

Backstory to Abe's Snap Election - the Secrets of Moritomo, Kake and the "Missing" Japan SDF Activity Logs

Lawrence Repeta

Prime Minister Abe Shinzo announced his call for national elections on Monday, September 25. News reports explained that he deemed the timing right due to a recent bounce in public support triggered by threats from North Korea and by the severe weakness of the political opposition.¹ Abe was especially eager to strike before Tokyo Governor Koike Yuriko had time to organize a strong national party. By acting decisively to win the October 22 election, he would secure another four years of LDP power.

But there is another reason for Abe's timing that has received less attention in the international press. Throughout 2017, the Prime Minister has been dogged by a series of cases that exposed government malfeasance. Repeated revelations of government wrongdoing involving cronyism and willful concealment and destruction of potentially embarrassing public records had taken a toll on Abe's popularity. Surely, he feared that with the opening of a new Diet session, investigations of cases like these would again reveal the unpleasant underside of Abe's great power and lead to declining support levels and perhaps calls for him to step down. The clever Abe was able to sidestep all this. By calling the "snap election" he shut down the Diet, sidelined the investigations, and shifted the people's focus to other issues.

We'll examine some of the cases that attracted the most attention below and explain how news reporters and citizen activists were able to uncover evidence of wrongdoing. There is no doubt that recent legal reforms, especially the 2001 Information Disclosure Law and the 2011 Public Records Act, played a key role in forcing

officials to explain their actions and release evidence that otherwise would have been destroyed or buried forever in closed government files. These cases should provide encouragement to open government advocates around the world. Information disclosure and other transparency laws can be effective tools to uncover the truth and enable citizens to hold government accountable.

Japan's disclosure law played a role in one of the most startling political events of 2017 -- the July 28 resignation of Defense Minister Inada Tomomi, commonly regarded as Abe's chosen successor.

When the information disclosure law took effect in 2001, Japan joined a global movement toward greater government transparency. In a widely read report, Tom Blanton proclaimed a "World's Right to Know" that arose in the aftermath of the collapse of the Soviet Union. According to Blanton, "History may well remember the era that spanned the collapse of the Soviet Union and the collapse of the World Trade Center as the Decade of Openness."² During that period, 26 countries enacted formal statutes guaranteeing their citizens' right of access to government information. Japan's LDP-led national parliament squeezed in just before the door of that decade closed. Japan's information disclosure law took effect on April 1, 2001, a little more than five months before terrorists struck the World Trade Center in New York.

Information disclosure laws pose a simple question: "Can the law require that power holders exercise their power in the open,

visible to all? In other words, can the people see the truth? Do the people have a ‘right to know’ about the actions of government?”

Japan’s disclosure law is weak, with broad categories of exempt information, confusing appeals mechanisms, and poor oversight of officials that hamstringing the law’s operation, but at times it has proved to be a valuable tool for journalists, activists and others with the patience and skill to pursue government records of interest.³

A series of cases that arose in 2017, the fifth year of the current Abe administration, exposed some of the flaws - and the power - of Japan’s disclosure law to force the truth into the open. We will examine three such stories below.

Moritomo Gakuen -- Free Government Land for a Private Rightwing School in Osaka?

The first case to command national attention concerned special treatment for an eccentric school proprietor named Kagoike Yasunori in Osaka. Kagoike inherited a private kindergarten and converted it into a rightwing school where little children were indoctrinated into his nationalistic ideology. Among other things, the children were required to recite the Meiji-era Rescript on Education just like the children of Japan’s war years. The text concludes with the imperial exhortation that “should emergency arise, offer yourselves courageously to the state; and thus guard and maintain the prosperity of Our Imperial Throne, coeval with heaven and earth.” From its promulgation in 1890 until 1945, the Rescript was an object of veneration and all schools were required to maintain a scroll of the Rescript and to keep it at a special place in the school together with a photo of the Emperor.⁴ Under pressure from the Allied Occupation, Japan’s postwar Diet declared the Rescript “null and void” in 1948. In recent years, rightwing activists like Kagoike have called for its revival.

The nationalist cheerleading had an even darker side. Kagoike first attained notoriety when news reporters learned that he delivered letters to parents that carried ethnic slurs against Koreans and Chinese and that the prefectural government was investigating this as hate speech.⁵ Such a direct attack on Japan’s most vulnerable minorities might have been acceptable in the days of the divine emperor, but any senior government figure who made a similar statement today would be immediately forced to resign.

The ambitious Kagoike sought to expand his nationalistic teachings to a full-fledged elementary school. The school, like the kindergarten, would be owned and operated by *Moritomo Gakuen*, a registered educational entity. An appropriate parcel of government-owned real estate was found, but there was one problem. *Moritomo Gakuen* did not have the money to buy it.

The problem would be solved. As a member of *Nippon Kaigi*⁶ and an energetic rightwing activist, Kagoike had made some very valuable connections. In a masterstroke of political networking, he persuaded Abe Akie, wife of the Prime Minister, to sign on as honorary principal of the planned elementary school. As if this wasn’t enough, in soliciting donations for the school, he promised that it would be named the “Abe Shinzo Memorial Elementary School.”⁷

Kagoike initially applied to buy the land in September 2013, but the price set by the Kinki Financial Bureau was far beyond his means. In fact, the Bureau had already dismissed other potential purchasers who couldn’t come up with the money. But he was persistent and creative. By May 2015, he managed to conclude a ten-year lease for the property. He also persuaded Mrs. Abe to travel to Osaka on September 5 of that year to deliver a speech at *Moritomo Gakuen’s* kindergarten and to accept his proposal that she serve as honorary

principal.⁸

In October, Kagoike requested Mrs. Abe's assistance in his negotiations to gain full control of the property. A faxed reply from Abe's assistant said she had made an approach to the Ministry of Finance, but could not deliver. Despite this demure response, Kagoike later said that the Ministry's attitude quickly changed and it was smooth sailing thereafter.⁹ The end result was that *Moritomo Gakuen* was able to convert the ten-year lease into a purchase agreement that delivered full title to the property on June 20, 2016.

Meanwhile, construction had begun in December, 2015. Inevitably, members of the local community raised questions about this ideologically-driven elementary school planned for their neighborhood. But negotiations for the property and funding of the school took place behind closed doors and their questions went unanswered.

In September 2016, an especially inquisitive member of the local city council named Kimura Makoto took the formal step of filing an information disclosure request for the purchase agreement with the Kinki Financial Bureau, the local office of the Ministry of Finance. The most fundamental aspect of any "freedom of information" law is the requirement that the government must respond. In this case, the Bureau did provide Kimura with a copy of the contract.....but the purchase price had been blacked out.¹⁰



Kagoike Yasunori speaks to the press in Osaka.

Kimura did not give up. On February 8, 2017, he filed suit against the Ministry demanding disclosure of the purchase price. Two days later the Ministry revealed the price to a member of the Diet: ¥ 134 million (\$1.2 million). Since the property had been appraised at ¥ 956 million, it appeared that *Moritomo Gakuen* was the beneficiary of an astounding 86 percent discount.¹¹ Moreover, the national government separately reimbursed expenses incurred in cleaning contamination of the property in the amount of approximately ¥ 120 million. Opposition parliamentarians pointed out that the property had effectively been given to *Moritomo Gakuen* for free.

Bombshell Diet Testimony

The ensuing uproar led to Diet hearings focused on the question of how the people's representatives had been bamboozled into giving away a valuable piece of the national heritage. The answer would surely be found in the Ministry records. Under the 2011 Public Records Act, Japan's national government agencies are required to create documents to formally record "the process leading to decisions, including background information and the record of the administrative work and operations" in order to "enable a rational tracing of the process or subsequent

investigation” of important government decisions.¹² No one could doubt that sale of the property qualified as such a decision.

But Japan’s open government activists were in for a surprise. Testifying before a Diet committee on February 24, 2017, a spokesperson for the Ministry of Finance delivered a stunning blow to their faith in Japan’s transparency regime. Under Ministry regulations, he declared, all documents related to negotiations for the property had been designated for preservation of “less than one year.” When documents are so designated, he explained, officials are empowered to dispose of them at will.¹³ All records of the *Moritomo Gakuen* negotiations other than the contract itself, he said, had been discarded. According to this Diet testimony, the Ministry had no records to shed light on how government negotiators decided to give away the land. Students of Japan’s government should take this case into account when they assess the character of the elite bureaucrats who run the Ministry of Finance.

Japan’s open government community was not about to let this pass without a fight. The words of the Public Records Act are clear. Miyake Hiroshi, an activist attorney who has served on government advisory panels, was elected president of one of Tokyo’s bar associations, and has written countless articles on the importance of open government, summarily denounced the Ministry action as a violation of the law.¹⁴ Miki Yukiko, the chairperson of Japan’s most important open government NGO,¹⁵ quickly filed new information requests with three government agencies seeking all records related to negotiation of the *Moritomo* deal.¹⁶

The Ministry might *claim* no such records exist, Miki thought, but in the age of digital data, with multiple copies spinning in and out of the virtual files of Ministry staff, she refused to believe that all of the documents had actually

been destroyed. Even from the viewpoint of the bureaucrats themselves, discarding the records made no sense at all. In addition to receiving a massive discount on the purchase price, the wily Kagoike had even persuaded the Ministry to accept payment on a ten-year installment plan. In a case like this, any reasonable seller would maintain a comprehensive record until the final installment is received.

Miki’s greatest fear was that if the bureaucrats’ story was left unchallenged, the same treatment – secret negotiations followed by destruction of the evidentiary record -- could become standard procedure for any disposition of government property. Japan’s Public Records Act would mean nothing at all. The *Moritomo Gakuen* case obviously raised fundamental questions of governance. When Miki’s requests were predictably followed by Ministry responses that no records exist, she filed suit on May 19.¹⁷

As this is written, Miki’s suit continues, but no government records of Mr. Kagoike’s mysterious bargain have surfaced. But there is no doubt about the force of the story. *Moritomo Gakuen* both shined a light on Mr. Abe’s deep connection to Japan’s nationalist extremists and the power operating behind the scenes to reward characters like Kagoike who openly promoted a return to Japan’s wartime ideology. Mrs. Abe could resign as honorary principal and both she and her husband could disavow any relationship with *Moritomo Gakuen*, but they could not disavow the *Moritomo Gakuen* ideology. Abe Shinzo has promoted the same nationalistic views throughout his career.

As furor over the *Moritomo* incident raged, news of a completely unrelated case of special treatment for parties close to the Prime Minister suddenly appeared. This time it was not an information disclosure request that set the ball rolling, but scoops by reporters at the *Asahi Shimbun*, Japan’s flag-bearing liberal daily and Abe nemesis, and NHK, the national

public broadcaster.¹⁸

Kake Gakuen -- “the Prime Minister’s will”

On May 17, an *Asahi* front page story reported that the newspaper had obtained copies of a series of internal memoranda that reported government discussions of an application for a license to open a university veterinary medicine department. An ordinary bit of regulatory action on the surface, this one made the news because the application had been filed by *Kake Gakuen*, an entity controlled by one of Abe’s closest friends and -- according to documents obtained by the *Asahi* -- word had come down “from the highest levels of the Cabinet” that the application be approved and approved quickly.¹⁹ This one was wired.

The most eye-catching document reported a meeting in which two senior Cabinet Office officials called in Ministry of Education bureaucrats to bully them into granting expedited treatment for the *Kake* application. This memo recorded that the officials had said it was the “Prime Minister’s will” (*sōri no goikō*) that the *Kake* application be approved and that the Ministry better make it snappy because *Kake Gakuen* planned to open the new school in spring, 2018.²⁰

Whereas the *Moritomo* case told of favors granted to someone who shares the Prime Minister’s nationalistic ideology, this one showed a more traditional sort of corruption – special favors to a crony of the nation’s leader.

The beneficiary of the “Prime Minister’s will,” Kake Kotaro, had attended the University of Southern California in the 1970s alongside Mr. Abe and the two had been close friends since.²¹ News reports indicate that the two men had continued to get together regularly for dinner and golf dates even after *Kake Gakuen* filed its application for the veterinary school license. The matter was especially significant because no such school had been approved in more than fifty years, and the location would be in a

“national strategic special zone,” with valuable economic incentives.²²

The *Asahi* missile struck home. In a press conference held on the morning the *Asahi* story appeared, Chief Cabinet Secretary Suga Yoshihide launched a counterattack. “What kind of documents are these?” he asked. “They have no dates and they don’t identify any government office where they might have been made. I don’t think government offices produce documents like this.”²³ Suga said he had confirmed with Cabinet officials that no one had referred to the “Prime Minister’s will” and, in a memorable phrase, he labeled the *Asahi* documents “*kaibunsho*”. English language editors struggled to render this with awkward expressions like “anonymous questionable documents,” but the Japanese phrase sings.²⁴

The *Asahi* responded to Suga’s questions in several articles the following morning, including a front-page story adorned with a copy of one of the most damaging documents. Readers now learned that the date of the most problematic meeting was September 26, 2016, and one of the participants was Cabinet Office director-general Fujiwara Yutaka, the senior official in charge of national strategic special economic zones.

Fujiwara himself appeared at a separate Diet hearing on the afternoon of May 17 where he strenuously denied that any Cabinet official had improperly pressured the Ministry or mentioned the will of the Prime Minister.²⁵ On May 19, Education Minister Matsuno Hirokazu chimed in with his announcement that the Ministry had made a search but found no such documents in its files.²⁶ Maybe some of the PM’s enemies were peddling scurrilous rumors.

But the *Asahi* cited unnamed sources who had confirmed the existence of the memoranda. Now it was joined by others who attacked the adequacy of Matsuno’s search of the Ministry files. The *Mainichi* described it as follows: “The

ministry simply held a hearing with seven people including senior officials of the education ministry's Higher Education Bureau, which is in charge of universities, to ask them whether they had created or shared eight documents presented in the Diet by the opposition Democratic Party (DP), and examined a shared computer folder in the ministry's Technical Education Division, which governs veterinary schools. This probe effectively ended in half a day."²⁷ Some questioned whether the "search" was intended to discover or conceal.

When the new week opened on Monday, May 22, interested readers would find a shocking new report from a completely different direction. The front-page of the *Yomiuri Shimbun*, which boasts a circulation in the range of ten million copies per day, carried an expose of the odd habit of a recently retired bureaucrat named Maekawa Kihei. According to the *Yomiuri*, while he was in office, Maekawa had frequented a bar in the *Kabuki-chō* district of *Shinjuku* where women were known to provide sex for cash.²⁸

This item apparently qualified as national news because Maekawa had served as the key source of the documents leaked to the *Asahi* and other news outlets.

Somehow the apparently run-of-the-mill dispute over a university license had morphed into a matter of such significance that Japan's biggest newspaper discarded any pretense of editorial independence and joined the fray to smear the Prime Minister's tormentor.²⁹ This would be a stark warning to anyone who might try the same.

If the *Yomiuri's* intent was to intimidate Maekawa into quietly deserting the stage, it failed miserably. On the afternoon of Thursday, May 25, Maekawa appeared in public for the first time, at a press conference held at the Japan Federation of Bar Associations.³⁰ With

neatly parted hair, rimless eyeglasses, and a navy-blue business suit, Maekawa Kihei presented the perfect image of the earnest, trustworthy bureaucrat. He had indeed reached the top of the bureaucratic pyramid with appointment as administrative vice minister in June 2016.

Calmly responding to questions from a huge crowd of reporters, Maekawa confirmed the *Asahi* report, declaring that "All of the (documents) were shown to me by officials at the Technical Education Division when I was briefed about the new veterinary medicine department."³¹ And he did more than just confirm the authenticity of the "*kaibunsho*." Maekawa also delivered a passionate declaration against political interference in the administrative process. The people expect officials to follow established procedures, create a documentary record of the process, and strive to treat all applicants fairly. Maekawa explained that this had not happened in the case of *Kake Gakuen*. "Deregulation was carried out with an extremely weak foundation. The fair and impartial state of administration was warped," he said.

As one example of the "warped" nature of the process, he explained that the Ministry had maintained a policy to control the number of university veterinary departments that went back to 1984. That policy requires that prior to approving a new department, the Ministry of Agriculture, Forestry and Fisheries (MAFF) must issue a finding that there is sufficient demand. According to Maekawa, there was no evidence showing MAFF involvement in the discussion regarding the deregulated national strategic special economic zone in Imabari, Ehime Prefecture, where *Kake Gakuen* planned to set up the new vet school.³²

Needless to say, the Maekawa press conference was front page news in every paper across the country.

Once again, the redoubtable Chief Cabinet

Secretary delivered a rebuttal. In a May 25 news conference of his own, Suga reminded everyone that the Education Ministry had conducted a search and found nothing. He again denied Abe's involvement in the matter.³³ Suga also joined the *Yomiuri* in attacking Maekawa's character. Maekawa was appointed the Education Ministry's top bureaucrat in June, 2016, but he lasted in the position for only seven months. He was forced to resign due to his involvement in the prohibited practice of "*amakudari*," improperly finding post-retirement jobs for ministry bureaucrats. Suga questioned whether the word of such a man could be trusted. According to the Chief Cabinet Secretary, even after the decision had been made to dismiss him, Maekawa had "clung to his position," seeking to avoid immediate removal.³⁴ When asked about the possibility of a renewed search at the Education Ministry, Suga made a muted response: "The education ministry will deal with it appropriately."

On the following day, the opposition Democratic Party of Japan formally requested that Maekawa be summoned to the Diet as a sworn witness to testify on the documents, a move supported by other opposition parties. LDP Diet Affairs Chief Takeshita Wataru refused.³⁵

But the story would not go away. Unidentified officials continued to leak information to the press. The Education Minister's claim that there were no such documents was not looking good. Succumbing to intense pressure from opposition parties and editorial pages, Matsuno ordered a more intensive search for the "*kaibunsho*." The result of this search does not surprise.

As reported by the Japan Times on June 15, "Education minister Hirokazu Matsuno said Thursday that the ministry has found digital copies of 14 of 19 documents related to the *Kake Gakuen* scandal, including those

suggesting the Cabinet Office pressured the ministry to approve a university project citing 'the intent' of Prime Minister Shinzo Abe."³⁶ Would the Ministry release those documents? Well, no. Officials found several reasons to withhold, especially their cramped definition of "administrative records" subject to release under the information disclosure law.³⁷ This made little difference, since copies had already circulated so widely.

Ultimately, public pressure was so great that the LDP was forced to relent and allow Maekawa to appear as a witness before an extraordinary Diet hearing, held on July 10.³⁸ The cool and collected ex-bureaucrat delivered another stellar performance. There would be little doubt in the public mind that the Prime Minister had employed the great powers of his office to help an old friend.

Self-Defense Forces Daily Activity Logs -- Hiding Evidence of a Battle in South Sudan

Inada Tomomi resigned as Defense Minister on July 28. This was a severe blow to the Prime Minister. Inada shares his dream of Japan's nationalistic renaissance. As summarized by Reuters, Inada "shares Abe's goal of revising the post-war, pacifist constitution, which some conservatives consider a humiliating symbol of Japan's World War Two defeat. She also regularly visits Tokyo's Yasukuni Shrine for the war dead, which China and South Korea see as a symbol of Japan's past militarism." When she was appointed Defense Minister in August 2016, numerous reports immediately suggested that she was next in line to Abe himself, with the inside track to become Japan's first female prime minister. Now, after just one year on the job, she was gone.



Defense Minister Tomomi Inada speaks during a Diet session, as Prime Minister Abe looks on.

Several incidents led to her downfall, such as her claim to speak on behalf of Japan's Self-Defense Forces when requesting voters to cast their ballots for LDP candidates during the July 2017 Tokyo metropolitan assembly elections, but there is no doubt that her possible involvement in concealing government records related to SDF peacekeeping operations in South Sudan sealed her doom.

The story began with an information request filed with the Defense Ministry by freelance journalist Fuse Yūjin in July 2016. It was a broadly worded request that sought communications between Self-Defense Forces on the ground in Juba, South Sudan, and headquarters in Japan.

Deployment of military forces abroad presents the most sensitive of all political questions in Japan. Article 9 of the Constitution expressly prohibits Japan from maintaining military forces, much less dispatching them to distant locations overseas. The number one policy goal of Prime Minister Abe Shinzo has long been amendment of the Constitution to legitimate Japan's participation in military operations abroad. His most signal achievement in this regard was passage of highly controversial legislation in 2015 that authorized "collective

self-defense" operations anywhere in the world, i.e., the use of Japan's forces to assist allies even though Japan itself is not under attack.³⁹

Japanese forces have participated in several United Nations "peacekeeping" operations, but the South Sudan expedition was the longest. Originally deployed in January 2012, the assignment was heading toward its fifth year when fighting between rival factions in the South Sudanese armed forces broke out in the capital city of Juba in July, 2016. News reports indicated that as many as 270 people died in the clashes. Japanese forces were not involved and there were no Japanese injuries, but anti-war activists and opposition politicians insisted that deployment under such circumstances violated the PKO law and Article 9 of the Constitution. The government ignored these complaints and the mission continued.

SDF participation in the South Sudan mission was complicated by Diet passage of revised national security laws in September 2015. The new laws expanded the approved SDF duties to include rescue missions and escort for U.N. staff and other personnel (*kaketsuke keigo*). This change significantly raised the odds that the SDF might become involved in battle and suffer casualties.

Government spokesmen had made repeated assurances that there was no need to worry because the situation around Juba was calm. Then news reports carried stories of armed clashes in July. Again, the people were assured that the SDF was safe. It was against this background that Fuse filed his first information request. The information he received would lead to a second more specific request and to desperate attempts by GSDF officers and Ministry officials to conceal government records that confirmed GSDF proximity to a battle that should have required immediate withdrawal. Under their peacekeeping mandate, SDF deployment is appropriate only when a ceasefire is in place. In July 2016, the

ceasefire failed.

The key records, daily activity logs filed by troops on the ground, would be concealed for more than six months.

Fuse filed a request on September 30 which specifically sought copies of the daily activity logs created during the July conflict. Japan's disclosure law requires government agencies to conduct a search and disclose the results within 30 days of receiving a request. In the great majority of cases, Japan's government offices meet this deadline, though requesters are frequently disappointed to see that large sections of text have been blacked out. In Fuse's case, the Ministry sent a delay notice and did not provide a substantive response until December 2. According to this response, the daily activity logs had all been discarded after review by relevant officers. The Ministry no longer had any records relevant to his request.

Like Miki Yukiko in the *Moritomo* case, Fuse found this hard to believe. Only a few months had elapsed since the Juba battles, he thought, and surely the SDF and the Ministry would retain the activity logs as a valuable record of events.⁴⁰

Moreover, on November 15, with his request still pending, the Cabinet issued for the first time a resolution authorizing the SDF to conduct rescue missions and escort as allowed by the 2015 law. Then the 11th GSDF expeditionary force departed Aomori for Africa on November 30. Fuse was sure the Ministry had delayed its response until after these events were out of the way. He was not the only person who doubted the Ministry's account.

Fuse used his Twitter account to spread the word. One person who learned of Fuse's experience was Kono Taro, an LDP Diet member known for his independent streak. Kono was especially sensitive to information issues because he had served as Cabinet

Minister charged with oversight of government records.⁴¹ When he learned of Fuse's story, he was head of the LDP "Administrative Reform Promotion Headquarters"⁴² The Headquarters requested the Defense Ministry to investigate the matter. This request would have an impact.⁴³

By this time, senior officials in the Defense Ministry were aware that copies of the logs requested by Fuse continued to reside on the government servers. This raised a problem. The Ministry's December 2 answer to Fuse was obviously false. What to do? Kuroe Tetsuro, administrative vice minister, the highest-ranking bureaucrat in the Defense Ministry, found a solution: the logs should be deleted so that the reality in the Ministry files would match the false response made to journalist Fuse a month earlier.⁴⁴

Many of the gory details of who said what to whom would ultimately be revealed to the public in a report produced by a semi-independent monitoring body within the Defense Ministry called the Inspector General's Office of Legal Compliance (*tokubetsu boei kansatsu*). This body was created in 2007 following a bid-rigging scandal over defense procurement. It reports directly to the defense minister and is headed by a former high-ranking public prosecutor.⁴⁵

Defense Minister Inada delivered her first Diet testimony concerning the logs on Friday, February 17. Despite the attempts to destroy or hide them, she said, the GSDF logs had been there all along. As reported by the Japan Times, "I've confirmed that digital copies of all of the daily reports have been kept at the Joint Staff office since we began sending units to South Sudan," Inada said.⁴⁶ The stone wall had crumbled. One month later, she ordered the Inspector General's office to go to work.

The Inspector General's report was ready by the end of July and Inada released it on the

same day she announced her resignation. The report failed to confirm whether she had been complicit in the decisions to conceal the logs, but this didn't really matter. The multiple scandals of the past year had severely damaged Abe's public support.⁴⁷ The great weight of the SDF logs fiasco was placed on her shoulders and she was shown the door.

In the process of compiling its report, the Inspector General's office was said to have interviewed more than one hundred people. The Report showed how hopeless were the efforts to hide the logs, stating that as many as 194 individuals in the Defense Ministry and the SDF had actually downloaded logs from the bulletin board and that as many as 40 still had copies when the investigation was made. In a new spirit of openness, the 20-page Inspector General's Report is posted on the Internet for all to read.⁴⁸

Aside from the resignations of Inada, administrative vice minister Kuroe and GSDF Chief of Staff General Okabe Toshiya, an important result of the investigation was a new administrative order (*tsūtatsu*) that mandates preservation of daily activity logs for a period of 10 years.

Final Comments

Regarding the significance of efforts to hide the information, a senior writer for the *Nikkei* had this to say: "While all attention has been given to why the log was hidden, the real issue is why the GSDF did not immediately halt its mission and pull out its peacekeepers. The Japanese defense authorities knew what was happening, but apparently did not listen, or choose to change courses from established policy. Many see similarities with the former Imperial

Japanese Army.

"Although it is not widely known, there were high-ranking officials in the Ministry of Defense who called for an immediate halt to the mission and withdrawal of the troops from South Sudan when fighting began again last July. Just as when GSDF peacekeepers were withdrawn from the Golan Heights in January 2013, the troops' safety could no longer be guaranteed, they said."⁴⁹

But the Ministry kept the GSDF force in South Sudan and, when some freelance writer filed information requests to see the daily logs in which those troops reported the dangerous conditions on the ground, officers and civilian officials alike tried to conceal the truth. Ultimately, Defense Minister Inada and others near the top of the pyramid paid with their heads.

All three of the stories show officials' attempts to stonewall and conceal the truth. Due to the persistent efforts of a few individuals and Japan's transparency laws, the truth was revealed.

Open government advocates know such victories are rare and there is much work to be done. Regarding the SDF activity logs, Miki Yukiko would glumly note "Maybe if Kono and the LDP Administrative Reform Promotion Headquarters hadn't taken up the issue of the non-existence of the daily activity logs, the truth would not have been revealed....In a sense, we were lucky. In the ordinary case, if records are discarded and a non-existence decision is issued, although we might be able say that 'it's strange that records as important as the daily logs are gone,' it would not be easy to force the government to admit their existence."⁵⁰

Lawrence Repeta is a former professor of law at Meiji University in Japan, an Asia-Pacific

Journal contributing editor, and a director of Information Access Japan Clearinghouse. He is author of “Limiting Fundamental Rights Protection in Japan – the Role of the Supreme Court,” in *Critical Issues in Contemporary Japan* (<http://amzn.com/0415857457/?tag=theasipacjo0b-20>), edited by Jeff Kingston (Routledge, 2014), “Reserved Seats on Japan’s Supreme Court,” (*Washington University Law Review*, 2011) and other writings on Japan’s constitution and legal system.

Notes

¹ See here (<https://www.bloomberg.com/news/articles/2017-09-28/why-japan-s-abe-is-gambling-on-an-early-election-quicktake-q-a>) and here (<https://www.theguardian.com/world/2017/sep/25/japans-pm-shinzo-abe-calls-snap-election>) (as well as other mainstream news reports).

² Thomas Blanton, “The World’s Right to Know” (<http://foreignpolicy.com/2009/11/11/the-worlds-right-to-know/>)

³ See Lawrence Repeta, “Japan’s News Media, The Information Disclosure Law, and The Fukushima Nuclear Disaster” (<https://www.degruyter.com/view/j/ils.2013.11.issue-1/ils-2015-0003/ils-2015-0003.xml>),” March, 2015

⁴ See Helen Hardacre, *Shinto and the State*, Princeton University Press, 1989, esp. p. 108.

⁵ Kyodo News obtained a copy of the handwritten letter. An image of the letter accompanies the Japan Times report, here (<https://www.japantimes.co.jp/news/2017/02/17/national/osaka-preschool-scrutinized-passing-slurs-koreans-chinese/#.WdbGgxOCz-Y>)

⁶ See Mizohata Sachie, “Nippon Kaigi: Empire, Contradiction, and Japan’s Future” (<http://apjjf.org/2016/21/Mizohata.html>)

⁷ *Asahi Shimbun*, Feb. 24, 2017.

⁸ Much of the subsequent dispute over this event concerned Kagoike’s claim that she also delivered a donation of 1 million yen to the school on behalf of Abe Shinzo. She denied delivering the donation and there were no witnesses, so the truth of the matter is unresolved.

⁹ “Kagoike also alleged that in October 2015 he sought Abe Akie’s influence in extending a 10-year lease for a plot of land that he later purchased to build the elementary school, Mizuho no Kuni. In October the same year, he said he left a message on her phone asking for help. Her secretary Saeko Tani, who eventually replied via fax, said that despite efforts to negotiate with the Finance Ministry, they couldn’t get the deal he had hoped for.” See here (<https://www.japantimes.co.jp/news/2017/03/23/national/politics-diplomacy/principal-scandal-hit-osaka-school-says-got-donation-akie-abe/#.Wdv--RNSzq0>).

¹⁰ *Shukan Kinyobi*, Mar. 24, 2017.

¹¹ See full Japan Times article here (<https://www.japantimes.co.jp/news/2017/03/04/national/politics-diplomacy/finance-ministry-kept-price-school-land-deal-secret-request-moritomo-gakuen/#.WcKP6NN97q0>). See handy timeline of key events here

(<https://www.japantimes.co.jp/news/2017/03/13/national/moritomo-gakuen-timeline-events/#.Wcb0wdN97q0>). In the perverse logic for which Japan's bureaucrats are famous, the Ministry continued to deny Kimura's information request even though the price had become public information. According to the *Asahi*, the Ministry defended non-disclosure on the ground that *Moritomo Gakuen* strenuously opposed its release. In a separate statement, *Moritomo* denied doing so. *Asahi Digital*, Mar. 14, 2017. As a matter of law, *Moritomo's* opinion is irrelevant. Japan's disclosure law requires disclosure unless one of eight statutory exemptions applies.

¹² Japan's open government activists hailed the adoption of the national Public Records and Archives Management Act ("Public Records Act") as a milestone in government accountability. When that law took effect on April 1, 2011, government agencies were legally required to make and preserve records of their decisions for the first time. Information requesters everywhere are painfully aware that if no record exists, there's nothing to request. The Public Records Act applies to all significant government decisions, including laws, Cabinet resolutions and other government actions. Public Records and Archives Management Act, Law No. 66 of 2009. The government translation of the Act is available here (http://www.archives.go.jp/english/basic_laws/prama.html).

¹³ Text of the Diet testimony is carried in the August, 2017 edition of *Joho Kokai Digest*, a publication of Information Clearinghouse Japan, p.1. See additional article here (<https://mainichi.jp/english/articles/20170225/p2a/00m/0na/004000c>). Records not subject to the Ministry's "less than one year" rule are treated very differently. In line with the philosophy of the Public Records Law, government records cannot easily be destroyed. Disposal must be approved by the Prime Minister's office. This requirement took on special importance during the debate over Japan's "Specially Designated Secrets" Law in 2013. The people need not worry about willful destruction of secret documents, it was said, because the procedure established by the Public Records Law would apply; disposal would have to be approved by the Prime Minister's office. See here (<http://apjif.org/2014/12/10/Lawrence-Repeta/4086/article.html>).

¹⁴ In an op-ed published in the *Asahi*, Miyake declared the Ministry's action a clear violation of the Public Records Act. Miyake is one of Japan's most prominent open government activists and has served as a public member of several government panels related to the information disclosure and public records laws. Miyake, *Haiki wa ihō, fukugen se yo* (Disposal is Illegal, Restore (the Records)!), *Asahi Shimbun*, May 13, 2017.

¹⁵ Miki is chairperson of *jōhō kōkai clearinghouse* (Information Clearinghouse Japan), an NGO founded by activists whose twenty-year campaign led to adoption of Japan's information disclosure law. See the group's website here (<http://www.clearing-house.org>).

¹⁶ See an interview with Miki on *Moritomo* and *Take* here (<https://headlines.yahoo.co.jp/hl?a=20170715-00010000-videonews-soci>). (July 15, 2017)

¹⁷ That suit is ongoing. The next court hearing is scheduled for October 19. When the suit was filed, Miki's attorneys sought an order from the court that the Ministry stop the regularly scheduled deletion of digital files in order to preserve evidence (*shōkō hozen*). The request was denied.

¹⁸ Maekawa later explained that he was first approached by reporters from NHK, who appeared at his door. (Source (<http://business.nikkeibp.co.jp/atcl/report/15/110879/090600730/>))

¹⁹ An English version of an *Asahi* editorial set out many key elements of the story. See it here

([https://apjff.org/admin/site_manage/details/An English version of an Asahi editorial set out many key elements of the story](https://apjff.org/admin/site_manage/details/An%20English%20version%20of%20an%20Asahi%20editorial%20set%20out%20many%20key%20elements%20of%20the%20story). <http://www.asahi.com/ajw/articles/AJ201705180023.html>).

²⁰ The Cabinet is charged with administration of special strategic economic zones, while the Ministry of Education and Science holds authority to issue licenses for educational facilities.

²¹ See here

(<https://www.japantimes.co.jp/news/2017/05/25/national/politics-diplomacy/ex-education-official-vouches-kake-papers-says-copies/#.WdgCchOCz-Y>).

²² Japan's National Strategic Special Zones are part of the "Japan Revitalization Strategy," or the third arrow of Abenomics. Businesses operating in the zones are said to benefit from deregulation. See the Cabinet website here (<http://www.kantei.go.jp/jp/singi/tiiki/kokusentoc/>). See additional article here

(<https://thediplomat.com/2014/05/china-and-japan-set-up-regional-economic-laboratories/>). The Japan Times described some of the special incentives offered to *Kake Gakuen*: "The municipal government of Imabari now plans to offer a plot of land valued at ¥3.68 billion to Kake Gakuen for free to build the new campus. The city office and the Ehime Prefectural Government also plan to subsidize up to ¥9.6 billion to help Kake Gakuen build new department facilities." (source

(<https://www.japantimes.co.jp/news/2017/05/25/national/politics-diplomacy/ex-education-official-vouches-kake-papers-says-copies/#.WeJloxNSy8U>))

²³ *Asahi Shimbun*, May 18, 2017, p.2 (translation by the author).

²⁴ "Chief Cabinet Secretary Suga Yoshihide moved to cast doubt on the credibility of the documents as early as May 17, calling them 'anonymous objectionable documents.' As if to back this up, education minister Matsuno Hirokazu announced two days later that the ministry couldn't confirm the documents existed." (source

(<https://mainichi.jp/english/articles/20170526/p2a/00m/0na/019000c>)) As reported by the Japan Times, "The education ministry has reported to us that they could not confirm existence of the documents in question after conducting investigation," Suga told a news conference. Suga also said that Cabinet Office officials have all denied that they mentioned "the prime minister's intent" or "the highest-level" officials at the Prime Minister's Office as alleged in the papers. "The prime minister has also told me that he hasn't given any instructions like that, either," Suga said. (source

(<https://www.japantimes.co.jp/news/2017/05/25/national/politics-diplomacy/ex-education-official-vouches-kake-papers-says-copies/#.WdKo7xOCz-Y>))

²⁵ *Asahi Shimbun*, May 18, 2017, p.14.

²⁶ *Asahi Shimbun*, May 20, 2017, p.1.

²⁷ See here (<https://mainichi.jp/english/articles/20170526/p2a/00m/0na/019000c>).

²⁸ See here

(<https://www.japantimes.co.jp/news/2017/05/26/national/politics-diplomacy/strange-yomiuri-story-signals-maekawa-targeted-authenticating-kake-papers/#.WcB4ktN97q0>).

²⁹ For background on government influence over Japan's news media, see Jeff Kingston, *Press Freedom on Contemporary Japan* (Routledge, 2017). Koichi Nakano neatly summarizes the situation: "Abe also gained the enthusiastic backing of the Sankei and Yomiuri newspapers, which acted as media cheerleaders for his policies and pit bulls for his critics." Nakano, "Political Dynamics of Contemporary Japanese Nationalism," in Kingston, *Asian Nationalisms*

Reconsidered (Routledge, 2016), p. 168.

³⁰ According to reports, the press conference was announced only thirty minutes beforehand, but was nonetheless attended by more than one hundred reporters and Maekawa was accompanied by a lawyer.

³¹ See here

(<https://www.japantimes.co.jp/news/2017/05/25/national/politics-diplomacy/ex-education-official-vouches-kake-papers-says-copies/#.WdKo7xOCz-Y>).

³² See here (<https://mainichi.jp/english/articles/20170526/p2a/00m/0na/019000c>).

³³ This rebuttal made the front page of the Asahi's evening edition. *Asahi Shimbun*, May 25, 2017 (eve. ed.), p. 1.

³⁴ *Ibid.*

³⁵ See here (<https://mainichi.jp/english/articles/20170526/p2a/00m/0na/019000c>).

³⁶ See here

(<https://www.japantimes.co.jp/news/2017/06/15/national/politics-diplomacy/education-ministry-says-kake-documents-exist-follow-probe/#.WcB61dN97q0>) and here

(<http://www.asahi.com/ajw/articles/AJ201706150051.html>).

³⁷ One reason given for the Ministry's withholding of the documents is its narrow definition of "administrative records" required to be released under the disclosure law. Legal scholars – the nation's experts on the meaning of such terms – cried foul. For example, Usaki Masahiro, professor emeritus of Dokkyo University Law School, explained that if the documents were created during the course of work and if they were shared among Ministry officials, then they meet the definition of administrative documents and are subject to disclosure. *Asahi Shimbun* July 7, 2017. But the Ministry's strained interpretation of the law made little difference. Copies of the documents had been presented in the Diet and leaked to the press and published alongside news stories for all to see.

³⁸ See here (<http://www.asahi.com/ajw/articles/AJ201707110053.html>).

³⁹ See here (<http://apjif.org/Lawrence-Repeta/4335.html>).

⁴⁰ There is a lengthy interview with Fuse Yūjin here

(<https://www.nikkan-gendai.com/articles/view/news/202035/1>). (“日報問題の火付け役 布施祐仁氏が“PKO隠蔽工作”を斬る”), March 27, 2017.

⁴¹ Miki Yukiko points out that Kono's Diet constituency is in Kanagawa and the *Kanagawa Shimbun* carried a lengthy article on the mystery of the daily activity logs in late December.

⁴² See here (<http://gyoukaku.jimin.jp/>).

⁴³ Fuse himself has noted the importance of Kono's intervention. See here (<https://www.nikkan-gendai.com/articles/view/news/202035/1>).

⁴⁴ See here

(<https://english.kyodonews.net/news/2017/07/0b5f633a8ad5-govt-denies-defense-chiefs-reported-role-in-alleged-coverup-of-logs.html>).

⁴⁵ See here

(<https://www.japantimes.co.jp/news/2017/03/17/national/politics-diplomacy/probe-gsdf-peacekeeping-logs-focus-defense-ministry-heavyweights/#.WeECjxNSy8V>).

⁴⁶ See here

(<https://www.japantimes.co.jp/news/2017/02/18/national/defense-minister-confirms-existence-digital-records-sdf-mission-south-sudan/#.WeGjrxNSy8U>).

⁴⁷ In mid-July Jiji Press reported that Abe's support rate had plunged to 29.9% while the non-support rate had risen to 48.6% (source (<https://www.jiji.com/jc/article?g=pol&k=2017071400769>)) (July 14/17, 2017). See additional article here (<https://www.reuters.com/article/us-japan-politics/japan-defense-minister-quits-amid-plunging-support-for-pm-idUSKBN1AD07L>).

⁴⁸ The text of the Report is available here (http://www.mod.go.jp/igo/inspection/pdf/special04_report.pdf).

⁴⁹ See here (<https://asia.nikkei.com/Politics-Economy/Policy-Politics/Japan-s-peacekeeping-cover-up-scandal-recalls-WWII-era-malady>). (Aug. 18, 2017)

⁵⁰ *Joho Kokai Digest* No. 4 (Aug. 2017), p. 22.