

Disciplined Democracies and Japan's values-based diplomacy



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Executive Summary

This report examines the Japanese government's contribution to the liberal international order and assesses this contribution against what critics have identified as democratic backsliding under the Prime Ministership of Abe Shinzō. The report finds that:

- Contrary to the Japanese government's rhetoric of a 'values-based diplomacy', the Japanese government's commitment to the spread of democracy and, in particular, its response to humanitarian crises in Southeast Asia has been limited. Indeed, the Japanese government under Prime Minister Abe actively supported authoritarian regimes.
- The Abe government's support for the institutions of the liberal international order can also be questioned. Notably, to mask its indecisive response to the Covid-19 crisis, the Abe administration adopted a two-faced approach to the World Health Organization (WHO). On the one hand, the Abe government ignored WHO recommendations in pursuit of Japan's national interests, especially in terms of Japan's domestic economy and upcoming Olympic games. On the other hand, when Japan's Covid response was found to be lacking, the Abe government either blamed the WHO or used WHO recommendations to try to legitimize government policy.
- The Abe government's domestic policies also constitute democratic backsliding. In particular, the report examines the development of surveillance capabilities and legislation under the Abe government to better police domestic and foreign populations. The development of these surveillance capabilities and laws is not an isolated case, but one that connects to broader trends and policies designed to enhance the power of government at the expense of civil society and the general population.
- The Suga and Kishida administrations largely followed the line set by Prime Minister Abe. Democratic backsliding in Japan and a failure to exercise a leadership role in support of the liberal international order continue to threaten both the freedom and prosperity of Japanese and Asian citizens.

Going forward, the report encourages:

- Support for freedom of the press, judicial independence, and civil society organizations in Japan that can better hold the Japanese government to account.
- A reconsideration of rhetoric that designates Japan as 'Asia's liberal leader' in view of its failures in the Covid-19 and Rohingya refugee crises.
- Pressure on the Japanese government to review its stringent refugee policy to accept more refugees, especially in times of humanitarian crises.
- An independent review of Japan's surveillance policies and the establishment of an independent body to assess and remedy human rights infringements that result from Japan's surveillance policy.
- Pressure on the Japanese government to invest in cyber security measures for its own systems, capable of protecting citizen's data gathered from surveillance practices.

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Introduction

At a speech in Washington D.C. on 22 February 2012, Prime Minister Abe Shinzō asserted that Japan was ‘back’ and would become a ‘normal’ country that contributed to the liberal international order through ‘proactive pacifism’. For many, Prime Minister Abe fulfilled this promise by taking the lead on security, economic, and political issues, notably in the Asian region. In terms of security, the Abe administration reinterpreted Japan’s pacifist constitution to allow for the exercise of collective self-defence, so that Japan’s Self-Defence Forces (SDF) could militarily support allied states in emergency situations. Under Prime Minister Abe, further security-related legislation was passed, such as the Designated State Secrets Law, and institutions, such as the National Security Council, were established. In terms of economics, the Abe administration overcame domestic resistance to lead on regional free trade deals, including the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), the Japan-EU Economic Partnership Agreement (EPA), and the Regional Comprehensive Economic Partnership (RCEP); just as the US, under President Trump was enacting increasingly protectionist trade policies. Complimenting his Abenomics policy and proactive foreign affairs agenda, Abe’s ‘value-based diplomacy’ promised to take the lead on political issues too, placing democratization, peace-building, and human security at the forefront of Japan’s foreign policy. The fortuitous circumstances surrounding Abe’s return to power, including weakened opposition and factions as well as the absence of a major international crisis, all signaled that Japan was well-placed to play a greater role in international affairs. Japan was subsequently hailed by some in the media and academia as ‘Asia’s liberal leader’.¹

This report challenges this depiction of Japan as ‘Asia’s liberal leader’ under Prime Minister Abe, arguing that Abe disciplined Japan’s democracy and facilitated democratic

¹ Among others, see: Johnson, Jesse (2019) ‘Japan the new “leader of the liberal order in Asia”, top Australian think tank says’, *Japan Times*, 28 May; Chang, Che (2021) ‘Japan is the new leader of Asia’s liberal order’, *Foreign Affairs*, 24: 1-6; Hosoya, Y. (2021) ‘Helping the US Lead Again: Japan’s Vision of a Free and Open Indo-Pacific’, *Global Asia* 16(1), https://www.globalasia.org/v16no1/cover/helping-the-us-lead-again-japans-vision-of-a-free-and-open-indo-pacific_yuichi-hosoya; Ikenberry, G. J. (2017). ‘The plot against American Foreign Policy: Can the liberal order survive’, *Foreign Affairs*, 96(2): 2-9; Hornung, J. (2018) ‘The Fate of the World Order Rests on Tokyo’s Shoulder’, *Foreign Policy*, 30 October, <https://foreignpolicy.com/2018/10/30/the-fate-of-the-world-order-rests-on-tokyos-shoulders/>; Solis, M. (2021) ‘Japan’s democratic renewal and the survival of the liberal order’, 22 January, <https://www.brookings.edu/articles/japans-democratic-renewal-and-the-survival-of-the-liberal-order/>.

backsliding abroad. Many of the policies enacted by the Abe administration were roundly critiqued for ushering in increasingly authoritarian forms of governance.² Abe's reinterpretation of the Constitution was rammed through the Japanese Diet to the consternation of the Japanese public. The Designated State Secrecy Law hobbled investigative journalism in Japan and the Abe administration's media-muzzling, caused Japan to tumble down the world press freedom rankings. Abe's control over a bureaucracy increasingly willing to alter or destroy sensitive documents related to scandals implicating him, further raised concerns that Japan's democracy was being disciplined. Professor Nakano Koichi (2019) pointedly referred to Japan's 'decidedly authoritarian turn' under Abe.³

Starting with Japan's policy-making process, this report details how the Japanese Prime Minister's office (*kantei*) has emerged as a dominant actor to direct Japan's domestic and foreign policies.⁴ The report then examines the Japanese government's failure to act as the humanitarian and political situation in Myanmar deteriorated. It then proceeds to detail how the Abe administration's two-faced approach to the WHO during the Covid-19 crisis demonstrated the Japanese government's limited commitment to a key institution of the liberal international order. Finally, the report reviews the Abe administration's development of surveillance capabilities and legislation to better police Japanese and foreign populations. The report contextualizes these developments in light of Japan's domestic and foreign policies and considers the ramifications for the Kishida Fumio administration. The report also speaks to broader academic debates concerning the rise of illiberal democracy around the world and the responsibilities of liberal democratic states, like Japan, to uphold the liberal international order. It assesses why successive Japanese governments have struggled to shape the rules of the post-Cold War liberal international order, despite having had ample opportunities to do so.

² Among others, see: Stockwin, A. and Ampiah, K. (2017) *Rethinking Japan: The Politics of Contested Nationalism*, Lanham: Lexington Books; Repeta, L. (2014) 'Japan's 2013 State Secrecy Act -- The Abe Administration's Threat to News Reporting 2013', *Asia-Pacific Journal*, 12(10/1): 1-10; Kingston, J. (2020) 'The Emptiness of Japan's Values Diplomacy in Asia', *The Asia-Pacific Journal*, 18(19/1): 1-23.

³ Nakano, Koichi (2019) 'The Leader who was "Trump before Trump"', *New York Times*, 29 May, <https://www.nytimes.com/2019/05/29/opinion/abe-trump-japan-illiberal-authoritarian-turn.html>.

⁴ Takenaka, Harukata (2019) 'Expansion of the Prime Minister's Power in the Japanese Parliamentary System: Transformation of Japanese Politics and Institutional Reforms', *Asian Survey* 59(5): 844-869.

1. Strengthening the *kantei* – Japan’s evolving policy-making process

Since its defeat in World War II, Japan has been a ‘stakeholder state’ in the liberal international order.⁵ Japan benefitted from the stability of this order, underpinned by the US global security strategy, as it rose to become the second largest economic power over the course of the Cold War. By the end of the Cold War, critiques of Japan’s mercantilist policy and free-riding in international affairs highlighted the growing expectation that the Japanese government would contribute more to the maintenance of the liberal international order. Japan’s post-war anti-militarist constitution hindered the Japanese government’s ability to dispatch its Self-Defence Force (SDF) troops in support of international operations, such as when an international coalition was formed to oust Iraqi troops from Kuwait in the 1990-91 Gulf War. In addition, Japan’s rapid resumption of Official Development Assistance (ODA) in the wake of the 8888 uprising in Myanmar and Tiananmen Square crackdown raised the ire of Japan’s partners in the liberal international order, particularly that of its closest ally, the US. These events presented a diplomatic crisis for Japan.

At the time, Kent Calder maintained that infighting within Japan’s bureaucracy and ruling Liberal Democratic Party (LDP) coupled with a weak Prime Minister hindered policy-making.⁶ Japan was a ‘reactive state’ requiring foreign pressure (*gaiatsu*) to overcome these obstacles to policy-making in order to contribute more actively to the liberal international order. Gradually, Japan’s policy-making process and foreign policy shifted over the course of the 1990s. Reflecting on the end of the Cold War, Thomas Berger argued that Japan had become an adaptive state that had adjusted to the demands of the liberal international order.⁷ In 1993, the Japanese Diet passed the United Nations Peacekeeping Operations (UNPKO) Bill

⁵ Ikenberry, John (2015) ‘The Stakeholder State: Ideology and Values in Japan’s Search for a Post-Cold War Global Role’, In Funabashi, Y. and Kushner, B. eds., *Examining Japan’s Lost Decades*. London and New York: Routledge. pp. 296-313.

⁶ Calder, Kent (1988) ‘Japanese foreign economic policy formation: explaining the reactive state’, *World politics*, 40(4): 517-541.

⁷ Berger, Thomas (2007) ‘The Pragmatic Liberalism of an Adaptive State’, in T. Berger, M. Mochizuki, and J. Tsuchiyama (eds), *Japan in International Politics – The Foreign Policies of an Adaptive State*, Boulder, Colorado: Lynne Rienner, pp. 259-300.

enabling the participation of Japan's SDF in UN PKOs, albeit with numerous restrictions. Japan's ODA Charter was revised in 1992, including provisions for human rights and the promotion of democracy. These were arguably responses to foreign pressure. Nonetheless, electoral revisions in the mid-1990s coupled with bureaucratic reforms served to raise the power of Japan's Prime Minister, such that increasingly, bureaucratic and LDP infighting could be transcended. This was apparent when Prime Minister Koizumi Junichiro swiftly passed security legislation in the wake of the 11 September 2001 attacks on New York and Washington.

Under Prime Minister Abe Shinzō, the power of the Prime Minister increased further. Abe established the Cabinet Bureau of Personal Affairs (CBPA), enabling the Prime Minister to select Japan's top bureaucrats and bring the bureaucracy to heel.⁸ Factions within the LDP were also in decline, raising the ability of the Prime Minister to manage his own party. As Abe won election after election, so opposition to his leadership dwindled within the LDP. The increased power of the *kantei* under Abe set the stage for a series of policies that arguably contributed to the maintenance of the liberal international order. Specifically, Abe's pursuit of major FTAs, such as the CPTPP, RCEP, and Japan-EU EPA, demonstrated Japan's commitment to an open economic global system. The enactment of security legislation, including Japan's Designated State Secrets Law, reinterpretation of the Constitution to allow for collective self-defence, and the establishment of Japan's National Security Council, enabled the Japanese government to better support its US ally in regional contingencies. Abe's claim that Japan would act as a 'proactive pacifist' state and promote a 'value-based diplomacy' further contributed to a rhetoric that Japan had emerged as 'Asia's liberal leader'.

At the same time, both the undemocratic manner in which Abe's security bills were passed, as well as their content, raised concerns about democratic backsliding in Japan. The Abe administration's support for FTAs was more focused on achieving Japan's economic interests and pressuring domestic reforms, particularly in the agricultural sector, than on upholding the liberal international order. Claims to promote democracy and 'universal values' in Japan's diplomacy were also soon exposed as hollow rhetoric.⁹ This report builds on these

⁸ Takenaka, 'Expansion of the Prime Minister's Power'.

⁹ Kingston, 'The Emptiness of Japan's Values Diplomacy'; Midford, Paul (2019) 'Abe's pro-active pacifism and values diplomacy', in Berkofsky, A., Hughes, C., Midford, P., and Söderberg, M. (eds), *The EU-Japan Partnership in the Shadow of China: The Crisis of Liberalism*, London and New York: Routledge, pp 169-83.

critiques by analyzing the Japanese government's response to the Rohingya refugee crisis and deteriorating situation in Myanmar, its policies in the wake of the Covid-19 crisis, and its pursuit of enhanced surveillance capabilities and legislation in the run up to the Olympic Games.

2. Japan turns its back – humanitarian crises in Myanmar¹⁰

Democratic backsliding in Japan under the Abe administration overlaps with Myanmar's transformation into a 'disciplined democracy'. For both Japan and Myanmar, this period is a crucial one in their political histories. As Myanmar transitioned to a 'disciplined democracy' following general elections in 2010, so the Democratic Party of Japan (DPJ) administrations and subsequently, the Abe government emphasized Japan's role as a bridge between Myanmar and the liberal international order. The Abe administration sought to support Myanmar's fledgling democracy through aid and investment. Abe also appointed Sasakawa Yohei, Chairman of the Nippon Foundation, to mediate in Myanmar's long-standing ethnic conflicts as a means of demonstrating Japan's contribution to the liberal international order. As 'Asia's liberal leader', Japan could also claim a duty to entice Myanmar back onto the path to democratization. The Japanese government's engagement with Myanmar concerned not only material benefits, but also international status.

The content of Japan's Myanmar policy belied a commitment to the promotion of democracy and 'universal values'. Successive Japanese administrations emphasized 'democratization as process' (essentially, rewarding the Myanmar military for any step taken in the name of 'democracy') rather than 'democratization as progress' (namely ensuring that the Myanmar military achieve specific democratic milestones). Whilst the Japanese government emphasized its 'value-based diplomacy', Japanese initiatives, including Special Economic Zones (SEZs) and Economic Corridors, undermined the human security and human rights of local communities. The Japanese government's supposed mediation in the enduring civil wars between the Myanmar military and armed ethnic groups, instead exposed the preference of the Japanese government to work through the Myanmar government, sidelining the interests and needs of ethnic communities.

Japan's blatant disregard for the human rights and democracy in Myanmar were further exposed in the Rohingya refugee crisis and 1 February 2021 coup. Following long-standing sectarian tensions in Rakhine state, the Myanmar military engaged in 'area clearance operations' to root out what it had designated as terrorist attacks by the Arakan Rohingya Salvation Army (ARSA) in 2016. As a result of these operations, approximately 800,000

¹⁰ This section draws on: Black, Lindsay (2023) *Disciplining Democracies – Human Insecurity in Japan-Myanmar Relations*, Bristol: Bristol University Press.

Rohingya fled Rakhine state and refugee camps were rapidly developed in Bangladesh to accommodate them. The international community charged the Myanmar military with perpetrating crimes against humanity and even genocide. The Japanese government's response to the Rohingya refugee crisis was to back the government of Aung San Suu Kyi and the Myanmar military. The Abe administration parroted the Myanmar government's claims that an independent international investigation into the crimes perpetrated by Myanmar's military was not required. Instead, Myanmar's Independent Commission of Enquiry (ICoE) would undertake a 'credible and transparent' investigation into the alleged crimes and bring the perpetrators to justice. As the Rohingya languished in the refugee camps of Bangladesh, the ICoE's work would swiftly be exposed as neither credible nor transparent and the perpetrators would remain free. Despite channelling funds to the UN to support refugees, at no point did the Japanese government consider waiving its restrictive refugee policy to allow significant numbers of Rohingya to enter Japan.

The Abe administration's motivation for supporting the Aung San Suu Kyi government and Myanmar military was primarily economic. The Abe administration had pushed massive investments and ODA into Myanmar in support of Japan's wider economic interests, not least of which were the establishment of SEZs and Economic Corridors to facilitate the production and movement of goods from the Indian Ocean to the South China Sea. This motivation would again be exposed when the façade of Myanmar's disciplined democracy finally fell when Myanmar's military under the command of Min Aung Hliang initiated a coup on 1 February 2021. Throughout the ensuing civil war that has engulfed Myanmar, the Japanese government has maintained its links to the military regime and continued existing ODA projects in Myanmar, in which military-run companies have a stake. Despite there being no resolution of the conflict in sight, the Japanese government has sought to wait the situation out in the hope that its infrastructure visions can be completed and Japanese firms can return to do business. Despite the February 2021 coup, the connections between the Japanese government and business elites with Myanmar's junta remain strong.

As Myanmar descended into civil war, claims that Japan can act as 'Asia's liberal leader' should be reassessed. Essentially, the Japanese government's 'value-based diplomacy' reflects an ontological argument, namely because Japan is benevolent its foreign policy secures human beings. This argument accepts no critique. Japan simply is benevolent. Rather

than an adaptive state that contributes to the liberal international order, mercantilism remains prominent in Japan's relations with Myanmar.

It is not sufficient for Japan's government to shift its Myanmar policy without addressing the underlying discourse that informs and substantiates this ontological argument. For Japan to act as an adaptive state requires more than simply asserting that Japan's foreign policy is 'value-based'. The inherent contradictions that underpin Japan's ontological position as a 'benevolent state' must themselves be confronted. These contradictions include the rhetoric of: Japan as both a 'thought leader' and a 'bridge'; inclusive human rights emphasis yet state-centered approach; temporal linearity (Japan as Asia's oldest democracy) and temporal break (Japan as a successful democratic and economic power in the post-WWII era); the fusion of both 'Asian' and 'universal' values. The Japanese government also needs to reckon with the impacts of not only British imperialism in Myanmar, but also Japanese imperialism, as these continue to shape and constrain Myanmar's political economy.¹¹

Interrogating the discursive foundations of Japan's foreign policy reveals how Japan's foreign policy elites perceive Japan's role in the liberal international order. It also raises the possibility of a more emancipatory foreign policy based on an epistemological argument that because Japan's foreign policy enhances the welfare of human beings so this foreign policy is benevolent. This epistemological argument must be supported by evidence that the welfare of human beings is improving and also invites critique - to be benevolent requires responding to evidence when Japan's foreign policy falls short. There has been no evidence since the February 2021 coup that Japan's foreign policy towards Myanmar is changing in a more emancipatory direction. International and domestic pressure is required to reform the Japanese government's Myanmar policy. In light of the democratic backsliding under the Abe administration, support for freedom of the press in Japan, an independent Japanese judiciary, and stronger civil society is needed.

¹¹ For an elaboration of these points, see: Black, *Disciplining Democracies*.

3. Japan's two-faced diplomacy during international public health crises

The Japanese government's support for international institutions is also a measure of Japan's commitment to upholding the liberal international order. Over the past two decades a number of international health crises have highlighted the role played by the World Health Organization (WHO); an institution which provides public health advice, determines what constitutes a public health emergency of international concern (PHEIC), and provides appropriate response frameworks. The Japanese government's responses to three public health crises in particular shed light on its commitment to the WHO. These three public health crises were: the outbreak of Severe Acute Respiratory Syndrome (SARS) in 2003, Middle East Respiratory Syndrome virus (MERS) from 2014 to 2015, and the Covid-19 crisis which began in early 2020.

Both the SARS and MERS cases demonstrated that the Japanese government was poorly prepared to tackle public health crises. In the case of SARS, the Japanese government relied heavily on the WHO for information and response frameworks. Rather than set up concrete policies to tackle the virus, the Japanese government mainly relied on distributing information about the disease in the hope that Japanese people would take adequate precautions against infection.¹² Similarly in the MERS case, the Japanese government focused on information distribution.¹³ The Ministry of Health, Labour, and Welfare (MHLW) deferred to the WHO to avoid confronting the inadequacies of Japan's response. At the same time there was also evidence of the Japanese government subverting the WHO framework. The government did not formulate clear national guidelines as WHO advice recommended, its decentralization and privatization efforts frequently ran counter to the need for a centralized approach to infectious disease outbreaks,¹⁴ and subsequent cabinets attempted to establish

¹² MHLW (2001), 'Jūshō kyūsei kokyū kishō kōgun (SARS) kanren jōhō (Severe Acute Respiratory Syndrome (SARS) Related Information),' Tōkyō, January.

¹³ National Diet (2014), 187 Shūgiin kōsei rōdō iinkai 7-gō (7th Meeting of the 187th House of Representatives Public Welfare and Labour Committee), Tōkyō, 13 November.

¹⁴ National Diet (2003), 156 Sangiin kōsei rōdō iinkai 15-gō (15th Meeting of the 156th House of Councillors Public Welfare and Labour Committee), Tōkyō, 22 May.

bilateral information exchange with, for example, Taiwan and South Korea, in order to address the perceived limitations of the WHO's information distribution system.¹⁵

The Covid pandemic from early 2020 prompted a rather different response from the Japanese government, not least because the scale of the outbreak was so much greater. The first Covid fatality was recorded in China on 11 January 2020 and the WHO announced that Covid constituted a PHEIC on 30 January. The WHO's response was heavily politicized with the Trump administration accusing the WHO of being controlled by the Chinese government, despite a lack of concrete evidence to back up this claim. Overall, the Japanese population managed to avoid the worst of the disease, enduring no lockdowns and comparatively fewer Covid-19 related fatalities. That said, the Japanese government's response was heavily criticized and it demonstrated a two-faced approach to the WHO, undermining the authority, credibility, and legitimacy of the WHO within the liberal international order for domestic political gain.

The Abe administration's response to Covid was slow. Despite the first case of Covid being reported on 14 January 2020, Prime Minister Abe did not face questions in the Japanese Diet until the 23 January. At the time, the Minister for the MHLW, Katō Katsunobu, merely stated that the government would 'continue to monitor the situation in Japan on a daily basis' and proposed no concrete policy responses to the outbreak. When a series of Covid infections broke out on the cruise ship *The Diamond Princess*, which had docked in Yokohama bay, the Abe administration dithered in its response. *The Diamond Princess* was quarantined on 4 February as the disease slowly made its way round the passengers and crew, infecting 712 of the 3711 passengers on board and killing nine by mid-April. The Abe administration's failure to come up with a more innovative and humane solution exacerbated the outbreak on the ship, prolonging human suffering. The Japanese government's slow response was openly criticized by both the public¹⁶ and the opposition in the Diet, with the leader of the Constitutional

¹⁵ National Diet (2003), 156 Shūgiin kōsei rōdō iinkai 4-gō (4th Meeting of the 156th House of Representatives Public Welfare and Labour Committee), Tōkyō, 19 March.

¹⁶ Rich, Motoko, and Eimi Yamamitsu (2020), 'Hundreds Released From Diamond Princess Cruise Ship in Japan.' *The New York Times*, 19 February 2020, <https://www.nytimes.com/2020/02/19/world/asia/japan-cruise-ship-coronavirus.html>.

Democratic Party (CDP), Saitō Renhō, chiding Abe that he was “a month and a half too late!” with his response.¹⁷

Not only was the Abe administration’s response slow, but it also flip-flopped between more relaxed and more stringent approaches. Strict travel bans suddenly gave way to the Abe administration’s ‘Go to’ tourist policy that encouraged Japanese people to tour Japan. The government vacillated between imposing school lockdowns and encouraging students to go back to the classroom. Japan’s health policy was decentralized, demonstrating a lack of central government coordination.¹⁸ Moreover, there were increasing concerns regarding the prioritization of the Tokyo Olympics over public health concerns.¹⁹

There was also a lack of formalized information gathering about Covid patients, apps designed to track the disease malfunctioned, and the government failed to adequately test the population. The introduction of the government’s vaccination program was glacial and Abe himself was mocked for his distribution of ‘Abenomasks’; face masks that were too small to be of use. The Japanese government’s response compared unfavourably with the rapid response of the other governments in the region, such as South Korea, which introduced a successful track and trace policy and set up testing facilities.

Throughout the pandemic, the Japanese government adopted a two-faced approach to the WHO. Prime Minister Abe clearly used Japan’s funding of the WHO to pressure the organization to retract criticism of his administration’s response to Covid and remove Japan from the list of countries of Covid-related concern.²⁰ The debacle surrounding the *Diamond Princess* was another example of the government’s approach to the WHO, as it successfully lobbied to exclude infections from the ship from the total numbers of infections recorded in

¹⁷ National Diet (2020), 201 Sangiin yosan iinkai 4-gō (4th Meeting of the 201st House of Councillors Budget Committee), Tōkyō, 2 March.

¹⁸ The efforts of local governments, responding to increasing pressure to reign in infections within their community, eventually led to the relative success of Japan’s approach to the pandemic.

¹⁹ Kingston, Jeff (2020), ‘Abe Prioritized Olympics, Slowing Japan’s Pandemic Response,’ *The Asia-Pacific Journal: Japan Focus* 18, no. 7: 1-8, <https://apjif.org/-Jeff-Kingston/5387/article.pdf>.

²⁰ Nebehay, Stephanie (2020), ‘South Korea, Iran, Italy and Japan Are Greatest Virus Concern: WHO,’ *Reuters*, 3 March 2020. Accessed 30 December 2020. <https://www.reuters.com/article/us-health-coronavirus-who-tedros-idUSKBN20P2FQ>.

Japan, to make it seem as though Japan had the virus under control.²¹ Recorded infections in Japan soon caught up with the number of infected passengers. Moreover, distrust in the WHO's information led to Japan approaching Taiwan for establishing a bilateral information system channel.²² Japan further pushed for acceptance of Taiwan as an observer at the WHO General Assembly, with politicians consistently reiterating the WHO's lack of reliable information from China and Taiwan's exclusion as evidence of China's potential influence on the organization.²³

The Abe administration also sought to justify and legitimize new Covid-related policies that backtracked on its previous policies, such as travel restrictions giving way to the 'Go to' tourism initiative, by mentioning WHO guidelines. Despite referencing these guidelines, the Japanese government's response to Covid rarely abided by them. At the same time, the Abe administration critiqued the same WHO guidelines as a means of deflecting public criticism of the government's ad hoc approach. Similarly, a key point raised by Maruoka and Rose is that the centralization of power in the *kantei* side-lined the bureaucracy. When the Abe administration finally faced a major crisis in the form of a public health crisis, the relations between the *kantei* and bureaucracy had become so damaged that the MHLW and *kantei* were frequently at odds with one another. Generally, the *kantei* ignored the health advice of the MHLW, which was based on WHO advice, at the expense of a coherent Covid policy. This resulted in a crisis of credibility and legitimacy of the WHO in Japan, as the government consistently deflected criticism by pointing at the organization, despite consistently ignoring its advice.²⁴ The Abe government's support for the WHO, as a core institution of the liberal international order, was found wanting.

In light of the Japanese government's response to Covid, this report recommends that:

²¹ National Diet (2020), 201 Shūgiin yosan iinkai dai-nana bunkakai 1-gō (1st Meeting of the 201st House of Representatives Budget Committee 7th Subcommittee). Tōkyō, 25 February.

²² National Diet (2003), 156 Shūgiin kōsei rōdō iinkai 4-gō.

²³ National Diet (2020), 201 Shūgiin gaimu iinkai 2-gō (2nd Meeting of the 201st House of Representatives Foreign Affairs Committee). Tōkyō, 6 March.

²⁴ Maruoka, C., & Rose, C. (2022) 'How the mighty are fallen: Evaluating Abe Shinzō's leadership capital in crisis', *Asian Journal of Comparative Politics*, 1-17.

1. The WHO is strengthened to provide improved country-specific advice that can be openly critical of a specific government's response. This requires that a government's funding of the WHO is clearly separated from the health-related advice provided by the WHO.
2. Increased regional communication is needed as a means of both ensuring that accurate data about the transmission of a disease to widely dispersed in a timely manner. Improving regional responses also requires the sharing of best practices between health officials without government interference.
3. Japan improves the transparency in its decision-making process with regards to public health policies, and sets up an independent regulatory framework and review process to examine whether international standards are being met.

4. The Safest Japan in the World - The (un)intended consequences of surveillance measures for the 2020 Tokyo Olympic Games

For Prime Minister Abe, Japan's hosting of the 2020 Tokyo Olympic games provided the perfect opportunity to showcase Japan to the world. Indeed, Abe's memories of the 1960 Tokyo Olympics deeply influenced his belief in a rejuvenated Japan following its defeat in World War II and that this sentiment could be tapped to demonstrate that Japan was 'back' as a world leader in 2020.²⁵ The Tokyo Olympics also facilitated the development of Japan's surveillance capabilities and policy as a means of controlling the Japanese and foreign populations.

The development of Japan's surveillance policies for the Olympics were eight to nine years in the making. Examples of this include the 2013 creation of the Japan National Security Council, the 2014 State Secrecy Law and the 2017 Anti-Conspiracy Law. These laws expanded the government's ability to gather and analyse intelligence from biometric data, surveillance cameras, drones, Open Source Intelligence (OSINT), and radio waves, as well as enhancing Japan's already strict border controls. In addition, the Counter Terrorism Unit Japan (CTUJ) was established in 2015 to facilitate the acquisition and analysis of intelligence obtained through surveillance in light of the 2016 G7 summit and the Tokyo Olympic Games.²⁶

According to the Abe administration, these measures purported to make Japan the 'safest in the world' in the run up to the Olympics²⁷, but they also raised several concerns. First, these policies demonstrated a clear bias towards foreign populations and minorities. However, despite the Covid pandemic leading to a postponement of the Olympics, the Japanese government's policies did not change. The implication was that the Japanese population would be subject to enhanced long-term surveillance, with no clear goal. Second, both the 2014 and 2017 laws were passed without adequate provisions for accountability and oversight. Historically, the Japanese government has been remarkably bad at intelligence

²⁵ Harris, Tobias (2020) *Iconoclast - Shinzo Abe and The New Japan*, London: Hurst.

²⁶ Anonymous. (2015) "Ahead of 2020 TOKYO Olympics, Japan to Launch an Anti-Terrorism Intelligence Unit-World News." *Firstpost*, December 4, <https://www.firstpost.com/world/ahead-of-2020-tokyo-olympics-japan-to-launch-an-anti-terrorism-intelligence-unit-2533050.html>.

²⁷ Cabinet Office (2013). ``*Sekaiichi anzen'na Nihon' sōzō senryaku'* (Strategy to create "the safest Japan in the world").

gathering and analysis because of its fragmented ministries, each responsible for a small part of intelligence gathering without proper communication.²⁸ Though the Security Coordination Centre (SCC) was established in May 2020 as a watchdog for the Japanese government's surveillance activities, it was established three years after the first governmental organisation tasked with Olympic Games surveillance started. Unfortunately, after one month of operation, the SCC was shut down because of the postponement of the Olympic Games, but surveillance organisations kept running, diminishing the much needed surveillance control and oversight.²⁹ . Third, the measures were disproportional. Due to the COVID-19 pandemic the Olympic Games were not only postponed, they were also held without any foreign spectators. The lack of "internationality" in this international event meant that the surveillance policy created was no longer proportional for the event. In addition to this, policy created for a specific event usually has far reaching consequences that extend beyond the weeks surrounding the event itself. An example of this are the surveillance cameras erected for the 2002 FIFA world cup that remain in operation.³⁰ Clearly, the surveillance measures put in place would not just be for the duration of the Olympics, but for the long-term. Forth, the extent to which the government could collect data raised the issue of the security of this data. After all, the Japanese government does not have the best record as concerns data management. Japan's cyber defence capabilities remain limited, and data leaks from government departments have been relatively frequent.³¹

Collectively these issues raise the question of how data acquired by the government through surveillance will be used and managed. Whilst we cannot know the uses to which Japan's enhanced surveillance capabilities have been put due to the opacity of the policy and

²⁸ Richard Samuels, (2019) *Special Duty: A History of the Japanese Intelligence Community*. Ithaca: Cornell University Press. 138.

²⁹ National Diet (2020). *Tōkyō orinpikku kyōgi taikai Tōkyō pararinpikku kyōgi taikai no junbi oyobi un'ei no suishin ni kansuru seifu no torikumi no jōkyō ni kansuru hōkoku (an)-rei wa 2-nen 6 tsuki dai 201-kai kokkai* (Report (draft) on the status of government efforts to promote the preparation and operation of the Tokyo Olympic Games and Tokyo Paralympic Games. Materials submitted to the 201st Diet session).

³⁰ Wood Murakami, David, David Lyon and Kiyoshi Abe.(2007) "Surveillance in Urban Japan: A critical introduction". *Urban Studies* 44(3), 551-568.

³¹ Samuels, Richard. (2019) *Special Duty: A History of the Japanese Intelligence Community*.; Kyodo. (2021) "Tokyo Games organizers hit by data breach and info leak" *The Japan Times*. <https://www.japantimes.co.jp/news/2021/06/04/national/tokyo-olympics-data-breach/>

lack of accountability, two incidents that Japan's security services failed to prevent highlight that the Japanese government's security efforts may be misplaced. First, the assassination of Prime Minister Abe Shinzō on 8 July 2022 highlighted the inability of Japan's security services to identify Yamagami Tetsuya, the suspect of the attack. This was in spite of his long-standing grudges against Abe and the Unification Church, which Yamagami perceived to have destroyed his family, having been noted in an SDF report during his time in the MSDF and published on his Twitter account before the account was taken down. Second, the attempted assassination of Prime Minister Kishida Fumio on 15 April 2023 again underscored the failures of Japan's security services to identify the suspect, Kimura Ryūji, despite Kimura's vocal condemnation of Japan's political and judicial systems. In light of these failures, it remains to be seen if Japan's enhanced surveillance policies and capabilities will really make Japan 'the safest in the world' or if they will continue to focus on foreigners and minority groups at the expense of Japan's democracy and people's human rights.

5. Conclusion

The proclamations of Japan as ‘Asia’s liberal leader’ and the Japanese government’s claims to pursue a ‘value-based’ diplomacy should not go unchallenged. Japan’s contribution to upholding the liberal international order remains limited. In the face of the Rohingya refugee crisis, Asia’s largest humanitarian emergency, the Japanese government sided with the Myanmar government and military, primarily looking to secure Japan’s economic interests in the country. The Japanese government’s mercantilist approach continued even after the 1 February 2021 coup, as the Suga Yoshihide and Kishida Fumio administrations sought to wait it out in the hope that conditions would improve to allow Japanese aid and investment to flow into Myanmar again. Japan’s support for the international institutions of the liberal international order also remains in doubt, as the Covid-19 crisis demonstrated. The Japanese government looked to the WHO to legitimize its policies, only to blame the WHO when its policies changed or failed.

If the Japanese government is to make a greater contribution to the liberal international order or even take a leadership role in the Asian region, then a restoration of checks and balances on the government’s actions is required. As the case of surveillance in the 2021 Olympics demonstrated, there is too little oversight of how and why the Japanese government collects intelligence through surveillance and how that information is protected. Such questions must be answered in light of the context of democratic backsliding in Japan, notably with the Abe administration’s media muzzling strategy, passage of security legislation, and control over Japan’s bureaucracy. Reversing these trends will be difficult, particularly considering both the Suga and Kishida administrations have voiced support for these policies.

Overall, this report recommends:

- Enhanced support for freedom of the press, judicial independence, and civil society organizations in Japan that can better hold the Japanese government to account.
- A reconsideration of rhetoric that designates Japan as ‘Asia’s liberal leader’ in view of its failures in the Covid-19 and Rohingya refugee crises.
- Pressure on the Japanese government to review its stringent refugee policy to accept more refugees, especially in times of humanitarian crises.

- Strengthening the WHO to provide improved country-specific advice separate from political influence on the organization.
- Enhancing regional cooperation to improve the transmission of disease-related data in a timely manner and sharing of best practices.
- Improved transparency in the Japanese government's decision-making process with regards to public health and the establishment of an independent regulatory framework to provide oversight.
- An independent review of Japan's surveillance policies and the establishment of an independent body to assess and remedy human rights infringements that result from Japan's surveillance policy.
- Pressure on the Japanese government to invest in cyber security measures for its own systems, capable of protecting citizen's data gathered from surveillance practices.

Democratic backsliding in Japan can be compared with growing illiberalism across the region. Increasingly, Asian democracies are being disciplined by political and economic elites for their own benefit. In light of this development, constitutionalism in Asia must be strengthened. This requires bolstering democracies by ensuring that constitutions are: widely understood by citizens, protected by autonomous institutions that can hold the government accountable, and inclusive of minorities. At the same time, it should be noted that the causes and consequences of this trend, as well as the extent to which democracies have been disciplined, differ between Asian states.³² It is essential to understand the specific conditions that have led to the disciplining of democracy in individual Asian states,³³ if steps to strengthen constitutionalism are to be effective.

The core components of the liberal international order comprise economic openness, multilateral institutions, security cooperation, democratic solidarity, and internationalist

³² Ginsburg, Tom (2021) 'Asia's Illiberal Governments', in Sajó, A., Uitz, R. and Holmes, S. (eds), *Routledge Handbook of Illiberalism*, New York and London: Routledge, pp. 713-724.

³³ Among others, see: Garrido, Marco (2021) 'Disciplining Democracy: How the Upper and Middle Class in Manila Envision Democratic Order', *Qualitative Sociology*, 44(3), 419-435; Kongkirati, Prajak (2019) 'From illiberal democracy to military authoritarianism: Intra-elite struggle and mass-based conflict in deeply polarized Thailand', *The ANNALS of the American Academy of Political and Social Science*, 681(1), 24-40; Wilson, Chris (2015) 'Illiberal democracy and violent conflict in contemporary Indonesia', *Democratization*, 22(7), 1317-1337.

ideals.³⁴ These components are indivisible. Claims that Japan acts as ‘Asia’s liberal leader’ cannot rely on the Abe administration’s promotion of regional FTAs alone. Japan’s contribution to the liberal international order has to be weighed in accordance with each of its core components. The Japanese government’s democratic backsliding, support for authoritarian regimes, two-faced approach to international institutions, and failure to respond to humanitarian crises, all combine to undermine its claims to liberal leadership.

³⁴ Ikenberry, ‘The plot against American Foreign Policy’, 3.