



Japan

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Country Summary

Between 2015 and 2022, Japan faced challenges to freedom of expression, including a surge in hateful demonstrations and concerns about online communication. Notable events like anti-nuclear protests, the Tokyo Olympics, and a former Prime Minister's assassination impacted public discourse. A surge in hateful campaigns prompted the introduction of the Anti-Hate Speech Law in 2016, aiming to curb discriminatory words and behaviors, although the law refrains from banning or penalizing hate speech. Cyberbullying and online harassment concerns prompted Penal Code revisions in 2022, resulting in stricter penalties for online insults. Additionally, amendments to the Provider Liability Limitation Act aimed to streamline

identifying anonymous online harassers. Legislative efforts also addressed terrorism-related concerns by amending the Act on Punishment of Organized Crimes and Control of Proceeds of Crime in 2017. Despite controversy and protests, the amendment passed, raising debates about potential overreach, individual rights, and surveillance. Overall, these legislative actions aimed to navigate challenges surrounding hate speech, cyberbullying, and security. In non-legislative developments, the period also witnessed notable incidents involving censorship of art exhibitions and challenges to academic freedom, as well as the 2022 Supreme Court ruling upholding the constitutionality of a hate speech ordinance, which set a precedent for similar cases.

Introduction

Japan is a multiparty parliamentary democracy. The Japanese Constitution of 1946³³⁴ protects freedom of “speech, press, and all other forms of expression” and prohibits censorship (Article 21). Japan is a party to most of the core international human rights treaties.³³⁵ However, the country has not accepted any of the individual complaint mechanism under the international human rights treaties and there is no regional human rights court covering Japan. Between 2015 and 2022, during the continuous governance of the Liberal Democratic Party (LDP),³³⁶ Japan faced significant challenges that impacted freedom of expression. The country grappled with an alarming surge in hateful demonstrations.³³⁷ The proliferation of online communication³³⁸ has played a pivotal role³³⁹ in empowering individuals to express their viewpoints and facilitate social and political movements.³⁴⁰ However, it has also brought about heightened privacy concerns, the rapid dissemination of misinformation and disinformation and a surge in online harassment and hate speech.

³³⁴ <https://www.japaneselawtranslation.go.jp/en/laws/view/174/tb>

³³⁵ https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=87&Lang=en

However, Japan entered reservations to articles 4(a) and (b) of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), which call for the criminalization of racial hate speech to avoid potential conflicts with the protection of freedom of speech enshrined in the Japanese Constitution. Japan lacks a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and an anti-discrimination law that explicitly prohibits racial, ethnic, religious discrimination, or discrimination based on sexual orientation or gender identity. This gap in the legal framework raises concerns about addressing and safeguarding the rights of marginalized and vulnerable groups in the country.

³³⁶ <https://www.jimin.jp/english/>. The ruling Liberal Democratic Party (LDP), often characterized as a conservative party with nationalist leanings, has played a dominant role in Japan's political landscape since 1955, maintaining nearly uninterrupted governance since 1955, with only two brief periods of opposition from 1993 to 1994 and 2009 to 2012.

³³⁷ <https://japantoday.com/category/national/1152-hate-speech-rallies-reported-in-japan-since-2012-justice-ministry>

³³⁸ <https://www.statista.com/topics/6897/social-media-usage-in-japan/#topicOverview>

³³⁹ https://freedomhouse.org/country/japan/freedom-net/2022#footnote1_z0mctem

³⁴⁰ <https://www.asahi.com/ajw/articles/14380094>

During the period covered, a range of issues led to intensified political and social tensions. These included the anti-nuclear power movement post,³⁴¹ the 2011 Fukushima nuclear disaster (the largest civilian nuclear accident since the Chernobyl accident, caused by an earthquake which killed 18,000 people),³⁴² mega-sporting events like the Tokyo Olympics,³⁴³ the LDP's constitutional amendment proposal (especially concerning revising the 1947 constitution's³⁴⁴ pacifist nature, entrenched in Article 9),³⁴⁵ laws³⁴⁶, and the assassination of the former Prime Minister Abe³⁴⁷ in July 2022 which raised concerns about political-religious affiliations.³⁴⁸ Gender inequality issues³⁴⁹ persisted³⁵⁰ throughout this period, and the COVID-19 pandemic introduced further complications to Japan's multifaceted challenges. These factors collectively shaped the landscape of freedom of expression and public discourse in the country.

Japan has received commendable scores³⁵¹ for its general protection of civil and political freedoms, as assessed by Freedom House, receiving a score of 96/100 over the period 2017-22.³⁵² In Justitia's Free Speech Index, Japan ranks 9th out of 33 countries, with a score of 71 (high approval).³⁵³ Notable legislative developments included the implementation of the first anti-hate speech law and revision of laws to address online harassment for purposes of striking a balance with freedom of expression. However, concerns persist about pressures on freedom of expression, media freedom and pluralism. According to the Press Freedom Ranking³⁵⁴ issued by Reporters Without Borders,³⁵⁵ Japan holds the lowest ranking among the seven major countries (G7).³⁵⁶ In its index of 180 countries, Japan's ranking declined to 71st in 2022 from 61st in 2015, a significant deterioration from the 12th place in the 2010 report.³⁵⁷ Reporters Without Borders attributes³⁵⁸ this low ranking to a situation where the Japanese government and businesses exert consistent pressure on mainstream media,³⁵⁹ resulting in

³⁴¹ <https://asaa.asn.au/anti-nuclear-movement-street-politics-japan-fukushima/>

³⁴² <https://www.unscear.org/unscear/en/areas-of-work/fukushima.html>

³⁴³ <https://olympics.com/en/olympic-games/tokyo-2020>

³⁴⁴ https://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html

³⁴⁵ <https://www.japantimes.co.jp/news/2019/11/07/national/politics-diplomacy/ldp-case-for-amending-constitution/>

³⁴⁶ <https://www.nichibenren.or.jp/en/document/statements/160527.html>

³⁴⁷ <https://www.japantimes.co.jp/news/2022/07/08/national/shinzo-abe-dead-nara-shooting/>

³⁴⁸ https://fpcj.jp/en/j_views-en/magazine_articles-en/p=96414/

³⁴⁹ https://www.gender.go.jp/english_contents/pr_act/pub/status_challenges/pdf/202205.pdf

³⁵⁰ <https://www.asahi.com/ajw/articles/14852796>

³⁵¹ <https://freedomhouse.org/country/japan/freedom-world/2023>

³⁵² <https://freedomhouse.org/country/japan/freedom-world/2023>.

³⁵³ <https://futurefreespeech.com/interactive%20map/>

³⁵⁴ <https://rsf.org/en/index>

³⁵⁵ <https://rsf.org/en>

³⁵⁶ <https://digital.asahi.com/articles/ASR53566JR53UHBI00W.html>

³⁵⁷ The Press Freedom Rankings of Japan are: 12 (2010), 22 (2011-2012), 53 (2013), 59(2014), 61(2015), 72(2016), 72(2017), 67(2018), 67(2019), 66 (2020), 67(2021), 71 (2022)

³⁵⁸ <https://rsf.org/en/country/japan>

³⁵⁹ <https://www.theguardian.com/world/2017/jun/13/japan-accused-of-eroding-press-freedom-by-un-special-rapporteur>

widespread culture of self-censorship,³⁶⁰ especially regarding sensitive issues such as national security, corruption, sexual harassment, health crises like Covid-19 and radiation, and pollution. On social networks, extreme far-right groups and individuals frequently engage in harassing journalists and individuals who criticize the government or report on subjects deemed “unpatriotic.” These actions further contribute to an environment of fear and restraint, hindering free and open expression of opinions and information in the name of “public interest”, “public welfare” or “national emergency”. The state of civic space in Japan is characterized as “narrowed”³⁶¹ by an international NGO.

Given the constraints of space and scope, this report provides an overview of the major legislative and non-legislative developments and their enforcement which played a significant role in shaping the landscape of free expression and public discourse in Japan between 2015 and 2022.

I. Legislative developments

Anti-Hate Speech Law and Ordinances

A surge of hateful campaigns³⁶² fueled by heightened nationalism³⁶³ during the 2010s resulted in numerous civil and criminal cases³⁶⁴ related to hate speech and crimes. It drew criticism from in and outside of Japan including UN human rights treaty bodies.³⁶⁵ In response³⁶⁶ to this alarming trend, Japan introduced its first national legislation against hate speech in 2016. The Act on Promotion of Efforts to Eliminate Unfair Discriminatory Words and Behaviours Against Persons from Outside Japan³⁶⁷ (known as “the Hate Speech Elimination Act”) in June 2016. The Act, however, neither prohibits nor penalizes hate speech, so as not to impede freedom of speech. Moreover, the Act is primarily focused on protecting legal residents of overseas origin and their descendants, leaving other ethnic minorities, individuals without legal residency in Japan, and various Japanese minority groups without eligibility for protection. These limitations have led to severe criticism of the Act, characterizing it as toothless and narrow in scope.

³⁶⁰ <https://www.dw.com/en/why-japan-ranks-poorly-in-press-freedom/a-65549778>

³⁶¹ <https://monitor.civicus.org/country/japan/>

³⁶² <http://www.moj.go.jp/content/001201158.pdf>

³⁶³ <https://www.jstor.org/stable/24483416>

³⁶⁴ <https://www.cambridge.org/core/books/abs/hate-speech-in-japan/kyoto-korean-elementary-school-case/04A09B33B839AF5E567678907B520F8C>

³⁶⁵ For example, see the Concluding Observations on the Sixth Periodic Report of Japan by the UN Human Rights Committee in July 2014 (UN Doc. CCPR/C/JPN/CO/6, para.12) and the Concluding Observations on the Combined Seventh to Ninth Periodic Reports of Japan by the UN Committee on the Elimination of Racial Discrimination in August 2014 (UN Doc. CERD/C/JPN/CO/7–9, para.11).

³⁶⁶ https://www.moj.go.jp/ENGLISH/m_jinken04_00001.html

³⁶⁷ <https://www.japaneselawtranslation.go.jp/en/laws/view/4081/en>

Nevertheless, the Act has seen some impacts in the society, including a decline in the number of hateful street rallies.³⁶⁸ The Hate Speech Elimination Act has served as a catalyst for the development of policies, regulations and ordinances aimed at combating hate speech and racial discrimination.³⁶⁹ Several municipalities such as Osaka City³⁷⁰ and Kawasaki City³⁷¹ adopted local ordinances bolstering hate speech laws. As a national anti-hate speech law remains limited, local anti-hate ordinances have the potential to fill the gap.

Despite some progress, not all municipalities have anti-hate speech ordinances, and the implementation of such ordinances is facing significant challenges.³⁷² Of particular concern is online hate speech³⁷³ which exacerbated³⁷⁴ during the COVID-19 pandemic, transcending local government jurisdictions. It has turned into real life violence, as evidenced by the arson case³⁷⁵ targeting residential areas of the Korean community. Frustrations over the absence of robust legal measures and official enforcement against perpetrators of hateful harassment are leading to a growing number of legal battles against such behavior.³⁷⁶ Calls for a more stringent national anti-discrimination regulation which also addresses online hate speech³⁷⁷ and for the establishment of an anti-hate crime law³⁷⁸ have become more pronounced.

³⁶⁸ <https://www.japantimes.co.jp/news/2016/03/30/national/japans-first-ever-hate-speech-probe-finds-rallies-are-fewer-but-still-a-problem/>

³⁶⁹ http://www.rilg.or.jp/htdocs/img/reiki/001_hatespeach.htm

³⁷⁰ <https://www.japantimes.co.jp/news/2016/07/01/national/crime-legal/osaka-enforces-japans-first-ordinance-hate-speech-threatens-name-names/>

³⁷¹ https://www.japan-press.co.jp/modules/news/?id=12622&pc_flag=ON

³⁷² <https://www.nhk.or.jp/shutoken/yokohama/article/014/05/#:~:text=%E3%83%98%E3%82%A4%E3%83%88%E3%81%AB%E5%88%91%E4%BA%8B%E7%BD%B0%20%E5%85%A8%E5%9B%BD%E5%88%9D%E3%81%AE%E6%9D%A1%E4%BE%8B&text=%E4%BA%BA%E7%A8%AE%E3%82%84%E6%B0%91%E6%97%8F%E3%80%81%E6%80%A7,E5%88%9D%E3%82%81%E3%81%A6%E3%81%AE%E3%81%93%E3%81%A8%E3%81%A7%E3%81%97%E3%81%9F%E3%80%82>. Certain municipalities exhibit hesitance in implementing stringent measures, viewing these ordinances as educational tools rather than punitive measures.

³⁷³ <https://time.com/6210117/hate-speech-social-media-zainichi-japan/>

³⁷⁴ https://english.hani.co.kr/arti/english_edition/e_international/948425.html

³⁷⁵ <https://www.asahi.com/ajw/articles/14707159>

³⁷⁶ For instance, noteworthy cases that ruled in favor of victims of hate speech include: *Lee Sin Hae v. Lee Sin Hae v. Zaitokukai and Hoshu sokuho*, concluded in March 2018; the *Fuji Corp. case* which reached its conclusion at the Supreme Court in September 2022, and the *Lee Shin Hae v. DHC*, where Lee's victory was confirmed in May 2023. See also *Choi Kang-ja's case and Natsuki Yasuda's case*.

³⁷⁷ <https://mainichi.jp/english/articles/20220912/p2a/00m/0na/009000c>

³⁷⁸ <https://mainichi.jp/english/articles/20220430/p2a/00m/0na/015000c>

Regulations on Cyberbullying and Online Harassment

In response to the alarming surge in online harassment and bullying, the Penal Code³⁷⁹ underwent revisions³⁸⁰ in June 2022, leading to more stringent penalties on online insults³⁸¹. While supporters welcomed the tougher legislation to crack down on cyberbullying and online harassment, opponents showed concerns³⁸² about potential risk to freedom of expression³⁸³ including criminalizing disfavored political views.³⁸⁴

In order to address cyberbullying and harmful online content, the Provider Liability Limitation Act³⁸⁵ underwent amendments in 2021, becoming effective in October 2022. These revisions aim to streamline the process of identifying anonymous senders, ensuring that appropriate legal procedures are followed for swift and efficient disclosure of sender information. Furthermore, in 2020 and 2022, the Act on the Protection of Personal Information³⁸⁶ and the Telecommunications Business Law³⁸⁷ were amended respectively. These updates place greater responsibility on telecommunication service providers for safeguarding the rights and privacy of their users.

Amendment to Create Crime of Preparation of Acts of Terrorism and Other Organized Crimes/ Anti-Conspiracy Legislations

The Act on Punishment of Organized Crimes and Control of Proceeds of Crime³⁸⁸ was amended in June 2017, criminalizing planning and preparatory actions for terrorism and other serious organized crimes. The government stated³⁸⁹ that this amendment is vital to become a party of the United Nations Convention against Transnational Organized Crime,³⁹⁰ and fulfil

³⁷⁹ <https://www.japaneselawtranslation.go.jp/en/laws/view/3581/en>

³⁸⁰ <https://mainichi.jp/english/articles/20220613/p2a/00m/0na/011000c>

³⁸¹ <https://english.kyodonews.net/news/2022/06/f67028f8bc5b-japan-passes-bill-to-make-online-insults-punishable-by-jail-time.html>. The move towards amendments gained momentum after the suicide of a reality show star in May 2020 following online abuse. The previously lenient fines imposed on offenders responsible for posting insults against her, a mere 9,000 yen (around \$65 dollars) each, raised widespread concerns about the inadequacy of the penalties to deter cyberbullying.

³⁸² <https://japannews.yomiuri.co.jp/society/crime-courts/20220614-37594/>

³⁸³ <https://www.nichibenren.or.jp/document/opinion/year/2022/220317.html>

³⁸⁴ The revision only passed after a provision was added that calls on the government to review the law in three years to examine its impact on freedom of expression.

³⁸⁵ <https://www.japaneselawtranslation.go.jp/en/laws/view/3610/en>

³⁸⁶ <https://www.japaneselawtranslation.go.jp/en/laws/view/3397>

³⁸⁷ https://www.japaneselawtranslation.go.jp/en/laws/download/3390/09/s59Aa000860203en11.0_h27A26.pdf

³⁸⁸ <https://www.japaneselawtranslation.go.jp/ja/laws/view/3587>

³⁸⁹ https://www.shugiin.go.jp/internet/itdb_shitsumon.nsf/html/shitsumon/b193026.htm

³⁹⁰ <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>. Japan became a party to the Convention on 11 July 2017, after the introduction of the Crime of Preparation of Acts of Terrorism and Other Organized Crimes.

its responsibility to improve security as the host country of the 2019 rugby world cup as well as the 2020 Tokyo Olympic Games and Tokyo Paralympic Games.³⁹¹

However, the bill for amendment has sparked controversy and raised concerns among legal experts³⁹² and civil liberties advocates,³⁹³ leading to protests attended by thousands of demonstrators.³⁹⁴ Critics argue the risk of broad application of laws for actions unrelated with the scope of organized crime and terrorism, the potential inclusion of innocent parties in charged groups, and the risk of increased surveillance could infringe³⁹⁵ on individual rights to freedom of expression, peaceful assembly and freedom of association. In a 2017 open letter to Japan's Prime Minister, the former UN Special Rapporteur for privacy rights, Joseph Cannataci, warned³⁹⁶ of the risk of undue restrictions to the rights to privacy and to freedom of expression. This provoked³⁹⁷ an angry response³⁹⁸ from the Japanese government.

Despite vehement opposition protests,³⁹⁹ the bill was passed, with the ruling coalition of the LDP holding a majority in both houses of parliament. In November 2022, the UN Human Rights Committee in its Concluding Observations on the seventh periodic report of Japan⁴⁰⁰ urged Japan to revise the Act on Punishment of Organised Crime and Control of the Proceeds of Crime to decriminalize acts that are unrelated to terrorism and organized crime, as well as to adopt safeguards and preventive measures to ensure that the application of the Act does not unduly restrict fundamental rights protected under the International Covenant on Civil and Political Rights (ICCPR).⁴⁰¹

II. Non-Legislative Developments

Interventions on Media/Press Freedom

In February 2016, the then-Minister of Internal Affairs and Communications stated in the Diet that 'political fairness' of broadcasters mandated by Article 4(1)(ii) of the Broadcasting Act⁴⁰² as requiring an assessment of a broadcaster's overall programming. The Minister also

³⁹¹ <https://www.theguardian.com/world/2017/jun/15/japan-passes-brutal-new-terror-law-which-opponents-fear-will-quash-freedoms>

³⁹² <https://www.nichibenren.or.jp/en/document/opinionpapers/20060914.html>

³⁹³ <https://www.foejapan.org/en/news/170529.html>

³⁹⁴ <https://mainichi.jp/english/articles/20170407/p2a/00m/0na/002000c>

³⁹⁵ <https://www.nichibenren.or.jp/en/document/statements/170615.html>

³⁹⁶ http://www.ohchr.org/Documents/Issues/Privacy/OL_JPN.pdf

³⁹⁷ <https://www.reuters.com/article/us-japan-politics-conspiracy-idUSKBN18I0CG>

³⁹⁸ <https://www.mofa.go.jp/mofaj/files/000282252.pdf>

³⁹⁹ <https://www.aljazeera.com/news/2017/6/16/protests-in-japan-as-anti-conspiracy-bill-passed>

⁴⁰⁰ <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsuBJT%2Fi29ui%2Fb4Ih9%2FUJJO87S0HPMR1PnCpt3LQOEoLLe709268JsfEokJ6QyNqFgswSBy1rovzRJaQqYHclTtTyUvvrBUci%2F6iBnTGHkY> (paras 16-17)

⁴⁰¹ Japan's implementation of its obligations in the International Covenant on Civil and Political Rights (ICCPR) was reviewed by the UN Human Rights Committee on 13th and 14th October 2022. The Concluding observation was issued in November 2022.

⁴⁰² <https://www.japaneselawtranslation.go.jp/en/laws/view/2954>

suggested that the government might shut down broadcasters if they repeatedly aired programs conflicting with this “political fairness” according to Article 76 of the Radio Act.⁴⁰³ This statement prompted an outcry from lawyers and civic groups urging the government to retract its view on political fairness⁴⁰⁴ in the Broadcasting Law and to safeguard press freedom. David Kaye, the then United Nations Special Rapporteur on freedom of expression, voiced concerns about the Broadcasting Act⁴⁰⁵ in his visit to Japan⁴⁰⁶ and in his report to the human rights Council.⁴⁰⁷ He pointed out that the Broadcasting Act confers regulatory authority upon the government, which could encroach upon press freedom and independence.⁴⁰⁸ The report triggered a vigorous response⁴⁰⁹ from the Japanese government. The administrative documents later disclosed⁴¹⁰ that the Minister's statement had been influenced by pressure from the Prime Minister's office, with a former advisor to the Prime Minister exerting influence on the Communications Ministry's interpretation of the law.⁴¹¹ Reinterpretation of law behind closed doors without transparent discussion as well as revelation of political intervention that could distort the autonomy of broadcasting raise serious concern on the protection of media freedom and pluralism, freedom of expression and the public access to information. In the 2018 Universal Periodic Review (UPR)⁴¹² of Japan, numerous countries recommended⁴¹³ a reassessment of the existing legal framework to enhance media independence. The UN Human Rights Committee's Concluding observations on the seventh periodic report of Japan⁴¹⁴ highlighted that “sweeping powers granted to the Government under the Broadcasting Act and the Radio Act to suspend operations of broadcasters, are generating a chilling effect on the activities of journalists and human rights defenders and leading to self-censorship.” The Committee has also raised concerns⁴¹⁵ around the Act on the Protection of Specially

⁴⁰³ https://www.japaneselawtranslation.go.jp/en/laws/view/3205/en#je_ch8at12

⁴⁰⁴ <https://www.nichibenren.or.jp/en/document/opinionpapers/20160414.html>

⁴⁰⁵ <https://www.ohchr.org/en/special-procedures/sr-freedom-of-opinion-and-expression/mr-david-kaye-former-special-rapporteur-2014-2020>

⁴⁰⁶ <https://www.ohchr.org/en/statements/2016/04/preliminary-observations-united-nations-special-rapporteur-right-freedom-opinion?LangID=E&NewsID=19842> in April 2016

⁴⁰⁷ http://hrn.or.jp/wpHN/wp-content/uploads/2017/05/A_HRC_35_22_Add.1_AUV.pdf

⁴⁰⁸ <https://www.theguardian.com/world/2017/jun/13/japan-accused-of-eroding-press-freedom-by-un-special-rapporteur>

⁴⁰⁹ https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/22/Add.5

⁴¹⁰ <https://mainichi.jp/english/articles/20230308/p2a/00m/0op/011000c>

⁴¹¹ <https://www.asahi.com/ajw/articles/14859972>

⁴¹² <https://www.ohchr.org/en/hr-bodies/upr/jp-index>

⁴¹³ <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session28/JP/MatriceRecommendationsJapan.docx>

⁴¹⁴ <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsuBJT%2Fi29ui%2Fb4Ih9%2FUJJO87S0HPMR1PnCpt3LQO6EoLe709268JsfEokJ6QyNqFgswSBy1rovzRJaQqYHclTttywUvvrUCI%2F6iBnTGHkY> (paras 36-37)

⁴¹⁵ <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsuBJT%2Fi29ui%2Fb4Ih9%2FUJJO87S0HPMR1PnCpt3LQO6EoLe709268JsfEokJ6QyNqFgswSBy1rovzRJaQqYHclTttywUvvrUCI%2F6iBnTGHkY>

Designated Secrets.⁴¹⁶ The law aimed for strengthening information security⁴¹⁷ took effect in December 2014, amidst protest and concerns⁴¹⁸ about restriction of press freedom and rights to information. The law has since remained a subject of ongoing controversy.⁴¹⁹ In his report⁴²⁰ to the Human Rights Council, David Kaye pointed out that the Broadcasting Act confers regulatory authority upon the government, which could encroach upon press freedom and independence.⁴²¹ The report triggered a vigorous response⁴²² from the Japanese government. The administrative documents later disclosed⁴²³ that the Minister's statement had been influenced by pressure from the prime minister's office, with a former advisor to the Prime Minister exerting influence on the communications ministry's interpretation of the law.⁴²⁴ Reinterpretation of law behind closed doors without transparent discussion as well as revelation of political intervention that could distort the autonomy of broadcasting raise serious concern on the protection of media freedom and pluralism, freedom of expression and public access to information.

Business have exerted invisible pressure on the media, as evidenced by the long-standing scandal involving entertainment tycoon Johnny Kitagawa.⁴²⁵ Despite allegations of sexual abuse against aspiring male pop stars at his talent agency, the mainstream media largely turned a blind eye to the matter, so as not to lose advertising, sponsorship and access to the powerful agency's roster of talent. Fearing repercussions, the young men involved were reluctant to file complaints with the police, enabling Kitagawa's abusive behavior to persist until his passing. The matter gained significant attention⁴²⁶ after a BBC documentary⁴²⁷ on this issue was broadcasted, leading to criticism from both within and outside of Japan, including from the Working Group on Business and Human Rights of the United Nations Human Rights Council.⁴²⁸

⁴¹⁶ <https://www.loc.gov/item/global-legal-monitor/2015-01-23/japan-act-on-protection-of-specially-designated-secrets/>

⁴¹⁷ <https://www.japantimes.co.jp/opinion/2021/12/19/commentary/japan-commentary/japan-secrets-protection-law/>

⁴¹⁸ <https://www.japantimes.co.jp/news/2014/12/10/national/japans-secrecy-law-takes-effect-amid-concern-arbitrary-info-withholding-lack-oversight/>

⁴¹⁹ The official visit, originally planned for December 2015, was abruptly cancelled and rescheduled due to the Japanese Government's request citing difficulties in arranging meetings with relevant officials.

⁴²⁰ http://hrn.or.jp/wpHN/wp-content/uploads/2017/05/A_HRC_35_22_Add.1_AUV.pdf

⁴²¹ <https://www.theguardian.com/world/2017/jun/13/japan-accused-of-eroding-press-freedom-by-un-special-rapporteur>

⁴²² https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/22/Add.5

⁴²³ <https://mainichi.jp/english/articles/20230308/p2a/00m/0op/011000c>

⁴²⁴ <https://www.asahi.com/ajw/articles/14859972>

⁴²⁵ <https://www.bbc.com/news/world-asia-65599546>

⁴²⁶ <https://www.theguardian.com/world/2023/jun/05/pressure-builds-on-johnny-kitagawas-j-pop-agency-to-address-abuse-claims>

⁴²⁷ <https://www.bbc.co.uk/programmes/m001jw7y>

⁴²⁸ <https://www.japantimes.co.jp/news/2023/07/12/national/johnnys-un-investigation/>

In April 2018,⁴²⁹ the Japanese government requested⁴³⁰ internet service providers to block manga piracy websites. This move, along with a proposed law to expand the scope of website blocking,⁴³¹ sparked a public debate⁴³² that underscored the balance between safeguarding intellectual property rights and upholding users' privacy rights, while adhering to the constitutional prohibition against censorship.

"Taboo" in Art and Exhibitions

In August 2019, an art exhibition titled 'After "Freedom of Expression?"' in the Aichi prefecture faced cancellation⁴³³ due to an inundation of complaints and death threats from far-right groups and individuals. The center of criticism was two artworks: a statue symbolizing the 'comfort women' forced into Japan's World War II brothels and a short film featuring the burning of Emperor Hirohito's photograph. These works were labelled as "anti-Japanese propaganda" by those echoing the nationalistic sentiments of conservative politicians who criticized the exhibit.⁴³⁴ Following fervent controversy revolving around censorship and the withdrawal of public funding, the exhibition was eventually reopened for a limited period, with access restricted to a reduced number of visitors.

In the aftermath of this sensation, the intersections of art, politics, and memory have continued⁴³⁵ to provoke questions.⁴³⁶ In May 2022, the Tokyo Metropolitan Government's Human Rights Division rejected⁴³⁷ the screening of a film artwork⁴³⁸ addressing the massacre of Koreans during the Great Kanto Earthquake in 1923.⁴³⁹ Leaked e-mails from the Human Rights Division indicated that the screening was rejected due to an interview in the film stating the massacre of Koreans during the earthquake as a historical fact. This decision was thought⁴⁴⁰ to be influenced by the stance of Tokyo Governor Yuriko Koike, who has consistently refrained⁴⁴¹ from conveying a specific message to the Korean victims during the annual memorial event for the 1923 Great Kanto Earthquake. The lack of transparency in the

⁴²⁹https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3471638&fbclid=IwAR3IyI6lC0wSa_06YnH4MPeaZgoi--l4N5Nlbi9-vFalp_9nTgLIylwSkTc

⁴³⁰ <https://mainichi.jp/english/articles/20180406/p2a/00m/0na/003000c>

⁴³¹ An anti-online piracy law was revised in June 2020 to tighten copyright control.

⁴³² <https://freedomhouse.org/country/japan/freedom-net/2018>

⁴³³ <https://www.nytimes.com/2019/08/05/world/asia/japan-aichi-triennale.html>

⁴³⁴ <https://www.nytimes.com/2019/08/05/world/asia/japan-aichi-triennale.html>

⁴³⁵ <https://english.kyodonews.net/news/2019/11/236a35ed414b-japan-defends-withdrawal-of-support-for-vienna-art-exhibition.html>

⁴³⁶ <https://artreview.com/yokohama-triennale-2020-afterglow-review-must-the-show-go-on/>

⁴³⁷ <https://www.asahi.com/ajw/articles/14757972>

⁴³⁸ <https://www.tokyoartbeat.com/en/articles/-/tokyo-metropolitan-government-censors-yuki-iiyamas-film-touching-on-korean>

⁴³⁹ <https://mainichi.jp/english/articles/20230512/p2a/00m/0na/010000c>

⁴⁴⁰ <https://www.tokyoartbeat.com/en/articles/-/tokyo-metropolitan-government-censors-yuki-iiyamas-film-touching-on-korean>

⁴⁴¹ <https://gjia.georgetown.edu/2021/10/25/un-remembering-the-massacre-how-japans-history-wars-are-challenging-research-integrity-domestically-and-abroad/>

disapproval process and the reasons revealed sparked protests⁴⁴² from the author artist and supporters, who see it as an act of censorship based on historical revisionism and racism.

Academic Freedom

In October 2020, the then Prime Minister Yoshihide Suga refused⁴⁴³ to appoint six scholars nominated to serve on the governing body of the Science Council of Japan,⁴⁴⁴ the country's leading academic society. The Prime Minister's appointment, typically a procedural formality, took a significant turn, as Suga's rejection marked the first such instance⁴⁴⁵ since the inception of the nomination system. This move was widely criticized⁴⁴⁶ as a threat to academic freedom. The scholars who were denied appointment were predominantly known for their critical stance on the government's security and anti-conspiracy legislations. However, the precise grounds for their rejection remained unclear.

The Ministry of Education's textbook approval process⁴⁴⁷ as well as the educational board's decision-making process⁴⁴⁸ for selecting textbooks remain controversial particularly regarding the treatment of Japan's 20th century colonial and military history in history textbooks.

Liberal Democratic Party lawmaker Mio Sugita has accused a group of researchers of misappropriating public research grants to support gender activism, characterizing their work as "research against national interests," "anti-Japan activity."⁴⁴⁹ Sugita is currently facing a defamation lawsuit⁴⁵⁰ filed by these researchers.

III. Enforcement

Constitutionality of Hate Speech Ordinance

In February 2022, the Supreme Court of Japan delivered its inaugural judgement on the constitutionality of a hate speech ordinance, affirming the constitutional validity of the Osaka Hate Speech Ordinance. In a landmark case, the Supreme Court ruled that the Osaka Hate Speech Ordinance did not violate freedom of expression under Article 21(1) of the Constitution by disclosing the username of an individual who uploaded a hateful online video. The court emphasized the importance of deterring discriminatory behaviors, incitement to hatred, or criminal acts against racial or ethnic groups, recognizing the urgent necessity of hate

⁴⁴² <http://surl.li/klqnl>

⁴⁴³ <https://www.science.org/content/article/japan-s-new-prime-minister-picks-fight-science-council>

⁴⁴⁴ <https://www.scj.go.jp/en/>

⁴⁴⁵ <https://mainichi.jp/english/articles/20201002/p2a/00m/0na/007000c>

⁴⁴⁶ <https://asia.nikkei.com/Politics/Suga-s-rejection-of-science-nominees-spurs-constitutional-storm>

⁴⁴⁷ <https://thediplomat.com/2015/04/why-japans-textbook-controversy-is-getting-worse/>

⁴⁴⁸ <https://www.japantimes.co.jp/news/2013/08/29/national/history/yokohama-recalls-texts-describing-1923-massacre-of-koreans/>

⁴⁴⁹ <https://www.asahi.com/ajw/articles/13054277>

⁴⁵⁰ <https://mainichi.jp/english/articles/20190212/p2a/00m/0na/011000c>

deterrence in light of escalating malicious expressions in Japan. This ruling may impact ongoing discussions about striking a balance between freedom of expression and the implementation of anti-hate speech ordinances across Japan, and catalyze the adoption of similar ordinances.

Restriction on Public Protest

Several NGOs, as well as former UN Special Rapporteur David Kay in his country visit⁴⁵¹ and his report,⁴⁵² voiced concerns⁴⁵³ about the limitations on the right to expression through public demonstrations, especially the silencing of anti-U.S. base protesters in Okinawa.⁴⁵⁴ The concerns encompassed excessive force, numerous arrests of protest participants, and the use of force against journalists covering the protests. The United Nations Working Group on Arbitrary Detentions⁴⁵⁵ denounced⁴⁵⁶ the confinement of an Okinawan anti-base protest leader⁴⁵⁷ as arbitrary detention.

Freedom of Speech of Judges

In 2018, the Supreme Court rendered a ruling⁴⁵⁸ regarding a dispute involving judges' rights to express opinions on social media⁴⁵⁹ and their official duties. The court reprimanded⁴⁶⁰ Judge Kiichi Okaguchi for an "inappropriate" tweet which involved his commentary on a civil case involving someone who abandoned his dog.⁴⁶¹ In 2020, the Supreme Court also subjected⁴⁶² Judge Okaguchi to a cautionary disciplinary measure for another social media post.⁴⁶³ The same judge⁴⁶⁴ is undergoing an impeachment trial.⁴⁶⁵

Conclusion

Notwithstanding commendable strides in formulating anti-hate speech laws and ordinances, Japan encounters ongoing struggles in effectively combating diverse forms of discrimination.

⁴⁵¹<https://www.ohchr.org/en/statements/2016/04/preliminary-observations-united-nations-special-rapporteur-right-freedom-opinion?LangID=E&NewsID=19842>

⁴⁵² http://hrn.or.jp/wpHN/wp-content/uploads/2017/05/A_HRC_35_22_Add.1_AUV.pdf (paras. 58-60)

⁴⁵³<https://www.ohchr.org/en/statements/2016/04/preliminary-observations-united-nations-special-rapporteur-right-freedom-opinion?LangID=E&NewsID=19842>

⁴⁵⁴ <https://imadr.org/japan-un-foe-countryvisit-okinawa-19april2016/>

⁴⁵⁵ <https://www.ohchr.org/en/special-procedures/wg-arbitrary-detention>

⁴⁵⁶ https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session82/A_HRC_WGAD_2018_55.pdf

⁴⁵⁷<https://www.japantimes.co.jp/opinion/2017/01/04/commentary/japan-commentary/silencing-anti-u-s-base-protester-okinawa/>

⁴⁵⁸⁴⁵⁸ https://www.courts.go.jp/app/hanrei_en/detail?id=1604

⁴⁵⁹ <https://mainichi.jp/english/articles/20180912/p2a/00m/0na/021000c>

⁴⁶⁰ <https://mainichi.jp/english/articles/20181017/p2a/00m/0na/032000c>

⁴⁶¹ <https://mainichi.jp/english/articles/20180912/p2a/00m/0na/021000c>

⁴⁶² <https://digital.asahi.com/articles/ASN8V6JF5N8VUTIL03Q.html>

⁴⁶³ <https://sp.m.jiji.com/english/show/6904>

⁴⁶⁴ <https://www.asahi.com/ajw/articles/14374888>

⁴⁶⁵<https://www.japantimes.co.jp/news/2022/03/02/national/sendai-judge-social-media-case/#:~:text=A%20judge%20at%20Sendai's%20High,inappropriate%20messages%20on%20social%20media.>

The absence of comprehensive legal measures and a frail enforcement mechanism against discriminatory speech and behaviors remains a significant concern. The intricate equilibrium between addressing hate speech and harassment both online and offline, while upholding the sanctity of freedom of expression persists as a paramount challenge.

Furthermore, concerns about media autonomy and censorship persist. Notable incidents involving media independence, academic freedom, art exhibitions, and journalistic integrity underscore the influence exerted by government and corporate pressures. These influences often remain invisible to the public, hidden in untransparent, covert dialogues, or manifest as self-censorship, which has become more prevalent during the COVID-19 pandemic. During the period covered in this report, the unbroken stretch of strong conservative governance amid compounded crises, encompassing health and security threats, has emboldened far-right groups and individuals, particularly in virtual spaces. Ensuring that legislation fulfills its designated role without unduly compromising the essential rights and freedoms of people necessitates vigilant monitoring and thorough scrutiny. As the digital landscape continues to evolve, Japan must remain attentive to revising its laws and regulations to address emerging challenges, safeguarding individual rights, and fostering a secure online environment where people can express themselves freely, without concerns about discrimination or censorship. It is essential for Japan to construct transparent and accountable legal and institutional mechanisms to safeguard fundamental rights and freedoms for all its inhabitants.