



Expert Voices on Japan Security, Economic, Social, and Foreign Policy Recommendations

U.S.-Japan Network for the Future Cohort IV



THE MAUREEN AND MIKE MANSFIELD FOUNDATION

Expert Voices on Japan

Security, Economic, Social, and Foreign Policy Recommendations

U.S.-Japan Network for the Future Cohort IV

Arthur Alexander, Editor



THE MAUREEN AND MIKE MANSFIELD FOUNDATION

www.mansfielddn.org



THE MAUREEN AND MIKE MANSFIELD FOUNDATION
Connecting People and Ideas to Advance Mutual Interests in U.S.-Asia Relations

The Maureen and Mike Mansfield Foundation, Washington, D.C.

©2018 by The Maureen and Mike Mansfield Foundation

All rights reserved.

Published in the United States of America

Library of Congress Control Number: 2018942756

The views expressed in this publication are solely those of the authors and do not necessarily reflect the views of the Maureen and Mike Mansfield Foundation or its funders.

Contributors

Amy Catalinac, Assistant Professor, New York University

Yulia Frumer, Assistant Professor, Johns Hopkins University

Robert Hoppens, Associate Professor, University of Texas Rio Grande Valley

Nori Katagiri, Assistant Professor, Saint Louis University

Adam P. Liff, Assistant Professor, Indiana University

Ko Maeda, Associate Professor, University of North Texas

Reo Matsuzaki, Assistant Professor, Trinity College

Matthew Poggi

Michael Orlando Sharpe, Associate Professor, City University of New York

Jolyon Thomas, Assistant Professor, University of Pennsylvania

Kristin Vekasi, Assistant Professor, University of Maine

Joshua W. Walker, Managing Director for Japan and Head of Global Strategic Initiatives, Office of the President, Eurasia Group

U.S.-Japan Network for the Future Advisory Committee

Dr. Susan J. Pharr, Edwin O. Reischauer Professor of Japanese Politics and Director of the Program on U.S.-Japan Relations, Harvard University

Dr. Leonard Schoppa, Professor, University of Virginia

Dr. Sheila A. Smith, Senior Fellow for Japan Studies, Council on Foreign Relations

Dr. Ezra Vogel, Henry Ford II Research Professor of the Social Sciences Emeritus, Reischauer Institute of Japanese Studies, Harvard University

About the Program

The U.S.-Japan Network for the Future

The U.S.-Japan Network for the Future was initiated in 2009 to identify and support American professionals who demonstrate an interest in and potential for becoming Japan specialists and policy experts. More information about the program is available on the Foundation's website: <http://mansfieldfdn.org/program/dialogues/u-s-japan-network-for-the-future/>.

The Maureen and Mike Mansfield Foundation

The Maureen and Mike Mansfield Foundation is a 501(c)3 organization that promotes understanding and cooperation in U.S.-Asia relations. The Foundation was established in 1983 to honor Mike Mansfield (1903–2001), a revered public servant, statesman and diplomat who played a pivotal role in many of the key domestic and international issues of the 20th century as U.S. congressman from Montana, Senate majority leader and finally as U.S. ambassador to Japan. Maureen and Mike Mansfield's values, ideals and vision for U.S.-Asia relations continue through the Foundation's exchanges, dialogues, research and educational programs, which create networks among U.S. and Asian leaders, explore the underlying issues influencing public policies, and increase awareness about the nations and peoples of Asia. The Foundation has offices in Washington, D.C.; Tokyo, Japan; and Missoula, Montana.

Contents

Foreword	
Sheila A. Smith	6
Japan’s Current Interest in National Security Is Not (Only) Made in China, It Is Also Homegrown	
Amy Catalinac	13
Beyond Singular Tasks: Labor-Saving Technologies and Systems of Labor	
Yulia Frumer	33
Japan-Taiwan Relations under Abe and Tsai in Historical Context	
Robert Hoppens	49
Building the Strategy of Deterrence in Cyberspace: Proposals for Japan	
Nori Katagiri	65
The Myth of LDP Dominance under Abe: Komeito, Coalition Politics, and Why It Matters for Japan’s Security Policy	
Adam P. Liff	79
The Enigma of Shinzo Abe’s Long Tenure and How His Success Can Undermine His Party’s Dominant Position	
Ko Maeda	93
State-Building and Counterinsurgency Campaigns: Lessons from Colonial Taiwan	
Reo Matsuzaki	107
Japan’s Long-Term Financial Stability Challenges Require a New Macroprudential Framework	
Matthew Poggi	123
What Can the United States and Japan Learn from Each Other’s Immigration Policies?	
Michael Orlando Sharpe	139
Religious Freedom and the U.S.-Japan Alliance	
Jolyon Thomas	157
Trade, Multilateralism, and U.S.-Japan Relations	
Kristin Vekasi	169
Globalizing the U.S.-Japan Alliance for the 21st Century	
Joshua W. Walker	185
Author Biographies	210

Religious Freedom and the U.S.-Japan Alliance

Jolyon Thomas

Executive Summary

Since 1998, the United States Commission on International Religious Freedom (USCIRF) and the United States Department of State have generated annual reports about the state of religious freedom worldwide. In addition to describing global trends, these reports include lists of “Countries of Particular Concern” (CPCs) that are allegedly guilty of violating religious freedom principles. While the instances of oppression or discrimination highlighted in the reports are indeed concerning, the reports usually focus on sensational, violent, and extralegal infringements on religious freedom in countries that are ideologically distant from the United States. Meanwhile, the reports are silent on religious freedom disputes within American borders, and they consistently downplay religious freedom complaints leveled against close U.S. allies.

Because international religious freedom reports are primed to look for religious freedom *abuses*, they overlook a deeper, two-fold problem: 1) religious freedom guarantees are only as good as the legal definitions that inform them, including definitions of “religion,” “freedom,” “rights,” and who counts as a citizen; and 2) policies that affect the ability of individuals

to be free can seem unremarkable rather than sensational and may even use liberal language to deny individuals' rights. This policy brief uses the case of Japan, a close American ally generally deemed "safe" for religion, to argue that international religious freedom (IRF) policy must not be solely based on policing flagrant abuses of religious freedom. IRF policy must also be sensitive to how political and legal interpretations of specific practices as "religion" or "not-religion" can have serious, negative effects for religious minorities and other stakeholders. I focus on religious freedom here because the United States has been particularly invested in protecting this right for vulnerable populations in other countries, but my analysis has implications for rights and liberties in general.

Discussion

Few people would think of Japan as a place where religious freedom is under threat. By the numbers, the country is one of the least religious in the world, featuring levels of professed belief and affiliation that rarely rise above about a quarter of the population. If asked about the current state of religious freedom in Japan, most professional observers of the country would probably point out that promoting religious freedom was a central pillar of the policies implemented during the U.S.-led Allied occupation of Japan (1945–1952) and that religious freedom has been firmly enshrined in Japan's postwar constitution since 1947. Unlike Myanmar, China, the Central African Republic, Syria, and Vietnam, Japan does not appear as a "country of particular concern" in the annual report produced by the United States Commission on International Religious Freedom (USCIRF).¹ Indeed, the only two places where Japan appeared in the Commission's 2017 report were in reference to regional concerns about North Korea, another country on the Commission's list of bad actors.² It would seem that Japan is a relatively safe place for religion.

Yet some observers regard recent moves by the Shinzo Abe administration as threats to religious freedom. Last June, the Japanese Federation of New Religious Organizations submitted a complaint to Abe decrying proposed

anti-conspiracy legislation as inimical to religious freedom and reminiscent of the 1925 Peace Preservation Law that allowed the imperial Japanese state to crack down on minority religious movements.³ The controversial bill passed in the Japanese Diet (Parliament) later that month, with lawmakers citing global antiterrorism efforts and security concerns regarding the upcoming 2020 Olympics as rationales for their votes in favor.⁴ “Trust us to do the right thing,” they seemed to say, but religious groups and journalists have greeted that message with justifiable suspicion.⁵

Prime Minister Abe’s cozy relationships with conservative Shinto organizations have also attracted negative attention, and it is common to read that his personal politics presage a return to the so-called State Shinto of wartime Japan.⁶ Indeed, Abe’s decision to host the 2016 G7 summit at the Ise Shrines seems to have been a brazen attempt to legitimize a particular variant of nationalist Shinto in the eyes of the international community, and his annual New Year’s visits to those shrines link Shinto ritual to the public calendar and the theater of state.⁷ People who study Japanese religion and politics have therefore eyed Abe’s close connections with the Shinto Seiji Renmei (Shinto Association for Spiritual Leadership, or SAS) with suspicion.⁸ They expect Abe and his cabinet to try to institute through constitutional revision something amounting to a reproduction of the wartime status quo, when shrine rites formed the cornerstone of Japanese civic rituals and Shinto-based mythology informed public school education.

Journalists in Japan and overseas have also picked up this narrative. An article in the *Daily Beast* published in July 2016 described Nippon Kaigi (the Japan Council), another lobby with close ties to Abe and many Japanese legislators, as a secret “cult” designed to restore Japan’s wartime past.⁹ Revelations in late 2016 that the Osaka Prefectural Government gave a preferential land deal to the private education corporation Moritomo Academy under alleged pressure from Abe and his wife Akie have served as fodder for concerns that Abe’s long-term goal is to erode the firm separation of religion from the state enshrined in Japan’s postwar constitution.

(The Moritomo Academy affiliate Tsukamoto Kindergarten espouses a militarist ethic reminiscent of Japan's wartime past; students venerate the imperial portrait and recite the 1890 Imperial Rescript on Education.) Recent revelations that government officials doctored documents related to the controversial land deal so as to remove explicit references to both the Abes and to Nippon Kaigi have prolonged the scandal.

The Prime Minister's actions have led to questions about his ulterior motives, but the problem is really about how "religion" is defined, both in everyday conversation and in the law. Roughly 70–80 percent of Japanese people do not identify as religious, but a majority engage in ritual practices that they are likely to interpret as "custom" rather than "religion." Prime Minister Abe and organizations like SAS exploit this terminological ambiguity to portray a particular type of Shinto as the core of Japanese culture, a repository of national traditions, and as a central part of civic life. This move can come at the expense of minority religious positions.

Yet to be clear, the widespread narrative about the resurgence of so-called State Shinto is a little too pat. First, like much conservative rhetoric, the focus on recovering a "beautiful Japan of which people can be proud" (to use the preferred language of Shinto political lobbies like SAS) does not so much attempt to reproduce Japan's past as it aims to create what proponents see as an ideal future. Second, while the effort to normalize practices associated with Shinto is certainly evident on parts of the Japanese right, it is striking that few Japanese people use the language of "religion" when discussing the importance of revering Japan's war dead at the controversial Yasukuni Shrine, venerating the emperor, or protecting good old Japanese family values through moral education. Third, while there is plenty to concern Japan's citizens about the prospect of constitutional revision in the wake of Abe's announcement that he would seek constitutional revision by 2020, the main issue on everyone's minds seems to be the fate of the famed Article 9 that renounces Japan's capacity to wage war. Indeed, a March 2017 survey conducted by Japan's national broadcaster NHK asked respondents several questions about the prospect of constitutional

revision, but the only specific constitutional clause discussed in the survey was Article 9.¹⁰ The LDP's previous proposals to diminish the constitutional focus on individual rights and liberties by redefining the basic legal unit of society as the household and to subtly tweak the constitutional language regarding human rights received no specific attention in the NHK survey. In other words, the hot-button issue of Article 9 distracts from other issues, including legitimate concerns that the LDP might use security concerns to erode civil liberties such as religious freedom. Abe is not alone in treating Shinto ritual practices as nonreligious cultural traditions, but citizens' and pressure groups' complaints are no less serious for this fact. It is this point that I want to focus on here.

One reason religious freedom issues are complicated in Japan lies in how the constitution imagines religion and rights. The postwar Japanese constitution is rare among constitutions in the world for two reasons. First, it was written by Americans under the circumstances of military occupation, which has always left open the possibility that the constitution, despite the language of its preamble, was not freely chosen. Second, it includes explicit references to "human rights," introducing into the national charter language that calls state sovereignty into question. Whereas civil rights are guaranteed to citizens by their states, human rights transcend state power. The inclusion of the language of human rights in Japan's postwar charter has thus created a curious dynamic whereby citizens are both "Japanese" and "citizens of the world."

This idiosyncratic quality of the postwar "Peace Constitution" reflects the specific geopolitical circumstances under which the constitution was written. The definition of religious freedom that was enshrined in the Japanese national charter was also constructed as an antidote for what the occupiers had only recently come to call "State Shinto," meaning that Japan's postwar constitution was at least as biased against Shinto ideals as its prewar constitution was inclined to support them. But neither document explicitly mentions Shinto at all, and both the 1889 constitution and its 1946 successor left open the possibility that some ritual practices could

appear as culture or tradition rather than religion. Religious freedom claims are hard to adjudicate when Shinto goes unmarked and when its status as “religion” or “culture” is in question. The incoherent nature of Japanese Supreme Court religious freedom jurisprudence over the last several decades reveals the nature and extent of the problem.¹¹

The definitional issue continues in recent debates about how Japan’s constitution might change. Chafing at the coercive circumstances under which the current constitution was drafted, the ruling Liberal Democratic Party (LDP) describes constitutional revision as fundamental to party identity and as a long-held policy aim. The party advocates revision as a way of correcting the putatively “unnatural” language of the preamble, strengthening the power of Japan’s constitutionally ambiguous Self Defense Force so as to make it a “normal” military, and making minor terminological revisions that would have major political effects, including changes to the postwar religion/state settlement. Reactions to the LDP proposals from the left (both within and outside of Japan) tend to describe these initiatives as renascent militarism and a revival of “State Shinto,” but it bears mentioning that the LDP proposals use classical liberal language (freedom, peace, rights) to advocate illiberal policy (strengthened authoritarianism and heightened interest in sovereignty and security).

I am interested in the effects of the LDP’s proposed changes for the governance of religions in Japan, but my interests go beyond mere analysis of proposed changes to Article 20 (the religious freedom clause) and Article 89 (the establishment clause). Because religious freedom law is only as good as the definitions that inform it, the LDP draft constitution of 2012 and related legal trial balloons offer clues as to how the party envisions the human who is a bearer of rights. Curiously, the preamble to the LDP’s draft doubles down on the language of innate human rights, which by definition precede citizenship and transcend the jurisdiction of the state. But simultaneously, the proposal also diminishes the ability of individuals to be rights-bearing subjects by giving rights to “humans” (*hito*) rather than individuals (*kojin*), limiting the bearers of rights to

people born “Japanese,” and premising the constitution on ahistorical essentialist claims about harmony, tradition, and culture. The language of Article 24 designating the household as the fundamental legal unit of society also infringes upon the ability of individuals to make rights claims, while strengthened language about citizens’ obligations to preserve public order allows collective interests to supersede individual liberties. When we pair the draft constitutional language with the language of the revised Fundamental Law on Education (2006) and that of the Anti-Conspiracy Law of 2017, it becomes clear that the LDP has been using freedom talk to construct a society premised on mutual obligations and duties rather than on individual rights and liberties.

Although it is questionable whether the LDP will actually be able to push through constitutional revision in the ongoing revelations about the Moritomo Academy land scandal, the legal changes that the party has already advanced have profound ramifications for religious freedom in Japan. By mildly tweaking the constitutional definition of “religion” so that practices like imperial ritual and veneration of the war dead at Yasukuni Shrine become collective “social customs,” the LDP eliminates the possibility that citizens might mobilize religious freedom claims against state expenditures on Shinto rituals. By defining public order very broadly and expanding the capacity of the state to surveil citizens in the name of security, the LDP subjects religious minorities to risk. Just as the 1925 Peace Preservation Law allowed the Special Higher Police to surveil and suppress marginal religious movements, the 2017 Anti-Conspiracy Law and the LDP’s proposed constitution could easily be used to target minority religions and other groups.

The United States Commission on International Religious Freedom treats Japan as of little concern because the Commission is primed to look for certain types of infringements. Are some religious people treated as enemies of the state, as in Vietnam? Have people been hacked to death for their religious affiliations or lack of religious belief, as in Bangladesh? Is the global War on Terror being used as an excuse to crack down on

dissidents, as in China? Is a mounting refugee crisis unfolding due to alleged persecution of religious minorities, as in Myanmar? Because Japan today lacks sensational instances of violent oppression of the sort that happened in the 1930s and early 1940s, the LDP's recent legal machinations fly under the Commission's radar. There is a humdrum quality to the legal tweaks and policy proposals that hardly seems to merit serious attention, especially when the issue of Article 9 takes up so much oxygen. (Here it is worth noting that American diplomats stationed in Tokyo in the 1930s were similarly sanguine, even dismissive, about the 1939 Religious Organizations Law. They thought of it as minor "legislative housekeeping," but historians would later decry the law as having been seriously inimical to religious liberty in wartime Japan.¹² The cautionary nature of this tale should be obvious.)

However U.S. commissioners see Japan, clearly concerns about religious freedom remain for both individuals (like schoolteachers, who have risked losing their jobs over their refusals to perform the national anthem on religious freedom grounds) and groups such as the Japanese Buddhist Federation, which has recently held lecture meetings on whether the State Secrets Law has had a chilling effect on freedom of conscience since it went into effect in December 2014.¹³ As mentioned above, the Japanese Federation of New Religious Organizations has also decried the Abe administration's Anti-Conspiracy Law as inimical to religious freedom. When Abe's office used all the social media tools at its disposal to publicize his January 4, 2018 visit to the Ise Shrines, it drew complaints that he had infringed upon the constitutional injunction against using state funds for the promotion of a particular religion.¹⁴ But of course Abe would not describe the visit to Ise as religion, and that is precisely the problem.

It would be too easy to say that the Abe administration is actively trying to establish a national religion or is eagerly trying to quash religious freedom. It would also be too easy to simply urge the USCIRF to add Japan to its list of "countries of particular concern." The harder work lies in recognizing that not all threats to religious freedom involve persecution,

violence, or incarceration. Threats to religious freedom can ironically use the language of liberty and rights to deny those very things. Threats to religious freedom are often prosaic rather than sensational. Threats to religious freedom can take the shape of mundane policy tweaks that have profound impacts. Redefining the human who is a bearer of rights and redefining religion so that “social custom” does not count can make it impossible for anyone to make religious freedom claims at all.

It seems unlikely that Abe, the LDP, Nippon Kaigi, or SAS actually intend to infringe on Japanese citizens’ religious freedom when they talk about revising the constitution or when they advocate bringing shrine rites into a more central place in Japanese public life. But even if that is not their intent, legal changes they have enacted and constitutional revisions they have proposed would effectively make shrine rites into national ceremonies rather than religion, would evacuate individuals’ abilities to make rights claims, and would make security and public order supersede liberty. That they do all of this in the name of protecting fundamental human rights would seem ironic, but the liberal language of rights and freedom can easily be put to illiberal ends.

I have focused on religious freedom here because international promotion of religious freedom has historically been a central point of American foreign policy, particularly since passage of the International Religious Freedom Restoration Act in 1998 (an Act recently amended by the Frank R. Wolf Act of 2016).¹⁵ But the concerns I raised above about who actually counts in the eyes of the law can be extended to any number of civil liberties and human rights. ■

Erratum: The 1998 act is the International Religious Freedom Act, not the International Religious Freedom Restoration Act.

Chapter Endnotes

- 1 The United States Commission on International Religious Freedom: <http://www.uscirf.gov>.
- 2 *Annual Report of the U.S. Commission on International Religious Freedom 2017*: <http://www.uscirf.gov/sites/default/files/2017.USCIRFAnnualReport.pdf>.
- 3 Motoyama Kazuhiro, Chair for the Committee on Religious Freedom of the Japanese Association of New Religious Organizations open letter to Prime Minister Abe dated 5 June 2017. <http://www.shinshuren.or.jp/userfile.php?id=76&hash=f208636d1877da6f3cd4c0f4b69e7c38>.
- 4 *The Asahi Shimbun*, “Update: Diet enacts anti-conspiracy legislation after hastening vote,” 15 June 2017. <http://www.asahi.com/ajw/articles/AJ201706150014.html>.
- 5 Colin P.A. Jones, “Conspiracy Theory Becomes Frightening Reality for Japan,” *The Japan Times*, 14 June 2017. <https://www.japantimes.co.jp/community/2017/06/14/issues/conspiracy-theory-becomes-frightening-reality-japan/#.WrujxWaZMWp>.
- 6 David McNeill, “Back to the Future: Shinto, Ise and Japan’s New Moral Education,” *Asia-Pacific Journal: Japan Focus* 11 (50), no. 1. <https://apjif.org/2013/11/50/David-McNeill/4047/article.html>.
- 7 Justin McCurry, “G7 in Japan: concern over world leaders’ tour of nationalistic shrine,” *The Guardian*, 24 May 2016. <https://www.theguardian.com/world/2016/may/25/g7-japan-world-leaders-tour-shrine-america-obama-abe>.
- 8 See the SAS website (Japanese only): <http://www.sinseiren.org/shinseirentoha/shinseirentoha.htm>.
- 9 Jake Adelstein and Mari Yamamoto, “The Religious Cult Secretly Running Japan,” *The Daily Beast* 10 July 2016. <https://www.thedailybeast.com/the-religious-cult-secretly-running-japan>. The Nippon Kaigi website is <http://www.nipponkaigi.org> (Japanese only).
- 10 *Yoron chosa: Nihonjin to kenpō 2017*. <https://www3.nhk.or.jp/news/special/kenpou70/yoron2017.html>.
- 11 Ernils Larsson, “Jinja Honchō and the Politics of Constitutional Reform in Japan,” *Japan Review* 30 (2017): 227–52; John Breen, “‘Conventional Wisdom’ and the Politics of Shinto in Postwar Japan,” *Politics and Religion* 4, no. 1 (2010): 68–82.
- 12 Jolyon Baraka Thomas, *Japan, the American Occupation, and the Problem of Religious Freedom*. Forthcoming from University of Chicago Press.

- 13 On the national anthem issue, see *The Japan Times*, “National Anthem Debate,” 8 February 2011. <https://www.japantimes.co.jp/opinion/2011/02/08/editorials/national-anthem-debate/#.WrvGQWaZMWp>. On the 15 January 2015 JBF meeting, see “Kore kara mo tekisetsu ni unyō sareteiru ka chūshi ga hitsuyō.” <http://www.jbf.ne.jp/assets/files/pdf/himitu.pdf>.
- 14 See the critical 4 January 2018 tweet by activist lawyer Kitō Masaki: https://twitter.com/masaki_kito/status/948814691618365440.
- 15 Anna Su, *Exporting Freedom: Religious Liberty and American Power*. Cambridge, MA: Harvard University Press, 2016; Elizabeth Shakman Hurd, *Beyond Religious Freedom: The New Global Politics of Religion*. Princeton: Princeton University Press, 2015. The International Religious Freedom Restoration Act: <https://www.state.gov/documents/organization/2297.pdf>. The Frank R. Wolf International Religious Freedom Act: <https://congress.gov/114/plaws/publ281/PLAW-114publ281.pdf>.