V2 Chapter 12 Primary Sources

Seventeen Article Constitution

[Introduction] Attributed to Prince Shotoku Taishi (574–622), this document is often identified as Japan's "first constitution." Interestingly, there were several different versions of the document in circulation as late as 1949. At that point, Japan's new postwar government decided to select one and make it the official version. In effect, the government created a particular version of Japan's legal and constitutional history by making the choice it did. **[End introduction]**

Source: https://en.wikisource.org/wiki/Nihongi/Book_XXII#129

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!

Article 2

Sincerely reverence the three treasures. The three treasures, viz. 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?

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.

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 receiving bribes, then will the suits of the rich man be like a stone flung into water, while the plaints 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.

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.

Questions for Discussion:

1. To whom does this document seem to be addressed?
2. What aspects of society seem to be most valued?

Inheritance, Marriage and Divorce in Japan

[Introduction] The *ritsuryō* legal code was put into place in Japan during the eighth century. It was deeply influenced by the Confucian principles that also underpinned Chinese legal codes. The excerpts below are largely involved with civil law, that is, laws involving the family. Akiko, Yôko, and Piggott's article undertakes an examination and analysis of the *ritsuryō* particularly as it relates to issues of women's legal status and rights. Read the article (the English version begins on page 91), or at least the excerpts from the *ritsuryō* beginning on page 101 with Clause 5, then reflect on the questions below. [**End introduction]**

Source: Yoshie Akiko, Ijuin Yôko, and Joan R. Piggott, "Gender in the Japanese Administrative Code Part 1: Laws on Residence Units," *Teikyô Journal of History* 28 (Feb. 2013).

Find the reading here:

https://appsv.main.teikyo-u.ac.jp/tosho/shigaku28-03.pdf

Questions for Discussion:

1. How do the laws discussed here reflect Japanese notions of hierarchy based on age, status, and gender?

2. What sort of status for women do these laws seem to enshrine?