

CONSTITUTIONAL RIGHTS

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Grade Level: 9-12

Subject: U.S. and World History

Objective: Students will be able to explain three differences and/or similarities between the rights of citizens under the U.S. Constitution and the rights of subjects under the Meiji Constitution of Japan.

Periods needed: Two 45 minute period if both documents are read aloud in class, one if the documents are distributed the day before and students have read them before class.

Ohio American History Standards Met:

3 – Historians develop theses and use evidence to support or refute positions.

11 – The Bill of Rights is derived from English Law, ideas of the Enlightenment, the experiences of the American colonists, early experiences of self-government, and the national debate over the ratification of the Constitution of the United States.

Background:

U.S. – In order to gain broader support for the ratification of The Constitution to replace the Articles of Confederation, a Bill of Rights was added. The Bill of Rights guaranteed certain rights for citizens. Most of these rights were part of a long established tradition in England.

Meiji Japan- From 1868 to 1889, Japan transformed from a feudal monarchy in which real political power was held by the Shogun (chief warlord) to a constitutional monarchy with an emperor wielding real power and a legislature called the Diet. This was very similar to the constitutional monarchy of Great Britain, although the monarch of England had very little real power at this point, with Parliament firmly in control. Ito Hirobumi, who chaired the commission that produced the Meiji Constitution, thought that the United States constitution was too democratic and liberal.

Plan of instruction:

1. If students are not familiar with the backgrounds of both situations cover the essential facts in a mini-lecture or discussion. *East Asia: A New History*, by Rhoads Murphy is a good source for Japan. See *Mastering Ohio's American History Assessment* by Stuart Zimmer, James Killoran, and Mark Jarrett, for information on the Magna Carta and the Bill of Rights.
2. Divide students into pairs or small groups.
3. Pass out copies of Document A (U.S. Constitution) and Document B (Meiji Constitution)
4. Have each group or pair answer the questions on the worksheet.
5. When all groups are finished go over the answers as a whole class.

For non-traditional learners, ESL students, slower paced classes:

1. Students draw pictures of, make collages of, or write poems and songs about the rights guaranteed in both documents.
2. Each group or pair will answer one question about each document.

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For gifted and accelerated classes:

1. Students will compare the Magna Carta and/or English Bill of Rights to each document.
2. Students will write a one page essay arguing which constitution guaranteed more freedom.

References:

http://afe.easia.columbia.edu/ps/japan/meiji_constitution.pdf

<https://www.billofrightsintstitute.org/founding-documents/bill-of-rights/>

Murphey, Rhoads. *East Asia: A New History*. Boston: Longman, 2010. Print.

Zimmer, Stuart, James Killoran and Mark Jarrett. *Mastering Ohio's History Assessment*. Ronkonkoma, NY: Jarrett Publishing Company, 2015. Print.

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DOCUMENT A

from BILL OF RIGHTS – UNITED STATES CONSTITUTION - 1791

AMENDMENT I - Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

AMENDMENT II - A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

AMENDMENT IV - The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT VI - In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

AMENDMENT VIII - Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX - The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

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DOCUMENT B

from MEIJI CONSTITUTION - 1889

Chapter II - Rights and Duties of subjects

ARTICLE XXIII - No Japanese subject shall be arrested, detained, tried or punished, unless according to law.

ARTICLE XXIV - No Japanese subject shall be deprived of his right of being tried by the judges determined by law.

ARTICLE XXV - Except in the cases provided for in the law, the house of no Japanese subject shall be entered or searched without his consent.

ARTICLE XXVII - The right of property of every Japanese subject shall remain inviolate. Measures necessary to be taken for the public benefit shall be provided for by law.

ARTICLE XXVIII - Japanese subjects shall, within limits not prejudicial to peace and order, and not antagonistic to their duties as subjects, enjoy freedom of religious belief.

ARTICLE XXIX - Japanese subjects shall, within the limits of law, enjoy the liberty of speech, writing, publication, public meetings and associations.

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QUESTIONS

1. The Bill of Rights protects who? (The people)
2. The Duties and Rights protects who? (Subjects)
3. Is there any significance to the differences between the two terms? (Various responses)
4. What rights are protected under both documents? (Freedom of speech, religion, press and the right of assembly, the right to a trial, no searches without warrants)
5. What limits are included in the guarantees? (Meiji Constitution contains “within limits of law.” U.S. Constitution includes “peaceably to assemble”)
6. If no limits are in writing does that mean there are no limits? (No, in U.S. speech can be restricted if it creates a “clear and present danger,” libel and slander laws. People cannot sacrifice humans, other restrictions on religion.)
7. What rights are in U.S. Constitution that are not in Meiji Constitution? (Trial by jury, right to keep and bear arms, no cruel and unusual punishment, right to a lawyer, other rights not mentioned)
8. What rights are in Meiji Constitution that are not in U.S. Constitution? (“The right of property of every Japanese subject shall remain inviolate.”)
9. What might account for the differences (Answers will vary.)
10. Which constitution is the more democratic document? (Answers will vary.)