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(AMIGOS)



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About “North Kanto Medical Consultation (AMIGOS) ”

North Kanto Medical Consultation (AMIGOS), established in 1997, has been supporting foreign people without valid status of residence in poverty for over 25 years, as one of our aims to realize inclusive society where every people can enjoy well being and living in peace.

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Executive Summary

- “I can’t survive anymore” – the facts on people under provisional release

Episode 1: A woman’s death- as a homeless with terminal cancer¹

Ms, M, who was born in Cameroon, had fled to Japan after years suffered from domestic disputes, FGM, and domestic violence. In November 2020, while under provisional release, M lost her housing because she could not pay the rent. At that time, she suffered from terminal cancer, and she had to move from/to friends’ homes, internet cafés, and cheap hotels. Though her supporter ask help to public agencies, but there was none. She died January 23rd, 2021, at age 42.

Episode 2: A man who is suggested to commit suicide

Mr. K, from South Asia, is under provisional release. He cannot return to his home country because he participated in anti-government demonstrations when he was a university student. Since he escaped to Japan, his brother supported economically for 15 years, but dead because of Covid-19. There is no public agency can support him. Now he always feels bad and dizzy, coughs. His hands tremble and he feels pain all over. After days without foods and water, the landowner came to him and threw his clothes into the road and said “Pay the rent or die”. He asked help to a person from the same country, but the person gave nothing but the words “For you, to commit suicide is the easiest way”. K told us “I wish to die and go to my brother’s side”.

Difficulties under “provisional release”

According to official statistics, in 2021, there were about 2.93 million foreign persons (2.2% of the whole population), and about 6,000 of them were under provisional release. ¹

Person under “provisional release” is defined in the Art.54 of the Immigration Control and Refugee Recognition Act, “A person detained pursuant to a written detention order or deportation order issued, their representative, curator, spouse, lineal relative or sibling may request their provisional release to the director of the immigration detention

¹ Official statistics (法務省出入国在留管理庁「出入国管理統計」(<https://www.e-stat.go.jp/stat-search/files?page=1&layout=datalist&toukei=00250011&tstat=000001012480&cycle=7&year=20210&month=0&tclass1=000001012482>))

center or the supervising immigration inspector in accordance with the procedures provided for by Ministry of Justice Order.”. Foreigners in hard circumstances to return to home country without resident permission by the government, should be detained in immigration detention centers. According to the law and the Procedure for Provisional Release², foreigners under detention can be released temporarily in consideration on illness or other unavoidable circumstances³. In December 2021, about 130 foreigners were in detention centers and about 6,000 foreigners were under provisional release. In December 2019, 1,054 foreigners were in detention centers and about 3,315 foreigners were under provisional release. The reason for the increase or decrease was assumed that to prevent the spread of coronavirus infection in the cramped detention facilities.

Almost of them have 2 backgrounds in common. They have some major circumstances to prevent to go home countries though Japanese government decided that they have to leave, and they are in severe need about to lose their lives.

1.The foreigners under provisional release “cannot” go home

They cannot go home, because they are refugees, though the Japanese government do not recognize them as a refugee. It is well known that Japan recognizes very small rate (under 1.0 %) of refugee applicants as new refugees. As a result, they are detained in the status “under provisional release”. Some of them are not refugees but living in Japan for long years, and other some of them were child or youth who were born and grown up in Japan (Japan doesn't have birthright citizenship). They have no country to go back, and they have no way other than to live in Japan.

2. The foreigners under provisional release cannot live as a human being

The “provisional release” is not a resident status. Therefore, they are prohibited to work and earn. In addition, they cannot to be registered as residents. Those

² Considerations related to provisional release decision(法務省出入国在留管理庁「仮放免許否判断に係る考慮事項」https://www.moj.go.jp/isa/applications/guide/tetuduki_tai_kyo_khm_kouryo.html)

³ An report by the Minister of Justice in 2019 (法務省出入国在留管理庁, 2019年11月25日「収容・送還に関する専門部会 第3回会合 収容・仮放免に関する現状」https://www.moj.go.jp/isa/policies/policies/nyuukokukanri03_00001.html)

undocumented status means that they are excluded from the national health insurance, the public assistance, and other social welfare. When they do not have any foods or are about to be evicted, there are no public help for them. For medication, they must pay all for medication, not only for copayment. Some of hospitals (includes public hospitals) requires twice or third times of all of payment. These situations mean that they are excluded from medication. Not a small number of them have been medically neglected, and some of them led to death. We are supporting a junior high school student with heart disease under provisional release. He needs a surgery but there is no way to cover the payment. Some adults have been sexually exploited in return to living expenses. People under provisional release must live without dignity, as if they are not human beings.

84 % of persons under provisional release cannot receive medication because of financial hardship— the result of a survey

During October to December 2021, AMIGOS produced a nationwide survey of 450 persons under provisional release to clarify their living conditions⁴ and 141 persons from 27 countries replied. This is the first survey among public sector and non-profit sector in Japan. The result was reported in many media and was discussed in the Diet.

According to the survey, many of persons under provisional release are 20s-50s, and it is similar to the report by the Minister of Justice⁵. Our survey showed that persons with provisional release were living in Japan for long years than other foreign persons. 89 % of them answered that they were in need, 65 % are hard to ensure foods, 60 % could eat twice a day, and 16 % could eat once a day. 40 % of them failed to pay rent, and 35% failed to pay utilities expense. 70 % of them had no income, 66 % had debt, 85 % were damaged financially because of Covid-19, and 84 % could not receive medication because of financial reason. We also received a free-text entry by a woman in 40s, “A man helps me to live and require sexual relation in return of his support”. We know another woman who sexually exploited by a “supporter” in return of house rent and living expense. It is hard for them to resist or reveal. The status under provisional release itself is human

⁴ A survey report by AMIGO in March 2022(北関東医療相談会, 2022年3月「一生きていけない— 追い詰められる仮放免者 仮放免者生活実態調査報告書」<https://npo-amigos.org/post-1399/>)

⁵ A report by the Minister of Justice in 2019 (法務省出入国在留管理庁, 2019年11月25日「第3回 収容・送還に関する専門部会『被退令仮放免者に関する統計』」https://www.moj.go.jp/isa/policies/policies/nyuukokukanri03_00001.html)。

rights violation.

Proposals for Recommendation (Art.2,6,7,9, and 12)

In consideration of situations among refugees, persons applying for refugee status, and immigrants, we consider that Japanese government should receive additional recommendations to the Concluding observations on the sixth periodic report of Japan (CCPR/C/JPN/CO/6), especially about the Art.6 and 7 in the International Covenant on Civil and Political Rights.

-About expulsion and detention of asylum seekers and undocumented immigrants, the state party should implement the principle of non-refoulement for foreign persons under provisional release, in addition to those who in detention centers.

-Especially for persons under provisional release, the state party should recognize that “non-refoulement” do not mean neglect or leave them to extreme poverty and death.

- The state party should prevent human rights violence against persons under provisional release by guarantee fundamental human rights, never by detention.

-The state party should take appropriate measures to guarantee the rights to live for persons under provisional release, to eliminate their extreme poverty, risks to human rights violation, and situations without dignity.

-The state party should give the persons under provisional release special residential permits.

-The state party should allow the persons under provisional release to work.

-The state party should include the persons under provisional in the national health insurance and the public assistance, to eliminate their too hard situations to survive and to guarantee the rights to live as a human being.

-The state party should plan to phase out the provisional release itself, never by detention or forced deportation, but by refugee recognition and inclusion.

Appendix I: An experience of a man from the Republic of Congo

He was prosecuted by armed groups after he attended a political movement. His associates suddenly went missing. Suddenly an armed group stormed into his house and ordered him to intercourse with his mother or to be killed. Rapes were daily occurrence. After those consequences, he came to Japan to seek protection, but he was not recognized as a refugee. Now he is under provisional release.

Appendix II: An experience and a current situation of a man from Myanmar

He, an aged man from Myanmar, came to Japan 30 years ago. He was a famous activist and attended anti-government demonstration many times. He felt the crisis of his life and escaped to Japan. He became overstayer, was detained, and released provisionally, though he had been saying that “I will be killed if I return to Myanmar now”. When AMIGOS visited to him, he has impairment with his legs and cannot walk out of the room. He said, “I do not have enough food so sometimes I only drink water”. In addition, he had to leave the housing in 2 weeks, and he had no place to move.

Appendix III: A position document by a regional bar federation

In March 2022, Kyoto regional bar federation released a position paper⁶ to require the state party measurements for persons under provisional release to ensure them decent living as a human being by living support and medical aid. In relation with the International Covenant on Civil and Political Rights, this position paper pointed out that;

-According to the survey by AMIGOS, it is obvious the seriousness and difficulties among persons under provisional release are nothing but an inhuman treatment which offense to dignity and integrity. It violates the Article 7 of the ICCPR.

⁶ The position paper by the Kyoto Bar Association in March 2022 (京都弁護士会, 2022年3月「仮放免者に対する生活支援や医療支援など人としての生存を支援し可能にする施策の推進を求める意見書」https://www.kyotoben.or.jp/pages_kobetu.cfm?id=10000225&s=ikeynsyo)。

-In current Japanese society, no eligibility for health insurance means implicit violation against the “the inherent right to life” in Article 6(1) of the ICCPR. Some case (includes the death of a woman from Cameroon in January 2021) have reported in media, but those might be only the bit of the iceberg.