
Discrimination Against Koreans in Japan: Japan's Violation of its International Human Rights Obligation

Lawyers Association of *Zainichi* Koreans (LAZAK) Submission to the Universal Periodic Review (Third Cycle) of Japan

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Lawyers Association of *Zainichi* Koreans (“LAZAK”) was established in May 2001 by Korean and Korean-Japanese lawyers and legal apprentices, who reside in Japan. The term “*Zainichi* (“residing in Japan”) Korean” includes those who live in Japan and maintain the nationality of the Republic of Korea (“ROK”) or the Democratic People's Republic of Korea (“DPRK”) as well as Japanese nationals who are of Korean descent and regarded their ethnicity as Korean. Currently more than 100 *Zainichi* Korean lawyers and legal apprentices belong to LAZAK. Towards the abolition of discrimination against *Zainichi* Koreans and protection of ethnic human rights in Japan, members of the LAZAK have provided legal support for litigation related to human rights of *Zainichi* Koreans. Besides that, LAZAK has published several books related to *Zainichi* Koreans and built relationships with Korean lawyers all over the world. Because of these activities, LAZAK was awarded a human rights prize from National Human Rights Committee of the ROK Government in 2007. LAZAK submitted its shadow report to the UN CERD Committee with respect to the discrimination Against Koreans in Japan in July 2014.¹

As of December 2016, there are approximately 500,000 Korean residents in Japan. Approximately 330,000 of them are individuals who had been forced to live in Japan in the first half of the twentieth century when Korea was a Japanese colony, and their descendants. Majority of Korean residents have lived in Japan for three to four generations. Because Japanese Nationality Act is based on strict blood lineage, Korean residents in Japan remain foreign nationals, though they have lived in Japan for multiple generations. As described in this report, Koreans in Japan are still subjected to a range of discrimination and disadvantage for reason of their nationality.

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1. Summary

1. This report provides information about the discrimination against Koreans in Japan. As of December 2016, there are approximately 500,000 Korean residents living in Japan on a permanent basis¹. Among them, around 330,000 Koreans live in Japan as Special Permanent Residents. Special Permanent Residents (tokubetsueijūsha) are resident of Japan with ancestry related to its former colonies, Korea or Taiwan when they were under Japanese colonial rule. These Special Permanents or their ancestors used to have Japanese nationality under the Japanese colonial rule, but they are deprived of Japanese nationality in 1952 when Japan signed the Treaty of San Francisco. Unlike Western colonial powers, Japanese government deprived the nationalities of colonial residents in Japan without considering the will of colonial residents².

2. Under the ICCPR or the UN Declaration of Minority Rights, these Korean residents with permanent resident status fall within the definition of national or ethnic minorities. However, Japanese government has never treated Korean residents as national or ethnic minorities³, and taken no measures to protect and promote the ethnic, cultural or linguistic identity of Korean residents. Rather, these Korean residents in Japan have faced various discriminations because of the nationality requirements set out in various laws. Furthermore, Korean schools are experiencing discrimination compared to other international schools (See Chapter 6 of this report).

3. Among various discriminations against Koreans in Japan, this report provides information on 5 issues: (1) Lack of Comprehensive Anti-Racial Discrimination Law and Protection of Minority Rights, (2) Hate speech and Hate Crimes, (3) Lack of Voting Rights in the Local Government, (4) Exclusion and Restriction of Korean Residents and Other Foreign Nationals From Public Office, and (5) Exclusion of Korean Schools From the High School Tuition-Waiver Program. Issue (1) and (2) are related not only to Special Permanent Resident Koreans, but also related to Koreans with other immigration status as well as Japanese nationals who have ethnic Korean roots. Issue (3) and (4) also related to foreign nationals in Japan in general as well as Special Permanent Resident Koreans, but from the international human rights law perspectives, restriction of rights to vote and public office raise serious concerns especially with respect to Special Permanent Resident Koreans considering the historical contexts. Issue (5) relates to those who attend(ed) Korean schools in Japan who include Special Permanent Resident Koreans as well as Koreans with other immigration status and Japanese nationals.

2. Lack of Comprehensive Anti-Racial Discrimination⁴

(1) Background

4. Foreigners in Japan, including Koreans in Japan, have faced significant levels of discrimination. Many foreigners who sought housing in Japan had applications turned down and were denied jobs.

5. Japanese government has not surveyed racial discrimination or discrimination against foreigners on a nation-wide level⁵, but some local governments, which have a large foreign population, conducted survey on discrimination against foreigners inside their jurisdiction. Although the result of survey differs, at least 20 percent of foreigners reported that they encountered housing discrimination⁶. In Japan, there is no law specific to the housing discrimination, and no case law

found the central or local government liable for the lack of legislation or ordinance which prohibited housing discrimination.

6. There is no disaggregated data on the employment situation of Japanese nationals and foreigners in Japan. However, according to the analysis of census conducted by the Japanese government, Koreans in Japan, have a higher percentage of unemployment rate than Japanese people. Koreans in Japan tend to work less stable positions than Japanese citizens. According to the analysis of census, a higher percent of Koreans work as a temporary contract worker or part time worker compared with Japanese people. Even among the younger generation Koreans, most of whom were born and educated in Japan, have encountered similar employment discrimination⁷. There are only a few cases, where Koreans claimed the denial of application in a court case, due to the difficulty of proving the discrimination based on ethnicity. Japanese law or jurisprudence does not prohibit the indirect racial discrimination, and the Labor Standards Inspection Office also does not conduct investigation unless direct discrimination happens repeatedly.

(2) Lack of Mechanism to Protect Human Rights Violations against Ethnic or National Minorities

7. Contrary to the information provided by the Japanese government⁸, existing regulations including the Article 14 of the Constitution does not provide remedy for the widespread discrimination among racial and ethnic minorities in Japan. No law in Japan provides remedy for the indirect discrimination based on ethnicity or nationality.

8. Furthermore Human Rights Bureau inside the Ministry of Justice does not work properly to deal with human rights petitions brought by racial or ethnic minorities. First of all, Human Rights Bureau is situated inside the Ministry of Justice, and not independent of the government entities as required under the Principles relating to the Status of National Institutions (Paris Principles). All of the Bureau's staffs are Japanese nationals, and not sensitive enough to understand the discrimination among Koreans or other ethnic minorities in Japan. There are reports of discrimination by the staff of Human Rights Bureau against those who reported the damage of hate speech against Koreans⁹.

9. Furthermore, according to its internal regulations and the current practice, Human Rights Bureau handles only a limited case of human rights violations where violations against specific individuals can be explicitly found under the existing case law. NGOs are not allowed to file a petition to the Human Rights Bureau on behalf of victims. The procedure of handling the complaint at the Human Rights Bureau is not transparent. Even when the petition is dismissed, no reason or explanation is provided for a petitioner, and the decision is not accessible from the public. Decision of the Human Rights Bureau does not have a legally binding effect, and no sanction is imposed for those who violated the decision made by the Human Rights Bureau.

(3) Current Status on Making Anti-Racial Discrimination Laws

11. Korean communities and supporting organizations in Japan have called on the government to make a law addressing racial discrimination in a comprehensive way. In May 2015, the Democratic Party of Japan, the Social Democratic Party and independent Upper House member Keiko Itokazu submitted the draft bill to the legal committee of the Upper House of the Japanese Diet regarding anti-racial discrimination. However, the ruling LDP party is reluctant to work on the

issue of racial discrimination in Japan, and the discussion on the bill was postponed, and later the bill was withdrawn. In June 2016, Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behavior against Persons Originating from Outside Japan passed the Japanese Diet¹⁰. Although this was a step forward, this Act covers only hate speech, and does not address racial discrimination as a whole.

(4) Recommendations

12. Following the Recommendations from the UN treaty bodies¹¹, conduct survey regularly on the actual situations of discrimination based on ethnicity and nationality, and collect statistical data on socioeconomic indicators, disaggregated by ethnicity and nationality.

13. Establish a comprehensive anti-discrimination law that prohibits direct and indirect discrimination based on race, ethnicity and nationality, and that accompanies an independent national human rights institution in compliance with the Paris Principles.

3. Hate Speech and Hate Crimes¹²

(1) Hate Speech

16. Hate speech and hate crimes against Koreans in Japan have been increasingly widespread in recent years¹³. According to the survey initiated by the Ministry of Justice, 1,152 hate-rallies or demonstrations were held by xenophobic groups between April 2012 and September 2015¹⁴. These rallies include hateful message such as “Kill” or “Exterminate” Koreans, which inflict emotional damages against Koreans in Japan.

17. While new anti-hate speech law was enacted in 2016¹⁵, the law only provides basic principles against hate speech, and does not prohibit hate speech. Even after the enactment of the new law, hate rallies by xenophobic groups have been organized repeatedly. Hate speech and fake news inciting discrimination against Koreans are still widespread on the Internet, and no effective action was taken by the Japanese government to address online hate-speech and fake news with respect to Koreans.

(2) Hate Crimes

18. In parallel with the increase of hate speech, hate crimes are gradually increasing in Japan¹⁶. Although the Japanese government states that “the government of Japan recognizes that racially discriminatory motive is proven as vicious motive accordingly in the criminal trials in Japan and that the court takes it into consideration in sentencing”¹⁷, there seems to be no case where racially discriminatory motive was considered as an aggravating factor in sentencing.

(3) Recommendations

19. Enforce anti-hate speech law of June 2016 effectively, and allocate necessary resources for the enforcement. In the process of enforcement, reflects the voices of minority communities who are the victims of hate speech.

20. In compliance with the Article 4(c) of the ICERD, prohibit demonstrations and rallies on the public road, use of public facilities such as civil halls or centers, by organizations or individuals that incite racial discrimination

21. Learning from the practices in other countries to address online hate-speech and fake-news, establish a guidance or mechanism which will help internet-providers or internet-media to address hate speech and fake-news inciting discrimination against ethnic minority groups, voluntarily without waiting for the complaint from victims groups.

23. Withdraw reservations on Article 4 (a) and (b) of the ICERD.

4. Lack of voting rights in the local government¹⁸

(1) Background

24. Under the Japanese laws, voting rights are limited to those who hold Japanese nationality in both national and local government¹⁹.

25. Japanese nationality law adopts *Jus sanguinis* (right of blood) principle, and Japanese nationality are given to those whose one or both parents are Japanese nationals. Under this nationality law, descendants of former colonial residents cannot obtain Japanese nationality unless one of their parents marries Japanese person, or they naturalize. Furthermore, Japanese government controlled naturalization process in Japan in an assimilatory manner²⁰, so many Special Permanent Resident Koreans in Japan hesitate to naturalize until now for multiple generations.

26. Due to this nationality law and election laws, around 330,000 Koreans cannot vote in either local or national elections, although vast majority of them were born and grew up in Japan. Ironically, their ancestors could vote during the colonial era, because these ancestors used to be Japanese nationals at that time. Deprivation of Japanese nationality of former colonial residents in 1952 still excludes their descendants from political participation at any level.

27. While the Japanese Supreme Court allows the possibility of granting voting rights in the local government through national legislation in 1995²¹, because of the political opposition of the ruling LDP party and other political groups, such legislation is not yet realized.

28. In the case of former colonial resident Koreans, exclusion from voting in local elections constitutes violation of the Article 2 of the ICCPR or ICERD. Deprivation of nationality in relation to the succession of states constitutes “racial discrimination” based on “national origin” under the ICERD or ICCPR.

29. Finally, since the Republic of Korea has already granted voting rights in the local government for foreign nationals with permanent residency status²², the position of the Japanese government is in conflict with the principle of reciprocity.

(2) Recommendation

30. Enact a legislation to grant voting rights in the local government for foreigners with permanent resident status.

5. Exclusion and Restriction of Korean Residents and Other Foreign Nationals From Public Office²³

(1) Background

31. In Japan, foreigners including, former colonial resident Koreans in Japan, are not eligible for various public positions without legitimate reasons. Even in the public positions are open to foreigners, their promotion opportunities are largely restricted without legitimate reasons.

32. From Japanese government's point of view, "Japanese nationality is required for civil servants who participate in the exercise of public power or in the public decision-making."²⁴ Therefore, Koreans in Japan are not eligible for positions as national public servants. Foreigners can become public employees at local governments, but many local governments restrict their employees who do not hold Japanese nationality from the opportunities of promotion to managerial or superior posts. This treatment has been eventually upheld as constitutional by the Japanese judiciary²⁵.

33. A large number of local governments disqualify foreign nationals' eligibility for firefighters who engage in fire extinguishing activities without legitimate reasons²⁶. Furthermore, Japanese government excludes foreign nationals from positions such as Conciliation Commissioners²⁷, Judicial Commissioners²⁸, and Civil Rights Commissioners (jinken yogo iin)²⁹, Commissioned Welfare Volunteers (jido iin), and Commissioned Child Welfare Volunteers³⁰ even though those who are in this position do not engage in any kind of activities that entail the exercise of public power as a nature of their duties.

34. Although these exclusion and restriction of foreign nationals from public office have been criticized from the UN treaty bodies repeatedly³¹, Japanese government continues to maintain this discriminatory practice.

(2) Recommendations

35. Eliminate all legislation, administrative rules and practice which implicitly or explicitly prohibit foreigners from being promoted to managerial positions in local government offices.

36. As for specific public jobs such as conciliation commissioners, judicial commissioners and firefighters, eliminate every legislation, administrative rules and practices that prohibit foreigners to be appointed to these positions.

6. Exclusion of Korean Schools from the High School Tuition-waiver Program³²

(1) Background

(i) Exclusion of Korean Schools from the High School Tuition-waiver Program

37. Following the end of World War II, Koreans residing in Japan established Korean schools to educate their children³³. Classes are taught mostly in Korean at Korean schools and, Korean history and society are parts of curricula^{34,35}.

38. Foreign schools, including Korean schools, cannot receive subsidies from the national treasury except for the high school tuition-waiver program. While foreign schools are receiving some financial support from local governments (with varying amounts), the amount given is dramatically lower than that given to Japanese schools.

39. Japan introduced a system to eliminate tuition fees for public high schools and supply support funds to students of national and private high schools, etc (free tuition fee at public high schools/high school enrollment support fund system) was started in April 2010.

40. This program covered students who attend schools for foreign nationals approved as miscellaneous schools which are designated by the Minister of Education, Culture, Sports, Science and Technology as having curricula equivalent to the high school curricula, irrespective of their national affiliation³⁶.

41. Although foreign schools have been also covered by the tuition free program³⁷, Korean schools were excluded from the high school tuition-waiver program because of the diplomatic tension with the DPRK.

42. As of July 2016, approximately 3,000 high school graduates of Korean schools were estimated to be excluded from the high school tuition-waiver program, many high school students are excluded from the high school tuition-waiver program as of now.

The exclusion of Korean students from the high school tuition-waiver program because of the diplomatic tension with the DPRK is racial discrimination against the right to education³⁸.

(ii) Decrease in Financial Support from Local Government

43. While Prefectures and municipalities had long been providing Korean schools with financial support, their support has started to dwindle or be terminated in the wake of the high school tuition-waiver program's exclusion of Korean schools. Specifically, the termination of financial support by Osaka Prefecture and the city of Osaka in 2011 triggered a nation-wide movement for termination and abolishment of financial support³⁹, with the result that 8 out of twenty-seven prefectures with Korean schools did not include financial support for Korean schools in their 2013 budgets. There is also a growing movement for halting financial support at the municipal level. Many local governments cite the DPRK's nuclear programs and lack of progress in abduction issues as reasons for halting financial support, and it is clear that political considerations are influencing the governments' decision to halt financial support. In March 2016, Education Minister issued the guideline, saying local governments should be more cautious about providing subsidies to Korean schools, and Ibaraki prefecture stopped subsidy after the guideline.

44. To extend the responsibilities for foreign political incidents, over which children have no power, is a violation of the right to education of Korean residents attending Korean schools⁴⁰.

(2) Recommendations

45. Include Korean schools as recipients of the high school tuition-waiver program.
46. Ensure that local governments shall retract their decision to halt or abolish financial support to Korean schools and must resume financial support to Korean schools.

¹ For basic background information about Koreans in Japan in English, see Chung, Erin Aeran “Immigration and Citizenship in Japan,” Cambridge University Press, March 2010.

² Supreme Court of Japan has continued to approve the deprivation of nationality, despite the criticism that such one-sided deprivation of nationality violates the Japanese constitution and international human rights law. See Supreme Court decision of April 5 1961, available at: http://www.courts.go.jp/app/hanrei_en/detailPid=17.

³ In the reports submitted by the Japanese government to UN treaty bodies and the UPR, Japanese government never treated Korean residents as national or ethnic minorities to be protected by the Article 27 of the ICCPR or Article 30 of the CRC. For example, Japanese government reported only on policies about the Ainu people with respect to ethnic minority in its response to the previous UPR recommendations. See “Mid-term Report on the progress made in the implementation of the recommendations issued at the second cycle of the Universal Periodic Review,” January 2017, response to recommendation 161 (Libyan Arab Jamahiriya), available at <http://www.mofa.go.jp/mofaj/files/000225031.pdf>

⁴ Following are the recommendations from the Second UPR of Japan, which are related to this issue. A/HRC/22/14, recommendations 147.34 (Canada), 147.35 (South Africa), 147.36 (Switzerland), 147.37 (Uzbekistan), 147.40 (Iran (Islamic Republic of)), 147.63 (Cuba), 147.64 (Palestine), 147.84 (Namibia), 147.85 (Norway), 147.91 (Democratic People’s Republic of Korea), 147.92 (Tunisia), 147.161 (Libyan Arab Jamahiriya), and 147.166 (Sudan).

⁵ For the first time in its history, Japan’s government undertook a nationwide survey of discrimination toward foreign residents in Japan, but the result is not yet published at the timing of this submission.

⁶ According to a survey conducted by Ota District (Tokyo) in 2014, Shizoka Prefecture in 2009, City of Kyoto in 2007, and City of Kawasaki in 2014, 33.5%, 24.3%, 21.8%, and 21.3% of foreigners have experiences housing discrimination respectively. See Research Group on Racial Discrimination, “Report on the actual situation of racial discrimination in Japan” Chapter 3 (available in Japanese only); available at: <https://gjinken.files.wordpress.com/2016/04/report160419.pdf>

⁷ See Research Group on Racial Discrimination, “Report on the actual situation of racial discrimination in Japan” Chapter 2 (available in Japanese only); available at: <https://gjinken.files.wordpress.com/2016/04/report160419.pdf>

⁸ Japanese government states that the human rights protection organization of the Ministry of Justice has appropriately addressed individual cases of human rights violations. See, the government of Japan, “Mid-term Report on the progress made in the implementation of the recommendations issued at the second cycle of the Universal Periodic Review,” January 2017, response to recommendations 34 (Canada).

⁹ Mainichi Newspaper 2015 April 13 “Koreans were disappointed at the response of call centers at Human Rights Bureau which are in charge of hate speech” (available in Japanese language only).

¹⁰ Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behavior against Persons Originating from Outside Japan. English text of the law is available at: http://www.moj.go.jp/ENGLISH/m_jinken04_00001.html

¹¹ CERD/C/JPN/CO/7-9, para 6.

¹² Following are the recommendations from the Second UPR of Japan, which are related to this issue. A/HRC/22/14, recommendations 147.34 (Canada), 147.35 (South Africa), 147.36 (Switzerland), 147.37 (Uzbekistan), 147.40 (Iran (Islamic Republic of)), 147.63 (Cuba), 147.64 (Palestine), 147.84 (Namibia), 147.85 (Norway), 147.91 (Democratic People’s Republic of Korea), 147.92 (Tunisia), 147.161 (Libyan Arab Jamahiriya), 147.163 (Myanmar), and 147.166 (Sudan).

¹³ For the conditions of hate speech in Japan up to July 2014, refer to the following shadow report drafted by LAZAK for the UN CERD Committee, available at:

http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/JPN/INT_CERD_NGO_JPN_17699_E.pdf

¹⁴ Center for Human Rights Education and Training, “Research Paper on the Actual Situation of Hate Speech”, available at: <http://www.moj.go.jp/content/001201158.pdf> (available in Japanese language only).

¹⁵ Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behavior against Persons Originating from Outside Japan. English text of the law is available at: http://www.moj.go.jp/ENGLISH/m_jinken04_00001.html

¹⁶ For example, on 4 December 2009, members of Zaitokukai and other xenophobic groups showed up in front of the gate of Daiichi Kyoto Korean primary school and blasting hate speech using microphones. They also damaged school facilities such as a platform and a speaker. They said, for example “Korean schools, they aren’t school at all!”, “You are North Korean institute for training spies!”, “Promises are only made between humans, so nothing can be made between humans and Koreans!”, or “Go back to the Korean Peninsula, and eat shit!” These members of xenophobic groups have again rallied around the school chanting hate speech on 14 January and 28 March 2010. Police officers were present on the site but took no action to prevent the hate speech. The school filed a criminal complaint, and four perpetrators were arrested and prosecuted with the crimes of obstruction of business by force, contempt and property damage. They were convicted at the Kyoto District Court and were sentenced to one to two years imprisonment with probation. The sentence is almost the same as the similar criminal cases that do not involve racial motivation, and discriminatory motivation was not at all reflected in the judgment.

¹⁷ See Japanese Government, “Mid-term Report on the progress made in the implementation of the recommendations issued at the second cycle of the Universal Periodic Review,” January 2017, response to recommendation 34 (Canada), available at <http://www.mofa.go.jp/mofaj/files/000225031.pdf>.

¹⁸ Following are the recommendations from the Second UPR of Japan, which are related to this issue. A/HRC/22/14, recommendations 147.34 (Canada), 147.35 (South Africa), 147.36 (Switzerland), 147.37(Uzbekistan), 147.40 (Iran (Islamic Republic of)), 147.63 (Cuba), 147.64 (Palestine), 147.84 (Namibia), 147.85 (Norway), 147.91 (Democratic People’s Republic of Korea), 147.92 (Tunisia), 147.161 (Libyan Arab Jamahiriya), and 147.166 (Sudan).

¹⁹ Article 9, Paragraph 1 of the Japan Public Offices Election Act prescribes that “Japanese citizens aged 18 years and older have the right to vote for members of the House of Representatives and the House of Councillors”. Article 9, Paragraph 2 of the same law prescribes that “Japanese citizens aged 18 years and older who have continuously maintained an address in a municipal district for three months or longer shall have the right to vote for the members and chairperson of that municipal government assembly”. Article 11 of the Local Autonomy Act prescribes that “Japanese citizens who are residents of a regular municipality shall, based on the provisions of this Act, have the right to participate in elections of the municipal government to which the citizens belong”. Moreover Article 18 of the same law prescribes that “Japanese citizens aged 18 years or older who have continuously maintained an address in a municipal district for three months or longer shall, based on the provisions of other acts, have the right to vote for members and chairperson of the assembly of the municipal government to which the citizens belong”.

²⁰ For example, foreigners who want to naturalize, had to change their last names into Japanese style last names until 1990s. Whereas most of former colonial powers have set up simplify naturalization requirements for residents from their former colonies, Japanese nationality law does not provide any such simplified naturalization process. In Japan, one has to give up his or her nationality to naturalize. Because of these multiple factors, many Koreans in Japan for multiple generations have regarded naturalization as ethnic or cultural assimilation into the Japanese ethnicity, not simply as acquisition of nationality. Japan is the only OECD member country that adopts jus sanguinis (right of blood) principle in its nationality law, and does not recognize dual citizenships, and does not provides voting rights of any kind to foreigners with permanent resident status. See MIPEX, Japan <http://www.mipex.eu/japan>.

²¹ Supreme Court decision of February 28 1995, available at http://www.courts.go.jp/app/hanrei_en/detail?id=201

²² See Secretary-General Jong Woo, National Election Commission, Republic of Korea, “Political Participation of Immigrants in Korea”, available at:

http://eci.nic.in/eci_main/dj/internationalconf/Korea.pdf

²³ Following are the recommendations from the Second UPR of Japan, which are related to this issue. A/HRC/22/14, recommendations 147.34 (Canada), 147.35 (South Africa), 147.36 (Switzerland), 147.37(Uzbekistan), 147.40 (Iran (Islamic Republic of)), 147.63 (Cuba), 147.64 (Palestine), 147.84 (Namibia), 147.85 (Norway), 147.91 (Democratic People’s Republic of Korea), 147.92 (Tunisia), 147.160 (Germany), 147.161 (Libyan Arab Jamahiriya), 147.163 (Myanmar), and 147.166 (Sudan).

²⁴ See, for example, Japanese Government Periodic Report to the UN CERD Committee submitted in 2000 at ¶30. CERD/C/350/Add.2.

²⁵ Supreme Court decision of January 26 2005, available at http://www.courts.go.jp/app/hanrei_en/detail?id=732.

²⁶ However, according to the purpose of their jobs to ensure the safety of individuals and to protect property in emergency, no justifiable reason requires that the nationality of firefighters be a concern for its qualification.

²⁷ Japan’s civil dispute resolution system has a conciliation procedure for civil and family affairs in addition to the formal litigation procedure. In the conciliation process, the conciliation body consisting of one judge and no less than two members of the conciliation commissioners, who were chosen from non-judiciary citizens, is in charge of the case. The body, based on the agreement of the parties, attempts to reach a settlement of the case utilizing counsel and advice. As a

general practice, the appointment process of lawyers who are qualified for members of the conciliation commissioners is as follows: first, each bar association recommends candidates from among its member attorneys at the request of a family or district court, and then the Supreme Court appoints the recommended candidates as members.

²⁸ In the expedited and modified proceedings in summary courts, the court, by its own discretion, may have a judicial commissioner to assist an attempt to arrange a settlement or to attend the trial to hear his or her opinions on the case. In general, lawyers are assigned as judicial commissioners by summary courts based on the recommendations of the relevant bar associations.

²⁹ Based on the Civil Rights Commissioner Act, human rights commissioners are civilian volunteers who provide human rights consultations and engage in activities to expand awareness of human rights. The human rights commissioner system was established with the aim of expanding awareness of human rights in a broad range of fields, and protecting human rights to prevent human rights violations in local communities. Although human rights commissioners are not paid, as of January 2017, approximately 14,000 have been commissioned by the Minister of Justice and are assigned to municipalities around the country.

³⁰ Commissioned child welfare volunteers provide consultations, support, and other services for protecting children and responding to concerns over child-raising or during pregnancy so that children in a community can live in good health and safety.

³¹ CERD/C/JPN/7-9, para 86.

³² Following are the recommendations from the Second UPR of Japan, which are related to this issue. A/HRC/22/14, recommendations 147.34 (Canada), 147.35 (South Africa), 147.36 (Switzerland), 147.37(Uzbekistan), 147.40 (Iran (Islamic Republic of)), 147.63 (Cuba), 147.64 (Palestine), 147.84 (Namibia), 147.85 (Norway), 147.91 (Democratic People's Republic of Korea), 147.92 (Tunisia), 147.161 (Libyan Arab Jamahiriya), and 147.166 (Sudan).

³³ Nowadays, Korean schools are located throughout Japan, also maintaining relations with the DPRK with which Japan has no diplomatic relation.

³⁴ But education on Japanese history and the structure of Japanese society suggests a degree of similarity with the Japanese education system.

³⁵ In Japan, facilities in which foreign nationals provide independent education in their native language, including Korean schools, cannot be authorized schools because “school” is defined as an educational facility that uses certified textbooks written in the Japanese language (Fundamental Law of Education Articles 1, 34, 49,62,70 and 82). However, as is the case with driving schools, facilities that provide education similar to school education can be authorized as “miscellaneous schools” by a prefectural governor, and many of educational facilities intended for foreign nationals, including Korean schools, fall under the category of miscellaneous schools under prefectural governor's authorization.

³⁶ Article 2, item 5 of the Law to provide high school enrollment support fund, and article, and Article 1 section 2 of the implementing regulations of the Law.

³⁷ Foreign schools are covered by the tuition free program, if the school meet one of the following three criteria: (a) those which can be confirmed through an embassy as having curricula equivalent to those of Japanese high schools, (b) those which can be confirmed as having obtained certification from an internationally-proven school evaluation organization, and (c) those which have been designated by the Minister of Education, Culture, Sports, Science and Technology as those which are recognized to have curricula equivalent to those of Japanese high schools in addition to those listed in (a) and (b). Korean schools do not satisfy category (a) on the grounds that, in the absence of a diplomatic relation with the DPRK, the country's curricula cannot be certified; without authorization from any internationally recognized school evaluation organizations, Korean schools do not satisfy category (b); accordingly, Korean schools must (c) be recognized by the Minister of Education, Culture, Sports, Science, and Technology in order to become eligible for the high school tuition-waiver program. Although ten Korean schools had applied for recognition until the application deadline (November 30, 2010), the Minister failed to offer a conclusion for more than two years.

Moreover, on February 20, 2013, the Minister of Education, Culture, Sports, Science, and Technology revised the ministerial code to remove (c), excluding Korean schools from the program. Upon the ministerial code revision, the Minister stated his view that “it is not possible to expect people's understanding for Korean schools at this point considering the fact that the abduction issues have not seen much progress and that the schools' intimate relationship with the General Association of Korean Residents has an influence on their education content, human resources, and fiscal policy.” It is clear that the revision of administrative rules was influenced by the political situation with the DPRK.

³⁸ CERD/C/JPN/CO/7-9, para 19.

³⁹ Osaka Korean School brought a lawsuit against the Osaka Prefecture and the Osaka city seeking the cancellation of administrative activities which stopped the subsidy to the Korean School. On 26th January, 2017, the Osaka District Court ruled a decision to reject all of the Osaka Korean School's claims. The case is pending at the Osaka High Court.

⁴⁰ CERD/C/JPN/CO/7-9, para 19.