

6. Principles for Enforcement of Juvenile Protection
and Up-Bringing Activities.

1. Object:

In order to eliminate the source of delinquent inclination from juveniles, it is necessary to urge the self-consciousness of the younger generation as well as to enforce effectively the plans for guidance, protection and reform of juveniles in view of the present delinquent trend of the youth; thus the nationwide movements for juvenile protection and education shall be developed with a view to expediting the sound growth of the young.

2. Period of Enforcement: From Nov. 14 to Nov. 20, 1949.

3. Way for Enforcement :

Activities shall be planned and carried out under device and responsibility of the interested government agencies, local public bodies, schools and other private organizations concerned, but central and local committee for juvenile problems shall take the lead in the present movements and take charge of over-all planning of integration and coordination for the enforcement.

4. Items to be enforced:

- 1) In cooperation with press, radio, and publication, enlightening and propagation activities for juvenile protection and education shall be performed.
- 2) In cooperation with the interested organizations, thorough protection and guidance shall be perfected.

Substantial way of protection and guidance shall be decided by committee.

- 3) Understanding and cooperation of the public for offender's rehabilitation and protection are requested.
- 4) Malicious adults prejudicial to juvenile's sound growth shall be eliminated.
5. The present movement shall be referred to as "Juvenile Protection and Up-Bringing Movement".

Members of Juvenile Problem Counter-Measures
Planning Committee.

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- Yuichi KORI, Deputy-Chief Secretary of the Cabinet.
- Koki NAGANUMA, Vice-Minister of Finance.
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AN EVALUATION OF JAPANESE PROGRESS IN THE FIELD
OF CIVIL LIBERTIES SINCE THE SURRENDER

OFFICE OF THE
UNITED STATES POLITICAL ADVISER
FOR JAPAN

Intelligence Research Report
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Prepared by
Division of Research for Far East
Office of Far Eastern Affairs

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A discussion of the historical obstacles to the development of civil liberties in Japan and an evaluation of the degree to which the aims of American policy with regard to the establishment of civil liberties in Japan have been achieved.

Reviewed and Distributed
by
Intelligence Coordination Division
Office of Intelligence Coordination and Liaison

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SUMMARY

Up to the time of the surrender, civil rights in Japan were restricted by laws and ordinances and by repressive police enforcement of the legal regulations. Civil rights were not protected adequately by the Japanese Constitution of 1889, which guaranteed civil liberties only within the limits of law, granted the executive extensive ordinance power, and contained no provision for judicial review of laws or ordinances.

Both the Potsdam Declaration and the policy statements of the State-War-Navy Coordinating Committee (SWNCC) deal extensively with problems of civil rights in Japan. These documents call for the abrogation of laws and ordinances limiting civil rights, the abolition or modification of institutions restrictive of civil rights, establishment of religious freedom, and the release of political prisoners. Reform of the judicial, legal, and police systems is specifically required, as is the stimulation of Japanese interest in protection of individual rights.

In accordance with the policy set forth in these statements, a number of directives affecting various aspects of the problem of civil liberties have been issued by the Supreme Commander for the Allied Powers (SCAP). As a result of the directives, the Japanese Government has abrogated laws and ordinances restrictive of such civil liberties as the right of assembly, free speech, and press; a large number of political prisoners have been released and their legal rights restored;

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government control and direction of public information media and government support and propagation of Shinto doctrine have been discontinued. Institutions that had been utilized to limit civil rights, such as the Protection and Surveillance Stations and the Special Higher Police, have been abolished, and police officials responsible for imposing limitations on individual rights have been removed from office.

The establishment of legal guarantees of civil rights has required extensive revision of constitutional provisions and the revision or drafting of such implementing legislation as the Japanese Civil and Criminal Codes, the Code of Criminal Procedure, and the Procurator's Office Law. The new Japanese Constitution provides an extensive list of civil rights. In addition to the civil rights included in the American Constitution, it provides a number of guarantees that are based on twentieth-century concepts of economic rights (e.g., protection of the rights of workers) or are the outgrowth of specifically Japanese conditions (e.g., the right of all Japanese to divest themselves of citizenship, or the rights of women in marriage and divorce). The constitution and its implementing legislation also provide for legal protection of rights by establishing the practice of judicial review of laws and ordinances for conformity with the constitution and by outlining for procedures of arrest, detention, and examination. Regulations on habeas corpus are being drafted at the present time. Separation of the courts from the control

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of the Justice Ministry and the procurators is provided for in the constitution, apparently in an effort to free the courts from political control.

In spite of these extensive accomplishments in the field of civil rights, however, much remains to be done. It will be difficult to evaluate the importance of legal revisions until the final drafts of the laws implementing the constitution are available. Instances of forced contributions to Shinto shrines continue to be reported in the Japanese press, as do instances of abuse of power by the police. Plans for police decentralization are still tentative.

On the whole, the Japanese do not appear as yet to have achieved a real understanding of the meaning of civil rights. There is on the one hand a tendency to interpret civil liberties as offering students the right to take over the management of schools, on the other the fear that removal of restrictive legislation will result in dangerous public disorder, the spreading of amoral religion, or libelous criticism of the emperor and the imperial system. SCAP censorship and the SCAP statement regarding violent demonstrations, although inevitable restrictions, may lead, and in some cases already have led, Japanese to feel that retention of controls over civil rights by the Japanese Government may be justified in the interest of public order.

On the other hand, the use of its new freedom by the press, the extensive growth of unions in Japan, and the dismissal of several cases of lèse majesté by the Tokyo court on the ground that the accused had not overstepped the bounds of political criticism in their charges

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against the Emperor offer examples of the development of understanding and exercise of civil rights following the removal of limiting controls.

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AN EVALUATION OF JAPANESE PROGRESS IN THE
FIELD OF CIVIL LIBERTIES SINCE THE SURRENDER

I. Civil Liberties in Japan Prior to the Surrender¹

Both Japan's political tradition and its legal framework have facilitated extensive limitations of civil liberties. The former emphasized the concept of the police state, government paternalism, and subordination of the individual to the community; the latter established civil rights in the Japanese Constitution, but provided for their modification by law and gave to the executive extensive ordinance powers that were a fruitful source of restrictions on civil liberties.

In spite of the strength of the restrictive tradition, there is a weaker tradition of resistance to repression, dating from the time of the Meiji Restoration and appearing prior to the war among university and press groups and in working class movements.

Limitations on civil liberties in Japan were imposed both by law and by institutions established to enforce restrictive laws or to direct popular thought and activities into approved channels. Restrictions were particularly concerned with suppressing criticism of those aspects of the state regarded as fundamental to its existence: for example, the emperor system and its political ramifications. Criticisms of the government in power, its personnel, and its day-to-day activities were somewhat less rigidly restricted, although government

1. For detailed discussion of this subject, see OCL-3440, The Problem of Civil Liberties in Japan, April 1, 1946, RESTRICTED.

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control over the sources and distribution of news, especially during wartime, vitally affected freedom of information. In general restrictive measures tended to be most numerous and severe in periods of foreign and domestic crisis. On a number of occasions, their passage closely followed the enactment of liberal legislation and limited its effect. After 1940 practically no organization, whether political or economic, was allowed to function unless sponsored by the government.

Enforcement of legislation restrictive of civil rights was largely the responsibility of the Special Higher Police and the keisei (military police). Police restrictions on civil liberties were in many instances the result of police action that was without legal sanction or was even contrary to law, as in the use of third-degree methods to obtain confessions from suspected offenders. A complicated system of Protection and Surveillance Stations and Preventive Detention Stations was used to detain or supervise the activities of persons suspected or convicted of having "dangerous thoughts." Finally, although it is difficult to assess the justice with which repressive laws were enforced by the courts, there is some evidence of partisan interpretation of the laws, as in the case of the light sentences given to the members of the "young officers group" responsible for the assassinations of 1936. The courts were, moreover, subject to some political influence by reason of the fact that they were under the control of the Justice Ministry.

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II. AMERICAN POLICY STATEMENTS

A. Introduction

The importance that the United States attaches to the establishment of civil liberties in Japan is perhaps best illustrated by the degree of attention devoted to this problem in both the Potsdam Declaration and the Initial Post-Surrender Policy for Japan (State-War-Navy Coordinating Committee [SWNCC] 150/4, September 6, 1945). Both documents provide for the removal of obstacles to democratic tendencies; the statement on initial policy provides also for positive steps to be taken in the encouragement of civil rights. Subsequent policy statements, notably SWNCC 52/7 (Basic Initial Post-Surrender Directive to Supreme Commander for the Allied Powers for the Occupation and Control of Japan, September 1945), SWNCC 228 (Reform of the Japanese Governmental System, November 27, 1945, revised January 7, 1946), and SWNCC 92/1 (Treatment of Japanese Workers' Organizations, January 4, 1946), have reiterated and expanded the policies set forth in the two documents referred to above.

US policy statements call for the abolition of laws and ordinances limiting civil rights, the abolition or modification of institutions restrictive of civil rights, the discontinuance of financial and other support to Shinto establishments, and the release of political prisoners and those imprisoned for trade union activity. Reform of the judicial, legal, and police systems and establishment of freedom of religion, opinion, speech, press, and assembly are required. Removal of barriers to trade unionism, encouragement of trade union

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activity, and the establishment of legal safeguards for workers' organizations are also specified. In addition, the statements urge that a desire for civil rights be encouraged and that an effort be made to influence Japanese institutions to protect such rights. Aside from requiring the removal of controls, however, American policy statements have left the Japanese considerable scope for the solution of problems concerning civil rights in accordance with their needs.

B. Policy Statements Calling for Removal of Control on Civil Rights

1. Abrogation of Laws and Ordinances Limiting Civil Rights. The Potsdam Declaration states: "The Japanese Government shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people." In accordance with this general statement, SWNCC 150/4, 52/7, and 92/1 outline specific steps in American policy with regard to the removal of restrictions. These statements call for the abrogation of laws, decrees, and regulations that establish discriminations on grounds of race, nationality, creed, or political opinion or prevent the free organization and functioning of trade unions. SWNCC 92/1 also recommended the immediate abrogation of six specific laws and ordinances, if such action had not already been taken by SCAP. This legislation included: the Peace Preservation Law (Chian Iji Ho) of 1941; the Protection and Surveillance Law for Thought Offenses

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(Shisō-han Hogo Kansatsu Hō) and the Regulations Relative to the Protection and Surveillance Law (Shisō-han Hogo Kansatsu Hō ni Kansuru Kisoku), both of 1936; Articles 4, 6, and 7 of the National General Mobilization Law (Kokka Sōdōin Hō) of 1938, as revised in 1941; Articles 3 and 8 of the Peace Police Law (Chian Keisatsu Hō) of 1900, as amended in 1922, 1926, and 1941; paragraphs 3 and 4 of Article 1 and paragraphs 5 and 31 of Article 2 of the Police Crimes Punishment Ordinance (Keisatsu-han Shobatsu Rei) of 1908, as amended in 1919; and the Factory and Workshop Supervision Ordinance (Kōjō Jigyō Kanri Rei) of 1944.

2. Abolition or Modification of Institutions Restrictive of Civil Rights. Especially restrictive of civil rights were such agencies as the Special Higher Police and the Protection and Surveillance Stations, which were responsible for the enforcement of restrictive laws.

SWCC 150/4 and 52/7 call for the abolition or modification of agencies charged with the enforcement of laws the abrogation of which is required elsewhere in these documents. The permanent discontinuance of secret police organizations is ordered in SWCC 150/4. The military police (kempeī), who were active in restricting the rights of civilians, are to be disbanded, and all commissioned officers of the kempeī are to be arrested as rapidly as possible and held as suspected war criminals (SWCC 52/7). Dissolution of patriotic workers' organizations and the dissolution of or the revocation of the powers of Japanese government agencies that aimed to obstruct free labor organizations, is required by SWCC 92/1.

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Screening of officials connected with the courts and with police agencies is also required by the policy statements. SWNCC 52/7 calls for the removal as rapidly as possible of judges and other court personnel who have been active exponents of militant nationalism and aggression, influential members of ultra-nationalistic, terroristic, or secret patriotic societies, or persons who have been especially active in other organizations specifically named in the policy statement. SWNCC 52/7 further states: "Criminal and ordinary police agencies, and such other as you may consider proper to be retained under appropriate supervision, must be purged of undependable and undesirable elements, in particular of members of ultra-nationalistic, terroristic, and secret patriotic societies." SWNCC 92/1 provides that "all individuals directly connected in a responsible capacity with the obstruction or repression of trade union organization or activity should be declared ineligible for employment in labor agencies or as mediators, conciliators, or arbitrators."

3. Abolition of State Control over Shinto. In a somewhat different category are the provisions for the discontinuance of state aid to National Shinto establishments. Although the National Shinto shrines cannot be considered agencies of direct repression, their use for the guidance of thought along nationalistic lines has hampered the free exercise of religious prerogatives. Therefore, SWNCC 52/7 states that SCAP shall "require the Japanese Government to cease financial and other support of National Shinto establishments." SWNCC 150/4, furthermore, although providing for the establishment of freedom of

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religious worship, requires that "it should be made plain to the Japanese that ultra-nationalistic and militaristic organizations and movements will not be permitted to hide behind the cloak of religion."

A. Policy Statements Regarding the Release of Political Prisoners.

SWHCC 150/4 provides for the release of "persons unjustly confined by Japanese authority on political grounds," and SWHCC 52/7 requires that SCAP take "all practicable measures to cause the release of the persons held in custody solely under laws or regulations of the type to be abrogated." SWHCC 92/1 states: "Persons who have been imprisoned because of activity or 'thought' in connection with trade unions and other labor organization activity should be released as promptly as proper examination procedure permits."

C. Statements Calling for Establishment of Future Guarantees of Civil Rights

1. Reforms Specifically Required. Policy statements dealing with civil rights have not been concerned solely with the removal of past restrictions. Equally important are those statements calling for encouragement of and education in democratic practices and ideals and for the establishment of specific guarantees that the US considers essential for the establishment of civil rights.

Among the reforms specifically required by SWHCC 150/4 are: reorganization of the judicial, legal, and police systems "to conform to the policies set forth elsewhere in the statement, and the proclamation of freedom of religious worship...promptly on occupation." The

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proclamation of religious freedom is also called for in SWHCC 52/7. SWHCC 228 states that SCAP should indicate to the Japanese authorities that their governmental system should become "responsible to an electorate based on wide representative suffrage."

In accordance with the Potsdam Declaration, SCAP is directed to insure freedom of opinion, speech, press, and assembly insofar as possible (SWHCC 52/7), and it is suggested that SCAP indicate to the Japanese authorities the need for the reform of the Japanese governmental system to provide for the guarantee of fundamental civil rights to Japanese subjects and to all persons within Japanese jurisdiction (SWHCC 228). Specific methods for the establishment of these guarantees are set forth in SCAP directives rather than in policy statements.

Regarding future guarantees of the rights of labor, SWHCC 92/1 states that the Japanese Government should issue a proclamation recognizing the freedom of industrial and agricultural workers to unionize in order to improve their conditions of employment. The statement also advocates the establishment of legal safeguards for workers' organizations and conciliation machinery for dealing with industrial disputes. It is also recommended that the prohibition of strikes and other work stoppages be permitted only when such stoppages would interfere with the objectives or needs of the occupation.

2. Policy Statements Regarding Encouragement of and Education in Democratic Practices. Provisions for encouragement of democratic

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tendencies and education along democratic lines are made in SWHCC papers 150/4 and 52/7. SWHCC 150/4 states that the Japanese people shall be encouraged to develop a desire for individual liberties and respect for fundamental human rights, particularly the freedoms of religion, assembly, speech, and the press. It further states that they shall be afforded opportunity to become familiar with the history, institutions, culture, and the accomplishments of the US and other democracies and encouraged to do so. SWHCC 52/7 provides that freedom of thought is to be "fostered by the dissemination of democratic ideals and principles through all available media of information."

The Japanese are to be encouraged to form democratic and representative organizations, including democratic political parties with rights of assembly and public discussion and democratic organizations in labor, industry, and agriculture (150/4, 52/7).

The judicial, legal and police systems are, furthermore, to be "progressively influenced to protect individual liberties and civil rights" (150/4). Workers' organizations are to be encouraged to bargain collectively, and the occupation authorities, in their own employment and labor policies, are to give positive encouragement to the development of labor organizations when conditions warrant such encouragement (SWHCC 92/1).

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III. BASIC LEGAL REFORMS

A. Removal of Barriers to the Exercise of Civil Liberties

1. Introduction. The Japanese have of necessity complied with SCAP orders for discontinuance of controls over civil rights, but the removal of restrictions has been almost exclusively a result of SCAP directives and not of Japanese initiative. In carrying out the terms of the directives, the Japanese Government has issued ordinances for the immediate suspension of designated legislation. In the case of laws originally passed by the Diet, abrogation by the Diet itself has also been required. Although dates of such abrogation are not available in all cases, this is probably a matter of incomplete information in Washington rather than of lack of compliance by the Japanese.

Because of the need for a legal basis for carrying on ordinary police and other activities, the Japanese Government has been permitted to retain certain regulations that had been repressively enforced in the past, e.g., the Peace Police Regulations of 1900, the Publications Law of 1934, and the Criminal Code, which affects civil liberties in its articles defining crimes against the Imperial House and crimes relating to civil war. Retention of these regulations has apparently been permitted on condition that they be enforced more equitably than in the past and that general revision of these laws be undertaken.

For the time being at least, the removal of major legal and

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institutional restrictions on civil rights has made possible a considerable degree of civil liberty in Japan. At the same time, it should be noted that the SCAP regulations suppressing militaristic and ultra-nationalistic societies, forbidding criticism of the Allies and of the occupying forces, and subjecting the press, radio, motion pictures, and correspondence to censorship are themselves important -- although unavoidable -- restrictions on civil liberty.¹ On the whole, however, the aim of American policy has been to allow the maximum amount of freedom commensurate with the safety and objectives of the occupation.

2. Abrogation of Restrictive Legislation.² The most significant single directive concerning the removal of restrictive controls was the SCAP order of October 4, 1945 that required the release of political prisoners, the dissolution of repressive agencies, and the immediate abrogation of fifteen specified laws. Other directives, both prior and subsequent to that of October 4 have provided for the removal of controls in specific fields.

Among the laws and ordinances slated for removal in the directive of October 4 were the following regulations that had imposed broad restrictions on civil rights:

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1. These restrictions were established by such orders as the SCAP Press and Radio Codes (September 10, 19, and 22, 1945); Elimination of Undemocratic Motion Pictures (November 16, 1945); Censorship of Local Radio Broadcasts (February 13, 1946); and Confiscation of Propaganda Publications (March 17 and 27, 1946).
 2. For a list of laws and ordinances that SCAP has ordered withdrawn, see Appendix.

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the Peace Preservation Law (Chian Iji Ho) of 1941 (repealed by the 89th Diet Session, December 1945); the National Defense and Peace Preservation Law (Kokubō Hoan Ho) of 1941, and its enforcement order; Rules for the Appointment of Lawyers under the Peace Preservation Laws (Bengoshi Shitei Kitei) of 1941 (reported abrogated by the Vice Minister of Justice on October 15, 1945); Protection and Surveillance Law for Thought Offenses (Shisō Han Hogo Kansoku Ho), the regulations relative to the application of the law, and the ordinance establishing Protection and Surveillance Stations, all of 1936 (Imperial approval of abolition of Protective Institution Organizations issued on February 8, 1946; discontinuance of Protection and Surveillance Commission reported on October 22, 1945). Precautionary Detention Procedure Order (Yobō Kōkin Tetsuzuki Rei) and the Regulations for Treatment of Persons under Precautionary Detention (Yobō Kōkin Shogū Rei) of 1941 (dissolution of Preventive Detention Office reported October 15, 1945). The National General Mobilization Law (Kokka Sōdōin Ho), which had also imposed serious restrictions on many civil rights, was abrogated by the 89th Diet Session in response to a SCAP directive of September 27, 1945.¹

These regulations had imposed limitations on the holding of meetings and the forming of associations, the right of the accused to choose his own defense, and the rights of freedom of communication and movement for

1. For detailed content of these regulations see OCL-3440, The Problem of Civil Liberties in Japan, April 1, 1946, RESTRICTED.

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those holding ideas potentially subversive of the national government. Under the terms of these regulations labor activities had been subjected to especially stringent controls. Additional wartime labor ordinances for the regimentation of labor were reported abrogated by October 11, 1945.

The military regulations slated for removal in the directive of October 4, 1945 included: the Law for Safeguarding Secrets of Military Material Resources (Gunyo Shigin Himitsu Hogo Ho) and the ordinance for the enforcement of the law, 1939; the Law for the Protection of Military Secrets (Gunki Hogo Ho), promulgated in 1937 and revised in 1941; and the regulations for the enforcement of the law, 1941. These military regulations had been used extensively to limit individual rights of civilians during the Pacific War. Dates of the abrogation of these orders are not available.

3. Provisions for the Release of Political Prisoners. The SCAP directive of October 4, 1945 ordered the Japanese Government to release from custody all persons under "protection and surveillance." In addition, the directive ordered the release of persons detained without charge, those detained as a result of legislation ordered abrogated by SCAP, and those detained because of political activities but technically charged with minor offenses. These persons were to be released by October 10, 1945.

In response to this directive, a total of 439 persons were released between October 5 and October 10, 1945. Twenty-five individuals who were originally classed as political prisoners were reclassified and detained on other charges that were being investigated by SCAP as of May 28, 1946.

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In addition, the Imperial Amnesty of October 17, 1945 provided for the release of 300,000 criminal offenders and the restoration of their political rights. Among those eligible for pardons under the amnesty were persons who had been convicted on the charges of blasphemy, rebellion, treason, and disruption of public peace and safety; violations of the Public Peace and Safety Laws, National Defense Maintenance Law, military criminal laws, religious laws, and election laws; and violations of special regulations for national defense, the press, economic control, military service, and control of thought. From this list, it appears that many of the offenders pardoned under the amnesty were also scheduled to be released as political prisoners in accordance with the SCAP directive of October 4, 1945.

Under the terms of the Imperial Amnesty, a number of persons were released and reinvested with their political rights. Others who had already served their sentences but who would normally have been deprived of their rights for varying periods thereafter were also reinvested with political rights.

In spite of the guarantees of the amnesty and the terms of the SCAP directives, however, many released political prisoners did not immediately receive full legal rights. Therefore, SCAP issued a directive on December 19, 1945 ordering the Japanese Government to restore the right to vote and the right to hold public office to all persons released under the terms of the October 4 directive and to all persons who would have been eligible for release and reinstatement under the terms of the October 4

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directive but who were liberated prior to that date. It was further specified that all persons affected by the directive should be so notified by December 31, 1945. In accordance with the December 19 directive, an Imperial Ordinance restoring electoral privileges to ex-political prisoners were issued on December 29, 1945. On the same day the Ministry of Justice issued an order concerning eligibility for reinstatement of rights and a notification stating that those convicted and released under laws that had since been abolished might apply for reinstatement of their political rights to the prosecutor of the court that had sentenced them.

The second major amnesty since the surrender was granted in celebration of the promulgation of the new constitution early in November 1946. The amnesty was reported to provide for the release of 93,961 prisoners, the reduction of the sentences of 50,244, and the restoration of political rights to 116,994 former prisoners. The Imperial Ordinance outlining the categories of those eligible for pardons under the amnesty included not only ordinary criminal offenders but also violators of the Peace Preservation, Press, Publications, Religious Bodies, and National General Mobilization Laws and the wartime Law Concerning Temporary Control of Speech, Publications, Meetings and Associations. It is not clear at this time why the violators of these laws had not been released or reinstated with political rights in accordance with the SCAP directive of October 4, 1945 or the amnesty of October 17, 1945.

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4. Removal of Controls on Public Information

a. Press and publications. One of the first orders of the occupation was that there should be an absolute minimum of restrictions on free speech.¹ A SCAP directive of September 10, 1945 also stated: "Freedom of discussion of matters affecting the future of Japan is encouraged by the Allied Powers, unless such discussion is harmful to the efforts of Japan to emerge from defeat as a new nation entitled to a place among the peace-loving nations of the world." On the basis of this general principle, controls were subsequently ordered removed from the press, radio, and film industries. Other important SCAP directives removing restrictions on the press and publications were issued on September 24 and 27, 1945, October 26, 1945, and February 26, 1946.²

The order of September 24 directed the Japanese Government to eliminate government-created barriers to the dissemination of news, remove direct or indirect government controls on newspapers and news agencies, eliminate preferential treatment of any news service, domestic or foreign, and withdraw the Communications Ministry's exclusive right to intercept incoming wireless.

The directive provided that the system of news distribution then in effect within Japan (i.e., distribution by the government-sponsored, monopolistic Domei News Agency) should be continued until private

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1. Order referred to in SCAP directive of September 10, 1945.
 2. For a discussion of the Press and Radio Code of September 10 and the Press Code of September 19, 1945, see page 47).

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enterprise created acceptable substitutes. As a result of this order, Domei was dissolved on November 1, 1945. Most of its functions were taken over without interruption by the Kyodo News Agency, which was sponsored by member newspapers throughout Japan; its remaining functions were assumed by the Jiji News Agency and other smaller services owned by private individuals.

On September 27 the Japanese Government was further ordered to render inoperative the procedure for enforcing restrictions on the press and to suspend restrictive laws pending their repeal. The order provided that only restrictions approved by SCAP should be permitted in censorship and that no punitive action should be taken against a newspaper for expressions of opinion, except by SCAP order. Government press bans and pressure from the government to conform to an editorial policy were outlawed, and compulsory organizations of publishers and writers were ordered disbanded. Apparently as a result of this order, the government-sponsored Japan Press Corporation was dissolved and the Japan Publishers' Association reorganized itself. Finally, the directive called for the abolition of twelve laws that had limited the operation of the press and publishing industries.

Of the twelve laws and regulations slated for removal by the SCAP directive of September 27, the National General Mobilization Law (Kokka Sōdōin Hō) was abrogated by the Diet in December 1945 (with the exception of certain articles pertaining to price control that were to be temporarily retained); the Newspaper and Economic Control Law (Shimbunshi to Keizai Seigen Rei), Wartime Press Ordinance

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(Shinbun Jigyō Rei), and the Wartime Publications Ordinance (Shuppan Jigyō Rei, not specifically slated for abrogation) were abrogated by Imperial Ordinance 562 on October 5, 1945, effective October 6, 1945. Dates for the abrogation of the remaining nine laws specifically named in the directive are not available.¹

A SCAP directive of October 26, 1945 ordered that press and publishers' control over paper supplies be eliminated and that control be placed in the hands of the government. Consequently, control of the distribution of paper was transferred from the Japan Publishers' Association to the cabinet, and subsequently to the Paper Allocation Committee of the Ministry of Commerce and Industry. On November 25, 1946 the Paper Allocation Committee was returned to the cabinet. (See page 46).

Although restrictions on dissemination of information were technically withdrawn by the SCAP order of October 4, 1945, Japanese libraries were not notified of the removal of restrictions on certain types of books. Consequently, on February 26, 1946 SCAP ordered the Japanese Government to remove restrictions on the circulation in public and university libraries of books discussing Christianity or criticizing the Japanese state, and to notify the

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1. These laws include: the Press Law (Shinbunshi Hō); the Special Law for Speech, Meetings, Associations, and Publications (Genron Shuppan Shukai Kessha Rinji Torishimari Hō) and its amendment; the Wartime Criminal Law (Senji Keiji Tokubetsu Hō); the Emergency Law for the Control of Seditious Documents (Fuon Bunsho Torishimari Hō); the Heavy Industries Ordinance (Juyo Sangyo Dantai Rei) and its enforcement regulations; the National Defense and Peace Preservation Law; the Military Secrets Law; and the Law for Safeguarding Military Material Resources. The last three of these laws were also ordered abrogated by the SCAP directive of October 4, 1945.

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libraries concerned.

b. Radio. SCAP directives dealing with the Japanese radio have been in large part concerned with provisions necessary for operation of radio under occupation conditions. Among the important SCAP directives affecting operation of the radio are the Press and Radio Code of September 10, 1945, the Radio Code of September 22, 1945, a directive of November 20, 1945 establishing the procedure for registration of changes in radio operation, and one of February 13, 1946 providing for the censorship by SCAP of local radio broadcasts. Of considerable importance for radio broadcasting also was the SCAP directive that required the withdrawal of the Communications Ministry's exclusive right to monitor foreign broadcasts and the elimination of government control or preferential treatment of news agencies (September 24).

In September 1945 the Japanese Government removed its wartime ban on shortwave receiving sets and announced that allwave receivers might be installed and used freely. Government direction of broadcasts was abandoned in compliance with SCAP directives. Although the Japan Broadcasting Corporation continues to be connected with the government, pending possible reorganization, there is no evidence of government utilization of this connection to influence broadcasts.

c. Motion pictures and theaters. The elimination of propaganda films and of government controls over the film industry has been the subject of several SCAP directives. As in the case of removal of restrictions on other sources of information, however, SCAP has been

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obliged to replace Japanese restrictions with its own censorship regulations. For example, the Japanese Government has been ordered to prohibit the sale and exhibit of militaristic or nationalistic films, to secure all copies, to retain copies for SCAP, and to submit to SCAP a list of films so secured (October 16, 1945); to submit a list of uncensored films and slides, and to refrain from exhibiting uncensored materials (January 28, 1946); and to turn over banned films to the 8th Army authorities (February 17, 1946).

A directive of October 16, 1945 listed for abrogation twenty items of Japanese legislation restricting the operation of the motion picture industry. Most of them were ordinances and regulations based on the Motion Picture Law (Eigahō) of 1939, which was itself slated for abrogation in the October 16 directive and was abrogated by the Diet session of December 1945. The October 16 directive also ordered the abrogation of specific regulations of the Metropolitan Police Board requiring that actors and theaters be licensed by the police, who could close down performances at their discretion.

5. Removal of Restrictions on Religious Liberty. Abolition of the Religious Bodies Law (Shūkyō Dantai Hō) was required by the October 4 directive on civil liberties. This law, while providing certain benefits for officially recognized religious bodies, had given the Education Minister and the prefectural governors wide powers to suppress, suspend, or restrict religious groups, to control the activities of teachers of religion, to remove religious leaders from office, and to withdraw authorization for the activities of a religious body if the activities disturbed peace and order or were

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contrary to the duty of subjects. In accordance with the October 4 directive, an ordinance for the abrogation of the Religious Bodies Law was issued on December 27, 1945. A number of ordinances related to the Religious Bodies Law were withdrawn or revised as a result of the changes brought about by the abrogation of the law.

On October 17, 1945 the Japanese Government removed its ban on religious education; this action was in accordance with the general terms of the October 4 directive, although not specifically required by it. This Japanese order of October 17 was of special significance for privately supported Christian schools, which had previously been unable to offer courses in religion and at the same time meet the Education Ministry's standards for educational institutions. Also of significance for Christian schools was the SCAP directive of October 24, which noted the Japanese Government's wartime violation of religious freedom in the Rikkyō Gakuin (an Episcopal college) and provided for the dismissal of certain named, responsible officials from the college and for a survey of similar wartime violations in a list of Christian schools.

Probably the most important order concerning the removal of restrictions on religious liberty was the SCAP directive of December 15, 1945, which demanded the discontinuance of state support and propagation of Shinto and forbade similar affiliation between the government and any religion. The directive does not affect the Shinto sects, which, although having the same religious bases as State Shinto, are privately supported religious organizations.

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The directive provides, in fact, that once Shinto is "divorced from the state and divested of its militaristic and ultra-nationalistic elements" the former National Shinto installations may be reorganized as religious associations and be granted the same protection as other religions. The directive specifically required the discontinuance of government sponsorship and financial support to Shinto and the dissolution of the government's Shrine Board and of publicly supported educational institutions for Shinto. Forced or involuntary contributions to shrines were forbidden. The Religious Functions Orders for Ise and for other shrines were ordered abrogated. The directive also outlawed the identification of Shinto with nationalistic doctrines and the dissemination of Shinto doctrine in the schools, either through school texts or through ceremonial visits to shrines. The Japanese Government was ordered to cease publication of books on Shinto and to discontinue the use of nationalistic Shinto terms. Removal of kanidana (Shinto shrines) from schools, government offices, and other publicly supported institutions was required. Finally, the directive provided that non-Shintoists should not be discriminated against and that no official should visit any shrine to report his assumption of office or the conditions of the government or to participate as a representative of government in any ceremony or observance.

6. Dissolution or Modification of Institutions Restrictive of Civil Rights

a. Dissolution of institutions. The SCAP directive of October 4, 1945 provided for the dissolution of all organizations

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or agencies created to carry out the provisions of the laws and regulations slated for abrogation and those parts or functions of other offices that supplemented or assisted them in the execution of such provisions. Organizations that the directive specifically ordered discontinued included: all secret police organs; departments in the Home Ministry that were responsible for supervision of publications, public meetings, and organizations, censorship of motion pictures, and control of thought, speech, religion, and assembly; departments such as the Special Higher Police, which were responsible for such functions in the metropolitan and prefectural police departments; departments such as the Protection and Surveillance Commission and all Protection and Surveillance Stations, which were charged with the functions of protection, surveillance, and the control of thought, speech, religion, and assembly. The directive ordered police officials, members of the police force, and all other government officials or employees to refrain from further activity related to laws, organizations, or functions the abrogation or dissolution of which was ordered by SCAP elsewhere in the directive.

On October 17, 1945, a directive was issued by SCAP calling for the demobilization of the kempei (military police) by November 1, 1945. All activities were to be terminated by December 1, 1945, and the civil police were to take over such of the kempei's duties as were deemed necessary for the preservation of public order.

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The October 4 directive did not specify particular organizations in its demand for dissolution of "secret police" bodies. The Special Higher Police Sections in the Home Ministry, Metropolitan Police Board, and the prefectural police bureaus, however, were abolished by Imperial Ordinance on October 13, 1945. The Thought Section in the Criminal Affairs Bureau of the Justice Ministry was abolished by order of the Justice Minister on October 13, 1945. Censorship functions of the police have been essentially eliminated, and, although infractions of the directive have been reported, these violations do not appear to have been extensive. Discontinuance of the Protection and Surveillance Commission was reported as of October 22, 1945, while abolition of the Preventive Detention Office (an organization similar to the protection and surveillance organization) was reported as of October 15, 1945.

b. Removal of undesirable personnel. The SCAP directive of October 4, 1945 provided for the removal from office and the permanent elimination from government service of the following officials: the Minister of Home Affairs; the Chief of the Police Bureau of the Ministry of Home Affairs; chiefs of the Tokyo Metropolitan Police Board, any other metropolitan police boards, and the prefectural police bureaus; the entire Special Higher Police Force; and the entire staff of the protection and surveillance organization.

A directive clarifying the order of October 4 was issued by SCAP on October 10, 1945, in response to a pro memoria from the Japanese Government. This directive restates some of the provisions of the October 4 directive and, in addition, provides: "Officials

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who have been removed from positions of responsibility in one department will not be transferred to positions of responsibility in another. Within the term 'officials' as used herein are included Prefectural Police Chiefs and Section Chiefs and ranking assistants in the Special Higher Police. No dismissed personnel, including minor officials of the Special Higher Police...will be placed in the Ministry of Education...." Officials formerly connected with police affairs are not to be permitted to hold any positions in the Ministry of Home Affairs or in the Ministry of Justice except minor positions in the prefectural government. In no case are former members of the Special Higher Police to be reemployed in any position of power or responsibility over the people. In cases where the chief of a Protection and Surveillance Station has been concurrently a Public Procurator, he is to be debarred from both positions. Police officials whose discharge has been ordered are to be retained no longer than the time for which their services may be required to accomplish the provisions of the October 4 directive.

Superficially at least, the Japanese seem to have complied with the terms of these directives. As early as October 13, 1945, the Japanese Government announced the removal of 4,800 police officials. As of August 19, 1946, 6,202 officials had been removed under the terms of the SCAP directives of October 4 and 10, 1945. Of this total 5,028 were removed from the Ministry of Home Affairs and 1,176 from the Ministry of Justice. In June 1946, the Home Ministry announced plans to remove 313 former members of the Special Higher

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police who were serving in the Ministry, although they were not in the police force at the time of directive of October 4, 1945. Apparently in accordance with SWHCC 92/1 the Japanese Government announced on November 30, 1946 that all persons who had served in the Japanese police between September 1931 and September 1945 would be transferred and excluded from all labor administrative posts by May 31, 1947.

There are, of course, some instances of non-compliance with the directives. An editorial in the Yomiuri Shinbun on May 17, for example, charged that some members of the Special Higher Police were being retained in a new section of the police department similar to the old Special Higher Police Bureau. Further reports on this case are not available.

B. Establishment of Legal Guarantees

1. Introduction. The new Japanese Constitution, which was promulgated on November 2, 1946 and will become effective on May 2, 1947, provides the legal basis for the protection of civil liberties in Japan in the future. Much remains to be done, however, in the way of passage of implementing legislation and alteration of existing institutions. There has been some delay in effecting legal changes partly because these changes were dependent on the final form that the constitution was to take and also because of the length of time necessary to effect the reorganization of the entire court system and the alteration of the legal codes and other primary measures. In July 1946 the Japanese Government established committees for legislative revision to draw up the laws necessary for the

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implementation of the new constitution and to bring existing legislation into conformity with the constitution's provisions. The most important of these committees was the Emergency Legislation Investigation Council (Rinji Hōsei Chōsa Kai), under the general supervision of the cabinet. The Council has been engaged in deliberations on sixteen bills, several directly affecting civil rights, for presentation to the Diet. The Judicial Legislative Investigation Committee (Shihō Hōsei Shingikai), under the auspices of the Justice Ministry, was given the power to deliberate on and to present to the Legislation Investigation Council drafts of bills concerning judiciary and judicial procedure.

2. Extent of Rights Guaranteed in the Constitution and in Implementing Laws. Article 11 of the new constitution provides: "The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights." Moreover, the guarantees of civil rights in Chapter III of the new constitution are not qualified by the phrase "within the limits of law" as they were in the Constitution of 1889. Article 12, however, does provide that the people are to "refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare." Although the significance of this article may be negligible, the Japanese tradition of subordination of the individual to the welfare of the state might make the provision the basis for future restrictions on freedom of speech, press, and association.

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Like the American Bill of Rights, the new Japanese Constitution guarantees freedom of thought, conscience, religion, assembly, association, speech, and press, and the right of petition. Universal adult suffrage and secrecy of the ballot are also guaranteed. Involuntary servitude is prohibited, except as punishment for crime. Article 14 provides: "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...." In addition, the new Japanese Constitution provides: "No censorship shall be maintained, nor shall the secrecy of any means of communication be violated," provisions not contained in the Bill of Rights of the Constitution of the United States.

The extent to which these general guarantees will actually operate in insuring civil liberties in Japan will, of course, depend to some extent on provisions in the Criminal Code, which is now undergoing revision. Particularly important in this connection will be such provisions as are included concerning sedition, libel, and lèse majesté. Article 77 of the existing Criminal Code, for example, provides for punishment for the crime of civil war of "Every person who has committed an insurrectionary or seditious act with intent to overthrow the Government, seize the territory of the State, or otherwise subvert the national constitution...." The failure of the phrase regarding subversion of the constitution to establish any standards whatever is obvious. If such a phrase were retained in a new or

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revised Criminal Code, its interpretation might be limited by the bill of rights in the constitution. American experience has shown, however, that constitutionally guaranteed rights and judicial review do not always protect civil liberties against loosely worded legislative definitions of political crime, especially in times of crisis when the need for such protection is most urgent. The need for further protection will be even greater in Japan, where sensitivity to civil liberties problems, either judicial or public, is not likely to be as strong as it is in the United States for some time to come.

In addition to the guarantee of rights comparable to those included in the American Constitution, a number not included in the American Bill of Rights have been guaranteed by the Japanese. These additions may be said generally to have arisen from the desire either to correct a specifically Japanese situation or to provide for rights that in the twentieth century have come to be regarded as equal in importance to other rights thought of as vital in the eighteenth century. The provisions include the right of all Japanese to leave Japan and to divest themselves of Japanese nationality, to choose and change their residences, and to choose their occupation "to the extent that it does not interfere with the public welfare." The provisions also include statements of the equality of women in contracting marriage and in property rights, inheritance, and divorce. The revisions of the Civil Code now being prepared by the Emergency Legislation Investigation Council amplify the constitutional provisions regarding the equality of women. The right of academic freedom and the

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right of workers to organize and to bargain and act collectively are examples of rights regarded as of primary importance in the twentieth century. The Trade Union Law, passed by the Diet in December 1945, already guarantees the right of labor to organize and to bargain with employees. The Labor Disputes Adjustment Law, passed by the Diet on September 19, 1946, provides the basic mechanism for arbitration, although there has been considerable criticism of the law on the ground that it unduly restricts the rights of labor. (See section IV, G.)

Property rights, on the other hand, are somewhat more circumscribed than in the American Constitution. Although the Japanese Constitution declares that the right to own property is inviolable and provides that there shall be just compensation for private property taken for public use, it also provides that "property rights shall be defined by law, in conformity with the public welfare." Equality under the law, moreover, is specifically confined to natural persons, thus excluding the possibility that provisions intended to protect individuals may be extended to protect corporations as well.

Even more of a departure from the American Bill of Rights, although not from many modern European versions, is the addition of claims of Japanese subjects against their society. The constitution provides for education for all, correspondent to ability, and specifically, free elementary education as provided for by law; guarantees the right of the people to work; and recognizes the duty of the government to prohibit the exploitation of children and to enact

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legislation establishing standards for working conditions, wages and hours, and rest. At present a Labor Standards Bill (Rodō Kijun Hōan) is being drafted to meet the needs of this last provision. Finally, the constitution provides: "All people shall have the right to maintain the minimum standards of wholesome and cultural living."

The transformation of the bill of rights from a charter that provides merely for protection against state abuses to one that also demands that the state take positive action along certain lines presents serious problems. For example, the provision in the proposed draft, "All persons have the right and the obligation to work," raises the question of whether this statement is seriously meant as a guarantee that the state will secure employment for all who desire it and, if this is indeed the case, the further question of whether there will be a demand for complete public ownership and direction of the means of production in order to fulfill this obligation. This provision may become no more than a pious injunction to the state to adopt a public works program in time of widespread unemployment and may have little real significance. It may, on the other hand, ultimately be utilized as a legal weapon against trade union demands for a closed shop, in which case the rights guaranteed to workers in a later article may be seriously compromised.

3. Judicial Guarantees Against the Withdrawal or Abuse of Civil Rights

a. Judicial review. In the past judicial review was not generally practiced in Japan, and in any case could not have operated

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to prevent the limitation or suspension of civil liberties by law. In addition, the extensive ordinance power exercised by the executive under the Constitution of 1889 made it possible for the executive to limit civil rights without reference to the legislature or to the courts. In contrast to these features of the 1889 Constitution, the new Japanese Constitution establishes the supremacy of the constitution over laws, ordinances, and rescripts. It further provides: "The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act." In the new constitution, moreover, all law-making power is vested in the Diet, to which the cabinet is responsible. Although the cabinet is empowered to issue orders and regulations in order to carry out the provisions of the constitution and the laws, "it cannot include penal provisions in such orders and regulations unless authorized by such law."

b. Procedural requirements. If civil liberties are to be protected by the courts, judicial procedures must be so defined as to protect from arbitrary action those who appear before the courts and to provide recourse for those who feel they have been unjustly treated. The new constitution provides that decisions regarding life, liberty, or any criminal penalty must be reached in accordance with procedures established by the Diet and that no person shall be denied the right of access to the courts. Procedural requirements generally similar to those contained in the American Constitution (with the exception of provisions regarding juries, which are omitted) are also established in the new Japanese Constitution. Chapter III provides

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that no person shall be apprehended except on warrant (unless apprehended while committing a crime) nor arrested or detained without being at once informed of the charge against him and permitted the immediate privilege of counsel. On the demand of any person, cause of arrest must be immediately shown in open court in the presence of the accused and of his counsel. In addition, warrants for search and seizure are required. The infliction of torture and cruel punishments are absolutely forbidden. The accused is to have the right of examining all witnesses and obtaining witnesses on his behalf at public expense. He is also guaranteed the right of assistance from competent counsel, "who shall, if the accused be unable to secure the same by his own efforts, be assigned to his use by the government."

No person shall be compelled to testify against himself; confessions "made under compulsion, torture, or threat or after prolonged arrest or detention" are not to be admitted as evidence; and no conviction is to be based solely on the confession of the accused. No person is to be held criminally liable for an act lawful at the time it was committed, nor shall any person be placed in double jeopardy. In case any person is acquitted after he has been arrested or detained, he may sue the state for redress as provided by law. The constitution also guarantees the right to sue for redress from the state or a public entity in case an individual has suffered damage through the illegal act of any public official.

Chapter VI, which deals with the judiciary, further provides that trials and judgment shall be public unless publicity is dangerous to public order or morals. Moreover, "trials of political offenses,

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offenses involving the press and cases wherein the right of the people as reserved in Chapter III of this Constitution are in question shall be conducted publicly without exception."

Many revisions in the Code of Criminal Procedure have been necessary in order to bring it into line with the procedural changes in the constitution. Of particular importance is the abolition of preliminary hearings by a judge from the district bench. In the past this practice took the place of grand jury proceedings in Japan, and its object was to secure confession before trial. Since there was no right of habeas corpus and since the person under examination could not employ counsel, investigations sometimes lasted for months or even years. Investigations were moreover in camera. The projected Code of Criminal Procedure is reported to provide that, within twenty-four hours after arrest (or immediately in cases of flagrante delicto and of suspicion of felony), all cases shall be brought before a judge who may dismiss or affirm the procurator's indictment or grant a temporary detention in cases where the investigation requires time. Such a temporary detention is, however, not to exceed ten days, and at its conclusion the judge again has the right to dismiss or affirm the indictment. It appears that detention is non-renewable. According to the revised code, bail may be placed after indictment. Furthermore, the judge alone can issue a warrant of arrest or of temporary detention. Some opposition to the latter provision has understandably been raised by the procurators, who feel that they will be placed under disadvantages in operating efficiently.

According to the provisions of the new constitution, as has been noted, search or seizure without warrant and the infliction of torture

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by any public officer are forbidden. The draft revisions of the Criminal Code are reported to provide heavy penalties for the infringement of people's rights, misuse of official authority, and bribery. Provisions for the habeas corpus procedure are provided in the new Basic Human Rights Law (Kihonteki Jinken Hō Hōritsuan), drafts of which are not yet available.

c. Alteration of control and structure of the courts. Under the new Japanese Constitution the existing system of legal organization, whereby courts and judges as well as procurators are subject to the jurisdiction of the Ministry of Justice, is abandoned. In the past Justice Ministry control as it operated in Japan meant that the cabinet in power was able to exert considerable influence upon the courts. Under the new constitution, channels of political influence remain, but the courts are not as directly linked as in the past with the policies of the party controlling the cabinet or the Justice Ministry.

The new constitution vests the judicial power in the Supreme Court and in such inferior courts as are established by law. The Supreme Court is vested with the rule-making power, under which it determines the rules of procedure and of practice and decides upon matters relating to attorneys, the internal discipline of the courts, and the administration of judicial affairs. The public procurators are subject to the court's rule-making power. The court may delegate its powers to make rules for inferior courts to such courts.

The prestige and independence of the judiciary are increased not only by its freedom from Ministry control and its right to review legislation for conformity with the constitution but also by the

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provision that "No extraordinary tribunal shall be established nor shall any organ or agency of the executive be given final judicial power" (Article 76).

Methods of appointment and dismissal of judges as established in the new constitution, on the other hand, may become a channel of political influence. Members of the supreme bench are appointed by the cabinet, which is itself responsible to the lower house of the Diet. The constitution also provides: "The appointment of the judges of the Supreme Court shall be reviewed by the people at the first general election of the House of Representatives following their appointment, and shall be reviewed again at the first general election of the House of Representatives after a lapse of ten years, and in the same manner thereafter." A judge who fails to receive the approval of a majority of voters is to be dismissed from office. These provisions avoid the frequently unsatisfactory process of popular election of judges and make it less likely that the court, in exercising its review function, will be criticized as a third arm of the legislature, superior in power to the representatives of the sovereign people and yet without responsibility to them. These provisions are, nevertheless, open to criticism as bringing the members of the Supreme Court under popular and hence potential political control. No text is as yet available of the National Examination Law for Judges (Saibansho Kokumin Shinsa Hoan), which is to implement these provisions of the constitution.

To a lesser extent the new constitution also subjects the judges of inferior courts (appointed by the cabinet from lists drawn up by the Supreme Court) to the danger of political control by providing

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that judges against whom removal proceedings have been instituted shall be tried by an impeachment court composed of members of both houses. The new constitution, however, also sets up safeguards against Diet abuse of this power by stating that "All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws enacted pursuant thereto," thus providing that the right of judicial review, elsewhere established in the constitution, may serve to protect judges from impeachment on essentially political grounds. Careful drafting of the Judges' Impeachment Law (Sarbankan Dan an Hōan), which is to implement these provisions for impeachment, may, moreover, provide additional guarantees against their irresponsible use.

Discussions of the Procurators' Office Law (Kensatsu Chō Hōan), which will implement the constitutional provisions with regard to procurators, have centered on the question of supervision of the judicial police rather than on the functions of the procurators themselves. (See section IV, H.)

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IV. IMPLEMENTATION OF POLICY REGARDING CIVIL LIBERTIES IN MAJOR FIELDS

A. Introduction

1. Japanese Attitudes toward Civil Liberties. Although the establishment of legal guarantees of civil rights is essential for the protection of individual liberties, legal guarantees may have little significance in the absence of popular understanding and demand for their enforcement. As yet even the removal of restrictive legislation has been received with varying degrees of enthusiasm by Japanese. Although expressions of general approval of the removal of restrictive laws have been voiced by individual Japanese and by the Japanese press, the removal of controls has been followed not only by some cases of genuine disorder, but also by a strong fear of excesses in such matters as public demonstrations, religion, and free speech, particularly in regard to the Emperor. As a result of these fears there has been a tendency among some Japanese to favor tightening of controls for the sake of public order. For example, in reporting the reasons for a proposed newspapers and publications law, the Japanese Home Service noted: "The Government maintains that since the laws relating to publications were killed there have been frequent occasions when the freedom of speech and the press is abused." Similarly, fears were expressed in the Diet that "there is danger in the spreading of bad religion due to the freedom of religion," and interpellation was made as to what steps would be taken for the control of religion.

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This fear of abuse of freedom is, in fact, an issue central to the civil liberties problem in any country. The Japanese, however, since they have been used to many restrictions, may sincerely underestimate the degree of freedom possible, overestimate the danger of disorder, and consequently attempt to include unnecessarily limiting provisions in the legislation now being formulated. In addition, it should be recognized that some Japanese may consciously overemphasize the dangers of disorder in order to suppress potential sources of opposition.

There are, however, a number of indications of intelligent concern with problems of civil rights among Japanese. The Japanese press has not only begun to make use of its freedom of expression, but also has devoted considerable attention to the problem of civil liberties in its columns. Groups such as the Liberal Bar Association (Jiyū Hōsō Dan) have been working for the liberation of political prisoners and for the restoration of confiscated books to the owners. In the academic field, the statements of NAMBARA Shigeru¹ upholding the right of students to take part in political movements, are indicative of liberal thought among the university groups.

2 Problem of SCAP Censorship.² Encouragement of civil rights through American example, however important, has nevertheless some

1. President of Tokyo Imperial University.

2. See OCL-4112.2, Barriers to Freedom of Information in Foreign Countries, Part Two, October 30, 1946, pp. 239-261, CONFIDENTIAL

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real disadvantages. In the first place, as has been noted, there is no absolute standard of civil liberties; values applicable in the United States, with its long tradition of individual freedom, may not be applicable in Japan. Moreover, there is danger that the Japanese will merely adopt the terminology of American civil liberties without any real understanding of its meaning. Finally, the problem of insuring such rights as freedom of speech, press, and assembly in Japan and at the same time maintaining the safety of the occupation forces and preventing the reappearance of militaristic and extreme nationalistic elements is one of great difficulty. In addition to censorship within Japan, publications and motion pictures from outside Japan are also subject to SCAP censorship. Restrictions on information and on public gatherings in Japan are directed not only against matters that would be suppressed in any case, such as riots and libel, but also against criticism of the occupation forces and the Allied Powers. The fact that it has been necessary to impose censorship on the press, radio, and private communications has led some Japanese to question the sincerity of the Americans and the justification of specific cases of censorship. Moreover, the existence of censorship has probably resulted, in a number of cases, in Japanese slanting of news or statements of opinion in order to conform to what they consider to be expedient or pleasing to the occupation authorities. More serious is the possibility that Japanese may reason that restrictions on civil rights, if justified by the needs and

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objectives of the occupation, may be justified by political or social needs of the post-occupation period. For example, the MacArthur statement of May 20, 1946, which cautioned the Japanese people against "the growing tendency toward mass violence and physical process of intimidation" has been interpreted by some Japanese as offering the government an opportunity to suppress leftist demonstrations.

Resentment of SCAP censorship of letters and newspapers has in part resulted from a refusal to recognize the need for censorship or from a feeling that censorship provisions have been excessive or unreasonable. On one occasion the leftist organ Wimpō, left blank columns where material had been censored, in a protest against what it regarded as unreasonable censorship. Furthermore, it has been reported that Japanese editors complain of the unpredictability of SCAP censorship. There are, however, only two instances at hand which might give basis to the Japanese complaint. One such instance was the deletion by censors of Henry Wallace's speech of September 12, 1946 from Japanese newspapers. Subsequently the whole speech was released with the explanation that the censors had followed the established code calling for deletion of unofficial expressions of opinion reflecting adversely on an Allied Power, but that, because the speech was made by a member of the American Cabinet, it was cleared as soon as it was brought to the attention of higher authorities.

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In October 1946 an issue of the Nippon Times was suppressed because it carried an editorial decrying the Japanese hero-worshipping habits, of which the latest manifestation was said to be "adoration that verges on idolatry" for General MacArthur. "Until the Japanese are cleansed of this servile concept, democracy in Japan will make no progress," the editorial declared. The editorial had already been published in Japanese in the Jiji Shimpō and had been twice approved by the censors on a lower level. The officer in charge of censorship, who suppressed the Nippon Times, was quoted as saying: "This article was censorable under the American code affecting any derogatory statement which tends to diminish the reputation...of the occupation forces or its commanders."

On the whole, SCAP has followed a policy of maximum freedom of information, and the Japanese in general appear to have understood and accepted SCAP's limitations on their newly acquired freedom. In the field of civil rights as in other fields, however, the need for developing Japanese resistance to the reassertion of controls should not be underestimated. It is only by strong individual interest in maintaining civil rights that these rights can be preserved. Therefore, it will presumably be necessary for SCAP not only to provide for the removal of restrictions and the establishment of legal guarantees, but also to encourage those groups that have a special interest in insuring civil rights for the future.

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B. Freedom of Speech

The SCAP directive of October 4, 1945 provided for the removal of restrictive laws, forbade the reimposition of restrictions on free speech, and specifically required freedom to discuss the Emperor and the imperial institution.

During and preceding the Pacific War, extensive use had been made of the lèse majesté provisions of the Criminal Code in order to suppress criticism of the Emperor and the imperial system. Although lèse majesté provisions for the protection of hereditary sovereigns exist in European monarchies, their enforcement has apparently not been as strict, nor their interpretation as broad in these countries as in Japan, the Japanese interpretation having been strongly influenced by the theory of imperial divinity. Since the surrender, at least five cases of lèse majesté have been brought before the courts, on grounds of excessive criticism of the Emperor or of the imperial system. The most important of these cases was that of MATSUSHIMA Matsutaro, a Communist who carried a placard parodying an imperial rescript in a food demonstration in May 1946. The case was brought up for trial in August. Before any decision was reached, charges of lèse majesté had also been brought against the editors of three leftist newspapers and a pretender to the imperial throne. In contrast to the case against Matsushima, which was brought by the Justice Ministry, these four cases were brought by FUKUDA Motoaki wartime editor of the nationalistic Kodō Hoppo, who argued that, as

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before the surrender, no discussion whatsoever of the Emperor should be allowed. The cases against the editors and against the pretender to the throne were dismissed early in October on the ground that the individuals involved had not overstepped the bounds of political criticism or the rights of free speech. In approving the dismissal of these cases, SCAP stated on October 9:

"Under the new Constitution the Emperor will symbolize the repository of state authority--the citizen. The dignity of the state will become the dignity of the individual citizen and the protection accorded to him as the symbol of the state ought to be no more, no less than the protection accorded to the citizen. To hold the contrary would constitute a direct negation of one of the basic principles of democratic government. It would serve to perpetuate the pattern of feudalism and autocracy and would do violence to those basic freedoms acknowledged by Japan, to which the Emperor himself has given hearty accord."

This statement, although perhaps confusing unduly the general doctrine of lèse majesté with the now discarded Japanese doctrine of imperial divinity, apparently had considerable influence on the policies of the Ministry of Justice, which, ten days later, issued the following statement: "No person will be prosecuted for lèse majesté unless he defames, slanders, or insults the Emperor or the Imperial family to such an extent as will make his actions a libel or slander in our daily lives."

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In accord with these statements, the Justice Ministry altered its charge against Matsushima from lèse majesté to libel and secured his conviction. This decision was condemned, particularly by leftist groups, as an infringement of civil rights. Alternation of the charge from lèse majesté to libel was also criticized on the grounds that the Japanese Criminal Code provides that libel is to be prosecuted only on complaint -- interpreted by Professor TAKIKAWA Kōshin of the Law Department of Kyoto Imperial University as requiring the complaint of the person directly injured.

Although it would be difficult to reimpose the tremendous barriers to anything approaching discussion of the Emperor that government policy, reinforced by tradition, exerted in pre-surrender Japan, Japanese officials for some time to come are likely to be unduly sensitive to statements affecting the dignity and position of the Emperor. In the absence of supervision by the occupation, such sensitivity might lead to the reimposition of stringent controls on speech and press, whether under the guise of lèse majesté or libel.

C. Freedom of the Press

1. Distribution of Paper. A major problem in regard to freedom of the press in Japan is the distribution of the inadequate paper supplies. During the latter part of the Pacific War, a major part of the responsibility for distribution of paper was in the hands of the Japan Publishers' Association (Nippon Shuppan Kai)¹, an organization

1. Now known as the Nippon Shuppan Kyōkai, but still translated as the Japan Publishers' Association.

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through which the government carried out its restrictive press policy. In accordance with the SCAP directive of October 26, 1946, control of newsprint was transferred from this body to the cabinet, and subsequently (March 1946) to a Paper Allocation Committee in the Ministry of Commerce and Industry.

The Allocation Committee, overburdened with requests for paper supplies, appears to have accepted the assistance of the Japan Publishers' Association, which had been reorganized after the surrender under a management characterized in some quarters as leftist. Because of this leftist attitude, it has been charged, the association has apparently influenced the allocation of paper to many new publications at the expense of long-established journals with large circulation. Whether as a result of pressure from conservative groups, actual unfairness in allocation, or a desire for increased efficiency, the Japanese Government was reported to have transferred the Allocation Committee to the cabinet, effective November 25, 1946. The Japan Publishers' Association has opposed such a transfer on the ground that it would mean a reassertion of government control over the press. In any case, as long as the paper supply remains at its present level of inadequacy, attempts by interested groups to gain control over newsprint are to be expected.

2. Editorial Policy. With removal of the government's control, the press was nominally free to express such opinions as it chose

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within the limits of Allied censorship and directives. The ultra conservative managements of many newspapers continued after the surrender, however, and SCAP encouraged a program of "democratization" by its favorable attitude toward employee unions and by guidance of management. The SCAP Press and Radio Code of September 10, 1945, the Press Code of September 19, 1945, and the Radio Code of September 22, 1945 not only outlined subjects (such as troop movements) that were not to be discussed but also established standards for objective reporting. Issuance of the codes was followed on October 24 by a conference of the editors of twenty-four leading Japanese newspapers. On this occasion SCAP representatives expressed objections to the fact that certain subjects were being systematically ignored by the Japanese press while others were being distorted or played down. The editors were admonished to establish a free and independent press.

SCAP's policy of encouraging the formation and self-assertion of labor unions stimulated new press unions to force old-line management out of office and to change the editorial policy of the newspapers. Officials of at least twelve newspapers, among them the Asahi, the Yomiuri, and the Mainichi, were compelled to resign by the pressure of individual employees' unions. The outstanding example of worker control of the press was the case of the Yomiuri, which, under employee management, swung from extreme reactionary management control to extreme left-wing employee control. The unions did undoubtedly perform a useful function in ousting reactionaries.

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The problems consequent upon employee management, however, raise the question of the rights of the owners or the management selected by the owners to determine the policy of their papers. By June 1946 trade unions dominated some metropolitan papers so completely that SCAP felt it necessary to declare; "The custodians of responsibility are the owners or the management selected by them." In September the Tokyo District Labor Committee upheld the right of management to discharge editorial employees of newspapers for nonconformance with editorial policies. For the duration of the occupation the policy in this respect appears to be settled. The excesses of employee domination of the press may have been in part the result of a misunderstanding of SCAP's encouragement of democratization.

3. Press Clubs. A system of press clubs in Japan has also served to limit the free distribution of news in the past. Members of the Cabinet Press Club, the Finance Ministry Press Club, and other press clubs had the exclusive right to attend the press conferences of these branches of the government. Membership in these organizations was limited to a few big papers and could be denied to anyone whom the club chose to bar. In May 1946 considerable controversy was raised by the fact that the Cabinet Press Club refused to admit any Yomiuri reporters after ousting two members of the Yomiuri staff who had demanded that the cabinet supply meals to demonstrators at the May 19 food rally. SCAP upheld the right of the press club to dis-

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miss members, but objected to the club's attempt to deny the Yomiuri the right to report on cabinet proceedings by refusing to admit other Yomiuri reporters to membership. Probably as a result of this SCAP objection, the Cabinet Press Club announced its dissolution on August 30, 1946. The Nagata Club, a non-restrictive social club of reporters, was organized in its place. By October 1, 1946 all but two of the press clubs were reported to have been reorganized on a non-exclusive basis. Powerless as these groups now appear to be, however, they might eventually form the foundation for the revival of the restrictive clubs.

4. Use of Freedom by the Press. Although at first the Japanese press seems to have been afraid to use its new freedom to discuss political issues, particularly the Emperor system and the new constitution, there has been an increasing freedom of expression on such topics. The tendency to echo SCAP sentiments on various issues, however, remains strong. This tendency is of course inevitable, partly because the maintenance of censorship over the Japanese press necessarily prevents absolute freedom of expression.

Acceptance of standards of objective reporting as outlined in the SCAP press codes for Japan and in the code of the American Press Association was indicated by the formulation in July 1946 of a press code by the newly formed Japan Newspaper Publishers' and Editors' Association (Shadan Hōjin Nippon Shimbun Kyōkai).

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The subject matter of the Japanese press, too, gives an indication of the result of removal of controls. Beginning with the elections in April, Japanese press and publications have shown increasing interest in matters affecting civil rights. Detailed discussions of the content of the new Japanese Constitution, criticism of the police and suggestions for the reform of the police system, and comments on the various lèse majesté trials have also indicated the interest of the press in maintaining and using its freedom. The use of the press as an organ of public opinion through publication of letters to the editor has also been significant, and the practice of writing and publishing such letters has become widespread since the surrender. Despite the limited supply of paper, there abound newspapers and publications expressing a wide variety of views and representing all political opinions and parties. This fact is undoubtedly due in part to the policies of the Paper Allocation Committee. Evidence suggests, however, that some publishers also obtain paper on the black market.

There is still a possibility that either ultraconservative or radical groups may gain control of the press through control of paper distribution. The refusal of the Liberal Party to allow unfriendly reporters to come to its news conferences is moreover, an indication of the type of pressure that can still be exerted on reporting. Critical editorial analysis and objective reporting are

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still far from achieved. Nevertheless, the press, perhaps more than any other group except labor, has shown a vital interest in maintaining its rights.

D. Freedom of Assembly

Since the surrender there have been a number of mass demonstrations, some of which involved violence and the forcing of interviews with government officials. The demonstrations and forcing of interviews have been in large part under leftist domination and have been staged primarily for the purpose of making demands on the government for a change in cabinet or in policy, especially with regard to food distribution. The demonstrations appear to reflect in part the removal of restrictive police controls, the ability of leftist groups to operate openly once more in Japan, and the difficult living conditions that make violent protests against the party in power ^a natural means of exerting pressures. As yet, popular understanding of the right of assembly is not sufficient for general orderly and constructive use of this right. At the same time, the fact that demonstrations are occurring may itself contribute to education in this respect.

By May 1946, however, SCAP felt it necessary to issue a warning to the Japanese people cautioning them against "the growing tendency toward mass violence and physical processes of intimidation" and stating:

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"While it has been and will be permitted for the Japanese people to have every possible and rational freedom of democratic method in the evolution now taking place in the transformation from a feudalistic and military state to a democratic one, the physical violence which undisciplined elements are now practicing will not be permitted to continue....If minor elements of Japanese society are unable to exercise such self-restraint and self-respect as the situation and conditions require, I shall be forced to take the necessary steps to control and remedy such a deplorable situation."

As a result of the MacArthur statement, conservative forces in Japan appear to have taken the opportunity to assert the desirability of controls over mass movements. Yoshida announced in his speech to the Diet on June 21 that "any tendencies that aim to confuse the path of general peace and destroy social order" would be rigidly restricted. Mimpo, the leftist newspaper, stated on May 23 that the police had begun to make stringent regulations on mass action, and asserted that a distinction must be made between lawful mass demonstrations and direct action or violence. A Communist Party spokesman expressed the fear that the MacArthur statement, which he did not criticize as such, would be used by the Japanese Government to carry out reactionary policies. The spokesman further asserted that the Communist Party has frequently stressed the necessity of preventing acts of violence and that violence has sometimes been caused by police provocateurs.

The Home Ministry, as the body most concerned with enforcing public order, issued its views and general regulations on public

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gatherings on May 30. The Ministry announced that public gatherings would generally be permitted only at public places and would not be allowed in such buildings as government and public buildings, companies, offices, and private homes. The Ministry's statement that circumstances and custom would determine "whether a building is a private home, an office, or other type of building" offers little guarantee against potential control by the police. The object of the regulation, however, appears to have been to prevent demonstrators from forcing their way into the private offices or homes of government officials rather than to prevent gatherings in private homes.

The Home Ministry regulations provide that the police must be notified before the holding of a mass meeting. A Home Ministry spokesman asserted that the reason for this provision was to allow for traffic control and first aid facilities; in the light of similar regulations in other countries, the regulation appears to be justified, although misuse of police power in the past has led to Japanese suspicion of any such provisions.

The Home Ministry regulations further provide that, when a group wishes to interview government authorities or a specific person, representatives must be selected and, if possible, the person to be interviewed must be notified beforehand. Interviews "regarded as unreasonable" are not to be granted, and, conversely, justifiable interviews are not to be refused without valid reasons. Infractions

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of the rights of either the demonstrators or the official being interviewed are not to be allowed, and gatherings that tend toward violence will be broken up. Questioned as to what he meant by "unreasonable request for an interview," a Home Ministry official said that it was "unreasonable for a group of people to stay or sit a long time at the house or office of a person whom they want to see," and noted: "The police will aid a reasonable request and can help decide whether it is important enough. If it is they will arrange an interview."

On September 2, 1946 the Metropolitan Police Board issued additional regulations concerning public meetings. These regulations included a requirement that the police be notified forty-eight hours before the holding of a mass demonstration and, because of traffic problems, a limitation on the times when street demonstrations might be held. It appears that these regulations give the police the right to deny permission to stage a mass demonstration, but that, in such cases, a report stating the reasons must be sent to the person requesting the holding of a demonstration. It would seem that these regulations would not be unduly restrictive if enforced by a police trained in liberal traditions. Moreover, it appears that the Ministry did not intend to restrict or limit public gatherings unfairly. In this connection, the chief of the Public Welfare Section of the Home Ministry stated: "New laws are not contemplated. Public gatherings

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are to be guided instead of controlled. We have no authority to restrict them, nor do we intend to do so." Furthermore, it should be recognized that in any country the law-enforcing agencies must be allowed some latitude of interpretation as to what constitutes violation of public order. Nevertheless, in a country with Japan's tradition of strong police control, abuse of power might readily result from provisions for arrangement of interviews by police and police determination of what constitutes an unreasonable request for an interview, whether a building is a private home or office, when permission may be refused for a public meeting, and when a gathering in a private home becomes a public meeting. As yet, however, with some exceptions such as the Mimpo statement quoted above, complaints regarding disorder at public meetings appear to have centered more on the inefficiency of the police than on their actual suppression or control of public gatherings.

E. Academic Freedom¹

Before and during the Pacific War a number of teachers were discharged from schools and universities because they held beliefs considered subversive of the national government. A number of these teachers have been reinstated in accordance with a SCAP directive of October 22, 1945 dealing with the administration of the Japanese educational system. The Thought Section in the

1. See OCL-4119, Progress in the Field of Education in Japan Since the Surrender, December 9, 1946, SECRET.

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Instruction, Materials, and Guidance Bureau of the Education Ministry was abolished early in the occupation, and the practice of employing inspectors for the guidance of student thought appears to have been eliminated. Courses in political science that had been ordered discontinued in many institutions during the war have been resumed.

The schools and universities, moreover, under the direction of the Education Ministry, have been offering courses for adults in citizenship. These programs may eventually have some significance in creating a people conscious of civil rights and of the necessity for protecting those rights against infringements.

Controversies in the educational field have indicated a considerable degree of concern with civil rights in academic circles. One such controversy centers around the retention of the Imperial Rescript on Education as the basis for future Japanese educational theory. The rescript itself is based primarily on Confucian moral principles and has been used to inculcate the idea of subordination of the individual to the state. A number of Japanese feel that a new statement of educational values should be issued by the Emperor, while others maintain that any imperial rescript defining the principles of education would limit unduly the development of education in Japan. Although the issue is still being discussed, the interest in the question of freeing education from ideological restrictions is notable.

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A second controversy of major importance is that involving the right of students to participate in politics. Discussion was precipitated by Education Minister TANAKA Kōtarō's statement in September 1946 to the effect that students should refrain from political activities, since they are too immature to judge political issues. This statement aroused the fear that the Ministry might attempt to reassert controls over the thought and political action of students. The violence of the criticism with which the statement was received, however, and the fact that NAMBARA Shigeru, President of Tokyo Imperial University, sided against the Ministry in defense of political movements among students suggest that any move to reestablish political controls in the universities would be strongly opposed.

Operations for the removal of ultra-nationalistic and militaristic personnel have been in progress since June 1946. Although it appears that the screening has not been sufficiently extensive, some 1,929 educators were reported to have been removed as of December 16, 1946.

F. Religious Freedom

The primary results of religious freedom in Japan have been the elimination of Shinto as a propaganda weapon and as a limitation on freedom of faith and the added security that this freedom has given to Japanese Christians in such matters as freedom from supervision by the police. It appears, however, that to the average non-Christian Japanese the right to freedom of religious belief is

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probably of secondary importance. The Japanese are notably tolerant with respect to religion and appear to have little objection to practicing different religions simultaneously, as the combination of Buddhist and Shinto rituals in daily life indicates. For this reason, religion in Japan, unlike religion in the West, seldom involved the struggle of the individual to assert his belief against the beliefs of the majority, nor has particular importance been attached to the right of holding such heretical religious beliefs.

The removal of controls on religious bodies through abrogation of the Religious Bodies Law did, however, result in the withdrawal of a number of Buddhist sects from the parent organizations and in proposals to revive several Shinto sects that had been suppressed during the 1930's on charges of immorality and of lèse majesté. These developments caused some Japanese to question the desirability of removing all controls from religious organizations. Education Minister TANAKA Kōtarō, in replying to an interpellation in the Diet on this subject, stated that, since it was difficult to establish standards for determining "good" and "bad" religions, it would be better to allow the people themselves to decide rather than to attempt to establish laws on the subject. His concluding statement that religions injurious to public morals would of course be suppressed seems to have been taken by many Japanese as a threat of

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action comparable to that taken against the Shinto Sect of Ōmotokyō in 1935-36.¹

The government-sponsored All Japan Religious Association, which was founded in 1941 in an attempt to obtain religious unity for support of the war, no longer appears to be of major significance. There does not appear to have been any conscious effort to dissolve the organization, however, and there have, in fact, been some efforts to reorganize it independently of the supervision of the Education Ministry. Many former State Shinto shrines, deprived of State income, have also lost popular support. On July 21, 1946 the Ministry of Education ordered removal of shrines housing the Imperial portrait from the schools.

The SCAP directive of December 15, 1945 that abolished state support of Shinto provided that forced contributions to shrines should not be allowed. Instances of forced contributions to shrines occurred with some frequency, however, and were finally strictly forbidden by an Education Ministry instruction of August 19, 1946. According to this instruction, towns, villages, and neighborhood associations are forbidden to distribute charms and talismans of shrines or to collect

1. Ōmotokyō was violently suppressed, and its leaders arrested and charged with lèse majesté and immorality. The reasons for this action are obscure. However, Ōmotokyō appears to have been a highly nationalistic organization that propounded doctrines somewhat at variance with the orthodox Shinto nationalism.

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money or appropriate it from their budgets for festivals or contributions to shrines.

G. Labor

The abrogation by SCAP directives of legislation restricting civil liberties resulted in the removal of most of the restrictions that had hampered or prevented the development of free labor organizations in Japan. Two wartime labor organizations (the Patriotic Industrial Association and the Patriotic Labor Association) that had been used to curb the free development of trade unions were dissolved on September 30, 1945. In addition, largely as the result of SCAP direction and encouragement, initial steps have been taken to define and guarantee the rights of labor. Thus the "right of workers to organize and to bargain collectively" is guaranteed by the new constitution; two major labor laws, the Trade Union Law (Rōdō Kumiai Hō) and the Labor Relations Adjustment Law (Rōdō Chōsei Hō), were passed by the Diet in December 1945 and September 1946 respectively and now in effect; and a third, the Labor Standards Law (Rōdō Hogo Hōan), is being drafted.

The Trade Union Law, which was put into effect in March 1946, established the right of workers to organize into unions formed autonomously by them. Under this law, representatives of a trade union have the power to bargain with employers on behalf of union members for conclusion of a trade agreement or for settlement of other matters.

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Employers may not discharge or discriminate against an employee because of his membership in a trade union nor may employers make withdrawal from a union or the promise not to join a union conditions of employment. Furthermore, employers may not claim indemnity from a union or its membership "for damages received through a strike or other acts of dispute which are proper acts." 1

Although the law has met with unexpected practical success in its operation to date, as is indicated by the phenomenally rapid development of Japanese unions, there are provisions in it that have been criticized as inadequate and, in some cases, potentially dangerous if administered by a government hostile to labor.² Article 2 of the law stipulates certain conditions that must be met by a union in order to obtain official recognition. Under the terms of the law, the main purpose of the union must be to maintain or improve the conditions of work and to raise the economic status of the workers; the objects of a union must not be confined to welfare work or aimed principally at carrying on political or social movements. Although these provisions are not unduly restrictive and may serve as a useful

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1. Acts of dispute were later defined in the Labor Relations Adjustment Law as including "strike, soldiering, lockout, and other acts and counteracts, hampering the normal course of work of an enterprise, performed by the parties concerned with labor relations with the object of attaining their respective claims."
 2. See Final Report of the Advisory Committee on Labor, July 29, 1946. The Committee, which consisted of twelve American experts, was attached to GHQ, SCAP from March to July 1946.

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remainder of the normal functions of unions, they may be used in the future to restrict the political activities of trade unions.

Article 2 also contains provisions designed to prevent employers from dominating or influencing unions. The section that provides that a union must not depend on the employer "for the major expenses of the union," however, does not prevent the employer from rendering substantial financial aid that might impair the union's independence. Furthermore, many of the devices that employers may use to influence union decisions are not banned by the act.

Article 4 of the law denies the right of organization to police, firemen, and employees of penal institutions. Since subsequently such employees were prohibited from resorting to acts of dispute by the Labor Relations Adjustment Law, it has been argued by the Advisory Committee on Labor and others that the prior denial of the right to organize should now be abrogated.

In order for a union to receive recognition as such and to enjoy the rights provided in this and other laws, it must be registered by the government within a week after its formation. For this purpose, it must submit its constitution and certain data pertaining to its organization and membership. This time period would seem inadequate for the drawing up of a constitution by democratic processes. The registration provisions as a whole are of a type that have been regarded by unions in other industrial countries as potential weapons

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of government control or suppression. It has thus been suggested by the Advisory Committee on Labor that these provisions be withdrawn eventually or at least revised.

Articles 14 and 15 of the Trade Union Law provide that unions shall be dissolved in case of bankruptcy or of frequent violation of laws and ordinances and disturbance of peace and order. The Advisory Committee on Labor pointed out that Labor's financial resources can be expected to be in a precarious state for some time to come and that "inability to pay the rental for a union hall, for example, is not adequate grounds to deprive the union of the right to represent its members in collective bargaining." The nebulous character of the standards for dissolution on the grounds of frequent violation of the law and disturbance of peace and order are somewhat reminiscent of earlier Japanese legislation used to suppress unions as well as other organizations. Disbanding of a union as a solution for violations of laws might well be objected to as offering a wedge for the reassertion of government control over labor groups.

Because of the strong objections raised by the Advisory Committee on Labor to aspects of the Trade Union Law, plans for its revision were initiated by the Welfare Ministry. The Ministry announced that, prior to its revision, public hearings would be held on the law and as a first step in this direction convoked a labor-management conference on November 30.

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The second major piece of labor legislation, the Labor Relations Adjustment Law, was enacted for the purpose of establishing machinery for adjusting labor disputes. In contrast to the passage of the Trade Union Law, which occurred before trade unions were especially articulate in their criticism, the passage of the Labor Relations Adjustment Law was vigorously opposed by Japanese labor groups. The opposition resulted from the fear that the law would restrict union activities. This fear seemed to be based on a growing belief among organized workers that the government was essentially anti-union in its policy and that therefore any restrictions on the right to strike, however innocuous they might seem to unions in other countries, would be used to destroy unions in Japan. Japanese objections to the law itself center on the provisions of Chapter 5 that restrict or prohibit certain acts of dispute. Under the terms of this chapter, workers engaged in "public welfare" occupations may not engage in acts of dispute until thirty days after the initiation of mediation procedure. In addition to occupations defined in the bill as falling within the public welfare category (transportation, post, telegraph, and telephone work; water, electric, and gas work; medical treatment and public health work) the competent minister may designate as within the public welfare category other activities that, if interrupted, would seriously affect the national economy or endanger the daily life of the people. Such a designation is valid for a period not exceeding

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one year and must be made in accordance with a majority decision of the Central Labor Relations Committee.

Some objection has also been made to the provision that officials and employees engaged in work of the national, prefectural, and municipal government administration or judiciary shall not resort to acts of dispute. The law does, however, correct one limitation of the Trade Union Act by protecting workers against employer discrimination because of trade union activity. It amends Article 11 of the Trade Union Law to prohibit "discriminatory treatment to a worker for having tried to form or join a trade union, or having performed acts of a trade union." Another article prohibits discharge or discriminatory treatment of a worker because he has performed acts of dispute or given testimony at labor disputes adjustment hearings, unless such discharge or treatment is agreed to by the Central Relations Committee.

As a result of widespread opposition to the Labor Relations Adjustment Law, it was officially agreed not to put the law into effect until the Labor Standards Law providing for the economic and physical protection of workers was introduced in the Diet. Because of its desire to take action on a dispute in the electric industry, however, the government hastily put the law into effect on October. This action drew the criticism not only of labor but also of the Central Labor Relations Committee. This criticism was sharpened by subsequent government

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interference in the mediation process, an interference that almost caused the collapse of negotiations.

The legal basis for the protection of labor's rights has been established, under SCAP direction, in the constitution and in legislation that, although not without flaws, is certainly superior to anything known in the past in Japan. In addition, the presence of SCAP has been a restraining influence on Japanese officials in their interpretation of potentially restrictive provisions. The continued growth of unions, moreover, may make organized labor a political force of sufficient weight to prevent reassertion of restrictions after the withdrawal of the occupation. Permanence of the reforms thus far effected, however, as well as further enlargement of labor's rights, will probably depend to a considerable extent on the rapidity with which organized labor adopts mature and responsible practices in the trade union field and gains sufficient influence in the political field to prevent the domination of the government by groups imbued with an anti-labor philosophy.

H. Position of the Police with Regard to Civil Rights

The highly centralized police force in Japan in the past facilitated political coercion by the Home Ministry through the police bureaus of the various prefectures. Democratic local control of a decentralized police system has been advocated in order to limit the possibility of such coercion from the national government in the future.

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Decentralization of the police might free the police system of political control by the national government; however, there is no guarantee that local political controls might not be substituted for national ones. An editorial in the Mainichi Shimbun of December 2, 1946, in pointing out the disadvantages of decentralization, maintained that a decentralized system was inefficient in a country the size of Japan and that the proposed co-existence of local and national police would involve duplication of functions. In any case, decentralization of the police cannot well be effected without extensive reorganizations in local government that are still under discussion.

A tentative Police System Reform Bill (Keisatsu Seido Kaisei An) was presented to the cabinet by the Home Ministry on July 18, 1946 and was referred to a committee on reform of local administration a few days later. Subsequently, the Home Ministry drafted other proposals for police reform and presented them for discussion to the Police System Examination Committee (Keisatsu Seido Shingi Kai), which was established within the Home Ministry on November 9. On November 18 the committee presented its general plan for police reform, which is to form the basis for a new draft of the Police System Reform Bill.

Major points in the committee's plan for police reform are reported to include alteration of police administration, limitation of police functions, and improvement of the status of the police. According to the plan, responsibility for police administration would be vested in

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the five biggest cities and in the prefectures. It appears that some national police administration would continue to exist, although its participation in local police problems apparently would be limited. The committee has not yet decided whether the Tokyo Metropolitan Police Board should remain directly under an agency of the national government (at present the Home Ministry) or whether it should be placed under the Tokyo municipal administration. Firemen would no longer be under the administration of the police, and auxiliary police organizations would be discontinued under the terms of the committee's plan. Provisions regarding the supervision of the judicial police are not clear in reports of the plan that are now available. In the past, police making criminal investigations operated under the Justice Ministry (i.e., under the authority of the procurator) and were known as judicial police. Administratively, however, the police remained under the Home Ministry; therefore, the procurators had no authority to discipline or transfer the police responsible for carrying out the procurators' orders. Representatives of the Justice Ministry now maintain that, for efficiency of operation, police investigating criminal cases should be under the administration of the Justice Ministry. Home Ministry officials, on the other hand, realizing that most of the ordinary police work will probably be decentralized, wish to retain control of any centralized corps of police investigators that may continue to exist and, furthermore, maintain that the police function of apprehending criminals should be separated from the procuratorial function of indictment.

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The committee's plan for police reform also includes the limitation of police activities to the protection of life and property, prevention of crime, and the maintenance of public peace and order. Extraneous police functions such as supervision of recreational enterprises, public welfare, and distribution of automobile fuel are to be transferred to other agencies of the government. Such transfer of functions to other agencies is of importance for several reasons. In the first place, the multiplicity of services performed by the police has conditioned the public to the idea of police interference in all phases of private life and thus to the acceptance of political limitations on freedom that the police may impose. Furthermore, performance of special functions by the police has not only impaired efficiency by deflecting personnel from the performance of regular police duties, but also, in some cases has resulted in inefficient performance of the special functions by untrained police personnel.

It is generally felt that the Japanese police system cannot be improved unless the attitudes of the ordinary policemen undergo considerable change and men of high caliber join the police force. In order to attract a better type of men to the police force, as well as to mitigate the practice of accepting bribes, the committee proposes that better financial treatment be accorded the police and that extra pay for overtime and bonuses for special service be granted. Special attention, it is argued, should be given to police officers' welfare and in-service education.

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Shortly after the surrender, various elaborate plans for the reeducation of the police were announced by the Japanese Government. The most important was the plan for a central police college. . Although some Japanese protested that such an institution, like the old military colleges might become a center for reaction, the necessary appropriation of over 1,000,000 yen appears to have been approved by the Finance Ministry, and appointment of the head of the new institution was announced on November 12, 1946.

Since the surrender popular attitudes toward the Japanese police as reported in the press have been somewhat divided. There has been an increasing tendency to criticize the low salaries paid to the police and to protest against an alleged decline in the power of the police to keep order. On the other hand, there have been a number of assertions that the police continue to exercise considerable power and that they are as arrogant and arbitrary as ever in their acts. Both points of view are probably justified. With the disordered conditions following the surrender, food shortages, prostitution, and juvenile delinquency have given rise to special police problems that make maintenance of order difficult. It is probable, moreover, that police morale has been lowered in many cases by the dismissal of police officials, openly expressed antagonism to the police, and the continued inadequacy of police pay. At one time the Japanese Government proposed to deny

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police the right of membership in political parties, but this proposal was rejected by SCAP as an excessive limitation of the individual rights of the police. Limitations on the right of the police to form or join unions or to participate in acts of dispute have already been noted. (See Section IV, G.)

Nevertheless, there is evidence that the Japanese police are still using third-degree methods to extort confessions from people whom they believe to be guilty. There are moreover, some assertions to the effect that ex-Special Higher Police officials are still in office, although they are serving in different branches of the police force. Instances of detention beyond the legal period without specific charges, search of private dwellings without warrants, and partisan enforcement of the election laws in spite of Home Ministry orders requiring a minimum of interference with election proceedings have also been reported in letters to the press. Furthermore, police have undoubtedly been guilty of many black-market dealings.

Police activity with regard to labor since the surrender has been criticized by unions on a number of occasions. Instructions from the Home Ministry to the Prefectural Governors on November 6, 1945, February 8, 1946, June 22, 1946 and October 30, 1946 required the police to refrain from interference in labor disputes, thus nullifying to a degree certain provisions in the Police Crimes Punishment

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Ordinance that had previously been used to hamper picketing and conduct of strikes. SCAP instructions, issued on January 22, 1946 state: "Japanese police shall not participate in labor relations activities or intervene in labor disputes unless such intervention is necessary to preserve public order."

Individuals have reported to the Japanese Press that labor police continue to function in factories in some areas and that police have been guilty of eavesdropping at union meetings. On October 13, 1946, Akahata, the Communist newspaper, charged the police with exerting pressure on strikers, injuring demonstrators, and illegally detaining members of the Mainichi Shimbun Youth Corps. Similar charges of detention of Mainichi Shimbun strikers by the police were reported by the Kyodo News Service on October 16, 1946. It is not clear whether these charges against the police were justified, but it is apparent that popular resentment against police interference in labor disputes is strong.

On November 30, 1946 the Japanese Government, in an effort to remove police influence from labor relations, announced that all persons who had served in the police administration at any time from September 1931 to September 1945 would be eliminated from all labor relations agencies (including the Welfare Ministry and labor organizations).

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Although police behavior has improved in areas under SCAP supervision, there is some evidence that police practices in areas not so supervised have not changed greatly from wartime and prewar standards. The temptation to resort to repressive measures will, moreover, probably continue to be strong as long as shortages of food and housing give rise to difficult problems of public order.

V. EVALUATION

A. Accomplishments in the Field of Civil Liberties

Progress in the establishment of civil liberties in Japan, as in other fields, has been largely the consequence of American policy statements implemented by SCAP directives that have brought about the removal of the legal and institutional restrictions of the past and established constitutional guarantees of civil liberties for the future. Current Japanese activities directed toward enactment of implementing legislation and the modification of major codes, although not the subject of detailed directives, are, nevertheless, proceeding under the close if informal supervision of SCAP officials.

Achievements under this system of direction and supervision have been substantial. Most of the legislation repressive of civil rights has been removed in accordance with the order of October 4, 1945. In addition, the new Japanese Constitution provides guarantees of civil

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rights more extensive than those guaranteed by the Constitution of 1889, provides for judicial review of laws and ordinances, and places limitations on the ordinance power. Revisions of civil, criminal, judicial, and police laws, although not yet completed, are under way. Some labor legislation granting certain rights to unions is already in effect, as is the new election law granting the vote to women and lowering the voting age from twenty-five to twenty.

In accordance with the SCAP directive of October 4, 1945, the Special Higher Police organization and the Protection and Surveillance Stations have been abolished. The Japanese Government has, in general, complied with SCAP directives requiring the elimination of government control over the press, and the distribution of newsprint has nominally, at least, been removed from the control of the newspaper and publishers' associations. State aid to and propagation of Shinto have been discontinued; Shinto shrines have been removed from the schools; Shinto doctrine is being eliminated from textbooks; and the Japanese Government has forbidden forced contributions to Shinto shrines. A number of educators dismissed for ideological reasons have been reinstated by order of SCAP. Courses in political and social science, discontinued during the war years, have been resumed in many universities. In addition, some universities are offering extension courses for adults in citizenship.

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A number of political prisoners were released in response to the October 4 directive. The civil rights of many of these persons, although not immediately restored by the Japanese Government, were reestablished as a result of a SCAP directive of December 1945.

Free circulation of books in Japanese public and university libraries was specifically ordered by SCAP in February 1946 and the Liberal Bar Association has recovered a number of books confiscated by the police during the war years.

In spite of the extensive accomplishments with regard to civil rights, however, much remains to be done. It will be difficult to evaluate the importance of legal revisions until the final drafts of the laws implementing the constitution are available. The question of distribution of newsprint under the influence of a private association of publishers is still a vital one, although control has ostensibly been transferred to a government office. Instances of forced contributions to Shinto shrines continue to be reported in the Japanese press, as do instances of abuse of power by the police. Plans for and implementation of police decentralization are still tentative. Reports that all political offenders were not freed by the order of October 4 may perhaps be confirmed by the provisions of the amnesty of November 3, 1946, which appears to have included persons eligible for release under the order of October 4, 1945.

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Although an enumeration may be made of laws abrogated and institutions dissolved, it is much more difficult to determine the degree to which there has developed in Japan an understanding of civil liberties and a desire to protect the civil liberties that have been bestowed from above. The permanency of these achievements in the field of civil rights, however, may well depend upon the willingness of individual Japanese to extend freedom of expression to those holding opposing views and upon whether civil liberties seem important and worthy of preservation to a body of Japanese sufficiently large and powerful to protect them against the incursions of any group that seeks to undermine or destroy them.

B. Problems Involved in Developing Popular Understanding of and Support for Civil Liberties

To some extent the Japanese tradition itself, not only as it related specifically to civil liberties but also as it influences general social and political attitudes, militates against a very rapid growth in Japan of a desire for the protection and expansion of civil liberties. The Japanese political tradition is one of government paternalism through which the ordinary citizen comes to believe that government control, if at times harsh, is inescapable or even on the whole beneficial. As a result, a concept of civil liberties beyond those permitted by the government has never been strong in Japan. Another aspect of the tradition is the general lack of individualism in Japanese society. On the whole, there has been no strong influence toward identification

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of the individual with groups that might stand apart from or offer resistance to the political community. When such identification has appeared, the government has endeavored either to suppress it, as in the case of certain religious sects, or to identify it with the state, as in the case of State Shinto, the combination of other religious groups under government auspices, and the synthesizing of neighborhood associations into the government structure.

On the other hand, there are elements of the Japanese tradition, hitherto of minor influence, that support Western concepts of civil liberty and that, with the discrediting of elements of the dominant tradition by defeat and occupation, may appear more important and attractive to the Japanese now than they have in the past. In addition, many groups that in prewar Japan had broken, to some extent at least, with the dominant tradition--among them the trade unions, the Socialists, the Communists, and an amorphous group of Westernized intellectuals--are now in an immeasurably stronger position and may be expected to seek to maintain that position by preserving the liberties that made it possible.

The occupation itself, although responsible for the removal of past restrictions and the establishment of guarantees, imposes censorship and other restrictions that, however justified and inevitable, cannot but raise questions in Japanese minds as to the sincerity of

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American pretensions and the compatibility of fuller civil liberties with the maintenance of a reasonably orderly society. On the other hand, it is apparent to thoughtful Japanese that their civil liberties are at present circumscribed less than they have been in the past and probably less than they would be now were the existing government free to act without reference to occupation policy.

A potentially more serious problem than has been created by internal censorship may develop with regard to the flow of information, propaganda, and publications from abroad. SCAP internal censorship has been largely directed against a recrudescence of the extreme militarist and nationalist ideas that were an element in leading Japan to war and that, according to Allied policy, must be eliminated from Japanese society. Although American officials in Japan have publicly and repeatedly expressed the opposition of the United States to Communism, the United States has on the whole followed a policy of encouragement of democratic forms and forces without seeking the suppression of the activities of Japanese Communists. On December 5, 1946, however, SCAP issued a circular establishing regulations for the admission of foreign magazines, books, motion pictures, news and photograph services, and for the dissemination of such materials in Japan. These regulations, the text of which is not available here, have been interpreted as directed primarily against the Soviet Union.¹ Should the United States

1. New York Times, December 13, 1946.

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seek by such means to limit the flow of Communist doctrine into Japan, many Japanese may be reinforced in their own attachment to repressive practices by American example or may develop increasing cynicism with regard to both American pretensions and the feasibility of civil liberties in a world divided by conflicting philosophies.

C. Evidence of Development of Popular Understanding of Civil Rights

Thus far the growth of an orderly use of civil rights in Japan has been somewhat overshadowed by extremes of radicalism and ultra-conservatism. In the educational field, for example, such extremes have resulted on the one hand in the attempts of students and of teachers' unions to take over the management of schools and on the other in attempts by the Education Minister to limit political activities in universities.

The tendency that manifests itself in student administration of schools and in the violent entry of homes and offices by mass demonstrators is the result of several causes. In part it appears to be the result of popular misunderstanding of the meaning of democracy and a tendency to regard any change in the established system as "democratization." In part it is caused by the elimination of police restrictions on unions, on freedom of assembly, and on leftist groups after a long period of repression. Moreover, difficult food and living conditions have undoubtedly made the Japanese people as a whole susceptible to mass hysteria and consequently apt to stage disorderly demonstrations.

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Conservative attempts to maintain controls over public gatherings and over labor disputes, on the other hand, may, in many cases, probably be attributed as much to a genuine fear of disorder as to a desire to limit the activities of groups regarded as radical. At the same time, there may well be a tendency among conservatives to overemphasize the dangers of disorder consciously, in order to prevent complete removal of restrictions. Gradual elimination of the causes of disorder may bring about the eventual removal of restrictions on civil rights, but the attitude that favors rigid maintenance of public order at the expense of extensive limitations on individual liberties must be recognized as a potential threat to civil rights in Japan. That the tendency to restrict civil rights is still strong in Japan may perhaps be illustrated by the transfer of charges of lèse majesté to charges of libel, in order to secure the conviction of a Communist demonstrator, by the government's interpretation of the SCAP statement on demonstrations, and by the acknowledged persistence of police abuses.

At the same time, there are hopeful signs in the opposition to the Education Minister's attitude on student political movements by the President of Tokyo Imperial University; in the dismissal by the Tokyo court of several cases of lèse majesté on the ground that the accused had not overstepped the bounds of political criticism in their charges against the Emperor; and in the dissolution of the restrictive press clubs. The rapid growth of labor unions, the use that the press has made of its freedom to discuss political issues, and the variety of journals now being issued in Japan are also encouraging signs for the future of civil rights in Japan.

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APPENDIX

WITHDRAWAL OF JAPANESE LAWS AND ORDINANCES LIMITING CIVIL LIBERTIES

Since the surrender, SCAP has issued orders for the withdrawal of the following laws and ordinances, in whole or in part. When dates of abrogation are available, this information is also noted, but the absence of such data should not be taken as an indication that the Japanese Government has failed to repeal the legislation in question.

1. Press Law (Shimbunshi-Hō) of 1909; ordered repealed by SCAP directive of September 27, 1945.

2. National General Mobilization Law (Kokka Sōdōin Hō), as revised in 1941; ordered repealed by SCAP directive of September 27, 1945; abrogated by 89th Diet session, December 1945, with the exception of Articles 4, 6, and 7, which provided authority for wage and price control and were scheduled to go out of effect in October 1946.

3. Newspaper Contents Restriction Ordinance (Shimbunshi tō Keizai Seigen Rei) of January 1941; ordered repealed by SCAP directive of September 27, 1945.

4. Journalism Ordinance (Shimbun Jigyō Rei) of December 1941; ordered repealed by SCAP directive of September 27, 1945.

5. Temporary Laws for Speeches, Publications, Meetings, and Forming of Societies (Genron Shuppan Shukai Kessha Rinji Torishimari Hō)

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and the enforcement regulations, both of December 1941; ordered repealed by SCAP directive of September 27, 1945.

6. Special Wartime Criminal Law (Senji Keiji Tokubetsu Hō) of March 1941, amended March 1943 and October 1943; ordered repealed by SCAP directive of September 27, 1945.

7. National Defense Peace Preservation Law (Kokubō Hoan Hō) of March 1941; ordered repealed by SCAP directives of September 27 and October 4, 1945. The enforcement order for the above law, issued in May 1941, was ordered repealed by SCAP directive of October 4, 1945.

8. Law for the Protection of Military Secrets (Gunki Hogo Hō) of 1937, revised 1941; ordered repealed by SCAP directives of September 27 and October 4, 1945. These directives also ordered the repeal of the enforcement regulations, originally issued in 1939 and revised in 1941.

9. Special Law for the Control of Seditious Literature (Fuon Bunshe Rinji Torishimari Hō) of June, 1936; ordered repealed by SCAP directive of September 27, 1945.

10. Law for Safeguarding Secrets of Military Material Resources (Gunyo Shigen Himitsu Hogo Hō) of March 1939; ordered repealed by SCAP directives of September 27 and October 4, 1945. Two enforcement ordinances of the above law (Imperial Ordinance No. 413 of 1939, promulgated June 1939, and Ministries of War and Navy Ordinance No. 3,

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promulgated June 1939) were ordered repealed by SCAP directive of October 4, 1945.

11. Essential Industries Organization Ordinance (Jiyo Sangyo Dantai Rei), original date not known, amended July 4, 1945, and the enforcement regulations; ordered repealed by SCAP directive of September 27, 1945.

12. Motion Picture Law (Eigahō) of April 1939, with revisions and additions of 1941, and fourteen ordinances dealing with enforcement procedure or containing revisions and additions; all ordered repealed by the SCAP directive of October 16, 1945. The Motion Picture Law itself was abrogated by the 89th Diet Session, December 1945.

13. Rules and Regulations Governing All Forms of Public Performances, Metropolitan Police Rules #9, April 1, 1944, sections 1 to 95; ordered repealed by SCAP directive of October 16, 1945.

14. Rules and Regulations Governing All Motion Pictures, Metropolitan Police Rules #10, April 1, 1944, sections 1 to 40; ordered repealed by SCAP directive of October 16, 1945.

15. Notification of Rules and Regulations Governing All Public Performances and Motion Pictures, Metropolitan Police Regulations, Public Morality Regulation #682, April 15, 1944, sections 1 to 25, and Rules and Regulations of Executing the Motion Picture Law, appendix to regulation #682, sections 1 to 28; ordered repealed by SCAP directive of October 16, 1945.

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16. Peace Preservation Law (Chian Iji Hō) of March 1941; ordered repealed by SCAP directive of October 4, 1945; abrogated by 89th Diet Session, December 1945.

17. Protection and Surveillance Law for Thought Offense (Shisō Han Hogo Kansatsu Hō) of May 1936, and the regulations relative to the application of the law and the ordinance establishing Protection and Surveillance Stations, November 1936; ordered repealed by SCAP directive of October 4, 1945; abrogated by Imperial Ordinance No. 575, October 15, 1945. Discontinuance of the Protection and Surveillance Commission was reported on October 22, 1945, and imperial approval of the abolition of the Protective Institutions Ordinance was granted on February 8, 1946.

18. Precautionary Detention Procedure Order (Yobō Kōkin Tetsuzuki Rei) and Regulations for Treatment of Persons under Precautionary Detention (Yobō Kōkin Shōgu Rei), Ministry of Justice orders numbers 49 and 50, May 1941; ordered repealed by SCAP directive of October 4, 1945. The Precautionary Detention Office was reported dissolved as of October 15, 1945.

19. Regulations for the Appointment of Lawyers under the Peace Preservation Laws (Bengoshi Shitei Kitei), Ministry of Justice order, May 1941; ordered repealed by SCAP directive of October 4, 1945;

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reported abrogated by the Vice Minister of Justice, October 15, 1945.

20. Religious Bodies Law (Shūkyō Dantai Hō) of April 1939; ordered repealed by SCAP directive of October 4, 1945; abrogated by 89th Diet Session, December 1945.

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