

## Human Rights in Japan

### Phase Two - Challenging the Control Society

I am going to follow Vera's cue and begin from the "Hidaka affair" and its context: the context of the debates on democracy and human rights that occurred in Japan in the 1970s and 1980s, but I want to take the story in a slightly different direction. The range of human rights issues taken up in Japan in that period was very wide. It included not only the protection of life and livelihood from industrial pollution but also issues such as women's rights and the rights of ethnic minorities in Japan. Here, though, I want to focus particularly on an issue raised both by Hidaka himself and by other contributors to "Democracy in Contemporary Japan": the critique of Japan as a "control society" [kanri shakai] or "control state" [kanri kokka].

The critique of Japan's "control society" developed by Hidaka and others had several facets. Hidaka himself argued that corporate mass production and consumerism were creating a conformist society in which people were not so much directly controlled by the state, but rather became passive and self-controlling, or controlled by one another. Meanwhile, there was also a growing concern about the computerization of society, and about the potential of new information technologies to strengthen state control and impinge on individual freedoms. Indeed, Australia's refusal to admit Hidaka was symptomatic of the growing power of states to collect, store and share secret information on citizens.

During the 1980s I was particularly interested in this problem of computerization and information technology and its impact on society, and I find it fascinating, almost thirty years on, to go back to those debates and consider how far the fears of growing state control in the information society have been realized.

In many ways, 1980s predictions both about the potential benefits and about the potential dangers of computerization proved wide of the mark. At that time, computer systems were still large and expensive, and most people imagined computerization as being a centralized process, heavily controlled by the state and large corporations. The very large-scale covert collection of

individual private data by the state has continued to raise international concern - as the recent Edward Snowden case suggests.

But what almost no-one imagined in the 1980s was the worldwide diffusion of the very decentralized, uncontrollable electronic media: the Internet, mobile technologies, Facebook, twitter and the rest. These technologies have created both new possibilities for communication and profound challenges to human rights and freedom of expression, but these are opportunities and challenges different from the ones that were envisaged in the 1980s discourse about the "control society". These challenges are evident in many countries of the world, but I think that recent developments in Japan provide a particularly vivid illustration of the complex problems involved.

So, as I move on to talking about human rights issues in Japan today, I want to focus particularly on the problem of freedom of expression. I do this particularly because free speech has a special place in human rights. Whether we speak about human rights or about democracy or about the pursuit of human security or about "survival politics", freedom of expression is fundamental to all other rights, security and freedoms. Freedom of expression - is the vehicle that allows us to demand and defend other human rights, security and freedoms.

### Phase Three - Smart Mobs and Human Wrongs

So I am sitting in a small, dimly lit crowded cafe in Tokyo drinking the wonderful coffee that you can only get in old-fashioned Japanese cafes and talking to a friend whom I have known for well over a decade, and the friend leans towards me and unconsciously lowers his voice and says "My colleagues have been telling me I need to watch what I say in public. I'd like to talk about xxx, but I have to be careful not to become a target".

This is not Beijing. No-one in Japan is going to be thrown into prison for criticizing the government. It is not even Thailand or Malaysia, countries which have democratic systems but where certain sorts of speech can result in severe prison sentences. The person I am talking to is not stupid, or cowardly, or paranoid. When he says, "I might become a target", I don't need to ask "target of what?" I know precisely what he is talking about. His

anxieties are very amorphous but they are very real. And he is not alone. I have had this conversation, entirely independently and separately, with several different people in Japan in the past year.

I do not remember having these conversations in the 1980s or early 1990s - at least, certainly not so frequently or in that form. Generally speaking in the postwar period, Japanese society has been a site of remarkably free and wide ranging public debate. There has of course long been an "old right", closely linked to the yakuza, who sometimes made nasty threats against those who did things like making critical comments about the Emperor.

But recently I think the problem has become more amorphous but much broader. A growing range of topics have become difficult if not impossible to debate openly in many public forums. Let me be specific - it is now very difficult to use the national media to express views such as the idea that China and Japan have equally valid claims to the Senkaku Islands, or that the Korean schools financed by the organization Chosen Soren should be treated in the same way as other foreign schools in Japan. Until a month or so ago, it was extremely difficult to express the view that the Japanese government should enter into negotiations with the North Korean government; but in recent weeks such negotiations have in fact taken place, so perhaps this will now return to the range of debatable topics. No doubt you could also add others to the list of things that are difficult to say in the media. Whether these views are correct is not the issue. The issue that these are important subjects on which it is important to have reasoned and open debate.

To explore the roots of this problem, I'd like to go back to the year 2002 - the year when US social commentator Howard Reingold published the book, *Smart Mobs*, now regarded as a classic analysis of the impact of mobile information technology on society. By "smart mobs", Reingold means people who, by using mobile phones, text messaging and other mobile media, "are able to act in concert although they have never met". (p. xii) Reingold's predictions on the future of the mobile networked society was based on his observations in Japan, more specifically in Shibuya, which at that time had the world's highest concentration of mobile phones.

Reingold's vision of mobile information society is often seen as being rather a rosy one, and "Smart Mobs" certainly does have a plenty to say about the potential of mobile media to generate new communities and networks and generate new forms of creativity. But Reingold was not naive about the possible dangers. He recognized that "smart mobs" could also become "lynch mobs and mobocracies". (p. xviii)

What I think has become fascinatingly apparent in the decade since Reingold's book was written was that the way in which these possibilities have unfolded varies very widely from place to place, and is very contingent on the social and political environment.

Japan seems to me to provide particularly striking examples both of the bright and the dark side of "smart mobs". The bright side was most shinningly visible in the wake of the disaster of 2011, when online communities played an absolutely vital role in the rescue effort and in proving information that the mainstream media failed to provide. But in human rights terms there is also a shadow side that needs to be seriously addressed.

Japan's "smart mobs" appeared during a time of prolonged economic depression, when many people felt social anxiety and frustration. Such frustrations came to be reflected in online communities such as a the massive bulletin board site, 2-Chanel, founded in 1999, which attracted tens of millions of anonymous users. The "threads" on 2-Chanel covered a wide range of topics, many of then entirely apolitical, but the site also became notorious for its "mob" behaviour, including posts containing very racist or violent language, often focusing on particular groups or individuals in the news. The site's managers edited the content to exclude sexually explicit material, but did not remove racist language or potentially defamatory material about individuals, and the site illustrated a global problem of the difficulty of regulating anonymous online media. 2Chanel has since lost some of its influence to newer social media such as Facebook, Twitter, Youtube and Nikoniko Doga, but I think that it played a significant and troubling role in setting the tone for a certain type of aggressive online rhetoric.

In many parts of Asia the rise of online media has opened the way to critical public debate of a sort that tends to be excluded from the mainstream media. In Japan too there have been efforts by liberal and left-of centre

activists to develop online media, but these have not been very successful, and the blogosphere has tended to be dominated by right-of-centre comment that echoes and amplifies that of mainstream newspapers and magazines.

Online media do not exist separately and independently from conventional media nor from the world of mainstream politics. Japan's conventional media - particularly weekly magazines - have a tradition of relatively aggressive and intrusive reporting, which goes largely unchecked because Japan does not have the equivalent of an independent press council to oversee this section of the media. Certain stories carried by mainstream media have the power to "go viral", producing a massive wave of online action and emotion - though it is not necessarily easy to predict which stories will "go viral" and in what way. Online communities have their own complex emotional order, which is still insufficiently understood.

"Smart Mobs" was published in September 2002, the month when, during Prime Minister Koizumi Junichiro's visit to North Korea, Kim Jong-Il admitted that North Korean agents had been responsible for kidnapping Japanese citizens. This shocking and bizarre abuse of human rights by a foreign government had a massive impact on Japanese society, and dominated the headlines for the months, even years. The abduction issue generated a wave of public emotion in Japan, and (because of the ongoing mystery about the fates of many of the abductees) created immense scope for the circulation of online rumor and speculation. The fact that this issue was taken up with such passion by online media was entirely predictable and understandable. But, rather than promoting wide-ranging debate on this very important issue, the very intensity of online and offline response tended to make mainstream media very cautious of reporting the story in any way that was likely to produce a negative response from their digitally networked audiences, thus narrowing rather than broadening the scope of the debate.

A much more unexpected "mob" response to a public issue occurred two years later, when three young Japanese were kidnapped by insurgents in Iraq. The three were critical of the war in Iraq, and had intended, to investigate stories of the use of depleted uranium in the Iraq war. Several politicians and sections of the print media criticized their "irresponsibility" for going to a war zone, the story then exploded online. The three were

released by their captors, but returned home to face a storm of public abuse in the blogosphere and in the form of threatening letters, emails and phone calls, which undoubtedly intensified the trauma caused by their experiences in Iraq. [US scholar Norma Field, commenting on this event, has argued that "the amorphous yet pervasive sense of a society that had lost its purpose after the postwar recovery, miracle, bubble and recession found expression in this moment". (Imai Noriaki, "Why I Went to Iraq", Japan Focus 2620)]

In the years since 2004, further developments have added new layers of complexity to the "mobile mob" phenomenon. On the one hand, the online mobs have begun to spawn much smaller but very vocal offline mobs, which carry the aggressive language of the blogosphere into the community. The best known example of such groups is the Zainichi Tokken o Yurusanai Shimin no Kai [Zaitokukai], founded in 2007.

A second development is the rapid expansion in the use of social media by politicians. The rapid proliferation of politicians' personal Facebook pages and twitter accounts has not been accompanied by adequate debate about the ethics and the proper limits of the use of social media by those in political power.

The potential issues that can arise here are, I think, well illustrated by the very vigorous use of social media by Upper House politician Katayama Satsuki. Katayama is an enthusiastic advocate of reducing government expenditure on livelihood protection (the basic form of welfare given to the destitute in Japan), and in the first half of last year she very energetically used her online blog to broadcast stories about alleged cases of fraudulent welfare claims. These include stories naming and shaming well-known media personalities whose family members have received livelihood protection. (The poor in Japan are supposed to seek support from other members of their family, and only to receive livelihood protection if this is absolutely unavailable, so the assumption is that anyone whose child or sibling is a media personality has no right to this welfare, whatever their personal circumstances). Katayama also used her blog to broadcast the message that too much welfare is being given to Koreans in Japan. At a time when many people are struggling to make a living, welfare recipients are an easy target for mob frustrations, and such stories of alleged welfare fraud, particularly when spiced with an added racial dimension, quickly go viral. In fact, these

stories also spawned a mass of entirely unfounded online rumours that the family members of other public figures were fraudulently living off welfare.

These are just a few examples of mobile mob attacks. There have been many others. This is the context in which both individuals and media outlets start to become anxious about becoming "targets". It is, I think, precisely because the threat is vague and amorphous that it is also pervasive and disquieting. Critical public comment, whatever the topic, may in fact prove to be completely safe. It may produce no negative reaction at all. But certain critical comments or stances may produce a viral response both in mainstream and online media, in some cases also involving statements by people in positions of political power. Those who have the misfortune to experience such attacks suddenly confront a blogosphere full of anonymous, often libelous, hate-filled comments which will be read not only by themselves but also by their parents and children, neighbours and workmates. Mainstream newspapers are understandably cautious about publishing anything that might provoke such a viral reaction, not least because it is very bad for their own business.

## Constitutional Change and Freedom of Expression

The rise of the smart mob, then creates a restraint on free speech very different from anything that was envisaged in 1980s debates about the "control society". Paradoxically, it is the uncontrolled and uncontrollable nature of mobile media which makes them a potent force for social and political constraint.

The issues that I have raised here are ones that need to be addressed through careful international research and debate, because (as mentioned) these are certainly not problems unique to Japan, even though they are perhaps being played out in a distinctive way in contemporary Japanese society. Free speech, by its very nature, can never be absolute. If people are allowed to use free speech to libel others or threaten them with violence, then the free speech of is being used to silence others.

Japan is now engaged in intense debate about possible constitutional revision and major changes to education. These debates should provide an opportunity for thinking seriously about ways to devise new media policies

and programs of media education to protect and enhance free speech in an online age.

Unfortunately, though, this has not been happening so far. Instead, the revisions to the constitution proposed by the ruling party, which are in fact so wide ranging that I think they are better described as a proposal for a new constitution, contain a sweeping and extremely vaguely worded amendment to the clause protecting freedom of expression: an amendment so vague and open to interpretation that it could quite easily be used to seriously restrict, rather than strengthen, free speech in Japan.

This change is quite simple.

Article 21 of the current constitution states that "Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed".

The ruling party's proposed new version contains exactly the same sentence, but follows it with a new sentence, which reads:

"Despite the foregoing, actions which aim to harm the public interest or public order, and associations with the same aim, will not be authorized" (My translation -

前項の規定にかかわらず、公益及び公の秩序を害することを目的とした活動を行い、並びにそれを目的として結社するのは、認められない。

"Use Your own Head" - Grassroots Democracy in Contemporary Japan.

I raise these issues because I think that, for anyone who cares about Japan's future, and about maintaining Japan's status as a country with a vibrant sphere of open public debate, they are important issues that need to be addressed. But, having painted a perhaps rather gloomy picture of recent developments in Japan, I'd like to end on a more hopeful note.

Like Vera, too, I see reason for hope in Japan's really quite remarkable wealth of small, local, grassroots social movements - groups whose significance is not sufficiently recognized, either at home or abroad. On my most recent visit to Japan, I visited a quiet rural area of Nagano Prefecture, which is the site of a whole range of loosely interconnected experiments in education, local community development, organic farming

and environmental movements, some of them with origins going back as far as the Taisho era.

While I was there, I asked two of the central figures in these movements - one of them a local farmer and the other a teacher originally from Tokyo, if they could define for me the fundamental philosophy that underlies and links these local movements. They replied without a moment's hesitation. The philosophy, they said, is "use your own brain. Think for yourself. The fact that the Liberal Democratic Party tells you something, or the Communist Party tells you something, or the newspaper, or the Internet tells you something, does not make it true. Democracy has to be made by each individual, one by one, so discuss and think and decide by yourself".

I can't think of a better principle for the future of free expression and human rights in Japan. And if the constitution is ever to be revised, maybe those words ought to go into the preamble.