

## Freedom of Hate Speech; Abe Shinzo and Japan's Public Sphere   へイ トスピーチ（憎悪発言）の自由—安倍晋三と日本の公共空間

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Japan's diplomacy must always be rooted in democracy, the rule of law, and respect for human rights. These universal values have guided Japan's post-war development. I firmly believe that, in 2013 and beyond, the Asia-Pacific region's future prosperity should rest on them as well. (Abe Shinzo, Prime Minister of Japan, proclaiming Japan "Asia's Democratic Security Diamond", 27 December 2012)<sup>1</sup>

The vision is beautiful. Japan indeed has something to be proud of. Though its democratic constitution was partly composed by postwar allied occupiers, it has been embraced by the Japanese people and has stood the test of time.

Japan's democracy is not perfect. (Which country has a perfect democracy?) The political system has been lopsided, and has generally failed to generate vigorous two-party competition; some topics of debate – particularly relating to the Emperor – have long been the subject of media self-censorship. All the same, freedom of thought has thrived for more than half a century, and Japan has developed an impressive array of small

scale grassroots social movements, willing to take up challenging reformist and human rights causes.<sup>2</sup>

But now, ironically, the loud proclamations of "democracy, the rule of law and respect for human rights" are being accompanied by the rise of practices that suggest the opposite. A combination of soft repression and hard hate speech is creating a troubling reality in Abe Shinzo's Japan.

Prelude: Abe, NHK and the Comfort Women

It was an ominous harbinger of things to come: a sad tale of political interference, self-censorship, denials, coverups, revelations and resignations.

In 2000, groups from that vibrant Japanese world of grassroots human rights action organized the Tokyo Women's War Crimes Tribunal. Their aim was to address wartime acts of violence against women by the Japanese military, which had not been prosecuted by the official tribunals immediately after Japan's defeat. In particular, the Tribunal focused on the fate of very large numbers of Asian women who were forced or tricked into working in a network of "military

comfort stations” all over the wartime Japanese empire, where they were subject to extreme sexual abuse.

The 2000 Tribunal was an NGO event, but followed the procedures of formal war crimes trials. It was conducted before judges from Europe, North and South America, and Africa with extensive experience in international human rights issues. Sixty-four surviving former “comfort women” gave evidence, and the event concluded with a judgment condemning the role of the Japanese state, the late Emperor Hirohito and wartime military leaders.<sup>3</sup>



**Former Comfort Women testify at 2000 Tokyo Tribunal**

The Japanese national broadcaster, NHK, made a documentary about the Tribunal, which was shown in January 2001. But shortly before the program went to air, something unexpected happened. Members of NHK’s senior management suddenly demanded drastic changes to the completed program, removing (amongst other things) testimony given by former Japanese soldiers and all mention of the

Tribunal’s preliminary findings. (The final judgment was yet to be handed down.)

Four years later, in the midst of a protracted lawsuit over the mangled documentary, the program’s chief producer revealed that these cuts had followed intervention from two senior government politicians, one of whom was Abe Shinzo, then Deputy Cabinet Secretary, now Japan’s Prime Minister.

Abe denied pressuring NHK to alter the program, but admitted that he had indeed contacted NHK senior management before the documentary went to air to express his “concerns” about what he saw as its likely “bias”. The program was broadcast at a time when there was increasing debate in Japan about the fate of Japanese nationals who were believed to have been abducted by North Korea (and whose abductions were soon to be confirmed by Kim Jong-il himself). As Abe explained, he “suspected that the NHK documentary might be part of an underground plan to quell public reaction to the abductee problem and portray North Korea as victim”.<sup>4</sup>

The broadcast also took place just as the government was determining its next tranche of funding to NHK, and, unsurprisingly, NHK management took the Deputy Cabinet Secretary’s concerns very seriously indeed.

Old Politics in the New Media

Three motifs form a constant refrain in Abe Shinzo's political career. The first is his hawkish stance towards North Korea, and particularly his response to the abduction of Japanese citizens. This is the issue that helped bring him to political centre stage.

The second is his close association with those who wish to rewrite Japan's textbooks to remove references to the darker episodes of the wartime past – and who react particularly sharply to any mention of the “comfort women” issue. Abe and his associates do not deny the existence of the “comfort station” system – the evidence is too overwhelming for that – but they do seek to deny that women were forcibly recruited to the system by the Japanese army. Lobbying by right wing groups has in fact already resulted in elimination of all references to the “comfort women” disappearing in junior high school textbooks, but a further *bête noire* of the right survives: the cautiously-worded apology on the subject made by Japan's Chief Cabinet Secretary Kono Yohei in 1993. Steps towards retracting the Kono Statement were taken under Abe's first Prime Ministership in 2006-2007, but domestic and international outcry persuaded Abe to back down. Now, following Abe's re-election, the issue is back on the agenda.

These two themes are linked to a third, longer term aim of revising Japan's postwar constitution to remove the “peace clause” and open the way to more rapid military expansion. A substantial

win in July's upper house election would give Abe's government the majority it needs for this purpose. In the lead up to this election, Abe has been treading cautiously, focusing on references to the need to reform procedural clauses in the constitution, but there is every reason to believe that his ultimate aim of a substantial revision of the constitution is still alive.

While the core of Abe's political program remains constant, the nature of the media has undergone far reaching changes since the 2001 NHK incident. The greatest change, of course, has been the massive growth of the Internet, accompanied by a proliferation of chat and blog sites where anonymous users post social and political comments ranging from the anodyne to the eccentric to abusive diatribes. This is a worldwide phenomenon, but has been particularly visible in East Asia: booming mobile phone use has been accompanied by waves of Internet nationalism, in which the young in China, South Korea and Japan often trade insults with one another.

In Japan, the online bulletin board “2-Channel”, with many millions of regular users, has become particularly well known as a forum for virulent attacks on those seen as “unpatriotic” or “anti-Japanese”. Some of its discussion “threads” carry violently xenophobic or racist messages, recycling wartime language and imagery that had long disappeared from public discourse in Japan. A Social Media White Paper, published by

private marketing companies in 2012, shows that 2-Channel users are predominantly young and male, though teenage girls are also significant participants in the site's discussions.<sup>5</sup>

It is impossible to tell who contributes to the racist threads published on 2-Channel, as opposed to the site's many other innocuous conversations on topics such a travel, celebrities and holiday jobs. But the popular image of the 2-Channel racist blogger is of a lonely, frustrated otaku an isolated person with obsessive interests, probably unemployed or in a dead-end job, seeking some sense of identity by sharing anger and bitterness with nameless others. 2-Channel has recently been overtaken by global social media such as Twitter, but the anger of the "otakusphere" continues to replicate itself in ever changing forums.



## 2-Channel

Offline, the rise of 2-Channel has been paralleled by the emergence of new forms of far right

movement in Japan. One of the best known of these is the "Citizens' League to Deny Foreigners Special Rights" (Zainichi Tokken o Yurusanai Shimin no Kai, or Zaitokukai for short), established in 2007. Unlike older far right groups, whose loudspeaker vans with their military flags and martial music have long been a familiar sight on Tokyo streets, Zaitokukai recruits the young, and makes very active use of social media to spread its message via video blogs of its demonstrations. Zaitokukai protest actions are most often directed at Korean residents in Japan, particularly those seen as being associated with North Korea, but the group's list of other targets is long and eclectic, including indigenous Ainu organizations, China, the Democratic Party of Japan and the documentary movie *Cove*. Zaitokukai demonstrations are noisy and notable for the offensiveness of their slogans, but have generally attracted a rather small number of demonstrators.<sup>6</sup>

Japan is a country with low levels of violence, and the ugly rhetoric of 2-Channel and the Zaitokukai might be seen as having little more than nuisance value, at least by those who are not on the receiving end of the abuse. But the verbal violence of the frustrated and marginalized can be deeply intimidating, and is particularly alarming when it becomes enmeshed with the centers of political power: with the organs of national government and of its law enforcement agencies. That curious but calculated

intermeshing of the marginalized and the powers-that-be is increasingly evident in Japan today.

### Facebook Friends to the Rescue: Mobilizing the Otakusphere

After a rather slow start, a number of Japanese politicians have taken to social media with great enthusiasm. Among them is the nationalistic mayor of Osaka, Hashimoto Toru, who issues an unending series of tweets on his policies and general view of the world, and caused particular controversy last year with a series of rambling tweets on the “comfort women” issue, in which he denounced the 1993 Kono apology and expressed support for Abe Shinzo’s position on the “comfort women”.<sup>7</sup> Abe himself has also responded most enthusiastically to the political opportunities created by the Internet age. He was quick to create a personal website, and has maintained a Facebook page since well before his recent election. He or his personal secretary post comments on the page almost every day, and it boasts over 4,800 Facebook friends and more than 230,000 followers.

On 22 December 2012, six days after the election which returned Abe to the prime ministership, NHK devoted its evening prime time to a discussion program about the election results and the implications of the new government for Japan. The participants in the program were the Secretary-General of Abe’s ruling party, Ishiba

Shigeru, the head of the government’s coalition partner, Yamaguchi Natsuo, three university professors and an economist from the influential think tank the Japan Research Institute. NHK invited viewers to send in questions that they would like to have raised during the discussion.

About two hours before the program went to air, Abe’s secretary posted a message on the prime minister’s Facebook page mobilizing its friends and followers to action. The secretary slammed the “bias” of NHK and warned readers that the forthcoming program would be a “clean sweep of Abe bashing”. The web link, email address and fax number of the program were included in the post, and Abe’s friends and followers were urged to bombard the program with messages. The secretary’s message also made derogatory comments about the discussion program’s panelists, describing one (University of Tokyo political scientist Fujiwara Kiichi) as being “famous for saying that ‘the five abductees who came home to Japan should be sent straight back to North Korea’”.<sup>8</sup>

Very far from being a “clean sweep of Abe bashing”, the program proved to be very much like most other political discussions on the public broadcaster. The early questions were directed to the two government-party politicians, who were allowed a substantial share of the air time, and much of the discussion centred around positive

suggestions on the need (for example) to listen to the voices of the young and to address the problems of Japan's aging population. Questions were raised, among other things, about the content of the government's proposed large-scale public work's programs, but the criticism was so calm and reasoned that it would require an unusually thin skin to be offended by it.

Later the same evening, after the program had gone to air, the Prime Minister added his own comment to his secretary's post, describing the program's participants (other, presumably than Ishiba and Yamaguchi) as "too low-level" (osomatsu sugi). One panelist was described as being "beyond the pale", and of two others, the Prime Minister wrote that they should be "ashamed to show their faces in public".<sup>9</sup>

Shortly afterwards, Professor Fujiwara posted a mildly worded response on Twitter, pointing out that he has never said or written that Japanese abductees should be returned to North Korea. Energetic efforts by at least one pro-Abe website to prove him wrong ended in failure<sup>10</sup>, but meanwhile his supposed "statement" on the abduction issue (which in the Japanese context is roughly the equivalent of an American politics professor expressing support for Al Qaida) was circulating like wildfire through Japan's right wing blogosphere.

Neither Abe nor his secretary has apologized for or revised the comment about Fujiwara, which

still remains on the Prime Minister's Facebook page. No opposition politician and no national newspaper or TV station in Japan has questioned the Prime Minister's use of Facebook to libel an academic public commentator. Nor did any of them discuss the propriety of the Prime Minister's Facebook page being used to post a misleading description of a TV discussion program, with the intention of inciting readers to inundate the program with pro-government comments.

The Abe Facebook message can be read as a calculated warning to any Japanese media outlet or commentator proposing to express doubts at government policy that they are likely face officially sanctioned harassment and vilification. In the Internet age, direct intervention by politicians in the media is no longer needed; they can get their Facebook friends to do it for them.

#### The Wrong Side of the Law: Policing Freedom of Speech in Abe's Japan

Since its establishment in 2007, the Zaitokukai has weathered ups and downs in its fortunes, but rising tensions between Japan and its Asian neighbours and the election of the new government appears to have given the group a new lease on life. It has also spawned a growing proliferation of similar groups which use the same tactics, and often work in coordination with one another: among them the bizarrely named Shinshakai Undo (literally, New Social

Movement). The focus of these groups' recent actions has been the Tokyo district of Shin-Okubo, which has a large concentration of ethnic Korean and Chinese inhabitants. On 9 February 2013, some 150 to 200 far right demonstrators staged a march through the busy main streets of Shin-Okubo, yelling vitriolic abuse and incitements to ethnic violence at inhabitants and passers-by, and carrying Japanese military flags and an assortment of placards with extremely violent slogans, of which "Kill Koreans" was one of the less obscene. The demonstration was organized by Shinshakai Undo with the support of the Zaitokukai, and featured marshals with armbands and face masks, who prowled the pavements, mingling with the very substantial police presence, and occasionally pushing, shoving or physically intimidating people who appeared to express disagreement with their views.

Japan acceded to the International Convention on the Elimination of All Forms of Racial Discrimination on 15 December 1995. Article 4 of the convention states that signatories agree to "adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination" by declaring it a crime to disseminate "ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin".<sup>11</sup>

Since signing the convention, the Japanese government has repeatedly lodged a reservation to Article 4. Japan, it says, does not intend to pass specific laws banning hate speech or incitement to discrimination, partly because such laws could limit freedom of speech. But equally importantly, according to the government, hate speech laws are unnecessary in Japan because acts of race hatred are already crimes under normal Japanese criminal law. Reassuringly, Japan's Ministry of Foreign Affairs points out, if ideas disseminated by any group damage "the honor or credit of a specific individual or group, such dissemination of ideas is punishable as a crime of defamation (Article 230, Penal Code), insult (Article 231), or damage to credit, obstruction of business (Article 233) of the Penal Code. If such activities include threatening contents against a specific individual, they are punishable as a crime of intimidation (Article 222), collective intimidation and habitual intimidation (Article 1 and Article 1-3 of the Law concerning Punishment of Physical Violence and Others). Incitement to racial discrimination is punishable as a crime of instigation (Article 61, Penal Code) or assistance (Article 62) of the crimes if an act constitutes one of the above-mentioned crimes".<sup>12</sup>

The Ministry goes on to cite a list of other laws prohibiting (amongst other things) "cases in which a large number of persons assemble and use violence or threat (Article 106)", "collective violence/intimidation/destruction of utensils

(Article 1)", and incitement to any of these acts (Article 61).<sup>13</sup>

Japan's most recent report on its implementation of the Convention, delivered in January 2013, re-emphasizes these arguments against hate speech laws, adding that "the Government of Japan does not believe that, in present-day Japan, racist thoughts are disseminated and racial discrimination is incited, to the extent that the withdrawal of its reservations or legislation to impose punishment against dissemination of racist thoughts and other acts should be considered even at the risk of unduly stifling legitimate speech".<sup>14</sup>

Interestingly, the large contingent of police, who stood by as the racist demonstrators marched through Shin-Okubo, seemed much more anxious to control the behavior of the local residents and passers by on the sidewalk than to enforce Articles 1, 61, 62, 106, 222, 230, 231 or 233 of the Penal Code. Video of the event provides abundant evidence of defamation, insult, obstruction of business, threats, collective intimidation and incitement to racial discrimination. Not one of the demonstrators was arrested.

The Japanese police are not always so relaxed in their attitude to demonstrations. For example, in October 2012 a peaceful demonstration against the incineration of nuclear-contaminated waste from the disaster of 11 March 2011 took place in

Osaka. Almost two months later, three people who had taken part in the demonstration were arrested and imprisoned on the grounds that their protest route had taken a short-cut through Osaka Station concourse, thus violating the "Railway Operations Act", which prohibits demonstrations on railway stations. Two of the demonstrators were released after a couple of weeks in gaol, but one, Mr. H., remains incarcerated, more than two months on. Mr. H's crime was considered particularly grave because, police allege, he remonstrated with a railway official who asked him to stop handing out leaflets, and in the process trod on the official's toe.<sup>15</sup>

This incident may seem unconnected to the racism of the Zaitokukai and its allies, and so it was, until 13 February 2013, when Mr. H. and three others were accused of a new crime. This time, their supposedly criminal acts stem from a gathering held in September 2012 to discuss the issue of the "comfort women". In response to mayor Hashimoto's Twitter comments on the "comfort women" issue, Osaka citizens invited an 86-year-old Korean former "comfort woman", Kim Bok-Dong, to speak to a public meeting about her experiences. The meeting took place without incident, despite (in the words of a friend of mine who attended) the presence of "quite a few 'nasty' looking men... standing near the main door of the building making dreadful stares at people who attempted to enter". A small



number of police were also in attendance outside the meeting hall.

It was not until more than four months after the gathering (and almost two months after Japan's general election) that a member of the Zaitokukai filed a complaint with the police, claiming that he had been "assaulted" by supporters of the "comfort women" (including Mr. H.) who had denied him access to the September 2012 meeting. Despite the delay, police took up the case the alacrity, descending on the houses and offices of "comfort women" supporters to search their premises for incriminating evidence, and even conducting a search of a cafe where the support group holds informal meetings.<sup>16</sup>

In this case, the authorities appear utterly unconcerned about any "risk of unduly stifling legitimate speech".

Japan's diplomacy (and Japan's domestic policy), to cite Prime Minister Abe, must always be rooted in democracy, the rule of law, and respect for human rights. Many in Japan have worked for these aims for a very long time. But there is no rule of law if the instigators of violence are left to peddle hatred with impunity, while those who pursue historical justice and responsibility are subject to police harassment. There is no respect for human rights where those in power use cyber bullying in an attempt to silence their opponents. And democracy is left impoverished when freedom of hate speech is protected more

zealously than freedom of reasoned political debate.

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#### Articles on related subjects:

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(<http://apjff.org/-Okano-Yayo/3863>)

<sup>1</sup> Shinzo Abe, “Asia’s Democratic Security Diamond

(<http://www.project-syndicate.org/commentary>

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Shinzo-abe)”, Project Syndicate, 27 December 2012, (accessed 15 January 2013)

- Tessa Morris-Suzuki, *Out With Human Rights, In With Government-Authored History: The Comfort Women and the Hashimoto Prescription for a ‘New Japan’* ([http://apjff.org/-Tessa-Morris\\_Suzuki/3818](http://apjff.org/-Tessa-Morris_Suzuki/3818))

<sup>2</sup> See, for example, Tessa Morris-Suzuki, Morris Low, Leonid Petrov and Timothy Y. Tsu, *East Asia Beyond the History Wars: Confronting the Ghosts of Violence*, London, Routledge, 2013, particularly ch. 4.

- Yoshiko Nozaki and Mark Selden, *Japanese Textbook Controversies, Nationalism, and Historical Memory: Intra- and Inter-national Conflicts*

(<http://apjff.org/-Yoshiko-Nozaki/3173>)

See the VAWW-Net website (<http://www1.jca.apc.org/vaww-net-japan/english/womenstribunal2000/whatstribunal.html>)

- Wada Haruki, *The Comfort Women, the Asian Women’s Fund and the Digital Museum* (<http://apjff.org/-Wada-Haruki/2653>)

(accessed 18 February 2013).

- Tessa Morris-Suzuki “Japan’s ‘Comfort Women’: It’s time for the truth (in the ordinary, everyday sense of the word)” (<http://apjff.org/products/details/2373>)

<sup>4</sup> Quoted in Norma Field, “The Courts, Japan’s Military Comfort Women, and the Conscience of Humanity: The Ruling in VAWW-Net Japan vs. NHK”, *The Asia-Pacific Journal: Japan Focus*, 10 February 2007 (accessed 18 February 2013).

- Kikue Tokudome “The Japanese Apology on the ‘Comfort Women’ Cannot Be Considered Official: Interview with Congressman Michael Honda” (<http://apjff.org/products/details/2438>)

Although VAWW-Net won a suit for damages against NHK and another company involved in making the censored program in the Tokyo High Court, this was later overturned by the Supreme Court.

- Rumiko Nishino “The Women’s Active Museum on War and Peace: Its Role in Public Education”

<sup>5</sup> Tribal Media House KK and Cross Marketing KK eds., *Sosharu Media Hakushi 2012*, Tokyo

Shoemisha, 2012.

<sup>6</sup> On the Zaitokukai, see Alexis Dudden, “Memories and Aporias in the Japan Korean Relationship”, *The Asia-Pacific Journal: Japan Focus*, 5 April 2010 (accessed 20 January 2013).

<sup>7</sup> See Tessa Morris-Suzuki, “Out with Human Rights, In with Government Authored History (<http://asiapacific.anu.edu.au/blogs/asiarights/2012/08/26/out-with-human-rights-in-with-government-authored-history/>)”, *Asiarights*, August 2012.

<sup>8</sup> See here (<http://www.facebook.com/abeshinzo>), post dated 22 December 2012 (accessed 15 January 2013).

<sup>9</sup> See here (<http://www.facebook.com/abeshinzo>), comment by Abe Shinzo, 21.59, 22 December 2012 (accessed 15 January 2013).

<sup>10</sup> See here (<http://kokkai-sokuhou.iza.ne.jp/blog/entry/2963640/>) (accessed 20 January 2013).

<sup>11</sup> International Convention on the Elimination of All Forms of Racial Discrimination, see the *Website*

(<http://www2.ohchr.org/english/law/cerd.htm>) of the Office of the United Nations High Commissioner for Human Rights, (accessed 18 February 2013).

<sup>12</sup> See the website ([http://www.mofa.go.jp/policy/human/race\\_rep1/article4.html#1](http://www.mofa.go.jp/policy/human/race_rep1/article4.html#1)) of the Ministry of Foreign Affairs, Japan, (accessed 19 February 2013).

<sup>13</sup> *Ibid.*

<sup>14</sup> See the website ([http://www.mofa.go.jp/policy/human/pdfs/report\\_789\\_1.pdf](http://www.mofa.go.jp/policy/human/pdfs/report_789_1.pdf)) of the Ministry of Foreign Affairs, Japan, (accessed 19 February 2013).

<sup>15</sup> For details of this case, see the “Fukushima Voice (<http://fukushimavoiced-eng.blogspot.com.au/2012/12/12/third-letter-from-jailed-professor.html>)” website, (accessed 19 February 2013) and the website “Hoshano Kakusan ni Hantai suru Shimin o Shien suru Kai (<http://keepcivicactivity.jimdo.com/>)”, (accessed 19 February 2013).

<sup>16</sup> See the website of the “Nihongun ‘Ianfu’ Mondai Kansai Nettowaku (<http://www.ianfu-kansai-net.org/>)”, (accessed 19 February 2013).