

A Tale of Two Countries: Comparing Outcomes in Marriage Equality between Taiwan and Japan

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Abstract

National marriage equality: the legalization of same-sex marriage and recognition that same-sex pairings are to be granted the same privileges under the state as straight pairings, is widely recognized as a turning point for a country's acceptance of queer identities at all levels of society. More than thirty countries around the world have legalized same-sex marriage, most of them being advanced industrial democracies. Given such hegemony, one may expect that being an advanced industrial democracy is one of the strongest indicators as to whether a country has instituted same-sex marriage. Yet, out of the three Asian countries which meet the criteria: South Korea, Taiwan, and Japan, only Taiwan has instituted marriage equality. The timing of progress in East Asia, particularly in Japan, still presents a puzzle to scholars given dominant understandings of queer culture and politics. Through comparative examination of the social and political structures in Taiwan and Japan as they relate to queer rights and expression, I seek to prove that robust democratic institutions and practices are the main factor in securing marriage equality rather than socio-cultural attitudes, judicial processes, or mass political movements. To this point, robust institutions and practices can be defined as those which actively imbue a citizen with more voting power or the amount of political power an individual is granted by the state to determine government policies that affect their life and those of their community. Healthy competition between political parties occurs as a result, meaning issues pertaining to minority communities are much more likely to be part of party platforms. As such, governments are more likely to actively push for social reform and are otherwise disincentivized from alienating minority groups

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1 | Introduction

The global fight for Queer¹ Rights is one of the most potent indicators of the dissemination of democratic and liberal values worldwide. In particular, studying queer politics has broad applications for understanding minority politics and social movements as a whole by providing a large number of cases and encountering the classic ‘obstacles’ towards political progress. That is, how claim-makers for queer rights are able to garner popular support for their cause even when there are no immediately evident benefits for the straight and cisgender majority. The free-rider problem, in short. Furthermore, queer people are inherent in every country’s population and thus cannot be regulated in terms of immigration or extradition, but in terms of creating social and legal coercion to silence the expression of such identities. As such, the path to queer equality has meant the simultaneous efforts of both cultural and political recognition for much of the world.

National marriage equality: the legalization of same-sex marriage and recognition that same-sex pairings are to be granted the same privileges under the state as straight pairings, is widely recognized as a turning point for a country’s acceptance of queer identities at all levels of society. While there are salient debates within queer and feminist circles as to the benefit of reifying marriage as a state institution, marriage equality and the subsequent proliferation of same-sex marriages are a potent tool towards ensuring widespread acceptance of gay and lesbian couples. The 2016 Supreme Court decision that legalized same-sex marriage nationwide in the United States provides a good

¹ For the purposes of the paper, ‘queer’ will be used interchangeably and in lieu of ‘LGBTQIA+’ and is not to be mistaken as a pejorative term in this instance.

example of such a phenomenon, with support for and visibility of queer identities increasing at a greater pace. And with the United States legalizing same-sex marriage in 2016, the advanced industrial democracies of the West were united in recognizing marriage equality.

Given such hegemony, one may expect that being an advanced industrial democracy is one of the strongest indicators as to whether a country has instituted same-sex marriage. Yet, out of the three Asian countries which meet the criteria: South Korea, Taiwan, and Japan, only Taiwan has instituted marriage equality which was enshrined through a Constitutional amendment in 2019. As the contemporary nature of Taiwan's decision might suggest, there is a significant political movement currently ongoing in East Asia with regards to queer rights, particularly in Japan.

Yet the timing of progress in East Asia, particularly in Japan, still presents a puzzle to scholars on queer culture and politics. The populations of Taiwan and Japan have had greater acceptance of queer identities and support for queer rights than the U.S. population up until the Obergefell decision. One can describe these East Asian countries as being particularly 'late' to guaranteeing Marriage Equality.

The sentiment that marriage equality in Japan has been somehow artificially delayed only increased following implementation of the institution in Taiwan, where there were questions of intervention by the People's Republic of China given the mainland's firmly oppositional stance to same-sex marriage. There has been a growing body of scholarship generated towards explaining either Taiwan's 'surprising' move to marriage equality or Japan's 'surprising' lack thereof. And only some have sought to

examine the two countries in comparison to each other or apply their findings to broader theories surrounding political movements for minority rights.

Through comparative examination of the social and political structures in Taiwan and Japan as they relate to queer rights and expression, I seek to prove that robust democratic institutions and practices are the main factor in securing marriage equality rather than socio-cultural attitudes, judicial processes, or mass political movements. To this point, robust institutions and practices can be defined as those which actively imbue a citizen with more voting power or the amount of political power an individual is granted by the state to determine government policies that affect their life and those of their community. Healthy competition between political parties occurs as a result, meaning issues pertaining to minority communities are much more likely to be part of party platforms. As such, governments are more likely to actively push for social reform and are otherwise disincentivized from alienating minority groups.

A further aim of this paper is to more broadly apply these findings to providing a roadmap for securing marriage equality in East Asia as well as understanding the ways in which minority rights and equality can be propelled in democracies worldwide.

In order to make such an argument, we will need to examine thoroughly all the major variables that may affect treatment of queer peoples: indigenous religions, historical tradition, influence of foreign cultures, etc. As such, I have dedicated the following two chapters to the history thus far of queer rights in Taiwan and Japan which will also provide more context into why I believe the comparison of outcomes in marriage equality between these two particular countries could bring better understanding to queer political theories in general.

Following the establishment of a comprehensive timeline and context to our current situation, I will be dedicating a chapter to each of the broad areas of society which are believed to be the main factors in queer rights: domestic belief systems, exogenous cultural changes, and present political systems. I hope to lay out a compelling picture of how these systems act as the ultimate filter for sifting diverse and competing social ideas into an explicit status quo, and that these filters can look radically different even amongst liberal democracies due to different levels and uses of autocratic governance to make democratic policy making more manageable.

2| History of Queer Peoples in Taiwan and Japan

Introduction

This chapter will serve to briefly outline the history of queer peoples in Korea and Japan. While there is no ‘neat’ narrative or ‘progression’ of this history, I will still give particular attention to the shifts in queer politics during the 20th and 21st centuries. Beyond the ideological turbulence these two countries went through in the past century is the changes in community identity and perception of sovereignty. This chapter will be the first, but not only, section to interrogate the role of foreign powers and belief in shaping the treatment of queer peoples domestically in Taiwan and Japan.

What has stood out to Western scholars in studying the history of queer treatment is the comparative ‘benignness’ of Eastern homophobia. The root of this difference can be seen in the lack of explicit condemnation of same sex attraction as well as gender nonconformity in major Eastern beliefs such as Shintoism, Taoism, and Confucianism. Given the significance that belief plays, I will be discussing the nuances in a later chapter. But to succinctly state a popular narrative now, it can be argued that homophobia became more explicit and legally codified as influence of Western nations and ideas grew. But also these countries never pursued outright criminalization or publicly advocate for the erasure of queer people.

All of this is not to say oppression of queer existences in either nation has been benign or entirely passive. The Cold War era in particular marked a shift in Conservative ideology in both countries, with the Kuo Min Tang (KMT) and LDP governments of Taiwan and Japan, respectively, aligning heavily with the Western Bloc. Nor were queer

peoples safe from discrimination or physical attacks by private citizens in the past or during the present.

Premodern Queer History

A large part of the confusion over Japan's current treatment of queer lifestyles, both on the academic and common level, comes from the fact that same-sex relationships were relatively common up until the end of the Tokugawa era. (Sato, 2019) In particular, same-sex relationships were a "highly conspicuous, central, institutionalized element of social life" for men of rank in a similar manner to the institutionalized homoeroticism found in Ancient Greece and Rome. (Leupp, 1995) Such a phenomenon even had a term during its time in Japan: *nanshoku*, deriving from the Chinese term *nanshe* which similarly refers to male-male relationships among the Chinese elite.

What is important to recognize about accepted queer behavior in both ancient Japan and China however is that it almost exclusively applied to men, as 'nan' in both *nanshoku* and *nanshe* suggests. That is, the structures of class and power were still very prevalent in homosexual relationships in both Japan and China. For example, "most of the earliest references to homosexuality in China refer to relationships between emperors or other rulers and their favorites." (Leupp, 1995) Like the practice of *pederastia* in ancient Greece, there is an evident tradition for male homosexual relationships to have an obvious imbalance of power with the romanticization of age gaps and the objectification of young men.

However, while the extent of homosexual relationships among Japanese commoners is largely a mystery, various regions of China have historical evidence that shows a normalization of male same-sex relationships. The region of Fujian, for example, formally recognized same-sex relationships between men. But in this arrangement, the elder partner would also provide his younger partner with a female bride once he came of age. (Leupp, 1995) This example of queer lifestyle illustrates that homosexual activity was only accepted on the basis that the men involved would still carry out their duty to continue family lineages. As such, it was still taboo to pursue an exclusive same-sex relationship in both China and Japan.

20th Century Westernization

There are little similarities to the imperial practices of the Qing dynasty and the post Tokugawa shogunate emperors of Japan. But one of the similarities may shed some light on the about-face East Asian societies treated homosexual relationships as it applied to men of rank. That is, both the later Qing dynasty and Meiji government clamped down on sex work and ended long traditions of institutionalized prostitution. This applied to both male and female sex workers, with the Qing even taking a more aggressive approach towards women. (Leupp, 1995) What this tells us is that shifts in attitudes towards casual romantic and sexual relationships can be seen as predicating, or at least intrinsically tied to, more explicit stances against queer lifestyles.

Going into the Cold War, Taiwan and Japan's governments both favored ultra-conservative social policies for various reasons. Nationalism is a central tenet to both the LDP and KMT, where much of East Asian nationalism is predicated on Confucian

principles. Conservatism also helped these parties stay in alignment with the United States, linking conservative values to capitalist ones. In particular, much of the leadership of the KMT– including Chiang Kai-Shek himself– were devout Christians. Meanwhile, one of the founding members of the LDP, Nobusuke Kishi, had deep ties to the Korean Unification Church cult, ties that were then inherited to Shinzo Abe despite the minimal presence of Christianity otherwise in Japan.

3| Contemporary Developments towards Marriage Equality

Introduction

‘Progress’ is one of the more frustrating concepts to reconcile in the realm of the social sciences. There is unbounded potential to the dimensions in which progress may expand in, and many lenses in which to measure it. As such, I have chosen a rather limited approach in which to measure the progress of queer rights in only two countries.

Taiwan² and Japan are two of three sovereign democracies in East Asia, the third being South Korea. The three countries share similar political and economic histories following the second World War: rapid growth in their economies as they shifted to advanced export industries managed heavily by the state. Furthermore, Taiwan and South Korea have had governments more authoritarian than democratic up until the turn of the century, while the Liberal Democratic Party (LDP) has had consistent control of the Diet since the 1960s. All three countries however, have held legitimate elections for the past twenty years and high levels of democratic participation.

While there are multiple potential ways in which same-sex marriage may be legalized, the action still stands as a fairly straightforward benchmark of progress towards ensuring equal rights are given to LGBT+ individuals. Furthermore, it is a fluid benchmark across and within regions. And that is not the case more so than in East Asia.

² For the purposes of this paper, I consider Taiwan a sovereign democracy as its government, which is responsive to and determined by its citizens, can make meaningful decisions regarding Taiwan’s domestic society and foreign policy. This should not be construed as the author taking a position on Taiwan’s relationship with the People’s Republic of China.

Rather, the continued status of marriage inequality in South Korea and Japan may be seen as odd given their status as advanced industrial democracies. Taiwan alone in the trio of East Asian democracies has the status of enshrining marriage equality, with the island's legislature acting in 2019 based on a court decision made earlier that year. Meanwhile, prefectural courts in Japan are currently hearing cases launched jointly by marriage equality advocates. Out of the six cases launched, three have been decided– to conflicting conclusions. Despite the legal reality in Japan, polling has consistently shown that the majority of Japanese citizens support national same-sex marriage. (*The Japan Times*, 2023) However, South Korea differs significantly from the other two countries in its religious makeup, with Christians making up a third of its population. Polling shows South Koreans as having significantly more negative attitudes not just towards marriage equality, but the mere public presence of queer individuals. (Rich, Dahmer, & Eliassen, 2020) As such, South Korea falls into a more Western political logic when it comes to the progress of queer rights and will not be considered in this paper.

As outlined, Taiwan and Japan are both functional democracies with generally positive attitudes towards queer individuals. Why has only Taiwan legalized same-sex marriage? Admittedly, this is not a novel question, not by a long shot. Japan is the only member of the G7 that has yet to ratify marriage equality, which has only increased scrutiny on its apparent tardiness towards social progress. However the discussion of queer rights as relevant to Japan largely treated itself as a domestic issue. With Taiwan's ratification of marriage equality in 2019 however, we have a country with which to compare Japan on an economic and political level, but also on a cultural level. Or rather, we have a country in which its culture is similar enough to Japan's that it is no longer the

obvious difference, as when comparing Japan to Western countries. As such, we can better analyze and isolate the many variables which may factor into a state's decision to legalize same-sex marriage.

Taiwan: From Zero to Hero

Cases to petition for formal recognition of same-sex partnership in Taiwan were first launched in the 1980s, mostly on the part of individual activists such as Chi Chia-Wei.³ (Ho, 2018) Those appeals were largely met with legal punishment, with queer behavior subject to laws regarding public and private conduct. However, large scale queer movements did not arise until the 1990s in Taiwan. Even then, the movement was largely focused on building communities and spaces for the queer population, with their efforts culminating in annual Pride celebrations in the capital of Taipei starting in 2002. (Wu, 2022) Besides a failed effort in 2006 to bring same-sex partnerships onto the legislative agenda, there was little movement at the level of formal political institutions towards queer equality. Even so, queer couples would still bring legal challenges to the court throughout the years, both couples of fully domestic origin and couples where one partner is a foreigner who are legally recognized as married elsewhere. Some of these couples would repeatedly seek legal recourse, including Chi Chia-Wei, who was one of the plaintiffs involved in the 2017 court battle that finally led to marriage equality.

Also beginning at the turn of the twenty-first century was a decades-long effort to fully democratize Taiwan and allow political competition against the KMT. These

³ Also known as Dayway Chief

democratization efforts have culminated in the electoral victories of the Democratic Progressive Party (DPP) in 2016 which gave them control of the executive and legislative branches of government. It is important to note that state-wide democratic reform was not the sole factor in the DPP's success. Rather, the party staked a strong identity as being socially progressive where before they sought a similarly centrist route like their main opponent, the KMT. Then presidential candidate Tsai Ing-Wen in particular went out of her way to promise the passage of marriage equality during her campaign, tying the issue to the DPP's broader stance supporting Taiwanese sovereignty. (Gerber, 2016)

Taiwanese sovereignty, as a concept, is distinct from the KMT's long time efforts to ensure the sovereignty of the Republic of China. Rather than the island of Taiwan being the bastion and refuge of Chinese Nationalism, the Taiwanese sovereignty movement also seeks to reclaim the island for the various communities who were living on the island before the KMT relocated there. The treatment of the indigenous Taiwanese is still a controversial subject, as the issue is heavily intertwined with the 'White Terror' era of KMT military rule that only ended in 1987.

Returning to the 2016 elections, the DPP's evolution as a party for Taiwanese sovereignty had the additional purpose of painting the KMT as merely a puppet for the CCP and that these two parties were now ideologically aligned. The DPP's efforts at coalition building then take on a greater meaning as many of the minority groups whose cause is now supported by the DPP are otherwise directly targeted by the mainland Chinese government. As such, the DPP was able to reclaim Taiwan's image and role as a refuge from authoritarianism in the region. This requires the DPP to then be responsive to its voter base and more importantly, to make good on its election promises, as evident by

the harsh dips of Tsai Ing-Wen's approval rating following her first year in office. (Lee, 2016; Kao, 2016; Wang & Lee, 2018)

As per the Taiwanese Constitution, the executive branch is also responsible for TCC appointments. As such, when another case petitioning for the recognition of same-sex couples came to the TCC in 2017, the court ruled in favor of full marriage equality, giving the legislature two years to put the order into law. This was not the route that queer activists had initially hoped, wanting instead for the legislature to address the topic when the DPP first took power in 2016. However, any potential constitutional amendments are subject to referendum questions on the annual national ballot. As such, a conservative group successfully submitted an appeal for the 2018 referendum to call into question same-sex marriage, and the majority of respondents to the ballot voted against marriage equality. The force and speed in which conservative groups mobilized came as part of a larger wake-up call for the DPP as they also suffered massive election losses. (BBC, 2018) The vote was overruled, however, for not meeting the threshold of participants. Still the DPP was on the fence up to the deadline on amending the Constitution to enshrine marriage equality, which was instituted in 2019. A policy that has yet to be challenged by the mainland. To this day, Taiwan still remains the only country in Asia to recognize marriage equality and as such has become seen as somewhat of a haven for the region.

Japan's Uncertain Path

In February 2023, Japanese Prime Minister Fumio Kishida swiftly dismissed one of his close aides due to the aide making insensitive comments about queer people and

subsequently causing a media firestorm. The move is quite unprecedented given the aide supposedly made the comments off record and journalists from major publications still felt compelled to unveil the gaffe. Such an event would not have happened a year ago.

The past year in Japan has wrought incredible political movement in the topic of queer rights, with various events coinciding and running in parallel with each other. Most significantly being Tokyo Prefecture's offering of a same-sex partnership system as multiple prefectural high courts decide cases regarding same-sex marriage. As such, queer issues in Japan have regularly cropped up to the attention of both the country and the wider world as of late.

Current efforts by activists to challenge the courts in Japan are significant because of the level of planning and organization that went into presenting a united front on a national level. Currently, the organization spearheading the legal efforts is Marriage for all Japan⁴, though the 2019 founding of the organization proper suggests that planning for the court challenges, which were initially lodged around that time, started earlier. Currently, five of the nation's 'High Courts', which are just below the Japanese Supreme Court, have made decisions on the Constitutionality of same-sex marriage: Osaka, Sapporo, Tokyo, Nagoya, and Fukuoka. Sapporo and Nagoya have ruled the banning of same-sex marriage unconstitutional, Osaka ruled that the ban was fully constitutional, while Tokyo and Fukuoka ruled that various articles were in a "unconstitutional state" but that they would not necessarily mandate marriage to be opened to same-sex couples.

⁴ Formally registered as Public Interest Association of Marriage For All Japan -Freedom Of Marriage For All

Japan Court Decisions: Constitutionality of Barring Same-Sex Marriage				
Location:	Date:	Article 24.1:	Article 24.2:	Article 14:
Sapporo	March, 2021	Constitutional	Constitutional	Unconstitutional
Osaka	June, 2022	Constitutional	Constitutional	Constitutional
Tokyo	November, 2022	Constitutional	“Unconstitutional State”	Constitutional
Nagoya	May, 2023	Constitutional	Unconstitutional	Unconstitutional
Fukuoka	June, 2023	Constitutional	“Unconstitutional State”	Constitutional

Table 1.1: Summary of recent Japanese High Court decisions (NHK, 2023)

Given the contradictory rulings, the cases will escalate to the Supreme Court of Japan. Even if the High Courts have urged the Supreme Court to prioritize the issue, any ruling will not happen for some number of years. As such, the courts have also suggested that legislative bodies at the national and local levels address the issue before the Supreme Court has to make a decision on Same-Sex marriage.

Another aspect of contemporary queer political history in Japan is the widespread dissemination of local same-sex partnership alternatives and forms of recognition beginning with the Shibuya and Setagaya wards of Tokyo in 2015. As of 2023, ten prefectures have implemented a same-sex partnership system, with many more cities and towns across Japan who have their own ordinances as well. As such, around sixty-five percent of the Japanese population have available to them a same-sex partnership system. (Shibuya City/NPO Nijiro Diversity, 2023) The vast majority of this activity has

happened only within the past three years, and through the effort of queer activism groups. (Marriage for all Japan, 2023)

While there have been attempts by opposition parties and representatives to bring the issue of marriage equality to the Diet over the years, the LDP and parties within its majority coalitions have broadly dismissed these efforts. Rather, LGBT groups such as those involved in local level politics and Marriage for all Japan have explicitly sought strategies to further queer progress without mass legislative support, with the court effort intended to eventually force the Diet into action.

Like in Taiwan, the plaintiffs seeking marriage equality through legal action represent couples that are either fully domestic or have a partner that is of foreign status where the couple's marriage is recognized in the foreign partner's country of origin. I mention this to highlight one of the ways that the dissemination of marriage equality elsewhere has impacted the battles here in Taiwan and Japan and the sort of practical matters at stake for queer couples even if they have access to a local level partnership alternative. As these couples and children both current and potential that they have are also blocked in methods of obtaining citizenship and residency that are available to heterosexual couples. Queer rights advocacy group Niji Bridge estimates that more than a hundred thousand couples will be able to immediately marry if same-sex marriage is legalized, while only a little over three thousand couples are registered in the totality of partnership systems provided by local governments. Such a gap shows the inadequacies of any partnership system that a local government may create as compared to constitutionally enshrined marriage equality.

4| Religion and Belief

Introduction

Given the apparent roots of homophobia worldwide, it stands to reason that the strength of values rooted in religious and traditional ideologies are the prime determinant in the treatment of queer individuals in any given society. Unlike critiques for misogyny or racism however, there is not a clear connection that homophobia exists to allow the exploitation of queer peoples in the way that systems of misogyny and racism subjugate women and people of color into second class citizenship. As such, efforts to reach equality for LGBT peoples are largely characterized by undoing claims and prevalent notions that queer existence and lifestyle are harmful to both individuals and society writ large. Queer liberation focuses on cultural and political obstacles that impede acceptance since appeal for supporting queer causes does not bear tangible nor personal benefits for the non-queer majority. In other words, queer acceptance is achieved through demonstrating that there are no salient reasons as to why one might be opposed to granting queer peoples the right to truthfully express themselves like the cis and heterosexual majority, no matter how well meaning these reasons present themselves as.

That is not to say homophobia does not lead to the exploitation of queer peoples, especially when intersecting with issues of misogyny and racism. Rather there are preconceptions that queer identity is something that an individual actively chooses to express unlike biological sex and skin tone. Thus, in this vein of logic, queerness is an act of transgression in the way that public disorder is an act of transgression. Furthermore, queer identity is not an enforced social construct like race or gender. Instead queer

existence and expression in particular challenges traditional views of gender and gender roles. And it is through this that the main obstacles to marriage equality that existed in Taiwan and currently still in Japan have settled themselves. Queer identity may not be seen as a threat in Eastern society, but prioritizing queer expression over properly following one's familial role is.

Differentiating Homophobias

Many academic perceptions over the manifestations of homophobia and oppression towards queer minorities in the contemporary era are based around Christian notions and doctrines regarding the matter. Which is to say, we are accustomed to treating homophobia as violently oppressive, because that is how Christian society treated queer lifestyles. (Rich, Dahmer, & Eliassen, 2020) However, Confucianism is the spiritual ideology that permeates every level of society in both Taiwan and Japan, rather than Christianity.

While Confucianism generally frowns upon individuals partaking in same-sex relationships, it does not brand such action as a 'sin' condemnable by however the pious believe. Rather, Confucian strictures stress the importance of family, lineage, and strict gender roles. An orderly family is emblematic of an orderly state, and vice versa. (Hou, 2019; Lee & Lin, 2020) Returning to Japan's queer history, same-sex relationships were accepted as long as they were either non monogamous or noncommittal, so the promise of continuing one's bloodline remained.

Furthermore, due to the centrality of the family unit in determining how acceptable lifestyles are under Confucianism, transgender and gender non-conforming

individuals were treated in a similar light. However, while ‘queer minorities’ are treated as one cultural bloc in the West, due to the fact that these individuals were universally rejected by society, ‘gay’ and ‘transgender’ issues have had separate political paths towards progress in East Asia. Rather, Japan and Taiwan arguably have more progressive policies on gender-affirming care than many Western advanced industrial democracies, with gender reassignment surgery being particularly accessible.

Buddhism, on the other hand, is adverse to romantic and sexual relationships in general given the core belief that enlightenment can only be gained from relinquishing earthly desires. There are clear condemnations to homosexual behavior among the clergy in Chinese texts pertaining to the original scriptures Pure Land sect of Buddhism, which became the dominant belief in China, Japan, and Korea. In reality, Buddhist monasteries in Japan largely institutionalized same sex relationships among the male clergy. (Leupp, 1995) Furthermore, Buddhism has relatively relaxed expectations of lay followers, as the cycle of reincarnation largely leads to mundane outcomes by design rather than the immediate fear of eternal punishment that is prevalent in Christianity.

Finally, Taoism is almost entirely absent of homophobic belief. Rather, the belief system focuses on a much more naturalistic interpretation of the world with their theories on elemental energies guiding the basic principles of living organisms. Various ancient Chinese Taoist scholars even went so far as to advocate for regular homosexual intercourse—at least among men— to maintain masculine energy. (Leupp, 1995) However, Taoism’s influence on stately matters remains rather muted in comparison to Buddhism and Confucianism in East Asia.

Cultural explanations between Taiwan and Japan that may lead to diverging outcomes in marriage equality otherwise fall short. Firstly, a number of Central and South American countries, which are known to have majority Catholic populations, have legalized same-sex marriage. As such, the factor that religion plays in determining queer rights is thrown into flux given the Catholicism's stance on queer matters and the comparatively devout communities of Latin America. Queer communities and spaces have also been commonplace in Japan's major metropolises for decades.

Contemporary Weaponization of Indigenous Beliefs

One of the more compelling arguments that ties political progress to cultural factors actually points to the higher threshold of queer acceptance in East Asian societies. Specifically, because people did not have to reconcile regular acts of mass violence towards queer peoples like in the west, and because queer peoples had marginal freedom to pursue their desired lifestyles, political action towards full equality has been deemed unnecessary. (Shin, 2017; Maree, 2004) Such arguments permeate discussions on Japan's queer politics in particular, getting wrapped up in broader conversations around Japan's general marriage and birth rate 'crises.' However, the aforementioned argument fails to explain why Taiwan's queer population was both politically active and successful despite the country similarly seeing birth rates rapidly decline, and obfuscates the reality and presence of queer advocacy in Japan as well which dates back to the 1970s. (Lunsing, 1999)

The revival of Shintoism in modern Japan has its roots in the Meiji restoration. Along with diminishing the influence of Buddhist temples due to their ties with the

Tokugawa shogunate, the imperial government used Shinto as their official state religion to foster an intense sense of nationalism and reverence of the emperor. While the use of a state religion ended with the second World War, Shinto groups still remain a rallying point for conservative politics. Official groups of the religion, such as the Shinto Association of Spiritual Leadership, have publicly voiced their opposition to marriage equality. However, their intended audience is likely not the wider populace, but more moderate representatives in the conservative coalition. (NY Times, 2023) Japanese electoral politics for legislative seats often center around securing votes from various interest groups rather than broad appeals to the voter body writ-large. As such, endorsements from Shinto groups are an important asset for an individual's career trajectory within conservative parties.

Similarly in Taiwan, the elite circles of the KMT have been disproportionately Christian in comparison to the rest of the island's population. Chiang Kai-Shek famously converted to Christianity in his adulthood, synergizing its beliefs with traditional Taoist and Confucianist thought to build his vision of modern China. The interest group responsible for launching the ballot referendum against marriage equality in Taiwan following the 2017 court decision was a Christian organization. However, a larger alliance was made between Christians and 'traditional' Taoist practitioners by emphasizing the threat that marriage equality might have on gender roles and the family unit.

The Family Unit Over All Else

The family is a heavily regulated institution in Japan and Taiwan, with the importance that family registries serve in day to day life. As a matter of practicality however in Japan, there are some alternatives to adding an individual to a family registry outside of marriage and birth given the difficulties a Japanese citizen faces if they do not have any formally registered familial relations. The most relevant of these accommodations to queer couples are adult adoptions, which allow for a few of the privileges granted to married couples as well as legal cohabitation. (Tamagawa, 2015; Maree, 2004) But adult adoptions are far from equivalent to the legal institution of marriage as far as state recognition of partnership is concerned, barring queer couples from starting their own families as well as causing immigration issues if one of the partners is foreign, among other issues.

Women are also unfairly treated vis a vis family registries in both Japan and Taiwan. As such, feminist activists have advocated for the dissolution of marriage as a legal institution in these countries and expressed disappointment that Taiwan's legalization of same-sex marriage could reinforce traditional notions of family. (Chen, 2019; Chin, 2020) While some may view same-sex relations more favorably as they conform to traditional notions of monogamous relationships (Hou, 2019; Lee & Lin, 2020), data collected after marriage equality was instituted still suggests that most who openly sport homophobic views see the legalization of same-sex marriage as eroding the institution of marriage. (Lin et. al., 2021; Rich, Dahmer, & Brueggemann, 2022)

As mentioned before, conservative opinion against queer identity in Asia is more related to the issue that queer relationships pose to the Confucian state-family structure rather than viewing queer identity as problematic in and of itself. With Japan's marriage and family policies more disfavorable to women than was the case in Taiwan, instituting marriage equality would necessitate equal treatment between male-male, female-female, and male-female partnerships and as such would mean nullifying previous requirements for a woman to be registered to the man's family registry. At least at the level of Japanese conservative leadership, there is still concern over recognition of same-sex partnerships as "affect[ing] the structure of family life in Japan" in the words of current PM Fumio Kishida. (The Japan Times, 2023) given their concern over declining birthrates but simultaneous refusal to open the country up to immigration. But the rapid decline in birth and marriage rates mean queer people likely have little impact on these metrics and will continue to have little impact even if they are granted equality in expression.

5| Global Pressures

Introduction

By and large, queer political progress globally has been characterized as large waves through Europe and the Americas. Asia is seen as ‘stagnant’ in comparison. As noted by Andrew R. Flores and Andrew Park in the Williams Institute’s 2018 report on Socio-Political trends in LGBT acceptance worldwide; while there are different paths taken to improve queer lives, these paths lead to “fuller legal inclusion” in other areas of public and private life. Once a country takes a step in accepting queer minorities, other steps become much more feasible—both domestically and in the wider region. This is part of a larger project by the institute to track national levels of queer acceptance worldwide, which has found that there is a broad pattern of ‘polarization’ in which countries’ acceptance levels over time follow linear paths. Momentum and positive feedback loops are evident as explanations for these diverging paths. Attitudes follow a behavior of entrenching and doubling down.

Are Prosperity and Liberal Values Interconnected?

As part of their wider efforts to legalize same-sex marriage in Japan, Marriage for All Japan has emphasized corporate allyship with their ‘Business for Marriage Equality’ campaign. And this is no small operation. Rather, major Japanese and transnational corporations have signed on to the cause, emphasis on the transnational. While there are notable Japanese companies supporting the organization, such as the Mitsubishi Group,

Suntory, and Sony, as many of the companies listed– and especially the more prominent ones– are Western businesses such as Coca Cola, Morgan Stanley, and Bayer.

Along with the show of public support by titans of various industries, the queer organizations majorly involved in the current effort for marriage equality have published their own report on the likely economic benefits same-sex marriage will bring Japan in November of 2020. As mentioned before, Japan’s parallel stagnation in population and economic growth has become a potent mix of concern for the ruling LDP party. With ‘Abenomics’ not panning out, the LDP will have to continue with their search for a panacea to Japan’s economic woes.

The aforementioned report states that on average the other OECD countries– many of which have instituted marriage equality– enjoy a GDP per capita that is twenty-five percent better than Japan’s. Combined with the perennial pressure from other G7 countries over Japan being the only member having not legalized same-sex marriage, there is clearly a relationship being drawn between Japan’s inability to continue their economic growth as a country and their socio-cultural stagnancy. If the DPP can be characterized to one concern as well, it would be maintaining Taiwan’s sovereignty despite the One China policy⁵. As such, the party’s progressive stance on social issues is intrinsically linked to the broader ethos in the island of standing apart from China and maintaining liberal values as to maintain support from Western allies. And the Japanese government is also no stranger to investing much of their energy into military and

⁵ Referring to the annexation of the Republic of China into the People’s Republic of China, and international recognition of the annexation, including by the U.S.

diplomatic ties with the West. So why have the LDP and their coalition remain so committed to cultural conservatism?

While being an advanced industrial democracy has not guaranteed basic rights and freedoms to queer peoples among any of the countries that hold this status, there are certainly layers to foreign expectations for Taiwan, Japan, and even South Korea to an extent to 'catch up' with the Liberal West. However, this should not detract from the fact that the fight for queer equality in East Asia is merely intended to assuage Western governments and businesses. As with everywhere else, queer peoples have existed indigenously in East Asia, if under labels different than conventional Western understandings. But the oppression they face today is still very much real and salient without the need to justify whatever added value is added to society by queer acceptance other than the restoration of basic dignity. And it is ostensibly the question of whether queer peoples are deserving of dignity on par with the cisgender heterosexual majority that weighs heaviest on the minds of court judges and politicians still in deciding state treatment of queer peoples.

Different Fish in the Pond

It is in discussion of potential foreign factors influencing the outcome of marriage equality that Taiwan's precarious status as a sovereign state as opposed to Japan is perhaps at its most salient. In a sense, Taiwan has less to lose and more to gain internationally by instituting marriage equality, showing the value of liberal democracy in the region to Western powers by being at the forefront of progressive social policy. Furthermore, the presence of marriage equality provides another soft, if minor, reason for

the United States to maintain their support of Taiwan, as full annexation of the island would almost certainly result in the rolling back of marriage equality.

On the other hand, Japan's primary focus in foreign relations is how to remain a world power without a military. While pursuing the path of economic prosperity and takeover of international markets of various industries was a successful strategy during the Cold War, the postwar economic miracle has very much worn off since the bubble burst in the late 1980s. As such, the LDP has entrenched themselves in nationalistic policies— that somehow Japan's unique character as a nation is what makes it great and justifies its position as a world power. Furthermore, Japan has been able to find common ground through socially conservative values with other countries in the region such as South Korea which they leverage for other purposes such as the avoidance of paying wartime reparations.

However, Japan's tardiness in implementing marriage equality has become an increasing point of friction between the country and their most important ally, the United States. Ahead of the recent G7 Summit held in the country, ambassador Rahm Emmanuel criticized Japan for being the only country in the group who had yet to legalize same-sex marriage. (Immanuel, R., 2023) Such remarks were not a unique event either, as he and other American diplomats have made similar comments wishing for improvements towards queer rights in the years past. What has changed is the tone of language becoming more direct in expressing disappointment.

6| Institutions at Play

Introduction

While predominant socio-cultural values are important contributors to the status and treatment of queer people writ large, they cannot satisfactorily explain current outcomes of queer politics in East Asia nor the wider world. The aim of this chapter is to set a thorough understanding of the formal institutions, processes, and systems that Taiwan and Japan have for policy making and how the construction of these two political structures have guided and impeded the path towards marriage equality.

Of main concern is measuring the autonomy and accountability of institutions which are vested with the power to bring about marriage equality, those institutions being the courts and the legislature. I do not only mean autonomy and accountability with regards to citizens, but also to other institutions in the way of ‘checks and balances.’ Autonomous institutions of note with regards to marriage equality are the Taiwanese Constitutional Court and local governments in Japan, both of which acted separately from the national legislature. Meanwhile, an example of accountability would be the controlled system of national referendum in Taiwan. What these measures more plainly speak to is the relationships of institutions with each other and the people they ostensibly serve. Through these lenses we can better ascertain the quality of and access to democratic political change in these two countries.

Also relevant is how the institutional differences between Japan and Taiwan have led to either encourage or hamper political competition and diversity. The LDP has been able to maintain power in Japan by leveraging the role established political parties play as

an institution itself in a parliamentary system. Meanwhile, protocols have been placed in Taiwan's institutions to increase opportunities of political discourse, hampering unilateral governance.

Legislative Institutions

As a brief overview, Japan has a bicameral parliamentary system—the Diet— while Taiwan has a mixed system with a Unicameral Congress and a separate office of the President. Legislatures of both countries are host to a number of political parties. However, Taiwan's two dominant—and competing— parties are the DPP and the KMT. On the other hand, the LDP has been able to maintain power in Japan for decades—save for brief periods in the 2000s— through coalition politics.

The LDP's multi-generational hold of the Japanese government in particular demands some scrutiny. Although elections for a seat on the Diet is routinely competitive, by and large, competition is often between multiple LDP candidates, rather than between parties. Furthermore, the LDP has been able to hold control of a Parliamentary system. In most democratic Parliamentary arrangements, including Japan's, nearly all governing power lies in the legislative branch. Typically, this promotes ideological diversity and forces party competition to generate productive outcomes through majority coalitions. While the Japanese Diet does host a diverse array of parties, the LDP has been able to govern largely undisputedly as leader of their center-right coalition with the Komeito party. A more direct issue that the LDP's longtime control of parliament poses to marriage equality, however, is in the position of the Japanese Courts relative to the Diet. Like most parliamentary systems, the courts act in

line with or otherwise defer politically volatile issues to the legislative body, acting closer to one of the legislature's arms than an independent institution.

While Japanese democratic expression at the national level is funneled solely into the Diet, Taiwan instead has two levels of central government, each with multiple branches. Officially, the democratically elected President of Taiwan holds the most power amongst the branches. However, the five 'supporting' branches of government known as 'Yuan' are endowed with similar checks and balances against the presidency and each other that can be found in many other Presidential systems.

Despite the scale of power engineered in the President's favor, as they determine court appointments, the balancing mechanisms proved particularly robust and complex in the case of Taiwan's path to marriage equality. Following the initial Constitutional Court mandate to legalize same-sex marriage by Spring of 2019, the responsibility fell to the Legislature as it had the power to amend the country's Constitution. However, any potential amendments are allowed to be partially determined through a national referendum so long as a cause can muster enough signatures or be approved through relevant government committees. As such, the question of both marriage equality and potential measures against LGBT discrimination appeared on the 2018 election ballot. To the confusion of many, including the legislature, the vote for marriage equality failed while the measure to support broader LGBT equality passed.

Although marriage equality failed in a simple yes-no vote on the national ballot, the Legislature was able to overturn the result of the particular referendum question as it did not meet the total vote count threshold to be immediately binding. Furthermore, the Legislative Branch does not have explicit authority over the Judicial Branch outside of

confirming appointments, nor does it have the ability to ignore court mandates. (Sung, Hsu, & Wang, 2022) Thus marriage equality became enshrined in the Taiwanese Constitution by the legislative Yuan on the exact deadline set by the 2017 TCC decision having passed through numerous hoops to get there.

Unlike Taiwan, there are different local levels of government in Japan that can and have acted independently from the Diet in a salient manner. In particular, many prefectures have already created legislation to recognize same-sex couples to varying degrees, covering a majority of the Japanese population. (*The Economist*, 2015; *Takao*, 2017; *Japan Times*, 2016) As of 2023, ten prefectures have implemented a same-sex partnership system, with many more cities and towns across Japan who have their own ordinances as well. As such, around sixty-five percent of the Japanese population have available to them a same-sex partnership system. (Shibuya City/NPO Nijiro Diversity, 2023) The vast majority of this activity has happened only within the past three years, and through the effort of queer activism groups. (Marriage for all Japan, 2023) There is some debate as to whether these prefectural measures, along with other ‘bypasses’ to family policy, actively table efforts to institute nationwide marriage equality. (Maree, 2004; Chung, 2021) However, any measure created and passed by local governments is not legally or realistically equivalent to a Constitutionally guaranteed right to same-sex marriage, something that is becoming increasingly clear as even more swaths of the country launch their own partnership systems such as Tokyo in November 2022.

Towards this point, queer rights advocacy group Niji Bridge estimates that more than a hundred thousand couples will be able to immediately marry if same-sex marriage is legalized, while only a little over three thousand couples are registered in the totality of

partnership systems provided by local governments. And many of these prefectures did not create such legislation simply out of goodwill or because they are progressive strongholds, but they did so because of demands by activists and citizens. Just as Taiwan's highest court and ruling party did not suddenly decide to support queer issues. Rather, there has been decades of work and build-up to current progress for queer people. Perhaps not at the visibility or efficacy as experienced in the West, but there nonetheless.

Judicial Institutions

Of obvious note in comparing Japan and Taiwan, in legal matters and otherwise, is the differences of scale between the two nations. Japan boasts a hundred million more people than Taiwan, with the respective populations of one hundred and twenty six million versus twenty three million as of 2020. Such a difference in population necessitates different scoping and stratification of the judicial systems in the two countries. Japan's court system is split into five levels, with only the Supreme Court having national reach as the highest level of the judiciary. Meanwhile, Taiwan's court system has three levels that are split by handling common law versus administrative matters. Still, the question of same-sex marriage has gone through every level of both Taiwan and Japan's court systems before.

Beyond the differences of scale and efficiency of the two courts is the actual content of the cases lodged thus far in both Taiwan and Japan and the nature of each country's court system. International legal shifts towards marriage equality were specifically mentioned in the reasoning by the TCC in their own legalization of same-sex marriage. (Hsu, 2022; Tang, Khor, & Chen, 2020) However, the Japanese court system is

more insular. Many court documents still use the traditional imperial dating system, while court appointments are determined through seniority. (West, 2011) The Japanese courts are autonomous from citizens but accountable to the legislature. And as it stands, the legislature means the LDP led government.

Also of question is the textual infallibility of Taiwan and Japan's constitutions. Activists in both Taiwan and Japan have focused legal arguments to specific clauses of their Constitutions. In the case of Taiwan, the argument was made that the Constitutional right to basic dignity was in conflict with outdated language pertaining to the right of marriage as between man and woman. (Hsu, 2022; Lee & Lin, 2020; Hou, 2019) Meanwhile, recent cases in Japan are challenging Article 24 of the Constitution, which specifically requires the "consent of both sexes" for a marriage to be recognized under Japanese law, with the right of equality for Japanese citizens. As such, the fate of marriage equality is perhaps ensconced in the customs of legal interpretation between Japan and Taiwan as well as a judge's regard for those customs, more than anything else.

However, it is rather unprecedented for the prefectural courts in Japan to have addressed cases regarding same-sex marriage in tandem with each other. And to have come to conflicting resolutions, no less, thus forcing the supreme court to eventually address the issue. This gives the LDP at least a few years to get ahead of the issue themselves. And perhaps this is the intention of an otherwise ancillary branch of government. Furthermore, the courts are also open to non-citizens and other individuals who have not been granted the right to formally participate in electoral politics. This has been relevant in both Japan and Taiwan, as a number of plaintiffs are foreigners. Not having a partnership recognized runs into obvious issues regarding residency and

immigration, and it is only an issue that more will experience as time passes and same-sex marriage becomes more widely accepted globally.

Yet a number of countries have legalized same-sex marriage primarily through their legislative branches or national referendum rather than through their court systems. Most of the countries that have achieved marriage equality through democratic processes lie in Western Europe, where many of these nations were relatively accepting of queer identity in the follow up to the formal legalization of same-sex marriage as is the ongoing case with Japan. Despite the DPP arguably using the TCC to make the more controversial proposals of their platform such as marriage equality a reality, the issue was still salient to elected representatives before the initial court decision. (Rich, 2017) Given all this, the possibility that Taiwan's legislature would have passed a marriage equality bill even without court intervention still stands.

Filling out the Triumvirate

If I am to talk about major governing institutions, I would be remiss in not mentioning the presence of the emperor in Japan and mainland China's control of Taiwan. The Japanese emperor, currently Naruhito of the Reiwa era, has been explicitly stripped of formal political power by the country's Constitution, though the role of the emperor still carries cultural and religious significance. Even so, the post-war emperors of Japan have refrained from major political statements aside from the refusal to visit Yasukuni shrine since the late 1970s. (Reuters, 2021)

The Chinese Communist Party (CCP) on the other hand, has a clear stance on marriage equality. There is no form of legal recognition for same-sex partnerships, and

treatment of LGBT peoples by the mainland government can be broadly described as “no approval; no disapproval; no promotion.” (Chen, 2018) However, the DPP has based much of its platform on maintaining—increasing, even— Taiwanese sovereignty. As such, marriage equality in Taiwan presents a clear political and cultural stance against the Communist party line. Yet, the CCP has not condemned Taiwan’s decision to fully recognize same-sex marriage— at least on the grounds of the topic itself. Still, restrictions against freedom of speech and political expression still pose as foremost obstacles for mainland LGBT activists.

Still, there is something to be gleaned from the proximity Taiwan has to current authoritarianism, and particularly the DPP’s success in pushing for progressive policies as clear rejection of said authoritarian control rather than the KMT’s insistence on battling communism. In that sense, bringing about marriage equality can be seen more as establishing yet another point of national pride rather than undoing a point of shame.

7| Measuring Democracy

Introduction

Not all democracies are created equally. There are infinite ways to configure, interpret, and distribute the political power of a single citizen's 'vote.' And yet, there is no contemporary democratic state that has succeeded in equally distributing power amongst all of its citizens. Rather, it has proven extraordinarily hard to endow the lowest common denominator of citizens the voting power to have salient policy influence over their own lives. It is a much more common occurrence that a democracy finds itself pulled towards the siren song of more autocratic governance because interpreting public will is more often than not a frustratingly slow and messy process. So in the infinite ways to configure, interpret, and distribute political power in a democratic state, the main goal in statecraft is to strike a balance between the demands of governance and the needs of political determination and expression.

Different Paths of Democratic Development

Broadly speaking, Asian democracies have been characterized as leaning towards more 'pragmatic' interpretations of democratic rule— some might even say 'technocratic.' These democracies have imbued either presidential or parliamentary institutions with insulation from democratic accountability for the purpose of having a more efficient government. Neither Taiwan or Japan have gone so far as to completely divorce their regime from the decisions of free and fair elections in recent decades, but these states are far from being 'perfect' as a democracy.

Japan's Constitution has not been amended since its establishment by American occupiers in 1947. Combined with the many decades that the LDP has been in power following the institution of the new government, Japan can easily be considered one of the most stable democracies to have ever existed.

Despite the postwar political engineering done by the United States, Japan's political system still makes use of many institutions minted during the Meiji restoration, such as the Diet. And the purpose of the Meiji restoration was not to liberalize Japan. Instead it was to modernize it and give the State of Japan the mechanisms in which to drive the economy and military to be on par with the rest and realize the country's own imperial ambitions, thus providing the first order of change for the new peacetime Constitution following World War II. The liberalization of Japan's Constitution and democratization of its institutions served to keep power out of the hands of the Emperor and military elite. And with the Cold War, the United States reinstated that very cadre of wartime leaders such as Nobusuke Kishi by supporting the LDP's rise to power.

Meanwhile, the Taiwanese state has gone through multiple restructurings since 1987, when martial law was first lifted from the island by the long ruling KMT government. Taiwan's process of democratization was not easy, either. Instead it is the effort of continued mass movements and widespread political dissidence whereas the last instance of large scale political unrest in Japan would be the student protests against the renewal of the Security Treaty between Japan and the United States during the 1960s.

Taiwan's path to marriage equality was quite tenuous however, passing through many points of failure despite the brevity of its journey. Hemming and hawing can be an apt descriptor of the DPP controlled legislature's response to the 2017 court mandate to

marriage equality. The Japanese legislature would not need a National Referendum nor the court's approval to bring about marriage equality. And yet, the fact that Taiwan has made concerted efforts towards democratic reform in the 21st century looms large in my mind. Stability does not necessarily signal perfection, just as change may require guide rails to be properly directed.

Gray Zones: Examining the Junctions of Democracy and Autocracy

Instead we must consider on whom political change hinges upon and to whom they are accountable towards. Are a country's Supreme Court judges elected or appointed? Do they serve limited terms or for the remainder of their lives? Can they be otherwise removed? Currently, the LDP has democratically accumulated political power to which the party can then distribute to autocratic institutions such as the judiciary. Accountability is further diluted through the use of coalition politics. Meanwhile, there is a clear sense of competition between the DPP and KMT still in Taiwan and no assurance that electoral victory in the legislature or executive position means outright control of the government.

That is not to say the LDP will not be swayed to support marriage equality anytime soon. In fact, the party is often not given enough credit for responding to criticisms and claims lodged against it by the Japanese people writ large. The swift action being taken against the Unification Church's presence and abilities to operate in the country following Abe Shinzo's assassination is a very recent and very potent example of the LDP's willingness to make amends to the Japanese public. A recent media firestorm

centering on a political aide to the current Prime Minister, Fumio Kishida, aligning with the upcoming G20 Summit has pushed the LDP to resuscitate a bill that has measures to recognize LGBT identities and discourage discrimination, though the explicit guarantees and legal backing of those measures are rather milquetoast. However, it is important to remember that Taiwan's path to marriage equality is rather unconventional in that the country had not passed any previous measures in support of same-sex partnerships such as decriminalization of same-sex relations.

But when more than sixty percent of a nation's people support any political hypothetical that is not political reality, it may mean something is being lost in Democratic translation. If marriage equality is to become a reality in Japan within the decade, it will have to be through the Diet and most likely spearheaded by the LDP. Where marriage equality successfully snaked through multiple government institutions and democratic practices in Taiwan, the effort keeps circling back to its logical starting point in Japan. The issue is that the LDP has a lower threshold of effort needed to maintain power and thus a lower level of responsiveness than what is typically required of a political party. The highly organized and hierarchical structure of the LDP, along with parliamentary politics, also encourages party discipline amongst elected representatives. As such there is a lack of motivation for representatives to appeal to national social issues and little accountability for decisions that do not directly affect their districts.

Every step in the policy making process can be made and unmade: democratically and autocratically. Democracy does not cap off when the election poll closes, nor when a corrupt politician is successfully impeached and removed from office. Adhering to

democratic governance is exhaustive. However without diligence there is no capability for an ostensibly democratic state to enforce civil rights and liberties.

More than the Majority

A democratic state that properly responds to its population, then, is made of many moving parts. How then are we to gauge how compatible those parts are with each other, and if they are working as intended? It should be apparent by now that the main difference between Taiwanese and Japanese politics is the party system. And in analyzing state institutions as well as socio-cultural phenomena shared by and unique to each of these countries, I believe that the state of party competition has very much contributed to the diverging outcomes of marriage equality between these countries.

Without salient competition between parties certain mechanics to ensure accountability will often go moot. Parties that are comfortably in power will be more beholden to internal interest groups due to the increased pressure for representatives affiliated with the party to conform, as is the case with the LDP. Furthermore, the internalization of politics allows for obfuscation as to who has influence over the party's platform.

All of this makes it more difficult to have a political party act on issues pertaining to minority groups as major shifts of platform are steered by a few individuals guiding the party rather than representative response to voters. Additionally, individuals may feel disenfranchised to the point that they need to take radical action even if there are free and fair elections and full enforcement of civic rights. Shinzo Abe's assassination serves as a potent example, as the perpetrator believed the longtime Prime Minister was directly

responsible for the Unification Church's presence in Japan. And although the conservative coalition has since taken decisive action to distance themselves from the Unification Church.

More importantly, the voting power of every citizen only matters if parties feel the need to win over every citizens' vote. In other words, it is competition that increases enfranchisement of minority groups. Parties are incentivized to broaden the horizon of their political platforms to more 'fringe' issues to capture voters beyond those that fit the description of the 'average' citizen. President Tsai Ing Wen helped propel herself and the DPP to victory by taking proactive stances on marriage equality and other issues relating to other groups disregarded by the KMT such as the indigenous Taiwanese population. Having salient competition between political parties ultimately leads to a democratic society having to regularly reconsider what the 'majority' population truly is, and broadens the perception of national identity beyond the dictates of a perceived history.

8| Conclusion

A concerning phenomenon happening in democracies worldwide is the weaponization of ‘identity politics.’ Particularly the idea that certain minority groups have monopolized the limited attention and resources of the democratic state for their benefit and to the detriment of the ‘nation.’ Democratic backsliding is then justified as reinstituting equitable treatment, as progressive reforms have unfairly been taken advantage of by groups seeking the improved treatment based on their ‘identity.’ It is not solely conservative movements that look down upon ‘identity politics’ either. Some Marxists and far-left movements hold the idea that all social issues are manufactured diversions to keep political activity from focusing on class equality. That identity politics monopolizes the limited attention and resources of the democratic state. What is a through line in this political spectrum is the idea of democratic scarcity, that an individual is limited in the ways they can legitimately make claims on policy and state treatment towards their rights because they are directly competing with the interests of other citizens.

What I have sought to unveil in studying outcomes in marriage equality between Taiwan and Japan is the artificiality of scarcity and competition when it applies to democracy and gaining the attention of the state. Citizens are expected to exhaust whatever avenues are available to them to make change before they are to consider how to change the system itself to better serve the people. And this is an idea particularly resonant in advanced industrial democracies, that their democratic institutions are well developed and balanced.

Practically, this phenomenon is most articulated in the function of political parties in democratic societies as they serve as the main bridge between citizen and institution. The sturdiness of the bridge is directly affected by a political party's need to perform electorally. If a party only requires low performance standards to gain a majority, voters will become apathetic to legitimate political processes. Even democracies with multiple-party systems are susceptible to political apathy, as evidenced by low voter turnouts in the United States.

Taiwan's development departs from Japan in that the island's regime was authoritarian for most of the post war era, only democratizing beginning in the 1990s and into the 2000s, while Japan established a remarkably stable democratic regime during American Occupation partially due to the retaining of many Meiji era institutions such as the Diet. But a stable democratic infrastructure is not necessarily self-sustaining nor generative of its own reforms.

The comparatively recent memory of authoritarian one party rule in Taiwan has directly informed concerted democratization efforts despite its annexation into the People's Republic of China. Efforts which explicitly incorporate individual voting power and dilute the potential of one party rule. These reforms were not made with only minority rights in mind, but focused on empowering the population writ large. Rather, party reform has empowered the people of Taiwan to embrace identities previously targeted by the KMT, such as being of the indigenous population, and thus achieve self-actualization.

Another reason I found interest in comparing outcomes in marriage equality in Japan and Taiwan is interrogating the primacy of 'cultural values' to determine the

outcomes and treatment of queer peoples. Simply put, I have been unconvinced of arguments that paint Asian culture as monolithically more conservative than the West and thus being slow on matters of queer rights. If such arguments were true then any institutional reform would be powerless to bring about progress. More so than that, such notions obscure the real social barriers towards acceptance of queer peoples such as entrenched resistance to gender equality in both Taiwan and Japan. Culture, in the East and West, is not so one dimensional nor slow to change. Rather, democratic institutions prove themselves to be effective when they reflect our complex cultural realities.

The fight for queer equality has never been more pronounced worldwide. More than a battle of traditions, values, or individual interests, it is a fight over institutional complacency and apathy. Ultimately, I hope to encourage organizations and individuals to continue the hard battles for equality and bettering the human condition in highlighting the role that a broad and versatile arrangement of democratic institutions can play in progressing minority rights. Towards that end, pushing for democratic reforms that take away tools and institutions which parties may take advantage of to insulate their political power such as the judiciary could be a good place to start. That instead of butting one's head against a wall, effort might be saved in stepping back to survey the structure as a whole and assessing whether remodeling is needed.

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