</sup> See, for example, arguments among members of the Advisory Council on 29 September 2005: <http://www.kantei.go.jp/jp/singi/kousitu/index.html>.

<sup>24</sup> *Koshitsu tenpan ni kansuru yushikisha kaigi* (the Advisory Council on the Imperial House Law chaired by Yoshikawa, Hiroyuki) and *Hokokusho* (the Report of the Advisory Council on the Imperial House Law presented to the Prime Minister on 24 November 2005), available in Japanese at <https://www.kantei.go.jp/singi/kousitu/houkoku/houkoku.html> and in English at [http://japan.kantei.go.jp/policy/koshitsu/051124\\_e.pdf](http://japan.kantei.go.jp/policy/koshitsu/051124_e.pdf).



born in September 2006, the report was quietly tabled, and nothing more has been done with regard to the issue of gender and the succession since.<sup>25</sup>

Nevertheless, it would be worthwhile to see how the issue of gender was discussed at the Advisory Council meetings. The arguments were twofold: whether to recognize female emperors and whether to recognize emperors from a female lineage. The so-called fundamentalists insist on male emperors from male lineage.<sup>26</sup> An insistence on a male heir from a male lineage, when there is only one acknowledged male imperial lineage in existence, cannot expand the number of possible heirs to the throne. Thus, their suggestions included three components. First, the revocation of 13 October 1947 decision by the Imperial Household Council which abolished eleven imperial families, in which all descendants of the fourteenth-century emperor Suko (r. 1348–1351), were made commoners.<sup>27</sup> The second component of their suggestions was to recognize the children born out of wedlock as legitimate heirs as well or thirdly, to recognize an adoption of non-imperial individuals by an emperor. The fixation on a male heir from a male lineage, that is, not accepting female emperors as well as emperors from a descendant of a female emperor as legitimate, risks the extinction of the imperial line unless all male descendants, regardless of how far they are removed from their ancestor emperor, are assumed to remain members of the imperial house forever.<sup>28</sup> The orthodox monarchists prefer primogeniture but would accept female emperors

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<sup>25</sup> The most unfortunate aspect of the issue being tabled is that there appears to be a strong presumption that any amendment to the IHL will be applied retroactively to the existing prince and princess, instead of prospectively to those who will be born after the amendment.

<sup>26</sup> See papers submitted by Professors Ohara Yasuo and Yagi Hidetsugu, dated 31 May 2005: <https://www.kantei.go.jp/jp/singi/kousitu/dai6/6gijisidai.html>.

<sup>27</sup> The eleven families all belong to Fushimi branch, which was established in 1409 for a younger son of Suko, known as Yoshihito aka Nakahito. The great-grandfather of Fushimi Hiroaki, Prince Fushimi Sadanaru (1858–1923), had nine male siblings whose descendants, including those who married Meiji's daughters, are considered possible male lineage candidates by fundamentalists and orthodox proponents. It is not very surprising to find that many families faced extinction without a male heir, and adoption was the way to avoid such crisis. On the other hand, sons of emperors were often sent to Buddhist temples to be ordained as monks, in order to limit expanding imperial house members and to spare the cost of their maintenance.

<sup>28</sup> The 1889 IHL introduced the idea of designating all male descendants of male lineage as eternal members of the imperial family. Emperor Meiji was well aware of the fact that imperial male lineage since the eighteenth century, descended of Sakuramachi (r. 1735–1747) had barely survived through one son per generation, and he was not necessarily even a direct descendant: Momozono was the only surviving son of Sakuramachi; Gomomozono (r. 1771–1779) was the only surviving son of Momozono; Kokaku (r. 1780–1817) was the great-grandson of Higashiyama (r. 1687–1709); Ninko (r. 1817–1846) was the only surviving son of Kokaku; Komei (r. 1846–1867) was the only surviving son of Ninko; and Meiji himself was the only son of Komei; and Taisho was the only surviving son of Meiji. Since the 1860s, emperors Komei and Meiji established new families within the imperial house, which had not possible before for financial reasons: Prince Nakagawa (honored with 'prince' name and title in 1863) later known as Prince Kuni (in 1875), Prince Yamashina (1864), Prince Komatsu (1867), Prince Kitashirakawa (1870), and Prince Nashimoto (1871) were all sons of Prince Fushimi who were destined to be Buddhist monks and then left their temples by imperial edict in the 1860s to expand the imperial male lineage. They were followed by Prince Kacho (1868); Prince Kaya, a son of Prince Kuni (1900); Prince Higashifushimi, a son of Prince Fushimi (1903); Prince Takeda, a son of Prince Kitashirakawa and married to a daughter of Meiji (1906); Prince Asaka, a son of Prince Kuni and married to a daughter of Meiji (1906); and Prince Higashikuni, a son of Prince Kuni and married to a daughter of Meiji (1906). In 1907, an addendum to the IHL and an implementing order of 1920 provided for exceptions to eternal membership by allowing those who would not inherit the title of prince to become peers instead.

as long as they are of male lineage, and if the order of male-preference seniority among siblings were observed.<sup>29</sup> It appears that the orthodox line of thinking also allows princes and princesses of third generation and beyond from an emperor to become commoners by choice.

A 2005 report recommended that female emperors as well as an emperor from a descendant of a female emperor were eligible to reign, but the difference between accepting female emperors and female lineage remains very vague to most people, and of no great interest except when princesses express their wishes to marry, inevitably to commoners, evoking some concern about the future extinction of the imperial house.

The issue was brought to international spotlight when in March 2016, CEDAW suggested in its tentatively published concluding observations that female members of the imperial house should be given the chance to ascend to the throne. The Japanese Government quickly responded that the Imperial House Law has no intention of discriminating on account of gender. It then objected procedurally to the fact that the issue was raised at all because the topic was not discussed at the CEDAW hearing in February 2016 meeting, and suggested that it would be against natural justice to include a new issue in the final recommendation without affording an opportunity to respond. It explained that the Imperial Throne has a long history and tradition, and that there is a public support to the institution as it is. Furthermore, it indicated it was improper for the CEDAW to consider it problematic and unnecessary interference in domestic affairs.

In the final recommendation of 10 March 2016, the CEDAW dropped any reference to the Imperial House Law.<sup>30</sup> It is not clear from news reports<sup>31</sup> what the CEDAW considered problematic—the exclusion of a female emperor or emperors from female lineage or just the different treatment given to a prince and a princess. Furthermore, we should think seriously whether the inclusion of female members of the imperial house as potential heirs to the throne on par with male members is the most desirable solution to achieve equality. While this would likely achieve gender equality, should egalitarians be content with allowing the hereditary throne to survive when it achieved gender equality?

Japan did have female emperors in the past: they were daughters of emperors and, if married, were spouses to another emperor or emperor designate, and all emperors, whether, male or female, can trace their ancestors to another emperor through male line. Of course, some can also find their ancestry through the female line as well. From this, fundamentalist monarchists who argue for the exclusion of female emperors, would have hard time claiming they have solid historical facts on their side. Rather, it would be orthodox monarchists who could say that historical facts are very much on their side. It is quite possible to find someone with appropriate qualification to become an emperor, as the orthodox monarchists assert, who shares descent from a common ancestral emperor, possibly going back several hundred years. However, it is very likely that because there might be several candidates all of whom are so far removed from the reigning emperor that no one appears to be outstandingly qualified nor able

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<sup>29</sup> See the paper submitted by Professor Takamori Akinori, dated 8 June 2005: <https://www.kantei.go.jp/jp/singi/kousitu/dai7/7gijisidai.html>.

<sup>30</sup> CEDAW/C/JPN/CO/7-8.

<sup>31</sup> See, for example: *Sankei News*, 9 March 2016, <https://www.sankei.com/politics/news/160309/plt1603090006-n1.html>; *The Huffington Post*, 9 March 2016, [https://www.huffingtonpost.jp/2016/03/08/imperial-house-law\\_n\\_9413536.html](https://www.huffingtonpost.jp/2016/03/08/imperial-house-law_n_9413536.html).

to secure wholehearted support from the populace at large. A contest of legitimacy will certainly ensue. As to the egalitarian monarchists, a very strong sense of ‘proper’ gender roles within Japan works against adopting contemporary practices from other countries with regard to equal primogeniture. By the time that Hisahito, who is presently the youngest male of the current imperial house, must look for his successor, perhaps fifty years from now, Japan might be able to overcome the hardwired concept of gender and entrenched gender roles and observe the non-discrimination clause of the 1947 Constitution as well as CEDAW, or even go for an electoral model, a suggestion from an egalitarian theorist.

It is not just the continuous existence of the imperial house that justifies the role of the emperor as an institution. It often functioned as a counterbalance to other political institutions that exercise power.

### **The Role of Emperors in History**

It is interesting to find that, except for Jingu (r. 201–269), a third-century figure who became commander-in-chief after her spouse, Chuai (r. 192–200) passed away on route to suppress rebels in Kyushu, no female consort nor regnant empress has been associated with taking command of military forces. According to *Nihon shoki*, Jingu managed to suppress rebels, invade the Korean Peninsula and subjugate three countries there while she was pregnant with Ojin (r. 270–312).<sup>32</sup>

Since the eighth century, emperors did not engage in subjugating rebels themselves but sent shoguns for expeditions to conquer and subdue them.<sup>33</sup> Emperors, male and female, divested themselves from actual military power and left these matters to shoguns, the warriors designated by an emperor as the commander-in-chief, although historians differ as to who, where, and how the warrior class was formed. In other words, an emperor dressed in a military outfit, as Meiji and Showa had been photographed, was very much an anomaly.

If we are to take the mythology that these emperors are descendants of the goddess Amaterasu seriously, we expect imperial theology to be based on ancestor worship. Sujin<sup>34</sup> established a shrine separately for Amaterasu in Nara and designated his daughter, Toyosuki’iri as its guardian. His son, Suinin (r. 29BCE–99CE) designated his daughter, Yamatohime, as the guardian to Amaterasu’s shrine and she is said to have chosen Ise as the place to establish said shrine in 5BCE, according to *Nihon shoki*. Both are considered the origin of *Ise Saigu* the Imperial Priestess of Ise Shrine, whose function was to receive the will of Amaterasu, like the oracle at Delphi. Tenmu formally established the position of *Ise Saigu* and designated his daughter, Oku (661–702) as the *Saigu* in 673, to express gratitude for the blessing<sup>35</sup> of his

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<sup>32</sup> Ojin (r. 270–310) is one of the candidates who is considered to have possibly existed, rather than being a figure from mythology.

<sup>33</sup> For instance, Kanmu (r. 781–806) had sent armed forces led by Ki Kosami, in 789, and Otomo Otomaro and Sakanoue Tamuramaro in 802, to present-day Tohoku to subdue rebels there. An exception is the Conflict of Kusuko of 810, in which two brothers, Heizei (r. 806–809) and Saga (r. 809–823) fought for the throne.

<sup>34</sup> Sujin would have been 120 years old when he passed away. Inoue Mitsusada believes Sujin existed and places his reign of 68 years in the third to fourth centuries CE. Inoue Mitsusada, *Shinwa kara rekishi he* (Tokyo: Chuo koron sha, 1965), 272.

<sup>35</sup> In theory, worship of and offering to Amaterasu at Ise is exclusively reserved for emperors. Until the Heian period (794–1185/1192), the shrine at Ise had huge followings from the general populace. When the warrior class

victory over his nephew Otomo (acknowledged in 1870 as Kobun (r. 672–672)).<sup>36</sup>

It was in the fifth century that Confucianism reached Japan. Because of its emphasis on the expected moral performance of rulers and proper understanding of good governance, it was recognized as a matter of learning rather than religious teaching in Japan. It was taught to leaders and those aspiring to be leaders throughout history and has been reintroduced as a part of moral teaching (supposedly without any religious elements) in today's primary education curriculum.

In the mid-sixth century, Buddhism was officially introduced to Japan with the blessing of Kinmei (r. 539–571). The new belief caused conflicts among powerful clans whether to side with the new or the indigenous beliefs. This was eventually settled when Soga clan, the main promoters of Buddhism, destroyed the Mononobe clan, the leading followers of Shinto, in 587, and eventually succeeded in making Suiko the thirty-third emperor (r. 593–628).

Tenmu, Jito, and Shomu were great supporters of Buddhism at the court. Shomu eventually abdicated to be ordained and designated his daughter Koken as his successor. It was during the Nara era (710–784) that Buddhism saw full acceptance within the ruling elites, as can be seen by the construction of publicly-funded temples and court orders to establish *kokubun-ji*, or Buddhist temples in each and every governing unit or province, called *kuni*.

People began to attribute two names, one deriving from Shinto and the other from Buddhism, to indigenous deities, and, by the twelfth century, it appears that society in general accepted both Amaterasu's Shinto and Buddhism as intertwined into one belief: *Honji Suijaku*.<sup>37</sup> This school of thought explained that the so-called eight-hundred indigenous gods are all Buddha in different disguises and that the two teachings are really one and the same. It was a great shock to most people to be told at the time of Meiji Restoration (1868) that the two beliefs should be separated and Buddhism and its temples be destroyed as foreign because Shinto was the only way of life that was acceptable to the country governed by the descendants of Amaterasu.

The religious base of imperial system is considered relevant to the issue of female emperorship because one of the key obstacles to having a female emperor is that women have been excluded from participating in all coronation-related ceremonies because women cannot even attend these ceremonies under Shinto's teachings. These ceremonies were recreated in 1868, supposedly expelling foreign, or Chinese and Buddhist, influence and restoring imagined ancient rituals in accordance with Shinto teaching. The fundamentalist monarchists appear to assert that because of Shinto and its teaching, female emperors cannot possibly be accepted,<sup>38</sup>

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began to dominate the country in the late twelfth century, the shrine also lost its influence as well as the lands to support itself. As the Tokugawa Shogunate stabilized society, major shrines, including Ise, organized *onshi*, or leaders to vitalize Shinto, to organize followers and to encourage pilgrimage to shrines. *Oise mairi*, or a pilgrimage to Ise, which was a part of a larger trend of *okage mairi*, or pilgrimages of gratitude, which became a popular excuse to travel even for people who were not so well-off.

<sup>36</sup> Godaigo (r. 1318–1339) designated his daughter Shoshi/Sachiko as *Ise Saigu* in 1333 but she did not go to Ise. She is known as the last *Ise Saigu*.

<sup>37</sup> The theory of *Honji Suijaku* describes domesticated Buddhism which incorporated domestic gods within its belief as it was propagated in different parts of Asia.

<sup>38</sup> It is difficult to reconcile this argument with Article 20, the separation of the State and religion clause: "Freedom of religion is guaranteed to all. No religious organization shall receive any privileges from the State, nor exercise any political authority. No person shall be compelled to take part in any religious act, celebration, rite or practice. The State and its organs shall refrain from religious education or any other religious activity."

unless all Shinto ceremonies performed by an emperor, including coronation-related ceremonies where all foreign dignitaries are invited, are totally private.

## Imperial Rulership

Kanmu (r. 781–806) moved his court from Heijō (Nara) to Heian (Kyoto) in 784 and ruled directly. He introduced many reforms: he reorganized government structure, ordered shoguns to subjugate rebels, and abolished the army responsible directly to the emperor. Uda (r. 887–897) and Murakami (r. 946–967) are often described as emperors who directly ruled as well. But the reality is that by the mid-ninth century, members of the Fujiwara clan controlled the court and fiscal policy. They introduced and implemented taxes based on land. Tax-collection and administrative powers were then delegated to government officers sent to localities. This is the period when *The Tale of Genji* (written c.1010), a novel about the life story of an imperial prince made commoner, was written. Emperors, avoiding military responsibility and surrendering political power to their shoguns, became the greatest promoters and consumers of culture. The imperial court and courtiers have been perceived ever since as the guardians and patrons of culture, well-versed in music, poetry, calligraphy, and the arts in general.

In this context, the three emperors beginning with Meiji were exceptional: under the 1889 Constitution, the emperor was the head of Empire and the sovereign<sup>39</sup> who: exercised legislative<sup>40</sup> and executive<sup>41</sup> powers; convoked, opened, closed, prorogued the Imperial Diet and dissolved the House of Representatives;<sup>42</sup> issued imperial ordinances in the place of law if necessary;<sup>43</sup> was the supreme commander of the army and navy;<sup>44</sup> and declared war, made peace, and concluded treaties.<sup>45</sup> All powers, except for legislative power and the adoption of budgets, were exercised in the name of the emperor.

Yet the 1889 Constitution could be read as a form of constitutional monarchy in which governance was left to prime minister and his cabinet.<sup>46</sup> By 1898, Ito Hirofumi, considered the original architect of the 1889 Constitution, supported Okuma Shigenobu to form his cabinet which consisted mostly of the members of the Imperial Diet. By 1925, when male adults gained universal suffrage, the parliamentary cabinet became the usual way of conducting constitutional politics, although it had no foundation in the letters of the Constitution. In other words, emperors under the 1889 Constitution had delegated almost all of their powers to the

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<sup>39</sup> Article 4: “The Emperor is the head of the Empire, combining in Himself the rights of sovereignty, and exercises them, according to the provisions of the present Constitution.”

<sup>40</sup> Article 5: “The Emperor exercises the legislative power with the consent of the Imperial Diet.”

<sup>41</sup> Article 6: “The Emperor gives sanction to laws, and orders them to be promulgated and executed,” and Article 16: “The Emperor orders amnesty, pardon, commutation of punishments and rehabilitation.”

<sup>42</sup> Article 7: “The Emperor convokes the Imperial Diet, opens, closes, and prorogues it, and dissolves the House of Representatives.”

<sup>43</sup> Article 8: “The Emperor, in consequence of an urgent necessity to maintain public safety or to avert public calamities, issues, when the Imperial Diet is not sitting, Imperial ordinances in the place of law.”

<sup>44</sup> Article 11: “The Emperor has the supreme command of the Army and Navy.”

<sup>45</sup> Article 13: “The Emperor declares war, makes peace, and concludes treaties.”

<sup>46</sup> At least, this was the mainstream theory of constitutional law between 1900 and 1935 called *Tenno kikan setsu*, the emperor as an organ of government. The emperor was to act in accordance with the advice, assistance, and counsel of the government.

government.<sup>47</sup> Meiji had traveled around the country (except for Hokkaido) between 1872 and 1885,<sup>48</sup> before he had promulgated the Constitution but he remain largely invisible thereafter. People were shown photographs of Meiji, and then of Showa, in white military uniforms, as the symbolic supreme commander of the army and navy who conscripted people to the military to defend the imperial reign, known as *kokutai*. Society saw emperor as the all-seeing, all-knowing, benevolent father to his subjects, who were all his children. Thus, in spite of the 1889 Constitution, even emperors since 1868 ruled more as a symbol or figurehead of Japan while aiming for “the enriched country and the strengthened military.”

### **The Role of the Emperor in the 1947 Constitution**

Under the 1947 Constitution, with the advice and approval of the Cabinet,<sup>49</sup> the emperor performs acts in matter of state (official acts) as provided for in the Constitution.<sup>50</sup> These are ceremonial and, unlike some monarchs, the emperor has no political power, even the power to choose a prime minister in time of a hung parliament.<sup>51</sup>

Academics have argued about the nature of his public engagements, such as (i) attending the opening of the Diet, (ii) attending attestation ceremonies of the appointment and dismissal of ministers, and of ambassadors and ministers, (iii) attending the national games,<sup>52</sup> (iv) giving the “emperor’s speech” at public events, (v) official visits to various areas of Japan and abroad, as opposed to private visits, (vi) official entertainment of foreign dignitaries, and (vii) holding “official” new year’s celebration and other events.

The official line is that all engagements are conducted under the advice and approval of the Cabinet, and some ceremonial acts are necessary as protocol and comity, internationally as well as domestically. The reason for academic concern is not that an emperor would not

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<sup>47</sup> Apart from the symbolic meaning of whether to prosecute him as a war criminal, the focus of Showa and his responsibility as the Head of the State should have been what discretion he had or could have exercised.

<sup>48</sup> Before 1868, emperors were discouraged from leaving Kyoto Palace, and were largely unknown to the populace. There are several theories: the Tokugawa Shogunate explicitly prohibited emperors leaving Kyoto, which might have reminded people of the existence of an authority other than the shogun, Tokugawa and other shoguns discouraged emperors from embarking on outings because they were unwilling to financially support such expenditures. In any case, the economic situation of the court was severely limited.

<sup>49</sup> Article 3: “The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefore.”

<sup>50</sup> Article 7, “The Emperor, with the advice and approval of the Cabinet, shall perform the following acts in matters of state on behalf of the people: Promulgation of amendments of the constitution, laws, cabinet orders and treaties; Convocation of the Diet; Dissolution of the House of Representatives; Proclamation of general election of members of the Diet; Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law, and of full powers and credentials of Ambassadors and Ministers; Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights; Awarding of honors; Attestation of instruments of ratification and other diplomatic documents as provided for by law; Receiving foreign ambassadors and ministers; and Performance of ceremonial functions,” and Article 6: “The Emperor shall appoint the Prime Minister as designated by the Diet. The Emperor shall appoint the Chief Judge of the Supreme Court as designated by the Cabinet.”

<sup>51</sup> Article 4: “The Emperor shall perform only such acts in matters of state as are provided for in this Constitution and he shall not have powers related to government.”

<sup>52</sup> Similar to the Commonwealth Games but held annually, in summer and in winter, and hosted by a different prefecture each year.

hesitate to expand his power to perform official actions which the cabinet cannot control, but the very possibility that politicians could be willing to use an emperor's appearance at certain events as sign of approving a partisan idea, and effectively blocking different voices, could be seen as disrespectful to the emperor.

In April 2012, when the Liberal Democrat Party (LDP) was out of power,<sup>53</sup> it published a proposal to amend the 1947 Constitution.<sup>54</sup> Instead of totally re-writing a new constitution, it added phrases to the existing framework except for the preamble which declared that Japan has a long history, venerable tradition and unique culture, and its people are willing to defend its nation and homeland by themselves for posterity to inherit their tradition and state forever. Concerning the imperial system, the proposal added the phrase that the emperor shall be the head of state (Article 1), that he may, instead of advice and approval, be advised of all acts in matters of state, and attend public events hosted by national and local governments (Article 3, renumbered as Article 6), that he shall declare dissolution of the House of Representatives (Article 7, renumbered as Article 6 clause 2), all in the name of the people. According to LDP's explanations, the emperor *is* the head of state and *can* perform public duties, and these phrases are inserted to make sure that what he performs are not "ultra vires" acts today, even though these actions are not enumerated in the Constitution.

Compared to the 1889 Constitution, the LDP proposal is a far cry from the revival of the "emperor as living god," the lineal descendant of Amaterasu. But, with the publication of this proposal, people began to notice such words as "committing lèse majesté" in discourses referring to members of the imperial family. The existence of an emperor had been used, under the 1889 Constitution, to silence those deemed outsiders and non-conformists—often with brutal force. Like national security, things claimed to be done for the protection of monarchy are not easy to scrutinize, even though there is no provision to punish lèse majesté, government actions appear to be overly protective of the monarch, causing people to refrain from criticizing the monarch and causing chilling effect upon the rights and freedoms as guaranteed in the constitution.

### **Informal Roles that the Emperors have Chosen to Perform**

Under the 1889 Constitution, it was the function of empress consorts and empress dowagers to pray for the country while emperors were commanders-in-chief and engaged in wars.<sup>55</sup> Today, the emperor under the 1947 Constitution has no political power and is expected to maintain an existence as the symbol of national unity. Because he is deprived of any secular power, today's emperor, together with his consort, prays for all those who are suffering. Their official visits within Japan are often to shelters to meet evacuees, hospitals and homes to meet

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<sup>53</sup> LDP was out of power twice since the Liberal Party and Democrat Party merged in 1955: between July 1993 and June 1994, and August 2009 and December 2012.

<sup>54</sup> Jiyuminshuto, *Nihonkoku kempo kaisei soan*; LDP, *The Draft of Amendments to the Constitution of Japan*, 27 April 2012. Colin P.A. Jones, "The LDP Constitution, article by article: a preview of things to come?" *The Japan Times*, 2 July 2013, gives an idea of what it proposes to do in English.

<sup>55</sup> According to a notice by the Imperial Household Agency, dated 9 December 1876, all male members of the imperial house except for the emperor and heir apparent were to serve either in the military or the navy, unless they are deemed too old or too young. See: Masao Asami, *Fushimi no miya: Mou hitotsu no tennoke*, rev. ed. (Tokyo: Chikuma shobo, 2020), 237–238.

invalids and elderlies, to ceremonies to meet the survivors of natural and sometimes man-made disasters, and to pray for the dead and the deprived. In other words, the functions of emperor and of his consort have merged, or, we might say his function became feminized. Most would accept that the emperors under the 1947 Constitution have done much to integrate marginalized people, or at least made these people feel included and not forgotten.

The Imperial House as an institution is still considered to some extent to be the guardian and patron of traditional arts in general: the Imperial House Agency employs and trains an orchestra of musicians who specialize in ancient musical instruments and performers of ancient dances as civil servants. Members of the imperial house are expected to present their own *waka*, a poem of thirty-one syllables, at an annual poetry reading event in January and at other occasions. The Imperial family's collections of Japanese arts are numerous and of high quality.

Unlike royal family members in other countries, female members of the imperial house are rarely seen in public and hardly ever function as role models in fashion, lifestyle, or even relationships within a nuclear family. With a new generation of commoners marrying members of the imperial house, some expected these women—who were all brought up abroad and none of whom were daughters from the old peerage families—to modernize the ways things are done at the imperial house. The example of Empress Masako, who had her career as a diplomat is well known. Princess Kiko is well educated and has a PhD in psychology. Princesses Nobuko and Hisako were also educated abroad. These experiences apparently did not help them to introduce changes to promote gender equality within. It is true that members of the imperial house, especially emperors, have the ability to introduce sometimes surprising changes because their wishes are always honoured even when it would drastically alter the ways things are done at court. Because emperors Meiji and Showa both wished it, their daily customs were far more westernized than an average contemporary Japanese could have imagined in pre-World War II Japan. Yet the same cannot be said as true of spouses to the fourth-, fifth-, and sixth-generation imperial house members.

As they are totally lacking any formal power, it may be difficult for for female members of the imperial house to influence gender issues. Or, they may not be interested in the issue at all, as their status hinge upon being supportive to their spouses.

Maybe because they have been politically powerless, much less involved in any controversial position, modern emperors may have been able to survive as the symbol of unity and the guardian of Japanese culture. Yet, princesses who married the imperial house members in the past fifty years or so are all brought up or educated outside of Japan. On the one hand, would this make it difficult to assert that emperors and their consorts are the most suitable people to be the guardian of Japanese culture? On the other hand, in the age of globalization, people might have to think seriously about what is Japanese culture or search their souls about being Japanese before entrusting emperors to be guardians of Japanese culture? Even with his informal role to pray, one wonders for whom and for what are emperor and his consort praying: is it for the country? or for the people? or something more universal like peace?

### **Is a Constitutional Amendment Needed for a Female Emperor?**

A short and legalistic answer is no. The 1947 Constitution provides for the equality of sexes (Article 14), refers to dynastic succession but not its exact order (Article 2) by delegating



the issue to the Imperial House Law passed by the Diet (Article 2). The fact that Prime Minister Koizumi Jun'ichiro invited an advisory council in 2004 to review and recommend acceptable amendments to the Imperial House Law indicates that the real obstacle to enthroning female emperors is the Imperial House Law, not the Constitution.

In any case, it is not necessary to amend the 1947 Constitution to accomplish a gender-neutral monarchy. It all depends on how the Imperial House Law defines who is eligible. The Imperial House Law is politically difficult to amend. The difficulty is that no one is quite certain whose idea is supported most among the populace: is it fundamentalist, orthodox, or egalitarian monarchists? Like many critically important things in Japan, the issue has been and will be left as it is until it becomes urgently necessary to decide one way or the other.

My suggestion is to amend the Imperial House Law to introduce periodic elections, once every ten years for example, in which all those born as a member of the imperial family become candidates when they become of age. It would accommodate Article 1 of the 1947 Constitution which provides that the emperor “deriv[es] his position from the will of the people with whom resides sovereign power” because the most usual way of showing the will of the people would be by election. It would also satisfy Article 2 which states that the throne be dynastic. I have not seen any suggestion, let alone any support, for the idea so far but it might be worth thinking about changing the system to adapt to the twenty-first century.

Japan has adopted the Constitution with the “no discrimination clause because of sex” clause in 1947, although it does not contain “guarantee of gender equality.” It ratified the CEDAW, aiming to establish gender equality in 1985. It might be about time to rethink about gender equality and the Chrysanthemum Throne. But to amend the Constitution to include gender equality to save this gendered monarchy from extinction appears to be nothing but a paradox.