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Between the Majoritarian and the Consensual Model: The Case of Japanese Legislative Authority

Między modelem majorytarnym a konsensualnym: przypadek japońskiej władzy ustawodawczej

This article aims to examine to what extent the legislative process in the Japanese Diet has conformed to the majoritarian or the consensual model. The author pays attention to the constitutional determinants of the functioning of both houses of the parliament and the unwritten traditions stemming from the political culture. While such factors as the lack of the government's direct control over the scheduling of parliamentary sessions, high autonomy of parliamentary committees, bicameralism, and limited length of parliamentary sessions compelled the ruling parties to seek consensus with the opposition, the government also possessed many instruments of imposing its will on lawmakers. This article analyses the institutional, cultural, and historical reasons for this complex situation, emphasising the evolution of the legislative practices depending on the balance of power in the Diet and the degree of governmental control over the ruling party.

Keywords: Japan, legislative process, consensual model, majoritarian model

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Artykuł ma na celu zbadanie, w jakim stopniu proces legislacyjny w japońskim parlamencie jest zgodny z modelem majorytarnym, a w jakim z modelem konsensualnym. Autor zwraca uwagę na konstytucyjne uwarunkowania funkcjonowania obu izb parlamentu oraz niepisane tradycje wywodzące się z kultury politycznej. Podczas gdy takie czynniki, jak brak bezpośredniej kontroli rządu nad ustalaniem terminów sesji parlamentarnych, duża autonomia komisji parlamentarnych, dwuizbowość i ograniczony czas trwania sesji parlamentarnych zmuszały partie rządzące do poszukiwania konsensusu z opozycją, rząd dysponował również wieloma instrumentami narzucania swojej woli ustawodawcom. W niniejszym artykule przedstawiono analizę przyczyn instytucjonalnych, kulturowych i historycznych tej złożonej sytuacji i podkreślono ewolucję praktyk legislacyjnych w zależności od układu sił w parlamencie i stopnia kontroli rządu nad partią rządzącą.

Słowa kluczowe: Japonia, proces legislacyjny, model konsensualny, model majorytarny

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I. Introduction

Researchers have rarely been interested in the legislative process in Japan. This was a result of the fact that due to the almost unceasing reign of the Liberal Democratic Party (LDP), the decision-making process in internal organs of that dominant party influenced the legislative process to a greater extent than procedures in both houses of the parliament.[1] After authorising a bill project by the LDP General Council, all LDP lawmakers were obliged to vote according to the party decision. For that reason, government-sponsored bill projects usually were not subject to further discussion by the ruling party politicians. Due to a limited length of parliamentary sessions, also opposition lawmakers had little way of conducting debates in both houses. As a result, the legislative process in the Diet was considered as not overly significant.[2]

Even though the government treated the parliament as a 'voting machine', Japan's political system has been often called a consensual democracy. Arend Lijphart distinguished two models of democracy: majoritarian (Westminster) and consensual. The former is characterised by an uncompromising realisation of the political program of the parliamentary majority, and the latter by taking into account also the minority's stance when making decisions. While the majoritarian model may easily coexist with liberal democracy in homogenous societies, in heterogeneous communities, it may lead to the complete exclusion of minorities from access to power.[3] The majoritarian model is favoured by: concentration of power in one-party cabinets, the dominance of the executive over the legislature, two-party system, majority electoral system, pluralist system of interest groups, unitary territorial system, a unicameral parliament, ease of changing the constitution, weak judicial control over the compliance of laws with the constitution, and the dependence of the central bank upon the government. The traits of the consensual model, in turn, include: multi-party ruling coalitions, the balance of power between the executive and the legislature, multi-party system, proportional electoral system, system of interest groups based on corporatism, decentralised and federal territorial system, bicameral parliament, rigid constitutional system, strong judicial control over the constitutionality of laws, and independence of the central bank from the government.[4] Taking the abovementioned factors into account, Japan's political system has been close to the model of consensual democracy. Its majoritarian character has been weakened by, among other things, the fact that

[1] Since its establishment in 1955, the LDP lost power only twice – in 1993–94 and 2009–12.

[2] According to Nonaka and Aoki's calculations, in 1999–2012, plenary sessions in the Japanese House of Representatives on average took only 64.6 hours per year, only 0.3 per cent of which was devoted to debates. For comparison, in the lower chambers of Diets in Great Britain and France approximately 1,200 hours annually were allocated for plenary sessions, one third of which was devoted to debates. See N. Nonaka, H. Aoki, *Seisaku kaigi to tōron naki kokkai. Kantei shudō taisei no seiritsu to kōtai suru jukugi* (Asahi Shinbun Shuppan, Tokyo, 2016), pp. 160–62.

[3] A. Lijphart, *Patterns of Democracy. Government Forms and Performance in Thirty-Six Countries* (Yale University Press, New Haven, 1999), pp. 32–33.

[4] *Ibid.*, pp. 1–4.

the dominant party has been, in truth, a coalition of highly institutionalised factions[5] and that cultural norms prompted the government to build broader support for its initiatives.[6]

The subject of analysis of this article is not the quality of Japanese democracy but rather the nature of the legislative process. The studies conducted so far give divergent answers to how much the legislative process in Japan resembles the majoritarian and how much the consensual model. Mikitaka Masuyama examined the level of consensuality of the Japanese parliament on the Döring scale, which takes into account the degree of government control over the schedule of meetings and initiation of budgetary bills, the powers of parliamentary committees, the possibility of obstruction during plenary proceedings, as well as the maximum lifetime of bills. Comparing Japan to other democratic countries, he concluded that the ruling party had relatively numerous instruments of imposing its will on opposition groups.[7] Mike Mochizuki, in turn, called the legislative process in Japan 'viscous' because a relatively high percentage of government-sponsored bills were either rejected or modified at the request of opposition parties.[8] Nonaka Naoto, more bluntly, compared the Japanese parliament to the Galapagos Islands. He stated that the legislature in Japan developed numerous unique customs reminiscent of endemic species of plants and animals in an isolated archipelago. In particular, Nonaka emphasised the vulnerability of the ruling party to pressure from opposition groups that try to bargain concessions in exchange for refraining from disturbing deliberations, which is rarely seen in other countries.[9] Only some researchers pointed out that the legislative process in Japan was subject to dynamic changes stemming from the evolution of broader conditions. As Patrick Hein noted, bills submitted at the initiative of parliamentarians beyond party divisions have gained popularity since the LDP was forced to form coalition governments in the 1990s.[10] On the other hand, Kawamura Kazuyoshi stated that the level of consensuality depended not so much on the ruling party's policy as on the strategy of the largest opposition party.[11]

The discrepancy in research conclusions on the nature of the legislative process in Japan resulted from two factors. Firstly, hitherto analyses have emphasised either

[5] Factionalism was based on the complementary interests of rank-and-file members and faction leaders. While the former counted on election funds and assistance in their political careers, the latter expected loyalty during the LDP presidential elections. See S. Tsuchiya, *Jimintō habatsu kōbōshi* (Kadensha, Tokyo, 2000).

[6] Lijphart, *Patterns of Democracy*, pp. 72, 108, 255.

[7] M. Masuyama, 'Is the Japanese Diet Consensual?', *Journal of Legislative Studies*, vol. 6, no. 4 (2000), pp. 9–28.

[8] M. Mochizuki, 'Managing and Influencing the Japanese Legislative Process: The Role of the Parties and the National Diet' (unpublished PhD thesis, Harvard University, 1982).

[9] N. Nonaka, *Saraba Garapagosu seiji: Kimerareru Nihon ni tsukurinaosu* (Nihon Keizai Shinbun Shuppansha, Tokyo 2013), pp. 36–121.

[10] P. Hein, 'Strengthening the Legitimacy of Representative Democracy: Public Participation, Bipartisan Floor Bills and Plenary Deliberations in the Japanese Diet', *East Asia*, vol. 27, no. 3 (2010), pp. 289–311.

[11] K. Kawamura, 'Nihon no seitōsei no henyō to yatō daiichitō no kinō', *GEMC Journal*, no. 5 (2011), pp. 80–103.

formal regulations or unwritten customs derived from political culture. Secondly, some of them have not paid enough attention to the fact that the legislative process has changed along with the evolution of the Japanese political scene. This article analyses the dynamics of changes in both official and informal rules affecting the level of consensuality of the legislative process in Japan. According to Article 41 of the Japanese Constitution: "The Diet shall be the highest organ of state power, and shall be the sole law-making organ of the State".[12] Despite this fact, such determinants as the LDP dominant position, strong influence of the bureaucrats on the decision-making process, or the shortness of parliamentary sessions resulted in the ritualisation of debates in both chambers and, consequently, the decline in the importance of legislative procedures. Instead of a place for candid discussions, the parliament has become an arena of political disputes between the ruling coalition and opposition parties. The central thesis is that the way these disputes were managed depended on two factors that evolved over time: the distribution of power in the parliament and the degree of government control over the ruling party.

This article examines the factors that influenced the consensual or majoritarian nature of the legislative process in Japan in various periods under the current Constitution, which entered into force in 1947. It relies on institutional and legal analysis and decision-making methods to describe both the official regulations contained in the Constitution and laws and the informal mechanisms, e.g. described in politicians' diaries. The article consists of three sections devoted to the most important determinants of the legislative process in Japan, i.e. the possibility of influencing legislative procedures by the government, the bicameral structure of the Diet, and the political culture. The author argues that periodic changes influenced the ruling party's inclination towards consensual or majoritarian behaviour towards the opposition in each of these fields.

II. The Influence of the Executive on the Legislative Process in Japan

One of the most characteristic features of Japanese parliamentarism has been a relatively weak control of the executive over the legislative process. It resulted from the extensive powers of the speakers of both chambers and the chairpersons of parliamentary committees, as well as the limited length of parliamentary sessions. For this reason, to ensure that laws were processed efficiently, the government secured support from the ruling party lawmakers before submitting bill projects to the Diet. Afterwards, mobilising all political resources, it used both persuasion and pressure to compel the opposition parties to cooperate.

While factionalism within the LDP forced the government to consensual behaviour during debates in party decision-making bodies, after a bill was submitted to the parliament, the government's efforts focused almost exclusively on weakening

[12] Prime Minister of Japan and His Cabinet, *The Constitution of Japan*, 3 November 1946, <https://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html>, accessed 2 April 2021.

resistance from opposition parties. The limited length of parliamentary sessions forced the government to plan the legislative process carefully. Regular sessions ran from January to June, and extraordinary sessions were traditionally convoked from September to December. The custom of not transferring the procedure on a given bill project from one session to another meant that the ruling party was under the constant pressure of time. Notably, the government had no direct influence on the schedule of meetings decided by the speakers of both chambers and the chairpersons of parliamentary committees. In practice, the timetable of meetings was established by the Steering Committees (*Giin Un'ei Iinkai*) in the House of Councillors and the House of Representatives, which included representatives of all major parties.[13] Moreover, there were no long-term arrangements on the schedule of meetings, which forced the ruling party to conduct tedious weekly negotiations with the opposition. The government had no influence on the contents of amendments to the laws it proposed and was even deprived of the right to withdraw its bill projects from the parliament without the consent of a given chamber.[14] The prime minister was also unable to impose the order in which bills were to be proceeded, nor to link the voting on a specific law to a confidence motion to strengthen party discipline. In fact, the role of the government in the legislative process was limited to the legislative initiative and to responding to questions from lawmakers.[15]

While traditionally, the government did not have many institutional means of controlling the legislative process, the concentration of power in the hands of the prime ministers and their closest entourage can be observed since the 1990s. The stronger position of the head of government resulted in an increased discipline in the ruling party, which indirectly translated into the possibility of putting pressure on parliamentarians. In 1994, the electoral system was reformed, and budget subsidies for political parties were introduced, which effectively weakened factionalism and strengthened the position of central party organs.[16] In 2001, in turn, a reform of central government entered into force. As a result, the prime minister obtained new powers related to the initiation of so-called 'important policies' (*jūyō seisaku*) beyond ministerial divisions. The Cabinet Office (*Naikaku-fu*) was also established, which strengthened the administrative backing for the head of government.[17] These institutional changes facilitated the emergence of strong prime ministers, such as Koizumi Jun'ichirō in 2001–06 and Abe Shinzō in 2012–20, who secured the LDP's significant predominance over the opposition parties.[18]

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[13] H. Takenaka, 'Minshutō seiken to Nihon no giin naikakusei', in *Seiken kōtai to seitō seiji. Rekishi no naka no Nihon seiji 6*, ed. J. Iio (Chūō Kōron Shinsha, Tokyo, 2013), pp. 146–49.

[14] Nonaka, *Saraba Garapagosu seiji*, pp. 84–96.

[15] S. Kawato, *Giin naikakusei* (Tōkyō Daigaku Shuppankai, Tokyo, 2015), pp. 25–72.

[16] E.S. Krauss, R.J. Pekkanen, *The Rise and Fall of Japan's LDP. Political Party Organizations as Historical Institutions* (Cornell University Press, Ithaca–London, 2011), pp. 235–39.

[17] B. Woodall, *Growing Democracy in Japan: The Parliamentary Cabinet System since 1868* (University Press of Kentucky, Lexington, 2014), pp. 174–77.

[18] In the elections of 2005, 2012, 2014, and 2017, the LDP won nearly two-thirds of seats in the House of Representatives. At the same time, together with its coalition partner Kōmeitō, in the elections of 2004, 2013, 2016, and 2019, it retained majority of votes in the House of Councillors.

Prime Minister Koizumi was widely regarded as a charismatic, eccentric leader who preferred top-down methods of exercising power. He was the first head of government who refused to accept factional recommendations for positions in the cabinet, which symbolised a decline in the importance of divisions within the LDP. While maintaining high support for the government throughout his term in office, Koizumi kept his opponents in the party in check. His strong position in the LDP translated into the ability to control the legislative process. For instance, he pushed through the parliament a bill that authorised sending Self-Defense Forces to the Indian Ocean to provide logistical support to the US Navy during an operation in Afghanistan following terrorist attacks on New York and Washington on 11 September 2001. The decision was approved by party organs on 28 September, by the House of Representatives on 18 October, and by the House of Councillors on 29 October 2001. The parliamentary debate lasted only seven days – remarkably short for a revolutionary bill that authorised the first use of Self-Defense Forces within an alliance with the US outside the 'area surrounding Japan', which remained the alliance's scope under its 1999 guidelines. As the prime minister wanted to have the bill passed as fast as possible, he ignored the possibility of reaching a compromise with the opposition Democratic Party of Japan, which was ready to support the bill in exchange for adding a clause on prior authorisation of dispatching Self-Defense Forces by the parliament. Ultimately, all major opposition groups voted against the bill, but they could not block the legislative process.[19]

Like Koizumi, Prime Minister Abe preferred to govern in a top-down manner. Notably, he implemented institutional reforms that further strengthened his role in the decision-making process. For example, he created the Cabinet Bureau of Personnel Affairs, thanks to which he took control of the appointments of high-ranking bureaucrats in all ministries. Abe formed a cohesive team of officials in the Cabinet Secretariat that enabled him to centralise power. While he did not carry out any reforms in the parliament's structure, he innovatively used the preexisting rules to strengthen his control over the legislative process. Thanks to his strong position vis-à-vis the ruling party, the speakers of both houses and the chairpersons of parliamentary committees implemented his instructions without discussion. First of all, Abe took greater advantage than his predecessors of the possibility of setting up special parliamentary committees to deal with issues that fell beyond the jurisdiction of a single ministry. In this way, he managed to circumvent standing committees, in which deliberations were subject to numerous limitations, such as the lack of flexibility in scheduling meetings. Special committees usually dealt with particularly controversial bills, e.g. national security laws that legalised Japan's participation in collective self-defence pacts. The bills were voted through in the summer of 2015 despite fierce opposition from the largest opposition party. In 2017, the prime

[19] B. Bochorodycz, 'War on Terrorism under the Koizumi Cabinet', in K. Zakowski, B. Bochorodycz, M. Socha, *Japan's Foreign Policy Making: Central Government Reforms, Decision-Making Processes, and Diplomacy* (Springer, Cham, 2018), pp. 38–40.

minister put pressure on the parliament to enforce the reduction of the time allocated to opposition parties for asking parliamentary questions during plenary sessions.[20]

The relatively weak executive control over the legislative process usually prompted the government to act in a consensual manner toward lawmakers. To ensure that the bills were passed, the prime ministers and their entourage preferred to avoid antagonising both opposition parliamentarians and the ruling party. However, the situation was different if the heads of government sufficiently strengthened their position against potential veto players. As shown by the examples of Prime Ministers Koizumi and Abe, after electoral and administrative reforms, the government gained new instruments of exerting pressure on the Diet, thus approaching the majoritarian model.

III. Bicameralism of the Japanese Diet

A factor that could force the government to consensual behaviour towards lawmakers was the bicameral structure of the Japanese parliament. Due to the difference in electoral systems for both houses, it was more difficult for the ruling party to maintain control over the House of Councillors (upper) than over the House of Representatives (lower). Moreover, the upper house members enjoyed greater autonomy from the government than the members of the lower house, which additionally made the decision-making process more difficult.

Each law had to be passed in any order by both houses. In case of a disagreement between them, the House of Representatives could overrule the House of Councillors' veto by a two-thirds majority. The exceptions were budget laws, international treaties, elections of the prime minister, and no-confidence motions, in which the decision of the lower house prevailed by a simple majority. The House of Councillors could pass a censure motion (*monseki ketsugian*) against the prime minister and individual ministers, but, unlike the no-confidence motion in the House of Representatives (*fushinnin'an*), it had no binding force. On the other hand, the passage of a censure motion also hindered the decision-making process, as it excluded the person in question from the proceedings in the House of Councillors and spoiled relations between the government and the opposition parties to the extent that the prime minister or minister was under pressure to resign. Considering that all budget amendments were treated as ordinary laws and required unanimity of both chambers, a loss of control over the House of Councillors on many occasions forced the government to initiate long-lasting negotiations with the opposition. Even when the ruling coalition had two-thirds of votes in the lower house necessary to reject the upper house's veto, the opposition could delay the legislative process by 60 days – the time stipulated in the Constitution for the decision of the House of Councillors.[21] The position of the upper house was strong also because the nomination

[20] K. Zakowski, *Gradual Institutional Change in Japan. Kantei Leadership under the Abe Administration* (Routledge, London–New York, 2021), pp. 155–57.

[21] H. Takenaka, *Sangiin towa nanika. 1947–2010* (Chūō Kōron Shinsha, Tokyo, 2010), pp. 11–21.

of many high-ranking state officials, e.g. the president of the Bank of Japan or the director of the National Personnel Authority, had to be approved by both chambers.[22]

The difference of the electoral system to the upper house made it much more difficult for one party to win a majority of seats in that chamber than in the lower house. Until 1994, members of the House of Representatives were elected for four-year terms by a single non-transferable vote in medium-sized districts. This system strengthened factional divisions and successfully petrified the dominant character of the LDP. In 1994, a mixed system was introduced, based on 300 (presently 289) single-member constituencies and 200 (presently 176) seats distributed proportionally in 11 large regional blocs. As it was mainly based on a majoritarian system, it facilitated the winning party to maintain a stable majority. In the House of Councillors, on the other hand, some seats (presently 98, planned 100) came from a proportional system in a constituency covering the whole of Japan. In contrast, some chamber members (presently 147, planned 148) were elected by a single non-transferable vote at the prefecture level. Moreover, only half of members were elected for six-year terms every three years. Due to the complicated and essentially proportional electoral system, the ruling party repeatedly lost control of the upper house. The so-called 'twisted Diet' (*nejire kokkai*), when the opposition held a majority in the House of Councillors, took place in 1989–93, 1998–99, 2007–09, and 2010–13. Each time, it forced the ruling party – the Democratic Party of Japan in 2010–12 or the LDP in other cases – to seek support from individual opposition groups for various bills. Paradoxically, the success rate of bills submitted to the parliament by the government grew when the ruling party lost control of the upper house. This was because the prime ministers and their entourage intentionally abandoned the idea of initiating the legislative process on the most controversial laws that the opposition would reject.[23]

Bicameralism favoured maintaining the consensual nature of the legislative process also by forcing the largest party to enter into coalitions with smaller parties. While most of the time, the LDP had a sufficient majority of seats in the House of Representatives to form a government independently, from the 1990s, it required a coalition partner to maintain control over the House of Councillors. In 1994–96, it formed a coalition with the Japan Socialist Party, and in 1999, it started cooperation with Kōmeitō – a centrist group that was a political branch of the Buddhist sect Sōka Gakkai. Similarly, despite having two-thirds of seats in the lower house, in 2009–10, the Democratic Party of Japan formed a coalition with the Social Democratic Party and the New People's Party. Program differences between the largest group and its coalition partners repeatedly compelled all sides to initiate long-lasting negotiations to reach a compromise. The best-known examples include the cabinet decision legalising Japan's participation in collective self-defence pacts of July 2014 and its implementation by the national security laws, passed by both chambers in the summer of 2015. While Prime Minister

[22] T. Ohya, 'Twisted Diet: A Failure in Legislating Politics in Japan', *Legisprudence*, vol. 2, no. 3 (2008), pp. 255–56.

[23] A. Miyoshi, 'The Diet in Japan', *Journal of Legislative Studies*, vol. 4, no. 4 (1998), pp. 97–98.

Abe Shinzō was anxious to reinterpret Article 9 of the Constitution, which denied Japan the right to wage war and possess any military potential, Kōmeitō, committed to pacifist ideals, wanted to stop these plans. Ultimately, both sides compromised by developing a concept of 'limited' collective self-defence.[24]

In the legislative process, the LDP had to take into account not only the position of its coalition partner but also the stance of its own members from the House of Councillors. Upper house lawmakers enjoyed considerable autonomy from the central authorities of the LDP. Such a situation resulted, among other things, from the fact that the prime minister did not have the right to dissolve the House of Councillors, and its members were elected for long terms of six years. Since the authorities of the ruling party did not have similarly effective means of maintaining discipline during voting in the upper house as in the lower house, they were more willing to resort to consensual practices. Often, extensive influence in the party was gained by the chairperson and the secretary-general of the House of Councillors LDP Caucus, such as Murakami Masakuni (secretary-general in 1995–98 and chairperson in 1999–2001) or Aoki Mikio (secretary-general in 1998–99 and 2000–04, and chairperson in 2004–07). In case of disagreement with party leadership, they could use their position to block the legislative process.[25] An often-cited example was Murakami's opposition to a resolution commemorating the fiftieth anniversary of the end of World War II in August 1995. Contrary to his stance, the House of Representatives passed a resolution that recognised Japan's responsibility for colonial rule and war of aggression. As Murakami argued that this version of the statement violated his unofficial arrangements with the LDP Policy Research Council Chairperson Katō Kōichi, he used his influence to have the resolution removed from the agenda of the upper house.[26]

On the other hand, strong prime ministers could afford less consensual behaviour towards the House of Councillors. Privatisation of the Japan Post in 2005 was the best-known example of overcoming the upper house's resistance to the head of government's initiative. The plan of this reform, promoted by Prime Minister Koizumi Jun'ichirō, met with opposition from many LDP members who represented the interests of postal workers' unions. While the controversial bill was passed in the lower house, it was rejected in the upper house by votes of the opposition and some LDP politicians. Surprisingly, Koizumi then dissolved the House of Representatives to win the two-thirds majority needed to reject this veto. At the same time, he deprived all politicians who voted against the bill of party membership. The inhabitants of large cities appreciated his determination to implement neoliberal reforms, which translated into an excellent electoral result for the LDP. Ultimately, Koizumi not only achieved his policy goal but also further strengthened his position in the ruling party.[27]

[24] Zakowski, *Gradual Institutional Change in Japan*, pp. 206–29.

[25] Takenaka, *Sangiin towa nanika*, pp. 210–14.

[26] A. Uozumi, *Shōgen Murakami Masakuni. Ware, kuni ni uragirareyōtomo* (Kōdansha, Tokyo, 2007), pp. 176–79.

[27] K. Żakowski, 'Strategic Use of Early Elections in Japan: Comparison of the Koizumi and Abe Cabinets', *Athenaeum. Polskie Studia Politologiczne*, vol. 63, no. 3 (2019), pp. 83–85.

The relatively broad powers and considerable autonomy of the House of Councillors strengthened the prime ministers' tendency to respect the consensual model of the legislative process. This was true not only when the opposition took control of the upper house but also when members of this chamber from the ruling coalition were able to resist the government's initiatives effectively. Nevertheless, as the example of the privatisation of the Japan Post has shown, strong prime ministers could occasionally resort to a majoritarian model of exercising power.

IV. Political Culture in Japan

While constitutional regulations determined the general nature of the relationship between the executive and the legislature, the details of the legislative process depended to a large extent on unwritten customs developed in the parliament. As admitted by Lijphart, "consensus democracy may not be able to take root and thrive unless it is supported by a consensual political culture".[28] In the case of Japan, the relationship between the ruling party and the opposition was developed over the decades of the evolution of the post-war political system. The unquestionable domination of the LDP initially favoured the majoritarian model, however, weakened in the 1970s, the ruling party was forced to act in a more consensual manner.

When the Japanese Democratic Party and the Liberal Party merged to form the LDP in 1955, virtually all Japanese conservative politicians united in one party. As a result, the LDP completely dominated the Japanese political landscape. Taking full advantage of its complete control over all parliamentary committees, the ruling party repeatedly avoided lengthy discussions in the Diet and used forceful solutions in both houses. The opposition parties, in turn, unable to persuade the LDP to make concessions through negotiations, often resorted to controversial methods of disrupting parliamentary sessions, such as blocking the rostrum or door to the committee or even struggling with lawmakers from the ruling party. A specific form of obstruction was the so-called 'cow's walk' (*gyūho*), related to the method of voting in the House of Representatives. The most important bills were voted by putting white (vote in favour) or blue (vote against) cards into the ballot box. Lawmakers were called upon to vote in the order they were seated in the chamber. As a result, opposition parliamentarians could delay the vote by approaching the ballot box very slowly, even for several hours. As parliamentary sessions were short and it was difficult to move the legislative process on a bill from one session to another, this way of obstruction sometimes resulted in the rejection of a bill.[29]

While in the first elections after the establishment of the LDP, the ruling party won nearly two-thirds of seats in the House of Representatives, in the mid-1970s,

[28] Lijphart, *Patterns of Democracy*, p. 306.

[29] T. Watanabe (ed.), *Nagatachō kenbunroku* (Tōyō Keizai Shinpōsha, Tokyo, 1980), pp. 172–75; K. Miyazawa, T. Mikuriya, T. Nakamura, *Kikigaki. Miyazawa Kiichi kaikoroku* (Iwanami Shoten, Tokyo, 2007), pp. 211–14.

its advantage decreased to only half of seats in the lower house. The main reason for the gradual erosion of support for the LDP was numerous corruption scandals involving its politicians.[30] Having lost the ability to maintain control over all parliamentary committees, the dominant party began to lean towards more consensual behaviour towards opposition groups.[31] Japanese traditional culture was also important, as it emphasised maintaining harmony and good interpersonal relations in a group. Collectivism largely resulted from the homogeneity of the Japanese nation. In Japanese, informal negotiations to reach unanimity were called *nemawashi*, which literally means 'encircling the roots' or digging around them to prepare the tree for replanting. Disrupting social harmony, in turn, was often criticised by voters. Applying the 'tyranny of the majority' periodically forced decision-makers to apologise, even though they only exercised their powers.[32]

Initially, time-consuming backstage talks to maintain harmony were held mainly inside the ruling party, but in the 1970s, similar practices began at the inter-party level. First of all, the LDP became more inclined to avoid passing bills unilaterally as long as all opposition groups boycotted deliberations. In return for this concession, the opposition stopped using physical obstruction of deliberations.[33] The Parliamentary Strategy Committee (*Kokkai Taisaku Iinkai*) was responsible for exhaustive discussions on individual bills with other parties. Representatives of this body in the LDP often met with opposition members at sumptuous dinners in luxurious restaurants. It was an open secret that the ruling party allocated considerable financial resources to these activities. During such meetings, it was even agreed which forms of protests by opposition lawmakers would be tolerated to enable them to keep their face vis-à-vis voters. One could choose between the following options: 1) the opposition will take part in the deliberations of the commission and the plenary session but will vote against the bill; 2) the opposition boycotts the proceedings but will not protest; 3) the LDP agrees to the opposition's amendments; 4) the legislative process on the bill will be postponed to the next Diet session; or 5) the bill project will be withdrawn. Interestingly, thanks to negotiations with other parties, the LDP was usually able to plan the schedule of a parliamentary session in detail, including calculating how many days it would take the opposition to boycott the debates. While it was not possible to alleviate all

[30] In 1966, a series of scandals involving prominent LDP politicians was revealed. In 1974, in turn, Prime Minister Tanaka Kakuei resigned after it was disclosed that he had bought support from regional party representatives during the LDP presidential election. In 1976, Tanaka was accused of having accepted a bribe for the purchase of passenger planes from Lockheed by All Nippon Airways.

[31] Seats in parliamentary committees were distributed in proportion to the number of lawmakers of a given parliamentary club. The chairperson could only vote if there was an equal number of votes for and against the decision. For this reason, with a minimal majority in the house, the ruling party often had to choose between securing a majority of votes or the position of committee chairperson. See Masuyama, 'Is the Japanese Diet Consensual?', pp. 14–16.

[32] A. Miyoshi, 'The Diet in Japan', p. 93; J.A.A. Stockwin, *Governing Japan. Divided Politics in a Resurgent Economy* (Blackwell Publishing, Malden–Oxford–Carlton, 2008), p. 161.

[33] G.L. Curtis, *The Japanese Way of Politics* (Columbia University Press, New York, 1988), pp. 37–40.

the disputes in this way, a dense network of connections was created between the LDP and the parties representing different ideological leanings. It was not uncommon for members of the so-called 'parliamentary strategy tribe' from various parties to establish friendly relationships, which facilitated a compromise.[34]

Another sign of the shift towards consensual political culture was the change in the customs related to the election of speakers and deputy speakers of both houses of the parliament. While, initially, the ruling party completely dominated these positions, it became more inclined to make concessions over time. In 1971, Kōno Kenzō, who proposed far-reaching changes in the functioning of the upper house, was elected speaker of the House of Councillors by the votes of opposition parties and some lawmakers of the LDP. Firstly, the speakers and their deputies were to originate from the first and second largest parties and relinquish their party affiliations for their terms in office. Secondly, to ensure the separation of the House of Councillors from party politics, its members were not to accept ministerial or vice-ministerial positions. Thirdly, Kōno promised to create a framework for cross-party debate to strengthen expert cooperation between various groups. Although he did not manage to fulfil all his promises, during his term in office, the amount of time devoted to parliamentary debates, especially for smaller parties, was increased, and party discipline was weakened to some extent.[35]

A similar reform was carried out in the lower house. In 1973, Maeo Shigesaburō agreed to run for the position of speaker of the House of Representatives on behalf of the LDP only upon the condition that he could suspend his party membership. Maeo believed that the greater majority the ruling party possessed in the parliament, the more it should try to reach a compromise with the opposition groups. As he argued, the majority was not always right, and the progress in history was often achieved through the gradual dissemination of minority views. According to Maeo, the speaker representing the entire nation should neither be bound by party discipline nor dependent on any party organs. In this way, he wanted to mitigate the disputes in the Diet and start the process of building mutual trust between the government and the opposition.[36] The fact that as conciliatory politician as Maeo was admitted to the post of lower house speaker resulted from the LDP's desire to convince opposition groups not to use forceful obstruction in the Diet. In 1976, the dominant party agreed to elect Miyake Shōichi from the Japan Socialist Party as deputy speaker. From then on, it became an unwritten custom to allow opposition lawmakers to participate in the management of the House of Representatives, and successive speakers from the ruling party continued the practice of renouncing party affiliation. As a result, the election of speakers and deputy speakers could be made unanimously, even with the consent

[34] M. Ishikawa, M. Hirose, *Jimintō – Chōki shihai no kōzō* (Iwanami Shoten, Tokyo, 1989), pp. 35–46; I. Murakawa, M. Fukuoka *et al*., *Gendai no seiji katei* (Gakuyō Shobō, Tokyo, 1982), pp. 66–67.

[35] K. Kōno, *Gichō ichidai. Kōno Kenzō kaisōki* (Asahi Shinbunsha, Tokyo–Osaka–Kitakyushu–Nagoya, 1978), pp. 25–235.

[36] S. Maeo, *Seijika no hōjōki* (Risōsha, Tokyo, 1981), pp. 15–27.

of the Japanese Communist Party, which usually the most severely criticised the conservative government.[37]

The destabilisation of the party system, emergence of new conservative groups, and temporary loss of power by the LDP in 1993 prompted the former dominant party to seek further compromise with the opposition after returning to power in 1994. The consensual legislative process was favoured by the fact that the New Frontier Party, which was formed in 1994 from the merger of smaller groups, wanted to show voters that it was able to take responsibility for ruling the country. The largest opposition party actively prepared alternative projects of government-sponsored bills, which often became the basis for their amendments.[38] The ruling party was forced to make far-reaching concessions to the opposition, especially when there was a minority government. Such a situation arose, *inter alia*, after the collapse of a coalition between the LDP, Japan Socialist Party, and New Party Sakigake in 1996. While the two smaller groups initially continued to cooperate with the LDP, they no longer participated directly in exercising power and occasionally opposed the government's initiatives. For this reason, to have government-sponsored bills passed through the Diet, the LDP had to reach far-reaching compromises with the opposition groups. Having no other option to solve the problem of unpaid debts that destabilised the Japanese banking sector, in 1998, the government even agreed to pass a bill submitted by the opposition Democratic Party of Japan.[39]

Maintaining a consensual political culture was beneficial to both sides. The opposition groups gained an influence, though minimal, on the legislative process, while the ruling parties avoided escalation of political disputes in the parliament, which usually negatively influenced the cabinet's popularity among the public. However, it should be noted that the government's far-reaching concessions to the opposition were not very frequent, and many of the amendments adopted at the request of smaller groups concerned only the postponement of the date of entry into force of a given law.[40]

The legislative process in Japan was known for its consensual political culture. Despite having a majority of votes in both houses, the ruling parties used to seek support for government-sponsored bill projects from at least some of the opposition groups. However, while the pursuit of social harmony was deeply rooted in traditional Japanese culture, institutional determinants played a crucial role in forming informal customs in Japanese politics. This is evidenced by the fact that consensual practices were instilled in the Diet only as a result of the decline in the LDP's predominance over other parties in the 1970s. In later years, in turn, strong prime ministers such as Koizumi Jun'ichirō and Abe Shinzō were able to impose a top-down leadership style by ignoring some unwritten customs.

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[37] S. Eda, *Kokkai giin* (Kōdansha, Tokyo, 1985), pp. 116–17.

[38] T. Yamamoto, *Giin rippō. Nihon seiji kasseika e no michi* (Daiichi Shorin, Tokyo, 1998), pp. 38–42.

[39] Takenaka, *Sangiin towa nanika*, pp. 199–200.

[40] Ishikawa, Hirose, *Jimintō – Chōki shihai no kōzō*, pp. 47–48.

V. Conclusions

Due to its complexity, the legislative process in Japan cannot be clearly classified as majoritarian or consensual. While the relatively weak control of the executive over the legislative process, bicameralism, and political culture usually prompted the government to seek an agreement across party divisions, in fact, the ruling party often used forceful solutions to have government-sponsored laws passed through the Diet. This apparent paradox can be explained by analysing the dynamics of changes in the power distribution in the parliament and the degree of the prime minister's control over the ruling party. A consensual political culture in both houses was formed in response to the weakening of the LDP's predominance over the opposition parties in the 1970s. The dominant party was forced to make further compromises due to losing its independent control over the upper house in 1989 and the necessity to enter into coalitions with smaller parties in the 1990s.

However, it should be noted that consensual behaviour in the Diet quickly gave way to majoritarian methods of exercising power as soon as the prime ministers managed to centralise the decision-making process under their closest entourage sufficiently. Both Koizumi Jun'ichirō and Abe Shinzō were successful in strengthening government control over the legislative process indirectly – through rigorous application of party discipline. The constant evolution of the behaviour of leading actors in Japanese politics shows that any static interpretations of the level of consensuality of the legislative process in this country constitute an oversimplification.

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