

## Focus: Diplomacy and Human Rights Today (Summary)

### Essay: Conflict between Human Rights and Security

**Gen Kikkawa** (Specially Appointed Professor, Hiroshima Peace Institute, Hiroshima City University)

The history of international protection of human rights dates back to the post-World War I era, when an international protection regime for minorities was formed because ethnic problems had been a major cause of the war. After World War II, however, the United Nations stepped away from ethnic issues because the protection of minorities had served as a pretext for wars of aggression and because the protection of minorities interfered with assimilation policies.

Many countries around the world have committed human rights violations since the end of World War II despite the expansion of human rights norms. This is because human rights are a serious issue intricately tied to national security. Many countries still do not wish to recognize fundamental freedoms that could threaten governance or minority rights that may hinder national unity. In this regard, the CSCE process during the Cold War period is a good example of respect for human rights in the context of the East-West confrontation because it suggests that multilateral norm-making and a monitoring system of implementation are essential conditions for respecting and implementing human rights norms.

### 1 Human Rights in Biden's Diplomacy

**Chieko Kitagawa Otsuru** (Professor, Faculty of Law, Kansai University)

For the United States, human rights have been a core social value since the country's founding and, at the same time, they have been a powerful tool used to confront those who do not value them in the international arena. Succeeding a Trump administration that deviated from the tradition of American diplomacy and neglected human rights, the Biden administration has emphasized the importance of human rights as expected both at home and abroad. As a politician, however, Biden has been center-left, deciding on how to engage with other countries in terms of what is important to America. Human rights can be used as a powerful ideological tool when confronting authoritarian states such as China and Russia with which the US has huge conflicts of interest. However, balancing the use of human rights as such a tool with human rights as a value symbolized by the United States will be the key for Biden's foreign policy, which claims that the United States has returned to the international community, to maintain and expand the power of those in support of human rights and democracy in the international community.

### 2 China and Human Rights:

#### The Internationalization of Human Rights Issues and "Rights Development"

**Satoshi Hirano** (Professor, Graduate School of Law and Politics, The University of Tokyo)

As a Marxist-Leninist state, China has been consistent in its adherence to the idea that materialistic development will eliminate inequality and make China more prosperous. The Chinese Communist Party, which overcame the turmoil of Chinese socialism in the 1980s and has been advancing toward economic development since the 1990s, considers its role to be that of ensuring right to existence and "right to development," in China, and it emphasizes a concept of human rights that

accords with China's "national conditions". However, China's "right to development" places the right to existence at the heart of human rights and regards the state and the nation as the main actors in safeguarding these rights, to the point of neglecting the rights and dignity of individuals. This is far from the development concept prioritizing the dignity of individuals that is envisioned in the United Nations "Declaration on the Right to Development". For this reason, the Xi Jinping administration regards people with different values from those of the "Chinese people" or "the nation" represented by the Communist Party as hostile, influenced by foreign countries and foreign cultures, and impeding development. As a result, human rights crises in the name of the "right to development" have occurred in places like Xinjiang, Hong Kong intensifying the confrontation between Western countries and China.

### **3 China's Human Rights Issues and Japan's Response:**

#### **The Duty to Cooperate on Genocide Claims**

**Shigeki Sakamoto** (Professor Emeritus, Kobe University)

On March 22, 2021, the United States, the United Kingdom, Canada and the European Union imposed economic sanctions on China, asserting that China continues to commit genocide and crimes against humanity against Uighurs in Xinjiang. Japan only said it was seriously concerned.

In April of that same year, the Nonpartisan Parliamentary Association for Reconsidering Human Rights Diplomacy was established, aiming to enact the Japanese version of the Magnitsky Act and calling on Japan to join the Genocide Convention (1948). The government states that Japan is a party to the Statute of the International Criminal Court (ICC), which criminalizes genocide, and thus does not need to accede to the Genocide Convention. Another reason cited for its non-accession is that the crimes punishable under Article 3 of the Convention, namely "conspiracy to commit genocide" and "direct and open incitement to genocide" ((b) and (c)), conflict with Japan's Penal Code, and thus Japan cannot accede to the Convention without amending the Penal Code. This paper discusses Japan's response to the ICC's request for cooperation against genocide.

### **4 "Business and Human Rights" at the Junction of the UN Guiding Principles and Human Rights Diplomacy**

**Miwa Yamada** (Director, Law and Institution Studies Group, Inter-disciplinary Studies Center, Institute of Developing Economies)

The UN Guiding Principles on Business and Human Rights are official guidance to states and companies in relation to "business and human rights" today. In performing their duty to protect human rights, governments are required to implement policies ensuring that companies fulfill their responsibility to respect human rights. Such policies include creating rules for human rights due diligence to be conducted by companies, mechanisms to facilitate such due diligence, and environments and institutions conducive to companies' respecting human rights, and, as seen in the trade policies of the EU and the United States, these are linked to all policies pertinent to corporate behavior. Reducing the risk of human rights violations by companies and having them meet their responsibility to respect human rights will ensure level playing field. In the cases of the Xinjiang Uyghur Autonomous Region and Myanmar, government's explicit alerts to businesses serve as a minimum safeguard for businesses. However, corporate commitment to respect for human rights based on the Guiding Principles goes beyond compliance with laws and regulations. Companies without government signals need greater accountability. Foreign policy based on the Guiding Principles overlaps with so-called human rights diplomacy, but the essence of "business and human rights" lies in underpinning a society in which human rights are respected, that makes the existence of companies possible.

## **Independent Articles:**

### **Will Myanmar Become a Failed State?**

**Yoshihiro Nakanishi** (Associate Professor, Center for Southeast Asian Studies, Kyoto University)

Myanmar has been in turmoil since the coup d'état on February 1, 2021. It is difficult to determine how long this turmoil will last and what kind of outcome it will bring. There are even concern about the possibility that Myanmar will become a failed state. Is Myanmar really going to become a failed state? This article will examine this question by focusing on the armed struggle of the pro-democracy forces. First, I will summarize the political situation after the coup and its transformation. Next, I will examine how the initially peaceful resistance of democratic developed into a movement that accepted the armed struggle of "Self-Defensive War". There are two conclusions to be drawn. First, while it is true that the armed struggle of the resistance movement is intensifying, it is difficult to break the effective control of the Myanmar military, and at the same time it is highly unlikely that the conflict will lead to state failure. Secondly, even if the military continues its effective control, the country will not return to pre-coup circumstances, and it is likely to continue as an unstable and fragile state.