

## **Durban Declaration and Programme of Action and the Koreans in Japan**

In response to the call by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Research Center on Issues of Koreans in Japan (RAIK) and Center for Minority Issues and Mission<sup>1</sup> jointly send our input below.

### **1. Encouragement given to Koreans in Japan by the DDPA**

Koreans who were born and brought up in Japan are an ethnic minority. This is attributable to the Japan's colonial rule of Korea (1910-1945). On August 15, 1945 when Japan was defeated in World War II, Korea was liberated from the colonial rule. A half of all Koreans then living in Japan in the number of more than two million returned to Korea, whereas the rest of one million remained in Japan, mainly because of the situation of the Korean Peninsula which was divided by two rulers, the United States and the Soviet Union. In 1948, the Republic of Korea was established in the south while the Democratic People's Republic of Korea was in the north, making it a divided nation.

After the war defeat, the Government of Japan has abandoned its responsibility for what it had done on Korea, and taken the policies of either throwing Koreans in Japan out of the country or marginalizing those remained and disqualifying them from the institutions. In consequence, Koreans had no way but to fight against ethnic discrimination on their own.

"Colonialism has caused racism, racial discrimination, xenophobia, and related intolerance" and "It must be prevented from recurring." Statements of DDPA were very encouraging to the Japanese civil society as well as Koreans. It convinced us and guided us.

### **2. Ignorance and failure of the Government of Japan**

The Government of Japan, however, has completely ignored the DDPA. For the past two decades, it has deliberately failed to implement the DDPA in legislation and policymaking. The Government has continuously been challenged by the Republic of Korea and the Democratic People's Republic of Korea on its historical responsibility for the colonial rule, but it has not responded the challenges in good faith by "respecting memories of the victims of the past tragedy." The Government has also taken the same attitude toward Koreans in Japan. In other words, the Government has never recognized that Korean residents in Japan were "victims of colonialism" and "continue to be victims of its consequences." This is totally due to the failure of the Government in settling its colonialism.

### **3. Continued plight of Koreans in Japan even after liberation**

In 1945, Koreans in Japan were freed from the violent and harsh control of colonialism. In the drafting process of the Japanese Constitution and subsequent legislation, Koreans were totally excluded with no single stipulation that explicitly recognizes Koreans as inherent right-holders. Rather, Koreans were placed

under the control and surveillance of the state exposing them to the fictional ideology of "ethnically homogeneous nation" and the violence of "nation-centeredness."

Now, the majority of Koreans are in their second, third, or fourth generation. The fifth generation is also emerging. As is the case with former colonial powers in Europe, Koreans in Japan should be guaranteed the same basic rights as "Japanese nationals" or "dual nationality" of Korea and Japan. However, even today when we see 76 years passed after the war-end, Koreans in Japan have been excluded or restricted from the following rights.

the right to continually reside in Japan	⇒ the deportation clause is included in the immigration exemption law.
the right to re-enter Japan where they have their livelihood.	⇒ re-entry is rejected in the immigration control act and immigration exemption act.
the right to social security	⇒the nationality clause has been eliminated from several social security systems, but the livelihood assistance system is applied them with modification. As they are not entitled to, they are not permitted to complain against any decision.
the right to pension	⇒when the nationality clause was eliminated from the pension scheme, no transitional measures were taken, thus leaving many elderly and the disabled Koreans with no-pension.
the right to public employment	⇒ with the administrative orders, appointment of Koreans as upper ranking public employees and public school teachers is denied.
the right to participate in local autonomy	⇒the voting right in local elections and assumption of office at the educational board or welfare commission is denied.
the rights of ethnic minorities guaranteed in international human rights treaties.	⇒ the right to use their ethnic name and to have ethnic education (language and culture) is denied due to legislative failure.

Hate speech against Koreans in Japan has intensified over the past decade. In June 2016, the Hate Speech Elimination Act was enforced as the first anti-racism legislation in Japan. While the Act declares that "hate speech is not tolerated," it has no prohibitive or punitive provisions. As a result, marches, street propaganda and rallies shouting hate speech still continue throughout the country, and hate speech on the Internet has further surged due to the deterioration of diplomatic relations between Japan and South Korea.

In 2016, the Government of Japan conducted its first fact-finding survey of foreign nationals. According to the survey, of Koreans who have looked for apartments to rent in the past five years, 27.2% have been refused tenancy because they are foreigners, and 25.8% have been refused tenancy because they do not have a Japanese guarantor. In addition, in the past five years, 29.9% of Koreans have experienced being insulted or discriminated against because they are foreigners.

In the Concluding Observations of the CERD (CERD/C/JPN/CO/10-11), it is stated that "the Committee is concerned at continued reports that migrants and their descendants\* who were born, raised and educated in the State party still face entrenched societal discrimination, including restricted access to housing, education, health care and employment opportunities." \* including Koreans

In other words, Koreans are not recognized in the legal system as having "minority status and rights" as defined by international human rights laws, and are further subjected to extreme social discrimination. In Japan, there still has been no basic law on human rights for former colonial residents, no law on the elimination of racial discrimination, and no national human rights institution.

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<sup>i</sup> Center for Minority Issues and Mission: <https://www.cmim.jp/eng/index.php>