

Prof. Yabe Teiji's ideas about democracy and constitutional monarchy: The process of revising his political science lectures

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This article discusses the development of political scientist Yabe Teiji's ideas about democracy in relation to the debate over how Japan's constitutional monarchy should function (*kokutai-ron*), based on an analysis of a critique of Yabe's seminar at Tokyo Imperial University submitted in 1938 by one of his students, Odamura Kojiro, as the answers to the final examination.

The author begins with an examination of the copy of Odamura's list of criticisms about the seminar, which contain corrections and revisions made in Yabe's handwriting prior to Odamura's expulsion from the university after the publication of his ideas in the national press. Yabe's glosses pertained more to adding comments about the *kokutai* question than merely correcting a student's final exam. With the exception of the comments devoted to Japan's "sovereign dictatorship", Yabe's comments attempted to substantiate the *kokutai* question in more concrete terms, in an attempt to place it within the context of the discourse regarding democracy.

In the correspondence that ensued between teacher and student, Yabe was again challenged by Odamura and again made revisions to his ideas, upon examination of which, the author of the present article notices wide-ranging changes occurring in Yabe's approach to democratic institutions. In sum, in response to Odamura's demands Yabe, while not referring specifically to Japan, is found emphasizing his patented understanding of "democracy as an institutional mechanism", but also attempting to more accurately describe its connections and interaction with the idea of "*kokutai*".

However, an even more significant change occurred in Yabe's thinking on the subject after his study of the legalistic arguments on the rule of law posed by National Socialist German Workers Party jurist Otto Koellreutter and a consequent attempt to place *kokutai* within the fundamental norms prioritizing

the positive (as opposed to natural) constitutional legal order. Therefore, Yabe offered the possibility of providing legal legitimacy to interpretations and constitutional amendments indispensable to the implementation of the further centralization of executive powers desired by the new regime. This development in Yabe's political science was, the author argues, first given impetus by Odamura's critique.

Nevertheless, since Yabe was of the fundamental opinion that *kokutai* was a non-entity, he did not go into concrete detail on the subject. That is to say, although *kokutai* exists as a fundamental norm, it has no actual function as a frame of reference for constitutional interpretation. Consequently, Yabe came to the rather illogical conclusion that constitutional interpretation was ultimately determined extra-legally within the struggle for political power, an idea that became, quite unintentionally on Yabe's part, fraught with the danger of having the reverse effect on the actual process of *kokutai*-based reforms.