

NGO Network for the Elimination of Racial Discrimination Japan (ERD Net)

Civil Society Report on the Implementation of the ICERD

**To be submitted
for the Consideration of the Seventh-Ninth Periodic Report of Japan (CERD/C/JPN/7-9)
At the 85th session of the Committee for the Elimination of Racial Discrimination
(Geneva – August 2014)**

June 18, 2014

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Preface

This Report is prepared by the NGO Network for the Elimination of Racial Discrimination, or ERD Net, which is a nationwide network among NGOs and individuals working for the issues relating to racism, racial discrimination and colonialism in Japan. As one of its main activities, ERD Net coordinates and facilitates NGO active participation in the process of the CERD consideration of the Japan's periodic report.

As part of our main activities, ERD Net has prepared the NGO report. This report consists of two parts. One is about the issue of "hate speech" in relation to the reservation of Article 4 (a) and (b), and which requires an immediate action to address, and the other is about issues involving minority communities in Japan including Buraku, indigenous peoples, ethnic minorities and migrants.

Since the last CERD consideration of the Japan's periodic reports in 2010, the ERD Net has continually approached the government to have direct communications about the issues pointed out by the Committee in its Concluding Observations, asking for the government's actions for the implementation of recommendations. In fact, we have had seven meetings with the government agencies relevant to the issues that CERD recommendations raised and NGOs joining the ERD Net have been working for.

Through several meetings and dialogues with the government, not much has come out as positive results. The government was not keen to invite NGOs in the process of the preparation of the 7th to 9th periodic report which is to be considered by CERD shortly. NGOs were invited to the one-time hearing organized by the Ministry of Foreign Affairs in 2012, but we did not know how our opinions raised during the hearing have been received and reflected in the periodic reports.

Furthermore, the government has not been keen to implement CERD recommendations. Besides the Report, we have made the list to show the progress of government's implementation of the recommendations in the 2010 Concluding Observations, based on our evaluation.

We hope that our information will be taken into due consideration of the Committee in its review over the Japan's implementation of the Convention and recommendations.

NGO Network for the Elimination of Racial Discrimination Japan (ERD Net)

June 18, 2014

Implementation Status of CERD 2010 Recommendations by the Japanese Government						
based on evaluation made by ERD Net						
Para	issue	recommendation	implementation			ERD Report page
			full	partial	none	
7	implementation of CERD recommendations	improvement of the limited implementation of CERD recommendations and decisions			●	2
8	"descent"	adoption of the interpretation of the term "descent" as per GC No. 29 and a comprehensive definition of racial discrimination in line with Convention			●	14
9	prohibition of discrimination	consideration of adoption of law to prohibit racial discrimination			●	6
	securing adequate officers	law enforcement officers with adequate expertise to deal offenders and protect victims			●	-
10	NGO contribution	NGO participation in the process of preparation of the government report		●		2
11	communities covered by the ICERD	conduction of survey to get disaggregated data of the communities			●	-
		provision of updated data on non citizens in the next report			●	-
12	national human rights institution	adoption of legislation for human rights protection, and creation of procedures for human rights complaints			●	8
		establishment of a national human rights institution as per Paris principles			●	8
13	reservation of Art 4 (a) (b)	consideration of withdrawal of the reservation			●	report on hate speech
		effective implementation of the existing legislation for the full implementation of article 4			●	report on hate speech
		strict sanctions to those responsible to the incitement of racial discrimination by effectively implementing relevant legal provisions		●		report on hate speech
		campaign to raise awareness about racist propaganda			●	-
14	racist statements by public officers	expression to oppose to and condemn racist statements by politicians and public officers			●	11
		adoption of a law to prohibit racist and/or xenophobic statements and to provide remedies			●	11
		human rights training for public officers, law-enforcement officers and administrators		●		-

15	mediators in family court	consideration of the appointment of qualified non-nationals to work as mediators in family court			●	-
		provision of information about participation of non-nationals in the public life in the next report			●	-
16	ethnic identity	not to urge non-Japanese to use Japanese name in the process of naturalization			●	49/53
17	migrant women and minority women	implementation of measures to address the double discrimination (racial and gender-based)			●	42
		collection of data and research on measures to prevent double discrimination			●	-
18	protection of privacy	enactment of a stricter law to prohibit illegal acquisition of Koseki			●	16
19	issues of Buraku discrimination	appointment of a government agency to deal Buraku issues			●	15
		realization of commitments made at the termination of special measures law			●	15
		clear and uniform definition of Burakumin			●	14
		human rights awareness efforts for the Buraku neighboring communities				19
		provision of indicators to show progress of the human rights awareness in the next report			●	19
20	Ainu policy	increase in the participation of Ainu people in the consultation for Ainu policy			●	20
		creation of the third working group for the implementation of the Declaration			●	20
		conduction of a comprehensive and nation-wide research on the Ainu		●		20
		consideration of the ratification of ILO Convention No. 169			●	20
21	Ryukyu/Okinawa	promotion of a wide consultation with representatives of people in Okinawa			●	23
22	overcome of racism in education	prohibition of discrimination in the provision of opportunities to education			●	36
		elimination of barriers to enrolment and completion of compulsory education for all children			●	36
		research on school system for non-Japanese children			●	32
		provision of adequate opportunities to have education in one's mother tongue or study one's mother tongue			●	32/36
		consideration of accession to the UNESCO Convention for non-discrimination in education			●	32

22	concerns			●	28
		differential treatment of schools for foreigners and descendants of Korean and Chinese living in Japan		●	28
		approach of some politicians suggesting the exclusion of Korean high schools from the tuition free program		●	-
23	recognition of refugees	standardized asylum procedures and equal entitlement to public services		●	55
		the right to adequate housing and medical service	●		-
		principle of non-refoulement not to send back to original country	●		54
24	refusal of entry in shops	adoption of a national law making illegal the refusal of entry to places open to the public, and counter such an attitude through educational activities		●	report on hate speech
25	textbooks	reflection of culture and history of minority in school textbooks	●		23
		recommendation of books regarding culture and history of minority		●	-
		promotion of use of Ainu and or Ryukyu language in the compulsory education and support for language education		●	23
26	awareness raising and media	strengthening of public education that urges tolerance and respect for the elimination of racial discrimination	●		-
		strengthening of measures to combat racial prejudice in the media and reporting		●	-
		provision of anti-racism education and training to the media and journalists		●	-
27	ratification of other conventions	plan to ratify other international conventions including ILO Convention No.111, Convention on the Rights of Migrant Workers, Status and Rights of Stateless persons, Convention on Genocide		●	20/57, report on hate speech
28	Durban Declaration	provision of information about the implementation of Durban Declaration and Plan of Actions		●	-
29	individual complaints mechanism	consideration of making the optional declaration of Article 14	●		10

Japanese translation of Concluding Observations is available at <http://imadr.net/wordpress/wp-content/uploads/2012/10/D4-6-X3.pdf>

original UN text is available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fJPN%2fCO%2f3-6&Lang=en

Law on Prohibition of Racial Discrimination

1. Themes and relevant Articles/2010 recommendations (CERD/C/JPN/CO/3-6)

Absence of legislation against racial discrimination

Article 2.1, 4, 5, and 6, and 2010 recommendations para 9

2. Problems

As reported in this submission, acts of racial discrimination have continually occurred both in the public and private spheres in Japan. Notwithstanding the fact that Japan has acceded to the ICERD, there are no legal measures to punish these offences and redress victims of racial discrimination.

The government of Japan has failed to consider the enactment of a law that prohibits racial discrimination despite the repeated recommendations made by the CERD in 2001 and 2010. (A/56/18 and CERD/C/JPN/CO/3-6, respectively)

3. Background information

Serious human rights violations motivated by racial discrimination have been repeatedly committed in Japan. In particular, xenophobic hate speech against minority groups is a serious social issue. Among lawmakers, it is becoming a big concern and the need to have legal measures to address it is strongly felt. Yet, the government remains silent.

In spite of the recommendations in 2001 (para 9, CERD/C/304/Add.114) and 2010 (para 11, CERD/C/JPN/CO/3-6), the government has failed to consider the enactment of a law that prohibits direct and indirect discrimination based on the reasons articulated in the article 1 of the Convention. Moreover, throughout its first to ninth reports, the government has consistently kept its position that Japan has taken every possible means to combat racial discrimination.

In its reply to the question 6 of the list of issues in 2010 (para 16, CERD/C/JPN/Q/3-6/ADD.1/REV.1), the government stated, *"(w)e do not recognize that the present situation of Japan is one in which discriminative acts cannot be effectively restrained by the existing legal system and in which explicit racial discriminative acts, which cannot be restrained by measures other than legislation, are conducted. Therefore, penalization of these acts is not considered necessary."* At the time when the government made the reply, the issue of hate speech and harassment against minorities was widely recognized in society.

The government did not provide enough reason for its assertion that reads *"explicit racial discriminative acts are not conducted"*.

In the paragraphs through 114 to 122 in its seventh to ninth combined reports (CERD/C/JPN/7-9), the government described those remedial measures that it has taken to

address "racial discrimination" and "human rights infringement" through the judicial and administrative functions. In the absence of a law to prohibit racial discrimination as well as a national human rights institute, what standards or criteria has the government relied on when addressing human rights cases? This question even leads to another question whether these remedial steps have been taken according to the Convention.

Furthermore, notwithstanding the CERD recommendations stating that "*...full details on the composition of the population,...in particular, information on economic and social indicators reflecting the situation of all minorities covered by the Convention*" (para 7, CERD/C/304/Add.114, and para 11, CERD/C/JPN/CO/3-6), the government has failed to conduct a survey to get an actual picture of minorities covered by the Convention and provide such information to the CERD. This is essential for Japan as a state party to implement the Convention.

4. Suggestions to recommendations

- a) The government of Japan should immediately consider the enactment of an anti-racial discrimination law.
- b) The government should clarify the definition of "racial discrimination" and "human rights infringement" that the governmental remedial agencies rely on when addressing situations.
- c) The government should take necessary steps to identify minority groups and understand their actual situation as recommended by the CERD in the concluding observations in 2010. This is also essential when legislating against racial discrimination in accordance with the ICERD.

Prepared by

The International Movement Against All Forms of Discrimination and Racism (IMADR)

Creation of a National Human Rights Institution

1. Themes and relevant Articles/2010 recommendations

The lack of progress in establishing a national human rights institution

Article 2 (c) and Article 6, and 2010 recommendations para 12

2. Problems

a) Despite repeated recommendations from the UN Treaty Bodies since 1998, National Human Rights Institution (NHRI) has not yet been established.

b) The current Government by the Liberal Democratic Party has no intention of establishing NHRI, which can provide individual remedies as well as policy recommendations on human rights issues. The Government considers that the adoption of issue-specific laws to provide remedies would be sufficient.

3. Background information

In 1998, the Human Rights Committee recommended Japan “to set up an independent mechanism for investigating complaints of violations of human rights” in the Concluding Observations to the 4th Periodic Report. Since then, Japan has repeatedly received similar recommendations from other Treaty Bodies too.

In 2001, the Council for the Promotion of Human Rights Protection submitted a report on human rights remedies, and in 2002, the Human Rights Protection Bill was submitted to the Diet. The draft Bill was however abandoned when the House of Representatives was dissolved in 2003. Under the following Government, then Prime Minister Abe disapproved of resubmitting the draft Bill and the Study Group on Human Rights Issues was reconvened within the Liberal Democratic Party to review the draft Bill. Although the creation of a national human rights institution was included in the party manifest of the Democratic Party under the Hatoyama Government launched in 2009, the draft Bill on the Establishment of a Human Rights Commission was submitted as late as November 9, 2013. (The House of Representatives was dissolved a week later and the draft Bill was abandoned.)

Although the existence of NHRI has become one of the least human rights standards around the globe and, in Japan, numerous civil society organizations including the Japan Federation of Bar Associations, the Buraku Liberation League and the Joint Movement for National Human Rights Institution and Optional Protocols have been calling for the creation of NHRI, no vigorous discussions in the Diet took place or explanations to the public on the matter was given by the government. Currently, Japan is a member of the United Nations Human Rights Council, and has pledged implementation in good faith of the human rights treaties it has ratified, and to follow up on the recommendations by the treaty bodies. Also, Article 98 paragraph 2 of the Constitution stipulates that “treaties concluded by Japan and established laws of nations shall be faithfully observed,” placing a duty on Japan to comply with the treaties it has ratified. Refusal to implement the recommendations and even declaring that it does not have the duty to implement them could be interpreted that the Government has no

intention of implementing the treaties. In fact, many of the recommendations issued by various Treaty Bodies in the past remain unimplemented, while same or similar recommendations are repeatedly issued. Establishment of NHRI is one of such issues.

During the campaign for the election of members of the House of Representatives in December 2012, the Liberal Democratic Party denounced adopting a bill for a comprehensive human rights remedy system, or a human rights protection bill, and instead included the promotion of “detailed human rights remedies” through issue-specific laws in its party manifest. Since the start of the current government, incidents of hate speech against foreign nationals are increasing to the extent that the issue was taken up by the Diet. The Minister of Justice, however, continued to reiterate his position that the Government would respond with human rights awareness-raising, indicating that the Government is not even thinking of adopting the “detailed human rights remedies.” Currently, a number of Members of the Diet mainly from the opposition parties are considering taking steps against the hate speech incidents, but so far the governing parties have not shown any active efforts to join the move.

4. Suggestions to recommendations

- a) Make a founding statute of a national human rights institution, and clearly define that the main aim of the institution is to implement domestically international human rights standards.
- b) Clearly define in its founding statute that their functions include (1) formulation of recommendations to the Japanese Government or any other government agencies on human rights issues, and (2) cooperation with other international human rights organizations, such as the United Nations and its human rights organs, as well as the national human rights institutions of other countries.
- c) Establish the institution as an entity independent and separate from the Ministry of Justice, to ensure that it complies with the Paris Principles.
- d) Entrust the organization with the powers to address cases of human rights violation committed by the state, local governments or other government agencies, as well as those by public figures including by politicians, who have an obligation to comply with the Constitution.

Prepared by Joint Movement for National Human Rights Institution
and Optional Protocols

Individual Communications Mechanism

1. Themes and relevant Articles/2010 recommendations

Declaration on the recognition of the individual communications procedure

Article 14, and 2010 recommendations para 29

2. Problems

Since the Government of Japan has not accepted the individual communications procedure of the Committee, minority groups and individuals cannot send complaints of human rights violations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). This has severely affected the implementation of the Convention. As there is no domestic legislation covering the Convention, national human rights institution or equivalent body, it easily leads to the breach of the Convention and non-action to such situation. Therefore, the declaration on the recognition of the individual communication procedure is essential to strengthen the implementation of the Convention.

3. Background information

- a) The Government of Japan was continuously recommended by the Committee to make the declaration to recognize the individual communications procedure in 2001 (paragraph 24, CERD/C/304/Add.114) and 2010 (para 29, CERD/C/JPN/CO/3-6).
- b) The various UN human rights bodies, such as the Universal Periodic Review (2008, 2012), the Human Rights Committee (1998, 2008), the Committee on Economic, Social and Cultural Rights (2013), the Committee on the Elimination of Discrimination against Women (2003, 2009) and the Committee against Torture (2013), repeatedly made recommendations to Japan to accept the individual communication / complaint procedures. However, the Government has not accepted the procedure of any treaty.
- c) The government states in the periodic report that it *"considers the individual communications procedure...to be noteworthy in that it effectively guarantees the implementation of human rights treaties"* (para 163, CERD/C/JPN/7-9). The same statement has repeatedly made in the past when it answered to the similar question raised during the consideration of the implementation of not only the Convention, but also others including the ICCPR. Indeed, the government is urged to take a quick action. .

4. Suggestions to recommendation

The government should immediately make the declaration provided in Article 14 of the Convention which recognizes the competence of the Committee to receive and consider complaints from individuals and groups.

Prepared by

The International Movement Against All Forms of Discrimination and Racism (IMADR)

Racist Speech by Public Officials

1. Themes and relevant Articles/2010 recommendations

Need for a ban on promotion of and incitement to racial discrimination by public officials as well as for human rights education

Article 4 (c), Article 6, Article 7, and 2010 recommendations para 14

2. Problems

Hate speech and crude remarks distorting historical events are being repeatedly made by public officials, including influential politicians. No legal or administrative actions have been taken against them, and the officials remain in office. No human rights education has been carried out for the members of the Diet or local assemblies.

3. Background information

In the two earlier Concluding Comments in 2001 and 2010, the Committee has raised its concerns regarding the lack of administrative or legal actions against racist statements that would constitute violations of Article 4 (c) made by public officials of the national and local governments. The Committee recommended Japan to enact a law that guarantees access to effective protection and remedies against racial discrimination through competent national courts. It also recommended that Japan provide relevant human rights education, including specifically on racial discrimination, to all civil servants, law enforcement officers and administrators as well as the general population.

Yet the Government has not taken any concrete steps to implement the recommendations, and racist statements by public officials continue to be tolerated. The examples given below are some of the racist statements made by politicians after April 2010, when the Committee issued its previous Comments. All these examples have been reported by the national and international media.

a. Shintaro Ishihara, Tokyo Governor (current Member of the House of Representatives and former Co- Representative of the Japan Restoration Party)

On April 17, 2010, in a meeting with about 500 participants including members of local assemblies, he remarked criticizing the efforts of the Democratic Party, which was the Government party at that time, to grant voting rights to foreign nationals in local elections. He said that many Members of the Diet including the leaders of the Government party, were “naturalized” Japanese, and they were trying to realize the hopes of their ancestors by granting voting rights to foreign nationals. (see the attached Mainichi Shimbun, April 18, 2010) Governor Ishihara is the “public official” who made the discriminatory statements against resident foreign nationals including Koreans referred to in the Concluding Comments issued by the Committee in 2001 (paragraph 13).

b. Toru Hashimoto, Osaka City Mayor, Representative of the Japan Restoration Party

He remarked at a press conference, on May 13, 2013, that the Japanese military “comfort

women” were necessary. He said that, “(I)n the circumstances in which bullets are flying like rain and wind, the soldiers are running around at the risk of losing their lives. If you want them to have a rest in such a situation, a comfort women system is necessary. Anyone can understand that,” and indicated that the “comfort women” system was justified.

According to the Asahi Shimbun, on May 13, 2013 “(H)e also said, ‘When I checked the history of those years, I found that not only the Japanese army but also those of various countries were utilizing (comfort women).’ He asked why Japan was the only country in the world that was being criticized for the practice, even though the Cabinet under Prime Minister Abe in 2007 determined that there was no evidence proving that the women were taken by force to become “comfort women.” (Also reported by BBC on May 14, 2013) His comments were seen as justifying crimes against humanity committed by the former Japanese military.

In June 2013, the Committee against Torture recommended that Japan should take measures to refute “attempts to deny the facts by government authorities and public figures and to re-traumatize the victims through such repeated denials” (paragraph 19 (b)) in its Concluding Observations. It is very likely that the statements made by Governor Ishihara and Mayor Hashimoto were in the minds of the Committee Members.

The Abe Cabinet decided on June 18, 2013 that the Concluding Observations were not legally binding, and placed no duties on the State parties to comply.

c. Shingo Nishimura, Member of the House of Representatives

He commented that the statements made by Mr. Hashimoto on the issue of “comfort women” were being fabricated by the foreign media, in a meeting of the Diet Members of the Japan Restoration Party, which is represented by Toru Hashimoto, Osaka City Mayor and Shintaro Ishihara, who became Member of the House of Representatives after serving 4 terms as Governor of Tokyo. He cautioned that the term “comfort women” was being translated as “sex slaves” and that they should actively assert that that is not the case. He also suggested that he should call out while walking in the entertainment areas in Osaka, “Hey, you South Korean comfort women!”

His statement upset others even within the Japan Restoration Party, in which the Co-Representatives were making racist comments, and he was expelled from the party. (AP dated May 17, 2013)

d. Katsuto Momii, President, NHK (Japan Broadcasting Corporation)

At a press conference on January 25, 2014, announcing his taking office, he questioned the claims for redress for the “comfort women” and said that there were similar practices in other countries, after noting that he was stating his personal views. NHK is a publicly funded broadcasting company. (BBC dated January 26, 2014) Mr. Momii is not a public servant, but his remarks made in public, as a public official as President of the NHK, distorted historic events, and justified crimes against humanity.

No legal or administrative actions were taken against these public officials, and they all remain in public office.

Lack of human rights education

According to the Seventh to ninth Periodic Report of January 2013, the Ministry of Justice carries out human rights education and training for public officers of central and local governments, in “accordance with the second phase of the World Programme for Human Rights Education.” (para 69) However, the Government White Paper on Human Rights Education and Awareness-raising 2013, shows that racial discrimination is not covered as a topic for the human rights education.

Human rights education for politicians, who have strong influence in the civil society, is not carried out at all. The result is the repeated hate speech by people holding public offices.

4. Suggestions to recommendations

1) The State party should face the persistent hate speech by public officials and should immediately introduce concrete legal or administrative regulations, including disciplinary measures such as removal from office as well as provide effective remedies to the victims, based on the duties under Article 4 (c), in line with international standards, such as the Rabat Plan of Action and General Recommendation 35. (General Recommendation 35, paragraph22)

2) The State party should strongly condemn and oppose any statement by public officials, national or local, which tolerates or incites racial discrimination and intensify its efforts to promote human rights awareness among politicians and public officials. (The same recommendation was made in April 2010 at paragraph 14)

3) The State party should promote human rights education for media professionals and journalists, in view of the importance of their roles in monitoring and accurately reporting on incitement to discrimination by public officials. In this regard, emphasis should be placed on education and training in equality and non-discrimination, with a view to combating stereotypes and violence, as well as fostering respect for diversity.

Prepared by Asia-Pacific Human Rights Information Center (Hurights Osaka)

Buraku Discrimination

1. Themes and relevant Articles/2010 recommendations

Definition of descent”	2010 recommendations para 8
Wrongful use of Koseki information	2010 recommendations para 18
Assignment of the government agency	2010 recommendations para 19
Lack of information to evaluate progress	2010 recommendations para 19
Human rights awareness-raising	2010 recommendations para 19

2. Problems

1) Definition of “descent” in Article 1 of the Convention. (paras 8 and 19 (c) of the Concluding Observation of CERD /C/JPN/CO/3-6)

2010 CERD recommendation para 8.

The Committee maintains the position expressed in its general recommendation No. 29 (2002) “that the term ‘descent’ ... has a meaning and application which complement the other prohibited grounds of discrimination” and “that discrimination based on ‘descent’ includes discrimination against members of communities based on forms of social stratification ... and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights.” Moreover, the Committee reaffirms that the term “descent” in article 1, paragraph 1, of the Convention does not solely refer to “race” and that discrimination on the ground of descent is fully covered by article 1 of the Convention. The Committee, therefore, urges the State party to adopt a comprehensive definition of racial discrimination in conformity with the Convention.

para 19 (c) *Engage in consultation with relevant persons to adopt a clear and uniform definition of Burakumin*

The government of Japan is insisting that Buraku is not included in the scope of “descent” provided in Article 1 of the Convention. The government also fails to elucidate definition of Buraku problem as well as Burakumin. Buraku is a social status as stipulated as “social status or *monchi* (“descent/genealogy” in Japanese)” in the Constitution. The social status was referred to in the family registration system of 1886 that categorized social status into five groups, i.e. new nobility, warrior class, petty officers, commoners, and new commoners (which indicated Burakumin). Also, *monchi* was defined and elaborated in the family registration system. “Human Rights White Paper” that the government annually publishes defines that the Buraku problem is a problem in which “a part of Japanese citizens are discriminated against based on their social status in the class system created in a historical process.” In this vein, it should be understood that, as the Committee has been addressing, discrimination created through the family registration system of Japan as well as discrimination against Burakumin based on their social status fall under the scope of discrimination based on “descent” as defined in Article of ICERD.

Background information:

In 1995, the Diet of Japan approved the accession to the International Convention for the

Elimination of All Forms of Racism and Racial Discrimination (the Convention). In regard to the term “descent” in Article 1 of the Convention, the government has maintained its view (expressed through the Ministry of Foreign Affairs) that *“In application of the Convention, “descent” indicates a concept focusing on the race or skin color of a past generation, or the national or ethnic origins of a past generation, and it is not interpreted as indicating a concept focusing on social origin.” This means that the government does not consider that discrimination against “persons belonging to or descending from the Buraku community” is discrimination based on “descent” provided in the Convention.*

The government expressed following views concerning the definition of “descent” and the Buraku issue:

a) On March 10, 1984, the First Working Party of the Budget Committee of the House of Representatives deliberated the issue of accession to the Convention. Following is an excerpt from the minutes of the deliberation:

Q: In relation to racial discrimination, does the government consider that the Convention is relevant to Buraku problem? (raised by Wataru Ohara, a member of the House of Representatives)

A: We understand that the subject of the Regional Improvement Measures (Dowa measures i.e. measures to address the issue of Buraku discrimination) is also involved. (answered by Yoshimasa Satoh, the head of the Regional Improvement Division of the Management and Coordination Agency of the government) (note: with the ministerial reorganization of 2001, this agency was integrated into the other, and later dissolved due to the termination of the Special Measures Law.)

b) In 1994, the interim reports of the “Project on the Issue of Human Rights and Discrimination” under the coalition government indicated its understanding that Buraku discrimination was covered by the Convention.

c) At the time of accession to the Convention in 1995, the Ministry of Foreign Affairs expressed the view as mentioned above. At the same time, the Diet passed additional resolution when it approved the state’s accession to the Convention stating that it called for the further promotion of governmental efforts for the elimination of all forms of discrimination including those against Buraku, Ainu people and foreign residents. When it was asked about the difference between “monchi” and “descent” during the deliberation on the accession, the government responded that “the term ‘monchi’ includes social discrimination, whereas the term ‘sekei’ (“descent” in Japanese) does not”. This means that *monchi* includes Buraku problem, whereas *sekei* does not. This view of the government contradicted the answer of the then head of the Regional Improvement Division. Till today, this contradiction remains as a question.

d) The then head of the Human Rights and Refugees Division of the Ministry of Foreign Affairs, Mr. Kawada, made the following remarks at the time of accession to the Convention in 1995: “The term ‘national’ of the national origin (in ICERD Article 1) is referring to

ethnicity and nationality, and if the concept of “nationality” is removed from there, it becomes “descent”. Therefore, the term descent is not necessary to the Convention.”

As shown above, the government has failed to have a consistent view of the “descent” and Buraku problem. Until 2002 before the Special Measures Law was terminated, the Regional Improvement Division of the Ministry of Internal Affairs and Communications (successor of the Management and Coordination Agency) had been in charge of the Buraku issues. In his answer made at the Diet Budgetary Committee, the government officer admitted the inclusion of Buraku in the descent. Then, in 1995 when approving the accession to the Convention, the Ministry of Foreign Affairs (MOF) denied the inclusion of Buraku in the descent by saying, “Buraku discrimination is social discrimination, and is not included in the descent.” The present government affirms that this 1995 view of the MOF is the official view of the government.

At the same time, it is also set out (by the government?) that the interpretation of any international convention or treaty shall be made by the respective ministerial departments being in charge of the issues covered by the treaty concerned. As the Regional Improvement Agency existed and functioned until 2002, the view of the Agency expressed in 1984 should also be regarded as the official interpretation of the Convention (at least until 2002).

The government’s 1st and 2nd report of 2000 should have maintained the view of the Agency, however, the Ministry of Foreign Affairs and the Ministry of Justice, which were not responsible to Buraku issues then, prepared the report with their arbitrary interpretations and views. It was beyond their authority, and their statement, which totally contradicts to that of the Regional Improvement Agency, cannot be regarded as an official view of the government.

It needs to be confirmed, when, where and who decided on the official view of the government combining the two contradictory views of the Agency in charge of the issue concerned and the Ministry of Foreign Affairs.

During an informal meeting with a representative of BLL on November 25, 2011, the then Parliamentary Secretary to the Minister of Justice, Hiroyuki Tani, expressed that, given the recommendation of CERD to take the account of the General Recommendation No. 29 of the Committee, he would examine when and where the view of the government still insisting that Buraku discrimination is not included in the scope of the discrimination based on “descent” was made.

2) Punishment on Wrongful Use of Information on Koseki (Family Register) (CERD /C/IPN/CO/3-6, para 19)

2010 CERD recommendation para 19.

The Committee recommends the enacting of a stricter law, with punitive measures, prohibiting use of the family registration system for discriminatory purposes, particularly in the fields of employment, marriage and housing, to effectively protect the privacy of individuals.

Information on Koseki shows an individual's life-long information from birth to death including his/her familial relation. Thus, if the Koseki information is accessed by others, it is possible for them to trace one's family line and find if he/she is of Buraku origin. Concerned about the abuse of Koseki information that can result in discrimination and for the purpose of protection of privacy, Buraku Liberation League has objected to the principle of treating Koseki information as public information. The government has, nevertheless, allowed access to one's Koseki without consent of the person concerned under certain conditions. This procedure has illegally been abused by those who wanted to use it for the discriminatory purpose without consent of the person concerned.

There have been numerous incidents involving the abusive use of Koseki. One of the recent scandals involved the present mayor of Osaka city whose family background was traced back through the easy and illegal access to Koseki information and wrongfully used for a reporter who contributed a sensational article about the mayor's personal history revealing that he was of Buraku origin to one of major weekly magazines.

The case of the Prime Judicial Scriveners Office is another example. It involved the illegal acquisitions of individuals' Koseki more than ten thousand times to sell them to whoever wanted them. Financial institutions have also been involved in these wrongful acquisition and abuse of Koseki information.

Koseki system, or family registration system, is a system that can generate and encourage discrimination based on descent and actually encouraged discrimination against Buraku. Koseki information is sensitive and private. In accordance to the principles of the protection of personal information, any provision of Koseki information to a third party has to be made with a prior consent of the person concerned. Any abusive use of Koseki information has to be prohibited by setting penalties, so that Koseki information cannot be obtained unless it has just or reasonable reason.

Any request for Koseki information made by a third party or proxy (including authorized legal professionals) except for the official use needs to be carefully checked before issuing a copy of Koseki. In the case of the Prime Judicial Scriveners Office, responsible persons were arrested for the violation of the Family Registration Act. As wrongful request for a copy of Koseki is punishable under the criminal code, the abusive use of Koseki for the discriminatory purpose should be explicitly prohibited and punished.

3) No assignment of a specific government agency responsible to the solution of Buraku problem

2010 CERD recommendation para 19

- a) Assign a specific government agency or committee mandated to deal with Buraku issues;*
- b) Fulfil the commitments made upon the termination of the Special Measures Law;*

- e) Provide statistical indicators reflecting the situation and progress of the above-mentioned measures;*
- f) Take into account general recommendation No. 32 (2009) on special measures, including the recommendation that special measures are to be terminated when equality between the beneficiary groups others has been sustainably achieved.*

The 1996 Opinions of the Council on the Policy for Regional Improvement, which the government of Japan is using as guidelines, considered the Dowa (Buraku) problem as an important pillar among human rights challenges that Japan faced, and encouraged promotion of human rights education and awareness-raising for the solution of discriminatory attitude regarding the Dowa problem. It also clarified the future direction after the termination of Special Measures Law, with the recommendation to consider a liaison and coordination structure within the government for a comprehensive and effective implementation of human rights education and awareness-raising.

Despite the recommendation, when the Special Measures Law was terminated in 2002, the government abolished the Regional Improvement Division of the Management and Coordination Agency which was responsible to the governmental efforts for the solution of Buraku problem.

During the informal meeting between the government and NGOs on June 17, 2011, the International Division of the Ministry of Justice orally stated that various human rights issues were under the responsibility of the Ministry of Justice, and so was Buraku problem. To the contrary, during the unofficial meeting with the representative of BLL, Hiroyuki Tani, the then Parliamentary Secretary to the Minister of Justice, said, "The International Division of the Ministry of Justice made a wrong statement. The ministry does not have a function responsible to Buraku problem." He also stated, "The government has been working for Dowa measures since 1969 when Dowa measures were launched under the Special Measure Law. With the termination of the law in 2002, the Regional Improvement Division was abolished. As for Dowa problem, the Ministry of Justice basically works on cases of human rights infringement. Our work includes the promotion of human rights education to combat prejudice, the prevention of faked Dowa benefits, provision of human rights counselling, and the handling of Buraku discrimination incidents as human rights infringement cases. Thus, the ministry does not address Buraku problem as a whole."

According to the general recommendation No. 32 of the CERD regarding the meaning and scope of special measures in the Convention, realization of equality should be demonstrated with "statistics" at the termination of special measures. However, at the termination of the 33 years-long Dowa Special Measures Law in 2002, indications on the basis of an actual condition survey were not available.

The 1996 Opinions of the Council repeatedly stated that the end of special measures, or the transition to general measures, did not mean an abandonment of governmental efforts for an early solution of Dowa problem. Nevertheless, the government articulates that the solution of Buraku problem is a key challenge among human rights problem that the

government faces, and never disclose statistical figures that are essential to a substantial solution of the problem, or any statistical information that could demonstrate the achievements of the 33 years' long Dowa measures.

4) The lack of statistical information to evaluate the implementation of programs under the law concerning the promotion of human rights education and awareness-raising.

2010 CERD recommendation para 19 (d)

d) Supplement programmes for the improvement of living conditions of Burakumin with human rights education and awareness-raising efforts engaging the general public, particularly in areas housing Buraku communities;

The government prepares and presents the annual report entitled "Human Rights White Paper" to the Diet under the human rights promotion law. In the chapter about Dowa problem, the report gives information about the government's implementation of human rights awareness-raising programs for the solution of discriminatory attitude against Buraku. The white paper, however, lacks information that could indicate effects and achievements of the programs for the general public, school education, and social education. It should conduct a survey to grasp the attitude of the general public towards Buraku problem and develop a road-map towards the solution.

The government also fails to provide statistical information about the human rights infringement cases involving Buraku that it has dealt with. Especially, faced by the discriminatory information rampant on the internet, how does the government address the information indicating the location of Buraku districts that would help encourage and induce discriminatory treatment. Detailed report should be included in the white paper.

Suggestions to recommendations:

- 1)-1. The government should revise its view that Buraku as classified as a social status is not included in the 'descent' provided in Article 1 of the Convention, and accept the view of CERD as expressed in its general recommendation No. 29.
- 1)-2. The government should the definition of Buraku problem as well as of Burakumin.
- 2) The government should take punitive measures for illegal requests for Koseki information.
- 3)-1. The government should create a governmental organ responsible for the liaison and coordination of its efforts for the solution of Dowa problem.
- 3)-2. The government should conduct a survey on the actual conditions of Buraku and publish its results including statistics as per the CERD general recommendation No. 32.
- 4) The government should disclose statistical information about effects of the human rights education programs it has conducted.

Prepared by Buraku Liberation League (BLL)

Rights of the Ainu People

1. Themes and relevant Articles and 2010 recommendations

Rights of the Ainu People

2010 recommendations para 20

2. Problems

- a) Insufficient guarantee of the participation of the Ainu in relevant bodies including the Council for Ainu Policy Promotion of the government.
- b) Survey on the protection and promotion of the rights of the indigenous peoples of Ainu and the improvement of their social status has not yet been conducted at the national level.
- c) Limited progress in the governmental measures for the implementation of “the UN Declaration on the Rights of Indigenous Peoples”.
- d) Non-implementation of the recommendations issued by UN Treaty Bodies such as CERD, CCPR and CESCR, in regard to the rights of the Ainu people.

3. Background information

Since the Meiji Restoration (started around 1867), the government of Japan has encroached on the land of the Ainu, and conquered and ruled them. The government forcibly took the land of the Ainu, integrated it in the nation state and colonised it. In this process, the language, unique religion, and all cultural manners and customs of the Ainu people were prohibited as evil custom. The government of Japan also banned their traditional vocations and forced them into agriculture. It is the state of Japan and the Hokkaido local government who have been violating the rights of the Ainu.

In 2008, following the adoption of “the resolution to recognize the Ainu as indigenous peoples” by both the House of Representatives and the House of Councillors, the government of Japan recognized the Ainu as an indigenous people and set up the Experts Advisory Panel. In 2009, with the report of the Experts Advisory Panel, the Council for Ainu Policy Promotion was set up within the Cabinet Secretariat. The Council, however, has only worked for the measures in a very narrow and limited scope leaving the restoration of the rights of the Ainu in an insufficient state.

a) The government states the following in its 7th to 9th periodic report (paras 17 and 22 of CERD/C/JPN/7-9): 17. . . . The Council, with several Ainu representatives among its members, discusses the promotion of overall Ainu policy, and 22. . . . Representatives who are Ainu account for one-third or more of the members of the Council for Ainu Policy Promotion and its working groups. Considering the recent development in the UN and other international organizations, Ainu representatives should at least account for the half of the Council.

b) In the para 19 of its periodic report (CERD/C/JPN/7-9), the government states that under the Council for Ainu Policy Promotion the working group on the “Research on Living

Conditions of Ainu People outside Hokkaido” conducted a research from 2010 to 2011 on the living conditions of the Ainu people living outside Hokkaido. The research revealed that the family incomes or the higher education enrolment rate among the Ainu are relatively low demonstrating the unsolved gaps between the Ainu and other population. However, the research was conducted involving only 241 households and 318 Ainu people (in total, effective responses were only from 153 households and 210 people), which indicates the incomprehensiveness of the research. The research about the Ainu conducted by the Tokyo Metropolitan Government in 1988 showed that around 2,700 Ainu people lived in Tokyo alone at that time. Furthermore, while the government research indicated that the gaps remained unsolved in many aspects of life, it has not taken any measures to address these problems even after three years from the completion of the research. At the same time “Research on the actual living conditions of the Ainu” is conducted every seven years in Hokkaido, but it is regarded as insufficient as especially it involves only a limited area/population.

c) The Ainu measures that the government currently promotes are limited to the cultural programs dealing with Ainu language, music, dance and art crafts which have also been promoted under the 1996 Law for the Promotion of Ainu Culture that lacks proper recognition of the right of the Ainu to develop its own culture. The Council was supposedly established in order to overcome the deficit of the 1996 Law. However, apart from the above mentioned research on the living conditions of the Ainu outside Hokkaido, the other main work of the Council is development of “Symbolic Space for Ethnic Harmony” for which a specific working group was set up within the Council. Currently, the government is only engaging in those measures that aim for the realization of the space.

The Symbolic Space for Ethnic Harmony focuses on the historical and cultural exhibit (museum), research and study on history and culture, and the development of memory keepers. Obviously, these functions alone cannot achieve the restoration of the rights of the Ainu as indigenous peoples. Instead, much more comprehensive policy is required in full accordance with the UN Declaration on the Rights of Indigenous Peoples including measures for the protection and promotion of the right to land and natural resources of the Ainu, for the improvement of the situation in education, employment and welfare services as well as for the realisation of the right to own unique culture and language. The government also touched upon its measures for the improvement of living condition of the Ainu in para 14 of its periodic report. However, these measures are merely a continuation of those were done under the “Hokkaido Utari Welfare Measurers” since 1974. Despite the implementation of the welfare measures for 40 years, gaps between the Ainu and other population is still existing in the areas of education and employment. This clearly indicates the need for new measures based on the UN Declaration.

d) The government has ignored and failed to implement the recommendations of the UN Treaty Bodies relevant to the issues mentioned above. These recommendations were made for example for the implementation of the UN Declaration and creation of a new working group for it (as per the CERD Concluding Observations CERD/C/JPN/CO/3-6), recognition of

the right to land and indemnification thereto, and the ratification of the ILO Convention 169 (as per the CERD Concluding Observations CERD/C/58/ CRP).

Even if a country has an excellent constitution, ignorance of the constitution by the state power or judicial system would simply let human rights unprotected and unrealized. Paragraph 2 of Article 98 of the Japanese Constitution provides, “The treaties concluded by Japan and established laws of nations shall be faithfully observed.” It is an urgent issue to create a consultation body that deliberates recommendations concerning the Ainu made by the UN Treaty Body.

4. Suggestions to recommendations

- a) The government of Japan should ensure that at least a half of members of the Council for Ainu Policy Promotion and other consultative bodies concerning the Ainu people are representatives from the Ainu.
- b) The government should develop measures to improve living conditions of the Ainu outside Hokkaido based on findings of “Research on Living Conditions of Ainu People outside Hokkaido”. At the same time, it should conduct a new national research to formulate and implement measures for the effective protection and promotion of the rights of the Ainu and the improvement of their social status.
- c) The government should create a new working group within the Council for Ainu Policy Promotion to implement the above b) in accordance with the UN Declaration.
- d) Through the consultation with representatives of the Ainu, the government should establish a national human rights institute that deliberates recommendations made by the UN human rights monitoring system including the CERD, CCPR and CESCR.

Prepared by the Council of the Ainu People/Shimin Gaikou Centre

Indigenous Peoples of the Ryukyus

I. Themes and relevant Articles and 2010 recommendations

Distinctive ethnic identity of the Ryukyus/Okinawa¹

i) Problems

Denial of the existence and rejection of the due recognition of the Indigenous Peoples of the Ryukyus by the government of Japan

ii) Background information

In its response to the letter issued by the Committee on 31 August 2012² under its early warning and urgent action procedure, the government of Japan has stated:

“The Government of Japan is of the view that the people living in Okinawa Prefecture or born in Okinawa are not the subject of “racial discrimination” as provided for in the International Convention on Elimination of All Forms of Racial Discrimination (See Japan’s response of 31 July 2012). Therefore, Japan does not recognize that the requested information should be provided in Japan’s Seventh, Eighth, and Ninth Combined Periodic Report.”³

The Ryukyu kingdom was an independent state with own territory, citizens and social system, which also had ratified treaties with the US, France and the Netherlands. However, it was annexed to Japan by force and in a one-sided way to Japan by then government of Japan in 1879, which can be regarded as violation of the Article 51 of the Vienna Convention on the Law of Treaties. These are objective and historical facts that cannot be interpreted otherwise. One of the clear evidences of the discrimination against the Indigenous Peoples of the Ryukyus and its colonisation by Japan is the fact that 74 % of the US military bases in Japan are concentrated in the islands of the Ryukyus which consists of only 0.6 % of the land area of Japan.

Despite the concerns expressed and recommendations issued by several UN bodies including the ones by the Human Rights Committee (para 32, CCPR/C/JPN/CO/5), by the Committee on Economic, Social and Cultural Rights (paras 13 and 40, E/C.12/1/Add.67) and by CERD (most recently, para 21, CERD/C/JPN/CO/3-6), the government of Japan has never responded sincerely, nor taken substantial action for the solution of the issues.

¹ In relation to the para 21 of the previous Concluding Observations of CERD (CERD/C/JPN/CO/3-6) and the response of the Government of Japan to the letter of CERD issued on 31 August 2012 under its early warning and urgent action procedure

(http://www.mofa.go.jp/policy/human/pdfs/response_201301.pdf)

² http://www2.ohchr.org/english/bodies/cerd/docs/early_warning/japan31082012.pdf

³ Ministry of Foreign Affairs of Japan:

http://www.mofa.go.jp/policy/human/pdfs/response_201301.pdf

At the same time, the government of Japan has been insisting that the equality is protected under the Constitution of Japan. However, the Constitution does not stipulate or anticipate the specific rights of the indigenous peoples and equality under such constitution cannot protect the rights of the Indigenous Peoples of the Ryukyus.

iii) Suggestion to recommendations

The government of Japan should be strongly urged to recognise the Indigenous Peoples of the Ryukyus as indigenous and comprehensively protect their rights.

II. Consultations with the representatives of the Ryukyus/Okinawa (para 21, CERD/C/JPN/CO/3-6)

i) Problems

Increasing Yamato (mainland Japanese) to the Ryukyu islands and consultation with the government of Japan

ii) Background information

CERD has previously encouraged the government of Japan to “*engage in wide consultations with Okinawan representatives...*” in 2010.⁴ Although there is no detailed statistics, it is estimated that about 30,000 people, most of them Yamato people (mainland Japanese), are immigrating to the Ryukyus, which has about 1.4 million population. In some of the islands of the Ryukyus, the number of immigrants has become even higher than that of the indigenous peoples there. While “wide consultations with Okinawan representatives” were recommended by CERD (para 21, CERD/C/JPN/CO/3-6), it is becoming more and more difficult and complicated to identify the will of the indigenous peoples of the Ryukyus under the current election system of Japan.

iii) Suggestion to recommendations

The government of Japan should, regarding matters which are relevant and/or crucial to the future of the Ryukyus such as the construction of US military bases, take all the necessary measures to establish a system through which the ethnic identify of the residents of the Ryukyus is properly identified and recognised, the representatives of the Indigenous Peoples of the Ryukyus are appropriately elected, and the will of the Indigenous Peoples of the Ryukyus is comprehensively reflected.

III. Construction of new military bases in Henoko Oura bay and Takae⁵

⁴ CERD/C/JPN/CO/3-6, para 21

⁵ In relation to the para 21 of the previous Concluding Observations of CERD (CERD/C/JPN/CO/3-6) and the response of the Government of Japan to the letter of CERD issued on 9 March 2012 under its early warning and urgent action procedure

(http://www.mofa.go.jp/policy/human/pdfs/req_info_120731_en.pdf)

i) Problems

Construction of military bases and facilities in Henoko and Takae which will cause significant environmental destruction

ii) Background information

In response to the letter issued by CERD on 9 March 2012⁶ under its early warning and urgent action procedure concerning the issue of the transfer of Futenma airbase to Henoko as well as construction of helipads in Takae, the government of Japan stated that, in putting forward the plan of transfer and construction, that:

“(it) has been trying sincerely to gain the understanding of the people of Okinawa”⁷ and “the Government considers that it has gained the understanding of Okinawa Prefecture and other local governments concerned regarding this relocation work.”⁸

However, quite contrary to the argument of the government of Japan, all the heads governors of the 41 municipalities in Okinawa as well as all the members of the prefectural parliament of Okinawa have submitted a letter of petition in January 2013, urging the repeal of the deployment of the MV-22 Osprey and suspension of the transfer of the Futenma airbase within the Okinawa prefecture. At the same time, the plan of the transfer of the Futenma airbase to Henoko was one of the key issues in the election of the Mayor of Nago City, where Henoko is located, and the candidate who had opposed the plan was elected representing the will of the people on the ground. Moreover, according to the survey of a newspaper in Okinawa, 73.5 % of the population have expressed their opposition to the airbase transfer within the prefecture. Despite these obvious indication and expression of the opposition by the majority of the Indigenous Peoples of the Ryukyus to the construction of new US military bases, the government of Japan has been forcing the plan of the construction without considering any alternatives. At the same time, the planned locations of the construction, Henoko and Takae, are located in the Northern part of the island of Okinawa having rich nature and biodiversity including rare species. Against this backdrop, it is easy to expect that the construction of the military bases will cause irreversible destruction of the environment, nature and the ecosystem in the areas.

While, the government of Japan is forcing the construction of new base in Henoko with the argument to lighten the US military burden on Okinawa, it is also discussed that the new military base to be built in Henoko can be jointly used by the Self Defence Force of Japan, which will further accelerate the militarisation of the Ryukyus also concerning the fact that the government of Japan has been increasing the deployment of the Self Defence Force in the Ryukyus in recent years. Such on-going and increasing militarisation of the Ryukyus is increasing the risk to the physical safety and life of the Indigenous Peoples of the Ryukyus.

⁶ http://www2.ohchr.org/english/bodies/cerd/docs/CERD_Japan.pdf

⁷ Ministry of Foreign Affairs of Japan:

http://www.mofa.go.jp/policy/human/pdfs/req_info_120731_en.pdf, page 7

⁸ Ibid, page 9

iii) **Suggestions to recommendations**

The government of Japan should have widest possible consultations with the representatives of the Ryukyus who are elected by only the Indigenous Peoples of the Ryukyus in order to promote and protect the rights of the residents of Okinawa as well as to develop appropriate measures and policies.

IV. Restriction on the opposition movements against US military bases⁹

i) **Problems**

Restriction on the freedom of peaceful assembly

ii) **Background information**

The government of Japan has decided on the application of the Special Penal Code to the opposition movements of the Indigenous Peoples of the Ryukyus against the construction of the new military base in Henoko or helipads in Takae being forced by the government against the will of the Ryukyu peoples. This decision i.e. application of the said law will significantly restrict the rights of the Indigenous Peoples of the Ryukyus especially to the freedom of peaceful assembly and to life. In case of Takae protest, protesters have been sued in SLAPP trial, whereby the government has forcibly limited the opportunity for the Indigenous Peoples of the Ryukyus to express their opinion and their intentions.

iii) **Suggestions to recommendations**

The government of Japan should immediately stop any acts that have the intention or effect of restricting the freedom of peaceful assembly, expression and opinion as well as the right to life of the Indigenous Peoples of the Ryukyus and provide them with the opportunities for fair and open discussion.

V. History, culture and language of the Ryukyus¹⁰

i) **Problem**

Denial of the rights to language and education of their own history and culture

ii) **Background information**

Despite the recommendations by UNESCO in 2009 to protect the languages of the Ryukyu islands, the government of Japan has not taken any measures and no opportunities was provided for learning their own languages within the framework of public education in the Ryukyus. The Ryukyu languages are now facing the crisis of disappearance being

⁹ In relation to the para 21 of the previous Concluding Observations of CERD (CERD/C/JPN/CO/3-6) and the response of the Government of Japan to the letter of CERD issued on 9 March 2012 under its early warning and urgent action procedure

(http://www.mofa.go.jp/policy/human/pdfs/req_info_120731_en.pdf)

¹⁰ In relation to paras 21 and 25 of the previous Concluding Observations of CERD (CERD/C/JPN/CO/3-6)

significantly affected by the assimilation policy of Japan and the fact of intimidation and practice during the World War II, when those who spoke Ryukyu languages were regarded by Japan as traitors and spies and were often executed.

Currently, children of the Indigenous Peoples of the Ryukyus are also obliged to study with the textbooks and curriculum that are made by and for Yamato Japanese, who have distinctively different history and culture. Textbooks that have more description of the own history and culture of the Ryukyus are not allowed in current legal and educational framework of Japan, while no resource or possibility is provided by the government in order for the Indigenous Peoples of the Ryukyus to create their own textbooks.

iii) Suggestions to recommendations

The government of Japan should:

- create, within the framework of public education, a specific subject to teach the history and culture of ethnic groups other than the Yamato, and ensure that the same amount of time is allocated for it as the time for the subject of history and culture of the Yamato;
- in the residential areas of indigenous peoples, provide opportunities for the education of the history, culture and language of the respective indigenous peoples.

Prepared by Association of the Indigenous Peoples in the Ryukyus (AIPR)
Shimin Gaikou Centre

Education for Minority Children - discriminatory policy on Korean schools

Relevant paragraphs in the previous Concluding Observations (March 2010)

22. The Committee notes with appreciation the efforts made by the State party to facilitate education for minority groups, including bilingual counsellors and enrolment guidebooks in seven languages, but regrets the lack of information on the implementation of concrete programmes to overcome racism in the education system. Moreover, the Committee expresses concern about acts that have discriminatory effects on children's education including:

- (a) The lack of adequate opportunities for Ainu children or children of other national groups to receive instruction in or of their language;*
- (b) The fact that the principle of compulsory education is not fully applied to children of foreigners in the State party in conformity with article 5 (e) (v) of the Convention; article 28 of the Convention on the Rights of the Child; and article 13, paragraph 2, of the international Covenant on Economic, Social and Cultural Rights, to which Japan is a party;*
- (c) Obstacles in connection with school accreditation and curricular equivalencies and entry into higher education;*
- (d) The differential treatment of schools for foreigners and descendants of Korean and Chinese residing in the State party, with regard to public assistance, subsidies and tax exemptions;*
- (e) The approach of some politicians suggesting the exclusion of North Korean schools from current proposals for legislative change in the State party to make high school education tuition free of charge in public and private high schools, technical colleges and various institutions with comparable high school curricula (arts. 2 and 5).*

The Committee, in the light of its general recommendation No. 30 (2004) on discrimination against non-citizens, recommends that the State party ensure that there is no discrimination in the provision of educational opportunities and that no child residing in the territory of the State party faces obstacles in connection with school enrolment and the achievement of compulsory education. In this regard, it also recommends that a study on the multitude of school systems for foreigners and the preference for alternative regimes set up outside of the national public school system be carried out by the State party. The Committee encourages the State party to consider providing adequate opportunities for minority groups to receive instruction in or of their language and invites the State party to consider acceding to the UNESCO Convention against Discrimination in Education.

1. Themes and relevant Articles/2010 recommendations

Discriminatory policy on Korean schools

Article 2 and Article 5, and 2010 recommendations para 22

2. Problems

- 1) Exclusion of Korean schools from the high school tuition waiver program (paragraph 22 (e) of the previous Concluding Observations)

- 2) Discrimination by the local governments including subsidy cuts following the exclusion from the tuition waiver program (paragraph 22 of the previous Concluding Observations)
- 3) Eligibility to take university entrance examinations (paragraph 22 (c) of the previous Concluding Observations)
- 4) Lack of financial support from the national government for schools for foreign children including Korean schools (paragraph 22 (d) of the previous Concluding Observations)
- 5) Non-application of tax exemption measures for donations made to Korean schools (paragraph 22 (d) of the previous Concluding Observations)

3. Background information

Exclusion of Korean schools from the high school tuition waiver program

In April 2010, the then Government under the Democratic Party introduced the system of exemption of senior high school tuition fees and high school enrollment subsidies (hereafter, tuition waiver program). Through this programme, subsidies equivalent to the tuition fees of public senior high schools would be paid to students. This program was groundbreaking because it included schools for foreign children, which are classified as “miscellaneous schools” under the School Education Act. In February 2010, just before the system was launched, some politicians argued that Korean schools should not be eligible for the subsidies, and the Government decided to go ahead without including Korean schools in the program. CERD, which was in session at the same time issued its Concluding Observations expressing concern on the “(t)he approach of some politicians suggesting the exclusion of North Korean schools from current proposals for legislative change in the State party to make high school education tuition free of charge in public and private high schools, technical colleges and various institutions with comparable high school curricula” (CERD/C/JPN/CO/3-6, para 22 (e)). Nevertheless, the Government went ahead to launch the program without applying it to Korean schools, as if ignoring the concern expressed by the Committee. For two and half years, the Government under the Democratic Party had been explaining its official position that the matter should be determined objectively from an educational perspective and not by diplomatic considerations, while it continued to postpone reaching a decision on the application of tuition waiver program to Korean schools. The Liberal Democratic Party-led Government, which started in December 2012, declared immediately after coming in power that it would exclude Korean schools from the tuition waiver programme. The Ministry of Education, Culture, Sports, Science and Technology amended the Ministerial Ordinance on February 20, 2013, just for the purpose of excluding Korean schools from the tuition waiver program, citing as one of the reasons the lack of progress in the issue of abduction of Japanese nationals by North Korea, which is incompatible with the earlier official position. With the amendment, the ten Korean senior high schools in Japan were completely excluded from the tuition waiver.

On this issue, the Committee on Economic, Social and Cultural Rights has also issued recommendations in its Concluding Observations in May 2013, that “(t)he Committee is concerned at the exclusion of Korean schools from the State party’s tuition fee waiver

programme for high school education, which constitutes discrimination (arts. 13 and 14)....the Committee calls on the State party to ensure that the tuition fee waiver programme for high school education is extended to children attending Korean schools.” (E/C.12/JPN/CO/3, para. 27)

New problems following the exclusion from the tuition waiver program

Since the launch of the program in 2010, which amounted to discriminatory exclusion of Korean schools by the Japanese Government from the tuition waiver program, subsidies that had been granted to Korean schools until then was refused or cut by local governments such as Tokyo, Osaka and Miyagi. In 2013, subsidies have been further halted in Hiroshima, Niigata, Yamaguchi and Kanagawa Prefectures. Hiroshima City and Kawasaki City have also followed the decisions of the Prefectural authorities, and withheld payments of the subsidies. Following the Kanagawa Prefectural Government decision to freeze grants after the nuclear test by North Korea in February 2013, Yokohama City suspended the grants procedures for fiscal 2013, and on October 10, revised the guidelines on subsidies for municipal and private schools for foreign children, so that the City could withhold payment based on the international relations. The Yokohama City’s decision to refuse the eligibility of Korean schools to receive municipal subsidies follows the example of the Ministry’s methods explained above. It shows that similar cases may occur, as long as the exclusion from the tuition waiver continues.

Moreover, Machida City in Tokyo Metropolitan Area, which has been distributing safety alarms since 2004 to children attending public elementary schools, has also been providing Korean schools with buzzers for their pupils since 2010 upon the school’s request. But on March 28, 2013, the City education board informed the school that it would no longer provide the alarms. (see attached news article.) After numerous criticisms, the decision not to provide the alarms was withdrawn, however, the discrimination against Korean schools led by the Japanese Government has spread in other areas, increasing the violation of human rights of children attending Korean schools.

Remaining issues and non-implementation of the Committee recommendations

Schools for foreign children and ethnic schools including Korean schools are classified as “miscellaneous schools” under the School Education Act, which are not eligible for funding from the national government. Therefore, these miscellaneous schools heavily rely on donations from the parents and supporters for their management, thus their financial situation is continuously insecure. The financial burden on the parents is also increasing. This means that some minority children may have to give up the opportunity to learn their own language, culture and history in ethnic schools for economic reasons. Among miscellaneous schools, donations to international schools that are mostly for European and American children are eligible for tax exemptions, while, in a quite discriminatory manner, donations to Korean, Chinese and Brazilian schools are ineligible. Similarly, graduate certificate from Korean schools are not recognized as qualifications for taking university

entrance examinations, even after measures were taken in 2003 to make eligibility for university examinations more flexible. Thus, the access of Korean senior high school children to higher education is very much restricted.

4. Suggestions to recommendations

1. The State party / government of Japan should stop the exclusion of Korean schools from the tuition waiver program and make the donations to all the miscellaneous schools including Korean, Chinese and Brazilian schools eligible for tax exemption.
2. Local governments that have suspended subsidies to Korean schools must be urged to withdraw their suspension.
3. The institutional discrimination against minority schools must be reviewed and the Japanese Government must revise its laws to support these schools on the same footing as other private schools in Japan.
4. The tax exemptions on donations to schools for foreign children, which are applied to some international schools should be applied to Korean and Chinese schools, to eliminate discrimination among schools for foreign children.
5. Certificates of graduation from Korean schools should be recognized as qualifications for university entrance examination.

Prepared by Human Rights Association for Korean Residents in Japan (HURAK)

Education of Minority Children – problems in the Japanese public schools

1. Themes and relevant Articles/2010 recommendations

Education of minority children – problems in the Japanese public schools

Article 5, and 2010 recommendations para 22

2. Problems

- a) The parents of foreign children are considered not to have a duty to have their children receive compulsory education, unlike the parents of Japanese children. This is a major factor in the lack of progress in national and local government policies on the protection of the right to education for foreign children.
- b) The rate of non-enrolment among school age children (age 6 to 14 for compulsory education) with foreign background remain high, but the accurate situation is not known, while no measures are taken by the government to address or even grasp the situation.
- c) Opportunities to learn their own language and culture for children with foreign backgrounds and other minority children are not guaranteed in public schools.
- d) Opportunities for children, who require special Japanese language education, are not sufficiently guaranteed. Enrolment rates in senior high schools and universities are both lower among foreign children/students as compared to their Japanese counterpart.
- e) Children, whose status of residence is that of a “dependent,” face serious difficulties after graduating from senior high school in changing their status to one that allows them to work. Their right to work is restricted.

3. Background information

In the previous Concluding Observations to Japan, the Committee has recommended that, “the State party ensure that there is no discrimination in the provision of educational opportunities and that no child residing in the territory of the State party faces obstacles in connection with school enrolment and the achievement of compulsory education.” It also recommended a study on the multitude of school systems for foreigners and the preference for alternative regimes set up outside of the national public school system, providing adequate opportunities for minority groups to receive instruction in or of their language and to consider acceding to the UNESCO Convention against Discrimination in Education. (CERD/C/JPN/CO/3-6)

- a) The government explains in the periodic report that, “if foreign residents want their children to receive education in Japan, foreign children can study at public compulsory schools with no school fees required. Every foreign child in Japanese public school is treated as equivalent to Japanese students, including through provision of free textbooks, study assistance, etc” (paragraph 124 CERD/C/JPN/3-6). However, it does not mean that foreign

children have the right to compulsory education, but merely that they can receive education as a benefit. Therefore, when foreign children are refused enrolment in or transfer to a Japanese public school, the school or the relevant local government is not held legally responsible. In fact, there are many cases, in which children without resident status were refused enrolment in Japanese public schools.

Under the new residence management system under the revised Immigration Control Act launched in July 2012, foreign residents without residence status or those whose permission of stay is under 3 months are completely excluded from the residence registry of the local governments. The parents do not receive the “Guidance for Entering School” from the local governments, and there have been actually some cases, in which children were refused enrolment because their places of residence could not be confirmed. Several such cases of the rejection of enrolment in Japanese public schools have been reported to NGOs regarding Philippine and Myanmar children. Such problems are happening mainly because of the consistent position and approach of the Japanese Government considering the compulsory education for foreign children as merely a favor, but not their right.

b) According to the Basic School Survey Report 2012 of the Ministry of Education, Science, Sport, Culture and Technology, Statistics on Foreign Residents 2012 of the Ministry of Justice and other relevant data, approximately 60% of the foreign children of compulsory education age were attending schools classified under Article 1 of the School Education Act, approximately 23% schools for foreign children classified as “miscellaneous schools” under the Act, and 17% unapproved schools or no school at all. During the review of Japan by the Committee on Economic, Social and Cultural Rights in April 2013, a member in the government delegation from the Ministry of Education, Science, Sports, Culture and Technologies only noted that of the total 117,286 foreign children aged 6 to 15, 63,500 were attending schools for compulsory education (Article 1 schools), as of the end of 2011. There was no mention of enrolment status of the remaining 53,800 children.

Regarding the non-enrolment of foreign children, there are only a few surveys carried out in 2005 to 2006 by some local governments which has a large population of immigrants from Latin America in their administration, but there is no data at the national level on the accurate number of children who are not attending any school. The Ministry of Education, Science, Sport, Culture and Technology carries out only a survey on the number of Japanese children who are not attending schools in its annual Basic School Survey, explicitly noting that foreign children are excluded from it. Comprehensive survey including foreign children must be carried out as the responsibility of the national and local government.

c) In its periodic report, the government of Japan also states “it is also possible to use the Period for Integrated Studies to learn about the native languages and native cultures of foreign students, in keeping with the actual circumstances of communities and those of such students” (paragraph 128). However, it merely means that there is such a possibility in some cases, but it is not guaranteed. According to several NGOs the number of schools offering such possibilities is actually very small. The government should carry out a survey on how

many hours are used for native language and culture studies, and publish the results.

An example of local government initiatives in this regard, is the opportunity of “ethnic classes” organized in public elementary and junior high schools, in which children with foreign backgrounds, mostly resident Koreans, come together to learn their language and culture. There are currently 180 such classes in Osaka Prefecture, and two each in Kyoto City and Kobe City respectively. In general, education in and of the native languages and cultures are completely left to the voluntary efforts of schools for foreign children, ethnic minority groups, or groups supporting ethnic minorities.

The national and local governments should recognize that children with foreign backgrounds have the right to learn their languages and cultures, and that those governments have the responsibility to institutionally guarantee the right.

d) The government of Japan carries out a bi-annual survey on the status of acceptance of children requiring special Japanese language education. According to the survey of May 1, 2012, of the 27,013 children requiring special Japanese language education, 23,375 (86.5%) were receiving such education. It is 4.3 point improvement from the previous survey (September 1, 2010), but still 13.5% of the children do not have access to such education. The government also mentions “additional allocation of teachers to enrich Japanese language education” (paragraph 127) in its periodic report, but a school must have five or more children requiring special Japanese education to receive such additional allocation. 75.5% of the schools in which children requiring special Japanese education are enrolled have less than five such children (2012 survey). Also, although the number of children of Japanese nationality and with foreign backgrounds requiring special Japanese language education has increased 12.3% to 6,171 since 2010, the number of children actually receiving such education was 5,039 (81.7%). The national and local governments should take measures to address the diverse conditions, not just nationality but also places of birth or number of years in residence, of children with foreign backgrounds.

There are no accurate data on the enrolment of children with foreign backgrounds in the senior high school or university. However, it is estimated based on the national census and Basic School Survey results, 30 to 40 % of Brazilian and Philippine children are enrolled in senior high school, while the rate is over 90% among their Japanese counterparts, and the rate of the enrolment of Brazilian and Philippine students in the university was close to zero. There are also analyses showing considerable correlation between the family income and enrolment in higher education institutions.

More and more local governments are carrying out special measures allowing some favorable conditions in the entrance to public senior high schools. The Ministry of Education, Science, Sports, Culture and Technology has also commented that they hoped such initiatives would progress. However, exact forms of such special measures varies greatly from case to case, while there has been no systematic analysis of the current system or evaluation of the impact of those special measures. The government should recognize that the factors such as

the country of origin and the native language of foreign children have relevance to the large disparity in enrolment in higher education institutions among them, and that the situation is in violation of Article 5 (e) (v). It should take positive measures to improve the situation.

e) Foreign children with the residential status of “dependents” face serious difficulties in finding employment after having completed the secondary education (senior high school level). According to the government of Japan, it is possible to change the residential status to Specialist in Humanities/ International Services or Engineer after graduation from universities as they are considered to have expertise or skills. But for senior-high school graduates, even if the person concerned has already found employment, his / her residential status cannot be changed. As a result, children with the status of “dependents” are left with the option of enrolling in universities or vocational colleges, or working part-time for 28 hours or less per week, as part of activities outside of their residence status (with restrictions on the types of work they can do). This regulation considerably restricts the exercise of the right of foreign children who have completed secondary education to employment and freedom to freely choose schools in secondary education.

4. Suggestions to recommendations

- 1) The government should clearly recognize the right to compulsory education of children of foreign nationality, and should clarify the responsibility of national and local governments to protect their right to learn.
- 2) The government should carry out a national survey on the situation of non-enrollment of foreign children and take necessary measures based on the results of the survey without delay.
- 3) The government should take positive steps to develop and guarantee opportunities for children of foreign and ethnic minorities to learn their own language and culture in public schools, including incorporation of such opportunity in the Course of Studies. The government should also carry out a survey on current practices of education of native languages and cultures, including those using the Integrated Studies classes or voluntary initiatives of local governments.
- 4) The government as well as local governments should develop or promote further measures to ensure that those children who need Japanese language study have opportunities to learn the language within the school education system.
- 5) The system of residential status should be reformed, so that foreign students can freely choose their schools and employment regardless of their status of residence.
- 6) The Convention against Discrimination in Education should be acceded to without delay.

Prepared by Korea NGO Center

Education of Minority Children - legal status of schools for foreign children

1. Themes and relevant Articles/2010 recommendations

Education of minority children – legal status of schools for foreign children

Article 5, and 2010 recommendations para 22

2. Problems

a) The Government's approach has not changed very much since the previous examination of the Periodic Report (2010) and it has taken no measures for the improvement of the situation regarding the institutional protection for schools for foreign children, and many of these schools are facing financial difficulty.

b) Some prefectures have relaxed the approval criteria of "miscellaneous schools" for schools for foreign children to some extent, but those criteria still remain strict, and it is not easy for those schools to get approval to operate as miscellaneous schools. Many of the Brazilian schools are treated as unapproved schools, including even those which have approval from the Brazilian Government. If not approved as miscellaneous school, the consumption tax (8%) is imposed on the tuition for these schools.

c) In addition, to be eligible for the tuition waiver program, which was launched in April 2010, the school has to be approved as a "miscellaneous school." Having approval only from their home countries was considered not sufficient for the eligibility for the program in Japan. Korean schools are discriminatorily excluded from the application of the program due to political reasons. As a result, students of Korean school students as well as those of other foreign schools that are not approved by prefectures as miscellaneous schools are excluded from the benefit of the tuition waiver program.

d) Graduation from foreign schools is officially not treated as equal to that from Japanese junior or senior high schools. Thus, graduates from foreign schools are not considered to be eligible for entering higher education or transfer to the same level of Japanese schools, whereby their right to education is violated..

3. Background information

There are more than 100 schools for foreign children in Japan. International schools with European and American backgrounds or Chinese schools were established with the increase of missionaries from Europe and the United States, as well as migrants from China at the time of the end of Japan's isolation policy in the mid 1800s. In August 1948, after Japan's defeat in the war and Korea's liberalization, the 600,000 Koreans who remained in Japan started building Korean schools by themselves to regain their language and culture, which had been robbed from them.

Since the 1990s, migrants from countries such as Brazil and Peru increased with the

Government's liberalization of immigration controls for people of Japanese descent in those countries. The number of Brazilian and Peruvian schools rose rapidly. In recent years, schools for foreign children have diversified and there are now Asian schools, such as Indian and Nepalese schools.

The education at public schools in Japan has certain deficits including the lack of education in other languages than Japanese as well as of the education for the elimination of discrimination and prejudice. Many Korean children attending Japanese schools are compelled to use Japanese names to avoid discrimination and prejudice against them. Against this backdrop, schools for foreign children are playing an important role in providing not only education in other languages but also a place for foreign children where they can feel safe while they learn. On the other hand, compulsory education at Japanese schools (9 years from elementary to junior high school) is provided for free.

a) With the impact of the global financial crisis of 2008, many Brazilians lost their jobs and Brazilian schools were also severely affected. According to the results of a survey carried out by a non-profit organization in 2013 with 11 Brazilian schools in Shizuoka Prefecture, the number of students fell to about half in most schools. The number of Brazilian schools, which reached its peak in 2008 with over 100 schools, fell to around 70 in 2010, indicating that 30% of the schools had closed.

Foreign schools providing classes in foreign languages are not classified as the first category of schools under Article 1 of the School Education Act, but are only eligible to operate as "miscellaneous schools" if they are approved from their respective prefectural authority. The first category of schools under the Article 1 of the said Act are provided with school lunch or health programs including regular medical examinations, but foreign schools are excluded from the category. The School Education Act also stipulates that foreign schools cannot be designated as vocational schools, which are closer to the category of the Article 1 schools. Schools categorised as miscellaneous schools are not eligible to receive any financial support from the national Government, while some local governments provide subsidies, on their discretion, to the miscellaneous schools. But the amount is extremely small, on average one tenth of the funds for private schools. Among foreign schools, international schools for European and American children are designated as specified public-service promotion corporation, which are eligible for tax incentives on their donations. Asian ethnic schools are in a discriminatory manner not designated as such corporations.

When schools are not even approved as miscellaneous schools, they are not only barred from receiving local government subsidies, but also their students are not eligible to purchase public transport tickets/passes with discount for students. Moreover, consumption tax (8%) is imposed on the tuition fees of miscellaneous schools putting excessive burden on the parents of the students.

b) In order to be approved as miscellaneous schools by the prefectural governors foreign schools needed to fulfil certain requirements, such as owning the land and building for the school by themselves as well as having a certain amount of capital. The Ministry of

Education, Culture, Sports, Science and Technology indicated its intention to promote flexibility in the requirements, and since 2004, some prefectures, which makes the final decision to grant approval, relaxed the requirements whereby, for example, owning the building is no longer required if the lease allows the school to operate with stability for a certain length of time. As a result, some Brazilian and Peruvian schools were granted approval to operate as miscellaneous schools, but the hurdles are still high and many schools remain unapproved.

As mentioned above, foreign schools that are not even approved as miscellaneous schools are excluded from all kinds of public assistance, as they have no legal status resulting in heavy economic burden for the parents and in some cases in causing children to drop out from school.

c) Schools for foreign children that are approved as miscellaneous schools are eligible for the tuition waiver program, which was launched in April 2010. However, Korean schools, that even have approval as miscellaneous schools are currently excluded from the application of the program due to political reasons (explained in a separate Report). Foreign schools that have approval from their home countries but not approved as miscellaneous schools under Japanese law are excluded from the program as well. There are 33 Brazilian schools in Japan that have been approved by the Brazilian Government, but only 11 of them are eligible for the waiver program.

d) Since 2003, the Ministry of Education, Culture, Sports, Science and Technology has been recognized the eligibility of graduates of foreign schools, which are accredited by international accreditation organizations as well as schools whose curriculum has been recognized as formal by the home countries, to take university entrance examinations in Japan. Thus, graduates from Brazilian schools that are not approved as miscellaneous school by the Japanese authority are qualified to take university entrance examinations if the school have approval from the Brazilian government. However, graduates from the junior high level of the foreign schools are currently not considered qualified to enrol in Japanese senior high schools, unless the headmaster of the high school concerned decides to give permission or the student passes the examination for the junior high school diploma (examination only available in Japanese). In fact, the treatment of graduates from foreign schools at junior high level differs from case to case depending on the schools concerned and the relevant local governments. The discriminatory recognition of graduate diplomas from the schools for foreign children is blocking the access of the graduates from those schools to higher education or their transfer to the equivalent schools in Japan restricting their right to education.

4. Suggestions to recommendations

a) The Government should immediately carry out the study on the multitude of school systems for foreigners and the preference for alternative regimes set up outside of the national public school system as recommended by the Committee in the previous

Concluding observations.

- b) Schools for foreign children should be considered positive elements within the Japanese school system and provided with sufficient institutional protection including granting of legal status in order to eliminate discrimination and prevent drop-out of children by realising diverse opportunities of education and protecting the rights of foreign children to learn one's own language and culture.
- c) The disparity in public assistance from national and local governments between Article 1 schools and foreign schools must be eliminated. Health programs and school lunch programs that are essential for the healthy school life for children should be applied to schools for foreign children.
- d) The tuition waiver program should be applied to all schools for foreign children at senior high level.
- e) Children, who graduated from foreign schools should be granted with the qualification for the enrolment in or transfer to Japanese schools with equivalent curriculum.

Prepared by Korea NGO Center

Discriminatory Exclusion of Resident Koreans from the Pension Scheme

1. Themes and relevant Articles/2010 recommendations

Discriminatory exclusion of resident Koreans from the pension scheme

Article 2 and Article 5 (e), (iv)

2. Problems

- a) The 1959 National Pension Act had a nationality clause, and foreign nationals (most of whom were resident Koreans) were excluded from the scope of the Act.
- b) The nationality clause was removed at the time of the ratification of the Convention relating to the Status of Refugees in 1981, but because transitional measures were not taken to prevent people from becoming ineligible to receive their pension, some foreign nationals were left out of the pension scheme, and the situation continues to this day.
- c) To provide remedies for people with disabilities, , the Act on Special Disability Payment for Specified Persons with Disabilities was adopted in 2004, but foreign nationals with disabilities were still left out of the scheme.

3. Background information

Japan has a strong sense of national particularism. Moreover, the Nationality Act is based on *jus sanguinis*, therefore, the descendants of foreign nationals remain foreign nationals. And a major part of the foreign population consists of resident Koreans, due to the former colonization of the Korean Peninsula by Japan.

a) The pension system can be categorized into a scheme for employees and another for non-employees. The Employees' Pension Insurance Law, which was enacted in 1941 for employees, initially excluded foreign nationals. But after World War II, the nationality clause was deleted in 1946 with the Order for the Prohibition of Discrimination based on Nationality issued by the occupation authorities.

The National Pension Act adopted after Japan regained its sovereignty in 1959 included a nationality clause, and foreign nationals were again excluded.

b) The nationality clause was removed with the ratification of the Convention relating to the Status of Refugees in 1981. But the necessary transitional measures were not taken leaving some foreign nationals ineligible for receiving their pension. At the time of the reversion of Okinawa to Japan in 1972, such measures were taken so that no one would be ineligible, but not when the nationality clause was removed.

The resident Koreans, who were left ineligible to receive their pension, started legal action in Kyoto, Osaka and Fukuoka, but on February 6, 2014, the Supreme Court dismissed the Fukuoka case, which was the last of three, denying their access to judicial remedies. At the same time, none of the individual communication/complaint procedures of Treaty Bodies, including CERD, is not applicable as the government of Japan has not recognized such competence of the Committees.

c) In 2004, the Act on Special Disability Payment for Specified Persons with Disabilities was enacted to provide remedies for people with disabilities who were left ineligible for disability pension. But again, foreign nationals with disabilities were left out of the scope of the Act. Article 2 of the supplementary rules of the Act lists the issue of foreign nationals as one of the matters to be considered, but even after 10 years nothing has been undertaken.

4. Suggestions to recommendations

a) Transitional measures should be taken for foreign nationals affected by the age clause in the National Pension Act, so that foreign nationals would not be excluded from the pension scheme.

b) The declaration to recognize the competence of the Committee to receive and consider communications from individuals should be made without delay.

c) The Act on Special Disability Payment for Specified Persons with Disabilities should be amended so that it applies to foreign nationals with disabilities, who are currently ineligible.

Prepared by National Network for the Total Abolition of the Pension Citizenship Clause

Discriminatory Treatment of Migrant Women

1. Themes and relevant Articles/2010 recommendations

Discriminatory treatment of migrant women and double discrimination

Articles 2, 4, 5, 6 and 7, and 2010 recommendations para 17

2. Problems

- a) Migrant victims of human trafficking are not officially recognized as victims and not provided with relief.
- b) Migrant victims of domestic violence are exposed to the threat to her physical safety and legal status as they are obliged to depend on their Japanese spouses in holding their resident status.
- c) Official support for the rehabilitation for migrant women living in the earth-quake** affected areas is insufficient. (** the Great East Japan Earthquake)

3. Background information

- a) After the formulation of the “Japan’s Action Plan of Measures to Combat Trafficking in Persons 2009”, human trafficking has been taken place in more subtle and tactical ways. It is increasingly reported that foreign women, who came to Japan to marry Japanese and obtain legal status as spouse, are forced into prostitution after the arrival. The problem pertaining to the technical intern training program is becoming a social issue as the risks of labor exploitation inherent in the technical intern trainee system has been pointed out by the US Department of State. Under the present law, recognition of victims of trafficking totally relies on arbitrary decision of the police leaving migrant woman victims without any remedies.
- b) With the new rules under the revised Immigration Control and Refugee Recognition Act enacted in July 2012, migrant women with the resident status as a spouse of Japanese or as a spouse of permanent resident may face a revocation of her legal resident status in case she fails to have continually performed her activities as a spouse as required by the Act for six months, or fails to report a change of her place of residence within 90 days after the change took place. In fear of a possible revocation of her resident status, some migrant woman victims of domestic violence do not dare to run away from their violent husbands or even once they have run away, they return to their violent husbands.
- c) Many of the migrant women in the earthquake affected areas had come to Japan to marry Japanese, and have lived with their Japanese families. Some of their husbands are dead or have difficulties to find jobs due to their age. As jobs available to migrant women are very limited, they are facing severe difficulties in the life. Information about the available support for the people affected by the earthquake is not provided in languages that they understand, driving many of them into isolation without knowing, much less exercising, their right.

3. Suggestions to recommendations

1) The government should expand the scope of criteria for the recognition of victims of trafficking, and recognize victims of labor exploitation as victims of trafficking and amend the law to allow them to exercise their rights as workers.

2) In order to guarantee rights of migrant women with the spouse visa and protect them from domestic violence, the government should review the resident status system and change the present requirements for their resident status so that they do not need to depend on their Japanese husbands in securing their status. To help migrant woman victims of domestic violence easily escape from violence, the government should immediately take legal measures to grant them a stable legal status after separation or divorce.

3) The government should ensure that information about support programs for the affected by natural disaster is available and made accessible in languages understandable to migrant women, and take necessary steps to help migrant women with little ability of Japanese language to use job seekers assistance programs. Japanese lessons should be included in job seekers assistance programs.

Prepared by Solidarity Network with Migrants Japan (SMJ)

Foreign Residents Affected by the Great East Japan Earthquake

1. Themes and relevant Articles

Foreign residents affected by the Great East Japan Earthquake

Article 5 (e)

2. Problems

Residents in eastern Japan have seriously been affected by the great earthquake and tsunami that hit the region on March 11, 2011 as well as the following accident of the Fukushima No.1 Nuclear Power Plant (15,884 people dead, 2,973 people dead through reasons related to the disaster, 2,633 people missing, and 267,419 people have evacuated, as of March, 2014). Foreign residents are also included in those figures. The number of foreign nationals living in the 149 municipalities covered by the Disaster Relief Act was 75,281, (see Chart 1)

<Chart 1> Foreign Nationals Affected by the Disaster by Prefectures/ Nationalities

	Total of 5 Prefectures	Aomori	Iwate	Miyagi	Fukushima	Ibaraki
Total	75,281	937	6,033	15,620	10,758	41,933
China	27,755	315	2,948	7,142	4,665	12,685
ROK/DPRK	12,199	260	1,079	4,193	1,869	4,798
Philippines	9,617	181	902	962	2,163	5,409
Brazil	7,270	1	102	153	265	6,749
Thailand	3,859	16	51	207	231	3,354
Indonesia	1,893	19	165	246	76	1,387
Peru	1,696	3	5	43	61	1,584
Vietnam	1,050	3	149	149	177	572
India	693	7	19	128	64	475
Sri Lanka	670	0	-	34	23	613
Nepal	483	24	26	148	50	235
Pakistan	478	0	24	115	56	283
Bangladesh	424	1	14	118	15	276
Malaysia	357	5	32	94	41	185
Mongolia	354	1	32	139	43	139
Others	6,483	101	485	1,749	959	3,189

*The number of foreign nationals resident in the municipalities covered by the Disaster Relief Act (as of March 2011).[Source] Ministry of Justice Website

The Periodic Report prepared by the Japanese Government does not include any information of or reference to the foreign residents affected by the disaster. This is not because the damages they suffered were minor. The reason is more likely to be due to the huge shortfall in the Government's awareness.

The Japanese Government has until now ignored the existence of the approximately 2

million foreign nationals residing in Japan. This is attested in the structures, design and operation of different social schemes and programs. This “Japanese-centric” way of thinking remained unchecked even in the face of the unprecedented disaster.

There are no exclusions or restrictions based on nationality in the victims’ assistance projects of the national and local governments. But many of the foreign residents have difficulties in accessing or gaining information on the available assistance. The foreign residents affected by the disaster face obstacles in rebuilding their lives because of the “institutionalized discrimination.”

3. Background Information

(1) Foreign nationals were placed in a more vulnerable position after the great earthquake and tsunami. Even after 3 years, the Japanese Government has not carried out any survey on the situation of foreign residents affected by the disaster. Therefore, the Japanese Government has not formulated any policy that addresses the particular needs of these foreign residents.

Meanwhile, among local governments affected by the disaster, Ishinomaki City and Kesen-numa City of Miyagi Prefecture carried out a survey on the situation of foreign residents in cooperation with NGOs and academics in 2012 and 2013. (Office of Professor Kwak Kihwan, Tohoku Gakuin University, Gaikokujin Hisaisha Shien Center (Center for Aiding Foreign Nationals Affected by Disaster) ed., *“Ishinomaki-shi ‘Gaikokujin Hisaisha’ Chousa Houkoku-sho”* 2012, Gaikokujin Hisaisha Shien Center (Center for Aiding Foreign Nationals Affected by Disaster) ed., *“Kesen-numa-shi ‘Gaikokujin Hisaisha’ Chousa Houkoku-sho”* 2013.) The results of the survey showed the challenges that national and local governments face in providing assistance to foreign residents.

(2) Foreign nationals residing in Fukushima, Miyagi and Iwate Prefectures, which suffered particularly severe damages, included many migrant women and second, third, and fourth generation Koreans, apart from foreign students and technical intern trainees. Most of the migrant women were from China, South Korea and the Philippines, who have married Japanese men and migrated to the agricultural and fishing villages as well as mid-size cities in northeast Japan since the 1980s.

Many of the women have been in Japan for more than ten or twenty years. But although they may be able to converse in Japanese, reading and writing in Japanese may be extremely difficult for them. According to the survey in Ishinomaki and Kesen-numa, 61% and 40% of the women respectively responded that they had “no problems/ few problems” in conversing in Japanese. But the figures begin to fall, when asked about reading Japanese to 36% (average of the two surveys) and about writing in Japanese to 24%.

Countries, in which many migrants live (such as Australia, Denmark, Germany, Belgium, France, and Netherlands), have language training as part of their social integration programs. In Japan, however, the Government has not allocated any budget to carry out any language

training programs for migrant workers or women. The only public language training assistances available are the Japanese language classes organized by the local governments, international exchange associations and volunteers.

(3) Many of the migrant women knew the word “tsunami” even before the disaster (86%). In the coastal areas, people were told to escape to the *takadai* (high ground) right after the earthquake, but many of the migrant women did not know the word “*takadai*” (39%). There were also many who responded that they could not hear or understand the radio warnings telling people to evacuate (55%). These results imply that although earthquakes and tsunamis happen frequently in this country, disaster response plans did not take foreign residents into consideration, and disaster drills were not conducted sufficiently.

(4) Many of the migrant women did not hold any jobs before the disaster (34%), or were in non-regular employment in seafood processing or sales (34%).

Many of these jobs were lost after the earthquake and tsunami. This is shown in the jump in the proportion of women not holding any jobs before and after the disaster (34% to 49%). There is a great need, therefore, among migrant women for economic support (81%) and information on employment (61%). However, the various industries in the stricken areas have barely begun to rebuild, and it is not easy for these women in particular to find employment. In that regard, the need for “a place to learn Japanese language” (78%) or “a place to train for employment” (75%) is extremely urgent.

(5) Public service, such as employment assistance, assistance for school attendance, for child care, housing assistance, and medical examinations are carried out by local governments. There are many migrant women, who need such information (77%). But for many of them, it is difficult to get the information and use the services, because of the language barrier.

Many local governments have employed interpreters as staff to respond to foreign residents, who come to the local government offices. But it is necessary for the relevant authorities to provide multi-lingual information on the available services beforehand, as well as information regarding evacuation, radiation, employment, and child care. This cannot be done by the local governments alone, and the national government must allocate adequate budget to implement such steps.

(6) The affected areas are still experiencing aftershocks and the accident at the Fukushima plant has not been cleared. Against this backdrop, migrant women also need information on safe places for evacuation (82%) and radiation (82%).

For migrant women with children, the effect on the health of their children is a serious concern. But there is considerable difficulty in understanding and making decisions on the state of radiation contamination for these women who do not have sufficient Japanese language abilities. The survey results showing that 44% of the women in Ishinomaki, which is located close to a town with a nuclear power plant, want information on radiation in their

native language instead of Japanese.

(7) The above paragraphs from (2) to (6) show the situation of foreign residents affected by the disaster in two cities in the coastal areas of Miyagi Prefecture. But it is easy to assume that the situation is quite similar to and concerns are commonly shared among foreign residents, particularly among migrant women in all the affected areas.

According to a survey of 100 foreign nationals residing within Fukushima Prefecture conducted by Fukushima International Association in 2012, 40% knew the term *Genshi-ryoku hatsudensho jiko* (nuclear power plant accident) before the accident, and 50% learned the word after the accident. Also, 43% knew the word *hosha-sen* (radiation) before the accident, and 42% after the accident. Furthermore, there were some foreign residents who still did not know the terms *genshi-ryoku hatsudensho jiko* and *hosha-sen*; 10% and 15% respectively. This is probably because they did not know about the full details of the accident or the situation of radiation levels, rather than the meaning of the terms themselves.

On the question regarding the concerns they have about the radiation, 87% responded that they were “uneasy / somewhat uneasy” about the possibility of another nuclear power plant accident. Also, 73% gave the same response to the question on the environmental radiation levels, 70% on the safety of food and water, 79% on the impact to health, and 51% on future reparations. (Fukushima International Association ed., “*Gaikoku-shusshin-jumin ni totteno Higashi Nihon Dai-shinsai-Genpatsu-jiko FIA Katsudo no Kiroku*” 2013).

The foreign residents are having those concerns mainly because of the difficulty in accessing accurate information. They are also residents, who live, have families and raise children in the affected areas. But the foreign residents in Fukushima, migrant women in particular, are placed in an extremely difficult position.

(8) Of the 12,199 Koreans affected by the disaster, approximately 6,500 were “special permanent residents.” Special permanent residence is a residential status granted to people from the formerly colonized countries, who came to live in Japan before World War II, as well as to their descendants. They were living mostly in the urban areas, but were also found in municipalities in almost all the areas affected by the disaster.

Moreover, close to 15% of the resident Koreans were 65 years of age or older, and almost all were ineligible to receive pensions. This is because no transitional measures were introduced when the nationality requirement was removed from the National Pension Act in 1982. Many of the elderly foreign residents (most of them Koreans) in the affected areas are living in temporary housing, barely managing with the donations that were distributed to the victims of the disaster. No relief measures have been taken to address their situation.

4. Suggestions to recommendations

1. The Government should immediately take the following measures, including budgetary measures.

- (1) Carry out a survey on the situation of foreign residents affected by the disaster
- (2) Provide assistance to foreign residents affected by the disaster, particularly the elderly and single parent migrant women.
- (3) Provide a place for Japanese language education and vocational training for migrant women as well as other forms of employment assistance.
- (4) Provide multi-lingual information on safe places for evacuation, radiation contamination, housing support, child care support and school education support among others.
- (5) Introduce arrangements to have interpreters present for the explanation and processing of all assistance measures for foreign residents.
- (6) Carry out health consultations and regular medical examinations with interpretation for foreign residents and their children.

2. The Government and the Diet should promptly take legislative measures to provide pensions for elderly foreign residents and foreign residents with disabilities, who are currently ineligible to receive payments.

3. In view of the insufficient government response to the foreign residents in the East Japan Earthquake, the Government and the Diet should legislate an Act against Discrimination at the Time of natural Disasters.

Prepared by
National Christian Liaison Council Calling for the Enactment of “Basic Law for
Foreign Residents”
Fukushima Women Support Network

Revised Immigration Control and Refugee Recognition Act and Racial Profiling

1. Themes and relevant articles/2010 recommendations

Racial profiling

Article 5 (d) (i)

2. Problems

In 2009, the government of Japan scrapped the Alien Registration Act, and revised the Immigration Control and Refugee Recognition Act. The government explained about the revision of the Act by stating; “to contribute to securing appropriate residency management of foreign nationals and improving convenience for legitimate foreign residents in Japan.” (see CERD/C/JPN/7-9) However, the revised Act concentrates its focus on the issue of “residence management.” Consequently, foreign residents are required to fulfil various duties posed on them. In addition, in the operation of policing of possible violations of the Act, the police often engages in racial profiling.

3. Background information

1) The revised Act was enacted on July 9, 2012. Under the revised Act, mid-long-term foreign residents are required to carry their resident card all the time, while the special permanent residents are required to present their special permanent resident certificate whenever required. The violation of these requirements is punished as a criminal offense with the penalty in an amount up to 200,000 Japanese Yen. For the refusal of the presentation of the card is punished either with the penalty up to 200,000 JPY, or the imprisonment of one year or less. Furthermore, when a mid-long-term resident is imprisoned for less than a year, the deportation clause of the Act is applied.

2) Besides, the revised Act imposes various reporting duties according to types of resident status as per shown in the table 1. Also, violation of these requirements is subject to a criminal punishment. Whereas the government asserts that the revised Act “contributes to improving convenience for legitimate foreign residents,” foreign residents are imposed various duties including the all-the-time carrying of their resident card under the threat of strict criminal penalties.

3) When the Diet deliberated the bill of the revised Act in 2009, in answering to the question about the imposition of all-the-time carrying of a resident card for mid-long term residents, the government answered as follows: “Resident card system is the foundation of the new residence management system that enables the Justice Minister to get updated correct information about mid-long-term foreign residents, and considering the presence of many illegal stayers, it is essential to have a mechanism that allows making a quick decision.”

In fact, as shown in the table 2, after the implementation of the revised Act in July 2012, the number of foreigners who were sent to the public prosecutor office for the charge of

“non-carrying of the resident card” has increased.

Among the complaints from foreigners received by human rights NGOs in different parts of Japan, one particular case indicates difficulties that any foreign resident may face. A foreign resident was on the street and was asked questions by the police, he did not bring his resident card with him, he went home together with the police to show his card. After the presentation of his card, he still had to be questioned at the police station for several hours, and had taken his fingerprints of his ten fingers taken as well as a sample from his body for DNA testing.

As shown in the table 3 which shows comparisons of the component ratio of mid-long-term residents by region of origin and the component ratio of those foreigners sent to the public prosecutor for the charge of non-carrying of the resident card by region, percentages of those who are from the Asian region and the African region are significantly higher. This clearly shows the practice of racial profiling by the police.

3. Suggestions to recommendations

1) The government should change the revised Immigration Control and Refugee Recognition Act to remove various duties imposed on mid-long-term foreign residents including the all-the-time carrying of the resident card.

2) The government should immediately abolish the criminal punishment system applicable to various duties including, at least, the carrying of resident card, and stop the racial profiling in the process of the police operation.

Prepared by Solidarity Network with Migrants Japan (SMJ)

<Tables to be continued in the following pages>

Residence status	Number of foreigner (as of end 2013)	Items to be reported and penalties		Change of place of residence and penalties	Renewal of resident card and penalties	Carrying of resident card and passport, and penalties
art	432			For failure of reporting of change in the place of residence within 14 days after it takes place, a fine of less than 50,000 JPY plus a penalty of less than 200,000 JPY. For reporting after 90 days, a resident status is rescinded	Renewal after the resident card becomes invalid, a penalty of less than 200,000 JPY. If imprisoned, the deportation clause is applied.	For failure of not carrying a resident card or a passport, a penalty of less than ¥200,000
religion	4,570					
press	219					
cultural activities	2,379					
teaching	7,735	Reporting of change of name or location of, demise of, institution the resident belongs to, demise of, or separation/transfer from the institution the resident belongs to.	For failure of reporting in 14 days after it takes place, a penalty of less than 200,000 JPY			
investment and management	13,439					
practicing of law and accounting	149					
medical	534					
education	10,076					
in-house transfer	15,218					
technical intern training	155,206					
students	193,073					
training	1,501					
research	1,910					
engineers	43,038					
Specialists in humanity, international service	72,319					
entertainment	1,662					
skills	33,425					
family	122,155	Reporting of divorce or death of a Japanese spouse	Failure of reporting in 14 days after it takes place, a penalty of less than ¥200,000			
special activities	22,673					
Japanese spouses	151,156					
spouses of permanent residents	24,649					
settlers	160,391			After 14 days, a fine of less than 50,000 JPY plus a penalty of less than 200,000 JPY.	Failure of renewal of every seven years is imposed a penalty of less than 200,000 JPY or imprisonment of less than a year.	* carrying all the time is not required, but obliged to present it whenever asked to do so.
permanent residents	655,315					
special permanent resident	373,221					

Table 1: Duties imposed on foreign residents and punishments if failed

Table 2: The number of cases sent to the public prosecutor office for the charges of non-carrying or refusal of presentation of the resident card (before and after implementation of the revised act)

	Non-carrying or refusal to present of the Alien Registration Card (persons)	Non-carrying of or refusal to present the passport (persons)	Non-carrying of or refusal to present the resident card (persons)
Jan 2011 to Dec 2011	15	438	
Jan 2012 to June 2012	3	406	
July 2012 to Dec 2012		248	**
Jan 2013 to Sept 2013		266	582

Sources: The National Police Agency

**For the six months prior to the enforcement of the revised act in July 2012, the number of cases for the charge of “non-carrying of the resident card” was included in the number of “violation of the Immigration Control Act and others”, thus it was not available.

Table 3: Number of persons sent to the public prosecutor office for the charges of non-carrying of resident cards by region of origin

	Number of foreign residents by region except for special permanent residents (as of the end of 2012)	Number of people sent to the prosecutor office for the charges of non-carrying of or refusal of the presentation of resident card or passport (July 2012 to September 2013)
Asia region	1,258,269 (76.2%)	980 (89.4%)
African region	10,855 (0.7%)	22 (2.0%)
Europe region	56,671 (3.4%)	31 (2.8%)
American region	313,438 (19.0%)	59 (5.3%)
Oceanic region	12,415 (0.7%)	4 (0.3%)
stateless	653 (0.0%)	0
total	1,652,301 (100%)	1,096 (100%)

Sources: The National Police Agency

From “Statistics Regarding Foreign Residents” 2013 published by the Immigration Association

The Revised Immigration Control and Refugee Recognition Act and the Right to Re-entry of Foreigners

1. Themes and relevant Articles

Discriminatory treatment for special permanent residents

Article 5- (d) (ii)

2. Problems

Article 26 of the Immigration Control and Refugee Recognition Act stipulates that permanent foreign residents are permitted to re-enter Japan without losing his/her resident status only when he/she departs the country with the prior permission to re-enter that is only granted at the discretion of the Minister of Justice. In the Concluding Observations of the consideration of the Japan's periodic report on the implementation of ICERD in 1998, the Human Rights Committee urged the government of Japan to abolish the re-entry permit system and change the law to recognize their right to re-enter the country. (CCPR/C/79/Add.102 para18) Nevertheless, the government did not take the recommendation into consideration when it revised the Act in 2009. As a result, for special permanent residents and those who live in Japan for a mid-long term, re-entry in Japan is not their "right" and they still have to ask for a permission of the Ministry of Justice who grants it within his/her discretion. In fact, there have been cases in which foreign residents were deprived of their permanent resident status.

3. Background information

As of the end of 2013, the number of foreigners with permanent resident status in Japan amounts to approx. 1,028,000. They can be divided into two groups; the one is those 655,000 with permanent resident status who fulfill certain qualifications required for the status such as a lengthy of stay, and the other is those 373,000 with the special resident status who have lived in Japan as a result of the Japan's colonial domination over Korea and Taiwan. Permanent residents have their basis of living in Japan, and not in their homeland. Consequently, their right to return to Japan is not guaranteed, virtually driving them to give up leaving the country. It constitutes the deprivation of their freedom of movement. In fact, during the 80s' Japan refused granting re-entry as punitive measures for those foreigners who had opposed to the finger-printing system, imposed only on foreigners, and had refused to have their fingerprints taken. Because of that, many Korean permanent residents were forced to give up going out of Japan. During seven years from 1982 to 1988, there were 107 cases of the government refusing to grant re-entry permit for those who opposed the system and refused to have their finger-prints taken.

Against this backdrop, in its concluding observations of the fourth periodic report of Japan, the Human Rights Committee urged Japan to change the law by stating; "The Committee therefore strongly urges the State party to remove from the law the necessity to obtain a

permit to re-enter prior to departure, in respect of permanent residents like persons of Korean origin born in Japan.” (CCPR/C/79/Add.102 para18) Furthermore, the Human Rights Committee has adopted the general comment No. 27 in 1999. The paragraph 20 of the general comment clearly states that the wording of article 12, paragraph 4 (“No one shall be arbitrarily deprived of the right to enter his own country”) does not distinguish between nationals and aliens (“no one”), and that the scope of “his own country” is broader than the concept “country of his nationality”. (CCPR/C/21/Rev.1/Add.9 **)

At the time of the revision of the Immigration Control and Refugee Recognition Act in 2009, the government has totally ignored the recommendation and general comment of the HRC. Under the revised Act implemented on July 9, 2012 the government newly created the “re-entry system” while maintaining the existing “re-entry permit” system based on the discretion of the Ministry of Justice. (see paras 38 and 39 of the 7-9th combined report of Japan: CERD/C/JPN/7-9) However, the new re-entry system does not necessarily recognize the re-entry as the right of foreign residents. This new system has caused confusions in practice. In August 2012, the Immigration did not allow “re-entry” to a Korean high school student with a special permanent resident status and asked him to get a re-entry permit as required under the previous system since his application for a special permanent resident certificate was still being processed.

Another incident involved a migrant woman who married a Japanese man and gained the permanent resident status. In December 2012, she left Japan indicating her intention to re-enter at the immigration control. In January of the following year, when she was going to re-enter Japan, she was treated as a new entrée and deprived of her permanent resident status, because when leaving Japan the immigration officer mistakenly processed her going out of the country as an embarkation. After repeated negotiation with the Ministry of Justice, she eventually regained her permanent resident status. With these kinds of mistreatment and happenings, on January 13, 2013, the Ministry of Justice circulated the notice to the Immigration Bureau to instruct its officers to appropriately handle the immigration control procedures by explaining, “due to troubles, the smooth embarkation procedures were disturbed, or the legal status of foreigners when returning to Japan were affected.”

As these cases indicate, foreigners in Japan, especially permanent residents and special permanent residents’ right to re-enter is not recognized.

4. Suggestions to recommendations

- 1) The government should revise the present Immigration Control and Refugee Recognition Act to enable all foreigners living in Japan to freely leave and come back to the country within the period of stay.
- 2) Especially for the sake of foreigners with a permanent resident status (permanent residents and special permanent residents), the government should immediately revise the Act to explicitly recognize their right to re-enter Japan and guarantee the exercise of their right.

Prepared by Solidarity Network with Migrants Japan (SMJ)

Refugees

1. Themes and relevant Articles/2010 recommendations

Refugees

Article 2 and Article 5, and 2010 recommendations para 23

2. Problems

- a) Asylum seekers need international protection, but those asylum seekers coming to Japan are not provided with appropriate protection.
- b) Protection is not provided to female asylum seekers, who have suffered violence in conflict situations on grounds of being women, and who have escaped to Japan, as well as to LGBT people.
- c) There are disparities in the government support measures available to refugees who arrive under the third-country resettlement program, those under the Refugee Convention and those who are granted special permission to stay for humanitarian considerations.
- d) Some people are unable to receive the financial assistance provided from the national budget during the long period of application procedures for refugee status.

3. Background information

In the Periodic Report of January 2013, the government states that a person “is recognized as a refugee under the Convention Relating to the Status of Refugees (Refugee Convention) without fail if he/she is a refugee.” But the number of refugees recognized by Japan is extremely small, and in 2013, only 6 were recognized out of 3,260 applicants. One of the reasons is the narrow interpretation of the Refugee Convention, in particular, the strict views regarding interpretation of the “persecutor” and “particular social group.” A higher degree of proof is required for proving the “persecutor” (in particular, when it is not the state) and “individual threat.” Moreover, women or LGBT people are not recognized as members of a “particular social group.” There are also no effective procedures for complementary (supplementary) protection, therefore, victims of torture or violence, who need international protection are not protected. (Special) permission to stay may be granted in the procedures for the recognition of refugee status, but it is determined by the discretion of the Minister of Justice, and is distinct from the implementation of obligations under international law.

There are also disparities in the public support services available to refugees who arrive under the third-country resettlement program, which is currently being carried out as a pilot project, the refugees recognized under the Refugee Convention, and those who are granted special permission of stay for humanitarian considerations. Allocations from the national budget also differ. For those under the resettlement program, the available services include 6 months resettlement program, as well as employment placement support, 6 months vocational training, continued Japanese language education, family support,

consultation on living conditions, among others. For refugees under the Refugee Convention, the available services are limited to Japanese language classes (6 months or 1 year) and consultations on employment and living conditions, while those with special permit are provided with no services. The disparities in the services available to the refugees have a significant effect on their social integration.

Applicants for refugee status, who are not allowed to work and have no access to welfare support, can receive assistance payments from the budget of the Ministry of Foreign Affairs. The amount of these payments is approximately 60% of the public assistance payments under the welfare system for a single applicant. This means that many of the applicants live in severe conditions. The assistance payments are not available to all applicants, and only those who meet certain conditions can receive these payments. Applications for assistance may also be refused, when the applicant has some savings or when there is a possibility that the applicant may be supported by the refugee community. The reasons for the refusal would not be given in writing, and in many cases the applicant would not understand why the application for assistance was refused. It takes approximately 3 months from the submission of the application to receiving the assistance, and during the waiting period, asylum seekers without a place to live face very harsh conditions. The private sector support organizations have limited resources, so the asylum seekers are unable to receive sufficient support. In particular, there is an increasing number of asylum-seeking women who become single parents while moving from one acquaintance to another while waiting for the assistance.

4. Suggestions to recommendations

- a) The government should recognize all asylum seekers in need of international protection as refugees, based on international standards.
- b) The government should provide appropriate protection to women who are victims of violence and cannot receive protection from their home countries, and to LGBT people.
- c) The government should remove the disparities in the measures for refugees under the third-country resettlement program, under the Refugee Convention and for those granted special permission to stay, so that all refugees can avail themselves of the support equally, and their social integration facilitated.
- d) The government should provide all applicants for refugee status with assistance payments without delay, or should recognize their right to work.

Prepared by Solidarity Network with Migrants Japan (SMJ)

The Right to Nationality and Protection of the Stateless

1. Themes and relevant Articles/2010 recommendations

The Right to Nationality and Protection of the Stateless

Articles: 1, 2, 5 and 6, and 2010 recommendations para 27

2. Problems

- a) Non ratification of the Convention relating to the Status of Stateless Persons (1954) and the Convention on the Reduction of Statelessness (1961).
- b) Absence of a recognition system for the statelessness. In the procedures of issuing a deportation order or a resident card, or in processing of naturalization applications, the government of Japan identifies a nationality of a foreigner in the process or determines whether the person is with or without nationality. However, it is not clear how it makes the determination. It appears that the determination is not made according to uniform criteria.
- c) Possibility of no effective application of Articles 2-3) and 8-4) of the Nationality Law which are set forth for the purpose of preventing and reducing the statelessness.
- d) Possible detention for an indefinite period. According to the Immigration Control and Refugee Recognition Act, those foreigners who were issued the deportation order can be detained indefinitely, therefore the stateless under the deportation order could be detained for a long period of time since the destination to be deported cannot be determined.

3. Background information

- a) There are stateless persons living in Japan. However, the government of Japan has not yet ratified the two international conventions concerning statelessness, nor prepared a legal system for the protection of the stateless. Especially, for the stateless persons without resident status no specific procedures are available for them to get legal protection and a resident status on the ground of the statelessness. For them, there might be one remedy available to legally stay in Japan. That is, when a stateless person under the deportation procedures requests for a special permission to stay, permission could be granted on the ground that he/she does not have any country to be sent back to. (according to Article 50-1-4 of the Immigration Control Act). However, a special permission to stay is at the sole discretion of the Ministry of Justice, and the 2009 Revised Guidelines Concerning Special Permission to Stay does not clearly specify “statelessness” or “no destination for deportation” as a positive factor to be taken into consideration. Consequently, there are no criteria with which stateless persons are granted permission on the ground of statelessness or no-destination to be sent back to.
- b) Japan does not have a system to recognize statelessness. In the course of issuing a deportation order to a person with no resident status (under Articles 49-6 and 51 of the Immigration Control Act), issuing a resident card for medium-long-term residents (Articles 19-3 and 19-4-1-1 of the Act), or processing an application for the naturalization (Articles 4 and 5 of the Nationality Law), the government of Japan determines whether a person in the

process has a nationality or not. However, different administration organs that handle these procedures do not necessarily use uniform criteria in determining a nationality of the person in process. In practice, even in case in which a person born in Japan does not have any nationality, the person is determined as holding a nationality of a certain country which appears to be his/her home country despite the fact that an official document certifying him/her as a nationality holder cannot be obtained from that country . Because of this, there have been many cases in which a person in question has extreme difficulties in taking legal procedures at the time of marriage or registration of affiliation of his/her child. As mentioned in the above a), there is no legal system that protects a stateless person after recognizing him/her as stateless through administrative procedures.

Also, for foreign residents with resident status, when required, relevant administrative agencies individually make its own decision about the nationality of a foreigner in its processes. This suggests that there might be different determinations on his/her nationality among the relevant agencies regarding the same person. As mentioned in the following c) and d), that the Nationality Law that aims to prevent or reduce statelessness is not effectively used in the administrative procedures is of deep concern.

c) The Japanese Government's Periodic Record (CERD/C/JPN/7-9) states in paras 104, 107 and 109 that the Article 2-3) of the Nationality Law provides the protection to prevent statelessness. However, for a stateless child to acquire a Japanese nationality by birth his/her parents have to be stateless. It is not clear what are taken into consideration when the government determines (makes a judgment) that his/her parents are stateless. Therefore, it is doubtful that the government effectively uses the Article 2-2) of the Nationality Law.

Also, the paras 107 and 108 of the periodic report states that Article 8-4) provides that requirements for stateless persons born in Japan to be naturalized are relaxed. However, it is not clear which criteria and procedures are taken when the government determines the nationality of the person requesting naturalization. Furthermore, it has been reported that some stateless persons were turned away from the naturalization office of the Legal Affairs Bureau (located in different regions of Japan) under the Ministry of Justice when they went there to ask if Article 8-4) was applicable to their situations, because officials who responded did not know about Article 8-4). It is doubtful that the article is fully understood and used at naturalization offices.

d) Because of the absence of legal system or procedures to protect and recognize stateless persons, those stateless persons without resident status who are issued a deportation order could be detained in detention centers indefinitely. (Immigration Control Act Article 52-5))

4. Suggestions to recommendations

a) The government should ratify the Convention relating to the Status of Stateless and the Convention on the Reduction of Statelessness, and establish a legal system to protect stateless

persons. It should explicitly indicate the statelessness or non-existence of a country to be sent back to as positive factors in the Guidelines on Special Permission to Stay, and ensure that these factors are taken into consideration as reasons for granting a special permission to stay.

b) The government should establish a system to recognize statelessness, and clarify procedures and criteria to be applied for determination of one's nationality or statelessness.

c) In putting Articles 2-3) and 8-4) which aim the prevention of statelessness into effect, the government should appropriately determine statelessness of a person in question or his/her parents in accordance with the system to recognize statelessness as indicated in the above b). Also those officials who engage in the application of the Nationality Law should be well informed of and trained about the legislative intent as well as operational procedures and criteria of the law.

d) For stateless detainees or those who have no destination to be sent back to, indefinite detention should be restricted by setting the maximum detention term at six months.

Prepared by Solidarity Network with Migrants Japan (SMJ)

Racial Profiling

1. Themes and relevant Articles/2010 recommendations

Racial profiling in the counter terrorism measures

Article 2 Paragraph 1(a), Article 4 Paragraph 1 (c), Article 5 Paragraph 1 (d) (e), Article 6 and Article 7

2. Problems

The Japanese police view the Muslim population as a threat under the counter terrorism measures, and treat them as targets of observation and investigation. Also, the investigation and the reports based on police press releases help spread the idea that the Muslims are a threat to public security.

(a) Racially discriminatory acts and incitement of racial discrimination by public institutions (Article 2 Paragraph 1 (a), Article 4 Paragraph 1 (c))

(b) Violation of the freedom of religion, economic, social and cultural rights of the Muslim population (Article 5 Paragraph 1 (d) (e)).

(c) Lack of compensation for the damages caused, and inaction to the threat of the rise of Islamophobia

3. Background information

The size of the Muslim population in Japan is estimated at 110,000; 100,000 foreign and 10,000 Japanese nationals. Although the Muslims were victims of discrimination and prejudice against ethnic, religious and cultural minorities in general, there was no significant social phenomenon that could be called Islamophobia.

But since the terror incident in the U.S. in 2001, the police have seen the Muslim population as a threat and a particular target in the “counter terrorism measures”, placing them under special observation and investigation. The related police policy documents and publication of investigation results were proliferated and amplified by the mass media, making an impact on the society in general. Also, investigation activities that seek information from schools, companies and local residents spread the idea that the Muslims were a threat to society.

(1) Mass detention and incarceration of asylum seekers immediately after 9.11

In October, immediately after the terror incident in the U.S. in September 2001, the police in the Tokyo Metropolitan area carried out a joint operation with the Immigration Bureau. They arrested and incarcerated nearly 30 people, including Afghans, Pakistanis and Uzbeks. Among those detained were 9 Afghans who had applied for recognition of refugee status. They were arrested for suspicion of violation of the Immigration Control Act, but they were interrogated on matters related to anti-terrorist measures.

(2) Action Plan on Counter Terrorism explicitly targeting the Muslim population

The Action Plan on Counter Terrorism revealed by the National Police Agency in September

2004 mentions “the rising possibility that Islamic communities in Japan may be misused for terrorist activities by Islamic extremists,” and continues that the police would “promote collection of information on suspicious movements, clarification of suspicious matters, and crackdown on latent terrorism-related incidents.” Similar texts can be found in various police documents. At the same time, as the cases below show, the term “crackdown” seems to imply that people may be arrested on charges not directly connected to terrorism for interrogation purposes.

(3) Investigations related to a “member of Al-Qaeda”

In May 2004, the Metropolitan Police Agency and a number of Prefectural Police arrested 5 people including Bangladeshis, who had allegedly had contact with a French national considered to be a “member of Al-Qaeda” (who was arrested in Germany in December 2003), while he stayed in Japan. The charges for which they were arrested were violation of the Immigration Control Act, making false entries in the company registration or other similar charges, but they were interrogated on matters related to terrorism, or their arrests were announced and reported as related to suspicion of terrorism. In July of the same year, The District Public Prosecutor’s Office made an unconventional move to issue a comment that the 5 were “unrelated to the Al-Qaeda organization.”

(4) Leaked Documents

In October 2010, 114 files, which were considered to be internal documents of the 3rd Foreign Affairs Unit of the Tokyo Metropolitan Police Department’s Public Security Bureau, appeared on the internet. The National Police Agency published a report in December of the same year, admitting that the files included information which were highly likely that they were handled by police officers. The leaked documents included those on counter terrorism and security plans and reports prior to and after the G8 Summit in Toya, Hokkaido in 2008, as well as personal information of a couple of dozen individuals.

The files show that the target individuals or groups for police observation and investigation were identified not by the risk of or their affinity to crimes, but simply by their Muslim religion, or being Muslim related organization. The information gathering used unlawful or unfair means, such as requests and provision of information that were made without using the procedures regulated by law, and arrests made on separate charges.

(a) Registration and observation of all Muslim residents

The first stage of the counter terrorism measures was the registration (grasping of the situation) of all Muslim residents by the police. The targets were defined along the following criteria.

Nationality was the first criteria. People from OIC member countries were selected from the alien registration. The police visited almost all of them, or received information from the employers or schools, and registered their names, addresses, workplaces and other information.

For the second criteria, for those from countries that are not members of the OIC, they were

determined whether they were “Muslims” by whether they prayed in mosques, from the clients’ lists of *halal* food stores, and information from the employers and schools. When they were determined to be “Muslims” they were registered.

Thirdly, as measures against “home grown terrorists,” in particular, “second generation Muslims” were investigated and registered.

(b) Observation of religious facilities

All Islamic facilities were placed under continuous observation, by placing surveillance persons outside or with internal informants. Identification of all participants in meetings such as those for prayers was carried out. Social and cultural organizations related to Islam, including Islam related organizations, *halal* food stores, international organizations such as the Asia-Pacific Cultural Centre for UNESCO and the Embassy of Iran, were also designated as targets for observation.

(c) Personal information and use of criminal justice procedures

Based on the above observation activities, some people were targets of concentrated information gathering. Sometimes, they were arrested on separate charges for the purpose of obtaining more information.

Detailed records of the individuals were prepared for the couple of dozen people, who came into contact with the above-mentioned French national or other “terrorists”. The records included information that could be used to subject the person in question to investigation under criminal justice procedures. Some people were actually arrested on separate charges, and information acquired through the arrests was also recorded. Because such information was leaked and made public, the affected people suffered particularly serious damages.

4. Suggestions to recommendations

a) The racist measures in the counter terrorism policy taken by the police should be investigated and reformed.

b) The damages caused by the past racist measures taken under the counter terrorism policy and by the resulting reports and publications should be investigated and compensated.

c) An independent human rights institution with powers to monitor the police should be created.

d) Human rights training including the correct understanding of Islam should be provided to the police.

e) Human rights training including the correct understanding of Islam should be provided in schools and the society.

Prepared by Solidarity Network with Migrants Japan (SMJ)

Osaka Human Rights Museum (Liberty Osaka)

1. Themes and relevant Articles/2010 recommendations

The continued operation of the Osaka Human Rights Museum

Article 7

2. Problems

(1) The Osaka Human Rights Museum “Liberty Osaka” has been playing an important role in implementing the substance of Article 7 of the Convention. But both Osaka Prefectural and City governments have cut the subsidies that supported the operations of the museum in April 2013. Since then, Liberty Osaka has been facing difficulties in continuing its operation.

(2) A national civil society network has been set up to call for the continuation of subsidies to support the operation of the Liberty Osaka, but the Osaka Prefectural and City governments have not responded at all to their call.

(3) With the support of many individuals wanting the continuation of Liberty Osaka, its operation for two years (2013 and 2014) could be secured. However, apart from terminating the subsidies, Osaka City is also planning to charge, starting from April 2015, high rent on the land on which the museum is built, as it is owned by the City. The sustainable operation of the museum after such measure is taken is in doubt.

3. Background Information

(1) The Osaka Human Rights Museum “Liberty Osaka” opened in December 1985 with the cooperation of Osaka Prefectural and City governments as well as many civil society organizations. It is the first museum comprehensively dealing with human rights operated by a public interest foundation.

(2) The museum has played an important role in the promotion of human rights and dissemination of information on various human rights issues by maintaining materials, conducting research, organizing exhibitions and carrying out educational programs on various issues of discrimination in Japan, including discrimination against Buraku people, resident Koreans, Ainu people, people with disabilities and women.

(3) The exhibitions in particular were useful not just for adults, but also for students of elementary, junior and high schools as well as university as a component in human rights education. Liberty Osaka was visited by approximately 1.5 million people in total since its opening, including visitors from abroad. It was regarded as an important educational facility on human rights from within and outside of the country.

(4) It is significant, that the Osaka Prefectural and City governments have been supporting the Museum for 27 years since its opening till March 2013 with subsidies covering 90% of the operating costs, in view of the importance of its role and public interest.

(5) Osaka City has leased the land to the museum for free, but the City government announced that it would charge approximately 30 million yen rent from April 2015. This has become a huge hurdle in continuing operation of the museum.

4. Suggestions to recommendations

(1) The Osaka Prefectural and City governments should promptly restart the subsidies for the operation of the Liberty Osaka, in view of its importance, and Osaka City should withdraw its plan of charging rent from April 2015.

(2) The Osaka Prefectural and City governments should start a dialogue in good faith with the civil society network calling for the continuation of the Museum.

Prepared by Osaka Human Rights Museum (Liberty Osaka)

Hashimoto says 'comfort women' were necessary part of war

May 13, 2013 THE ASAHI SHIMBUN

OSAKA--Toru Hashimoto, co-leader of the Japan Restoration Party, said on May 13 that "comfort women" were necessary for Japanese soldiers during World War II, but then softened his tone, saying that they served soldiers "against their will."

Comfort women are an euphemism for those who provided sex for Japanese soldiers during the war. "In the circumstances in which bullets are flying like rain and wind, the soldiers are running around at the risk of losing their lives. If you want them to have a rest in such a situation, a comfort women system is necessary. Anyone can understand that," Hashimoto, also the Osaka mayor, told reporters in a building of the Osaka city government.

He also said, "When I checked the history of those years, I found that not only the Japanese army but also those of various countries were utilizing (comfort women)."

Then, he said, "It is a result of the tragedy of the war that they became comfort women against their will. The responsibility for the war also lies with Japan. We have to politely offer kind words to (former) comfort women."

As for the statement released in 1995 by then Prime Minister Tomiichi Murayama, which expressed remorse and apology to Asian countries on Japan's colonial rule and aggression, Hashimoto said he supported it.

"Japan is a defeated country," he said. "As a result of the defeat in the war, we must accept (the view) that what Japan did was aggression. There are no doubts (about the accusation) that Japan caused tremendous suffering and damage to neighboring countries. Japan must reflect on it and make an apology."

On the other hand, he showed understanding of Prime Minister Shinzo Abe's recent controversial assertion that the definition of aggression has yet to be decided. The remark triggered strong outrage in South Korea, which Japan colonized from 1910 to 1945.

"What Prime Minister Abe is saying is correct in that, academically, there are no definitions on aggression," Hashimoto said.

14 May 2013 Last updated at 16:21 GMT

WWII 'comfort women' were 'necessary' - Hashimoto



Toru Hashimoto said former comfort women should be offered "kind words"

A prominent Japanese politician has described as "necessary" the system by which women were forced to become prostitutes for World War II troops.

Osaka Mayor Toru Hashimoto said on Monday that the "comfort women" gave Japanese soldiers a chance "to rest".

On Tuesday, Japanese ministers tried to distance themselves from his remarks.

Some 200,000 women in territories occupied by Japan during WWII are estimated to have been forced to become sex slaves for troops.

Many of the women came from China and South Korea, but also from the Philippines, Indonesia and Taiwan.

Japan's treatment of its wartime role has been a frequent source of tension with its neighbours, and South Korea expressed "deep disappointment" at Mr Hashimoto's words.

"There is a worldwide recognition... that the issue of comfort women amounts to a war-time rape committed by Japan during its past imperial period in a serious breach of human rights," a South Korean foreign ministry spokesman told news agency AFP.

Chinese foreign ministry spokesman Hong Lei expressed shock and indignation at the mayor's comments.

"The conscription of sex slaves was a grave crime committed by the Japanese military," he said.

"We are shocked and indignant at the Japanese politician's remarks, as they flagrantly challenge historical justice."

Mr Hashimoto is the co-founder of the nationalist Japanese Restoration Party, which has a small presence in parliament and is not part of the government.

He was the youngest governor in Japanese history before becoming mayor of Osaka, and last year said Japan needed "a dictatorship".

In his latest comments, quoted by Japanese media, he said: "In the circumstances in which bullets are flying like rain and wind, the soldiers are running around at the risk of losing their lives,"

"If you want them to have a rest in such a situation, a comfort women system is necessary. Anyone can understand that."

He acknowledged that the women had been acting "against their will". He also claimed that Japan

was not the only country to use the system, though it was responsible for its actions.

He said he backed a 1995 statement by Japan's then-PM Tomiichi Murayama, in which he apologised for war-time actions in Asia.

"It is a result of the tragedy of the war that they became comfort women against their will. The responsibility for the war also lies with Japan. We have to politely offer kind words to [former] comfort women."



Recent visits to Japan's war-linked Yasukuni shrine sparked protests in South Korea

'Historic given'

On Tuesday Japan's Cabinet Minister Yoshihide Suga declined to comment directly on Mr Hashimoto's remarks but reiterated the government's existing stance on comfort women.

He said the government felt "pains towards people who experienced hardships that are beyond description".

In 1993, Japan issued an apology for the "immeasurable pain and suffering" inflicted on comfort women. In 1995, it also apologised for its war-time aggression.

Education Minister Hakubun Shimomura also expressed concerns over Mr Hashimoto's remarks.

"A series of remarks related to our interpretation of (wartime) history have been already misunderstood," he told reporters. "In that sense, Mr Hashimoto's remark came at a bad time."

Last month, Japanese Prime Minister Shinzo Abe angered China and South Korea when he suggested he may no longer stand by the wording of Japan's 1995 apology, saying the definition of "aggression" was hard to establish.

Japanese ministers later sought to play down his remarks, amid anger across the region.

Japan's neighbours also objected to visits in April by several cabinet members and 170 MPs to Japan's Yasukuni shrine, which honours Japan's war dead, including war criminals.

Japan NHK boss Momii sparks WWII 'comfort women' row

26 January 2014 Last updated at 15:15



Protests against Japan's wartime use of "comfort women" have taken place repeatedly in South Korea (pictured) and other Asian nations

The new head of Japan's national broadcaster NHK has caused controversy by playing down the military's use of sex slaves - so-called "comfort women" - during World War Two.

Days after taking up his new job, Katsuto Momii said the practice was common in any country at war. He also said NHK should support the Japanese government in its territorial dispute with China. As a publicly funded broadcaster, NHK is supposed to be politically neutral.

The BBC's Rupert Wingfield-Hayes, in Tokyo, says it was a shock when its new chairman started expressing such political views at his very first news conference.

'Puzzling'

Up to 200,000 comfort women are estimated to have been forced to work in Japan's military brothels in World War Two, most of them Korean.

Women from China, Taiwan, the Philippines and Indonesia were also conscripted.

Mr Momii said "such women could be found in any nation that was at war, including France and Germany".

He described international anger as "puzzling".

Japan's treatment of its wartime role has been a frequent source of tension with its neighbours,

Asked about the bitter dispute between Japan and China over islands in the East China Sea, Mr Momii said it "would not do for NHK to say left when the government says right".

Mr Momii is a businessman with no previous broadcast experience.

Insiders at NHK say his appointment was an attempt by the government of Prime Minister Shinzo Abe to bring the national broadcaster to heel, our correspondent reports.

If so, it appears to have backfired rather badly, he adds.

Mr Momii also said Japan's new state secrecy law was nothing to worry about.

Editorial, The Japan Times Apr 12, 2013

(<http://www.japantimes.co.jp/opinion/2013/04/12/editorials/students-are-not-political-pawns/#.UWeFnqJUF6J>)

Students are not political pawns

Because of North Korea's provocations following its third nuclear test on Feb. 12, the general affairs section of the board of education of Tokyo's Machida City on March 27 made a unilateral decision — unknown to board members or the city assembly — to not provide personal safety alarms to students at a pro-North Korean school in the city.

After reports of the decision surfaced April 4, the board of education was inundated with protest telephone calls and emails, prompting it to reverse the decision. On Monday, the first day of the new school year, the board sent alarms to the Nishi-Tokyo Korean Second Elementary and Junior High School, where 68 students study.

Even if the decision was made without the knowledge of the city government and the members of the board of education, they must accept responsibility for the poor judgment shown by the general affairs section, which smacked of discrimination against students of the Korean school. The head and workers of the general affairs section should be disciplined for their actions.

According to the school, the general affairs section's chief and other employees visited the school on March 28 and cited the current political situation and citizens' feelings stemming from North Korea's provocations as the reason for not providing alarms to its students. In doing so they demonstrated their complete failure to understand the principle that all students must be treated equally regardless of their nationality or ethnicity.

It should have been clear to them that punishing children in Japan for the provocative actions of Pyongyang is both utterly ludicrous and ethically repugnant.

In 2004, the board started providing safety alarms, each costing around ¥300, to first-year students of municipally run elementary schools. In a threatening situation, children activate the alarm, which sets off a loud noise to attract help.

The board has been giving out the alarms to students of private schools and the Korean school upon request. In February, the Korean school asked the board for 45 alarms.

After the board received more than 1,300 protest telephone calls and email messages, the board members held an emergency meeting and reversed the original decision by the general affairs section. They should be praised for their quick action to uphold the principle that it is the board of education's responsibility to ensure the safety of all children living in Machida City. They also agreed that the general affairs section should have consulted with them before making its original decision.

What happened in Machida is part of a bigger, very disturbing trend that is sweeping the country. Several prefectural governments have stopped subsidizing pro-North Korean schools. On Feb. 20, the Abe administration excluded pro-North Korean high schools from the government's tuition-waiver program. These decisions should be reversed. It is wrong to use children as political pawns, and doing so will only fan anti-Korean discrimination in Japan. ■