

The Ryukyuanist

A Newsletter on Ryukyu/Okinawa Studies

Nos. 76/77

Summer/Autumn 2007

ISSUES IN IDENTITY AND INDEPENDENCE OF OKINAWA: Talking Points for a Presentation at the University of Hawai'i – West O'ahu, September 2007

In this talk I planned to discuss Okinawa's ambiguous international legal/political identity and advocate independent, sovereign statehood as a solution. Put unambiguously, the objective was to seek a viable justification for Okinawa independence in terms of international law. Although I am not a specialist in the scholarship or practice of law, I believe I can be forgiven for serving as an introducer of topics that are worthy of the attention of legal specialists. So far, no qualified legal specialists have ever seriously argued in favor of Okinawa independence. If legal specialists have made public reference to Okinawa independence, they have tended to oppose it on grounds of various undefined impossibilities. In the past, conscious of my lack of legal qualifications, I have argued in favor of Okinawa independence largely from the standpoint of Okinawa's distinct culture, history and identity. Copies of two such articles were handed out to the audience at the beginning of this talk as a sort of aperitif before the main course. (See References.) I am grateful to Professor Joyce Chinen for suggesting the topic, inviting me to the University of Hawai'i – West O'ahu for the talk, and guiding me through related activities and events. (kt)

The problem

The question of constitutionality of Okinawa independence arose in a debate of the Budget Committee of the Japanese Diet's House of Representatives on February 13, 1997:

Q. (Mr. Uehara Kosuke, member of the House of Representatives from Okinawa). What legal measures do we need for Okinawa independence [*dokuritsu*]?

A. (Mr. Omori Seisuke, Director of the Cabinet Legislative Bureau). In terms of law, independence means that the constitution and legal system are removed [from the area becoming independent] and that a situation incompatible with the present constitutional order arises. In other words, independence is secession [*ridatsu*] from the state's sovereignty and territory. The Constitution [of Japan] has no provisions about it. The Constitution has not foreseen such a situation. Under the Constitution, an act like that [i.e. secession] cannot be done in a legally appropriate manner [*tekihō ni*].

[The Q&A form seems to be an apt mode of going over our talking points. We will use it throughout this talk.]

Q. Is Mr. Omori right in the above debate?

A. I suppose he is, at least about the formal identity of independence and secession, although the word secession sounds unfriendly. The sound of this word is too close to "sedition" for my

comfort. I suspect that one who talks about secession exploits the sound of the word and deprives “independence” of its moral high ground. Mr. Omori’s locution, which implies that secession is unconstitutional or illegal under the Constitution of Japan, is subject to debate. One can argue that secession is not specifically, or by clear implication, prohibited by the Japanese Constitution. In fact, people constantly do many things that are not provided for in the constitution. It would be an enormous impossibility to write into a constitution everything so exhaustively that one might claim that any matter not found there is inconsistent with law as done by Mr. Omori.

Q. Do Okinawans really want independence?

A. Flawless evidence is hard to obtain. Public opinion polls indicate that about one fourth of the Okinawans agree to independence. However, latent desire for independence must surely be more extensive than that in light of the popularity of folk songs like *The Passage of Time* that reads as follows: (play the CD here)

Shin Jidai no Nagare (The Passage of Time – new version)

From rule by China to rule by Yamato
From rule by Yamato to rule by America
How astonishing the changes in this Okinawa of ours!

Claiming rule by America was wrong
Rule by Yamato returned
We never know which is better

Our money changed from yen to dollar
Then became yen again
With every change we lost

Cars ran on the right side before
Now they run on the left
Confusion reigns forever

Long ago the hills and forests were ours
Where we picked oranges freely
Now as bases, they have become American

Long ago the seas were ours too
We could have a dip at any time
Now the resorts keep us out

Change after change is our fate
But bases on the island never change
When will things become better?

To our ancestors, palms together, *Uu Tohtu*

(Translated by John Potter, the author of *The Power of Okinawa: Roots Music from the Ryukyus*, 2001)

Q. Are there theories of secession logical and powerful enough to overcome a state's unwillingness to permit a part of its territory/people to secede? Do principles of liberty and democracy imply a right to secession?

A. These are great questions. An attempt to answer them now would tie up this meeting and exhaust the allocated time before anything else is accomplished. Philosophically, it is said that there are two types of theories of the right to secession. One type includes "primary right theories" grounded in the sanctity of basic human rights. Libertarian and democratic theories of secession must be in this category. The other type, comprising "remedial right theories," justifies a group's right to secede on grounds of large-scale and persistent violations of its basic human rights by the state. The secession from such a state is a first step to remedies for the injustices suffered by the group. ("Secession," *Stanford Encyclopedia of Philosophy*)

Actually, a democratic possibility of secession is already implicit in Article 95 of the Japanese Constitution, according to a number of commentators sympathetic to Okinawa independence. The article can be interpreted to imply that a law applicable only to a specified local public entity (such as, for example, a law to grant independence to Okinawa Prefecture) can be enacted by the Diet subject to ratification by a majority of voters in the area concerned. How the Diet may place such a law on its legislative agenda depends upon how democracy works in Japan. Clearly it could not be done without monumental nationwide political movements.

In international law, a concept of high moral authority that comforts and encourages *independentists* all over the world is the peoples' right to self-determination of their political status. An article common to *International Covenant on Civil and Political Rights* and *International Covenant on Economic, Social and Cultural Rights* says:

Article 1.1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Peoples' right to self-determination of their political status (Hereinafter the font size is reduced to accommodate the text within the usual eight pages of the Newsletter)

Q. What does the word "peoples" mean?

A. Another great question. The term is not directly defined anywhere in international law. But it is customarily well understood and accepted. It is an important part of the corner stone of world peace. In the United Nations Charter, among "the purposes of the United Nations," there is this statement:

Article 1.2. To develop friendly relations among nations based on *respect for the principle of equal rights and self-determination of peoples*, and to take other appropriate measures to strengthen universal peace.

Q. Are Uchinaanchu a people?

A. This also requires an extensive discussion, which must be done before the end of this meeting. For the moment, we assume they are a people and proceed to explore what Uchinaanchu as a people [some prefer to consider them “peoples”] can do under international law. Among all formulations of identity, this “legal identity” of Uchinaanchu is alpha and omega in all defenses of Okinawa independence.

Q. What do “peoples” do when they “freely determine their *political status*”?

A. Peoples as holders of the right of self-determination have a range of choices about their political status. Under the heading of “The principle of equal rights and self-determination of peoples,” *The Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations* (UN General Assembly *Resolution 2625 (XXV)*, 24 October 1970) says, among other things:

The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self determination by the people.

Q. Given this range of choices, what self-respecting people would not choose “a sovereign and independent State”?

A. Quite right. The original members of the United Nations were only 50 states. Today there are almost 200 states/members of the United Nations. In light of this history of peoples’ choices of political status, “a sovereign and independent state” is clearly an overwhelming favorite. However, although it is something that practically everybody wants, its realization is not guaranteed in international law. In fact, there is an equally formidable principle of international law that stands in the way of a people [such as Uchinaanchu] who lives in a territory [the Ryukyu Islands] belonging to an established sovereign and independent state [Japan] and who wishes to become independent of [in other words, secede from] that state.

Q. What is that principle that impedes independence?

A. The last paragraph of the section of the *Declaration on Principles* cited above reads:

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the *territorial integrity or political unity* of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the *whole people* belonging to the [national] territory without distinction as to race, creed, or color. (Emphasis added)

Q. How disappointing! If the territorial integrity or political unity of an existing state is so important, a sub-state area can never attain “the establishment of a sovereign and independent state” of its own mentioned earlier. Should not the principle of the right of self-determination trump the existing states’ interest in maintaining their territorial integrity or national unity?

A. Apparently that is one of the conundrums in international law. Note, however, that the paragraph just quoted from the *Declaration* does not protect all existing states from dismemberment or impairment of territorial integrity or national unity. The protected states are those in which different peoples already enjoy “equal rights and self-determination of peoples” under **governments that fairly represent these peoples as one whole people**. The peoples in such states must have already achieved a high degree of integration into one nation that takes pride in true *E Pluribus Unum*. There are not many countries that can claim democratic achievements to such a high degree of excellence.

“A people,” “peoples,” “whole people”

Q. The *Declaration* speaks of “the principle of equal rights and self-determination of peoples.” It is hard to get a grip on this concept unless the words “people” and “peoples” are clearly defined.

A. Obviously, one can no longer postpone the question of definition. One image of a state that emerges from all the above descriptions of peoples and self determination is one in which several peoples, each at least being a body of persons distinguishable from other bodies of persons, co-exist on an equal footing and in which these different peoples have become one *whole people*, one body politic, forming a government on the basis of fair representation of all peoples. The envisioned state looks like a federal state. So it appears that one desirable way of reconciling every people’s preference for having a sovereign independent state of its own and the existing state’s insistence on territorial integrity and national unity is a peoples-based federal democratic state. One great example of such a federal state is Switzerland that unites German-speaking, French-speaking, Italian-speaking, and Romansch-speaking peoples each enjoying its own “sovereign” territory. In such a state, there would be no reason for any of the constituent peoples to crave independence/secession.

Q. Is a federal union of Okinawa and Japan possible?

A. Certainly. But the idea has to be part of an overall political consciousness. At present, both Okinawans and Japanese apparently subscribe to the primacy of Japan’s territorial integrity and national unity. Support for the notion that Okinawans and Japanese are two different peoples distinct from each other but sharing one federal state appears rather thin. But some progress is observable. Okinawans call themselves “Uchinaanchu.” They call Japanese “Yamatunchu.” The Japanese who have been to Okinawa or are actually living there also accept the distinction. Scholars have long noted the cultural distinctiveness of Okinawa. Yet it is apparently very difficult for everyone to say Okinawans are a distinct people in the legal sense. There is also a linguistic hurdle: i.e., there is no generally accepted Japanese word for “a people.” According to *Webster’s New Collegiate Dictionary* (1981), “a people” (plural: “peoples”) is:

A body of persons that are united by a common culture , tradition or sense of kinship, that typically have common language, institutions, and beliefs, and that often constitute a politically organized group.

Since international law does not offer a legal definition of the term, customary understanding based on the dictionary definition will do. All the elements that qualify a group of persons for “a people” can be seen in the characteristics of Uchinaanchu. There is no doubt that Uchinaanchu are “a people.”

Q. But since the dictionary is not a book of laws, the Japanese government can still deny that Uchinaanchu are “a people” in the sense of the words used in international law.

A. Quite right. Indeed, the Japanese government resists the concept of peoples and their right to self-determination. For example, the Ainu of Japan are “a people” well qualified for recognition as such. But the

Japanese on the whole believe in the myth of cultural and ethnic homogeneity of all Japanese nationals. It was as recent as 1997 that the Ainu were recognized as “a people” (*minzoku*) by a new law for the promotion of Ainu culture. Even then the Diet rejected the recognition of the Ainu as an “indigenous” people in the sense of the term used at the United Nations. The reason was that the right to self-determination coming with the status of an “indigenous people” would open up a new situation too complicated to assimilate into Japanese politics. One can easily imagine how fiercely the Japanese government would oppose a proposal that Uchinaanchu be recognized as a distinct people endowed with “equal rights and self-determination” on a par with Yamatunchu.

Q. What is an “indigenous people”? Why is a people being “indigenous” important?

A. The International Labor Organization’s Convention No. 169, *Indigenous and Tribal Peoples Convention* (1989), describes these “peoples” as follows:

Article 1

1. This Convention applies to
 - (a) Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;
 - (b) Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.
2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.
3. The use of the term **peoples** in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.

Some Okinawans enthusiastically welcome Article 1.1(b) as an exact description of Okinawa’s historical experiences and current situation. They have organized the Association of Indigenous Peoples in the Ryukyus (AIPR) and, together with the Ainu, have been sending representatives to the meetings of the ILO and the UN under the sponsorship of the *Shimin Gaikō Sentā* (Civilian Diplomatic Center) (Tokyo).

Q. Article 1.3 almost denies the Human Rights Covenants’ “peoples’ right of self-determination” to the indigenous peoples covered by the ILO Convention. Can Uchinaanchu gain anything from such an international instrument?

A. The ILO Convention was for “indigenous peoples in independent countries” aspiring “to maintain and develop their identities, languages and religions, within the framework of the States in which they live” (Preamble). In Japan, even these minimal aspirations were denied to the Ainu and Uchinaanchu until recently. By identifying themselves as “indigenous” peoples, they can at least appeal to protection under the ILO Convention concerned to which Japan is a state/party. Clearly, however, the Ainu and Uchinaanchu need a broader and stronger international treaty to be able to claim the right to self-determination. Fortunately, at the United Nations, a working group has been drafting a *Declaration on the Rights of Indigenous Peoples*. In June 2006, a Draft Declaration was adopted by the UN Human Rights Council. It is now on the agenda of the UN General Assembly for adoption. We will know the decision within a couple of weeks.

Uchinaanchu an indigenous people?

Q. Isn't just being "a people" good enough for Uchinaanchu? Why would they want to restrict themselves as "indigenous"?

A. Clearly, this is a politically sensitive issue. There is a potential dilemma if the questions posed imply a choice between being "a people" and being "an indigenous people." Historically, the Japanese state has been denying the recognition of Uchinaanchu as "a people," indigenous or other. To flesh out the previously quoted folk song, at a point in history, Japan abolished the Ryukyu Kingdom by force and decreed that Uchinaanchu were henceforth Japanese nationals. But the cultural, economic, political and social realities of Japan downgraded Uchinaanchu to the status of second-class citizens. Given this complex of disadvantages within the Japanese state and society, what should Uchinaanchu have done to recover their lost identity (or gain a new satisfying one), to overcome helplessness and defeatism and to stand up to Yamatunchu as human beings of equal standing? This question was suppressed arbitrarily and the Japanese state allowed Okinawa only one choice: i.e., more and more perfect assimilation into the Japanese way of life. Decades of the assimilation drive resulted in the disasters of the Battle of Okinawa --- one third of the population dead, the islands in ruins, decades more of oppression under the American military occupation, and further deprivations under wrong-headed educational and socio-economic policies of the Japanese government. More than 60 years since the Battle of Okinawa, nearly 130 years since the demise of the Ryukyu Kingdom, Uchinaanchu still keep wondering about the most elementary question of life: whether they are "a people" with the right to self-determination and the freedom to choose the form of government they want to live with. God help them, indeed! *Uu Tohtu*.

The UN *Declaration on the Rights of Indigenous Peoples* sheds a powerful light of enlightenment over the plight of Okinawans. The whole document reads like an interpretation of Okinawa's history of bad luck and suffering as well as a prescription of hopes and remedies. The *Declaration* expresses concerns that "indigenous peoples [read Uchinaanchu to test its applicability to Okinawa] have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests" (Preamble). It "emphasizes the contribution of the demilitarization of the lands and territories of indigenous peoples [Uchinaanchu] to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world" (*ibid.*) It "welcomes the fact that indigenous peoples [Uchinaanchu] are organizing themselves for political, economic, and social and cultural enhancement and in order to bring an end to all forms of discrimination and oppression wherever they occur" (*ibid.*)

The *Declaration* empowers the indigenous peoples with "the right to the full and effective enjoyment, as a collective or as individuals, of all of the human rights and fundamental freedoms as recognized in the *Charter of the United Nations*, the *Universal Declaration of Human Rights* and international human rights law" (Article 1). In Article 3, it reiterates Article 1 of the Human Rights Covenants: "All peoples have the right of self determination...."

In Article 4, the *Declaration* says something that sounds close to the internal sovereignty of states in the U.S.-type federation of states.

Article 4. Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

It is no secret that Okinawa Prefecture's "autonomy or self-government" in all of these functions is abysmally low in the centralized Japanese state. Especially, Okinawa's autonomy in "land and resource management" is greatly compromised as illustrated by the fact that nearly one fifth of Okinawa Island's land area and vast expanses of its water and air spaces are forcibly appropriated by the Japanese government for use by U.S. military bases. Further, the *Declaration* bans "military activities" in the lands or territories of indigenous peoples (Article 30), which would make the document extremely attractive to Uchinaanchu .

The *Declaration* is remarkably sensitive to the "collective" rights of indigenous peoples. The collective rights are recognized and expressed in various ways throughout the Declaration. A statement that makes an unassuming appearance as part of a larger text is of considerable importance: i.e. "Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples" (Article 7.2). The collective right to life in freedom, peace and security is further strengthened by indigenous peoples' territorial rights: e.g., "Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired" (Article 26.1). In addition, these territories are demilitarized or otherwise free of military activities, as mentioned earlier. Uchinaanchu, who suffered enormous casualties in the worst land warfare of World War II, still live in fear of probable hostilities in their garrisoned islands and would appreciate the peaceful image of the world of indigenous peoples that emerges from the pages of the *Declaration on the Rights of Indigenous Peoples*.

Conclusion

It may be noted that the Japanese Government is currently promoting an extensive decentralization/restructuring of governance that envisions a consolidation of the existing 47 prefectures into 10 or so sub-state units called "Dōshū." Guidelines are being drafted for the devolution of a long list of state functions to the Dōshū. Tokyo, a super metropolis already, will become a new Dōshū by itself. Hokkaido, geographically an over-sized prefecture, will be upgraded to a new Dōshū. Okinawa Prefecture, far away from the mainland over the blue waters, will also morph into a stand-alone Dōshū. The other 45 prefectures will be bundled into several Dōshūs. While the planners discretely avoid the use of political language, the transition to the Dōshū System looks much like a federalization of the hitherto unitary state of Japan. Okinawa clearly faces a great opportunity to transform itself into an autonomy that if Uchinaanchu are willing, wise and determined in negotiation with the Japanese government, might further change into a more sovereign entity. It appears imperative for Uchinaanchu to deepen their study and understanding of the whole gamut of secession/independence, nation-building, statehood, and the world system.

References:

- Koji Taira. 2001. "Okinawa in the Twenty-First Century: A Third Golden Age or Continued Oblivion," in Josef Kreiner, ed., *Ryukyu in World History* (Bonn, Germany: Bier'sche Verlagsanstalt), pp. 395-418.
- Idem. 2002. "Okinawa-Tokyo Relationship: From Annexation to Secession, or Something in Between" in Eitetsu Yamaguchi and Yuko Arakawa, eds., *The Demise of the Ryukyu Kingdom* (Ginowan, Okinawa: Yojushorin), pp. xi-xxiv.

The Ryukyuanist is edited by Koji Taira at the Institute of Labor and Industrial Relations, University of Illinois, 504 E. Armory Avenue, Champaign, IL 61820; e-mail, k-taira@uiuc.edu. Free e-mail subscription. Hard copy: U.S. \$10.00 per year. Back issues are available at Okinawa Peace Network, Los Angeles, CA: www.uchinanchu.org/uchinanchu/ryukyuanist.htm.