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DIGITAL RIGHTS FOUNDATION PUBLIC COMMENT ON OVERSIGHT BOARD CASE 2024-027-TH-UA (Statements About the Japanese Prime Minister)

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Sociopolitical Context In Japan

Japan's political system has evolved from the powerful, centralised authority of the emperor in the Meiji period to a modern parliamentary democracy with a ceremonial emperor. In recent years, the Liberal Democratic Party (LDP) has been predominantly in power since 1955, with only occasional interruptions. Thus leading us to believe that the country is revelling in a period of political stability, with the power consolidation showing a support for strong bureaucratic influence and the importance of consensus leadership.[1]

The current environment in Japan has grown into one of high respect for authority and strong emphasis on social harmony. However, there is also a growing trend of political criticism, especially online.[2] Although Japan is a democratic nation, it faces substantial human rights challenges and discrimination issues, with noticeable deficiencies in legal protections for marginalised groups. Issues include the mistreatment of refugees, death penalty practices, coercive measures in the criminal justice system, human rights issues, barriers towards equality, and a lack of strong regulations in corporate environments, to name a few.[3] Frustrations related to the sociopolitical climate, coupled with personal vendettas, have led to fertile ground being created for heightened tensions between the nation's people and its leaders. This has led a few among the masses to resort to threats, especially online, against political figures. The escalation of these tensions in recent times has led to events such as the assassination of Shinzo Abe, the longest-serving prime minister of Japan at the time of his passing.[4]

1) *Asia for Educators, Columbia University. (n.d.). Asia for Educators | Columbia University.* *https://afe.easia.columbia.edu/special/japan_1950_politics.htm*
2) *Stokes, B. (2024, April 14). 2. Mixed feelings on Japan's democracy. Pew Research Center.* *https://www.pewresearch.org/global/2017/10/17/mixed-feelings-on-japans-democracy/*
3) *Japan. (2023, January 20). Human Rights Watch.* *https://www.hrw.org/world-report/2023/country-chapters/japan*
4) *Murphy, Y. T. & M. (2022, July 8). Shinzo Abe: Japan ex-leader assassinated while giving speech. BBC News.* *https://www.bbc.com/news/world-asia-62089486*

Such events have enticed other bad actors in Japanese society to send online threats of carrying out similar justices against certain political figures, such as those sent to the mayor of Hyogo prefecture, Fusaho Izumi.[5] Criticism of political figures in Japan has always been a stringent topic. According to Article 21 of the Constitution of Japan, the people of the nation are entitled to freedom of assembly and association, as well as speech, the press, and all other forms of expression.[6] However, this freedom is limited to specific restraints, such as those pointed out in articles 230 and 231 of the Japanese Penal Code. According to these specificities, defamation is a criminal offense that can result in fines or imprisonment. Even if the statements made are true, if they are deemed to harm the reputation of another person without just cause, they can still be considered defamatory.[7] Cultural norms, social hierarchy, and concerns about job security are factors contributing to limitations on freedom of expression in Japan. Recently, self-censorship and manipulation have become common in the Japanese media, raising international concerns. The UN special rapporteur's visit highlighted these issues, and Reporters Without Borders downgraded Japan's press freedom ranking as a result.[8] Additionally, the lack of unity among news organisations and the government's reluctance to address criticism highlight the difficulties in ensuring media freedom in Japan. While these issues don't mean Japan lacks freedom of expression entirely, they do show how stories have been shaped to suit certain interests in the past.

Rhetorical Threats & Political Discourse

The Japanese language, like all languages, possesses its own set of nuances. Typically, native Japanese speakers tend to communicate in a more indirect manner.[9] This preference for indirectness has rendered confrontation a relatively taboo topic in Japanese society, as it is seen to be disruptive to social harmony. This aversion to confrontation can lead to frustration for individuals who feel unable to openly express their opinions or grievances. Consequently, this frustration often manifests in an online disinhibition effect, where the anonymity, distance, and asynchronous nature of online communication allow people to express themselves more assertively or aggressively than they would in face-to-face interactions. However, due to socio-linguistic issues, these expressions can be exacerbated, even if the individual does not intend to follow through on the threat.

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5) *Mayor receives death threat; sender refers to Abe shooting | The Asahi Shimbun Asia & Japan Watch. (n.d.). The Asahi Shimbun.* *https://www.asahi.com/ajw/articles/14680763#:~:text=AKASHI%2C%20Hyogo%20Prefecture--Police,a%20July%202027%20news%20conference.*

6) *The Constitution of Japan - Table format - Japanese Law Translation. (n.d.).* *https://www.japaneselawtranslation.go.jp/en/laws/view/174/tb*

7) *Penal Code - English - Japanese Law Translation. (n.d.).* *https://www.japaneselawtranslation.go.jp/en/laws/view/3581/en*

8) *Fackler, M. (2016, June 24). The silencing of Japan's free press. Foreign Policy.* *https://foreignpolicy.com/2016/05/27/the-silencing-of-japans-free-press-shinzo-abe-media/*

9) *Japanese - communication. (2021). Cultural Atlas.* *https://culturalatlas.sbs.com.au/japanese-culture/japanese-culture-communication*

Establishing a contextual understanding between rhetorical and credible threats depends on various factors, such as cultural context, the specificity of the threat, the past behaviour of the individual, the tone used, and the method of communication (e.g., private message versus public post). Grasping these subtleties is essential for making better judgements about which threats should be taken seriously and which should not.

Meta's Policies On Protecting High-Risk Individuals
Based on Meta's policies on bullying, violence, and threats, here's how they could be adapted to protect high-risk individuals like heads of state from credible threats of violence at scale:

- Identifying High-Risk Individuals: Accurately categorise high-risk individuals on Meta's platforms due to their widespread visibility and potential safety concerns.

- Customised Protection for Public Figures: High risk individuals may face unique threats; therefore, ensure that they receive heightened protection while still allowing constructive discussion.

- Stringent Enforcement Against Threats: Threats should be promptly flagged and assessed, regardless of how implicit they may be.

- Partnership with Authorities: Collaborate closely with law enforcement and relevant authorities to address credible threats to ensure safety both online and offline.

- Educating Users and Providing Support: Educate users on the seriousness of making threats and encourage them to report such behaviour.

- Regular Policy Review and Adaptation: Meticulously review and update policies in order to stay informed about emerging trends in online harassment and violence

Respecting Political Expression
For Meta to enforce a strict approach towards credible threats made against its users while ensuring the expression of political views and freedom of speech, excessive transparency in the execution of policies is essential. Clear guidelines must be developed to delineate what is considered acceptable criticism, including rhetorical threats. Actions taken against posts or comments that exceed tolerance policies need to be transparently communicated through reports and detailed explanations of the rationale. This transparency helps establish trust and clarity, enabling users to understand where boundaries have been crossed. Users should have the right to appeal decisions, allowing them to contest the removal of their content. This ensures that mistakes can be rectified and that users feel their political expression is respected. A review board including external experts in free speech and human rights can provide an additional layer of fairness. Responses to threats should be proportional. For example, instead of immediately removing content, Meta could issue warnings or require content modification if the speech is borderline or ambiguous.

This approach respects freedom of expression while still safeguarding individuals. Furthermore, Meta should engage in ongoing dialogue with human rights organisations, free speech advocates, and political entities to refine policies, ensuring that diverse perspectives on political expression are accurately represented. Considering local contexts and political climates is also important, as certain rhetorical threats might be perceived differently in various regions. This adds an additional layer of consideration and inclusion for people of specific demographics and areas. Lastly, Meta should consistently demonstrate its support for freedom of expression through public statements, actions, and ongoing discourse on discovering new ways to maintain free speech across its platforms.

Impact Of Not Recommending Political Content
Meta's decision to reduce the recommendation of political content may be driven by the aim of mitigating misinformation by exerting greater control over content and curbing the volume of political material, thereby emphasising its quality. Moreover, this approach could improve the user experience by mitigating potential conflicts among users stemming from polarising or inflammatory content. However, there is a counterbalancing concern that comes from limiting access to a diverse array of political information. There is a decrease in the likelihood of users encountering a broad spectrum of perspectives. Along with the possibility of creating "online echo chambers" where users are only exposed to familiar viewpoints, potentially inhibiting the discovery of new or thought-provoking ideas. Furthermore, this reduction in political content could impede political outreach, particularly for smaller-scale political groups or activists, who may struggle to gain visibility in such an environment. Some users may also feel that they are being subjected to unfair or externally imposed algorithmic content controls that predetermine the narrative being promoted by the platform.

While this content moderation policy presents both advantages and disadvantages, ensuring its smooth implementation requires a balance between disseminating information effectively and curbing the spread of misinformation. Meta could enhance this balance by prioritising transparent fact-checking processes and algorithms that favour credible sources. Educating users on diverse content recommendations and fostering a thorough understanding of political discourse can contribute to a more informed public perception. Emphasising community moderation and collaboration with reputable third-party organisations to combat misinformation is also crucial. Lastly, implementing feedback mechanisms and maintaining vigilant monitoring to adapt to emerging misinformation trends can proactively address potential issues before they escalate.

In conclusion, determining the suitable parameters for freedom of speech is an iterative process that requires continual assessment of policies and their enforcement. Distinguishing between credible and rhetorical threats is particularly crucial in today's era of misinformation, which necessitates consideration of various factors to ensure accurate judgements are made.