

1. Purpose of this Counter-Report

This is a counter-report to "Part 3 of Art. 2— Legal Status and Rights of Foreigners" in the report of the Japanese government "The Third Report Based on 1 (b) of Art. 40 of the International Covenant on Civil and Political Rights, Dec. 20 1991".

2. Summary of the Counter-Report

This counter-report consists of the following parts:

I. Settlement of Korean Residents in Japan

II. Problems of the Alien Registration Law (ARL)

II-1 System of the Obligation to Always Carry and Show the Alien Registration Certificate (ARC)

II-2 System of Obligation of the Application for Confirmation under the Alien Registration Law

III. Rights of Korean residents in Japan to National Education.

This report is summed up as follows:

a. The settlement of Korean residents in Japan resulted from the colonial rule of Japanese imperialism over Korea and its war-time crimes. The Japanese government must take into full consideration historical consequences related to them. But the Japanese government hardly takes any measures to solve the problem of human rights infringements upon Korean residents in Japan.

b. The ARL has been under severe criticism both in Japan and abroad for its severe restrictions on the human rights of foreigners living in Japan. The fingerprinting system underwent some revision in 1992, but the revision is not enough as it leaves a fundamental problem unsolved.

c. The system of the obligation to always carry and show the ARC breaches Paragraph 1 of the Articles 17 and 26 of the Covenant.

d. The system of the application of the ARL runs counter to Covenant Art. 26.

e. The Japanese government takes discriminative measures against Korean residents in Japan, denying them their right to national education. This breaches Articles 26 and 27 of the Covenant.

I. Settlement of Korean Residents in Japan

1. Summary

(1) The number of Korean residents in Japan is about 700,000 (as of Dec. 31, 1990). A

breakdown of this figure is shown on a separate page of this report.

(2) Most Korean residents in Japan are those Koreans who came over to Japan from the Korean Peninsula before the end of World War II and their descendants.

(3) The main reason of Koreans' settlement in Japan is Japan's colonial rule over Korea.

2. Historical Circumstances

Japan's colonization of Korea was the main reason for the settlement of most Koreans in Japan. Let's have a brief look at the historical circumstances.

(1) The first period (1910-1920)

a. Japan's rule over Korea initiated by the "Japan-Korea Annexation Treaty"

Japan forced the Korean government to sign the "treaty on the annexation of Korea" in August 1910 and began to incorporate the Korean Peninsula into Japanese territory. During the period, quite a large number of Koreans began to come over to Japan.

The characteristic ruling system of the period was the "Land Survey." (1910-1918) by which Japan sought to deprive Koreans of their lands and to use the land tax as revenues for the Korean Government-General.

The survey was conducted by intimidation and fraud—the lands which had been actually in the hands of Korean farmers were turned into public lands owned by the Korean Government-General, some portions of which was owned by aristocrats and bureaucrats. Publicly-owned lands were sold cheaply to Japanese landowners, including Oriental Development Company.

In 1918 when the survey was completed, only 3 percent of landowners held half of the whole Korean farmland: Owner farmers were only 20% of the whole farm population and 77% were land-owning tenant farmers and tenant peasants without land.

Many land-owning farmers were reduced to tenant farmers, while Japanese capitalism, in search of "cheap colonial labor force", began to send Korean labor to Japan.

(*) Oriental Development Company founded in 1907 was a semi-government company aimed at strengthening Japan's colonial rule and served as a land dealer, and engaged in emigration and immigration work.

At the time of Japan's defeat in 1945, the company was the largest landowner in Korea, possessing 2,500,000 ha of land.

b. "The Education Ordinance" was promulgated in August 1911. The ordinance was enacted with the aim of making Koreans loyal to the Japanese Emperor according to the "Imperial Rescript on Education" (***) in the spirit of "Itshi Dojin" (*) that both Koreans and Japanese should be treated in the same way. The ordinance stipulated that Japanese should be the official language of public schools. At school, Japanese was forced on Korean children.

(*) Itshi Dojin—the spirit that Japanese and Koreans should be treated equally. But this was far from the reality. Koreans were severely discriminated against in various ways.

(**) The Imperial Rescript on Education—This was promulgated in the name of Emperor Meiji to show the fundamental policy of education. This was aimed at implanting "family state morals" and militarist ideology in the minds of the Japanese, urging Japanese to be loyal both to parents and to the divine Emperor based on the militarist ideology that Japan is a divine state. The family state morals and militarist ideology had exerted a great influence on the formation of Japanese citizens' morals until the end of the second world war.

c. As afore mentioned, the "Land Survey" put many Korean farmers in a difficult situation, while Japanese light and heavy industries which had already developed rapidly during the Sino-Japanese and Russo-Japanese war periods, suffered a serious shortage of labor due to the war-time economic boom during World War I, which broke out in 1914. Thus, after 1910, Korean laborers began to be recruited by Japanese enterprises and many Koreans came over to Japan.

(2) The second period (1920-1930)

a. Korean people came to suffer from extreme poverty during the period (1920-34) due to the "rice production increase plan" carried out by the Korean-Government General.

Japanese imperialism carried out this plan to maintain a stable food supply at home by utilizing Korea as a "food supply base." As a result, despite the fact that Korea's rice crop increased 50 percent in 1931 over 1910, the amount of rice allotted to Koreans' per head decreased 40 percent, as 56.8 percent of the output was sent to Japan.

Korean farmers, compelled to grow more rice to enable Korea to serve as a "food supply base" for Japanese imperialism, were unable to eat rice themselves. For this reason, the poverty of Korean farmers became increasingly serious, and more and more Koreans were compelled to go to Japan in pursuit of their livelihoods.

b. A great earthquake hit the Kanto area (where Tokyo is the center) in September 1923. The Japanese government deliberately circulated a false rumor, saying, "We should keep a strict watch on Koreans." Officials and citizens massacred many Koreans. The Japanese government has not yet officially investigated the victims of the massacre nor apologized to them even once. A civilian investigation team estimated the number of Korean victims at

(3) The third period (1931-38)

a. Japanese armed forces began their serious military action in the North-East of China in September 1931 (Manchurian Incident). That period coincided with an all-out aggression of Japanese imperialism against China. Japanese imperialism deprived Koreans of their military industrial resources including mineral resources and water resources and turned Korea into "a military base" for the aggressive war. Toward this step, Japanese imperialism took harsher measures to enslave Koreans in the name of the Japanese Emperor and assimilate Koreans into Japanese.

During the period, a growing number of Koreans, stripped of their land and jobs, came over to Japan in search of their livelihoods.

b. When Japan's aggressive war against China started in July 1937, the Korean language was strictly prohibited—One Chinese character surnames, which was handed down from generation to generation as traditional Korean names, like "Kim, Li, Pak" were changed to Japanese style two Chinese character surnames—"Kaneda, Arai, Yamada" (This name change was called "Soshi Kaimei" or eradication of new family names).

The Japanese government forced Koreans to recite the "pledge to become the subjects of the Emperor". (※)

It also compelled Koreans to pay homage to the Emperor in the direction of the Imperial Palace in Tokyo and practice Japanese style martial arts. Every house was forced to put a label reading "Tensho Koudaijin" (the shrine dedicated the Emperor's ancestors) at the gate.

This was all intended to deprive Koreans of their national consciousness and turning Koreans into obedient slaves of Japanese militarism.

(※) Pledge to Become the Emperor's Subjects (enacted in October 1937)

"Pledge" for adults—1. We, subjects of the Emperor, will devote ourselves to the country with loyalty. 2. We, subjects of the Emperor, will trust, love and cooperate with each other and consolidate our unity. 3. We, subjects of the Emperor, will cultivate and enhance our strength with training, overcoming every hardship.

"Pledge" for children—1. We are people of the Great Imperial State of Japan. 2. We will be loyal to the Emperor in one mind. 3. We will come strong and healthy people with training, overcoming every hardship.

(4) The fourth period (1939-1945)

a. During this period, Koreans began to be sent to Japan massively. The Japanese government forcibly took Koreans to Japan from the Korean Peninsula as laborers to make up

for the shortage of labor due to the aggressive war in China which started in 1937.

b. From 1939 to 1941, Japanese enterprises, badly in need of labor, applied to the Korean Government-General for labor supply. After they were instructed as to where to go, they dispatched their recruiters and recruited men with the help of local police.

But, actually, it often happened that they used every possible means to "recruit" laborers—cajoling them with honey words, assaulting Koreans while they were asleep, and abducting Koreans working on the farm and whisking them away on trucks.

c. As it became difficult to recruit necessary numbers of laborers, during the period of 1942-43, village offices (or myun offices) and police began to engage directly in recruiting workers (called government-sponsored recruitment). This was not person by person recruitment but it was conducted systematically with the use of armed men, who watched Koreans not to let them escape and took them forcibly to Japan.

The "recruitment" of laborers was replaced from 1944 by "conscription" by which Koreans were forcibly taken to Japan regardless of their will.

d. Koreans forcibly taken to Japan were forced to work in various places including coal and other mines, munitions factories, ports and harbours, construction sites of airstrips, railroads, construction sites of roads and dams in all parts of Japan (even in Kuril Islands and Saghalien)

They were jam-packed like sardines in shacks called "Takobeya" built in or near their work sites and were allowed no freedom to move, being subjected to hard work for 14-15 hours a day.

Moreover, as there were no labor safety facilities in their workplaces, cave-in accidents and explosions occurred frequently in mines, claiming the lives of many laborers or crippling many of them.

When Koreans complained about their poor working conditions or rebelled, they were persecuted as examples to others. When Koreans, unable to endure any longer, tried to escape from their work places, they were subjected to severe punishment and some of them were killed.

e. No accurate number of Koreans mobilized as laborers is available. The Japanese government still won't make it public, nor will it even investigate the truth about Koreans forcibly taken to Japan.

An estimated 1-1.5 million Koreans were conscripted in Japan, 4.5 million were mobilized in Korea, 400,000 as soldiers— or an estimated total of 6-6.5 million— of whom 220,000 civilian Korean employees of the army came back by 1953, while 150,000 are reported missing. It is also estimated that 60,000-70,000 of those Koreans who were forced to work on the construction sites died unable to see the day of Japanese imperialism's defeat. (※)

f. Furthermore, the Japanese military took Korean women to the war front and compelled them to serve as "comfort women" for the Japanese military, "work" more painfully degrading and inhumane than to die. The Japanese military committed the outrageous act of enslaving Korean women to satisfy their sexual passion and killing them when they retreated.

g. In August 1945, the United States of America dropped atomic bombs on Hiroshima and Nagasaki, Japan, and many people were victimized, including a large number of Korean laborers in Japan. But the Japanese government has not yet investigated the number of Korean victims among them, nor has it taken any measures to help them.

(*)The number of Korean residents in Japan

1904 229

1915 3,989

1920 30,175

1930 298,091

1935 625,678

1940 1,190,444

1942 1,625,054

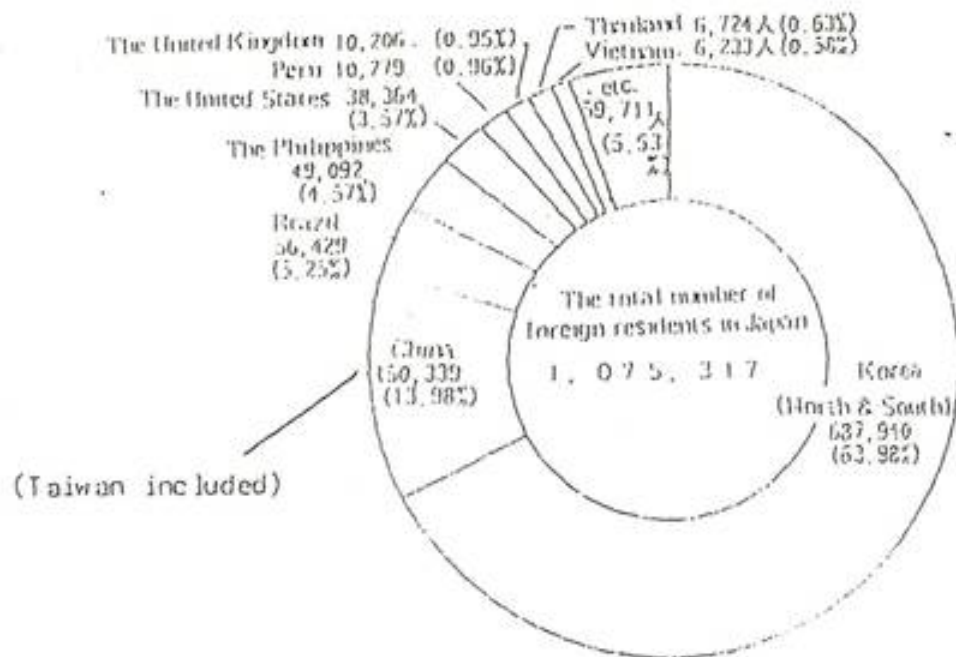
1945 2,365,263

As a result, according to the Japanese government, 2.3 million drafted Koreans were living in Japan in 1945, the year of Japan's surrender. But the number is underestimated.

It should be recognized that Korean residents have the above-mentioned historical background.

Nationalities of Foreign Residents in Japan.

(As of the end of December, 1998)



Nationalities	The numbers	Percentage (%)
Korea	687,940	63.98
China	150,339	13.98
Brazil	56,429	5.25
The Philippines	49,092	4.57
United States	38,364	3.57
Peru	10,779	0.96
United Kingdom	10,206	0.95
Thailand	6,724	0.63
Vietnam	6,233	0.58
Etc.	59,711	5.53
The total	1,075,317	100.00

II-1. System of the Obligation to Always Carry and Show the Alien Registration Certificate

1. The Contents of the Third Report of the Japanese Government under Paragraph 1 (b), Article 40 of the International Covenant on Civil and Political Rights

The report of the Japanese government notes in Article 3 that the system requiring foreign residents to carry their Alien Registration Certificates (ARC) has been adopted as a means of identifying their residential status and family details on the spot. The report says that Japan has decided to continue studying this system to find an appropriate solution, including the way of managing this system. However, it does not explain in detail how it is going to remove infringements on foreign residents' basic human rights.

2. The case of Kim Miyoko who had the prints of all the fingertips of her hands and also of her soles taken while being held on charges of failing to carry her ARC.

Kim Miyoko (39 at that time) and her mother (71) who lived in Kofu city attended a funeral ceremony held on May 1, 1981 in their relatives' home in Tokyo. They were given a lift home in their friend's car. Near Katsunuma Interchange of the Chuo Expressway, their car was stopped by police for speeding. No sooner had the police officers realized they were Koreans, than they demanded presentation of their ARCs. Ms Kim realized for the first time that she had left it at home. Police took them to Katsunuma Police Station and detained them for several hours for investigation. They wrote a report on her failure to carry her certificate and took a print of her index finger. They finally allowed them to go back home on condition that they should go to a police station when they were summoned by police.

On July 10, two months after the incident, Shioyama Police Station summoned the three. Police went in detail over of Ms Kim's properties, finances, family relations and marital status, items which were in no way related to the charges against her of failing to carry her certificate. Furthermore, the investigators took the prints of all her fingertips and toes and also of her palms, took photographs of her and measured her height and weight.

On April 28 in 1982, Ms Kim filed a suit against the three policemen at Shioyama Police Station for harassment and asked the human rights committee of the Yamanashi Prefectural Bar Association to represent her in her case of human rights infringement. The survey of the incident by the committee after its investigation points out, "The measures taken to search her body were done against her will and without her consent. This was an act of infringement on her rights of freedom and an insult to her dignity as a human being. It can not be overlooked from the viewpoint of fundamental human rights protection." The survey publicly asked the Chief of the Shioyama Police Station to "pay full attention to its investigation activities so as not to repeat such an infringement on human rights." (The charges against the three policemen were dropped.)

3. The obligation to carry and present the ARC in the Alien Registration Law

Article 13 of the Alien Registration Law (ARL) stipulates that all resident foreigners above the age of 16 are obligated to carry their certificates at all times and present them at

the request of the competent authorities.

Article 18 stipulates that any person who fails to carry his or her certificate shall be fined a sum of less than ¥200,000. Those who refuse to present their certificates at the request of the competent authorities shall be imprisoned for a period of less than one year or fined a sum of not more than ¥200,000.

All violators are to be punished even in cases they "absent-mindedly" fail to carry their certificates. Under the provisions of the law, a total of 52,917 Koreans were prosecuted during 21 years from 1970 to 1990. (An annual average of about 2,520 persons)

4. Japanese Police Policy of Controlling Koreans

As is shown in Ms Kim's case, Korean residents in Japan are treated as dangerous criminals for merely failing to carry their certificates. (Even if violators possess other documents such as student I.D. cards or driver's licenses with them, they are still punished.) The violators are arrested and interrogated, and their fingerprints taken. This kind of violation of Koreans' human rights is taking place frequently.

This is mainly due to the police policy of controlling Koreans.

The "Present Situation of Violators of Emigration and Immigration Law, the Refugee Recognition Law and the Alien Registration Law, and the Vital Points of Investigation" (a manual for police officers published by Daigaku Shobo in 1988) explains how to treat those who fail to carry their certificates as follows:

"Cases of failure to carry the Alien Registration Certificates are mainly discovered during police checkup. Whenever you suspect any person to be a foreigner, you should immediately demand the presentation of his or her Alien Registration Certificate." "There is a problem in arresting and investigating the violators. Furthermore, you should not release them until you confirm the suspected person is in possession of a valid Alien Registration Certificate." "Some think lightly of it (failure to carry the registration card) and do not bother to take the violators' fingerprints. This is an act which police officers should avoid..."

Cases such as Ms Kim's are continuously and systematically repeated by the state system - the law and the police policy of controlling foreign residents in Japan.

5. Violation of Article 17

The obligation to always carry the ARC is an outright violation of freedom of private life which is guaranteed in Article 17. Foreigners in Japan have an obligation to present their certificates upon request by the competent authorities regardless of time and place. As a result, they are forced to disclose their private details including their names, dates of birth, nationalities, occupations and working places to the state. Thus, Koreans in Japan are always under surveillance by the state. This situation puts psychological pressures on resident Koreans. A person may happen to forget to carry his certificate with him since he is, after all, a human being. If he realizes that he doesn't have it with him, he has to return home or some other place to get it, even in the midst of an important business he has been

occupied with. This obligation oppresses his daily private life and prevents him from enjoying freedom of movement. This system is therefore an obvious violation of Article 17.

6. Violation of Article 26

Normally, Japanese citizens are not obligated to carry or present their identification cards. This obligation is undoubtedly a discriminative measure against resident foreigners.

However, the rate of litigation cases on this matter involving resident Koreans is much higher than that for resident Europeans. There is also a difference in the degrees of discrimination against resident foreigners in this country. For example, few Europeans are asked by police to present their certificates. Police demand presentation of the certificates without fail if they find a person to be a Korean. According to "Annual Statistics by Prosecutors' Office in 1985", the rate of litigation cases on this matter involving Koreans was 63.7%, compared with 12.5 % for Americans and 0% for British and French citizens.

Korean residents in Japan are those who were either forcibly taken to Japan from their homeland to be used as forced labourers or had to leave their country to earn a living as a result of the Japanese colonial rule over Korea, and their descendants, most of whom possess permanent resident status in this country. Now, second and third generation "Japanese-born Koreans" who were born and brought up in this country, account for about 90% of them. Nobody can deny that they settle in this country, conforming to Japanese society as well as working and leading responsible lives. They are actually residing, working, living and cooperating with the regional societies. Their residential and family relations are as clear as those of any Japanese persons.

It must be concluded therefore that there is no need for the Japanese government to "identify the residence and family details of foreigners on the spot." It cannot be said that this discriminative treatment of Koreans is "objective" and "rational," as the Japanese government insists. The existing system is an apparent violation of Article 26.

Conclusion.

Korean residents in Japan call the ARCs as "dog's tags." That is symbolic of the status of Koreans in Japan who are continually watched and discriminated against.

To see this blatantly racist system which was created after World War II at the height of Cold War tension, still practiced today, must be a grave embarrassment even to the Japanese people.

We strongly request your committee to fully discuss the nature of human rights infringement under this system.

II-2 System of Application (for Confirmation) of the Alien Registration Law (ARL) The system of application of the ARL breaches Art. 26 of the Covenant

1. The Obligation of application for confirmation of the Alien Registration Law (ARL) that is not referred to the report by the Japanese government

The report prepared by the Japanese government doesn't touch upon the obligation of application for confirmation stipulated in Art. 11 of the ARL, nor did it do so in any of the previous report.

This stands as a grave act of discrimination on the part of the Japanese government against all the registered foreigners residing in Japan and as a breach of Art. 26 of the Covenant.

2. The Case of Chang—Punished while Occupied in Taking Care of Mother

Chang Byong Ju, a Korean born in Japan, despite suffering from her poor health and the added stress of being a single parent since her divorce, has taken care of her four children and even her old mother who suffered from rheumatism and asthma.

At the time of the "offence" she was having problems with her children's schooling and work. Her mother refused to be hospitalized, though doctor said it was necessary. She was occupied with three duties, working for her family's livelihood, bringing up and taking care of her four children, and nursing and cooking for her mother who moved near to her house.

In August 1986, her mother died despite her efforts to look after her.

She realized that she had missed the application for confirmation of the ARL as she was going to renew her drivers' license in December 1986. She had overlooked it while being preoccupied with feeding her children and taking care of her mother.

Chang soon applied for confirmation of the ARL, but she was about one year late.

Higashi Osaka Municipal office which accepted application for confirmation of registration indicted Chang. She was fined 50,000 yen in a summary court. The, the Osaka District Court passed the decision that she was to be fined 50,000 yen and was given a suspended sentence of one year.

3. Obligation of the Application for the Confirmation of the ARL

Art. 11 of Japan's ARL stipulates that registered foreigners at age of 16 or over should report to the city, town or village office every five years and confirm whether or not the registered details, including addresses are true. Registered foreigners should apply for confirmation of the ARL at the offices in their city, town or village even in cases where it is obvious that the items are true and that no changes need to be made.

Clause 1 of Art. 18 of the law says that those foreigners in Japan who neglect the legal application procedures are sentenced to up to a year penal servitude or fined up to 200,000

yen.

The Japanese authorities place Japan-residing foreigners under the obligation of constant application for confirmation of the ARL. This system has no comparative example in the world.

4. Careless Mistake-Punished with Heavy Burden

The application for confirmation system urges foreigners to report to the city, town or village authorities every five years with the view of making doubly sure of details. However, it is not so easy to remember an appointment for a legal procedure five years away. Careless mistakes just forgetting the date of the application results in punishment.

The more faithfully a person tries to observe the deadline of the application, the more mental burden he or she will carry.

For this reason, city, town or village authorities send a post card with a notice to the resident foreigner informing them the deadline for application is just around the corner. But, it often happens that post cards don't reach foreigners. Chang said she had received no post cards. In many cases, foreigners have gone abroad to study and on their return, applied for confirmation of the ARL only to be fined.

The obligation to apply for confirmation of the law imposes a great burden on foreigners in Japan. City, town or village authorities could easily inform overdue applicants of the fact that they are overdue and urge them to apply as soon as possible. However, this is not the case and the onus is entirely on the applicant. Quite to the contrary, the authorities indict late-applicants some time after they have accepted the application for confirmation of the ARL.

5. Discriminative Treatment: Japanese Family Registration and Residence Registration have no application for confirmation systems

Japanese have a Family Registration System and Residence Registration System, a comparative to the ARL for foreigners. Japanese are free from the obligation of constant application, in other words, there is no obligation, for Japanese, regardless of whether or not registered details (these are called "reported items" in the case of Japanese) have changed, to report to city, town or village authorities and confirm the registered (reported) details.

In the Family Residence System and Residence Registration System, administrative punishment is applied, whereas criminal punishment is applied to the violators of the ARL. There is evidently a difference of treatment between Japanese and foreigners.

Foreigners are obsessed with a duty that is fundamentally different from that imposed upon Japanese.

Art. 26 of the Covenant bans discrimination by nationality. According to the Covenant human rights committee, "nationality" comes under the "different position" which is stipulated in the second sentence of the Art. However, the committee explains, the article doesn't ban all "different treatment", in other words, it says, "treatment of distinction based on rational and objective criteria" doesn't constitute discrimination stipulated in Art. 26 (the Covenant human rights committee)

A key question is whether or not the obligation of application for confirmation of the ARL falls under the category of "treatment of distinction based on rational and objective criteria." The Japanese government cites three points making it necessary for the obligation of application for the confirmation of the ARL— 1) difference of fundamental position between Japanese and foreigners, 2) fair control of foreigners, 3) in connection with the fact that foreigners are less settled than the Japanese with ambiguous details of residence and status.

The point 1) seeks to use the fact of whether or not a person has Japanese nationality or not as a criteria of "treatment of distinction". But, the treatment of distinction by nationality is banned in Art.26 as "discrimination". As for the point 2), more explanation should be given about what kind of fair treatment is necessary for foreigners unlike Japanese and this must be explained in detail. The point must explain fully the necessity of the obligation to apply for confirmation of the ARL. But, point 2) lacks any concrete approach and is far from being "the treatment of distinction based on rational and objective criteria" rather an extremely general statement that could be construed in almost any way. The point 3) seems to be a more concrete explanation of the reason for point 2). It is true that foreigners, especially those with short terms of stay, have little attachment to the Japanese society. But, in the ARL, foreigners are obliged to register the details of residence (the place of residence). Surely, Japanese and foreigners alike will change their place of residence occasionally. Art. 9 of the ARL obligates foreigners to register the change in place of residence to a city, town or village office within 14 days. Someone found guilty of failing to do so is sentenced up to one year of imprisonment and fined up to 200,000 yen.

The obligation to register the change (of the place of residence) within 14 days and the imposition of criminal punishment upon the offenders imply problems, proving all the more it is extremely unreasonable to impose an obligation to apply for confirmation of the ARL every five years regardless of a change in the place of residence or not, as well as imposing the above-stated duty (the duty to report a change in the place of residence within 14 days and in the case of a resident failing to do so the imposition of criminal punishment on the offenders.

One of the reasons is the ambiguous status of foreigners, the authorities explain.

In the ARL, there is originally no obligation for foreigners to register his (or her) parents or brothers and sisters. Only the householder and his (or her) relationship are on the registration list. These family details rarely alter unlike the place of residence.

This, in long run, aims to prevent registered foreigners from being replaced by their brothers or sisters and to identify a foreigner from others within the same nationality. The need for identifying a foreigner is understandable from the point of view of the registration system in that it is sometimes necessary to investigate cases involving dubious identity or misrepresentation.

There is little rationality and necessity in that the authorities identify hundreds of thousands of foreigners from the age of 16 and then keep them under constant surveillance through obligatory registration duty every five years.

More than that, nothing was reported as to the fact that any replacement case occurred.

The above-mentioned explanation cites confirmation of the accuracy of the registered items and of identifying the registered foreigner as the main reasons for the necessity of the obligation to apply for confirmation of the ARL.

But, whatever reasons there may be, it hardly comes from a rational and objective standpoint that the obligation of constant application for confirmation should be imposed impartially upon all the foreigners at the age of 16 or over.

They cannot claim that Koreans who have lived in Japan since before the end of World War II and their offspring who have permanent residence are not stable permanent settlement of Japanese society, nor have they any questionable details to do with their residence or status.

A majority of the foreigners in Japan who are the object of the ARL are Koreans such as these. The system of application for confirmation is being equally applied to second and third generation Koreans who were born and brought up in Japan with permanent residence. They have the obligation to apply for confirmation every five years, irrespective of whether changes have taken place to do with the registered details or not.

This irrationality is now under fire.

7. Conclusion

As stated above, the failure to apply for confirmation of the ARL will result in criminal punishment, in other words, a simple oversight constitutes a criminal punishment.

The reasoning of the Japanese government for the necessity of the application for confirmation of the ARL is far from being based on rational and objective criteria, considering the fact that no comparative application laws are applied to Japanese, it is an absurd explanation that the law is aimed at specification of foreigners and prevention of misrepresentation.

The obligation to apply for confirmation of the ARL and the application of criminal punishment to the offenders breaks Art.26 of the Covenant. The system should be abolished as soon as possible.

III. Right of Korean Residents in Japan to National Education

The Japanese government denies Korean residents in Japan their national educational rights and maintains a discriminative policy against them. This is a violation of Articles 26 and 27 of the International Covenant on Civil and Political Rights.

1. Third Report of Japan under Paragraph 1 (b), Article 40 of the International Covenant on Civil and Political Rights, and its Criticism

This discussion directs attention to that part of the third report of Japan which concerns "national education of Korean residents in Japan" in "Status and Rights of Foreigners" in Paragraph 3, Article 2 of the report.

It says in Article 4 (a), (3), (v) that Korean schools in Japan are authorized as "miscellaneous schools," and graduates from there are not qualified to take exams for Japanese senior high-schools or universities. Regarding the reason why they are not given the qualification, it simply says that they are graduates from "miscellaneous schools." However, it does not explain why Korean schools are classified as "miscellaneous ones." It does not pay the slightest consideration to the fact that graduates from Korean schools are as good as those from Japanese ones in scholastic achievement. At present, about 130 private and public universities throughout Japan allow students from Korean schools to take entry exams for them. Stubbornly refusing them to take entrance examinations are the national universities. It is not difficult for the authorities to recognize that students from Korean senior high schools have scholastic achievements equal to or higher than those of Japanese high-school graduates who are qualified to take national university entrance exams, if they so desire.

It is said in (iii) of (3) that Koreans who attend Japanese public schools are treated in the same way as Japanese students, insisting that there is no problem in this matter. At present, it is estimated about 90% of Koreans of school age in Japan go to Japanese schools. Some of them choose Japanese schools according to their own will. However, many of them reluctantly attend Japanese schools instead of Korean ones because of geographical or financial reasons. It is not enough for them to study in Japanese schools in order to maintain their Korean identity. The Japanese education system pays no attention to foreign students. Recently, many schools started raising the Japanese Rising-Sun flag and forcing students to sing the "Kimigayo" (reign of the Emperor) song, in ceremonies. This shows that they pay no consideration to the history of Japan's past colonial rule of Korea by which Koreans lost their national status and identity including their ancestral names and national language. The national education of Korean children is also required to enable them to get rid of the influence of the past Japanese colonial policy of obliterating Koreans' national identity.

2. Minorities and Korean Residents in Japan

Article 27 should be interpreted in the light of various international human rights instruments. The Japanese government in the report narrowly translates "minorities" in Article 27 as "shosha minzoku" (national minorities) and excludes foreigners from this category, and mentions only "Ainus" as a minority. Such an interpretation may be internationally acceptable. But, we think it is possible to include foreigners of long term residence in Japan in the "minorities." This discussion adopts the latter interpretation. Korean residents in Japan are not Japanese citizens. They are "members of Japanese society" but do not want to assimilate into Japanese. Despite the fact that they are qualified to obtain Japanese nationality, they choose not to take procedures necessary for acquiring Japanese citizenship.

Koreans in Japan are those who lost their Japanese nationality by one-sided measures of the Japanese government, and their descendants. If the principle that whoever is born in the land will obtain the nationality of the land is adopted, this principle is applicable to most Koreans in Japan. There are no grounds to treat Koreans in Japan differently from those who have Japanese nationality. Therefore, it should be understood the Koreans in Japan deserve to receive the guarantee of Article 27.

The Japanese government's interpretation of Article 27 is negative. It merely mentions the government's obligation of non-interference. Generally speaking, "non-discrimination" is different from "protection." Article 27 is added to the international covenant which has already provided "the principle of non-discrimination" in Paragraph 1, Article 2 because "formal equality" is not enough to guarantee "the obligation to positive measures." These two articles along with "the active obligation of the commission" indicated in Paragraph 2, Article 2 follows the interpretation that the signatories to the treaty have the obligation to take measures to actually guarantee the rights stipulated in Article 27.

3. National Education of Koreans in Japan

The following are the demand of Koreans concerning their national education in Japan.

(1) Korean schools are not given various guarantees and aids which are given to Japanese schools on the pretext that they are "miscellaneous schools." This is unreasonable.

The right to study should be guaranteed for Korean students according to Article 1 of the Japanese School Education Law and the independence of Korean schools should not be harmed. It must be easy for national universities to change their attitudes of not recognizing Korean schools. The Japanese government is responsible for changing their attitude.

(2) Due to the status of Koreans in Japan, Korean schools receive hardly any public assistance. Koreans in Japan pay taxes as well as Japanese do. Financial aid to students of Korean schools per capita is about one-tenth of that to those in Japanese schools. From the viewpoint of children's rights to education, the same financial assistance that is given to Japanese schools are required to be given to Korean schools whose curriculums, equipment, lessons and students' academic achievements are about the same as Japanese schools. A monetary contribution to a Korean school should be exempted from taxation. To master the

language of their own nation, it is necessary for Korean children to learn in Korean schools since Japanese schools do not give lessons in the Korean language. Article 27 stipulates the maintenance of identity of a group which does not want "assimilation."

(3) Even if the above-mentioned conditions are guaranteed, Korean students attending Japanese schools would still exceed in number those attending Korean schools. Various other measures are needed to fulfill the demand of Koreans for their national education, particularly the expansion and development of Korean classes. The status of instructors of Korean national schools should also be guaranteed by the state and local governments. It should be remembered that giving Japanese education to Korean students does not mean the guarantee of their educational rights.

(4) No positive educational policy will be realized unless the way of thinking such as seen in the following notification of the vice education minister of the Japanese government on December 28, 1965, is radically changed.

"Korean schools are aimed at inculcating a national pride in the minds of Korean children. We can not regard these as schools of positive significance deserving to enjoy the status of miscellaneous schools. Therefore, they should not be authorized as miscellaneous schools."

This statement completely denies Koreans' national education and runs counter to the spirit of the Japanese Constitution and international human rights instruments. At present, Korean schools exist as "miscellaneous schools" authorized by municipal mayors and prefectural governors. Even this status was not given by the Japanese government but was gained by Koreans in Japan through their protests against the suppressive Japanese measures including the "order for closure of Korean schools." The Japanese government has the obligation to take positive and active measures to protect Korean schools if it reflects self-critically on the pre-war "education policy of turning Koreans into subjects of the Japanese Emperor" and the post-war suppressive policy against Korean national education. Giving nothing does not mean "respecting independence."

4. Conclusion

Even this brief survey makes it clear that Korean schools hold an unjustifiable status in the Japanese education system, and Korean students and their parents are forced to shoulder a heavy burden. It is an apparent violation of Articles 26 and 27. The Japanese government should be responsible for this state of Koreans' education.