

Report to the Committee on the Elimination of Racial
Discrimination, the United Nations

**Report on the Status and the Human Rights of
Foreign Nationals, Especially Koreans in Japan**

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1. Introduction

Zaitokukai, the Civic Activity for Appealing to Abolish the Privileges of Korean in Japan was established in 2007, and we have appealed the same idea with the Section 4 of the Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, that does not permit special measures for certain races.

We read the previous recommendations of the Committee on the Elimination of Racial Discrimination (CERD) and the previous reports of the Government of Japan. We think those gave distorted views of the discriminations in Japan. The position of our activity is not opposed to that of the Government of Japan, and also not in favor of it. We think there are actually almost no systematic discriminations in Japan against women, Ainu people and Okinawa people. A few of them exist, although those can be settled individually, i.e., those do not need any systematic measures. We think priority cases of the human rights issues in Japan are the privileges of Koreans and the discrimination against people in Fukushima Prefecture.

We report here on the privileges of Koreans and the issue of hate speech elimination act including the discrimination against people in Fukushima Prefecture. This report consists of six chapters as follows.

Chapter 1. Introduction

Chapter 2. Special Measures for Koreans

Chapter 3. Issue of the Hate Speech Elimination Act

Chapter 4. Issue of Korean School

Chapter 5. Fake Application for Refugee Recognition

Chapter 6. Summary

2. Special Measures for Koreans

(2-1) Relevant Articles

- Article 1, Section 4: Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

- Article 2, Section 2: States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

(2-2) Report on the Special Measures for Koreans

AS the Government of Japan reported in CRED/C/JPN/10-11, there are two systems that define the status of residence for foreign nationals to enter and stay in Japan. One is for the usual foreigners, and the other is for the special permanent residents. The latter people consists of mostly Korean residents in Japan (99.6%).

They say Korean residents in Japan are all descendants of people who were forcibly brought to Japan, which is not a fact. After the Greater East Asia War (the World War II, the Pacific War), the United Nations (UN) occupied Japan, and the Supreme Commander of Allied Powers (SCAP), i.e. the UN, ordered the Government of Japan to take all Koreans in Japan back to Korea Peninsula. The Government of Japan prepared ships for the return, and many Koreans came back to the peninsula. However, hundreds of thousands Koreans remained in Japan disobeying the UN's instruction. In addition, at the same period a lot of Koreans illegally immigrated into Japan. All of the current Korean residents in Japan (not the general permanent residents of Koreans) are descendants of either of the above cases.

The current legal status of the Korean residents in Japan is based on the Special Act on the Immigration Control of, Inter Alia, Those Who Have Lost Japanese Nationality Pursuant to the Treaty of Peace with Japan (Act No. 71 of 1991), and they are classified into the category of "Special Permanent Resident". The legal status of the other foreign nationals in Japan is based on the Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of Oct.4 1951), and they are classified into the categories of "Permanent Resident", "Long-Term Resident", "Spouse or Child of Japanese National" and so on. As mentioned in CRED/C/JPN/10-11, the treatment for the Korean residents in Japan is one of the systematic preferential one peculiar to Japan, and this special measure has caused additional racial discriminations. For example, all descendants of the special permanent residents are given eternally the same legal statuses with the current special permanent residents, whereas the other

foreign nationals should individually apply for the examination by the public immigration office. A child of a general permanent resident is not given automatically the same legal status to stay in Japan with that of his/her parent. A special permanent resident should receive the deportation order only in the case of his/her felony, whereas the other foreign nationals should deport from Japan even in the case of his/her misdemeanor. Additionally, various privileges of the special permanent residents can be listed, e.g., evading taxes^{1,2}, preferential treatment of welfare aid³, and more.

This special measure for Korean residents in Japan has continued since the Treaty on Basic Relations between Japan and the Republic of Korea was signed in 1965. We know that the purpose of the special measure for Korean residents in Japan is to secure adequate advancement of them. We think that enough time for the purpose passed, and that this special measure only for the Korean residents lead to the maintenance of separate rights for the other foreign nationals, as shown in the above. Most of Korean residents in Japan refuse voluntarily to receive the privileges that is actually only for a small part of them. We think they can live here without any trouble if the special measures are abolished in order to live in the same system for the other foreign nationals. In addition, some of them were naturalized in Japan to live here in the same system for Japanese. We think, therefore, the status of the special permanent residents is no need more for Koreans. The special Act that causes privileges of Koreans should be

¹ For example: Proceedings of the Committee on Budget, the House of Representative, 116th National Diet of Japan, No. 5, Oct. 17 (1989).

² For example: Chunichi Newspaper, Nov. 13 (2007).

³ For example: Proceedings of the Committee on Budget, the House of Councillors, 180th National Diet of Japan, No. 10, Mar. 16 (2012).

repealed in order to lead to a fair treatment for all foreigners.

(2-3) Proposal of Recommendation

Zaitokukai proposes the following solutions as recommendations of the CERD to the Government of Japan.

1) The Government of Japan should recognize that the retention of the Special Act on the Immigration Control of, Inter Alia, Those Who Have Lost Japanese Nationality Pursuant to the Treaty of Peace with Japan is currently in a breach of the Section 4 of the Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.

2) In accord with the Section 2 of the Article 2 of the International Convention, the Government of Japan should repeal the Special Act, unify the system of the permanent residents into that of the Immigration Control and Refugee Recognition Act, and treat Korean permanent residents in the same manner with the general permanent residents of foreign nationals.

3) The Government of Japan should eliminate the all forms of the privileges of Korean residents in Japan, in cooperation with NGOs.

3. Issue of the Hate Speech Elimination Act

(3-1) Relevant Articles

- Article 2, Section 1: States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

- Article 4, Item (c): States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

• Article 5: In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(a) The right to equal treatment before the tribunals and all other organs administering justice;

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;

(c) Political rights, in particular the rights to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

(i) The right to freedom of movement and residence within the border of the State;

(ii) The right to leave any country, including one's own, and to return to one's country;

(iii) The right to nationality;

(iv) The right to marriage and choice of spouse;

(v) The right to own property alone as well as in association with others;

(vi) The right to inherit;

(vii) The right to freedom of thought, conscience and

religion;

(viii) The right to freedom of opinion and expression;

(ix) The right to freedom of peaceful assembly and association;

(e) Economic, social and cultural rights, in particular:

(i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;

(ii) The right to form and join trade unions;

(iii) The right to housing;

(iv) The right to public health, medical care, social security and social services;

(v) The right to education and training;

(vi) The right to equal participation in cultural activities;

(f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, theatres and parks.

(3-2) Report on the Hate Speech Elimination Act

As the Government of Japan reported in CRED/C/JPN/10-11, the Hate Speech Elimination Act came into force in June 2016, and it aims to eliminate unfair discriminatory speech and behavior against persons originating from outside Japan. Osaka and Kawasaki Cities enacted Hate Speech Elimination Ordinances to embody the purpose of the Act. These regulations are effective in preventing hate speeches against persons originating from outside Japan, although ineffective against the others. Actually, those are applied for only protecting Korean residents in Japan, i.e. not applied for the other foreigners.

A lawyer who is active in anti-discrimination movement state that "kill Jap" is not classified into the hate speech, whereas any words wounding Koreans' feelings are applied to the illegal acts defined in the Hate Speech Elimination Act. The phrase of "kill Jap" is selected as one of the trend words of Japan in 2016. Although a member of Zaitokukai accused it of the hate speech, the Ministry of Justice rejected his submission.

Hate speeches against Japanese, especially people in Fukushima Prefecture is very serious. Cruel speeches such as "dangerous Fukushima at the radiation level" are spread widely by politicians, academic persons, lawyers, Korean activists, the radical left rioters and so on. On January 20, a lecture meeting on the accident of the atomic power plant in Fukushima was performed in cooperation with Tsukuba and Tsuchiura Cities, in which the speaker talked about fake investigated results⁴. One journalist reported the meeting critically in an internet magazine, because he lives in Fukushima and knows the fact of Fukushima. However, the magazine article was deleted because he reported in another article critically a speech of a Korean activist in the same way with it, that was recognized as a hate speech against Koreans by the manager of the magazine. Due to the Hate Speech Elimination Act, the Korean activist can stir up any fake dangerous images of Fukushima without any arguments. Zaitokukai has stated that Fukushima is safety, and tried to eliminate the fake news as above for seven years, because we know the correct investigated data reported by Prof. Jun Takada, and the report of the Scientific Committee on the Effects of Atomic Radiation of the UN in 2013.

⁴ Sankei Newspaper,
<http://www.sankei.com/life/news/180118/lif1801180054-n1.html>

Tsukuba City also supported officially a performance of a theatrical comedy group that declares its members play discriminative performance to let an audience laugh at harmed people. The group played also a black face. However, the theatrical group has continued performances, and it performed at one public hall of Tsukuba City, because its performance is not recognized as a discriminative action by public institutions. We think the reason that some members of city councils who campaign for elimination of discrimination in cooperation with some anti-discrimination groups favor it. Most of the discriminative performance are illegal in Japan due to the Hate Speech Elimination Act, although some groups are out of the range of the discriminative performance. Japan definitely has the double standard for determining racial discrimination or not.

Most of the anti-discrimination groups in Japan are assaultive and they often cause violent incidents. For example, four members of the Korea NGO Center did a mass violence for beating up one Japanese in 2014. Although the victim was damaged nearly to death, the Korea NGO Center insulted him publicly for the reason that the assailants should be protected from hate speeches. Another anti-discrimination group attacks North Korean defectors. When a North Korean defector talks about human rights violations in North Korea, the anti-discrimination group appeals to its members to gather around her in order to shout jeers at her such as "go back to your country", "kill you", "stop the hate speech" and so on. The same speeches by the same group members are also performed to a college student who is from Spain and has the same opinion with Zaitokukai. The Hate Speech Elimination Act is applied for specific Koreans to protect them, although it is not applied for the other Koreans such as North Korean defector, and not applied for

the other foreigners.

One of the anti-discrimination groups in Japan, Kawasaki Civil Network for Prohibiting Hate Speeches is more violent. The member of it obstruct demonstrations and meetings of people with conservative views. On June 3, the civil network appealed to its members to gather around a Kawasaki city hall where a lesson of hate speeches by a conservative group would be carried out, and prevented them from doing it. The members of the civil network threatened and assaulted the participants, for the reason that they recognize people with conservative views as racists to be killed socially.

The Hate Speech Elimination Act in Japan is not for eliminating racial discrimination in all its forms. It is actually for prohibiting only speeches that wound Koreans' feelings, for promoting misunderstanding between Koreans and the others as a result, and for reinforcing barriers between Koreans and the others. The Act often promotes violence of anti-discrimination groups to deprive us of the right to freedom of opinion and expression, the right to freedom of peaceful assembly and association, an opportunity of education and training about hate speech, and even an opportunity that a racist regret and reform himself/herself to return to equal participation in cultural activities.

The CERD previously recommended the Government repeatedly of Japan to accept the Items (a) and (b) of the Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. We, however, do not think a country adopting the idea of the restriction of expression succeeded in eliminating discriminations. The social background changed from the time when the International Convention was established. We

currently use internet services. We can get a lot of information, gather various opinions publicly, and get the justice point. We believe using fully the freedom of expression is more effective to solve discriminative problems. Restriction of expression necessarily result in depriving an assailant of an opportunity to explain his/her apology, and obstructing all the ways to understand among races. At the football game of Japan vs. Columbia in the World Cup, one Columbian supporter insulted ethnically a Japanese woman on Twitter. One player and a minister of Columbia soon criticized him, however, the Government of Columbia did not deprive him of the right to expression. We think it was an excellent reaction. The supporter soon apologized to her, and we can thus get along with the ex-insulter to enjoy watching football games. When the International Convention on the Elimination of All Forms of Racial Discrimination was established, the methods of sending information was restricted within narrow limits. However, currently everyone can send and receive information by using internet services. We think the International Convention should be revised it in the form appropriate for the present social background. If not, more effective solution should be adopted replacing restriction of expression in the actual use of the International Convention.

(3-3) Proposal of Recommendation

Zaitokukai proposes the following solutions as recommendations of the CERD to the Government of Japan.

- 1) In accord with the Section 1 of the Article 2 and the Item (c) of the Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, the Government of Japan should revise the Hate Speech Act

in the form that releases from all racial discriminations. At least, the phrase "persons originating from outside Japan" in the Article 1 of the Act should be deleted.

2) The Government of Japan should guarantee all of the rights mentioned in the Article 5 of the International Convention equally to Japanese, in cooperation with NGOs.

3) On the basis of the report of the Scientific Committee on the Effects of Atomic Radiation of the United Nations in 2013, the Government of Japan should criticize and eliminate the cruel speech against the people in Fukushima such as "dangerous Fukushima at the radiation level", in cooperation with NGOs.

4) The Government of Japan should either adopt effective solutions such as using fully the freedom of expression to replace restriction of expression in the actual use of the International Convention, or propose the UN to revise the International Convention in order to fit the present high-level information society.

4. Issue of Korean School

(4-1) Relevant Articles

- Article 3: States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

(4-2) Report on the Korean School in Japan

Both of the Zaitokukai and the Korean School in Japan are misunderstood due to the much propaganda by many anti-discrimination groups and mass media. Zaitokukai performs demonstrations in order to appeal repealing of the

special measures only for Koreans, restoring the public order, and so on. Many anti-discrimination groups accuse us of taking hate speeches, however, the aggressive phrases like "Kill Koreans," "Cockroaches," etc. were expressed by some participants of the demonstrations, and therefore not the appeal points of the demonstrations. The actual figure of the Korean school is not the usual school in law of Japan, and the lessons of Korean school are neither controlled publicly nor opened to the public. The Korean School has been under the domination of the General Association of Korean Residents (Chosoren). The SCAP, i.e. the UN forced Japan Government to disband the Korean schools during its occupation of Japan, because those were absolutely the nests of Korean rioters for disorder. The actual figures of the Korean schools do not change, and the Korean schools are currently the nests of the criminals. For example, the headmasters of the Korean schools cooperate on the abductions of North Korea, deal with illegal drugs, and so on.

The Kyoto Korean school occupied the Kanjinbashi Park exclusively for over fifty years, although the park had been set in front of the school for public use, not for private use. If a child who entered the park was non-Korean, he or she was always forced to get out of the park violently by the school stuffs. The neighborhoods were silenced for fear of the primary and secondary violence. The Korean school handled politicians, scholastics, lawyers, the mass media, etc. The neighborhoods repeatedly tried to claim the Kyoto City and the Kyoto Police Office to improve it, but all of the claims were overruled. All of the Kyoto citizens except for the Koreans could not use the Kanjinbashi Park, and they must pay tax including costs for the maintenance of the park. On December 4, 2009, some

members of Zaitokukai protested to the Korean school. The purpose of the protestation was to claim the school stuffs to use legally the Kanjinbashi Park. We performed following two demonstrations to appeal the neighborhoods to act for improving it. They again claimed against the Kyoto City, and the park is at present available to use equally for all people, all citizens and all races. Zaitokukai and the neighbors are satisfied with the current situation of the park, and never want to return it to the previous racial discriminatory form.

The Koto Korean School awarded one of the assailants who did a mass violence for beating up one Japanese to damage him nearly to death as mentioned in the above. A Korean activist, Ms. Su-gok Shin reported the actual violent figures of the Korean School in her autobiography. Currently, many municipalities suspend public subsidies to the local Korean Schools, whereas some municipalities give those. The public subsidies to the Korean Schools were not used effectively as educational supports. Those were used only for supporting the North Korea. The public subsidies do not result in reducing the school fee of the Korean School, and in addition, those result in reinforcing the power of the violent dominators. We think that the Korean Schools should be disbanded to put the previous order of the UN into practice, and that the principle of protection of ethnic educations is not necessary to be applied for the Korean Schools in Japan. The students of the Korean Schools have equal rights to change their schools to public ones in Japan. Since there are many schools in Korea Peninsula, ethnic educations for Koreans are necessarily continued in Korea Peninsula if all the Korean Schools in Japan are annihilated. The Government of Japan does not prohibit a private ethnic education for Koreans, the Government

prohibit their illegal activities using public subsidies. In addition, the Korean Schools are for only Koreans, and do not permit any persons originating from outside Korea Peninsula to enter. The Korean School is a place of racial segregation like the apartheid. We, therefore, think it is no problem to disband the Korean Schools completely. If the Korean residents in Japan want schools for their ethnic education, they should remodel those into brand new ones that are controlled publicly and opened to the public.

(4-3) Proposal of Recommendation

Zaitokukai proposes the following solutions as recommendations of the CERD to the Government of Japan.

- 1) In accord with the Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination, the Government of Japan should disband the Korean Schools in Japan completely.
- 2) At least, any municipalities in Japan should not give public subsidies to the local Korean schools until the criminals of the headmasters are punished.

5. Fake Application for Refugee Recognition

(5-1) Relevant Articles

- Article 6: States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such

discrimination.

(5-2) Report on Fake Application for Refugee Recognition

AS the Government of Japan reported in CRED/C/JPN/10-11, the Immigration Control Act was revised in 2005 to introduce a new refugee recognition system that allows undocumented persons applying for recognition as a refugee to stay in Japan provisionally to protect their legal status. Accordingly, the number of the applications for the refugee recognition increased. More than 99% of the applications in Japan was not that by a person who was from a country causing refugees by e.g. a civil war. Those are fake applications for the refugee recognition by illegal residents, as a result of abuse of the new refugee recognition system. The Immigration Control Act was revised again in 2016 to review the new refugee recognition system. It is currently difficult to apply for the refugee recognition repeatedly in the case of the fake one. However, the number of the applications does not largely decrease. Fake applications for the refugee recognition have been yet continued.

The illegal stay is a source of crimes and an origin of human rights violations. We regard highly the measures of the Government of Japan for decreasing illegal residents. However, it is insufficient. Crimes and human rights violations connecting with the illegal stay are still actualized so clearly. We think illegal residents should be forcedly brought back to their own countries in order to be released from the illegal situations. Increased number of the fake applications for the refugee recognition by illegal residents necessarily results in obstructing the examinations of applications by persons who really need refugee recognitions. Fake applications for the refugee

recognition should be eliminated.

(5-3) Proposal of Recommendation

Zaitokukai proposes the following solutions as recommendations of the CERD to the Government of Japan.

- 1) In accord with the Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, the Government of Japan should take illegal residents forcedly to their own countries in order to release them rapidly from the illegal situations, through the national tribunals and other State institutions.
- 2) The Government of Japan should review the Immigration Control Act in order to eliminate the fake application for the refugee recognition that results in promoting the illegal stay.
- 3) The Government of Japan should encourage exposure of illegal residents in Japan, in cooperation with NGOs.

6. Summary

We discuss the special measures for Koreans, issue of the Hate Speech Elimination Act, issue of the Korean School, and the fake application for refugee recognition in this report, and propose our idea to solve those problems. We want to abolish the privileges and to improve our life in Japan. We expect the Committee will discuss fairly to lead right conclusions.