

Security Legislations and Human Rights in Japan

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Atsushi SUGITA

Hosei University, Tokyo

sugita@i.hosei.ac.jp

9.11 was not an epoch-making event, but was an event symbolizing the change which had already started; the risks began to cross borders. Even the center of the US, which had been regarded as the most protected point on the earth, turned out to be vulnerable. The fact has caused tightening of security measures and risk managements all over the world, jeopardizing civil liberties and democracy.

1 What is Taking Place in Japan

First of all, let us summarize what kind of legislations and policies have been made in Japan recently.

a) Military Policies

After the WWII, a new constitution with the unique 9th clause prohibiting military means to solve international conflicts was made, under the influence of the allied powers. The content of the clause has never been fully realized, because Japan was soon remilitarized, and the US troops stayed on the Japanese soil. However, the existence of the clause has mattered. It has prevented Japan from becoming one of military powers, though she had got economical and technological potentials to be one.

After the Gulf War, it was widely argued in Japan that US and other countries blamed Japan for having not sent armies to the area. Japan was not praised, though she had offered an astronomical amount of money, they said. Nobody can be quite sure if this really was the general opinion in *the West*. But in Japan, this story was propagated, and helped to change the public opinion quite a lot. In 1992, so-called PKO Cooperation Act was enacted, which enabled the Japanese army to be sent abroad for peace keeping operations. And in 1997, the Japanese-US Alliance was reshaped, with a new law called the Law for a Situation in the Surrounding Areas. This law made it possible for Japan to provide US military with logistics, when “ a situation which can menace the peace and security of Japan” emerged in “the surrounding areas”, though no politicians could properly explain about the definition of the areas.

And then there came 9.11. The so-called Special Measures Law against Terrorism was made. This law enabled the Japanese military to cooperate with the US counterpart, “in order to prevent and to terminate international terrorism”. In fact, Japanese warships were sent to as far as the Indian Ocean. And this year, an emergency law plan was put on the agenda of parliaments, for the first time in the post-war Japanese history. According to the plan, which has not been enacted so far, many rights will be suspended when a “situation of military attacks occurs”, or “are about to occur”, or “are to be expected”.

b) Domestic Security Policies

Not only in the military sphere, but also in other spheres of the life, security measures are being made. In 1999, Telecommunication Interception Law (Bugging Law) was legislated. The government said that this was to protect citizens from organized crime gangs, who use mobile phones and internets. But many people fear that targets might be extended in the future.

The so-called Protection of Personal Information Act Plan was also proposed. According to the plan, the law will enable the bureaucracy to control the exchanges of personal information between business corporations. The government said that this was necessary to protect people from abuse of information by corporations and other bodies. Because mass media heavily criticized the plan as an attack on their free activities, the plan has not been enacted so far. The idea that the bureaucracy can become the guardian of personal information must be regarded as sinister in itself.

In relation to this act, resident information was made online recently. The personal information registered to each local government has been connected nationwide via internet. Every Japanese citizen was given a particular number, which would be used as his/her ID. Only formal information like home address is included in the database for the moment. But many people believe that more information will be linked soon. Otherwise, the huge infrastructure does not pay. In the near future, they click on the screen, and will find your school records, health records, shopping records, library records, and many others. There are technology and infrastructure at hand in Japan to bring about the situation.

They have already installed so-called N-System in most main roads in Japan, which take pictures of the number plates and passengers of all the passing vehicles. More and more closed circuit cameras are installed, not only in shops, but also in the streets. Most people now carry mobile phones, which continuously emit information of the location of the holders. If all these separate systems are connected, a *panopticon* will be established. They can see where you went to, who you met, what you did, and so on.

And some people are under stricter surveillance than others. The governor of Tokyo proclaimed that the increase of serious crimes in the area should be attributed to the illegal immigrants from China and Korea. Sometimes local police authorities issue warnings against “unfamiliar-looking foreigners”.

c) Constitutional Reform

The measures enumerated in the section b) can jeopardize human rights, and so are in strict tension with the present constitution. The military development shown in the section a) can be interpreted as unconstitutional. That is why those who have promoted these policies have had a constitutional reform in their perspective. The government and ruling Liberal Democrats seem to be taking a two-frontier strategy for the moment. On the one hand, they have diverted constitutional arguments, and have tried to do things without touching the constitution. On the other hand, they have not abandoned the possibility of the reform. In 2000, Research Committees for the Constitution were made in both parliaments. They are expected to submit interim reports soon, probably in favor of the reforms. The focus of the research is the 9th clause. Many politicians argue that the pacifist clause should be modified, in order for the constitution to be accommodated with the fact that Japan has got an army. Others say that there are too many rights and too few obligations in the constitution. They believe that pre-war constitution, which emphasized the importance of state and family, should be the model.

2 What Is Behind the Scenes

The Gulf War and 9.11 obviously were turning points. But they were nothing more than triggers. The public opinion had changed considerably in the Japanese society before those events.

As far as military policies are concerned, people gradually came to believe that the pacifist clause was nothing better than a beautiful dream. No countries followed the pacifist strategy. And people feared that the clause could be seen as a representation of their egoism, especially when the idea of “humanitarian intervention” had got some sort of circularity. And people became more and more irritated to find Japan failing to occupy the first class seat in the international society, notwithstanding her economical power. They said that was because Japan had hesitated to act militarily. There is no doubt that these ways of thinking are likely to entail some kind of nationalism. An upsurge of nationalism is one of the characteristic features of present Japanese society. However, on the other hand, these ways of thinking can be helpful for the US to bring about their strategies. In that sense, these tendencies could be seen as

reestablishment of the post-war Japanese-US relationships. This ambivalence should be kept in mind.

The public opinion about emergency laws has also changed. The present constitution does not have any clauses about emergencies. Constitutional theorists have argued that this was because the constitution deliberately excluded the idea of emergency, since that very idea could jeopardize the system of human rights itself. But this kind of argument has gradually been discredited. Now many people say that they would rather have emergency regulations, in order for them to have their rights protected in the case of emergency, which is imminent sooner or later.

The general public is also supportive of other domestic security policies. This is because there is a vague feeling of insecurity within the society. They believe that economical globalization will introduce illegal immigrants, and will exclude former workers from workplaces. They have no sense of criticism against what allegedly makes their life more safe and convenient. They are not conscious of the menaces to their liberties. They think that they will be all right even if they are under surveillance, as far as they are doing nothing wrong.

They still think that most of risks come from outside, though that is obviously false. Risks cross borders quite easily. They believe in the idea of sovereignty, which will protect from them from bloody others. Anti-immigrants feeling can already been found in Japan, and that would be stronger, if Japan becomes more multinational society like Europe and Australia.

3 What Should Be Done

Those who are concerned with the tightening security, like us, are being marginalized these days. As is well known, many distinguished American intellectuals like Samuel Huntington, Michael Walzer, Francis Fukuyama, and Jean Elshtain signed a document supporting the American war in Afghanistan. In Japan, many theorists of international politics argued that it was necessary for Japan to follow the US policy, for the sake of her own national interest. Only a few people have made it clear that wars solved nothing, and that diplomacies should be continued.

We must admit that pacifism is not necessarily overwhelmingly convincing when the idea of humanitarian intervention can make some sense. However, on the other hand, so-called realism is no more convincing. And the just war theory, which tried to strike the balance of pacifism and realism, is not relevant now, because the common understanding of the justice cannot be presupposed.

As I have shown, people are not so much concerned with the side effects of security policies as their so-called benefits. In the past, Japanese intellectuals could quote Western

examples to emphasize the importance of civil liberties. But now we cannot do that, because it is in the West, where civil liberties are neglected, and double standards are applied.

I think that we are now in a situation where we must make some criticism against the value of security itself, which has always been presupposed within the tradition of modern political thinking. We should talk more of the self-destructive character of security policies. Security is needed to protect the life. But if you pursue security excessively, that efforts will ruin your ordinary life. If you try to exclude all the “risky” people from your society, the process will never end before the last person is excluded. We have witnessed that kind of endless process of liquidation in the history of the 20th century.

Whether or not we can stop the vicious circle of security measures and insecurity is vital for our future, not only in Japan, but also in the Asia Pacific regions in general.