



HUMAN RIGHTS monitor



LAW letter



Japan's minorities yet to find their place in the sun

HUMAN RIGHTS FEATURES

THE Constitution of Japan stipulates in paragraph 1 of article 14 that all people are equal under the law. The International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), to which Japan became a party in 1979, also prohibit discrimination on the grounds of race or ethnicity. Japan acceded to the International Convention on the Elimination of All Forms of Racial Discrimination on 15 December 1995.

However, in practice, discrimination against minorities continues. The perceived homogeneity of Japanese society, the high value placed on a collective identity, Japan's feudal history and modern war-time abuses have created an environment in which minorities suffer discrimination both directly and indirectly.

Discrimination in Japan has both historical and cultural roots. The ethnocentric nature of Japanese society, reinforced by a high degree of cultural and ethnic homogeneity and a history of isolation from other cultures, impedes the integration of minority groups. But stronger than its links to the past is the value placed on *doka seisaku*, a principle of assimilation, which persists to this day. *Doka seisaku* dictates that the nation must endeavour to make the lifestyles and ideologies of its colonised peoples the same as its own. While assimilation is the overarching principle governing minorities in Japan, it co-exists with policies of segregation and discrimination.

The Ainu - the first inhabitants of Japan's northernmost islands - are concentrated on the island of Hokkaido. The Ainu language has yet to be constitutionally recognised. Like other indigenous groups around the world, the Ainu were dispossessed of their land by aggressive colonialism. Traditional ways of life were abandoned as land was taken over by settlers from other parts of Japan. Government policies of relocation, 'development' and assimilation had the ultimate goal of marginalising the Ainu, aided by a system of native education, through which the government actively discouraged Ainu language and customs.

Domestic legislative reforms however do not include any positive measures to improve the standard of living of the Ainu people. They are limited to such goals as the promotion of Ainu culture and the preservation and dissemination of tradition. With a view to further promoting the rights of the Ainu people, the Committee on Elimination of Racial Discrimination (CERD Committee) in its Concluding Observations in 1998 urged the Japanese government to ratify and be guided by ILO Convention (No.169) concerning Indigenous and Tribal Peoples in Independent Countries (A/56/18).

In March 2001 - following its consideration of Japan's fourth periodic report under the ICCPR - the Human Rights Committee also noted in its concluding observations the "discrimination against members of the Ainu indigenous minority in regard to language and higher education, as well as non-recognition of their land rights".

Okinawans are the largest minority group in Japan with a population of 1.3 million in the Ryukyu Islands, in the East China Sea, and about 300,000 elsewhere in Japan. Due to the large Okinawan diaspora, similar numbers are scattered in communities around the world, such as Latin America and Hawaii. Okinawans have a distinct culture and language, which have not been recognised by the Japanese government.

The Okinawa Prefecture's distance from the mainland has compounded the minority group's cultural and political isolation. While they are noticeably darker skinned than most Japanese, it is their Chinese cultural influences that set them apart from the mainland Japanese. Okinawans also resent the United States' military presence on the islands. Okinawa accounts for only 0.6 percent of Japan's land area, but 75 percent of its territory is used by the US military in Japan.

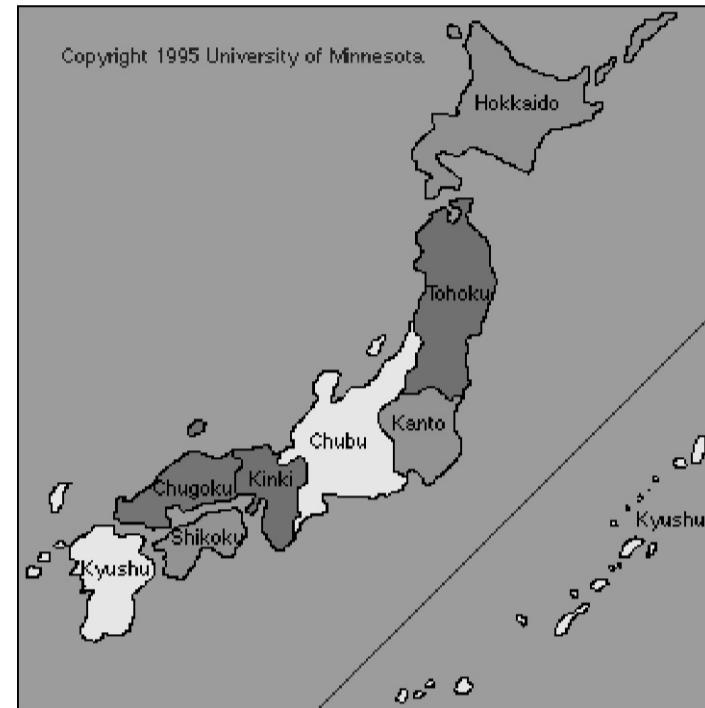
The Japanese government's report submitted to the CERD Committee (CERD/C/350/Add.2) in January 2000 provided no information about Okinawa and its people.

Today, Okinawans perceive themselves as a separate group of people who simply live in Japan. Some Okinawans in Japan have successfully "passed" into mainstream society. Ashamed of their ethnic identity and the

feeling that it stands in the way of their career objectives, they have changed their names, faked their permanent domiciles, and cut off connections with other Okinawans. Nevertheless, in recent years, there has also been a cultural revival, with many Okinawans enjoying a renewed pride in their ethnic heritage. However, the Japanese government has done nothing to resolve land disputes or otherwise show Okinawans that they are not just pawns in the central Government's dealings with the United States.

Japan's estimated three million Buraku people live in isolated neighbourhoods, have fewer job opportunities and poorer health and living conditions than the rest of the population. The Burakumin minority is indistinguishable by "racial" characteristics, or by religion, from other Japanese. Like the dalits or 'untouchables' of India, the Buraku are defined by their descent, by poverty and by the work they do. Difficult to single out from non-Buraku, they nonetheless face an invisible wall of discrimination held in place by blacklists, hearsay and private detectives.

Overt prejudice is reported to have declined thanks to government welfare programs and awareness-raising, however in many areas of Japan covert discrimination is rife.



In 1965, the Law on Special Measures for Dowa Projects (1965) was passed. It outlined seven categories of projects ranging from the improvement of living conditions to employment and education initiatives. Programmes on education and public enlightenment were considered successful and renewed several times into the 1990s. However, poor supervision of project implementation meant that Buraku who identified themselves in order to receive benefits were exposed to more discrimination. According to a 1993 government study, in some areas, Buraku household incomes have risen but there are still twice as many Buraku reliant on government assistance. While secondary education among Buraku has risen to mainstream levels, junior school absenteeism is twice as high and half as many Buraku go on to higher education.

Until the 1980s, Japan was able to maintain a high level of economic output without importing large numbers of foreign manual workers. But the changing economic and demographic environment has pushed open the doors to Japan's job market for legal and illegal foreign workers. In response

to the growing illegal workforce and the labour shortage, the government revised the Immigration Control Law in 1990. While the revised law expanded the scope of activities for foreigners in skilled and professional categories, it also introduced severe penalties against employers who illegally employed foreign workers who entered Japan after 1 June 1990.

The Alien Registration Law requires foreigners to register with the head of the municipalities they reside in. This allows the government to keep tabs on and control the status of all foreigners. Under Japanese law, all workers are entitled to certain rights and benefits; however employers often ignore these rights and fail to provide benefits. If undocumented workers complain, they may be reported to immigration authorities or simply dismissed from their jobs.

Japanese labour standards apply equally to all workers regardless of nationality or legality of visa status. However, under Japanese immigration law, civil servants are obliged to report the whereabouts of illegal migrant workers to the Immigration Control Bureau (Article 62 of the Immigration Control and Refugee Recognition Act, 1990). Therefore, any allegations of labour standards violations that the undocumented worker makes against an employer could lead to the worker's expulsion.

In March 2001, the Human Rights Committee again highlighted the discriminatory nature of the Alien Registration Law. The Committee found that alien registration is incompatible with Article 26 of the ICCPR, which prohibits any discrimination and guarantees equality and effective protection against discrimination on any ground.

In August 2001, 56 years after the end of World War II, Japan's ruling coalition drafted special legislation aiming to make it easier for Korean residents to acquire Japanese citizenship. The proposed legislation would allow permanent residents with special status to acquire citizenship merely by notifying the authorities.

Nearly half of the registered foreigners in Japan are Korean, as a result of Japan's occupation of Korea from 1910 to 1945. They continued to reside in Japan after having lost Japanese nationality, which they held during the time of Japan's rule, with the adoption of the San Francisco Peace Treaty on 28 April 1952. Despite generations of residence in Japan, many have held on to their Korean citizenship out of a desire to retain a shred of their ethnic identity. As a result however, they do not have the right to vote, to seek elected office, or the freedom of entry into Japan. Thus, Korean residents in Japan are basically treated in the same way as other foreign residents under domestic law.

The CERD Committee expressed its concern in 1998 that studies in Korean were not recognised "and that resident Korean students receive unequal treatment with regard to access to higher education". In 2001, the Human Rights Committee expressed concern at the "instances of discrimination against members of the Japanese-Korean minority who are not Japanese citizens, including the non-recognition of Korean schools."

While administrative measures have helped integrate Koreans into mainstream society, integration comes at a price. Many Koreans still use the Japanese names they were forced to adopt as part of earlier assimilation policies (*soshi-kamei*) out of fear of prejudice. In this regard, the CERD Committee has pointed out that "the name of an individual is a fundamental aspect of the cultural and ethnic identity" and recommended that the government take steps to prevent such a practice.

Societal attitudes, which lie at the root of discrimination, need to be altered through education campaigns. At the same time, domestic and international legal provisions need to be implemented if racial discrimination is to be eliminated in Japan. As the CERD Committee noted in 1998, although the constitution provides that treaties ratified by the State Party are part of domestic law, "the provisions of the International Covenant on the Elimination of All Forms of Racial Discrimination have rarely been referred to by national courts".

Japan leads Asia in many fields, in terms of economic prosperity and development assistance, and is perhaps best placed to lead the struggle against racism in the region. But it can do so only by first dealing with its own patchy record on racial discrimination.

Human Rights Features is an independent, objective and analytical attempt to look at issues behind the headlines from a human rights perspective

HRCBM - who are they?

I am quite surprised to see an anti-Bangladesh organisation like Human Rights Congress on Bangladesh Minorities (HRCBM-Please, visit alochona.org for detailed information) giving advice on minority rights of Bangladesh. HRCBM is a Calcutta based Hindu fundamentalist organisation actively spear-heading a smear campaign against Bangladesh in the name of protecting the minorities. Their literature specifically calls for utilising the anti-Islam mentality in the US and create misconception among the general US population by having demonstration in shopping malls against Bangladeshi products, specially, garments. Even a few months ago, they had 10-15 people demonstrating in Dallas, Texas against the so-called ethnic cleansing of minorities in Bangladesh.



I am against any atrocities whether it's political or communal. The killings of the priests had nothing to do with minority oppression; it was the unfortunate insecurity faced by every citizen of Bangladesh regardless of their religious backgrounds. Nevertheless, the concerned authorities must bring the culprits to justice, and give them exemplary punishments. But, the underlying connection made by HRCBM as if it was religiously motivated, only proves their motive of creating communal disharmony in Bangladesh with their hateful campaign.

Unless or until we, Bangladeshis, go beyond our biases or petty interests, forces like HRCBM will be active against our nation. It is to our survival that we must get our acts together and stand united against these "Axis of evil". Nafees K. Texas, USA

LAW opinion



Frustrating Joint Special Drive

MD. ANISUR RAHMAN

Against the backdrop of deteriorating law and order condition, a joint special drive of police, BDR and Ansar started from 13 May 2002 in the city with the proclaimed intention to bring the situation under control. This decision came from a close door meeting of the "National Committee for Fighting against Crimes" held at Ministry of Home. As the law and order situation apparently went beyond control of the law enforcing agencies with around 35 murders including a baby-girl "Nawshin" during last couple of days, the government asked the intelligence agencies the reasons behind the sudden shoot-out of crimes. The intelligence report revealed that pressure on law enforcing agencies not to arrest terrorists belonging to the ruling party is one of the main reasons for deteriorating law and order situation. Following the report, the decision of special drive came out and the joint force jumped into the move for arresting the 2000 listed criminals.

However, after twelve days of the said the drive, there is no visible achievement as they have failed to net any of the 23 notorious criminals (except one who, in fact was surrendered to the police by his father) for the arrest of whom the Ministry of Home declared award earlier. The failure to nab the notorious criminals raises a speculation that the well-published operation was badly designed and executed. The drive could only curtail the freedom of movement of common people.

From 13th to 19th May more than 2795 people were arrested of whom about 500 were professional extortions and only 21 were listed criminals. Around 500 people were arrested in a particular day under the rapid action, of them 70% were, reportedly, innocent common people. Most of them were arrested after interrogation and some were released after paying compensation to the court. The joint force arrested them under section 54 of the Code of Criminal Procedure, Dhaka Metropolitan Police Ordinance 1976 and Motor Vehicles ordinance 1983. Section 54 empowered the police to arrest any person on grounds of mere suspicion, which they exercised at random. The Motor Vehicles Ordinance relating to licensing of the driver and the conductor of the vehicles, registration of the vehicles, control of traffic,



LAW vision

Emerging models for human rights education

Model 2 -- Accountability

Under the "accountability model," participants are already expected to be directly or indirectly associated with the guarantee of human rights through their professional roles. In this group, HRE focuses on the ways in which professional responsibilities involve either directly monitoring human rights violations and advocating with the necessary authorities or taking special care to protect the rights of people (especially vulnerable populations) for whom they have some responsibility.

Within this model, the assumption of all educational programming is that participants will be directly involved in the protection of individual and group rights. The threat of the violation of rights, therefore, is seen as inherent to their work. For advocates, the challenge is to understand human rights law, mechanisms of protection, and lobbying and advocacy skills. For other professional groups, educational programs sensitise them about the nature of human rights violations and potentials within their professional role, not only to prevent abuses but to promote respect for human dignity. Human rights training and topics are geared towards these specialised areas, and outcomes are geared towards content as well as skill-development.

Examples of programs falling under the accountability model are the training of human rights and community activists on techniques for monitoring and documenting human rights abuses and procedures for registering grievances with appropriate national and international bodies. Also falling within this classification are pre-service and in-service trainings for lawyers, prosecutors, judges, police officers and the military, which may include information about relevant constitutional and international law, professional codes of conduct, supervisory and grievance mechanisms, and consequences of violations. Professional groups, such as health and social service workers, journalists and other members of the media, are the recipients of HRE programming aimed at accountability.

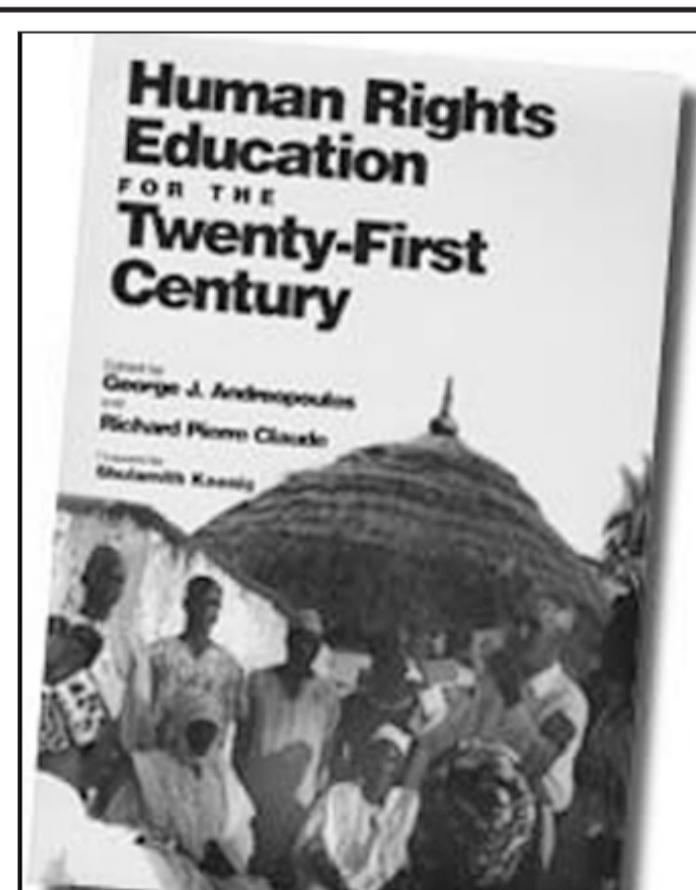
Within the accountability model, personal change is not an explicit goal, since it assumes that professional responsibility is sufficient for the individual having an interest in applying a human rights framework. The model does, however, have the goal of structurally based and legally guaranteed norms and practices related to human rights. It is given within this model, that social change is necessary, and that community-based, national and regional targets for reform can be identified.

Model 3 -- Transformational

In the "transformational model," HRE programming is geared towards empowering the individual to both recognize human rights abuses and to commit to their prevention. In some cases, whole communities not just the individual are treated as the target audience. This model involves techniques (based partly on developmental psychology) that involve self-reflection and support within the community. A formal focus on human rights is only one component of this model, however. The complete program may also include leadership development, conflict resolution training, vocational training, work and informal fellowship.

The transformational model assumes that students have had personal experiences that can be seen as human rights violations (the program may assist in this recognition) and that they are therefore predisposed to become promoters of human rights. It treats individuals more holistically, but it is therefore more challenging in its design and application.

This model can be found in programs operating in refugee camps, in post-conflict societies, with victims of domestic abuse and with groups serving the poor. There are examples of "human rights communities," where governing bodies, local groups and citizens "examine traditional beliefs, collective memory and aspirations as related to the Universal Declaration of Human Rights," such as those supported by the People's Decade for Human Rights Education, as part of the United Nations Decade for Human Rights Education, which was officially proclaimed from 1995 to 2004.



In some cases, this model can be found in school settings, where an in-depth case study on a human rights violation (such as the Holocaust and genocide) can serve as an effective catalyst for examining human rights violations. In some sophisticated programs, students are asked to consider the ways in which they and others have both been victims and perpetrators of human rights abuses, thus using psychological techniques to overcome the "we" versus "they" mentality and to increase a sense of personal responsibility. Graduates of such programs are positioned to recognize and protect their own rights and those of others they come in contact with.

Should schools choose to do so, the HRE curricula could address participation in family decision-making; respect for parents but rejection of family

rights educators can take steps to further programming, however. If human rights education is to become a genuine field, then we are challenged to become more coherent (even among our diversity of models), to be unique (offering value and outcomes that other educational programs cannot) and to be able to replicate our successes.

In order for human rights education to become more qualified as a field, there are several areas that we must begin to review, analyze and document. We need detailed examples within the HRE field that illustrate the careful use of learning theory appropriate to the context of the program. For example, adult education programs should have designs (not just training agendas) that take into account the learning process of mature participants. School-based programs should be age- and developmentally appropriate. Programs designed for special populations, such as refugees or victims of abuse, should also reflect the necessary sensitivities.

Although the overall number of HRE trainings and courses have increased, there is as yet no clear objective standard for what constitutes a qualified human rights education trainer. At the moment, human rights education courses are led by those who have some kind of previous training experience. However, there is no national or international certificate to clarify and demonstrate the competencies of these educators; nor are there clear standards for study or practice. Training and curricular standards might further the status of HRE as a legitimate field, and also spark healthy conversation about learner goals and strategic change efforts.

The human rights education field needs evidence of having successfully achieved its goals, for all models. We need to learn which programs have been successful, and why. If the models proposed in this article have any credibility, they can be tested and clarified through program evaluation. These studies would evaluate the programs both on the basis of meeting goals in the areas of knowledge, values and skills (as appropriate) and also on the basis of contributing directly to advocacy and social change. Such research could not only enhance the quality of educational programming, but help to substantiate what is now primarily intuition about the importance of education within the human rights field.

Human rights education has the prospect of evolving into a full-fledged field both within human rights and within education. In its current state, it is a collection of interesting and discrete programs. The idealized models presented here are important because they carry with them distinct strategies for helping to realize human rights cultures in our communities and countries. We can probably agree that we would want all three models represented in each of our societies, since they complement each other in promoting a dynamic human rights infrastructure. However, as individual educators, we need to make wise choices about where to invest our energies, and to be proactive in creating these opportunities within our societies. Reflection on these models, may assist in this process.

We are at an exciting time of enhanced public awareness and interest in human rights. We must not lose our chance to help make human rights education a critical approach to examining and building our societies.

Felisa Tibbitts, Director of Human Rights Education Associates (HREA). She prepared this article for the International Review of Education (Special Human Rights Education edition, 2002).

There are other ways that human rights educators can take steps to further programming, however. If human rights education is to become a genuine field, then we are challenged to become more coherent (even among our diversity of models), to be unique (offering value and outcomes that other educational programs cannot) and to be able to replicate our successes.

In order for human rights education to become more qualified as a field, there are several areas that we must begin to review, analyze and document. We need detailed examples within the HRE field that illustrate the careful use of learning theory appropriate to the context of the program. For example, adult education programs should have designs (not just training agendas) that take into account the learning process of mature participants. School-based programs should be age- and developmentally appropriate. Programs designed for special populations, such as refugees or victims of abuse, should also reflect the necessary sensitivities.

Although the overall number of HRE trainings and courses have increased, there is as yet no clear objective standard for what constitutes a qualified human rights education trainer. At the moment, human rights education courses are led by those who have some kind of previous training experience. However, there is no national or international certificate to clarify and demonstrate the competencies of these educators; nor are there clear standards for study or practice. Training and curricular standards might further the status of HRE as a legitimate field, and also spark healthy conversation about learner goals and strategic change efforts.

Human rights education has the prospect of evolving into a full-fledged field both within human rights and within education. In its current state, it is a collection of interesting and discrete programs. The idealized models presented here are important because they carry with them distinct strategies for helping to realize human rights cultures in our communities and countries. We can probably agree that we would want all three models represented in each of our societies, since they complement each other in promoting a dynamic human rights infrastructure. However, as individual educators, we need to make wise choices about where to invest our energies, and to be proactive in creating these opportunities within our societies. Reflection on these models, may assist in this process.

We are at an exciting time of enhanced public awareness and interest in human rights. We must not lose our chance to help make human rights education a critical approach to examining and building our societies.

Felisa Tibbitts, Director of Human Rights Education Associates (HREA). She prepared this article for the International Review of Education (Special Human Rights Education edition, 2002).

Md. Anisur Rahman is a student of Law, University of Dhaka.