

# FOCUS

## Asia-Pacific



Newsletter of the Asia-Pacific Human Rights Information Center (HURIGHTS OSAKA)

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### Editorial

## Impact on the Ground

The universal periodic review (UPR) of the Human Rights Council provides United Nations member-states with the opportunity to show to the whole world how much effort at the national level has been made in pursuit of human rights promotion, protection and realization.

There is no better proof of achievement of this pursuit than concrete, on-the-ground examples of positive impact of the laws, mechanisms and projects on human rights. There is no better argument for the fulfillment of human rights commitments than the showing of minimized violation, and maximized protection and realization, of human rights.

The records of UPR do not lack statements pointing out major concerns in the human rights situation of the member-states whose reports had been reviewed. There is also no lack of recommendations on how these concerns can be addressed. The question remains on how far the member-states who underwent the UPR had taken new, concrete, on-the-ground measures that addressed the concerns expressed.

Non-governmental organizations, whose role in the UPR process is still limited, are important monitors of the post-UPR human rights situation of the concerned member-states.

Every government act on human rights promotion, protection and realization is important. But at almost every turn, there is doubt on how far are governments willing to sustain their human rights efforts. We need governments that would ensure that such doubt is erased.

# Kazakhstan: Universal Periodic Review

HURIGHTS OSAKA

The Human Rights Council (HRC) of the United Nations (UN) reviewed the human rights situation in Kazakhstan during its 7th session on 12 and 16 February 2010. Several reports submitted to the HRC provided a comprehensive update on the human rights situation in the country.<sup>1</sup>

The report<sup>2</sup> of the government of Kazakhstan to the Human Rights Council stresses the legal support for human rights including constitutional provisions, legal policies, and a Supreme Court decision. A national policy for 2010-2020 seeks to attain to the "maximum extent possible guarantees of constitutional, human and citizens' rights and freedoms and full and strict compliance with constitutional obligations by all State bodies, officials, citizens and organizations in the process of further strengthening the rule of law." A Supreme Court decision on 10 July 2008 prescribes the "application of international treaty standards ... to promote full compliance with ratified treaty standards in judicial practice."

Kazakhstan has ratified a number of international human rights treaties. It ratified the Optional Protocol to the Convention against Torture in 2008 and developed an independent national preventive mechanism. The Ministry of Justice adopted a 2009–2012

National Human Rights Action Plan pursuant to the recommendations of the United Nations (UN) Committee against Torture, and coordinated measures to prevent torture.

The government has also established the Office of the Human Rights Commissioner, the Presidential Commission on Human Rights, the National Commission on Family Affairs and Gender Policy under the President and the Committee on the Protection and Promotion of the Rights of Children under the Ministry of Education and Science.

Criminal laws are being reviewed to decriminalize certain acts and make them subject to administrative measures. The review may also aim to simplify inquiry and investigation procedures, to make wider use of conciliation, and to strengthen safeguards against unwarranted prosecution. A February 2009 amendment of the law on the mass media "abolished the registration of television and/or radio broadcast media, simplified media re-registration procedures and put plaintiffs and defendants on an equal footing in contentions before the courts." Journalists are no longer required to obtain authorization for the use of voice recorders or cameras in interviews, which had greatly hampered their work. News

editors are no longer subject to administrative liability for disseminating media items and news agency press releases and reports that are not officially registered. The confiscation of print runs of periodicals issued without the publisher's imprint has been abolished. The publication or distribution of information media may be interrupted or stopped only with the owner's or a court's authorization.

The consolidated report<sup>3</sup> of the submissions of the stakeholders (human rights organizations mainly) presents a number of issues. The report discusses the considerable limitation on the Office of the Human Rights Commissioner and the Presidential Commission on Human Rights caused by the "prohibition to consider complaints regarding the activit[ies] and decisions of the President, the Parliament and its deputies, the Government, the Prosecutor General, the Central Election Committee and the courts." Also, the Committee on the Protection and Promotion of the Rights of Children under the Ministry of Education and Science is unable to address problems related to the rehabilitation of children whose rights have been violated.

The stakeholders report states that the situation of women in Kazakhstan needs improvement in view of the following factors:

1. Women's representation in the Parliament is only at 11.1 per cent of total membership;
2. Average salary of women is only 61 per cent of that of men;
3. Women's jobs are considered as secondary sources of income both by the family and employers that contribute to their economic dependency on the men and extended family;
4. The gendered structure of Kazakhstani society that emphasizes motherhood and preserving the family as the key goal in women's lives stigmatize on unmarried women and keep married women in violent relationships.

Laws have been amended to decriminalize homosexuality. But homosexuality is still associated with criminal behavior in its criminal code, as separate category for forced sexual contacts. Also, the stigma associated with criminalization and medicalization of same sex relationships remains. The lesbian, gay, bisexual and transgender (LGBT) organizations in Kazakhstan are constantly under threat due to high visibility that forces them to cease public activities until tensions decrease.

Public assemblies are tightly controlled. Public activities with no permission from authorities, regardless of their peaceful nature, are severely repressed or severely punished.

Judicial bodies are seen as favoring the prosecution, police and local executive bodies. Judicial independence continues to be "hampered by executive influence, corruption, and the dominant role of the Prosecutor's office in the judicial process." Fair trial is undermined by the "weakness of the legal profession," and the "fight against terrorism and other threats to national security."

The stakeholders report emphasizes that "torture, psychological pressure and threats [are] widely used by law enforcement bodies with the aim of achieving "self-reported case" and confession to a crime." There are also "beatings by law enforcement officers [that] appear to continue to be routine, custody in places that [are] not formally recognized as detention facilities (safe houses of the national security bodies)." Detainees have no recourse, such as petition for the issuance of a writ of habeas corpus, to challenge the lawfulness of their detention.

The stakeholders report also mentions some basic causes of mass human rights violations relating to environment: lack of state environmental policy, rapacious exploitation of natural resources, destruction of the state system of environmental protection, inadequacy of the national legislations and also system corruption. There is also no legislative mechanism that would take into account public opinion and community participation in the process of decision-making. Courts do not take into account evidence obtained from expert non-

governmental sources that considerably limits the rights of the community to obtain information.

### Recommendations

The HRC members commented on the report of Kazakhstan and provided their respective recommendations on how to address the human rights situation in the country. The HRC report on the results of the review of the situation in Kazakhstan mentions a long list of recommendations. Following are some of the recommendations given by HRC members.

While human rights treaty bodies encouraged Kazakhstan to ratify a number of international human rights instruments,<sup>4</sup> several members of the HRC (Brazil, Republic of Korea and Thailand) focused their recommendation on the ratification of the Convention on the Rights of Persons with Disabilities and its Optional Protocol. Thailand, in recommending the ratification of the Convention on the Rights of Persons with Disabilities, likewise noted the "ongoing work being done in [Kazakhstan] to protect the rights of persons with disabilities."<sup>5</sup> Spain, on the other hand, recommended the signing and ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

### Children

The Czech Republic and the United States of America both recommended the continuation of efforts to eliminate child

labor, while the Czech Republic joined the Islamic Republic of Iran, Slovenia and Thailand in suggesting other concrete measures regarding children:

1. Protect girls, children with disabilities, children in institutions and children born out of wedlock against discrimination; ensure the use of vocabulary that does not stigmatize them; and redouble efforts to eliminate the stigmatization of and discrimination against persons, especially children, infected and affected by HIV/AIDS;
2. Increase the attention accorded to protecting the rights of the child in the area of juvenile justice;
3. Implement the programs recommended by the World Health Organization (WHO) with a view to improving the medical assistance provided to women and children (Islamic Republic of Iran).

Kazakhstan, however, commented that these recommended measures have either already been implemented or were in the process of implementation.

#### *Women*

Kyrgyzstan, Sudan and Pakistan recommended that Kazakhstan continue its efforts to eradicate discrimination against women in all areas of life (Kyrgyzstan) and including domestic violence (Pakistan). Sudan likewise recommended the continuation of efforts to "improve the situation of women and to combat discrimination against them." Kazakhstan commented

that these recommendations have either already been implemented or were in the process of implementation. Germany recommended to ensure that the "recently adopted law on domestic violence [be] in full compliance with international standards, and the awareness of legal officials [be raised] regarding the need to act against violence against women within the family."

#### *Freedom of religion*

A number of recommendations from several members focused on freedom of religion, suggesting that Kazakhstan

1. Maintain interfaith harmony, in particular the very useful initiative to hold conferences such as those held in 2003, 2006 and 2009, which brought together senior representatives of world and traditional religions (Algeria); and continue its advocacy for interfaith dialogue, and to share its best practices and experiences with other countries (Philippines); and continue its achievements in the area of freedom of religion (Kuwait);
2. Raise the awareness of its law enforcement officials so that individuals may exercise their right to freedom of religion or belief free from harassment or threat of human rights violations (United Kingdom of Great Britain and Northern Ireland);
3. Extend the rights enjoyed by traditionally established religions to believers of non-traditional religions,

and enable them to carry out their peaceful activities free from government interference (Netherlands).

#### *Trafficking*

Several members recommended the continuation of the fight against trafficking in persons in Kazakhstan and to

1. Continue to apply a victim-centered approach to the fight against trafficking and consider the use of the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking as a reference tool (Philippines);
2. Continue the public awareness campaign and cooperation with the relevant non-governmental organizations (Japan);
3. Make it a priority of the various governmental agencies entrusted with implementing the third action plan to combat human trafficking, for the period from 2009 to 2011 (Morocco);
4. Strengthen law enforcement and the judicial system in the effort to address impunity and prevent trafficking and domestic violence, as well as the sexual abuse of women and girls (Malaysia).

Kazakhstan commented that these recommendations have either already been implemented or were in the process of implementation.

#### *Torture*

Several HRC members recommended the elimination

of torture, a recommendation that Kazakhstan generally considered as either already implemented or was in the process of implementation. But several HRC members also gave very specific recommendations to address torture as in the following:

1. Establish torture as a serious crime punished with appropriate penalties, or amend the law on torture, in keeping with the definition set out in the Convention against Torture (Germany, Australia);
2. Continue efforts to eliminate torture and improve the conditions of detention and the protection of the rights of detainees, and to share relevant experiences with interested countries (Algeria);
3. Adopt strict safeguards to ensure that no statement obtained through torture can be used in courts (Czech Republic);
4. Establish an independent monitoring mechanism for all places of detention, or an independent national preventive mechanism, in keeping with the provisions of the Optional Protocol to the Convention against Torture, in order to effectively prevent torture (France and Ireland);
5. Establish effective complaint mechanisms for the victims of torture, with a special focus on persons in detention, so that any misconduct by police, prison or detention staff receives a full and independent investigation

and regular punishment (Czech Republic);

6. Share its experience regarding its innovative independent national mechanism for the prevention of torture, whose establishment could serve as an example of best practices in the fight against torture (Morocco).

#### *Prisons*

The United Kingdom of Great Britain, Northern Ireland and Sri Lanka recommended the establishment of a national preventive mechanism in accordance with the provisions of the Convention against Torture and its Optional Protocol. The United Kingdom of Great Britain and Northern Ireland further recommended that such mechanism should have adequate resources, and comply with the requirements of full legal, functional and financial independence and of staff composition, immunities and privileges. Slovenia and Azerbaijan recommended further improvement in the prison conditions, while Slovenia additionally recommended the carrying out of an independent investigation into cases of violence in prisons.

#### *Death penalty*

A number of members recommended to Kazakhstan to completely abolish the death penalty and to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, as provided for in the 2009-2012 National Human Rights Action Plan

(France, Belgium and Spain). France welcomed the “moratorium on executions, the commutation of death penalties into prison sentences, and the efforts made to restrict, in the Constitution, the application of the death penalty to a reduced number of crimes.” Spain noted with satisfaction “the abolition of the death penalty for civilians.”

The Russian Federation, the United States of America, Slovenia and Armenia recommended the full implementation of Kazakhstan's National Human Rights Action Plan. Armenia also recommended that Kazakhstan work closely with different institutions such as the UN on this issue. Brazil recommended the strengthening of the policies in promoting child rights and the implementation of the Guidelines for the Alternative Care of Children, according to Human Rights Council resolution 11/7 and General Assembly resolution 64/142. Kazakhstan, however, commented that this matter was either already implemented or was in the process of implementation by the Kazakh government.

#### *Judiciary*

A number of members recommended the strengthening of the independence of the judiciary and the impartiality of court processes in accordance with the international legal standards or ratified international treaties. They also recommended the following:

1. Strengthen the roles of judges and defense lawyers in the criminal procedure,

- and to guarantee full access of defendants to the legal counsel of their choice (Czech Republic);
2. Take measures to prevent any interference in the exercise by defense lawyers of their functions, in accordance with the International Covenant on Civil and Political Rights (Spain);
  3. Take measures to limit the powers of public prosecutors and bring criminal procedure into greater conformity with article 14 of the International Covenant on Civil and Political Rights (Netherlands);
  4. Adopt strict safeguards to ensure that no statement obtained through torture can be used in courts (Czech Republic); ensure that all trials, including those of terrorism suspects, comply with international standards for fair trials (Norway);
  5. Implement existing judicial procedures and tackle the issue of corruption in its courts (Canada);
  6. Reform the penal centers and the system for the administration of juvenile justice (Mexico); guarantee the rights of those in detention or in prison (Japan);
  7. Address impunity and prevent trafficking and domestic violence, as well as the sexual abuse of women and girls (Malaysia).

Kazakhstan commented that these recommendations have either already been

implemented or were in the process of implementation.

#### *National institution*

Algeria, Ireland, Germany, Malaysia, the Philippines and Thailand recommended the establishment of an independent national human rights institution in conformity with the Paris Principles.<sup>6</sup> Algeria recommended the “transition” of the Human Rights Commissioner (Ombudsman) into an independent national human rights institution, while Ireland recommended taking measures necessary to bring the Human Rights Commission and the Human Rights Commissioner in conformity with the Paris Principles. The Islamic Republic of Iran recommended the establishment of the “post of the national ombudsman for the rights of the child with a view to the effective promotion and protection of children’s rights.”

Norway, United Kingdom of Great Britain and Northern Ireland also recommended the involvement of the civil society organizations in the follow-up to the review process. Norway recommended the establishment of an “effective and inclusive process that includes independent non-governmental organizations, not funded by Governments, to follow up on the recommendations resulting from the present review.”

*For further information, please contact HURIGHTS OSAKA.*

#### **Endnotes**

- <sup>1</sup> The reports consisted of the report of the Kazakh government and the reports of the stakeholders (various international and national human rights organizations, A/HRC/WG.6/7/KAZ/3, 24 November 2009), the human rights treaty bodies and special procedures (A/HRC/WG.6/7/KAZ/2, 30 November 2009), and the Working Group of the HRC (A/HRC/14/10 23 March 2010).
- <sup>2</sup> National report submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1 – Kazakhstan, A/HRC/WG.6/7/KAZ/1, 3 November 2009.
- <sup>3</sup> Summary Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15(C) of the Annex to Human Rights Council Resolution 5/1 - Kazakhstan, A/HRC/WG.6/7/KA/3, 24 November 2009.
- <sup>4</sup> Compilation Prepared by the Office of the High Commissioner for Human Rights, In Accordance With Paragraph 15(B) of the Annex to Human Rights Council Resolution 5/1 - Kazakhstan, A/HRC/WG.6/7/KAZ/2, 30 November 2009, page 2.
- <sup>5</sup> Report of the Working Group of the HRC, page 14.
- <sup>6</sup> Principles relating to the Status of National Institutions (The Paris Principles), United Nations General Assembly resolution 48/134, 20 December 1993.

# Growing Up in the Interstice: Closing the Gap Between Cultural Identities

Jacquelyn Johnson

It is often said that Japan is a country that prides itself on the image of homogeneity it portrays. However, in actuality Japan is rather diverse. In addition to old-comers, such as *zainichi* Koreans and Chinese,<sup>1</sup> there is also an inflow of migrants from other countries. There are over one million permanent residents, and about half a million naturalized Japanese citizens, not to mention the estimated 40,000 children born of international marriages each year.<sup>2</sup> However, government records are not necessarily reflecting the diversity of the population in Japan. The surveys of the Census Bureau, for example, are based only on nationality, ignoring ethnicity all together.<sup>3</sup>

## Living as Multicultural Family

Foreign, multiracial, or multicultural families may be experiencing hardships while living in Japan. To gain insight into their lives, I interviewed foreigners, *nikkeijin* (people with Japanese ancestry), and members of families of mixed heritage. Most interviewees stated that they had not experienced significant problems while living in Japan. This could be related to several factors including education, occupation, income, location, and awareness. Though discrimination is not a big

concern for most of the families, one thing that seems to be a common concern for all families of foreign background, regardless of the factors listed above, is the question of passing their non-Japanese culture and language to their children.

The experience of being multicultural can vary from person to person due to a wide range of factors. Maturity and age bring new experiences and viewpoints, which shape the way people view experiences and themselves. Cristina, an Argentinean *nikkeijin*,<sup>4</sup> mentioned that she knew a little bit of English, and was able to help a woman on the train. She said she felt really good because knowing even just a little bit of a language allowed her to help and communicate with others.

I understood the feeling; learning and studying Japanese in Japan has been an incredible experience. Struggling through conversations with native speakers has always been so fulfilling. But then I thought about the interviews I had conducted with native Spanish-speakers. I am of mixed heritage, Mexican and American, and though my Spanish is better than my Japanese, especially in terms of comprehension, the feeling I got from speaking Spanish with native Spanish-speakers was very different from that of

speaking with native Japanese-speakers. Though I enjoyed the conversation very much, I felt inferior; embarrassed and ashamed that my language skills were so poor in a language I felt I should *know*.

The people I interviewed directly about their own multicultural experience, all fourteen years of age or older, were proficient to fluent in both Japanese and at least one other language. However, interviews conducted with parents about their multicultural children, with the exception of native-English speakers, revealed that their children spoke very little of their native language, usually limited to greetings. Furthermore, many of the children who do learn another language experience embarrassment in speaking it. I could not help but wonder if these children would begin to experience the same feelings I have, as they grow older. Will they, too, question what determines who they are: is it blood, culture, language, or a combination of things?

## Japanese Identity

The general idea of what determines Japanese identity particularly poses challenges for children with foreign roots living in Japan. In an essay about *zainichi* Koreans, Chikako Kashiwazaki explains, "the

majority Japanese have come to assume that ethnic origin (lineage or blood and appearance), cultural attributes (language and behavioral characteristics), and nationality status all go together.<sup>5</sup> If one of these elements is askew, then the person is not considered *full* Japanese.

It seems that often times blood is enough to exclude one from a group, but not sufficient to make one part of a group. For instance, most of the children with whom the interviews were concerned have spent the majority, if not all, of their lives in Japan. They are most comfortable speaking Japanese and more strongly tied to Japanese culture, yet, since they have foreign roots, they still find themselves having to defend their “Japaneseness.” Similarly, returnees, Japanese who spent time abroad, often experience difficulty re-adjusting to and being accepted into mainstream Japanese society.<sup>6</sup>

### Teaching a Different Culture

Culture seems to be that which non-Japanese parents are able to teach their children rather unconsciously, through interaction of their children with people from their own country as well as church or community gatherings. However, some parents express difficulty in teaching children about their non-Japanese culture because of lack of opportunities to do so in Japan. Many times cultural learning is in the form of something fun such as travel to the home country for vacation, watching television programs, storytelling, or eating food. Sometimes it happens with the

usual scolding from a parent about manners, teaching them the way things are done in their native country. Ms. Aburatani, from Thailand, said she taught her children not to slurp their noodles, and to answer clearly, such as “*hai*” when saying yes rather than “*unn*,” which is considered rude in Thailand. Filipina women teach their children to do *mano po*, taking the hand of their elder and pressing it to their forehead, to show respect. They also said that religion was an important part of their culture that they try to pass on to their children.

According to the interviews, non-Japanese language is most difficult to teach to children. Japanese society does not offer many opportunities to learn another language. Some parents complain that Japanese public schools are so rigorous and focus too much on Japanese language, leaving little time for children to study another language. To be honest, I find it rather surprising how differently the native-English speakers approach the issue of language compared to those from non-English speaking countries. In an interview with Ms. Hiraoka, an Indonesian woman married to a Japanese, she expressed that she hoped her children would just pick up her native language naturally from her, even though she stated she speaks to her children primarily in Japanese. However, she said it was not a big deal that her children did not speak the Indonesian language because her children would probably spend their whole lives in Japan instead of Indonesia. Almost all of the non-native-English speakers I interviewed shared this view.

Two Spanish-speaking parents, Cristina and Magaly, tried to speak Spanish to their children at home, though Magaly admitted it was difficult to keep up since she has gotten used to speaking Japanese. However, Magaly sends her eight-year-old son to free biweekly Spanish classes offered by the city and has been considering sending him to live abroad with a family for a period of time in order to learn Spanish.

In contrast, the English-speakers whom I interviewed all spoke to their children in English only. All but one sent their children to English literacy classes so that they could read and write as well as speak English, even though they admitted it was a struggle to force their children to study English formally. They stated that it is worth the struggle because knowing English fluently creates more opportunities for their children in the future, from ease in travel to studying or working abroad.

### Children’s Experiences

In terms of the children’s experience at school, most had no problems. However, for those that do not look “Japanese,” the natural curiosity of classmates can sometimes make children of foreign background feel singled out and different. Often times they are asked to speak English (even those of non-English speaking lineage) because they look foreign. For those who identify themselves as Japanese, being asked where they come from can create confusion.

Furthermore, Jane, an American mother of two, felt that teachers



did not know how to deal with individual circumstances involving children with foreign roots. She said that they were not trained in handling diversity and were not prepared to make lessons out of incidents. Alvaro, a seventeen-year-old Peruvian, was nine when his family moved to Japan. When he first entered school he would get into fights when he was teased. Disner, now twenty-five, came to Japan when he was fifteen. Upon entering a Japanese secondary school, he quickly learned that it was best not to stand out. In extreme cases, strict conformity rules in Japanese schools can psychologically damage children who do not fit in, such as in the case of girl of Japanese-Brazilian descent who was forced to dye and straighten her hair weekly because the school officials refused to believe her hair color and texture were natural.<sup>7</sup>

Although, according to their parents, all the children know they are of mixed heritage, and have not experienced uncertainty about their identity, they might begin to question who they are as they grow older, especially those who have to choose between Japanese nationality and that of another country. A couple of older children of mixed heritage interviewed have begun questioning their identity. Shiori, Japanese-Mexican, said that she does not like to think about her identity in terms of Japanese or Mexican because it makes her feel lonely; she felt that she was neither and both. However, she will probably choose Japanese nationality for ease of travel. Carolina, Peruvian *nikkeijin*, worried that becoming a naturalized Japanese citizen

would make her less Peruvian. Forcing one to choose between two nationalities, in addition to ignoring ethnicity in the national census is proof that Japan has yet to come to terms with its own diversity.

### Conclusion

There are still many hurdles to overcome in order for Japan to be a good home for people of foreign roots. Despite some obvious hardships, such as discrimination in various forms, families and individuals of diverse backgrounds face more subtle difficulties. Teaching culture and language and fostering pride in diversity, not only among members of international communities, but also among all peoples living in Japan, prove to be a challenge. Opportunities to share one's culture with the general public are limited. Cross-cultural children, including returnees, often experience confusion about their identity. Lack of understanding from others may only worsen this confusion. Japan's international community is growing, with more and more foreign workers, international marriages, and children of mixed heritage each year. Japanese society must take steps toward becoming more sensitive to other peoples and their cultures, embracing the differences that they bring. Though it is only natural for us to question our identity, perhaps what we will come to realize is that those of us of mixed heritage are just like anybody else in the world, regardless of race or nationality. We as individual people have our own unique experiences and thoughts which make us like

nobody else. This is a beautiful thing, which allows us to learn from each other. The right to be different is one that needs to be protected for the benefit of all.

*Jacquelyn Johnson, a fourth year student in Amherst College (Massachusetts, U.S.A.), was a 2010 summer intern in HURIGHTS OSAKA.*

*For more information, please contact HURIGHTS OSAKA.*

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### Endnotes

- <sup>1</sup> They include those who were removed from their homeland and brought to Japan, such as during World War II, and their ancestors who have remained in Japan.
- <sup>2</sup> Also, roughly two million people have short stay visas of three months or longer per year. See Debito Arudou, "Schools Single out Foreign Roots," in *The Japan Times Online*, 17 July 2007, <http://search.japantimes.co.jp/cgi-bin/fl20070717zg.html>.
- <sup>3</sup> Debito Arudou, "Japan, U.N. Share Blind Spot on 'migrants'," *The Japan Times Online*, <http://search.japantimes.co.jp/cgi-bin/fl20100406ad.html>.
- <sup>4</sup> *Nikkeijin* refers to foreigners of Japanese descent.
- <sup>5</sup> Chikako Kashiwazaki, "The Foreigner Category for Koreans in Japan" in Sonia Ryang and John Lie, editors, *Diaspora without Homeland: Being Korean in Japan* (Berkeley: University of California, 2009), page 124.
- <sup>6</sup> Yoshida, Kensaku, "Sociocultural and Psychological Factors in the Development of Bilingual Identity" in *Bilingual Japan*, 8, 5-9/1999, available at the website of World Association for Online Education (WAOE), [www.waoe.org/steve/jaltbsig/bilingual\\_identity.html](http://www.waoe.org/steve/jaltbsig/bilingual_identity.html).
- <sup>7</sup> Arudou, "Japan, U.N. Share Blind Spot on 'migrants,'" op. cit.

# Human Rights and the Osaka Prefectural Government

Joseph Lavetsky

The Kansai region of Japan has a long social movement history, particularly the anti-discrimination movements of the discriminated section of the Japanese population (so-called *Buraku-min*) and of the ethnic Korean residents (*zainichi* Koreans). At the time when a special measures law to eliminate the discrimination against the *Buraku-min* was in effect, the local governments in the region initiated programs and activities that implemented this law.

Osaka prefecture has one of the biggest *Buraku-min* communities in the country. It has one of the biggest communities of homeless people, and is home to about 25 percent of Japan's roughly 600,000 people of Korean origin. Just like any other prefecture of Japan, it has its own share of people with disabilities and other disadvantaged groups.

## Legal Measures

The Osaka Prefectural government adopted in 1947 special measures on the *Buraku* discrimination issue. These local measures were way ahead of the national measures started in 1969 to address *Buraku* discrimination under the Law on Special Measures for Dowa Projects. This 1969 law funded special projects in *Buraku* areas over a thirty-year period, and

triggered local government programs on countering discrimination against the *Buraku-min*. In 1985, the Osaka prefectural legislative assembly enacted an ordinance regulating the investigation of personal backgrounds by private investigation agencies that lead to discrimination against the *Buraku-min*. In 1998, the Osaka prefectural legislative assembly enacted Ordinance number 42, "Creating a Society that Respects Human Rights," as the general human rights policy for the prefecture.<sup>1</sup> The policy upholds the universal principle of the human dignity of all human beings and supports the Universal Declaration of Human Rights and the Japanese Constitution. It states the obligation of the prefecture to promote human rights.

A 1996 ordinance regulating the disclosure by the prefectural government of personal information was amended in 2005 to provide more protection required under the 2003 Protection of Personal Information Act. While this ordinance applies to all persons, this is a vital measure in addressing *Buraku* discrimination.

Several prefectural policies came out in 2000s on human rights promotion. In 2000, the prefectural government adopted the *Osaka 21st Century General Plan to Revitalize Osaka and*

*Double Its Energy* that defined Osaka's "vision for co-existence." It aimed at having a "society where everyone exerts the maximum [of] their potential, to make their own dreams come true" with "everyone respecting human rights and supporting one another." In relation to foreign residents, the plan "aspires to create a community where the human rights of foreign nationals are respected, and in which individuals can exert their own characteristics, ethnicity and abilities without hesitation."<sup>2</sup>

The Osaka prefectural government initially established in 1966 an office that focused on the *Buraku* discrimination issue. In 1992, a Human Rights and Peace Office was created within the then newly-created prefectural International Office. The Human Rights and Peace Office broadened its scope of work when it assumed responsibility for programs relating to peace, foreign residents and human rights promotion. In 1998, it was renamed Human Rights Office and placed in the Department of Planning and Coordination. In 2009, it became part of the Department of Civic and Cultural Affairs.

## The Osaka Prefectural Human Rights Office

The current Human Rights Office aims to achieve the following major objectives:<sup>3</sup>

1. Promote an integrated approach to implementing human rights measures
2. Undertake human rights awareness activities
3. Plan for measures to promote peace
4. Enforce the ordinance on countering discrimination at the local communities
5. Implement integrated measures for foreign residents.

To achieve these objectives, the Human Rights Office has several groups assigned to undertake particular tasks or programs as in the following:

1. Management of human rights projects and other measures, holding of public hearings, and public dissemination on human rights;
2. Implementation of human rights education and awareness activities including development of teaching materials for human rights training and surveying public opinion on human rights;
3. Implementation of prefectural human rights ordinances, including monitoring of inquiries on personal information, implementation of program for foreign residents, awareness-raising activities on the ratified international human rights instruments, and administrative monitoring of HURIGHTS OSAKA;
4. Provision of human rights consultation and protection services, and coordination with other institutions providing similar services;
5. Support for the development of human rights policies; and liaison with similar offices in



*Humanite*, a human rights magazine of the Osaka prefecture

other prefectures, human rights movements, and the Osaka Prefectural Human Rights Association.

During the last few years the Human Rights Office produced the following materials:

1. *Sozo* - a human rights newsletter (issued twice a year)
2. Human rights information booklets (mostly in Japanese).

3. *Humanite* – annual human rights magazine that discusses various issues relating to women, aged, children, persons with disabilities, people living with HIV/AIDS, foreigners, workers, *Burakumin*, and North Korean abduction victims.

The Human Rights Office is the contact office for the overall coordination of prefectural human rights policies pertaining

to the different departments within the prefectural government. Different prefectural offices deal with various human rights concerns such as those for homeless people, people with disabilities, children, women, and the aged. The Human Rights Office organizes meetings among relevant prefectural officials for this purpose. It also organizes the annual meeting of experts to discuss project proposals regarding foreign residents that can be implemented by the different prefectural offices in the following year.

### Prefectural Activities

As part of its *Plan of Action for the United Nations Decade for Human Rights Education* (1997), the Human Rights Office has created, among other things, the *Osaka Prefectural Basic Guidelines for the Promotion of Human Rights Policies* (2001) and the *Osaka Prefectural Plan for the Promotion of Human Rights Education (2005-2014)*.<sup>4</sup> Through this work, the government focuses on children's education, teaching the younger generations about, for example, respect for those who are different. However, there is still no mandated human rights education plan for public school students in Osaka prefecture. The Human Rights Office cited the difficulties of having such a plan for public secondary schools due to the busy schedule of Japanese students, who must concentrate on mathematics, Japanese, English and various other subjects and who often also attend *juku*, or cram schools, after their regular classes finish.<sup>5</sup>

As well, the national government in Tokyo is currently in the midst of its infamous *jigyo shiwake* (budget-cutting process). With the new coalition party in power and with a staggering public debt (the largest in the industrialized world), the national government is eyeing budget cuts to non-essential activities, and local governments could find human rights activities funding in peril. Previously, the national government worked on human rights issues mostly in the form of subsidies – for the construction of public facilities, housing, scholarships, etc. – to areas where human rights issues are particularly prominent, for example, *Buraku* areas.

Speakers of English, Korean, Chinese, Portuguese, Spanish, Tagalog, and Thai have since 1993 been able to consult with the government in their own language through the Osaka Information Service for Foreign Residents. Municipal administrative and living information announcements over FM radio are also broadcast in Spanish, English, Korean, and Chinese and are also listed on the internet (but not in Spanish). Information in English and other languages on medical institutions in the Osaka area, where foreign languages are spoken, is available through multilingual guidebooks. Moreover, through its "Medical Information for Foreigners" websites in English, Japanese, Korean, and Chinese, one can find information on things like what to do in a medical emergency and how to navigate the health insurance system.

The Osaka prefectural government also subsidizes emergency medical institutions (but not hospitals) for the expenses they incur when uninsured foreign nationals need emergency care but cannot pay for it. This program is designed to allow everyone who needs emergency medical attention to receive it, whether or not they can afford health insurance. However, some elderly foreign residents or those with disabilities cannot gain access to this program.

Regarding housing rights, the Human Rights Office seeks to eradicate discrimination against minorities by real estate agencies and owners of rental houses by distributing booklets that raise awareness on housing rights. If a minority feels that he or she has been discriminated against when seeking housing, consultation services are offered, including in some foreign languages. The local government would then move to solve the problem "immediately and voluntarily," though there is yet no law punishing acts of discrimination.

The Osaka prefectural government established in 1989 the Osaka Foundation of International Exchange (OFIX) "to promote the internationalization of Osaka, support and assist exchange activities of its citizens, contribute to the international community by improving services for foreign students, and to foster development in Osaka."<sup>6</sup> Foreigners living in Japan who have recently lost their jobs due to the global economic recession can go to

OFIX and discuss (in English, Chinese, Portuguese, Spanish, or Korean languages) their options regarding staying in the country.

Regarding women's rights, acknowledging that women performing the same job as men receive only about sixty or sixty-five percent of the men's salary, the prefectural government established a limited program to address the issue. The program does not provide financial support to working women to equalize their salaries to those of their male counterparts. The program also does not provide any special child-rearing support, such as daycare financial assistance or additional maternity leave. Local government programs in Osaka thus do little to offer women any incentive to have children.

The Osaka prefectural government had provided annual financial support to a number of institutions in the prefecture, some of them are

human rights institutions. With the election of a new prefectural governor in the 2008 elections, the annual financial support started to be withdrawn from 2009.<sup>7</sup>

**Conclusion**

The Osaka prefectural government could be doing more to significantly distinguish its human rights policies from those of the national government, which have been criticized on a number of issues by the United Nations human rights bodies.<sup>7</sup> In explaining this, Osaka prefectural government officials stressed the difference in values between the West and Japan. Yet the fact remains that the Osaka government has an opportunity to be the leader in a renewed Japan's efforts to become a more tolerant, positive international presence, one that proves to the world that all of the wonderful, unique aspects of Japanese culture are every bit as respectful of human rights as those of other countries, and in some ways perhaps even more. That does not appear to be happening, however.

*Mr. Joseph Lavetsky, currently a second year student at the Emory University Law School in the U.S.A., was a 2010 summer intern in HURIGHTS OSAKA.*

*For further information, please contact HURIGHTS OSAKA.*

**Endnotes**

- <sup>1</sup> The full text of this ordinance, in Japanese language, is available at [www.pref.osaka.jp/jinken/measure/jyourei.html](http://www.pref.osaka.jp/jinken/measure/jyourei.html)
- <sup>2</sup> See Osaka Prefecture's Policy Regarding Foreign National Residents in [www.pref.osaka.jp/en/life/general/f\\_citizens.html](http://www.pref.osaka.jp/en/life/general/f_citizens.html).
- <sup>3</sup> See [www.pref.osaka.jp/jinken/](http://www.pref.osaka.jp/jinken/) (in Japanese language) for the Human Rights Office profile.
- <sup>4</sup> For more information on the Osaka prefectural government human rights policies, please visit [www.pref.osaka.jp/jinken/measure/](http://www.pref.osaka.jp/jinken/measure/) (in Japanese).
- <sup>5</sup> The Osaka prefectural government, however, has been supporting specific human rights education initiatives for secondary schools such as those on Buraku discrimination (called Dowa education), especially during the period of the special measures law.
- <sup>6</sup> The Osaka Foundation of International Exchange website, [www.ofix.or.jp/english/ofix/index2.html](http://www.ofix.or.jp/english/ofix/index2.html).
- <sup>7</sup> See "Prefectural Policy Change and Human Rights Work: The Case of HURIGHTS OSAKA" in issue 52 of this newsletter for a report on the financial support withdrawal. The article is available at [www.hurights.or.jp/archives/focus/section2/2008/06/prefectural-policy-change-and-human-rights-work-the-case-of-hurights-osaka.html](http://www.hurights.or.jp/archives/focus/section2/2008/06/prefectural-policy-change-and-human-rights-work-the-case-of-hurights-osaka.html)
- <sup>8</sup> Such criticisms have been mentioned, for example, in the Concluding observations of the United Nations' Human Rights Committee, CCPR/C/JPN/CO/5, 18 December 2008, and the Concluding observations of the Committee on the Elimination of Racial Discrimination, CERD/C/JPN/CO/3-6, 6 April 2010.



Some of the human rights institutions that had received financial support from the Osaka prefectural government. Source: Back cover of *Human-ite*, volume 24 (2010)

## Human Rights Events in the Asia-Pacific

### **The Southeast Asian Human Rights Studies Network**

The Southeast Asian Human Rights Studies Network (SEAHRN), a consortium of academic institutions which provide human rights education through study programs, research and outreach activities within the Southeast Asian region, is organizing a conference entitled "The First International Conference on Human Rights in Southeast Asia." The conference will be held on 14 - 15 October 2010 in Bangkok. The conference intends to bring together academics, researchers, graduate and post-graduate students, civil society organizations and government and inter-government agency representatives who work on the research and greater understanding of human rights in Southeast Asia. It seeks to enrich the knowledge and discourse on contemporary human rights in Southeast Asia through a dynamic dialogue among stakeholders from the academia, civil society and governments. It further aims to provide a venue to explore the ways researchers and civil society have begun to make critical contributions to deepening the understanding of human rights-based framework and actual issues through in-depth engagement with localized sites within the Southeast Asian region. As human rights is an emerging area of study at universities and academic institutes in Southeast

Asia, the conference aims to provide a venue for the increasing body of research work being done by academics, researchers and graduate students on human rights in Southeast Asia. For further information, please contact: SEAHRN c/o Center for Human Rights Studies and Social Development (CHRSD), Mahidol University, Salaya Campus, Phuttamonthon, Nakhon Pathom, Thailand, 73170; ph (662) 4414125 ext 400, 401; fax (66-2) 8892151; e-mail: seahrn@gmail.com; www.seahrn.org

### **Asia Pacific Forum on Women, Law and Development (APWLD)**

The Asia Pacific Forum on Women, Law and Development (APWLD) will organize its annual Asia Pacific NGO Consultation with the UN Special Rapporteur on violence against women, its causes and consequences (UNSRVAW) on 29-30 November 2010 in Kuala Lumpur, Malaysia. Recognizing that women experience multiple, simultaneous and aggravated discrimination as a result of their multiple identities, the theme of the 2010 Asia Pacific NGO Consultation will address intersectional and multiple discrimination experienced by women and its consequences on fulfillment of women's equality in this region. The discussion and findings of the Consultation will serve to inform national and regional mechanisms and international level mechanisms including the

annual report of the UNSRVAW. The Consultation has the following objectives:

- To create a safe space for women to expose and challenge the multiple forms of violence, discrimination, inequality and injustices they face within laws and practices in the region;
- To examine the nexus between women's multiple identities and the multiple forms of discrimination they experience, including the root causes of discrimination within the context of patriarchal systems as manifested in fundamentalism, militarization and neo-liberal globalization;
- To identify existing mechanisms of justice and effective remedies within national, regional and international levels by learning from the strategies and activism of women.

Beyond these objectives, the Consultation will also identify the challenges posed by the patriarchal systems and institutions that reinforce the compounding subordination of women, as well as the gaps that exist between women's lived reality and universal human rights. Attendance at the consultation is by invitation-only. For further information on the consultation, please contact: Asia Pacific Forum on Women, Law and Development (APWLD), 189/3 Changklan Road, Amphoe Muang, Chiang Mai 50100, Thailand; ph (66 53) 284527, 284856; fax (66 53) 280847; e-mail: misun@apwld.org

## HURIGHTS OSAKA Activities

On 25-26 August 2010 in Bangkok, HURIGHTS OSAKA organized a regional workshop on the research project on law, jurisprudence and human rights in Asia. The representatives of research partners from eight countries (India, Nepal, China, Korea, Japan, Indonesia, the Philippines and Thailand) met the representatives of regional and national non-governmental organizations as well as representatives of ILO and UNDP Bangkok offices working on the research issues. The Regional Representative (Mr. Homayoun Alizadeh) and an Associate Expert (Ms. Nathalie Meyer) of the Regional Office for Southeast Asia (Bangkok) of



the Office of the United Nations High Commissioner for Human Rights (OHCHR) also attended the regional workshop. The workshop participants reviewed the draft research reports of the research partners. After the regional workshop, a meeting of the research partners was held

(27 August 2010) to discuss the finalization of the research reports in consideration of the discussions and suggestions in the workshop.

HURIGHTS OSAKA organized a study tour to Geneva, Switzerland on 12-18 September 2010. The fourteen-member study tour group consisted of Japanese graduate students, professors, and non-governmental organization (NGO) staff members. The group visited international human rights NGOs (World Organisation Against Torture [OMCT] and the International Movement Against All Forms of Discrimination and Racism [IMADR]), the Swiss local government (Office for the Integration of Foreigners in the Canton of Geneva), International Labour

Organization and the United Nations. The study tour group observed the 15th Regular

Session of the Human Rights Council, and had a briefing about the work of the OHCHR.



# HURIGHTS OSAKA Calendar

HURIGHTS OSAKA has published *The State of Human Rights Education in Northeast Asian School Systems: Obstacles, Challenges, Opportunities*. The publication includes reports from educators in Hong Kong, Mongolia, South Korea and Taiwan. The reports discuss educational policies, education systems, school curriculums, human rights teaching materials, and human rights education activities.



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**HURIGHTS OSAKA**, inspired by the Charter of the United Nations and the Universal Declaration of Human Rights, formally opened in December 1994. It has the following goals: 1) to promote human rights in the Asia-Pacific region; 2) to convey Asia-Pacific perspectives on human rights to the international community; 3) to ensure inclusion of human rights principles in Japanese international cooperative activities; and 4) to raise human rights awareness among the people in Japan in meeting its growing internationalization. In order to achieve these goals, HURIGHTS OSAKA has activities such as Information Handling, Research and Study, Education and Training, Publications, and Consultancy Services.

**FOCUS Asia-Pacific** is designed to highlight significant issues and activities relating to human rights in the Asia-Pacific. Relevant information and articles can be sent to HURIGHTS OSAKA for inclusion in the next editions of the newsletter.

FOCUS Asia-Pacific is edited by Osamu Shiraishi, Director of HURIGHTS OSAKA.

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