



The International Movement Against All Forms of Discrimination and Racism

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## NGO Information for the 121<sup>st</sup> session of the Human Rights Committee in regard to the “List of Issues Prior to Reporting” on Japan

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#### 1. General Information

Since the previous review on the report of Government of Japan by the Human Rights Committee in 2014, there have been some positive changes in the country in regard to the elimination of racial discrimination. In 2016, the act on the elimination of hate speech against non-Japanese was enacted, and the act on the promotion of the elimination of Buraku discrimination was also enacted. However, the both acts do not have a punitive clause while focusing on the promotion of human rights education and awareness-raising for the public (not for the public officials) and provision of consultation service as one of means for addressing the problems.

Meanwhile, the number of street demonstrations with apparent hateful remarks against minority communities has decreased, however, it is observed that the speech is made in more indirect way of expression with the same purpose and meanings. As reported in the following pages, discrimination against Buraku has escalated on the Internet despite the act enacted in December 2016. While the enactment of two acts has brought some positive changes, it is still far from the achievement of elimination of racial discrimination leaving victims behind with no effective remedies or restoration of their dignity.

We do not see any move in the government towards the establishment of independent national human rights institution in accordance with the Paris Principles, nor the recognition of individual communications system with any of UN human rights treaty bodies that Japan has ratified or acceded to.

## **2. Human Rights Challenges faced by Minority Women including Buraku Women**

In Japan, minority women including Buraku, Zainichi Korean and indigenous Ainu women, each minority group with different backgrounds, are facing many challenges in exercising their human rights. However, these challenges are not adequately being addressed either in the human rights policies or woman policies both in the public and private sectors. One of reasons rests with an absence of public data and information collected from the relevant communities.

As a member of the Forum on Minority Women that consists of the Women's Division of Buraku Liberation League, Sapporo Branch of Ainu Association of Hokkaido and APURO Korean Women's Network, IMADR is presenting this report.

### **Problems:**

- 1) No governmental study conducted to grasp the actual situations of and challenges faced by minority and indigenous women, and under-representation of women belonging to those groups.
- 2) Lack of human rights-based approach in the service for domestic violence victims of minority or indigenous backgrounds.

### **Situations:**

- 1) No governmental study to grasp the actual situations

The government took up the issue of minority women in its gender equality policies for the first time in 2010 when it drew the Third Plan for Gender Equality. In 2015, it was updated to be the Fourth Plan for Gender Equality having the same approach to minority women as the previous plan. To be specific, the Plan addresses the issue under the Priority Field 8: Creation of an environment in which people such as the elderly, the disabled, and non-Japanese people can live safely. There, it is stated that these women face additional challenges, and their human rights are specifically to be respected, thus requiring the promotion of human rights education as a key measure.

While the Plan touches upon the issue of the minority women, it should recognize the importance of grasping their actual situations, otherwise the aims raised in the Priority Field 8 are not easily achieved without knowing what are problems on the ground. The Plan is an effort of the Government to uplift the status of women in Japan which stands far behind other parts of the world with the gender gap indicators ranked at 111<sup>th</sup> for 2016. The Plan takes many different approaches to be taken in the areas of political representation, decision-making, business sector, employment, education, science, health, violence, environment, media, disaster-control, etc. Obviously, it is important that minority women should also be included in these approaches. For this end, again

the government needs to learn actual conditions of these women.

Despite the repeated recommendation given by the CEDAW (CEDAW/C/JPN/CO/6 para 52), the government has failed to collect disaggregated data. It has also been recommended by the CERD in its concluding observations (CERD/C/JPN/CO/3-6 para 11 and CERD/C/JPN/CO/ 7-9 para 6 (b)). It has also been repeatedly requested to the government by women of these minority communities who keep facing various human rights challenges. Because of absence of official data, each community has been doing their own survey since 2003 to find actual conditions their fellow sisters are placed under.

In addition, the White Paper on the Basic Plan for Gender Equality, which the government publishes regularly, has never picked up the problem that minority women face.

Human rights challenges that minority women face include the following:

#### Education

- a) Some surveys revealed that women from minority/indigenous communities have lower educational background than that of men from their own community and of women from the majority Japanese.
- b) Gender disparity exists in Buraku community with regard to educational level. Less Buraku women are given higher education than men. Many parents of Buraku community prefer to sending their sons to a college or university rather than sending their daughters.
- c) Especially, among elderly Buraku women, the illiteracy rate is high. When they were small children, they were not allowed to go to school because of poverty, indifference of their parents or discrimination they would face in school.
- d) According to a survey conducted with and by Ainu women themselves in 2004, only 36% of them went to a high school, considerably lower than the national average. The rest of 60% were not allowed to go to a high school because of poverty or discriminatory attitude of school administrators or classmates. With the lower educational background, many of Ainu people live in the low standard of living. As Ainu women are subject to multiple forms of discrimination, they face more difficult situations than men in their community. Special measures are required for improvement of educational opportunities for Ainu girls and women.

#### Participation in the Labor Market

- e) Buraku women tend to work throughout their life. Unlike women in general, Buraku women do not stay home while in pregnancy, child-rearing or even after the retirement age. They tend to work until they end their life. Many of them work in a small business as a part-time worker with less payment than other full-time colleagues. They earn around two million yen (approx. 18.000 US dollars) a year, whereas other women earn three million yen (approx. 27.000 US dollars) in average. Yet they do the same job with the same productivity. They have asked the

government to ratify the ILO 175 Convention regarding the part-time work.

- f) A survey conducted with 250 Ainu women by a local Ainu group in 2005 revealed that most of respondents worked on part-time basis with an annual income less than 1.5 million yen.
- g) Zainichi Koreans, especially women, are on a disadvantageous position in the labor market. Because of their ethnicity and gender, they have less opportunity of getting a job than their men and Japanese women.
- h) On the basis of the census conducted in 2010, the Human Rights Association for Korean Residents in Japan analyzed the gap of unemployment and non-regular employment rate among all respondents who are almost Japanese nationals, all foreign nationals and Korean residents who have nationalities derived from Korea, by sex. Results revealed that the unemployment rate of Korean women was 9.13%, which was higher than that of all female respondents (5.03%, 4.1 percentage point gap) and of all foreign female nationals (7.73%, 1.4 percentage point gap).
- i) As to non-regular employment rate, it also turned out that the rate of Korean women was higher than that of Korean men (27.25%, 35.08 percentage gap) and of all female respondents (54.56%, 7.77 percentage point gap).

### Representation

- j) Minority women are under-represented in the decision-making process both in the public and private sectors. Among others, nobody or no group from the minority communities has been appointed to be a member of the Liaison Conference for the Promotion of Gender Equality. This has been pointed out in the Concluding Observation of the Human Rights Committee on the 6<sup>th</sup> periodic report of Japan with the recommendation (CCPR/C/JPN/CO/6, para 9).

### 2) DV victims of minority backgrounds

In the absence of the government's efforts to collect disaggregated data, Ainu, Buraku and Korean women conducted surveys by themselves. They revealed that victims of domestic violence of these communities rarely go to a public consultation service for help. Some do not know where to go for the consultation, and others refrain from taking the service out of fear of being found their origin are from or being re-victimized in the consultation. Many of them have already been exposed to discrimination at the time of marriage or employment. Therefore, it is important that counselors or advisors are from the minority communities or have good understanding of situations of minority women, so that it is less likely that victims will face difficulties again by being exposed to ignorance or no-recognition of their status in the consultation.

Ainu women are reluctant to use a public consultation service. For physical or verbal abuse they suffer, they often go to a medical doctor not only seeking for treatment but also for an advice. It is less likely that they go to their family members or friends.

More than a half of respondents from the Korean community have experienced

difficulties in using their original Korean name. In fact, some of them felt that they were treated in a bad manner when they used their Korean name, or they felt tense and uneasiness when using their Korean name. It is important that public consultation service for victims of violence from Korean or other migrant communities is given in such a setting that would make them feel safe and ease.

The problem has been pointed out with the recommendation in the Concluding Observations of the CEDAW (CEDAW/C/JPN/CO/7-8, paras 22 and 23).

### **Proposed Questions for the LOIPR**

1. Does the government have any intention to collect information on minority women?
2. Does the government have any intention to listen to voices of minority women in preparing the White Paper on the implementation of the 4<sup>th</sup> Basic Plan for Gender Equality for 2017?
3. Does the government have any plan to give human rights training specifically focusing on situations of minority women to service providers such as counselors or advisors at DV shelters or support centers located throughout the country?
4. Does the government have any plan to place counselors/advisors with the background of minority community at the shelters or support centers?

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### **3. Discriminatory Online Postings against Buraku (article 2)**

Discriminatory postings are continuously made on the Internet against people of Buraku and individuals originating from there. However, currently there is no anti-discrimination law or any other legislation prohibiting discrimination, even no system in place obliging online service providers and website managers to detect and delete such postings. One of the most harmful postings is the directory of Buraku districts / communities (Buraku List), which was made available online early in 2016 (article.2)

#### **a. BBS**

Hateful and discriminatory postings on BBS (bulletin board system), such as “2-channel” (The largest online forum in Japan) and “Baku-sai” (local community-based BBS) have been increasing in Japan since mid-90’s. Due to the complete anonymity of

persons who post messages in BBS as well as the lack of anti-discrimination law or any other legal provisions that prohibit discrimination, discriminatory postings are freely made including those inciting and promoting discrimination and hatred against Buraku community with information on names of the persons from Buraku as well as locations of Buraku communities.

Although many local governments have started monitoring discriminatory posts, many posts remain online, as there is no legal obligation for service providers and website managers to delete them.

Moreover, some local governments are monitoring internet without informing the public of their work. If those who post hateful messages find out who are requesting deletion of their posts, those local governments could be challenged by internet troll, as there are no clear legal grounds to legitimize the deletion. Lack of anti-discrimination law only encourages and perpetuates hateful posts.

While discriminatory posts against people from Buraku have been increasing on the Internet, *the Act on the Promotion of the Elimination of Buraku Discrimination* came into effect on December 16, 2016. Although the Act recognizes that Buraku discrimination is still existing in the society and stipulates that national and local governments have the responsibility to provide consultations, promote education, raise awareness, and conduct a study, it does not give any definition of what is regarded as acts of discrimination (against people from Buraku), nor set any penalty against such acts.

### **b. the Buraku List**

In early 2016, the so-called “Buraku List” was posted online, which disclosed locations of more than 5,000 Buraku districts/communities nationwide with their names. By comparing the List to one’s address (past and present) or ancestor’s domicile, his/her connection to Buraku is easily found, therefore, it can be used to identify who is from Buraku, especially if combined with other methods to obtain personal information e.g. their origins, permanent address or address of family members, even though the person concerned is living another place. As such, the List makes the persons from Buraku district/ community, including those whose ancestors are from Buraku, seriously exposed to discrimination.

The List was first posted on a blog, entitled “*Tottori-Loop*”, and later posted on a wiki website, called “*Dowa Chiku (district) Wiki*” (same person created both the blog and the wiki site). The situation became significantly worrying, as anyone can anonymously add/ edit information on the wiki site and the information in the “Buraku List” has become more accurate and comprehensive.

Meanwhile the blogger who posted it on his blog found the List in the old government document, prepared in 1935 by the then-Department of the Interior. It was kept in a college library, and the librarians mistakenly released the document to him.

He is one of owners of a publishing company “*JIGENSYA*”, together with his business partner, announced the publication and sales of the List on Amazon website, excusing that the old government report was no longer protected under the copyright.

In fact, quite similar incident happened in 1975, whereby private detective agencies secretly made the list of Buraku districts/community based on information contained in the old family register, and sold it mainly to the business sector. It was reported that more than two hundred large private companies and enterprises as well as public institutions purchased the List for the purpose of screening whether their job applicants were from Buraku (apparently for not employing them). Revised Employment Security Act of 1999 prohibited collection of any personal information that might lead to discrimination. Some local authorities issued ordinances banning private detective agencies to offer background checks for finding a person’s ancestral link to Buraku districts/communities.

Based on the petition from Buraku Liberation League and other individuals, Yokohama District Court issued the provisional disposition order to stop the sales of Buraku List to the publisher on March 28, 2016, and the Sagamihara Branch of the same district court issued the provisional disposition order to delete the List uploaded on their website to Tottori Loop on April 18, 2016. However, the List is still accessible on many different websites, including the one transferred to overseas server. Once posted online, the information has been copied, multiplied and revived immediately even after the removal of the original posting.

*Tottori-Loop* and *Jigensha* disclosed not only the Buraku List, but also many other documents that contain sensitive information, including a list of activists involved in Buraku liberation movement. Buraku Liberation League and more than 200 individuals, whose names were disclosed online, filed a suit against Tottori Loop and *Jigensha* at the Tokyo District Court, seeking for a court decision to stop publication and deletion of online contents, and compensation for damages.

### **3-2) Lack of legal protection of sensitive personal information (article 17)**

Lack of legal protection of sensitive personal information on resident register ( <i>Juminhyo</i> ) and family register ( <i>Koseki</i> ) increases the vulnerability and risk of the people of Buraku against discrimination, especially concerning the list of Buraku districts/communities are accessible online (Article 17)
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The family register (*Koseki*) and resident register (*Juminhyo*) contain sensitive personal information such as one’s family lines and addresses. As such, whether a person is from Buraku community, even if the person concerned has changed their current

addresses, can be identified by a third party by comparing the registers and the Buraku List.

Although access to the resident and family register by a third party has been restricted through revising the Family Registration Act in 1976 and 2008, respectively, persons exercising eight particular professions namely: attorney; judicial scrivener; real estate appraiser; certified public tax accountant; social and labor insurance public consultant; patent attorney; marine procedure commission agent; and administrative scrivener, can have such access for their professional purposes. Against this backdrop, misuse of information obtained by persons engaging in these particular occupations for the purpose of identifying people from Buraku community and discriminate against is still being reported.

### **3-3) Proposed questions for the LOIPR:**

1. Has the Government of Japan taken any measures to protect personal information from being disclosed on the Internet? If yes, please explain what has been done. If no, what is the government plan to address this problem?
2. As per the recommendation para 11 of the Concluding Observations of the Human Rights Committee (CCPR/C/JPN/CO/6), has the Government of Japan taken any measures towards an enactment of anti-discrimination legislation?
3. How does the Government of Japan face the problem of illegal acquisition of copies of family register by the licensed legal professionals of eight different professions.