Japan: 2013 Elections to the House of Councillors

This brief is about the 23rd Elections to the House of Councillors, the upper house of the National Diet, which will be held on July 21st, 2013.

Japan’s post-war Constitution provides for a framework of parliamentary government. The National Diet, the bicameral parliament, houses the House of Representatives and the House of Councillors – lower and upper houses, respectively.

The Liberal Democratic Party (LPD) and its coalition partner, New Komeito (NK), secured a supermajority in the Lower House in the December 2012 elections, crushing the now main opposition party, the Democratic Party of Japan (DPJ) (“To say the party died might be an overstatement, but to say anything less would be saying too little”).

The president of the LPD, Shinzo Abe, ousted the incumbent Yoshihiko Noda as prime minister and turned his gaze to the upcoming Upper House elections where he would ideally want to mirror the supermajority in the Lower House.

Why the election matters

Twisted parliament. The current situation is a ‘twisted parliament’ in which the main opposition party, the DPJ, holds a majority in the Upper House. Commentators have noted that

“[Since] the opposition still holds a majority of seats in the House of Councillors [it] is able to block most legislation.”

Article 59 of the current Constitution, however, stipulates that a bill passed by the Lower House, but not the Upper House, will become law nonetheless if passed a second time by the Lower House with a two-thirds majority. The same article allows the Upper House to ignore the bill for 60 days, indicating that a simple majority in the Upper House is laudable because it would quicken the legislation process, not because it would otherwise be blocked.

Constitutional revision. More importantly, PM Abe has vowed to push hard for constitutional reform. Since the Constitution was enacted (see next section) in 1947, it has never been amended. Article 96 stipulates that any amendment must be

a) approved by both chambers with at least a two-thirds, absolute majority, and
b) submitted for a referendum and approved by at least a simple, non-absolute majority. Any such referendum does not require a minimum turnout (according to the 2007 Constitutional Amendment Referendum Act, passed by Mr Abe)

Constitutional revision is, alongside his program for economic recovery (Abenomics), a chief ambition for Mr Abe.

Japanese Constitutions

*Meiji Constitution.*

Until 1868, Japan had no written and codified Constitution. The Meiji Restoration (1868) restored imperial rule to Japan, a decision grounded in fear for an ever-expanding and industrialising Western world. The solution was to arm Japan with strong, executive leadership and the Constitution sought to combine western values (parliamentary democracy) with eastern values (enlightened rule manifested in a sovereign Emperor). As a consequence, Japan experienced its own industrialization and rose as military power in the beginning of the 20th century, winning both the Sino-Japanese War in 1895 and the Russo-Japanese War in 1905.

**No written constitution (-1868)**

- Prior to the Meiji Constitution, Japan lacked a written and codified constitution

**Meiji Constitution (1868-1947)**

- First parliamentary government in Asia
- Sovereignty vested in the Emperor
- Characterised by a very militaristic regime
- Guaranteed civil rights, although subject to limitation by law

**MacArthur Constitution (1947-)**

- Old regime replaced with Western-style liberal democracy
- More similar to the UK parliamentary system than to the US political system
- Sovereign power vested in the people
- Civil rights delineated without qualification
- Total renunciation of war

**Proposed LDP-Constitution (2012 draft)**

- Remove no-war clause and replace 'self-defence force' with military
- State funding of religious institutions
- Weaker requirements for constitutional revision
- Emperor as head of state, exempted from upholding the Constitution
The Allied Occupation and the MacArthur Constitution

During the Allied Occupation of Japan at the end of World War II (1945-52), the Allied forces led by General MacArthur drafted a new Constitution for Japan: Much less militaristic than its predecessor, it vested power with the people rather than the Emperor and included a total renunciation of the right to war. It departed from the traditional eastern values of imperial rule and nobility and was much closer to a Western-style liberal democracy:

- The Emperor has a ceremonial role much like the Queen of England (Article 1)
- “Japan forever renounces war as a sovereign right” (Article 9)
- Peers and peerages are longer be recognized; honours and awards no longer come with privileges and are entirely non-hereditary (Article 14)
- The citizens are granted rights, which, unlike the Meiji Constitution, are not ‘subject to the limitations of law’ (Article 10-40)

Renunciation of war. The no-war clause is the single-most significant part of the Constitution. Currently, Japan is limited to a ‘self-defence force’, maintained with only 1% of the annual GDP, and cannot participate in ‘collective defence operations’ with its allies.

LDP-draft for a new constitution (2012)

In 2012, the LPD released a draft constitution which pointed out which areas they propose to alter. I have listed the most important proposals here:

Amendments (96): The LDP propose to lessen the requirements on the Diet for proposing constitutional amendments by reducing the necessary majority from two-thirds to a simple majority. With such a change, the LDP would be able to submit amendment proposals directly 'to the people for ratification' - without any coalition partners

National security (9): Armed forces and other war potential should be maintained, suggests the draft. A ‘National Defence Force’ will be set up with the Prime Minister as Commander-in-Chief, able to defend against foreign attack and participate in international peacekeeping operations.

State of emergency (9): The draft grants the Prime Minister the right to declare a “state of emergency” under which the Cabinet may enact orders with an effect equivalent to that of the laws passed by the Diet.
The National Defence Force is a radical amendment given that it would expand Japan’s opportunities to engage with China in the Senkaku/Diaoyus-islands conflict and to tackle the ever-belligerent North Korea, dealing with ‘the emotional issue of abductees’ in which at least 17 young Japanese people have been abducted by North Korea in order to ‘teach Japanese ways to North Korean spooks’.

The House of Councillors

Any constitutional amendment requires a two-thirds majority in both houses and Upper House elections are far from simple:

1. Elections are staggered, so only half the Councillors are up for election. In 2013, 33 LDP seats are up for election, while 51 are safe for another three years.
2. Japan employs a system of parallel voting for Upper House elections. They mix proportional and prefectural voting.

Prefectural voting

Of the 121 seats, 73 (60%) belong to prefectural constituencies. The seats are apportioned among Japan’s 47 prefectures. 1 seat is allocated to each of 31 prefectures, 2 seats each to 10 prefectures, 3 seats each to 3 prefectures, 4 seats to Osaka and Kanagawa, and 5 to Tokyo.

Each voter chooses 1 candidate (regardless of the number of seats). The system of voting is called single non-transferable voting (SNTV) which is said to facilitate minority representation. The following example shows why. Suppose five candidate fight for three seats in a prefecture:

<table>
<thead>
<tr>
<th>Votes</th>
<th>Candidate</th>
<th>Party</th>
<th>Seat? (Y/N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Aristotle</td>
<td>Red</td>
<td>N</td>
</tr>
<tr>
<td>1</td>
<td>Berkeley</td>
<td>Green</td>
<td>N</td>
</tr>
<tr>
<td>2</td>
<td>Camus</td>
<td>Blue</td>
<td>Y</td>
</tr>
<tr>
<td>3</td>
<td>Descartes</td>
<td>Blue</td>
<td>Y</td>
</tr>
<tr>
<td>5</td>
<td>Epicurus</td>
<td>Green</td>
<td>Y</td>
</tr>
</tbody>
</table>

Summarising the table by party, it should be quite clear that the Green party has received the majority of the votes, yet only gained one of the three seats.

<table>
<thead>
<tr>
<th>Party</th>
<th>Votes</th>
<th>Seats</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Green</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Blue</td>
<td>5</td>
<td>2</td>
</tr>
</tbody>
</table>
But this minority facilitation is clearly not the case for single-seat constituencies which operate under first-past-the-post conditions where large parties with highly developed organizations - such as the LDP - have an advantage. A party may win the seat with only 51% of the votes. The LDP is expected to do particularly well here, taking close to 50 of the 73 seats up for election.

**Proportional representation**

The remaining 48 seats are filled in via nationwide proportional representation. Voters write in either a specific candidate name or a party name. The number of votes cast for each party and its candidates are tallied, and seats are allocated to the parties in proportion to that tally. The party allocate seats by giving priority to candidates with more votes. Smaller parties usually have a greater advantage in the proportional-representation vote, but even here the LDP are favoured to win almost half the seats.³

**Historic votes to the Upper House**

The following graph shows the development of the Liberal Democratic Party⁴ versus all other parties (‘non-LDP’) and Independents. The chart reflects the **percentage of seats won in the election**, not the percentage of votes. It also only reflects the elections, not the composition of the Upper House at any point in time (which may be different because of the staggered elections). With the parallel voting system, the chart can really only reflect the changing popularity between the two factions:
The road to amendments

Currently, the LDP holds 83 seats (34%) in the Upper House. In 2010, 33 seats were not up for election (they were elected in 2007), while 51 were elected in 2010. 33 seats in the Upper House certainly do not merit many bragging rights for the single-largest party for over half a decade, which is why the 2013 election holds great potential for the LDP to remedy this situation and to boost the LDP’s number of Councillors. One thing to keep in mind is that the polling numbers cannot be translated directly into seats because of the parallel voting system (but it should be sufficient to give a strong hint).

Parliamentary arithmetic

A simple majority requires 122 seats (where 50% = 121 seats). The LDP has 51 safe seats, NK has 9 seats and the third and much smaller coalition partner, New Renaissance Party (NRP), has a single seat. So the LDP-NK-NRP coalition has 61 seats in total, which means they are hoping to reap an additional 61 seats this election. They currently have 44 seats up for election, which means they would be aiming at an increase in 17 seats. Commentators find this scenario very plausible:

“The LDP could get more than half of the available seats in the House of Councillors … The ruling coalition is expected to win 63 or more seats needed for a majority.”

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Others are even more optimistic:

“A recent poll predicted that they would be able to get 69 seats in the election slated to start on Sunday, July 21.”"\(^1\)

This will, however, not suffice for the required supermajority for constitutional revision and, worse yet, the NK junior partner are ‘strictly opposed’ to any constitutional revision\(^1\)

Strategies

1. Abe could focus on amending the amendment procedure, which some commentators have seen as a slippery slope into cramming the entire LDP agenda into the Constitution\(^1\) - the NK would be foolish to agree with such an amendment so the LDP would have to look for support elsewhere.

2. Abe finds plenty of support within his own party where 97.1% believes the Constitution should be revised\(^1\) (in comparison, 63.6% of the coalition party, New Komeito, shares the sentiment, although the official party line is much more adamant). Meanwhile, 23.4% of the DPJ, the main opposition party, favour constitutional amendment. Of all the respondents in the survey, 59.1% back constitutional amendment, although 54.3% are against the LDP’s proposal to relax requirements to initiate revision of the Constitution. With some luck, the LDP could perhaps scrape the required votes together for amending either Article 9 or 96.\(^1\)

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\(^1\) Among party candidates for the July 21 elections
What will affect the outcome? A brief look at Abenomics

Much of Abe’s popularity stems from his program for economic recovery, colloquially dubbed as Abenomics, a three-part package (‘three arrows’) consisting of:

1. Monetary easing
2. Fiscal stimulus
3. Structural reform

Mr Abe appointed a new governor for the Bank of Japan, Haruhiko Kuroda, an advocate of looser monetary policy who has long argued that ‘there is plenty of room for monetary easing in Japan’.16 The goal is to ‘banish the spectre of deflation’ and to weaken the yen.17 Upon his appointment, he immediately set a 2% inflation target through a program of ‘qualitative and quantitative easing’. Within weeks, Mr Abe announced extra government spending worth $100 billion and both the citizens and the markets have reacted positively. Upon revealing his first two arrows the stock market soared by 80% in six months. A weaker yen has boosted exports and the first signs of inflation are
appearing in Tokyo (see chart). In fact, the stock market was quite constant until Abe was elected on the 26th of December – it even rose before, an indicator of positive expectations for the election. Yet Japan has a debt level of more than 240% and there is only so much money you can print. The third arrow, the long-term structural reform, revealed in June, was supposed to remedy this but it has ‘fallen well short of its rings’. The reform was supposed to boost Japan’s long-term economic performance but has left many disappointed by its timidity because it failed to tackle labour market and agricultural issues and instead focused on old-fashioned industrial policy and multi-year economics plans. Recent developments, however, have reversed the trend on the stock market (represented by the Nikkei 225), which has almost regained its former peak (from May), in tandem with the opinion polls for the Upper House election - perhaps signalling a regained confidence in Abenomics, perhaps being totally unrelated to the political arena.
This gung-ho approach to politics is not only the source of Mr Abe’s popularity but also of the polarisation between Government and Opposition: A survey found that 98.6 percent of the LDP candidates support these policies, while 95.7 percent of the DPJ’s candidates oppose them.20

Opinion polls

We should note that roughly 25% belong to the ‘undecided/other’ category. From the chart, it seems very plausible that the LDP will win a majority – if not, it certainly will command with coalition partner, New Komeito - but the question is now by which margin. Unfortunately, this is hard to predict, firstly because the system of parallel voting involves the unhelpfully complicated prefectural voting system, but also because those in the ‘undecided’ category could tip in either direction, if any.

Final hurdle: The referendum

Suppose that Mr Abe succeeds in the elections and manages to gather a two-thirds majority in both houses, which is required for Constitutional amendments. The amendment must still be submitted to a referendum. Yet there are a number of reasons that the final hurdle is the least problematic of
them all. In 2007, when Abe was Prime Minister for a year, he set out the steps for holding a referendum in the Constitutional Amendment Referendum Act. The Act requires the referendum to be held within 60 and 180 days, which, it is argued, is not enough for large, diverse population to ‘really debate the merits’ of something this significant. Large parts of the Act are devoted to controlling and restricting debate, especially two weeks before the election. Most importantly, however, the law does not require any minimum voter turnout. If only 60% bother voting, the amendment could be ratified with as little as 30% of the population. ‘That is a number of voters which the LDP should have little trouble in mobilizing, particularly if it is still riding an Abenomics-fuelled wave of popularity’.

In conclusion, the questions are: By what margin will the LDP win in the Upper House, and will Abe be able to gather a supermajority in the Upper House? If so, the road is paved for constitutional amendment (fuelled by parliamentary majorities, Abenomics-popularity and soaring stock markets) which is bound to bring back Japan as a military power - like a modern day Meiji restoration.

7 ‘Could Asia really go to war over these?’, The Economist, Sep 22nd 2012, http://www.economist.com/node/21563316, retrieved 18/07/2013
10 ‘LDP’ is taken to be equivalent with the Liberal Party (1947), Liberal Party (Yoshida Faction), Liberal Party (Hatoyama Faction) and the Liberal Democratic Party
Tweak the constitution now, think later

36% want LDP to gain majority

42% favor LDP in upper house vote

Asahi poll: Support for Abenomics wanes; LDP maintains lead

45% will vote for LDP in upper house's proportional segment: Mainichi poll

ASAHI POLL: 59% oppose Abe’s nuclear power policy

LDP hopefuls back altering the Constitution, Jun 30

Misfire, Jun 15

Not so super, Jun 15

Abe’s master plan, May 18th 2013, The Economist

Nikkei jumps to 53 month high as Kuroda seen likely next BOJ chief

Japan approves constitution steps, May 2007, BBC

‘Tweak the constitution now, think later’, Jun 25th 2013, Japan Times

LDP predicted to gain major seats in Japan’s Upper House election, July 17th 2013, Japan Daily Press

‘PM Abe says he intends to revise Constitution in bid to get more votes for LDP’, July 17th 2013, Japan Daily Press

‘New Komeito pledges to protect Japan’s pacifist Constitution’, May 13th 2013, Japan Daily Press

‘Tweak the Constitution, think later?’, Jun 25th 2013

‘LDP hopefuls back altering the Constitution’, Jun 30th 2013, Japan Times

‘Nikkei jumps to 53-month high as Kuroda seen likely next BOJ chief’, Feb 2nd 2013, Reuters

‘Asahi poll: Support for Abenomics wanes; LDP maintains lead’, May 13th 2013, Japan Daily Press

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