

# Japan

Stable / Unchanged ▬



Religion	Population	Area
<ul style="list-style-type: none"> <li>○ Buddhists : <b>55.8%</b></li> <li>○ New Religionists : <b>26.4%</b></li> <li>○ Agnostics : <b>10.2%</b></li> <li>○ Atheists : <b>2.8%</b></li> <li>○ Christians : <b>2.1%</b></li> <li>○ Others : <b>2.7%</b></li> </ul>	126,324,000	378,000 Km <sup>2</sup>

## Legal framework on freedom of religion and actual application

Japan is a democratic constitutional monarchy. Religion is freely practised in a country where Shinto is widely practised (despite the small percentage of people identifying as Shintoists).<sup>[1]</sup> The government protects the individual's right to practise their religious faith while remaining strictly neutral in the matter. Respect for freedom of religion is based on the existing constitution and laws.

The Constitution of Japan – promulgated on 3rd November 1946 and implemented on 3rd May 1947 – upholds the principles and rules of law relating to religious freedom, including the separation of religion from the state.

Article 20 states: “Freedom of religion is guaranteed to all. No religious organisation shall receive any privileges from the state, nor exercise any political authority. No person shall be compelled to take part in any religious act, celebration, rite or practice. The state and its organs shall refrain from religious education or any other religious activity.”

Article 89 stated: “No public money or other property shall be expended or appropriated for the use, benefit or maintenance of any religious institution or association, or for any charitable, educational or benevolent enterprises not under the control of public authority.”<sup>[2]</sup>

These provisions not only ensure all the subjective aspects of religious freedom, i.e. the freedom to believe, not to believe, convert, worship, organise, and spread religious beliefs, but also enshrine its objective and institutional aspects, i.e. a strict separation between state and religion, similar to the state secularism that exists in France.

However, these provisions have not always been present in Japan's history or constitutional texts. The 1947 constitution, which is in stark contrast to the former Meiji constitutional charter, is aimed at creating an ideal liberal and peaceful democracy in a country crushed by military defeat and atomic bombs. By postulating the natural and inviolable rights of

the individual, the authors of the constitution established religious freedom as the basis of the spiritual independence of every Japanese citizen. In doing so, their objective was to bring an end to Japanese subjects' blind obedience to the Tenn?, the emperor, which was closely intertwined with state-sanctioned Shintoism (jinja). The question needs to be asked whether it has proved possible to reconcile principles of religious freedom with Japanese tradition.

According to Japanese legal scholars<sup>[3]</sup>, the constitutional jurisprudence of the 1970s, 1980s and 1990s has, thanks to the continuing efforts of various civic movements, safeguarded religious freedom and the principle of a secular state. Many claims of unconstitutionality have gone before the courts. It has divided public opinion. All this explains why, for example, state financial aid for the Shinto shrine of Yasukuni<sup>[4]</sup> has become legally and practically impossible. A 1997 ruling by the Supreme Court has made it very difficult for a prime minister or a cabinet minister to take part in an official act of worship.

At a less political level, there are no laws or other regulations requiring religious groups to register with the government. However, the status of a religious organisation can be of interest for tax purposes as it exempts donations and offerings from all taxes as long as they are intended to finance the running costs of the religious organisations to which they have been made. The status of a religious organisation is granted by the authorities when a community can prove that it has a place of worship and that its main purpose is to provide religious education, conduct religious ceremonies, as well as train and teach believers. According to the Agency for Cultural Affairs, the competent authority in this field, some 181,400 religious organisations were registered as of 31st December 2014, a high number due to the fact that each Buddhist or Shinto temple must register separately.

## | Incidents

Incidents are rare and in most cases fall into the same categories. They concern in particular prisons and prisoner access to religious worship and the objects necessary for their religious life. Prison chaplains do exist; the authorities list nearly 1,900 prison chaplains for Buddhism, Shintoism and Christianity – but regulations and discipline are so strict in Japan's detention centres that the religious freedom of detainees can be hindered. For example, in 2014, the Tottori prison administrators did not allow a Christian inmate in solitary confinement to take a Bible with him. The Tottori Bar Association requested on 27th April 2016 that the detainee's religious rights be respected and that he be given access to a Bible, but the prison administration responded by noting that regulations for detainees placed in solitary confinement do not provide for access to books.<sup>[5]</sup>

On a different note, in May 2016, the Supreme Court upheld a ruling handed down by a lower court imposing the payment of 90 million yen (€ 675,000, US\$ \$769,000) to 17 Muslims in compensation for the violation of their privacy by excessive police surveillance. However, the court did not find that the plaintiffs' constitutional right to religious freedom had been violated.<sup>[6]</sup>

Another case highlights a particular aspect of what could constitute the start of serious violations of the religious freedom of Japanese citizens. On 19th July 2016, a Tokyo court ruled in favour of a former Christian elementary school teacher. In 2010, the teacher had refused to play the national anthem at a ceremony organised by the school on the grounds that the references to Shinto worship in the national anthem violated her religious beliefs. In the lower and appeal courts, the teacher had lost her case and the salary deductions imposed by the regional education authority had been declared legal. Therefore, it was only at this last stage that the teacher was able to assert her rights, as the court recognised that her attitude had been dictated by her religion; however, the court also found that the order she had been given to play the national anthem was constitutional.<sup>[7]</sup>

## | Prospects for freedom of religion

Although the Japanese continue to view their institutions, including the courts, as the guarantors of the democratic nature of their national political life, the ideology of the current government is a source of concern. The authorities' stated

approach raises the possibility that some constitutional freedoms may be eroded even if they are not denied outright. People close to Prime Minister Shinzō Abe, who has been in office since 26th December 2012, have advocated constitutional reform and the installation of a new 'regime' for today's Japan. Shinzō Abe – who has a majority in both houses of the Japanese Parliament – said that the 1947 Constitution was “an act of contrition of the vanquished to the victor”, noting that the country's fundamental text should “be elaborated by our- selves”. He has made no secret that he is seeking a “departure from the post-war regime”.[8]

Constitutional scholars note that the constitutional reform bill promoted by the conservative wing of Shinzō Abe's Liberal Democratic Party (LDP) is not only about Article 9 (Japan renounces war as means of settling conflicts)[9] but also touches on relations between the state and religious groups, patriotic education, as well as the fundamental rights of citizens. If they had their way, the constitution would no longer be a charter designed to guarantee the rights of citizens vis-à-vis the state but would rather become a tool to broaden and maintain the authorities' scope for action. If the risk of reviving state Shintoism as it was in the 1930s until 1945 is low, the questioning of fundamental freedoms may have an impact on freedom of religion.[10] Should that happen, Japan would then be in direct contradiction with human rights protection as enshrined in the United Nations Charter, which Tokyo has signed and ratified.

## Endnotes / Sources

[1] Statistical Yearbook of Japan. Statistics Japan, Ministry of Internal Affairs and Communications

[2] Japan's Constitution of 1946, [constituteproject.org](https://www.constituteproject.org/constitution/Japan_1946.pdf?lang=en), [https://www.constituteproject.org/constitution/Japan\\_1946.pdf?lang=en](https://www.constituteproject.org/constitution/Japan_1946.pdf?lang=en), (accessed 21 February 2018).

[3] Raymond Goy, *Du droit interne au droit international – Le facteur religieux et l'exigence des droits de l'homme*, (Rouen: Publications de l'Université de Rouen, 1998).

[4] The Yasukuni temple (Yasukuni Jinja or pacifying the nation) is a Shinto shrine located in Tokyo that honours those Japanese who died in the service of their country. It also includes the names of war criminals tried and executed after the Second World War. Built in 1869 to pay tribute to the Japanese 'who gave their lives in the name of the Emperor of Japan', it watches over the souls of more than two million Japanese soldiers who died between 1868 and 1951. Considered one of the symbols of Japan's militarist and nationalist past, it has been controversial in East Asia, especially in South Korea and China, every time important Japanese political figures come to pay their respect. The shrine includes a museum, the Yashikan, which features historical artefacts and explanatory panels describing Japan's military history. Its museographic approach has been criticised as being nationalistic, revisionist, and biased.

[5] Bureau of Democracy, Human Rights, and Labor, *International Religious Freedom Report for 2016 – Japan*, U.S. State Department, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2016&-dclid=268734>, (accessed 13th February 2018).

[6] Ibid.

[7] Ibid.

[8] Kosuke Takahashi, 'Shinzo Abe's Nationalist Strategy – With his overt nationalism and his historical revisionism, Shinzo Abe has a plan for Japan', *The Diplomat*, 13 February 2014, <http://thediplomat.com/2014/02/shinzo-abes-nationalist-strategy/>, (accessed 13 February 2018).

[9] Japan's Constitution, op. cit. Article 9 of the Japanese Constitution: 'Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes. 'In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.'

[10] 'L'épiscopat catholique met en garde contre une éventuelle révision de la Constitution du pays', Églises d'Asie, 21 August 2013, <http://eglasiemepasie.org/asi-du-nord-est/japon/2013-08-21-2019episcopat-catholique-met-en-garde-contre-une-eventuelle-revision-de-la-constitution-du-pays>, (accessed 13 February 2018).