

A Short Submission to  
the Office of the High Commissioner for  
Human Rights

On the Occasion of the Universal Periodic  
Review by the Human Rights Council

# Japan

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Prepared by: Service for War-displaced Japanese in  
China, Returnees to Japan and the Families

1395-3, Kamihijikata-Ochiai, Kakegawa-shi, Shizuoka prefecture, 437-1431 Japan  
c/o Ookawara, Yasutaka

<mailto:hroy@mbf.nifty.com> Phone: +81-537-74-4164

## Introduction

1, “The Service for War-displaced Japanese in China, Returnees to Japan and the Families (hereafter, the Service)” began its activities in 2001 and its purpose is to contribute wide spread of knowledge of human rights and obstacles for war-displaced Japanese in China, returnees to Japan and the families. The Service would like to add some brief explanations to the legal framework and practices of the Government of Japan for returnees from China and the families, necessity of a national human rights institution and training of judiciary in this document. Readers are strongly encouraged to take a look of submissions from the Japan International Human Rights NGO Network (hereafter, the Network’s submissions) to the OHCHR on the Universal Periodic Review to Japan.

## Who are war-displaced Japanese in China, returnees to Japan and the families?

2, The Government of Japan promoted immigration to former Manchuria, the present Northwestern part of the People’s Republic of China (PRC), but failed to protect Japanese refugees in China in almost 2 decades after 1945. Therefore, many of the 1<sup>st</sup> generation of the displaced Japanese and the families have returned to Japan from 1980s after resurrection of diplomatic relations between PRC and Japan. The Service estimates the number of returnees from China to Japan and the families as more than 100,000. Many of them speak in Chinese in their families.

## Existing legal framework on human rights

3, As the Network’s submissions (para 9) point out, there is little legal framework to protect rights of minorities in Japan. Though the Constitution of Japan has a catalog of rights of nationals, there is no act and anti-discrimination law passed by the Diet. The Diet passed an act to amend “the act to promote faster return of displaced Japanese and to assist self-support after return (Act No. 30 of 1994)” in order to increase amount of national benefits for former displaced people in 2007. However, the act and the amendment state that the government takes necessary measures for former displaced people and major judicial reviews implement this act as the executive power of the government has broad right to judge appropriateness of concrete measures for former displaced people (Ex. a judgement by the Tokyo District Court, 15 February 2006). Therefore, the act to promote faster return of displaced people cannot protect rights of returnees to Japan and the families whose necessity of assistance was not recognized by the government.

Empowerment of ability and technical assistance NGOs would provide or propose to the Government of Japan and international community

4, The Service agrees paragraphs from 23 to 27 of the Network's submissions, especially on necessity of international assistance for establishment of an independent national human rights institution and training to "familiarize judges with provisions of" international norms.

5, For instance, many returnees to Japan had brought legal actions against the government for state compensation of failure of policy for them and they usually lost their suits in the latest 4 years. Some of them argued effective implementation of the article 12 of the International Covenants on Civil and Political Rights, the articles 9 and 11 of the International Covenant on Economic, Social and Cultural Rights and the articles 24 and 26 of the 4<sup>th</sup> Geneva Convention, but courts usually opposed to the returnees' argument without careful consideration of international norms. Some courts ruled that the some articles of the Constitution of Japan and the articles above of the International Covenant on Civil and Political Rights and the 4<sup>th</sup> Geneva Convention are unable to be applied for standards of implementation of state compensation law in Japan (Ex.,. See again a judgement by the Tokyo District Court, 15 February 2006).

6, Representatives of plaintiffs and returnees to Japan, who asked for state compensation, agreed an amendment to the act to promote faster return and to assist self-support after return to Japan with the government in December 2007 as stated above. Nonetheless, subjects of measures of the act and the amendment are only returnees to Japan. The spouses of returnees and 2<sup>nd</sup> and 3<sup>rd</sup> generations are not subjects of the measures provided by the act. Some returnees are afraid whether the national and local governments would abandon to monitor activities in daily lives of returnees to Japan or not after the amendment. The act and the amendment have no provision to end discrimination by private individuals against returnees to Japan and the families. Political showdown to resolve issues of human rights violations in Japan tends to have limited content of redress for victims because there is less transparent system of policy making in the government and there is not an independent national human rights institution, which can propose ways to overall resolutions from viewpoints of related international law. The Service thinks that a procedure of public inquiries by the Human Rights and Equal Opportunities Commission in Australia is a good model for Japan.