

■ Issues and relevant recommendations in the previous cycle

**The right to education for Korean school children**

CERD/C/JPN/CO/7-9 paragraph 19

■ Relevant paragraphs in the State party's report

CERD/C/JPN/10-11 paragraph 169-175

■ Implementation of the recommendations: Not implemented

■ Problems

**A. Exclusion of Korean schools from the High School Tuition Support Fund Program and the suspension of subsidies by local governments**

a) Exclusion of Korean schools from the High School Tuition Support Fund Program

1. Despite the previous recommendation by the CERD, the Government of Japan has failed to apply the High School Tuition Support Fund Program to 10 Korean high schools. However, as of March 2018, it subsidizes 42 other foreign high schools. Approximately 5,000 Korean high school students were excluded from the Program and the total financial loss is estimated at over 1.7 billion yen (16 million dollars).
2. The Japanese Government argues that it excluded Korean schools from the Program because they were unable to confirm the schools meet the criteria for the Program (CERD/C/JPN/10-11, para 169-172). Despite this assertion on criteria it excluded the Korean schools due to political and diplomatic tensions between Japan and the Democratic People's Republic of Korea (DPRK). In December 2012, the Minister for Education, declared that the Government would legally remove the screening standard of Korean schools for the Program and immediately excluded the schools due to a lack of progress in the abduction issue. It is incorrect for the Government not to state the true reason of exclusion in its report.
3. Although the Government report states that the exclusion was not discrimination, the CESCR stipulated in the Concluding Observation of Japan in 2013 that it is discrimination (E/C.12/JPN/CO/3, para27). It also seems that the Government has intentionally erased the political and diplomatic reasons from exclusion on its report. This matter was also pointed out as inappropriate by the members of the CESCR and the CERD in the previous sessions.
4. At the 3<sup>rd</sup> cycle of the Universal Periodic Review of Japan, Portugal and the DPRK recommended that the Government extend the High School Tuition Support Fund Program to Korean schools (A/HRC/37/15, para161.145, para161.151). However, the Government has failed to accept both recommendations.

b) The suspension of subsidies by local governments to Korean schools

5. Despite the previous recommendation by the CERD, the Government has failed to request local governments resume or maintain the provision of subsidies to Korean schools. Contrary to the CERD recommendation, the Government issued a notice to local governments, which seemingly encouraged them to suspend the subsidies in March 2016. Consequently five more prefectural governments have suspended the subsidies since the previous session of Japan by the CERD.

**B. No adequate funding by the central government**

6. Despite several concerns and recommendations expressed by treaty bodies and the Special Rapporteur (CERD/C/JPN/CO/3-6, para22(c), CCPR/C/79/Add.102, para13, E/C.12/1/Add.67, para 60, E/CN.4/2006/16/Add.2, para56, A/HRC/17/33/Add.3, para 64), the Government still fails to ensure the adequate funding of Korean schools. National subsidies are not allocated to Korean schools and although donors to other private schools and western international schools receive tax benefits on school donations, donors to Korean schools do not qualify for the same tax benefits. Furthermore, the

Government also excludes Korean school children from national scholarship programs.

7. In order to implement these changes, the Government should accredit Korean schools as schools equivalent to “regular schools” as stipulated in the School Education Act. Korean schools are recognized for education standard equivalent to Japanese schools which are classified as “regular schools”.

Although the Government stipulates that the Korean schools can only be accredited as “regular schools” if they meet the criteria, it is impossible for Korean schools to meet these conditions if they want to continue to offer an ethnic education in the Korean language. The criteria for “regular school” classification require the implementation of national guidelines, which would not provide Korean children with adequate time to teach the Korean language and would also require the use of textbooks written in Japanese language.

### **C. Discrimination in access to higher education**

8. The 2003 reform by the Ministry of Education granted access to university entrance examinations to graduates of foreign schools, and only graduates of Korean schools were excluded from the applying due to a lack of diplomatic ties with the DPRK. Consequently, only graduates of Korean schools do not have automatic access to Japanese universities. Instead, Korean school students are required to sit for special qualification examinations set by universities, and some universities still refuse to allow them to take the entrance examination.

Although the CERD, other treaty bodies and the Special Rapporteur have expressed concerns and issued recommendations (CERD/C/304/Add.114, para 16, E/C.12/1/Add.67, para 60, CRC/C/15/Add.231, para49(d), CCPR/C/JPN/CO/5, para 31, E/CN.4/2006/16/Add.2, para 89, A/HRC/17/33/Add.3, para 81(e)), the Japanese government still fails to grant graduates of Korean schools equal access to higher education.

### **D. Non-ratification of the UNESCO Convention against Discrimination in Education of 1960**

9. Despite the two recommendations by the CERD (CERD/C/JPN/CO/3-6, para22, CERD/C/JPN/CO/7-9, para19), the Japanese government is not considering ratifying the UNESCO Convention against Discrimination in Education.

#### **■ Suggested recommendations**

- A. The exclusion of Korean schools from the High School Tuition Support Fund constitutes discrimination. The Committee reiterates its recommendation included in paragraph 19 of its previous concluding observations that the State party revise its position and allow Korean schools to benefit from the High School Tuition Support Fund, and invite local governments to resume or maintain the provision of subsidies to Korean schools.
- B. The Committee recommends that the State party accredit Korean schools as schools equivalent to “regular schools” as stipulated in the School Education Act. In addition, ensure there is adequate funding for Korean schools by granting State funding equivalent to funding for other private schools, applying the national scholarship programs and the same fiscal benefits to donors of Korean schools as to donors of other western international schools.
- C. The Committee recommends that the State party recognize diplomas from Korean schools as direct university entrance qualifications.
- D. The Committee recommends that the State party accede to the UNESCO Convention against Discrimination in Education of 1960.

■ Prepared by Human Rights Association for Korean Residents in Japan (HURAK)

■ Issues and relevant recommendations in the previous cycle

**The right to leave and return to one's country of permanent residents - Article 5 (d) (ii)**

■ Relevant paragraphs in the State party's report: No

■ Implementation of the recommendations. If not, a relevant article of the Convention violated

Violation of the Article 5 (d) (ii)

■ Problems

1. At the discretion of the Minister of Justice, Article 26 of the Immigration Control and Refugee Recognition Act stipulates that only resident foreigners who have a re-entry permit may be allowed to re-enter Japan. Those who fail to leave on a re-entry permit will forfeit their right to permanent residence. Under the current "Re-entry Permission System", the Korean minority who are second and third generation permanent residents may be deprived of their right to leave and re-enter Japan.
2. Although the HRCtee strongly urged Japan in 1998 to "remove from the law the necessity to obtain a permit to re-enter prior to departure, in respect of permanent residents like persons of Korean origin born in Japan" (CCPR/C/79/Add.102, para 18), the Japanese government continues to enforce the "Re-entry Permission System" on Koreans born in Japan.
3. Furthermore, in the past the Government has been discriminatory in refusing to issue the "Re-entry Permission" to Koreans whom refused to be fingerprinted for their Alien Registration Card. Furthermore, as a result of the Government of Japan's unilateral sanctions against the Democratic People's Republic of Korea (DPRK), certain people have been denied a re-entry permit.
4. The Government has also discriminated against more than 30,000 Koreans in excluding them from the "Special Re-entry Permission System" (\*1), which was introduced in July 2012. This new system permits foreign residents to leave Japan and return within one year without a re-entry permit.
5. The term "one's own country" in the Article 5 (d) (ii) of ICERD should include the country where the person resides permanently, as well as the country of one's own nationality. The Government therefore should guarantee the right to all permanent foreign residents including the Korean minority born in Japan to leave and re-enter and not be dependent on the Government's discretion.

(\*1) "Special Re-entry Permission System" – The system exempts a foreign resident from the requiring a formal re-entry permit prior to departure, if he/she possesses a residence certificate and a valid passport when he/she departs. The Japanese government does not recognize DPRK passports as valid, thus under the "Special Re-entry Permission System" DPRK holders cannot access this system. On the other hand, Japan does not have diplomatic ties with Taiwan or Palestine but allows these passport holders to access the "Special Re-entry Permission System."

■ Suggested recommendations

A. In respect of permanent residents such as Koreans born in Japan, the Committee recommends that the State party remove from the law the requirement to obtain a permit to re-enter prior to departure.

B. The Committee recommends that the State party apply “Special Re-entry Permission System” to all permanent foreign residents including Koreans born in Japan.

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