“How Do Global Human Rights Expand?: A Case of Japan’s Burakumin Going Global”

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UCSB Conference paper, February 25-27, 2016

*Introduction*

Scholarship on the history of human rights has seen a surge in recent years. Much of this historiography focuses on the provenance of universal human rights. Some argue that enlightenment era political documents, novels, and other cultural products spread the ideas about human autonomy and empathy, thus laying the ground for universalistic notions of human rights (Headley 2008; Hunt 2007). Others point to anti-slavery movements and other international humanitarian campaigns in the nineteenth and early twentieth century as concrete political milestones that set the stage for subsequent human rights institutions (Barnett 2011; Bass 2008; Brysk 2013; Keck and Sikkink 1998; Martinez 2012). Majority of scholars highlight the 1940s as the period in which universalist ideals emerged concurrently with the war against totalitarian fascist powers and were institutionalized into international instruments (Borgwardt 2005; Glendon 2001; Lauren 2010). In recent years, a new line of historiography by revisionist scholars spotlights the 1970s as the real emergence of a functioning international human rights system (Hoffman 2011; Keys 2014; Moyn 2010). Whatever the emphasis, these studies portray the development of global human rights as a gradual, if spasmodic, process that took off in the mid to late 20th century and has evolved into stronger global institutions since then.

On the other hand, some human rights scholars have begun to call out the contemporary international human rights system as increasingly dysfunctional, paralyzed by overload and lack of enforcement power. They point to a lack of significant progress since the 1990s, and attribute this failure to the international system that is set up to sustain “benign neglect” (Posner 2014). They call for streamlining international institutions, delegating more tasks to local actors, and allocating resource in a more efficient, targeted way (Hafner-Burton 2013; Hopgood 2013; Posner 2014). Other scholars deploy sophisticated quantitative analyses to counter this argument, demonstrating progress in human rights practices in recent decades (Cole 2012; Farris 2014; Lupu 2013). Whoever’s evidence one might find more convincing, the evaluation of the last few decades of human rights history is critical in forging an effective way forward. What has been happening to the international human rights system since the 1990s?

This is too large a question to take on in its entirety in this brief chapter. Instead, I aim to take a cut at one aspect of global human rights since the 1990s: the expansion of rights repertoire. One of the core criticisms about the current international human rights system is that it has too many different bodies dealing with too many different kinds of rights. What Posner calls “hypertrophy of human rights” (Posner 2014). This, according to critics, makes the system spread out too thin and ineffective overall. How has this situation developed, and are the critics correct in their evaluation of the situation?

I attempt to answer these questions by examining one instance of establishment of a new type of rights issue, discrimination based on descent and work. I focus on a discriminated minority group in Japan called Burakumin, which led the process of establishing this new norm. Burakumin have a long history of activism dating back to the 1920s and started using universalist language long before the Universal Declaration of Human Rights. Their activism achieved some level of success in the domestic arena but they needed further progress in tackling social discrimination that continued to plague them. In the 1970s, as the international human rights system expanded and engulfed Japan, Burakumin activists went global, seeking to leverage global human rights for change in the domestic arena. Since then, their steady participation in international human rights forums shifted their focus away from their own domestic success to contributions to international promotion of human rights. Collaborating with other international actors, they made concerted efforts to establish discrimination based on descent and work as a new human rights issue in the international system.

In the following, I trace the history of Burakumin activism, focusing on their foray into international forums since the 1970s and their efforts to establish a new rights issue since the 1990s. I note that this is one of many cases in which local actors added to international human rights agenda. My goal in this chapter is to unpack the process through which new rights emerge and become part of international norms and to examine what the consequences of such efforts might be. The edifice of global human rights is sustained by the iterative, cumulative efforts of these local and international actors.

*Background*

Burakumin are a group of people who face discrimination based primarily on their ancestors’ occupations and outcaste status in the stratification system of premodern Japan. The Meiji government abolished the caste system in 1871, but discrimination persisted, as Burakumin were confined to their hamlet (*buraku*), in which living conditions were visibly inferior. To fight discrimination and achieve greater equality, the Burakumin formed *Suiheisha* in 1922 and advocated universalistic anti-discrimination principles. After a halt in their activism in the wartime, *Suiheisha* returned onto the political scene in the postwar period and evolved into the Buraku Liberation League (BLL) in 1955. Since then, internal disputes about BLL’s direction prompted those affiliated with the Japan Communist Party to splinter and form the National United Buraku Liberation Movement Association (henceforth the Association) in 1976. The Association’s main claim was that Burakumin discrimination would disappear over time and that disruptive activism was counterproductive. Based on this argument, the Association did not engage in much visible activism except to counter and criticize BLL’s activities. There is a third line of Burakumin advocacy that promotes quiet integration into main stream society. This *Yuwa*, or integrationist, line was promoted by groups representing the interests of ruling elites and engaged in few public protests. Thus, as a social movement organization, the BLL was by far the most active carrier of the Buraku liberation movement that started in 1922 with Suiheisha. The BLL has also been the most dominant Burakumin organization, drawing support from a vast majority of Burakumin and spearheading most large-scale mobilizations. For these reasons, my analysis will focus on BLL’s activities.

By the 1970s, much of BLL’s activism had coalesced into two major activities: (1) denunciation campaigns that publicly admonished organizations and individuals for displaying discriminatory attitudes toward Burakumin and (2) protest campaigns for grants to improve their substandard community infrastructure that initially targeted local governments and then the national government. In 1969, these campaigns resulted in the Special Measures on Dowa Communities intended for Burakumin community improvement. It was the largest government project for minorities in Japan and would be renewed repeatedly until its amicable demise in 2002. Despite these successes in formal policies, Burakumin continued to face social discrimination in private spheres, especially in employment and marriage. As I detail below, this issue emerged as one of the main foci of Burakumin activism in subsequent decades, and global human rights seemed appealing in addressing this issue.

It is worth noting here a tension in the Burakumin movement about their sameness and difference vis-à-vis mainstream Japanese. Burakumin are not a distinct people racially, nationally, religiously, or linguistically.[[1]](#footnote-1) When non-Burakumin contend that Burakumin come from a different race, they typically do so with an intent to disparage and discriminate. Burakumin have vigorously challenged such discource and mobilized collectively to establish their equality and sameness since the 1920s. Yet, early Burakumin activists invoked the pride as Burakumin, and contemporary ones drew inspirations from national and racial groups that rose against oppression, such as Ghandi’s India, the Civil Rights Movement, and anti-Apartheid activism. When their movement gained traction in the 1960s, they highlighted their historically entrenched disadvantages in order to justify remedial measures. There has been a tension between their claim for equality based on their ethno-racial sameness and their pursuit of remedies based on their historical differences. While the tension is hardly irreconcilable in light of the history of Burakumin discrimination, much of the general public were casual observers who easily fell prey to demagogy or indifference. This tension runs through the Burakumin movement, uniting and dividing Burakumin activists and facilitating and complicating the movement at different junctures (Kurokawa 1999). Establishing discrimination based on descent and work at the United Nations would help resolve this tension as we see below.

Against this background of Burakumin activism, global human rights enter Japanese politics in the 1970s. In 1976, the two International Covenants entered into force after collecting required number of ratifications, and in 1979, the Japanese government ratified the two Covenants. Since then, both the government and civil society have deepened their engagement with international human rights institutions, and that has changed the dynamics of minority politics in Japan. Below, I will examine how Burakumin activism changed since the 1970s.

*Movement Reorientation by Burakumin*

The BLL embraced a tradition in Burakumin activism that upheld universal opposition to all forms of minority discrimination (Neary 1989) and even engaged in some international anti-discrimination activities. This early universalist streak may have facilitated their subsequent global activities.[[2]](#footnote-2) However, international activities before the 1970s were all grass-roots alliances revolving around a charismatic leader, Jiichiro Matsumoto.[[3]](#footnote-3) The BLL had yet to develop institutional ties with international actors or link up with UN-based human rights activities. A leading international activist of the BLL today says that:

there is little direct continuity between the early international activities by Matsumoto and post-1970s international activities. Matsumoto’s prescience for the need to universalize the Burakumin movement as a human rights movement probably had some impact ideologically, but few considered global human rights activities as directly relevant to their movements. One main reason for that is the suspicion Burakumin activists, and leftist activists in general, had about the United Nations as being a puppet of the US and other major powers for their world domination (Interview 2004/7/2b).

Such suspicions slowly dissipated as the UN increased its human rights activities in the 1970s. The entry into force of the International Covenant of Civil and Political Rights (ICCPR) and the International Covenant of Economic, Social, and Cultural Rights (ICESCR) in 1976 was a key moment. When the news broke of their entry into force, the BLL launched a campaign to pressure the Japanese government for ratification. A BLL leader recounts the motivation for this campaign as follows:

The campaign started after the two Covenants (the ICCPR and ICESCR) entered into force in 1976. The Covenants were not that well known prior to that, but their entry into force, coupled with the fact that Japan had not ratified them, led to much attention to UN human rights activities. … After the 1969 Measures, infrastructure in Burakumin communities was improving, but many incidents of social discrimination continued, and the BLL was exploring how to address these issues. It was along these lines that global human rights emerged as possibly useful tools for the movement…. We hoped that ratification of the two Covenants by the Japanese government would prompt legislation of a Buraku Liberation Basic Law, which would promote human rights and reduce social discrimination (Interview 2005/8/16).

After the 1969 Special Measures started addressing their living conditions, more insidious forms of social discrimination, especially in employment and marriage, became the focal point of BLL activities. As Japanese citizens, their citizenship rights were fully secured in principle, but some employers and parents would still investigate their background and reject them for being Burakumin. The denunciation campaigns reduced the number of flagrant cases (Upham 1987), but social discrimination persisted underground. To break this impasse, the BLL sought a new law that would ban discriminatory acts against Burakumin, including background checks, and promoted educational campaigns that would spread universal human rights ideas and change public perception about Burakumin (McLauchlan 2003). BLL activists expected that ratification of the two Covenants would provide legal basis for a new anti-discrimination law (Tomonaga 1978). They also anticipated socializing effects of the treaties, hoping to leverage the UN’s authority into greater respect for human rights principles in general and reduction in prejudice against Burakumin in particular (Interview 2004/12/1).

With these motivations, the BLL launched a campaign for ratification of human rights treaties in 1976. It organized various seminars and symposia, inviting experts of international human rights law and human rights practitioners from the UN and other international organizations, and lobbied many ministries and politicians domestically (Wajima 1977:221-232). In one of the first events of the campaign in 1977, the BLL invited the former head of the UN Center for Human Rights, Marc Schreiber, as a keynote speaker. This visit was brokered by Kazunari Inoue, a Japan Socialist Party Diet member from a Burakumin community in Osaka, who had visited the UN and met Shreiber (Interview 2005/8/16). Through this personal connection, the first encounter of the BLL with the UN human rights system materialized. Soon after Schreiber’s visit, the Japanese government ratified the two Covenants in 1979. Following this success, the BLL continued to organize events almost yearly featuring international human rights activists to pressure the Japanese government to ratify other human rights treaties and improve domestic practices.

Encouraged by Schreiber, BLL activists began to attend UN human rights forums in the late 1970s.[[4]](#footnote-4) Their first official participation in UN forums was in 1983, when they issued a statement about Burakumin discrimination in a meeting of a Working Group of the UN Sub-Commission. In order to make a statement, they had to borrow the credentials of a UN consultative status NGO, the Minority Rights Group (MRG) (Sekai Jinken Sengen 35 Shunen Chuo Jikko Iinkai 1983:68-72). In 1984, when they came back to make another statement in the Sub-Commission, they had to rely on the credentials of a different consultative status NGO, the Religions for Peace (Uesugi 1984). As they repeatedly borrowed other NGOs’ consultative status to make an intervention at UN forums, they began to realize the importance of having their own seat at the table. As one activist put it, it was “like taking a train ride with somebody else’s pass” (Interview 2005/8/16).

Through these international activities, BLL leaders’ networks with international human rights activists expanded. They observed the tireless work of UN officials and NGO representatives and understood the importance of international alliances, which was in line with the universalistic approach that ran through the Buraku liberation movement. They were also encouraged repeatedly by other activists to contribute to international human rights activities. For example, during their early visits to the UN, BLL representatives met Yo Kubota, a UN human rights official who was originally from Japan. Observing the way the BLL representatives presented their problems, Kubota argued that they should:

be recognized internationally as a true human rights organization by making appeals about other issues of discrimination and human rights violations, not just (their) own problems…and by forming an alliance with other anti-discrimination organizations in the world to establish an international organization with a consultative status at the UN (Tomonaga 2003:11).

As a resourceful minority group in a rising economic superpower, the BLL faced expectations to not just address their plight but also contribute to global human rights advocacy.

Before their international engagements, the BLL was focused almost exclusively on Burakumin discrimination, and their foray into international arenas was primarily to address their domestic problems. Through their international experiences, they embraced a more global view:

The world today is deeply interconnected and one discrimination does not stand isolated from other kinds of discrimination…looking at Buraku discrimination from this perspective, we need to further deepen international alliances (Tomonaga 1984:88).

By the late-1980s, international human rights activities had become one of the three core mandates of the BLL, along with elimination of social discrimination against Burakumin and forging alliances with other disadvantaged groups in Japan (Buraku Kaiho Kenkyusho 1989:306-310). Their activist orientation had shifted from a domestic minority movement focused on their own issues to a broader human rights and anti-discrimination movement that sought alliances with other disadvanged groups. Correspondingly, becoming an international human rights organization with UN consultative status emerged as a central goal of the BLL.

*Becoming a UN consultative status NGO*

The BLL quickly took concrete steps to accomplish this goal. In 1987, five BLL representatives went on a fact-finding mission to Europe to investigate how to become a consultative status NGO. They first visited the UN Committee on NGOs in Geneva to learn about application processes and necessary qualifications for consultative status, which entailed purposes that align with UN’s goals, independence from any governments, and representation from at least several countries[[5]](#footnote-5) (Tomonaga 1990:85). They then visited international human rights NGOs in Europe and learned about their operations. They were especially impressed with the Minority Rights Group and Anti-Slavery Society for their substantial contributions to global human rights work with much smaller resources than the BLL. BLL leaders were inspired and heartened to realize the BLL’s potential as an international human rights organization and noted that “we became painfully aware of our obligation to work tirelessly toward elimination of discriminations across the globe” (Tomonaga 1990:98-99).

After this preparatory period, on January 25, 1988, the BLL established an affiliated but independent international organization, the International Movement Against All Forms of Discrimination and Racism (IMADR). IMADR professed its commitment to work with UN human rights instruments in advancing human rights principles and tackling intractable discriminations anywhere in the world. To fulfill the requirements for UN consultative status, it included board and secretariat members from Austria, Belgium, Ecuador, England, France, Korea, South Africa, Sierra Leone, Sweden, the US, and West Germany, most of whom were international activists who BLL leaders encountered in their earlier activities. Its goals are aligned with UN goals, and its independence from the government was not in question. Thus, IMADR seemed to have all the qualifications for UN consultative status.

IMADR’s first application for consultative status was examined by the UN Committee on NGOs in 1989. Its leaders engaged in extensive lobbying activities, meeting all 19 members of the Committee. However, because of its short history and anchoring in one country, its application was tabled for continuing examination (Tomonaga 1989:87-91). To counter the image of a heavily Japan-focused organization, IMADR increased its international activities in the next several years, establishing an office in Geneva, attending all major UN human rights forums, organizing many events not just in Japan but in other countries, and inviting members from many more countries (Buraku Kaiho Kenkyusho 1994:76-80; Tomonaga 1994:57). Since consultative status is typically accorded to an NGO that has been in existence for more than four or five years, their application was tabled again in 1991 (Tomonaga 1991:123-124). In its third trial in 1993, however, IMADR’s persistent efforts to promote global human rights and anti-discrimination were recognized, and it received coveted consultative status.

This marked a successful transformation of a national minority organization into an international human rights organization. This *movement reorientation* began as an attempt to change the Japanese public’s understanding of Burakumin issues and to reduce anti-Burakumin discrimination. As BLL activists deepened their engagement with global human rights, taking advantage of international political opportunities at the UN and international networks of human rights activists and organizations, they internalized the altruistic norms shared by international activists and received encouragement to contribute to the global human rights effort. Through these experiences, they transformed themselves from a minority organization working only for its constituents to an international human rights organization for disadvantaged populations throughout the world.

This movement reorientation has served Burakumin activists well. When government measures to improve Burakumin communities’ infrastructure ended in 2002 on mutual agreement that they had served their purposes, the movement could have fizzled out if its focus had been exclusively on Burakumin issues. Because it had already transformed itself and spun off an international wing, the movement continues to thrive in promoting human rights domestically and internationally.[[6]](#footnote-6) This was, however, not what BLL activists anticipated in the 1970s, but rather an unintended consequence of their international engagements.

*Global Norm Expansion by Burakumin*

With the newly established IMADR, Burakumin activists sought to contribute to global human rights. IMADR has advocated for various minority groups in the world and made many statements condemning violating governments in international forums. In recent years, it has issued statements and reports on ethnic conflict in Sri Lanka, human rights violations against the Roma in Europe, and violence against indigenous peoples in Guatemala and Argentina. It has also promoted ratification of international human rights treaties, publicized international conferences such as the Durban World Conference against Racism, and launched international campaigns against human trafficking and racial discrimination in the criminal justice system.[[7]](#footnote-7) Their focus on minority rights issues, especially those in the relatively under-examined Asia-Pacific region, is particularly valuable to UN human rights activities.[[8]](#footnote-8) Once it gained UN consultative status, IMADR lent its status to other groups that lack sufficient resources and experience to become a consultative status NGO, much like the NGOs that helped Burakumin activists in the 1980s.[[9]](#footnote-9) These efforts directly contributed to reinforcement of global human rights norms.

More importantly, IMADR has contributed to expansion of global human rights norms by adding discrimination based on descent on the international human rights agenda. BLL activists had their eyes on norm expansion from early on. As early as in 1983, in their first statement in UN forums, BLL activists made a request that the UN establish an official unit that focuses on issues such as Burakumin discrimination and caste discrimination in India. This was an important goal for Burakumin activists, because if the UN recognizes discrimination based on former outcaste status as similar to racial and ethnic discrimination, they would be able to resolve the issue of their sameness/difference dilemma. Ever since the Meiji period, Burakumin activists have emphasized their ethno-racial sameness in claiming equality with non-Burakumin Japanese but also had to highlight differences in their treatment in calling for government budget for community improvements. The dilemma was that if they talk about their disadvantages too much, their social discrimination might be exacerbated, but that stressing their sameness could undermine their claim for special remedies. Establishing descent-based discrimination as an internationally legitimated issue would enable them to claim at once their ethno-racial sameness, which fortifies demands for equality, and their socio-economic disadvantages, which justify special measures by the government.

They found their legal footing in CERD, which had specific stipulations about discrimination based on descent. The Sub-Commission, where the impetus for CERD originates and the issue of descent-based discrimination was raised first, was also an important forum for this. BLL activists’ promotion of descent-based discrimination took place mostly in these two forums, the CERD Committee and the Sub-Commission. The developments in these two forums are intertwined but for ease of understanding, I will describe them separately below.

First, the Sub-Commission was where the issue of discrimination based on occupation and descent first emerged. As mentioned earlier, in their very first statement at the UN in 1983, at the Sub-Commission, BLL activists already mentioned the need for a unit at the UN on issues such as Burakumin discrimination and caste discrimination in India. BLL activists participated in Sub-Commission sessions almost every year since then and made various claims including the need for a focused attention on discrimination based on occupation and descent. Groups from India were also active on this issue. In 1998, they formed the National Campaign on Dalit Human Rights (NCDHR) and campaigned for elimination of discrimination against Dalit. In March, 2000, with the support from international NGOs such as Minority Rights Group and Human Rights Watch, activists from Japan, India, and other countries that have similar discrimination gathered in London to form the International Dalit Solidarity Network (IDSN) to promote this issue at the UN. In August of the same year, these activists, including a Burakumin activist, participated in a session on caste discrimination to explain this type of discrimination to members of the Sub-Commission and the CERD Committee (Tomonaga 2003:12-13). Two days later, the Sub-Commission adopted a resolution on discrimination based on occupation and descent, which explicitly included Burakumin discrimination (E/CN.4/Sub.2/Res/2000/4 11 August 2004). The resolution declared that international human rights law prohibits this type of discrimination and called on UN member states to take measures to prevent and punish such discrimination. It also appointed a member of the Sub-Commission, Rajendra Kalidas Wimala Goonesekere from Sri Lanka, to submit a working paper on this issue at the next session. IMADR and the BLL were active in lobbying for this resolution. They engaged in NGO briefing with members of the Sub-Commission (and the CERD Committee) and informed them of the history of Burakumin discrimination and its similarity to Dalit discrimination in India (Nakajo 2000:59-60).

It was very important for the supporters of this resolution to establish that it is not just about India. When the first Goonesekere report was presented to the Sub-Commission, the Indian government reacted strongly against it, criticizing the report for targeting India. There was a rule in the Sub-Commission against targeting a specific country in a resolution, and some members of the Sub-Commission also expressed unease about excessive references to India in the report. Thus, it was critical that Japan, Nepal, and Sri Lanka were mentioned in the report. This issue was also a main motivation for further research to establish global prevalence of this type of discrimination (Bando 2001:46-49).

This reveals the potential of global human rights to expose many cases of discrimination that were largely unknown to the world. In the case of descent-based discrimination, groups from Nigeria, Senegal and other countries have discovered their descent-based discrimination as a human rights issue in the process of the global campaign by other groups. Because global forums encourage actors to present human rights issues as having a broader relevance rather than an issue for one specific group, the initiator groups, Burakumin in Japan and Dalit in India in this case, are often likely to expand their ambit to identify similar issues in other parts of the world. This often leads to “discovery” of hitherto uncovered human rights violations, thus empowering previously disadvantaged and suppressed groups.

In August 2001, Goonesekere submitted a working paper on discrimination based on occupation and descent to the Sub-Commission (E/CN.4/Sub.2/2001/16). The resolution listed India, Sri Lanka, Nepal, Pakistan, and Japan as countries afflicted by this type of discrimination, and estimated the number of victims to be as many as 250 million people. It also called for more research on similar situations in Africa, South America and other places. He received much information from the IDSN – and the BLL for Burakumin issues – in preparing for this report, and the report’s focus on Asian cases clearly reflected the lead taken by the BLL, IMADR, and the NCDHR (Tomonaga 2003:12-14).

Meanwhile, at the World Conference Against Racism in Durban in 2001, the issue of discrimination based on occupation and descent attracted much attention. Due to strong opposition by the Indian government, the issue was not included in the Declaration and Programme of Action adopted by governments. However, the Action Plan for NGOs, included it. The World Conference Against Racism was the first international forum that Burakumin activists officially participated in in its earlier iteration in 1983. Unfamiliar with the surroundings, they were unable to make official statements and were only able to circulate documents (Tomonaga 1987:394-9). Eighteen years later, they played active roles in the preparation of the World Conference and in the Conference proceedings, and their issue has become a legitimate topic of discussion in the Conference (Tomonaga 2003:17-18).[[10]](#footnote-10)

Because Goonesekere was not re-elected to the Sub-Commission, two other members, Asbjørn Eide from Norway and Yokota Yozo from Japan, were appointed to write a follow-up report in August, 2002. Eide and Yokota submitted their working paper in the next session of the Sub-Commission in 2003. The working paper reported on groups facing discrimination based on work and descent in Africa, Middle East, and Europe, called for more research on this issue, and requested that the Sub-Commission and the CERD Committee put more pressure on relevant governments to address this issue. Days later, the Sub-Commission adopted a resolution based on the Eide/Yokota working paper. This resolution reaffirmed the commitment made by CERD Article 1, the 2000 Sub-Comission resolution, the 2001 Goonesekere working paper, and the 2002 CERD Committee General Statement 29, and called on governments to design and implement policies to eliminate this type of discrimination. It also authorized further research by Eide and Yokota, to be reported in 2004, for continued discussion of this issue (Murakami 2002:24; Tomonaga 2003:14-17).

By 2006, when the Sub-Commission was reorganized with the transition from the Commission on Human Rights to Human Rights Council, the Sub-Commission had received two working papers and three reports on the issue of descent-based discrimination, first by Goonesekere, and then by Eide and Yokota (IDSN 2015:7). As one of its final tasks, in 2005, the Commission on Human Rights appointed Yokota and Chin-Sung Chung from South Korea “as Special Rapporteurs with the task of preparing a comprehensive study on discrimination based on work and descent, on the basis of the three working papers submitted to the Sub‑Commission on this topic (E/CN.4/Sub.2/2001/16, E/CN.4/Sub.2/2003/24 and E/CN.4/Sub.2/2004/31),” (Commission on Human Rights decision 2005/109 of 19 April, 2005; E/CN.4/2005/2 E/CN.4/Sub.2/2004/48:13). Then, the Sub-Commission gave Yokota and Chung the mandate to write “the Draft UN Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent” (A/HRC/Sub.1/58/L.11: (A/HRC/Sub.1/58/L.11 24 August 2006:58-60).[[11]](#footnote-11) The draft was received in 2007 and published in 2009 by the UN Human Rights Council, a newly reorganized core human rights forum at the UN (A/HRC/11/CRP.3 18 May 2009). In developing the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent, IMADR made many inputs as Yokota and Chung prepared the document (Tomonaga 2013:72-73). IMADR and the IDSN organized a special side event on that occasion and over 100 participants attended. They then visited the office of Navi Pillay, the High Commissioner for Human Rights, to make an appeal for elimination of descent-based discrimination. Pillay responded with a statement calling for the Human Rights Council to formally adopt and promote the Guideline (Komori 2009:11-12). Although the Guideline has not been officially adopted yet (as of February 2015), it serves as a useful blueprint for governments and civil society actors to follow in addressing discrimination based on descent.

Second, how did BLL activists leverage CERD to establish descent-based discrimination as a distinct category that includes Burakumin discrimination? CERD ratification had been a key focus of BLL activists ever since the ICCPR and the ICESCR were ratified in 1979 (until the Japanese government ratified the CERD in 1995). The BLL, and also IMADR since 1988, organized annual events to promote CERD ratification, inviting experts at the CERD Committee as speakers. The CERD was a particularly important treaty for Burakumin because its Article 1 prohibits discrimination based on “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin”.[[12]](#footnote-12) No other core UN human rights treaties included the term “descent”. The UDHR and the CCPR include the term “social origin” and “birth” in prohibiting various types of discrimination, but not “descent”. The term “descent” had ambiguous meanings, as admitted by a secretary general of the CERD Committee (Buraku Kaiho Kenkyusho 1985:117). Nonetheless, the inclusion of the term “descent” indicated to Burakumin activists that Burakumin discrimination is part of “racial discrimination” that the treaty addresses. While this seemed evident to Burakumin activists, the Japanese government did not agree. The government’s first report to the CERD Committee submitted in 2000 did not mention Burakumin, and it has consistently held the position that Burakumin does not fall under the jurisdiction of CERD in its second and third report to the CERD Committee in 2010 and 2014 respectively.

Burakumin activists briefed the members of the CERD Committee in the hopes that the committee examination and resulting recommendations would reflect their views (Tomonaga 2003:8-10; IMADR-JC 2001:86-88). Correspondingly, CERD Committee’s Concluding Observations for Japan’s first report clearly stated that Burakumin discrimination is within the scope of the treaty: “With regard to the interpretation of the definition of racial discrimination contained in article 1 of the Convention, the Committee, unlike the State party, considers that the term “descent” has its own meaning and is not to be confused with race or ethnic or national origin. The Committee therefore recommends that the State party ensure that all groups including the Burakumin community are protected against discrimination and afforded full enjoyment of the civil, political, economic, social and cultural rights contained in article 5 of the Convention” (CERD/C/304/Add.114, para8:2).

Similar debates had emerged in 1996, when the CERD Committee examined the Indian government’s periodic report. Regarding the caste system in India, the CERD Committee acknowledged that caste discrimination falls under the jurisdiction of CERD, stating “that the role of the Committee included the examination of social as well as racial discrimination” (CERD/CR/S1531, para5:2). But the Indian government did not accept this claim (Murakami 2002:4). In addition to India and Japan, the issue of discrimination based on descent emerged when Nepal’s and Bagladesh’s reports were examined in 2000 and 2001 respectively. In these cases also, the government claimed that these types of discrimination fall outside the purview of the CERD, but the Committee rejected these claims (Tomonaga 2013:71-72).[[13]](#footnote-13)

In response to these repeated claims by governments and in light of the development in the Sub-Commission described above, the CERD Committee had a “Thematic Discussion on Discrimination Based on Descent” and issued a resolution in 2002 (CERD/C/SR.1531).[[14]](#footnote-14) The BLL and IMADR both played a key role in the adoption of this resolution, as they invited committee members, Mr. Lagaban Basdeban Pillai and Patrick Thornberry to Japan for symposiums on this issue and also had them visit Burakumin communities. In addition, members of both the BLL and IMADR participated in the thematic discussion at the CERD Committee. One of the members, Masanao Murakami left a mark in the resulting document: “Mr. Murakami, who had spoken the previous day, contending that the broadest interpretation of the term “descent” was the most appropriate, and would not lead to an unjustifiable expansion of the role of the Convention” (CERD/C/SR.1531, para5:3; Tomonaga 2003:9-10). The same document also specifically mentioned Japan and India and urged them to recognize descent-based discrimination as a part of the CERD: “Japan and India must reconsider their views with respect to the competence of the Committee to consider the issue of descent-based discrimination” (CERD/C/SR.1531, para7:3).

After these debates, the CERD Committee adopted a resolution, known as general recommendation 29 (CERD/C/61/Misc.29), that explicitly recognized descent-based discrimination as an important type of discrimination under the jurisdiction of the CERD that is distinct from discrimination based on race, colour, national or ethnic origin. This was not a new interpretation of the treaty at all, as the same claim had been made by the Committee before, but repeated disagreements about this from member states prompted the Committee to reconfirm that descent-based discrimination is a distinct type of discrimination that the CERD prohibits (Murakami 2002:20). The general recommendation also specified measures to address this type of discrimination in various areas such as marriage, employment, housing, education, gender, media, political participation, and law enforcement, and served as a basis for future discussions and resolutions on this issue at the UN. In measures such as restriction of background check and affirmative action, Burakumin’s experiences were reported as successful examples by Japanese NGOs such as IMADR, and they were clearly reflected in the outcome document. This general recommendation was the first international document that specifically focused on descent-based discrimination, and in it, Japanese NGOs have, perhaps for the first time, exported a Japanese model of anti-discrimination efforts to the world (Murakami 2002:20-21).[[15]](#footnote-15) This recognition of descent-based discrimination has ramifications beyond the CERD Committee, because it establishes obligations to promote and address this rights issue throughout the UN system.

The Japanese government, on the other hand, continues to deny Burakumin issues as part of the CERD. It argues that, in the process of drafting CERD Article 1, the term “descent” was proposed along with “place of origin” simply to avoid confusion that “national origin” can bring, and therefore it is about racial and national origin, not about social origin, and does not apply to Burakumin, who are neither racially nor nationally distinct (Ministry of Foreign Affairs 2001). In the CERD Committee examination of its periodic reports in 2010 and 2014, Japan was repeatedly urged to change its stance and the Committee expressed “regret” in the Concluding Observations both times.[[16]](#footnote-16)

The Japanese government might continue to resist accepting Burakumin as a group that should be protected under the CERD. However, descent-based discrimination has been firmly established as a global human rights issue, and all UN members are expected to combat this type of discrimination. Armed with the UN resolutions and principles, IMADR continues to report on descent-based discrimination and promote solutions to this problem, in alliance with the UN and other international organizations.

*Conclusion*

This case demonstrates how global human rights can draw local actors into the system, transform their orientations in the international direction, and turn them into valuable contributors to the consolidation and expansion of global human rights. Local groups come to global arenas seeking to achieve their own goals. But once they start engaging in international forums and become a fixture in them, their orientation tends to shift in the direction of more international, altruistic work. Pursuit of their own domestic success never completely disappears from their international activities, but over time international contributions become increasingly important for the local groups.

Burakumin initially came to the UN human right system seeking to advance their domestic goals of eliminating social discrimination against them. As they started participating in UN forums regularly, their orientations got transformed and they established an UN consultative status international NGO that promotes human rights across the globe. Motivated to gain UN’s legitimacy for their activism, they sought to establish discrimination based on work and descent as a new category of human rights issue and succeeded in doing so.

These international activities have helped Burakumin activists achieve their domestic goals to a certain extent. There are some signs that social discrimination has declined, especially in urban areas. Opinion polls show that fewer Japanese see Burakumin status as a hurdle for marriage, although there are some regional variations. A 2002 survey conducted in Tokyo, an urban area where population mobility is high and Burakumin presence is low, shows that 4.2% of respondents would oppose their children’s marriage to a Burakumin person; a different survery conducted in 2004 in Mie prefecture, a much less urbanized area with much greater Burakumin presence, shows that 30.7% of respondents would encourage their children to reconsider their marriage if it was with a Burakumin person (Kurokawa 2011:249). Considering that the rate of intermarriage among Burakumin (marriage with a non-Burakumin person) was 1-3% in the early 20th country, this constitutes significant improvement. Migration from and to traditionally Burakumin areas has increased significantly. One survey in Osaka City shows that over 40% of households in Burakumin communities in Osaka City immigrated from outside (Noguchi 2000:31). Furthermore, the international legitimacy of descent-based discrimination as a human rights issue helped resolve the sameness/different dilemma among Burakumin activists and should continue to assist them in their future activism. To be sure, social discrimination against Burakumin has not completely disappeared, and online space has emerged as a forum for disparaging language against Burakumin that is particularly difficult to regulate. In addition, despite numerous attempts, a law specifically banning Burakumin discrimination has yet to pass. In this sense, Burakumin activism in international forums may have benefited others more than Burakumin themselves.

This is one example of the expansion of global human rights in recent decades, but similar processes have added many new human rights items on the agenda of international institutions. Does this “hypertrophy of human rights” harm human rights efforts and prevent improvement of human rights practices in the world? It is entirely possible that the growing number of rights issues that international institutions have to attend to have paralyzed and incapacitated them. In terms of measurable rights that typically feature personal integrity rights, cross-national evidence on improvement in the past few decades ranges from mixed to negative (Hafner-Burton 2013). However, the kind of improvement that Burakumin experienced would not be picked up by those quantitative measures. As this case demonstrates, the legitimacy that international institutions confer can have a subtle but far-reaching impact on local practices. UN’s authority may have reduced discrimination against Burakumin even if by a small percentage points, and the new UN norm they helped establish might empower those in other countries who suffer discrimination based on descent. These subtle improvements cannot be easily quantified into some annual reports, but they do matter for people on the ground facing this type of discrimination.

1. Ethnic distinction of Burakumin is a more complicated issue and depends on the definition of ethnicity. As John Lie argues, “(t)he designation of the Burakumin as an ethnic group is controversial because most contemporary Japanese equate ethnicity with race…if shared descent and common culture, as well as discrimination, characterize an ethnic group, then the Burakumin are as ethnic as the Ainu or Okinawans” (Lie 2001:85). [↑](#footnote-ref-1)
2. This approach is reminiscent of the “universalizing strategy” (Lamont, Morning, and Mooney 2002), in which disadvantaged groups fight discrimination against them by identifying themselves as part of the human family and invoking universal moral qualities. [↑](#footnote-ref-2)
3. Matsumoto engaged in various international activities, participating in an anti-racism conference in Paris in 1956 and making trips to visit indigenous peoples in Australia and outcaste groups in India in the 1950s and 60s. [↑](#footnote-ref-3)
4. For example, in 1979, a BLL contingent visited New York, Geneva, and other major cities in the US and Europe to meet with officials at the UN Center for Human Rights, ILO, and other UN organs as well as non-governmental organizations such as the American Civil Liberties Union and the Movement Against Racism and for Friendship among Peoples (Tomonaga 1979a; 1979b; 1980). [↑](#footnote-ref-4)
5. This requirement is no longer in place; NGOs operating in only one country can obtain consultative status today. [↑](#footnote-ref-5)
6. While movement reorientation was most dramatic for the BLL, the other two lines of advocacy among Burakumin, the Association and the integrationist groups, also shifted to promotion of human rights. They do not have an international wing like the BLL, but their ideology is aligned with global human rights principles, and therefore, movement reorientation affected the Buraku liberation movement as a whole, not just the BLL. [↑](#footnote-ref-6)
7. Some examples of its vast ambit of activities can be found in their website: http://www.imadr.org/ (accessed July 11, 2009). [↑](#footnote-ref-7)
8. For example, in the 1994 session of the UN Sub-Commission, IMADR reported on a previously little known issue of discrimination against minority Nepalese in Bhutan based on their own research (Suzuki 1994:40). [↑](#footnote-ref-8)
9. For example, in their second UN Commission on Human Rights session as a consultative status NGO in 1995, they made statements on eight occasions, in four of which they lent their credential to Asian NGOs without consultative status (Tanaka 1995:55-6). [↑](#footnote-ref-9)
10. Human Rights Watch also studied this issue and released a report at the World Conference with cases in India, Nepal, Japan and others, along with policy prescriptions for resolving this problem. This report influenced subsequent UN documents such as the CERD General Recommendation 29 and the draft Guideline published by the Human Rights Council in 2009, both of which I describe below. [↑](#footnote-ref-10)
11. The Draft Principles and Guidelines defined discrimination based on work and descent as “any distinction, exclusion, restriction, or preference based on inherited status such as caste, including present or ancestral occupation, family, community or social origin, name, birth place, place of residence, dialect and accent that has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life. This type of discrimination is typically associated with the notion of purity and pollution and practices of untouchability, and is deeply rooted insocieties and cultures where this discrimination is practiced.” (A/HRC/11/CRP.3, Scope and Application para.2) [↑](#footnote-ref-11)
12. Notably, the term “descent” is listed in Article 1 “race, colour, descent, or national or ethnic origin” but not in Article 5: “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin”. This is said to be due to an input from Austrian representative in the process of negotiating the treaty provision (Buraku Kaiho Kenkyusho 1985:116). [↑](#footnote-ref-12)
13. In the following few years, descent-based discrimination was discussed in examination of periodic reports of Senegal, Mali, Ghana, UK, South Korea, Madagascar, Mauritania, and Nigeria (Murakami 2005:89-91). The IDSN reports that “caste discrimination is found in varying degrees in India, Nepal, Pakistan, Bangladesh, Sri Lanka, Japan, Micronesia, Yemen, Senegal, Burkina Faso, Mali, Chad, Cameroon, Ghana, Mauritius, Mauritania, Madagascar, Nigeria, Kenya, Ethiopia and Somalia, and possibly more countries. It also occurs in Diaspora communities in Europe, North America, and Asia” (IDSN 2015:7). [↑](#footnote-ref-13)
14. The CERD Committee did not offer a precise definition of “descent” but presented seven factors commonly found in descent-based groups: restrictions on changing their status; restrictions on intermarriage; segregation in public and private life; restrictions on changing inherited occupation; indentured servitude; theories about impurity and untouchability; and lack of respect for human dignity and equality (Murakami 2005:88-89). [↑](#footnote-ref-14)
15. In addition to the CERD Committee, three other UN treaty bodies have referred to ‘caste’ as a prohibited form of discrimination in their general comments: “CESCR No. 20 on non-discrimination (2009), CEDAW No. 25 on temporary measures (2004), and CEDAW No. 28 on core obligations (2010)” (IDSN 2015:7). [↑](#footnote-ref-15)
16. In its most recent examination in 2014, the CERD Committee stated the following in its Concluding Observations. “The Committee regrets the position of the State party which excludes the Burakumin from the application of the Convention on the grounds of descent. It is concerned that the State party has not yet adopted a uniform definition of Burakumin, as raised by the Committee in its previous concluding observations. The Committee is concerned about the lack of information and indicators to assess the impact of concrete measures implemented by the State party upon the termination of the Dowa Special Measures in 2002, including measures to counter discrimination against the Burakumin. The Committee is also concerned about the persistent socio-economic gaps between the Burakumin and the rest of the population. The Committee is further concerned at reported abuses of the illegal access to the family registration system, which may be used for discriminatory purposes against Burakumin (art. 5). Bearing in mind its general recommendation No. 29 (2002) on descent, the Committee recalls that discrimination on the ground of descent is fully covered by the Convention. The Committee recommends that the State revise its position and adopt a clear definition of Burakumin in consultation with Buraku people. The Committee also recommends that the State party provide information and indicators on concrete measures taken upon the termination of the Dowa Special Measures in 2002, in particular on living conditions of Burakumin. The Committee further recommends that the State party effectively apply its legislation to protect Burakumin against illegal access to their family data which may expose them to discriminatory acts, investigate all incidents relating to illegal abuses of the family registration and punish those responsible.” (CERD/C/JPN/CO/7-9, para22) [↑](#footnote-ref-16)