



ADDITIONAL

Joint NGO Report

for the Human Rights Committee

**in response to the List of Issues
Prior to Reporting
CCPR/C/JP/QPR/7**

<PART 3>

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

September 2022

Japan NGO Network for the Elimination of Racial Discrimination (ERD Net) is a network of NGOs working for the elimination of racial discrimination in Japan. Since the launch of networking in 2007, it has continually intervened the review of human rights situations of Japan by the HR Committee, CERD and other UN human rights mechanisms.

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NGOs contributing to the Report

Japan Network towards Human Rights Legislation for Non-Japanese Nationals & Ethnic Minorities

Solidarity Network with Migrants Japan (SMJ)

Human Rights Association for Korean Residents in Japan

Buraku Liberation League (BLL)

Japan Lawyers Network for Refugees

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

(in random order)

Additional Joint NGO Report of ERD Net <PART 3>

Table of CONTENTS

<u>reference</u>	<u>issue</u>	<u>page</u>
LOIPR para 6	Hate speech and hate crimes	3
LOIPR para 6	Buraku discrimination	6
LOIPR para 10	Gender-based violence against migrant women	8
LOIPR para 20	Technical intern training	10
LOIPR para 21	Treatment of aliens, including refugees and asylum seekers	12
LOIPR para 30	Rights of minorities	17

Additional Report on Hate Crimes

1. Related paras and articles: LOIPR para 6 on the hate speech, para 12 of CCPR/C/JPN/CO/6 and ICCPR articles 2, 20 and 26 2.

2. Issues: “Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behaviour against Persons Originating from Outside Japan” (so-called “Hate Speech Elimination Act”) is not effective in addressing hate speech and **hate crimes in Japan**

3. Suggested recommendations (These are included in the report submitted in 2020)

- State party should develop legislation to address hate crimes, set up specific body dealing with the issue, carry out comprehensive survey and research, and reform legislation so that crimes committed with racially discriminatory motives are dealt with as hate crimes.
- State party, including local authorities, should promptly and publicly condemn serious cases of hate speech and hate crimes, as soon as they occur.
- The police should set up a specific team dealing with hate speech, conduct thorough and comprehensive training among all officers on how to address hate speech, stop excessive protection of hate demonstration participants and excessive guard of counter demonstration participants, remedial measures for victims of hate speech and hate crimes, and rigorously deal with the perpetrators of hate speech if any criminal acts are involved.

4. Backgrounds:

Since the submission of our report in November 2020, hate crimes have become more serious and frequent in Japan, and people of foreign origin, especially zainichi Koreans, have e increasing fear of being attacked by anyone at any time if they are publicly recognized as zainichi Korean.

However, the government has yet to even define what hate crime is and taken no measures against hate crimes. Below is the list of incidents turned out to be hate crimes in 2021 and 2022.

On March 26, 2021, a threatening letter was sent to a zainichi Korean woman, stating "Eradicate Korean pigs" and "Die, die, die yourself..." She is the director of the Kawasaki Fureai Kan, a multicultural exchange facility established by Kawasaki City. The threatening letter also stated, "Eat the leftover corona-infused dregs," and enclosed an opened bag of sweets suspected to contain the neuro corona virus. In 2016, she made testimonies before law-makers during the Diet session, revealing her name and workplace, about the damage caused by demonstrations with hate speech against the Korean population in Kawasaki. Since then, she has been a target of hate speech and hate crimes through threatening phone calls, threatening letters, mail containing dead insects, tens of thousands of discriminatory writings on the Internet, and much more.

Since she started to receive the threatening letter, she has put on a stab-proof vest whenever she goes out.

She has never been released from the fear of being attacked.¹

A series of arson attacks took place in July and August 2021. On July 24, 2021 a fire was set to the building of Aichi Prefectural Headquarters of Mindan in Nagoya and fire was also set to a water pipe of the Nagoya Korean School located next door. On August 30, a fire was set in Utoro district in Kyoto destroying seven private houses. Utoro is the community for zainichi Koreans with permanent residence status. Fortunately, no residents were injured, except for the loss of one house dog. Among the residents of seven houses were two small children in their school age, but they were not home then.

In October of the same year, a 22-year-old man was arrested for the charge of the arson, and the criminal trial is currently underway. In response to media interviews, he admitted that he had discriminatory motives, saying, "I have suspicions and dislike toward zainichi Koreans and Koreans in general," demonstrating that what he has done was genuine hate crime.

In the trial, the defendant stated that he was motivated by information he came across on YouTube and in the comments section of Yahoo! News that zainichi Koreans were "specially treated". He also revealed that he had wanted to "create an incident that would make [zainichi Koreans] feel fearful of being in Japan" and to "make Japanese Yahoo!comment users heated-up to take more excessive actions". In fact, in the comment section of Yahoo! News and other news sites, racist comments such as "You should have burned the entire Utoro district" continue to be posted. The dangerous linkage between online hate speech and actual hate crimes is evident.²³

On December 19, 2021, shortly after the series of arson incident was reported, a hammer was thrown into a Mindan facility in Osaka. The perpetrators have not been identified.⁴

Since the invasion of Ukraine by Russia was reported in February 2022, Russian restaurants in Osaka, Saitama, Tokyo, and other locations have received threatening phone calls telling them to "die," harassing posts on their websites saying "pirozhki tastes like human flesh," and having their signboards broken.⁵

On April 5, 2022, a 29-year-old man was arrested on suspicion of arson attack in which he broke into the Korea

¹ [Interview] A Zainichi Korean's ongoing fight to stamp out hatred, discrimination in Japan (The Hankyoreh, June 24, 2022) https://english.hani.co.kr/arti/english_edition/e_international/1048406.html

² EDITORIAL: Worrying spike in hate crimes against Korean residents in Japan (The Asahi Shimbun, January 11, 2022) <https://www.asahi.com/ajw/articles/14519025>

³ Man gets 4 years in prison for arson in ethnic Korean district (The Asahi Shimbun, August 30, 2022) <https://www.asahi.com/ajw/articles/14706595>

⁴ EDITORIAL: Worrying spike in hate crimes against Korean residents in Japan (The Asahi Shimbun, January 11, 2022) <https://www.asahi.com/ajw/articles/14519025>

⁵ 'Russia bashing' in Japan hits even expats who oppose invasion (The Asahi Shimbun, March 8, 2022) <https://www.asahi.com/ajw/articles/14566964>

International School Middle and High School, a private school for Koreans in Osaka, and set fire to cardboard boxes and burned the floor. He reportedly told police interrogators that he wanted to steel the school directories and to attack those on the directory.⁶

5. Prepared by: Japan Network towards Human Rights Legislation for Non-Japanese Nationals & Ethnic Minorities

⁶ Arrested 29-year-old suspect who invaded and set fire to "Korea International School" (Teller Report, June 8, 2022) <https://www.tellerreport.com/life/2022-06-08-arrested-29-year-old-suspect-who-invaded-and-set-fire-to-%22korea-international-school%22.B1eVsMeRuc.html>

Additional Report on Buraku Discrimination

1. Related paras and articles: LOIPR para 6, Non-discrimination and prohibition of advocacy of national, racial or religious hatred (arts. 2, 20 and 26)

2. Issues: Elimination of Buraku discrimination

3. Suggested recommendations:

State party should consider the adoption of law to prohibit Buraku discrimination including the disclosure of personal information of Buraku individuals on the Internet and through the abuse of authorities by legal professionals.

4. Backgrounds:

1) An individual using a blog site named “Tottori Loop” has been violating the right of privacy of a number of persons by publishing private information in the internet, in particular targeting Buraku people. In 2016, based on the information found in the records stored in the National Library, the Tottori loop has tried to publish a book compiling location and the name of all Buraku districts, which was then suspended by Yokohama District Court following complaint filed by the Buraku Liberation League that publication of such information would violate the right of Buraku people to their privacy, whereby making them extremely vulnerable to discrimination. However, Tottori Loop made all the information public by uploading on its blog site. Against the action of the Tottori Loop, and with the lack of anti-discrimination legislation in Japan, Buraku Liberation League has filed a civil court case at Tokyo District Court in 2016 demanding for the deletion of information from the website and compensation for the damages caused by the violation of the privacy. In 2021, the Tokyo District Court judged it as the violation of privacy and ordered for (partial) compensation for damage. However, till now, the information is still available on the Tottori Loop’s site. Moreover, as there is no anti-discrimination legislation in Japan, discriminatory intention and consequences of Tottori Loop’s action are not considered as aggravating factor in the case, while Buraku people, whose private information is published online and directly exposed to the risk of discrimination, are left without any protection from discrimination, effective remedies or measures to stop or prevent similar cases, except for filing a complaint for the violation of privacy.

2. The family register of Japan (Koseki) collects and records personal information of individual Japanese national including given name, place of birth, place of domicile, dates of birth and death, marriage status, and relationship with other family members in the same register. Failure to register may result in no citizenship, thus it is essential for any Japanese to register. For a long time, information in the register was open for anyone upon request, making it extremely prone to, and indeed causing, violation of the right to privacy. It particularly made the Buraku people vulnerable to various types of discrimination and other violation of their human rights as anyone could identify who was from Buraku districts. Against this backdrop, the Ministry of Justice classified the information in

the registry to the category that is only open for persons concerned, their proxy, and those having engaging in special fields of judicial/legal/ administrative work such as lawyers and administrative scriveners.

In 2021, an administrative scrivener opened a website on the Internet and advertised the acquisition of family register information as his business. 55 research companies applied for the service, and he sold 3,500 cases for over 70 million yen. One of the victims accused the police of violating the Family Registration Law because of the background checks conducted, which triggered an investigation, and the administrative scrivener was arrested and fined (September 2021). There has been no end to the practice of asking lawyers, administrative scriveners, and other professionals with national licenses to obtain family registry information. The lawyers and others have not admitted to violating the Family Registration Law, claiming that it is legitimate business.

5. Prepared by: Buraku Liberation League

Additional Information on Migrant Women

1. LOIPR: para.10 Violence against women, including sexual and domestic violence (arts. 2, 3, 6, 7 and 26)

2. Issues: Lack of measures to protect and support minority women including migrant women victims of domestic violence and the guarantee of their status of residence

3. Suggested recommendations:

The State party (Japan) should ensure that the Law on the Prevention of Domestic Violence (DV Prevention Law) protects all victims including migrant women regardless of their status of residence.

4. Background (situation update since the submission of previous SMJ report in 2020)

The case of Rathnayake Liyanage Wishma Sandamali, a Sri Lankan woman, who died in custody at an immigration detention facility in Nagoya, shocked the society in Japan and highlighted the issue of immigration detention as well as the lack of protection and support for migrant women victims of domestic violence who do not have a status of residence in Japan.

Ms. Wishma came to Japan with a student visa and overstayed, while suffering from domestic violence committed by her partner with whom she was living together. In August 2020, Ms. Wishma presented herself to a police station in Shizuoka prefecture asking for protection as she was forced out from their house by her partner without having much money with her. However, the police did not treat her as a victim of domestic violence but arrested her for the violation of the immigration law and sent her to an immigration detention centre on the next day. During her detention, Ms. Wishma repeatedly told the officers at the facility about the domestic violence she suffered from her partner including physical violence such as punching and kicking, as well as forced abortion. Her partner even sent a threatening letter to the detention centre saying that, if she would come back to Sri Lanka, he would kill her.

However, Ms. Wishma was never treated as a victim of domestic violence in her detention, while her health condition deteriorated. She eventually died in the immigration detention centre. According to a report published by the Immigration Control Agency on 10 August 2021 on the case of Ms. Wishma, internal policy of the Immigration Control Bureau concerning cases of DV stipulated that, in case of foreigners who are victims of domestic violence, the responding officers should have interviewed the victim, collected information about the circumstance, reported to relevant bodies such as DV centre, and undertaken measures such as temporary release even if the person concerned was in process of forced deportation. However, in case of Ms. Wishma, it was revealed that the responding officer was not even aware of such policy, did not conduct any interview concerning the domestic violence she was suffering, and no particular measure was taken to treat Ms. Wishma

as a DV victim. At the same time, the Immigration Control Agency reportedly concluded, based on the interview with the perpetrator, that, “even if an interview was conducted with Ms. Wishma, it did not ensure that she was recognised as a DV victim”, despite clear evidence available, which showcased the crucial lack of understanding and awareness among the Immigration Control Agency about DV.

Moreover, the initial response of the police arresting a DV victim for violation of the immigration law must be corrected. As similar cases were already reported in the past, an internal notification was issued by the Police concerning the police response to DV victims without the status of residence. However, the case of Ms. Wishma highlighted that such measure as the notification was not working in practice.

After the death of Ms. Wishma, the Immigration Control Agency has revised its policy concerning DV victims, However, it is evident from the case of Ms. Wishuma that internal policies or notifications within the Immigration Control Agency or the Police are not sufficient to protect migrant women victims of DV but the DV Prevent Law needs to be revised, in particular its Article 23 should explicitly mention “regardless of the status of residence”, so that it protects all DV victims regardless of their nationality or immigration status.

In addition, not only irregular migrant women, but also migrant women with various status of residence such as “student” or “dependent” are excluded from the social welfare system and services, including public support scheme for DV victims, as stated in the previous report of the SMJ. In order to protect and support DV victims with more vulnerable status of residence including “student”, *dependent”, “technical intern trainee” and others staying with shorter- or limited term status, not only the revision of the DV Prevention Law, but also relevant social welfare systems and services as well as status of residence need to be improved.

5. Prepared by: Solidarity Network with Migrants Japan (SMJ)

NATIONAL / CRIME & LEGAL

Japan urged to better protect foreign domestic abuse victims



Five groups supporting foreign nationals and women have urged the government to provide thorough protection for non-Japanese people who claim that they are victims of domestic violence.

In a statement issued on Thursday, which came in response to the death of a Sri Lankan woman at a detention facility in Nagoya in March, the groups requested that Japan dramatically improve security for such people and improve related measures.

According to an investigative report released by the Immigration Services Agency of Japan, Wishma Sandamali, then 33, had claimed in January that she was being abused by her boyfriend and that she was worried as she had received menacing letters from him.

Personnel at the Nagoya Regional Immigration Services Bureau, however, did not treat her as a foreign national who may have been subject to domestic abuse. She later died at the Nagoya facility after being detained for overstaying her visa.

Speaking at a news conference, Motoko Yamagishi, secretary-general of Tokyo-based nonprofit organization Solidarity Network with Migrants Japan, said that Wishma's case showed that residency status is one of the reasons behind the lack appropriate protection for foreign nationals who are victims of domestic abuse.

Police and the immigration agency made "a big mistake" when they failed to take adequate action, Yamagishi said.

In the statement, the group said that the agency lacked an understanding of domestic violence to a considerable degree.

Noting that victims of domestic abuse should be given adequate protection without being discriminated against due to differences in nationality and residency status, the groups added that Japan should look into Wishma's case again and amend related laws.

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Additional information on Technical Intern Training Program (TITP)

1. Related paras and articles: LOIPR para. 20 - Technical Intern Training (Article 8)

2. Issues: Effective Improvement Measures for the Technical Intern Training Program (TITP)

4. Backgrounds:

2) Fundamental problems of the Technical Intern Training Program (TITP)

Our previous report has pointed out 1) lack of the freedom to change occupation, 2) enormous debt, and 3) forced return as the fundamental problems of the TITP that are causing various human rights violations.

The current report provides additional information concerning violence against technical intern trainees and restrictions imposed on them in relation to pregnancy and child birth.

(1) Violence against technical intern trainees

Cases of violence against technical intern trainees by Japanese bosses and colleagues have been reported, in particular in the construction sector.

In a case reported in January 2022, a technical intern trainee told, according to the media report, “the violence started about a month after coming to Japan. Just because I was a foreigner and could not speak Japanese well, the violence continued on a daily basis. Once I was kicked by a Japanese colleague with heavy boots, which broke three of my ribs. Once I was stabbed with a sharp tool on the sole of my foot. But I have not said anything but kept silent, because I thought, if I file a complaint or say anything, the people at the company would not be happy and I would be forced to quit the job and go back to my country, then I would not be able to pay back my debt.”

After this case became public, the government of Japan circulated a document to raise awareness among the monitoring organisations and technical intern trainees. However, its effectiveness is not clear.

Main factors causing violence against technical intern trainees are the vulnerability of trainees coming from the lack of the freedom to change occupation, having a large amount of debt and lack of Japanese language skills of Japanese to clarify matters. It can be said that the system of the TITP program itself is causing the problem.

(2) Restrictions imposed on the pregnancy and child birth

Technical intern trainees are expected to work for 3 to 5 years without changing the occupation and often restrictions are imposed on them not to be pregnant or give birth so that they can continuously work during the period of their program. In the research conducted by SMJ in 2021, it was revealed that about 80% of the responders were told that they must not be pregnant, forced to pledge themselves not to be pregnant, or actually sent back to their home countries because of pregnancy by agencies in their home countries, monitoring organisations and/or providers of their training in Japan with regard to their pregnancy.

Against this backdrop, the government of Japan issued awareness raising documents in 2019 and 2021. However, there are still cases of trainees who are afraid of telling the employers about their pregnancy because they think that they would have to go back to the home country or of trainees actually being fired because of their pregnancy.

The system in which trainees are brought to Japan as work force for a limited period and sent back thereafter is clearly being the root causes of this problem, whereby trainees are not regarded as human being.

3) Fact checking of the State reply of Japan to the LOIPR para.20

(a) forced return

In our previous report under this topic, at the end of 2nd paragraph, it was stated “the disclosure of such data has ceased since 2019.” However, after continuous request and advocacy by civil society organisations, the data for 2018-2020 was published in 2021. According to the data, the number of “Verification of Will” collected at air and seaports from the trainees returning home in mid-contract were: 17,000 in 2018, 18,600 in 2019 and 11,000 in 2020, while the number of claims of forced return among them were 14 in 2018, 12 in 2019, and just 1 in 2020. It is questionable whether the method of “Verification of Will” is effective in detecting the cases of forced return of trainees.

(c) (d) the number of inspections (replacing the previous text)

In the fiscal year 2020, there were reportedly 17,308 inspections conducted to the training provider organisations and 3,363 inspections to the supervising organisations. The total number of provider organisations the end of the fiscal year 2020 was about 70,000 and the target of once in three years is not achieved. At the same time, the number of supervising organisation was 3,200, which largely achieved the target of once a year. It can be attributed to the increase in the human resource and budget of the Organization for Technical Intern Training (OTIT).

In case of violations of laws and regulations, the OTIT gives “directives” and such “directives” were given in about 40% of the inspections conducted. On the other hand, violation of laws and regulations related to labour standards by the training provider organisations were found by Labour Standards Inspection bodies annually about in 70% of inspected cases. It can be said the inspection of the OTIT is not functioning well. Between November 2017 and June 2022, licenses of 33 supervising organisations were revoked and improvement order was given to 18 organisations. In the same period, 325 training provider companies received revocation of their licenses in 4,115 cases, and there were 15 cases of improvement orders. These numbers are quite small as compared to the number of their targets and the system is not functioning well.

(d) complaints filed by Technical Intern Trainees

There were 82 complaints filed by the technical intern trainees in the fiscal year 2020. The number of the trainees at the end of the fiscal year 2020 was about 380,000. The fact that the number of complaints was extremely lower than the number of trainees can be attributed to the deficit in the complaint mechanism itself.

5. Prepared by: Solidarity Network with Migrants Japan (SMJ)

Additional Report on Treatment of refugees and asylum seekers

1. Related paras and articles: LOIPR para 21, Treatment of aliens, including refugees and asylum seekers (arts. 7, 9, 10 and 13)

Government's report: Paragraphs 178 to 180, and 183, detention of asylum seekers

Paragraph 189, deportation of asylum seekers

Paragraph 194, prolonged periods of immigration detention

Paragraph 195, proper recognition of refugee status for a person eligible for refugee status

2. Issues:

- Government's reluctance on refugee recognition
- Government's move for law reform against the principle of non-refoulement
- Detention of a person with procedures for refugee protection pending
- Arbitrary immigration detention of undocumented immigrants
- Ill-treatment while in detention
-

3. Suggested Recommendations:

- No asylum seeker shall be deported without due process and consideration by an independent body that upholds fair standards consistent with the opinions of the UN High Commissioner for Refugees (UNHCR).
- Ill-treatment of detainees during deportation procedures shall be prohibited; the Immigration Facilities Visiting Committee should be empowered and its independence should be ensured.
- Detention during the deportation procedures should be judicially reviewed, and the need to detain should be individually examined. In case that detention is required, it should be as shorter as possible and be the last option after other alternatives have been examined. It is important that appropriate procedures should be guaranteed.
- Undocumented immigrants shall not be treated as criminals or anti-social entities nor be seen as targets of sequestering for security purposes.

4. The Current Situation (after the previous concluding observations in August 2014) :

- While Paragraph 195 states that, "... the Government...properly identify people who should be recognized as refugees", the Immigration Control Agency in charge of refugee status determination (RSD), however, is reluctant on refugee protection; the refugee recognition rate is unreasonably low, compared to most of the Treaty countries. (Exhibit 1)
- While Paragraph 189 states that, "Under the Immigration Control Act, deportation is suspended even for persons to whom a written deportation order has been issued during the process of an application for recognition of refugee status or of a request for review", in several cases, the refugee division of the Immigration Control agency coordinated with the division in charge of deportation on the notification date of the rejection of refugee status, and enforced their deportations on the same day. In September 2021, the Tokyo High Court judged that such practices violated the right to justice

of the asylum seeker who had been forcibly sent back to his country without giving him a prior notice of the dismissal of his objection, giving the notice while putting him in detention, and giving him no chance to communicate with people outside the detention center.

Following this, in 2021, the bill of revised Immigration Control Act was submitted to the Diet based on the Recommendations.” However, the bill met the increased opposition of the civil society who was indignant on the death of a Sri Lankan woman in the Nagoya detention center in March 2021, and it was then scrapped. The MOJ indicates its intention to revise the Act to facilitate deportation in view of the early solution of the problem of “deportation challengers.”

- Paragraphs 178-180 state that " Applicants for recognition of refugee status staying legally in Japan at the time of application are not detained. An applicant for recognition of refugee status without status of residence is granted permission for provisional stay and not detained unless he/she is recognized as falling under certain grounds such as a case where he/she is likely to flee". The Ministry of Justice, however, has overextended the scope of the "likely to flee". Of the 133 people who applied for refugee status at a port of entry in 2017, none were granted provisional permission to stay. 115 persons were rejected provisional stay, of which 100 cases were rejected on the ground of “likely to flee”. Among others, when a refugee status application is made at the airport on arrival and the permission for provisional stay is not issued, detention of the applicant is to continue.
- Paragraphs 180 and 194 state that “to people for whom particular humanitarian considerations are needed,” or “(w)hen there are unavoidable circumstances such as a detainee getting sick,” “maximum consideration is given” “by flexible implementation of provisional release”.
- Regarding the issue of long-term detention, the Working Group on Arbitrary Detention of the UNHRC announced its opinion that indefinite detention or no provision of the opportunity to have a judicial review are violation of the Covenant and correspond to arbitrary detention. Against this, the Immigration Service Agency Bureau made an objection in March 2021, and has not responded sincerely to the Working Group.
- While Paragraph 183 states that the Government is making its utmost efforts to thoroughly ascertain the health conditions of the detainees in immigration detention facilities, the Immigration Facilities Visiting Committee has repeatedly requested, for example, the detention center in Ibaraki, to reduce the time between a request for medical attention and the receipt of medical treatment, but no improvement has been confirmed.
- Meanwhile, in March 2021, the Nagoya Immigration Centre kept the detention of a Sri Lankan woman who got into a serious illness while in detention. Without permitting her a temporary release or bringing her to an outside hospital for emergency measures, the authorities after all let her die. Cases of unfair treatment including the death of the Sri Lankan woman are listed in the Exhibit 2.

Prepared by: Japan Lawyers Network for Refugees

Exhibit 1

RSD decisions in 2020 and 2021

First Instance (FI)- FI decisions on 3,524 persons (among them 46 persons were given refugee status.) in 2020 and on 4,261 persons (among them 65 persons were given refugee status.) in 2021.

Administrative Review (AR) – AR decisions on 5,272 persons (among them 1 person was given refugee status.) in 2020 and on 6,741 persons (among them 9 persons were given refugee status.) in 2021.

Decisions at First Instance (FI) by country of origin

	2020		2021	
	Rejected	Recognized	Rejected	Recognized
Sri Lanka	898	0	1,424	0
Cambodia	398	0	1,316	0
Nepal	468	0	487	0
Bangladesh	96	0	164	0
Pakistan	220	0	155	0
Myanmar	187	0	121	32
Turkey	506	0	92	0
India	170	0	72	0
Uganda	63	1	63	0
China	77	11	n/a	16

Exhibit 2

Case 1. At the detention center in Ibaraki Prefecture, a male detainee, who had been held for five months, had been complaining of chest pains and other symptoms since February 2014, and received a medical examination on March 27. The detainee was then moved to a solitary confinement cell to be observed by guard(s) who were outsourced by the immigration authorities. The detainee was suffering since the night of March 29th, rolling around on the floor and repeatedly saying "I'm dying", but the guard(s) did not contact the doctor, and as a result, he was confirmed dead (from illness) the next morning.

Case 2. At the detention center located in Tokyo, on 3 June 2017, a male detainee, who was an applicant for refugee protection and had been detained for one year and two months by that time, complained of stomach pain, but was only moved to a solitary confinement cell without medical examination; and when he complained loudly about his pain late at night the same day, he was only reprimanded by a staff member for his bad attitude and was not taken to seek a medical examination. The next afternoon he was rushed to the hospital and diagnosed with peritonitis and underwent emergency surgery.

Case 3. In July 2017 at the detention center located in Osaka Prefecture, a male detainee, who was an applicant for refugee protection, became frustrated with the attitude of the guards and threw a book against the wall after which he was taken away to isolation where he was knocked down on his back by seven or eight guards, held down to the floor by his head, torso, and legs, handcuffed behind his back, held down for approximately one and a half minutes, and, as a result, suffered a broken right arm.

Case 4. On 26 April 2019, a male detainee, who was an applicant for refugee protection, complained of testicular pain in the detention center located in Ibaraki Prefecture. A physician at the detention center presumed a testicular tumor and ordered medical treatment by a specialist, but three months and 20 days passed without a specialist's consultation. The detainee in question was permitted provisional release after going on a hunger strike, during which time he was found to have testicular cancer that had metastasized and underwent quasi-urgent surgery. He had been detained for three years and three months.

Case 5. On 19 January 2019, at the detention center located in Ibaraki Prefecture, a male detainee, who was an applicant for refugee protection and had been held for two years and eight months by that time, had his hands cuffed behind his back, the painful points at the base of his neck pressed, and arms forced upward by immigration officers. Upon the detainee's complaint, the director of the detention center acknowledged the unfair treatment of the detainee, but no action was taken against the guards and no compensation was given to the detainee, and the guards continued to be in charge of the detainee. Soon after, the detainee made repeated suicide attempts.

Case 6. On 25 June 2019, a male detainee who had been held for approximately two years and seven months in the detention center located in Nagasaki Prefecture died of starvation after a hunger strike, with the country of nationality and Japan unable to execute repatriation due to the inability to reach an agreement on a repatriation method. Neither medical examination nor assessment on his condition had been made by a doctor during the seven days before he starved to death. Staff at the center did not notice the imminent danger of death. In October of the same year, the Immigration and Naturalization Service (ICNES) indicated its stance that hunger strikers would be subject to compulsory medical treatment in the future.

Case 7. On 25 April 2020, at the detention center in Tokyo, dozens of security officers, including men, suppressed and segregated several female detainees (one of whom was an applicant for refugee protection who had been detained for two years and three months by that time) after they protested that the issuance of provisional release permission to combat the novel coronavirus was arbitrary. The detainees claimed that they were subjected to excessive violence and sexual insults.

Case 8. A transgender detainee at the Tokyo-based detention center, who had been held since September 2019, from the beginning of their detention to August 2020, was kept in a solitary cell for 22 hours a day, and although they were able to leave the cell for two hours to go to the common area, their free time was staggered relative to the other detainees' free time, and because of this, they could not meet with other detainees and the individual has therefore been kept in solitary confinement-like

conditions. The detainee was not allowed to receive hormones from the beginning of their detention until approximately April 2020. The detainee was diagnosed with depression while in custody.

Case 9. Inhumane and abusive incident took place in March 2021 in the Nagoya Immigration Detention Centre. A Sri Lankan woman got serious ill while in detention, but the authorities kept her in detention without permitting a temporary release or taking her to an outside hospital for life-saving measures, At last, she died. Despite the repeated information of her very dangerous situation given by her supports and the request for an appropriate medical treatment and a provisional release, the Immigration authorities did not respond to them.

Furthermore, she sought for a permission to stay because of domestic violence she was subject to, the Immigration authorities did not give her a temporary release for the reason that they would strongly persuade her to return home. This demonstrate that the authorities used the detention as means of enforcing her to return.

< Please read the *Additional information in the next page >

1. **Related Para and Article:** Para 30, Rights of minorities, article 26 and 27
2. **Issues:** Discrimination against minorities under the COVID-19 pandemic
3. **Suggested recommendations:**

The State Party should ensure the adequate funding of minority children without any discrimination regarding the measures on the COVID-19 pandemic.

4. **Background:**

A. Discrimination on the provision of the “Emergency Student Support Handouts for Continuing Studies”

On 19 May 2020, the Japanese government announced the establishment of the scheme of the Emergency Student Support Handouts for Continuing Studies, which aimed to provide cash handouts to students in higher education institutions who face financial difficulties as a result of the COVID-19 pandemic in order to prevent their school dropouts.¹ But we consider the scheme violated the ICCPR articles 26 and 27 in three major points below.

Firstly, the Government excluded students of Korea University from the recipients of the Handouts. When the scheme started, the Government designated students attending universities, junior colleges, technical colleges, vocational schools, and Japanese language institutions as recipients of the Handouts. But it excluded students of Korea University and some departments of foreign universities from the scheme because they are categorized as "miscellaneous schools" under the School Education Law. The Government consequently included the departments of foreign universities into the scheme but ended up excluding Korea University. It was because, according to the Government, the school does not have any scholastic connection with any Japanese universities in such form as school transfer. However, it has granted graduates of Korea University the qualifications for entering graduate schools in Japan and taking an examination to be a licensed social worker. It means that the Government recognizes Korea University as a higher educational institution. The exclusion of students attending Korea University from the scheme can amount to discrimination based on race, ethnic or national origin since they are resident Koreans (“Zainichi Koreans”), who belong to minority groups in Japan.

Secondly, the scheme established additional criteria for international students to have excellent grades. The scheme conditioned that the average grades of international students for the previous school year must be 2.30 or higher to apply for the handout.² However, the financial difficulties international students face have nothing to do with their academic performance. This criterion for international students can amount to discrimination based on nationality.³

¹ Under the scheme, students who are exempt from residence tax can receive 200,000 Japanese yen (approx. 1,857 USD), while students of other households can receive 100,000 Japanese yen (approx. 928 USD). See Emergency Student Support Handout for Continuing Studies: Application Guide (for Students): https://www.mext.go.jp/content/20200527_mxt_gakushi_01_000007490_01.pdf

² See page 5 of the Application Guide.

³ Civil Society in Japan announced a joint statement regarding this issue. See NGO Joint Statement, *Calling for the Provision of the “Cash Handouts to Support Students” to All the Students in Need*, <https://imadr.net/wordpress/wp-content/uploads/2020/05/V2->

B. Discrimination on the scheme of the “Ensuring learning for primary / secondary and post-secondary students”

On 5 June 2020, the Japanese government announced a new scheme of the “Ensuring learning for primary/secondary students”, which financially supports all primary, junior high, high, and special needs education schools in Japan.⁴ The aim of the scheme is to provide funds to those schools so that each school can both ensure the learning of children and can take measures to prevent COVID-19.

However, the Government unilaterally excluded foreign schools accredited as “miscellaneous schools” from the scheme, despite the fact that it demands all schools including “miscellaneous schools” to refrain from opening their schools under the Act on Special Measures for Pandemic Influenza, which aims the prevention of pandemic.⁵ The exclusion of foreign schools accredited as “miscellaneous schools” from the scheme for prevention of the COVID-19 and ensuring the learning of children is unreasonable. It can amount to discrimination based on race, ethnic or national origin.

5. prepared by: Human Rights Association for Korean Residents in Japan

*Additional Information

In June 2020, the International Movement Against All forms of Discrimination and Racism (IMADR) submitted complaints to the Special Procedures concerning the issue of discrimination in the provision of the “Emergency Student Support Handouts for Continuing Studies.” In response to this, the four Special Rapporteurs⁶ sent a joint letter to the Japanese government on February 2021. In the letter, they expressed their concern that the scheme does not comply with Japan’s obligations under the international human rights law, including the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the International Convention on Elimination of All Forms of Racial Discrimination (ICERD), to which Japan is a state party⁷.

Although the Japanese government sent a reply to the Special Rapporteurs on April 2021, the government failed to make a reasonable explanation about the issues mentioned above. Korea University and Solidarity Network with Migrants Japan (SMJ) provided counterarguments to this reply⁸.

[Statement-on-Cash-Handouts-for-Students-in-Need.pdf](#)

⁴ See page 2 of the MEXT FY 2020 Second Supplementary Budget: https://www.mext.go.jp/en/content/20200720-mxt_kokusai-00005414_2.pdf

⁵ As of May 2019, there are more than 120 foreign schools accredited as “miscellaneous schools” with approximately 25,000 children.

⁶ Special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Special Rapporteur on the right to education, Special Rapporteur on the human rights of migrants, and Special Rapporteur on minority issues.

⁷ See AL JPN 2/2021. In the letter, the Special Rapporteurs expressed their concern that the scheme discriminates against minority students at Korea University and that such exclusions risk undermining the institutional autonomy of the school. The Special Rapporteurs also mentioned that the exclusion further jeopardizes their access to an education that facilitates the promotion of their national, ethnic cultural and linguistic identities. Concerning the issue of the different treatment of international students, the Special Rapporteurs mentioned that the difficulties they face have nothing to do with their academic performance and that the treatment may amount to discrimination prohibited by ICERD.

⁸ See <https://www.korea-u.ac.jp/20210906014-2/> (Korea University, written in Japanese), https://migrants.jp/user/news/534/tt4o1jd8w_br6zszwa919b67obu3oneq.pdf (SMJ, written in Japanese). You can listen to the voices of students of Korea University who were excluded from the scheme on YouTube: <https://qr.paps.jp/vQprJ> (Spoken in English)