

十七条憲法

<p>一曰。以和為貴。無忤為宗。人皆有黨。亦少達者。是以或不順君父。乍違于隣里。然上和下睦。諧於論事。則事理自通。何事不成</p>	<p>Article 1 Harmony is to be valued, and an avoidance of wanton opposition to be honoured. All men are influenced by class-feelings, and there are few who are intelligent. Hence there are some who disobey their lords and fathers, or who maintain feuds with the neighbouring villages. But when those above are harmonious and those below are friendly, and there is concord in the discussion of business, right views of things spontaneously gain acceptance. Then what is there which cannot be accomplished!</p>	<p>(1) Harmony should be valued and quarrels should be avoided. Everyone has his biases, and few men are far-sighted. Therefore some disobey their lords and fathers and keep up feuds with their neighbors. But when the superiors are in harmony with each other and the inferiors are friendly, then affairs are discussed quietly and the right view of matters prevails.</p>
<p>二曰。篤敬三寶。三寶者佛法僧也。則四生之終歸。萬國之極宗。何世何人非貴是法。人鮮尤惡。能教從之。其不歸三寶。何以直枉。</p>	<p>Article 2 Sincerely reverence the three treasures. The three treasures, viz. (videlicet,namely), Buddha, the law and the priesthood, are the final refuge of the four generated beings, and are the supreme objects of faith in all countries. What man in what age can fail to reverence this law? Few men are utterly bad. They may be taught to follow it. But if they do not betake them to the three treasures, how shall their crookedness be made straight? <i>(The 17 Article Constitution on Duhaime.org)</i></p>	<p>(2) The three treasures, which are Buddha, the (Buddhist) Law and the (Buddhist) Priesthood; should be given sincere reverence, for they are the final refuge of all living things. Few men are so bad that they cannot be taught their truth. <i>(by SaruDama: Shotoku's Seventeen-Article Constitution)</i></p>
<p>三曰。承詔必謹。君則天之。臣則地之。天覆地載。四時順行。万氣得</p>	<p>Article 3 When you receive the Imperial commands, fail not scrupulously to obey them. The lord is Heaven, the vassal is Earth. Heaven overspreads, and Earth upbears. When this is so, the four seasons follow their due course,</p>	<p>(3) Do not fail to obey the commands of your Sovereign. He is like Heaven, which is above the Earth, and the vassal is like the Earth, which bears up Heaven. When Heaven and Earth are properly in place, the four seasons follow their</p>

<p>通。地欲覆天。則致壞耳。是以君言臣承。上行下靡。故承詔必慎。不謹自敗。</p>	<p>and the powers of Nature obtain their efficacy. If the Earth attempted to overspread, Heaven would simply fall in ruin. Therefore is it that when the lord speaks, the vassal listens; when the superior acts, the inferior yields compliance. Consequently when you receive the Imperial commands, fail not to carry them out scrupulously. Let there be a want of care in this matter, and ruin is the natural consequence.</p>	<p>course and all is well in Nature. But if the Earth attempts to take the place of Heaven, Heaven would simply fall in ruin. That is why the vassal listens when the lord speaks, and the inferior obeys when the superior acts. Consequently when you receive the commands of your Sovereign, do not fail to carry them out or ruin will be the natural result.</p>
<p>四曰。群卿百寮。以禮為本。其治民之本。要在乎禮。上不禮而下非齊。下無禮以必有罪。是以群臣有禮。位次不亂。百姓有禮。國家自治。</p>	<p>Article 4 The Ministers and functionaries should make decorous behaviour their leading principle, for the leading principle of the government of the people consists in decorous behaviour. If the superiors do not behave with decorum, the inferiors are disorderly. If inferiors are wanting in proper behaviour, there must necessarily be offenses. Therefore it is that when lord and vassal behave with propriety, the distinctions of rank are not confused. When the people behave with propriety, the Government of the Commonwealth proceeds of itself.</p>	<p>(4) The Ministers and officials of the state should make proper behavior their first principle, for if the superiors do not behave properly, the inferiors are disorderly; if inferiors behave improperly, offenses will naturally result. Therefore when lord and vassal behave with propriety, the distinctions of rank are not confused: when the people behave properly the Government will be in good order.</p>
<p>五曰。絕饕棄欲。明辯訴訟。其百姓之訴。一日千事。一日尚爾。况乎累歲須治訟者。得利為常。見賄聽。便有</p>	<p>Article 5 Ceasing from gluttony and abandoning covetous desires impartially with the suits which are submitted to you. Of complaints brought by the people there are a thousand in one day. If in one day there are so many, how many will there be in a series of years? If the man who is to decide suits at law makes gain his ordinary motive, and hears causes with a view to</p>	<p>(5) Deal impartially with the legal complaints which are submitted to you. If the man who is to decide suits at law makes gain his motive, and hears cases with a view to receiving bribes, then the suits of the rich man will be like a stone flung into water, meeting no resistance,</p>

<p>財之訟如石投水。乏者之訴似水投石。是以貧民則不知所由。臣道亦於焉闕。</p>	<p>receiving bribes, then will the suits of the rich man be like a stone flung into water, while the complaints of the poor will resemble water cast upon a stone. Under these circumstances the poor man will not know whither to betake himself. Here too there is a deficiency in the duty of the Minister.</p>	<p>while the complaints of the poor will be like water thrown upon a stone. In these circumstances the poor man will not know where to go, nor will he behave as he should.</p>
<p>六曰。懲惡勸善。古之良典。是以无匿人善。見惡必匡。其諂詐者。則為覆国家之利器。為絕人民之鋒劍。亦佞媚者对上則好說下過。逢下則誹謗上失。其如此人皆无忠於君。无仁於民。是大乱之本也。</p>	<p>Article 6 Chastise that which is evil and encourage that which is good. This was the excellent rule of antiquity. Conceal not, therefore, the good qualities of others, and fail not to correct that which is wrong when you see it. Flatterers and deceivers are a sharp weapon for the overthrow of the State, and a pointed sword for the destruction of the people. Sycophants are also fond, when they meet, of dilating at length to their superiors on the errors of their inferiors. To their inferiors, they censure the faults of their superiors. Men of this kind are all wanting in fidelity to their lord, and in benevolence toward the people. From such an origin great civil disturbances arise.</p>	<p>(6) Punish the evil and reward the good. This was the excellent rule of antiquity. Therefore do not hide the good qualities of others or fail to correct what is wrong when you see it. Flatterers and deceivers are a sharp weapon for the overthrow of the state, and a sharp sword for the destruction of the people. Men of this kind are never loyal to their lord, or to the people. All this is a source of serious civil disturbances.</p>
<p>七曰。人各有任掌。宜不濫。其賢哲任官。頌音則起。奸者有官。禍乱則繁。世少生知。尅念作聖。事無大少。得人必治。時無急緩。</p>	<p>Article 7 Let every man have his own charge, and let not the spheres of duty be confused. When wise men are entrusted with office, the sound of praise arises. If unprincipled men hold office, disasters and tumults are multiplied. In this world, few are born with knowledge: wisdom is the product of earnest meditation. In all things, whether great or small, find the right man, and they will surely be well managed. On all occasions, be they urgent or the</p>	<p>(7) Every man has his own work. Do not let the spheres of duty be confused. When wise men are entrusted with office, the sound of praise arises. If corrupt men hold office, disasters and tumult multiply. In all things, whether great or small, find the right man and they will be well managed. Therefore</p>

<p>遇賢自寬。因此 國家永久。社稷 勿危。故古聖王。 為官以求人。為 人不求官。</p>	<p>reverse, meet but with a wise man, and they will of themselves be amenable. In this way will the State be lasting and the Temples of the Earth and of Grain will be free from danger. Therefore did the wise sovereigns of antiquity seek the man to fill the office, and not the office for the sake of the man.</p>	<p>the wise sovereigns of antiquity sought the man to fill the office, and not the office to suit the man. If this is done the state will be lasting and the realm will be free from danger.</p>
<p>八曰。群卿百寮。 早朝晏退。公事 靡*。終日難盡。 是以遲朝。不逮 于急。早退必事 不盡。</p>	<p>Article 8 That the Ministers and functionaries attended the court early in the morning, and retire late. The business of the state does not admit of remissness, and the whole day is hardly enough for its accomplishment. If, therefore, the attendance at court is late, emergencies cannot be met. If officials retire soon, the work cannot be completed.</p>	<p>(8) Ministers and officials should attend the Court early in the morning and retire late, for the whole day is hardly enough for the accomplishment of state business. If one is late in attending Court, emergencies cannot be met; if officials retire early, the work cannot be completed.</p>
<p>九曰。信是義本。 每事有信。其善 惡成敗。要在于 信。群臣共信。 何事不成。群臣 无信。万事悉敗。</p>	<p>Article 9 Good faith is the foundation of right. In everything let there be good faith, for it there surely consists the good and the bad, success and failure. If the Lord and the vassal observe good faith one with another, what is there which cannot be accomplished? If the Lord and the vassal do not observe good faith toward one another, everything without exception ends in failure.</p>	<p>(9) Good faith is the foundation of right. In everything let there be good faith, for if the lord and the vassal keep faith with one another, what cannot be accomplished? If the lord and the vassal do not keep faith with each other, everything will end in failure.</p>
<p>十曰。絕忿棄瞋。 不怒人違。人皆 有心。心各有執。</p>	<p>Article 10 Let us cease from wrath, and refrain from angry looks. Nor let us be resentful when others differ from us. For</p>	<p>(10) Let us control ourselves and not be resentful when others disagree with us, for all men have hearts and each heart has its own leanings. The</p>

<p>彼是則我非。我是則彼非。我必非聖。彼必非愚。共是凡夫耳。是非之理能可定。相共賢愚。如鑲无端。是以彼人雖瞋。還恐我失。我獨雖得。從衆同舉。</p>	<p>all men have hearts, and each heart has its own leanings. Their right is our wrong, and our right is their wrong. We are not unquestionably sages, nor are they unquestionably fools. Both of us are simply ordinary men. How can any one lay down a rule by which to distinguish right from wrong? For we are all, one with another, wise and foolish, like a ring which has no end. Therefore, although others give way to anger, let us on the contrary dread our own faults, and though we alone may be in the right, let us follow the multitude and act like men.</p>	<p>right of others is our wrong, and our right is their wrong. We are not unquestionably sages, nor are they unquestionably fools. Both of us are simply ordinary men. How can anyone lay down a rule by which to distinguish right from wrong? For we are all wise sometimes and foolish at others. Therefore, though others give way to anger, let us on the contrary dread our own faults, and though we may think we alone are in the right, let us follow the majority and act like them.</p>
<p>十一曰。明察功過。罰賞必當。日者賞不在功。罰不在罪。執事群卿。宜明賞罰。</p>	<p>Article 11 Give clear appreciation to merit and demerit, and deal out to each its sure reward or punishment. In these days, reward does not attend upon merit, nor punishment upon crime. Ye high functionaries who have charge of public affairs, let it be your task to make clear rewards and punishments.</p>	<p>(11) Know the difference between merit and demerit, and deal out to each its reward and punishment. In these days, reward does not always follow merit, or punishment follow crime. You high officials who have charge of public affairs, make it your business to give clear rewards and punishments.</p>
<p>十二曰。国司国造。勿斂百姓。国非二君。民無兩主。率土兆民。以王為主。所任官司。皆是王臣。何敢與公。賦斂</p>	<p>Article 12 That not the provincial authorities or the Kuni no Miyakko (ancient local nobles) levy exactions on the people. In a country there are not two lords. The people have not two masters. The sovereign is the master of the people of the whole country. The officials to whom he gives charges are all his vassals. How can they, as well as the government, presume to levy taxes on the</p>	<p>(12) Do not let the local nobility levy taxes on the people. There cannot be two lords in a country; the people cannot have two masters. The sovereign is the sole master of the people of the whole realm, and the officials that he appoints are all his subjects. How can</p>

<p>百姓。</p>	<p>people?</p>	<p>they presume to levy taxes on the people?</p>
<p>十三曰。諸任官者。同知職掌。或病或使。有關於事。然得知之日。和如曾識。其非以與聞。勿防公務。</p>	<p>Article 13 Let all persons entrusted with office attend equally to their functions. Owing to their illness or to their being sent on missions, their work may sometimes be neglected. But whenever they become able to attend to business, let them be as accommodating as if they had cognizance of it from before, and not hinder public affairs on the score of their not having had to do with them.</p>	<p>(13) All people entrusted with office should attend equally to their duties. Their work may sometimes be interrupted due to illness or their being sent on missions. But whenever they are able to attend to business they should do so as if they knew what it was about and not obstruct public affairs on the grounds they are not personally familiar with them.</p>
<p>十四曰。群臣百寮無有嫉妬。我既嫉人人亦嫉我。嫉妬之患不知其極。所以智勝於己則不悅。才優於己則嫉妬。是以五百之後。乃今遇賢。千載以難待一聖。其不得賢聖。何以治國。</p>	<p>Article 14 Ye Ministers and functionaries! Be not envious. For if we envy others, they in turn will envy us. The evils of envy know no limit. If others excel us in intelligence, it gives us no pleasure. If they surpass it in ability, we are envious. Therefore it is not until after a lapse of 500 years that we had last meet with a wise man, and even a thousand years we hardly obtain one sage. But if we do not find wise men and sages, wherewithal shall the country be governed?</p>	<p>(14) Do not be envious! For if we envy others, then they in turn will envy us. The evils of envy know no limit. If others surpass us in intelligence, we are not pleased; if they are more able, we are envious. But if we do not find wise men and sages, how shall the realm be governed?</p>
<p>十五曰。背私向公。是臣之道矣。凡人有私必有恨。有</p>	<p>Article 15 To turn away from that which is private, and to set our faces toward that which is public - this is the path of a Minister. Now if a man is influenced by private motives, he will assuredly feel</p>	<p>(15) To subordinate private interests to the public good--that is the path of a vassal. Now if a man is influenced by private motives, he will be resentful,</p>

<p>憾必非同。非同則以私妨公。憾起則違制害法。故初章云。上下和諧。其亦是情歟。</p>	<p>resentments, and if he is influenced by resentful feelings, he will assuredly fail to act harmoniously with others. If he fails to act harmoniously with others, he will assuredly sacrifice the public interests to his private feelings. When resentment arises, it interferes with order, and is subversive of law. Therefore in the first clause it was said, that superiors and inferiors should agree together. The purport is the same as this.</p>	<p>and if he is influenced by resentment he will fail to act harmoniously with others. If he fails to act harmoniously with others, the public interest will suffer. Resentment interferes with order and is subversive of law.</p>
<p>十六曰。使民以時。古之良典。故冬月有間。以可使民。從春至秋。農桑之節。不可使民。其不農何食。不桑何服。</p>	<p>Article 16 Let the people be employed (in forced labour) at seasonable times. This is an ancient and excellent rule. Let them be employed, therefore, in the winter months, when they are at leisure. But from Spring to Autumn, when they are engaged in agriculture or with the mulberry trees, the people should not be so employed. For if they do not attend to agriculture, what will they have to eat? If they do not attend the mulberry trees, what will they do for clothing?</p>	<p>(16) Employ the people in forced labor at seasonable times. This is an ancient and excellent rule. Employ them in the winter months when they are at leisure, but not from Spring to Autumn, when they are busy with agriculture or with the mulberry trees (the leaves of which are fed to silkworms). For if they do not attend to agriculture, what will there be to eat? If they do not attend to the mulberry trees, what will there be for clothing?</p>
<p>十七曰。夫事不可獨斷。必與眾宜論。少事是輕。不可必眾。唯速論大事。若疑有失。故與眾相辨。辭則得理。</p>	<p>Article 17 Decisions on important matters should not be made by one person alone. They should be discussed with many. But small matters are of less consequence. It is unnecessary to consult a number of people. It is only in the case of the discussion of weighty matters, when there is a suspicion that the many miscarry, that one should arrange matters in concert with others, so as to</p>	<p>(17) Decisions on important matters should not be made by one person alone. They should be discussed with many people. Small matters are of less consequence and it is unnecessary to consult a number of people. It is only in the case of important affairs, when there is a suspicion that they may miscarry, that one should consult with others, so as to arrive at the right</p>

arrive at the right conclusion.	conclusion.
<p>十七条憲法は、憲法十七条、十七条の憲法とも言われる。『日本書紀』、『先代旧事本紀』には、推古天皇 12 年 4 月 3 日 (ユリウス暦 604 年 5 月 6 日) の条に「十二年…夏四月丙寅朔 戊辰 皇太子親肇作憲法十七條」と記述されており、『日本書紀』には全 17 条が記述されている。この「皇太子」は、「廢豐聰爾皇子」すなわち聖徳太子を指している。</p> <p>内容は、官僚や貴族に対する道徳的な規範が示されている。儒教・仏教の思想が習合されており、法家・道教の影響も見られる。</p> <p>一方で歴史研究家の井沢元彦は、日本で最重要原理「話し合い絶対主義」「独断の禁止」(第一条、第十七条)を強調したものであり、私人としての仏教徒の立場(第二条)、公人としての皇族出身政治家の立場(第三条)よりもそちらを先に述べ、さらに最後に念を押しているものとしている。上記の引用・影響はあっても、それらとは異なる日本だけの「わ(環・和)」「話し合いの成果こそが絶対(民主主義とも異なる)」を明示したなどと述べている。</p> <p>『日本書紀』、『先代旧事本紀』の記述によれば、推古天皇 12 年 (ユリウス暦 604 年) に成立したとされる(『上宮聖徳法王帝説』によれば、少治田天皇御世乙丑年(推古天皇 13 年 (ユリウス暦 605 年))。『一心戒文』によれば、推古天皇 10 年 (ユリウス暦 602 年))。養老 4 年 (ユリウス暦 720 年) に成立した『日本書紀』に全文が引用</p>	<p>The 17 Article Constitution on Duhaime.org</p> <p>The 604 Constitution shaped morality and law in Japan, a country which had just begun to develop and become literate. In it, one can observe that <u>the emphasis of Oriental law which seeks to prevent disputes, whereas Western law seeks to resolve disputes.</u></p> <p>Authorship of the document is often attributed to Prince Shotoku Taishi (574-622). It was formally issued by the government of Japan in 604, then known as Wa.</p> <p>Shotoku is also credited with the invention of sushi and his authorship of the 17 article constitution is the subject of some controversy. Some modern Japanese historians believe that Shotoku did not have the writing skills to write the Constitution. <u>In any event, it has long been the practice everywhere to give credit for a legal document to the reigning monarch rather than to the actual scribe.</u></p> <p>The history of Shotoku's constitution has always been tagged with controversy. As a national treasure, in 1949, the Japanese government <u>struggled with the existence of several different versions of the 604 Constitution and finally chose one as authentic.</u></p> <p>However, in 1974, some Japanese historians publicly alleged that it was a forgery pointing out that some of the institutions it refers to <u>only came into existence some hundred years later.</u></p> <p>The 604 Constitution, known in Japanese as Jushichijo Kenpo, was certainly not in the form of contemporary law. Indeed, it more closely <u>resembles biblical passages or the Muslim law style of governing social behavior and conduct, rather than prescribing official conduct and prohibiting crimes.</u> As such, <u>it is a typical Buddhist/Confucius law,</u> especially the latter in insisting on moral standards by government officials.</p> <p>Nonetheless, it is the first document in Japanese legal history. <u>According to some jurists, the 604 Constitution remained in force until it was replaced by a new constitution in 1890.</u></p> <p>Others even claim that since the 1890 law did not expressly repeal the 604 Constitution</p>

されているものが初出であり、これを遡る原本、写本は現存しない。成立時期や作者について議論がある。

創作説【編集】

津田左右吉は、1930年（昭和5年）の『日本上代史研究』において、十七条憲法に登場する「国司国造」という言葉や書かれている内容は、推古朝当時の政治体制と合わず、後世、すなわち『日本書紀』編纂頃に作成されたものであろうとした。

これに対し坂本太郎は、1979年（昭和54年）の『聖徳太子』において、「国司」は推古朝時代に存在したと見てもよく、律令制以前であっても官制的なものはある程度存在したから、『日本書紀』の記述を肯定できるとした。

さらに森博達は、1999年（平成11年）の『日本書紀の謎を解く』において、「十七条憲法の漢文の日本の特徴（和習）から7世紀とは考えられず、『日本書紀』編纂とともに創作されたもの」とした。

that where it is not inconsistent, it continues to apply to this day. However, on an any reading of the Constitution (see below), it is doubtful if any of the 604 document could now be used in a court of law.

Here is the translation prepared by W.G. Aston. There have been several translations but this is the most popular. However, upon occasion, the English appears stilted, likely a necessary evil in an attempt at Japanese to English translation in 1896. Still, one can imagine with delight the solemn and historic moments of reflection of Japanese scribes circa 604 as they crafted the nation's first law to fit their era.

One last word: it is not really a constitution in the legal sense of the word as the document does not purport to establish any form of a parliament. However, it is a national law, albeit moralistic in style, and does support the concept of a centralized state and in that sense, you really have to want to pull hairs to deny it the title of constitution. from (Current Section: Duhaime.org » LawMuseum)

Duhaime Lawisms: Truth is justice's handmaid, freedom is its child, peace is its companion, safety walks in its steps, victory follows in its train; it is the brightest emanation from the gospel; it is the attribute of God. by Sydney Smith