

Whither Institutionalized Human Rights Education? Review of the Japanese Experience

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Since the end of the Cold War, many governments in Asia-Pacific started institutionalizing human rights education. One hundred seventy one countries had a consensus at the World Conference on Human Rights in 1993 over the States' duty to ensure that education strengthens the respect for human rights and fundamental freedoms, which led to the adoption of the United Nations Decade for Human Rights Education (1995 -2004).

Since then, many countries started to provide policy support to human rights education through laws, national action plans, administrative orders, and school curriculums. However, mere institutionalization of human rights education is not enough progress. Careful and continuous monitoring of government support for human rights education is required because of the paradoxical nature of institutionalized human rights education.

Human rights education in schools on one hand has great possibilities for facilitating changes in society since schools cover a significant portion of the population (especially through the compulsory education). On the other hand, formal education is a "state enterprise" for the people. Formal education is highly centralized in most countries, with the curriculum under state control. There is therefore a great possibility that the authorities may make their own interpretation of human rights education. One such example is the avoidance of the teaching of rights and the emphasis on duties and responsibilities in schools. Various excuses are given such as: children are not mature enough to exercise

their rights; teaching of rights makes students become too critical towards authorities. The fundamental question is whether an education that does not teach rights is considered human rights education or not.

Based on such critical perspective, I discuss the controversial position of schools in promoting human rights education in the Asian context, and how it limits human rights education in schools. Second, I focus on the Japanese context of human rights education, and clarify how the history of Dowa Education influenced the re-institutionalization of Japanese human rights education, starting from late 1990s. In Japan, human rights education is not a new development in post-Cold-War era due to the history of education to combat Buraku discrimination called Dowa Education that started in the 1950s. I explain how such experience strengthened current human rights education. At the same time, I also examine how Japanese human rights education has narrowed its scope in the process of re-institutionalization by new legislations, despite the active involvement of civil society.

Schools as focal point for human rights education

In many countries in the Asia-Pacific, institutionalization of human rights education was part of the democratization process, an expression of determination not to repeat the massive human rights violations of past dictatorial regimes. It was then first designed at two levels: one was for the people to know their rights for their own protection from possible violations; the other was for those in authority, especially the members of the law enforcement agencies, not to violate the rights of the people.¹ But such victim (people)-versus-violator (officers in authority) model was too limited as it was based on negative perspective on the purpose of human rights education (not to violate, and not to have rights violated). The model was re-organized to promote positive perspectives in order to empower rights-holders (people) to meaningfully participate in democratic processes, and to make duty-bearers (officers in authority) to be more accountable to the people.

The schools constitute one of the most powerful focal points on the education of the people, the rights-holders. Schools cover a large segment of the population and large geographical areas of the country through the public school system. They also directly influence young generations, the future main players in society. Finally, schools and teachers are trusted and respected in the communities, and thus can change the negative attitude among people towards human rights.² With all this, any institutionalization of human rights education most likely starts from schools.

Paradox in human rights education in schools

Human rights education, as a driving force as well as an outcome of democratization movement, is for individual and community empowerment in order for them to meaning-

fully participate in the democratic discourse and decision-making processes. However such essential elements of human rights education do not easily fit the schools, because teachers and school administrators fear that such approach may trigger disobedience and selfishness among students, or that knowing rights may make them too critical toward those in authority. As a result, human rights education in schools carefully avoids rights-based approach and is often biased towards moral and values approach, or replaced by simple study of constitutional provisions without making any link with the rights of students. Schools then become the place where different perspectives of human rights between the state and the civil society confront each other.

Human rights education in Japanese schools is not an exception. It has gradually been inclined to emphasizing morals and values, while the people's understanding of human rights remains rhetorical and vague. There is now even a growing negative attitude towards human rights. In my experience as a trainer, during the workshops, when teachers and people were asked to define human rights in their own words, they usually cited such values as "kindness", "sympathy", or "being good to friends", and seldom referred to concrete rights in the Constitution or in international human rights conventions. Some even refused to give answers, saying that the emphasis on rights invokes the selfishness of the young people and invites confusion. Responses were therefore either very vague or negative.

Selective teaching of rights: right to protection but not to participation

Avoidance of teaching rights is also related to the teachers' and school administrators' views about children - they are immature, inexperienced, and not ready to make their own decision without guidance of seniors who lead them to the right direction. Such views about children

are reflected in the teaching of the Convention on the Rights of the Child (CRC) in schools. Although CRC covers the four main aspects of child rights (the right to survive, the right to develop, the right to be protected from harm, and the right to participate), the right to participate is likely to be omitted in the teaching.

When CRC was ratified in 1994, Japan's Vice-Minister of Education made an announcement that this covenant was basically meant for children in developing countries, and the right to participation principle was just a general idea that does not need to be strictly applied in Japanese schools.

It is also an interesting fact that among the more than forty local governments (prefectures, cities and municipalities) that adopted local ordinances related to child rights in Japan, only a limited number of them are comprehensive child rights ordinances.³ Majority of them selectively incorporated rights: for example, some only emphasize the rights to protection (from abuse, crimes, etc.), or rights to healthy environment for child development. The right to participate is mostly avoided.

This situation is not peculiar to Japan, as the same experience is seen in other countries in Asia. (HURIGHTS OSAKA, 2004).

Nationalism in human rights education

Another concern is the growing emphasis on nationalism in education. Under intensifying global competitiveness and feeling of insecurity among people, nationalism is getting stronger support from the general public in many countries. Teaching nationalism in countries once under colonial rule is quite often identified with teaching of right to national independence and self-determination, thus it is treated as part of human rights education. In other cases, in multicultural and multiracial societies, nationalism is upheld as the symbol of integration, and nationalism is treated as an important element of citizenship. However, can nationalism be

compatible with institutionalized human rights education? Teaching nationalism means supporting the demand for loyalty of the people to the government, while opening the space for suppressing people's critical perspectives toward government.

In Japan, the concept of nationalism has been critically viewed since the end of World War II because pre-war Japanese education indoctrinated the people on nationalism and blind patriotism that led them into war. Due to this, the suggestion to incorporate the teaching of nationalism into the recent revision of *The Fundamental Law of Education* was hotly debated. The revision of the law, enacted in December 2006,⁴ includes provisions that call for cultivating "an attitude of autonomous participation in building society and contributing to its development on the basis of a public-oriented mind" as well as "an attitude that respects tradition and culture and love of the national homeland that has fostered them." Also, the revised law provides for more direct state control on education.

Emphasis on nationalism usually goes with emphasis on morals and values, but not on rights. Some say that values are harmless. However, vague statement of values in laws and government policies allows governments to interpret values as they see fit, and to use moral and values education as means to teach a particular ideology or thought.

Human rights may be in the same situation. If the people do not have the proper understanding of rights, or if the people's understanding of human rights remains rhetorical and vague, there is always a possibility that human rights education can be manipulated through arbitrary interpretation of rights, selective teaching of rights, and replacement of human rights with morals, values and nationalism. And this can all be done through the institutionalization of human rights education. Careful and continuous monitoring of human rights education by the civil society is therefore very important and crucial in preventing this situation from happening.

Re-institutionalization process of human rights education in Japan

Human rights education in Japan has had legal support since 2000. It has been facing common problems of institutionalization of human rights education as in other countries in the region. But there are specific situations and contexts that explain additional problems in Japanese human rights education.

Before human rights education: Dowa Education

Human rights education in Japan is preceded by a long history of Dowa Education - an education aimed at eliminating Buraku discrimination.⁵ Dowa Education primarily focuses on (1) guaranteeing the right to education of the children and people from Buraku communities, and (2) promoting understanding about Buraku problems and anti-discrimination attitude among the general public.

Concerned teachers in cooperation with parents and communities started Dowa Education after World War II. It was an educational movement in order to combat deprivation of the right to education of Buraku children, due to severe discrimination in schools and poverty at home. Democracy and equal opportunity were enshrined in then new Constitution and the 1947 Fundamental Law of Education, but they were not realities for many Buraku children. And the Dowa Education movement challenged such contradictions in realities and demanded government initiatives to guarantee equal educational rights to all.

Responding to the movement, the national and local governments started to initiate educational policies and support services in the 1950s. The first explicit Ministry of Education (MOE) policy was released in 1952, informing teacher-training institutions and local boards of education to promote Dowa Education. The

need to educate teachers about human rights was highlighted by an incident in Kyoto in the 1950s where a newly-employed teacher refused an assignment to teach in a primary school because it was in a Buraku community.

However discrimination was not limited to the children and schools. The organized movement of people in Buraku communities started to call for comprehensive national policies including improvement of living environments of their communities which were in extremely poor condition due to government neglect, as well as of government policies on social welfare, industry, employment and culture. In response to the movement, the government finally admitted the state's responsibility to solve the Buraku problems. A Cabinet Policy Council recommended in 1965 to the government the provision of special measures to solve Buraku problems, which was followed by a 1969 law that provided special national budgetary allocation for Buraku projects. The special laws on the Buraku problems were continuously implemented for thirty-three years, or until 2002.⁶

Although Dowa education started as a voluntary act of teachers, the legal framework on Dowa policies gave it official recognition. Various educational projects were implemented under the special laws as parts of the Dowa policies of the government, including the improvement of educational facilities, deployment of additional teachers for compensatory education in schools where children from Buraku communities were enrolled, provision of financial aid to Buraku students, and support for community activities. In accordance with the national Dowa policies, many local governments issued guidelines on Dowa Education and facilitated additional support to Buraku children, as well as support for the teaching of Buraku problems in schools by issuing curricular materials. With Dowa education, some components of human rights education were already institutionalized in Japan.

Human rights education in 1990s

However, the Dowa policies did not explicitly mention “human rights education,” and human rights components were implicit in Dowa Education. The government’s explicit use of “human rights education” started only in the late 1990s.

The change of terminology from Dowa education to human rights education in government educational policies was due to the expiration of the Dowa special measures law. However it was not just a change of terminology. The process should be carefully and critically reviewed to clarify how the contents of education have been gradually changed through the change of terminology.

1996 recommendation of the Government Consultative Council

Before the lapse of the last Dowa special measures law, there was heated discussion within the civil society on what future measures should be adopted to address the Buraku problems. A government consultative council on policies for Buraku issues (Consultative Council on Regional Improvement Measures) recommended to the government in May 1996 new directions on this matter. It concluded that improvement of physical environment of Buraku communities was basically completed after thirty-three years of support for Buraku projects. Thus the new directions would address other needs.

The council recommended the termination of special measures for Buraku people and communities, despite the remaining gaps between Buraku and non-Buraku communities such as in education, employment, and industry. The council suggested to solve such problems under the general policy framework, and not by positive discrimination policies (since past Buraku projects aroused “reverse discrimination”⁷ sentiment among people over the years).

On the other hand, the council stressed the

importance of continuing efforts in education and information activities as well as in human rights protection because Buraku discrimination among the citizens was still persistent particularly in cases of marriage. In its recommendations, the council used “human rights education” and “human rights awareness-raising” in expressing the need for continuing educational efforts.

Re-organized” Dowa Education

Two months after the council recommendations came out, the Cabinet released its new policies on Buraku issues. With regards to education, interestingly, the Cabinet decision was not only about the continuation of educational and information activities, but also the “re-organization” of education to eliminate Buraku discrimination into human rights education, and “to promote such human rights education in accordance with UN Decade for Human Rights Education.”

The introduction of “human rights education” by the government invited controversial debate. Due to the fact that the policy to promote human rights education in Japan was launched by the government when it terminated the policy support to Buraku projects, it was unfortunately misunderstood even by some of the very committed educators and activists that supported Dowa Education. Seeing human rights education as the weakening and washing away of the past efforts of Dowa Education, they opposed its promotion. The opposition was partly correct because the new concept “human rights education” was also used as an excuse to avoid taking up Buraku discrimination issues in educational activities by those who have strong “reverse discrimination” sentiment or opposition to past Dowa policies. It was an unfortunate restart for human rights education in Japan, but the responsibility of such confusion rests partly within the weakness of the civil society, including educators and activists, that lacked proper understanding of the concepts of human rights.

1997 National Action Plan

But there were also educators and activists who supported human rights education and strategically used the human rights education framework to take up various human rights issues and lobby for appropriate policies. The adoption of *The National Action Plan for the UN Decade for Human Rights Education* in 1997 was a result of such positive commitment. It was the first comprehensive document on human rights education in Japan that provided new support for the implementation of education and information activities in place of the special Dowa policies.

One of the features of the Japanese national action plan was the inclusion of the list of “important issues” to be taken up in education, which includes problems relating to Buraku people, women, children, elderly people, persons with disabilities, indigenous Ainu people, people with HIV/AIDS, people who finished serving prison term, and foreigners. Due to such list, the Japanese national action plan provided the official bases for continuing support to Dowa Education, as well as education on other minority issues. As an educator, I also highly appreciate the inclusion of such list, as it prevented Japanese human rights education from going into abstract teaching of morals and values, and showed the basic principle that human rights education should be connected with, and contribute to, the solution of the problems of the oppressed.

The national action plan for the UN Decade however provided only a temporary framework until 2004, and it did not have any legal binding force.

1996 Law for the Measures for the Promotion of Human Rights Protection

The call by the civil society (including Dowa educators and human rights educators) for the adoption of a national action plan for the UN Decade was actually coupled with a demand

from the government for stronger support for human rights education and for human rights policies.

Responding to such demands, the government enacted *The Law for the Measures for the Promotion of Human Rights Protection* in December 1996 one year before the national action plan for the UN Decade was adopted. But this law was only meant to provide for the establishment of the Council for Promoting Human Rights Protection (Council) as the body with the authority to discuss and make policy recommendations both on human rights education and human rights protection. The Council, formed in 1997, was able to complete its discussions on proposed human rights education policy recommendations in 1999. It thus appeared that the national action plan for the UN Decade was meant to be a temporary measure until the Council adopted policy recommendations on human rights education.

The Law for the Measures for the Promotion of Human Rights Protection has very often been overlooked, because it was very short (consists of only four articles with supplementary provisions), and was merely meant to establish and provide the organizational structure of the Council. But a closer look into the its provisions shows limited and problematic interpretation of human rights education.

One article in the law provides the following:⁸

In accordance with the Japanese Constitution that guarantees the enjoyment of fundamental human rights to all Japanese citizens, the State has the duty to promote policies on education and awareness-raising to cultivate mutual understanding among Japanese citizens on the idea of respecting human rights, and to promote policies regarding relief measures for the victims of human rights violations. (Article 2. Duty of the State)

This article limits human rights education to activities on promoting “mutual understanding among Japanese citizens.” Such view of human

rights education is based on the premise that human rights violations occur only among the people (and only among Japanese), and neglects the basic human rights principle that the state has the obligation to protect human rights, and consequently liable for human rights violations by failing to uphold this obligation. In practice, the state is a primary violator of the rights of the people, and thus human rights in the Japanese Constitution are addressed to the state that holds the duty to guarantee those rights to the people. The law provides a very distorted notion that people are the violators of “mutual” rights, and the government has the mission to enlighten them on this view. The article limits also the scope of human rights education by failing to mention the issue of violations that occur between the state and the people. As a result, this restriction over the scope of human rights education in the law is reflected in the 1999 policy recommendations of the Council entitled “Basic principles for general promotion of policies on education and awareness-raising for promoting mutual understanding among Japanese citizens on the idea of respecting human rights”. The problematic interpretation of human rights education in the law bears much of the blame for the changing quality of human rights education in the country. Since the law was enacted, human rights education has been narrowly interpreted as education for building good relationship among people, or as teaching of the discipline for avoiding conflicts among them.

2000 human rights education law

The civil society was disappointed about failure of the Council for Promoting Human Rights Protection to propose the enactment of a legislation for human rights education in its 1999 recommendations, despite expectations of stronger support for human rights education in view of the expiration of the national plan of action for the UN Decade (the only official document supporting human rights education

at that time) in 2004. Dowa Education and the human rights education movements again strongly demanded the enactment of a human rights education law. Fortunately, the law entitled “*The Law on the Promotion of Human Rights Education and Human Rights Awareness-Raising*” was enacted in 2000. Human rights education in Japan finally gained a strong legal support.

The law stipulates the responsibilities of the national and local governments and individual citizens for promoting human rights education, as well as the necessary measures to be taken by the government, including formulation of basic plans, and submission of annual reports to the Diet. It also stated that the government “can” provide financial support to local governments to implement human rights education projects.⁹ In accordance with this law, the government formulated *The Basic Plan for the Promotion of Human Rights Education and Human Rights Awareness-Raising* (Basic Plan) in 2002, and has been publishing annual reports (*White Paper on Human Rights Education and Human Rights Awareness-Raising*) since 2003.

While these developments are welcomed, the very ambiguous interpretation of human rights education in the new law raises again the same problem. The law provides:

In this law, human rights education is defined as educational activities aimed at the nurturing of spirit of respecting human rights, and human rights awareness-raising is defined as public relations and other awareness-raising activities (excluding human rights education) aimed at popularizing the idea of respecting human rights among citizens and deepening their understanding of it. (Article 2. Definition)

To begin with, non-Japanese may find it awkward to have separate definitions of human rights education and “awareness-raising activities.” Japanese bureaucratic sectionalism restricts human rights education to the Ministry of Education (to which education is always narrowly interpreted as school programs), and any educational and information activities outside

the schools to the Ministry of Justice. However, the more serious problem is the ambiguity in the human rights education definition as “educational activities aimed at the nurturing of spirit of respecting human rights.” This allows many interpretations of human rights education. It reinforces psychological reductionism or moral/value-based approach, and weakens the development of critical and analytical perspective among learners that addresses social structures and root causes of human rights violations. The psychological reductionism or moral/value-based approach is emphasized in Japanese schools as shown in the annual reports of the government.

Such ambiguity is partly due to the lack of reference to international human rights instruments that Japan is a state party to. The Japanese government has the obligation to make people know the human rights contained in those conventions through human rights education. Some of these instruments clearly provide the government obligation to undertake educational measures to protect human rights.¹⁰ The fundamental problem of this law is the absence of a clear definition of human rights based on international law standard, which in turn affects the way human rights education is defined.

Ongoing process

The Basic Plan proposed to conduct “research and information gathering activities on effective teaching practices and materials, and to feedback such information to schools in order to improve teaching at schools.” MOE then organized a panel of experts (“Panel on the Promotion of Human Rights Education in Schools”) in 2003. Two interim reports have been published so far, and the discussions to finalize them are still ongoing. Researchers and school administrators who have been supporting Dowa Education and human rights education have been invited to become members of the Panel.

The panel’s interim reports show traces of integration of different educational approaches - cognitive and skill-based, moral and legal, and psychological and social-structural. The reports emphasize the importance of nurturing the ‘sense of human rights’ on one hand, and the importance of intellectual and legal understanding of human rights, as well as the acquisition of skills, on the other. However the panel is limited by its mandate to discuss “effective teaching practices and materials” under the Basic Plan. It does not have the mandate to discuss the fundamental problem of Japanese human rights education under the law - the focus on issues among people, but not the problems between state and people.

Conclusion

The institutionalization of human rights education in schools is not the end in itself. It needs to work in a proper way. Thus the involvement of civil society is needed to monitor human rights education under State control, and not allow inappropriate interpretation of human rights education, among other problems.

In many countries, national human rights institutions are effective in playing such roles, as they are independent bodies from governments and thus able to examine government policies with international human rights conventions as a frame of reference. They can give critical opinions or statements to the government on the treatment of human rights education in schools (such as in Korea), or develop teaching materials with the Ministry of Education (as in the Philippines), or provide the space for discourse between the government and civil society (as in Malaysia). However, since Japan does not yet have such independent body, it is the sole responsibility of the civil society to consciously monitor institutionalized human rights education.

The role of minority rights movements is very important in the Japanese context. Among

others, the movement of people to combat Buraku discrimination has been crucial, as it played leading roles in the Japanese post-war history in putting pressure on the government to formulate and implement human rights policies. Such movement made concrete proposals to the government, called for the solution of the problems, including the teaching of Buraku issues in schools to promote proper understanding of the problem and to eliminate discrimination among non-Buraku students. It has remarkably mobilized the grassroots in the process. As such, the movement has prevented human rights education in Japan from going into abstract teaching of morals and values, but to work on the solution of concrete problems.

However, there is a limitation to such approach in coping with the current problems in institutionalized human rights education. The minority rights movements have historically called for concrete measures from the government to close the gap between Buraku and non-Buraku communities. In a sense, they recognized the state as duty-bearer in realizing the rights of minorities. But its perception of the state as a primary violator of citizens' fundamental freedoms and human rights has been rather weak. Such weakness in critical perspective towards state power in many minority movements is probably connected to the problems in current institutionalized human rights education.

Finally, the problems in the institutionalization of human rights education have much in common in many countries in the region. Building a regional framework for monitoring the implementation of national human rights education policies and programs is likely the next important step for all those already involved in human rights education in schools.

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Endnotes

¹ See for example Richard Pierre Claude's study on the development of human rights education in the Philippines, and that of Soon-Won Kang on South Korea. In both studies, human rights education was focused initially on suppression of rights by authoritarian governments.

² Ofreneo (1997) pointed out the existing fears toward human rights education in the psychology of the general public in the Philippines such as: human rights education is anti-government, it makes students and teachers too radical, it neglects responsibility and threatens good Philippine culture.

³ Among them, Kawasaki-city (in Kanagawa-prefecture), and Kosugi-cho (in Toyama prefecture) are the early examples that incorporated right to participation in their ordinances, as well as ensured child participation in their drafting processes.

⁴ Revised Fundamental Law of Education (22 December 2006).

⁵ Buraku refers to the people recognized as descendants of outcaste populations or their communities. See other articles in the previous volumes of this publication on this issue.

⁶ There were three special laws consecutively enacted for community improvement projects: *The Law on Special Measures for Dowa Projects* (1969), *The Law on Special Measures for Regional Improvement* (1982), and *The Law Regarding the Special Fiscal Measures of the Government for Regional Improvement Projects* (1987).

⁷ Reverse discrimination refers to the thinking that those who previously were not discriminated (the non-Buraku people) are now feeling being discriminated

by policies that benefit the Buraku people and communities.

⁸ Unofficial translation of the text by author.

⁹ The English text of “The Law on the Promotion of Human Rights Education and Human Rights Awareness-Raising” is in Hirasawa (2006).

¹⁰ Article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 10 of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and Article 10 of Convention on the Elimination of All Forms of Discrimination against Women all provide for the state obligation on human rights education.