

THE REPUBLIC OF KOREA-JAPAN
RELATIONS AND THE PROBLEMS
OF KOREAN RESIDENTS IN JAPAN

Thesis for the Degree of M. A.
MICHIGAN STATE UNIVERSITY
Tai Sung Kim
1963

THESIS



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THE REPUBLIC OF KOREA-JAPAN RELATIONS AND
THE PROBLEMS OF KOREAN RESIDENTS
IN JAPAN

By

Tai Sung Kim

AN ABSTRACT

Submitted to
Michigan State University
in partial fulfillment of the requirements
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1963

Approved *Carley A. Littel*

ABSTRACT

There is no doubt that the geographical proximity and political and economical situations of the Republic of Korea and Japan urgently require a realization of friendly relations. Yet, no basic relations have yet been established between the two countries ever since the end of World War II. It is because that there are several major problems which have to be solved prior to the establishment of basic diplomatic relations.

Since 1951, the governments of the Republic of Korea and Japan have held periodic negotiations to settle these pending problems. Nevertheless, the conflicting interests of the two governments, their differences in weighing the priorities of the problems, and the psychological aspects of the historical traditions of the two peoples have comprised contributing factors which have even further complicated the solution of the problems.

Among these problems, the problems of Korean residents in Japan appeared as one of the major issues. Today there are about 600,000 Koreans residing in Japan. The characteristics of their status are different from those of minority groups in other countries and also from those of other aliens in Japan. Although there are many factors involved in the peculiar situation of Koreans in Japan, at least three must here be indicated. First, almost all of these Koreans emi-

grated to Japan between 1905 and the end of World War II. Second, the termination after the war of the Japanese nationality which these Koreans possessed from the time of the Japanese annexation of Korea in 1910, created new changes in their status. Third, apart from the question of legitimacy, the existence of two governments on the Korean peninsula, the Republic of Korea and the People's Republic of Korea(North Korea), has certainly been another factor.

In this context, this study is made to examine the importance of the problems of Korean residents in Japan to the future relations of the two peoples, by analysing the nature of the problems and the major issues. Furthermore, an attempt is made to analyse the viewpoints of the two governments on the problems, and to cite the obstacles which have hampered solutions.

In order to understand the problems more thoroughly, Chapter I is devoted to presenting a brief historical background of Korean emigration to Japan. Here, an effort is made only to describe the situation briefly in order to give a general understanding of the problems.

The unclear legal and low socio-economic status of Korean residents in the post-war Japan may be characterized as the main basis of current problems. For this reason, Chapter II discusses the legal rights and duties of Korean residents and the extent of their employment and education

in explanation of their socio-economic status in Japanese society.

However, Chapters III and IV contain the meat of the paper. In Chapter III, a detailed analysis of specific aspects of the problems is made in relation to the domestic law of each country and to the international principles involved. Also, an analysis of the positions of each government is included along with a statement of the specific questions involved. These include the problems of nationality, of permanent residence and other rights, and of the repatriation of Koreans in Japan to North Korea.

In Chapter IV, the development of the ROK-Japan Conference is first discussed, following which is an analysis of the obstacles to settlement.

Finally, the importance of the position of Korean residents in the relations between the two peoples is emphasized by discussing possible outcomes if over-all problems of Korean residents are not settled. Also, it is suggested that a possible mean of settling the over-all problems is to promote socio-economic status of Korean residents in Japan.

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ABBREVIATIONS

Chosen Soren:	The General Federation of Korean Residents in Japan
ICRC:	International Committee of Red Cross
JMFA:	The Japanese Ministry of Foreign Affairs
JMJ:	The Japanese Ministry of Justice
JRC:	The Japanese Red Cross
LNTS:	League of Nations Treaty Series
Min Dan:	The Community of Korean Residents in Japan
NKRC:	The North Korean Red Cross
ROK:	The Republic of Korea
ROKMFA:	The Republic of Korea Ministry of Foreign Affairs
SCAP:	Supreme Commander for Allied Powers
SCAPIN:	Supreme Commander for Allied Powers Memorandum to the Japanese Government
USDS:	The United States Department of State
USSBS:	U.S. Strategic Bombing Survey

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CHAPTER I

HISTORICAL BACKGROUND OF KOREAN EMIGRATION TO JAPAN

I. Koreans in Japan Prior to 1904

The history of Korean residence in Japan began from the early centuries of the Christian era. Although no written records of Korean emigration to Japan then existed, many evidences show that there were close interactions between the inhabitants of southern Korea and western Japan.¹ From the beginning of the third century, Japan was in close contact with the Korean kingdoms, and in the sixth century an increasing number of Korean missionaries, artists, and scholars crossed the straits to Japan in order to engage in literary and intellectual activities.² In 660, after the conquest of Pakche by the Chinese, which was one of the three Korean kingdoms at that time, several thousand Koreans took

¹George B. Sansom, A History of Japan to 1334(Stanford University Press, 1958), p. 33: "Evidence of a traditional connection with Korea is furnished by the farmhouses in parts of Izumo, which closely resemble the buildings of southern Korea. This, and much other evidence, points to a very close connection, in fact an intermingling, of the inhabitants of southern Korea and those of western Japan. There is much in the folklore of Japan which is demonstrably of Korean origin...."

²Nye Steiger, A History of the Far East(Boston: Ginn and Co., 1936), p. 219

refuge in Japan where they were cordially welcomed and given lands on which to settle.³

Besides these voluntary Korean immigrants, a great number of Koreans were captured by Japanese pirates⁴ and forcibly brought to Japan. The statistics on the number of Koreans captured are not available, yet it is known that the number was so great that in the fourteenth century the Korean king had to appeal to the Japanese government many times to return his subjects to Korea.⁵

In 1592, one of the most significant historical events in the relations between Korea and Japan took place when Toyotomi Hideyoshi of Japan invaded Korea with massive military forces. During the war which lasted for seven years, many Koreans, mostly scholars and skilled workers, were taken to Japan where they stayed permanently. Even after this invasion transactions between the two peoples continued until the beginning of the twentieth century with only occasional interruptions.

³ Ibid., p. 221.

⁴ Until the end of the fourteenth century, the aggressive activities of Japanese pirates were so strong that they frequently invaded not only the coast of Korea but inland as well. For example, at the end of the fourteenth century, the capital of Korea had to be moved temporarily because of the invasions of Japanese pirates. See Byung Do Lee, Kuksa Daekwan (A History of Korea) (Seoul: Bomunkak, 1955), p. 275.

⁵ At the end of the fourteenth century, Japan released a number of Koreans who had been captured by Japanese pirates, at the request of the new Korean monarch, Yi Tai-jo. See Steiger, op. cit., p. 391, Byung Do Lee, op. cit., p. 428.

On the whole, most of the Koreans who came to Japan, whether voluntarily or forcibly, became permanent residents of Japan and were almost completely assimilated into Japanese society. Thus, in 1904, when the registration of Koreans in Japan was conducted, only 227 Koreans were recorded.⁶

II. The Korean Emigration to Japan during the Period from 1905 to 1937

The Korean emigration to Japan during this period may be attributed to the economic needs of Korean farmers who were driven from their land as a consequence of its seizure by the Japanese. In 1905, Japan established her protectorate in Korea and the seizure of Korean land by Japanese was gradually carried out. In 1908, a "land survey project"⁷ was launched and several Japanese agricultural organizations were established in Korea, the best known of which was the Oriental Development Company.⁸

⁶Japan Yearbook, 1906, p. 21.

⁷In 1908, under the Japanese Resident-General in Korea, the Land Survey Bureau was established in the Department of Finance. The announced purpose of the project was to survey land in the country for better utilization, but it was regarded by many Koreans as a Japanese scheme to place as much land as possible in the hands of Japanese farmers.

⁸The Oriental Development Company was established in March 1908 by virtue of the bill passed by the Imperial Diet. The company was the largest agricultural organization in Korea. The purpose of the company was to develop agricultural condition by helping both Korean and Japanese farmers. It also engaged in importing Japanese farmers to Korea. See Henry Chung, The Case of Korea (New York: Fleming H. Revell

During the process of the land survey, Japan annexed Korea in 1910 and confiscated all public lands⁹ including the extensive land held by the Korean royal household.¹⁰ As a result, almost 80 percent of the land in Korea was owned by Japanese people,¹¹ and millions of Korean farmers who had been tilling the public and private lands were displaced.¹²

Co., 1921), pp. 112-113. Hilary Conroy, The Japanese Seizure of Korea: 1868-1910 (Philadelphia: University of Pennsylvania Press, 1960), p. 482, described the company's further function: "...it could also engage in fishing or other undertakings deemed necessary to exploitation or accessory to the main business."

⁹ Under the old Korean government's land system, theoretically all land in the country had been owned by the State. The private ownership of land was not recognized. However, high government officials and other bureaucrats were given certain areas of land to collect duties from land in lieu of their salaries. In later days of the Korean dynasty, they practically owned these lands, which could be classified as the private land. The royal families, temples and other government institutions also collected taxes and duties from extensive lands which were called public land. All Korean farmers were attached to the land regardless of the owner. See Byung Do Lee, Hankuksa: Chungsaek Pyun (The Medieval History of Korea) (Seoul: Eulyou Munhwa Sa, 1961), p. 150.

¹⁰ The confiscation of public lands by the Japanese government was justified by the claim that land which did not pay taxes should be returned to the State. Later, these State-owned lands were sold to specially selected persons, all of whom were Japanese. See Hoon K. Lee, Land Utilization and Rural Economy in Korea (Chicago: University of Chicago Press, 1936), p. 105.

¹¹ Fujishima Unai, Maruyama Kunio, Murakami Hyoe, "Zainichi Chosenjin Rokujuman no Genjitsu" (The Reality of 600,000 Koreans in Japan), Chuo Koron, December 1958, p. 177.

¹² During this period, it was estimated that over a million Korean farmers settled in Manchuria in pursuit of agriculture. See Hoon K. Lee, Korean Immigrants in Manchuria (Korea: Union Christian College Press, 1931), p. 88.

In consequence, the first great influx of Koreans to Japan began during this period. The reasons for the Korean farmers' emigration to Japan in particular may be explained by citing two facts. First, the geographical proximity of Korea and Japan seemed to be one of the contributing factors which led emigres from southern Korea to cross to Japan searching for work. Second, the Japanese capitalists who needed a great amount of cheap labor forces for their economic expansion after World War I probably attracted these Korean farmers. Yet, the expenses for their transportation to Japan were paid by the Korean farmers.

However, social and economic conditions in Japan were not favorable to Korean workers. Korean workers had to compete with Japanese workers in the labor market, and many Koreans were unemployed.¹³ Furthermore, since the majority of the Korean emigrants were illiterate and unskilled, they had to work at low wages as compared with Japanese workers.¹⁴

On the other hand, the impact of such a large scale Korean emigration on Japanese society was also strongly felt.

¹³In 1928, Koreans comprised 54 percent of the total number of laborers on projects undertaken for the relief of the unemployed; the Social Affairs Bureau's report as quoted in Miriam S. Farley, "Korean Labor in Japan Depresses Wage Level", Far Eastern Survey, June 23, 1937, p. 151.

¹⁴A survey conducted in Kobe in 1928 showed that Koreans received less than Japanese workers for the same type of work; Korean navvies were paid ¥1.01 against ¥2.34 for Japanese; Korean agricultural laborers received ¥0.76 in comparison with ¥1.75 for Japanese. See Ibid.

A great influx of Koreans into Japan complicated the problem of employment in Japan, which was already densely populated. Moreover, the willingness of Koreans to work at low wages gradually lowered the wage level in Japan,¹⁵ which resulted in Japanese workers' hostility toward Korean workers.

Despite such unfavorable conditions for them, the number of Koreans in Japan increased every year, and by 1930 the number reached 419,009.¹⁶ By the end of 1938 the total number of Koreans in Japan reached 799,878, the number almost doubling in the seven years.¹⁷

III. The Korean Draftees during the Wartime Period (1937-1945)

In July 1937, Japan launched total war against China and World War II followed in 1941. The increasing demands of wartime production during this period brought a great change in Japanese industries, and social life as well. Private industries were converted to war production under strict government supervision, and all available resources including manpower were mobilized.

¹⁵ Ryoichi Ishii, Population Pressure and Economic Life in Japan (Chicago: University of Chicago Press, 1937), p. 207.

¹⁶ Korea Statistical Yearbook, 1961, p. 23. See Appendix I and II.

¹⁷ Ibid.

As the war continued, Japan suffered a severe shortage of resources, particularly skilled labor. As for Koreans, the recruitment of labor remained on a voluntary basis until the middle of 1939,¹⁸ when voluntary emigration of Korean workers to Japan had almost ceased. But, as the Chinese war was prolonged, the Japanese government launched a national mobilization program in Korea and started to draft Korean workers on a contract basis. In the three years preceding the outbreak of World War II, over 157,000 Korean contract workers were sent to Japan;¹⁹ the total Korean labor force mounted to 777,023 out of 1,469,230 Koreans in Japan by the end of 1941.²⁰

World War II brought further difficulties in the shortage of labor, not only in the industries but also in agriculture.²¹ The Japanese government, to cope with the labor shortage, utilized all human resources including women and children, and also decided to import more workers from outside of Japan, mainly from Korea and China.

¹⁸Edward W. Wagner, The Korean Minority in Japan 1904-1950 (New York: Institute of Pacific Relations, 1951), p. 27.

¹⁹USSBS, "Effects of Strategic Bombing on Japan's War Economy", p. 103. See Appendix III.

²⁰Ibid.

²¹See A. J. Grajanzen, "Japan's Economy since Pearl Harbor: Part II", Far Eastern Survey, June 14, 1943, p. 129.

On May 8, 1942, the decision was made to conscript Koreans, but this was not actually put into effect until 1944.²² In 1944, a plan was initiated to bring in 320,000 workers from Korea and China.²³ Under this plan 286,304 Korean workers were drafted and brought to Japan by the end of World War II.²⁴ Most of these Korean workers were put into mining, construction and other manual occupations. The statistics show that Korean miners numbering 135,000 made up 32 percent of the total miners in Japan at the end of March 1945.²⁵

In general, the characteristics of the Korean emigration to Japan during this eight-year period were quite different from those of the one prior to 1937 because the majority of Koreans who came to Japan in this period were draftees to meet wartime efforts. However, it should be stated that a considerable number of students, intellectuals and businessmen also voluntarily came to Japan during this period. At any rate, at the time of the Japanese surrender, it was estimated that almost two million Koreans were in Japan.²⁶

²²ROKMFA, "Koreans in Japan", Korea Journal, April 1962, p. 50.

²³USSBS, "Japan's Wartime Standard of Living and Utilization of Manpower", p. 76.

²⁴USSBS, "The Effects of Strategic Bombing on Japan's War Economy", p. 103.

²⁵USSBS, "Coals and Metals in Japan's War Economy", p.17.

²⁶See Appendix II.

IV. The Repatriation of Koreans in Japan to Korea after World War II

Immediately after the war Korean laborers and draftees in the military service were free to return home to Korea. But there was no authority to control the repatriation of so-called "liberated peoples" in Japan, namely Koreans, Chinese and Formosans. During the first three months after the Japanese surrender, approximately 525,000 Koreans returned to Korea using private transportation at their own expense.²⁷

On November 1, 1945, after the arrival of the U. S. Occupation forces in Japan, the first directive of the Supreme Commander for Allied Powers(SCAP) to the Japanese Imperial government concerning the repatriation of "liberated peoples" was issued. According to the directive, the Japanese government was to assume responsibility for carrying out repatriation of non-Japanese nationals at the expense of the Japanese government.²⁸ Under this directive, the official repatriation of Koreans was carried out.

In order to speed up the repatriation program, on February 17, 1946, SCAP ordered the Japanese government to register all Koreans in Japan by March 18, 1946.²⁹ This order

²⁷ Wagner, op. cit., p. 44.

²⁸ SCAPIN 224, "Repatriation of non-Japanese from Japan", November 1, 1945.

²⁹ SCAPIN 746, "Repatriation of Koreans, Chinese, Ryukans and Formosans", February 17, 1946.

contained in part a warning to non-Japanese nationals which read:

Individuals having received notification to register and failing to do so at or prior to the appointed time will be considered as not desiring repatriation and will forfeit their privilege of repatriation.³⁰

The official repatriation continued until the establishment of ROK in 1948. After that, few Koreans in Japan were repatriated. According to the statistics of 1950, the total number repatriated to ROK by the official program was 944,779, and in addition, 351 Koreans were repatriated to North Korea.³¹

After the end of the official repatriation program, over 500,000 Koreans remained in Japan. These were the people who refused to return to Korea. Of the many reasons for their decision to stay in Japan two are probably most significant. First, in the eyes of Koreans in Japan there seemed no future prospect for them to build new lives in Korea if they were to return. In the few years after the liberation of Korea from Japan conditions in the country had become chaotic. The increasing amount of unemployment

³⁰Ibid.

³¹General Headquarters, SCAP and Far East Command, Selected Data on the Occupation of Japan, June 1950, p. 92. The number of 351 Koreans repatriated to North Korea includes only those who returned directly to North Korea from Japan. The number of Koreans who returned to North Korea through South Korea is unknown.

plus the great flow of the refugees from North Korea and the inflation of currency created many social problems and also threatened the nation's whole economy. Second, although probably having less effect, the financial and property regulations imposed on the repatriates by SCAP discouraged many Koreans from returning to Korea. According to the regulations, a repatriate was allowed take cash amounts of ¥1,000,³² and such baggage as he could carry on his back at a time.³³ The financial regulation was amended twice, but the cash allowance remained the same.³⁴ Also, some changes were added to the property regulations later.³⁵ Under these regulations, those Koreans who intended to return had to dispose of most of their properties, whereas others stayed in Japan to keep their possessions.³⁶

³² ¥1,000 was equivalent to \$2.78 in 1949. The exchange rate in 1949 was ¥360 : \$1.00. No exchange rate existed during the period from 1945 to 1948.

³³ SCAPIN 142, "Reception Centers in Japan for Processing Repatriations", October 15, 1945.

³⁴ SCAPIN 822, "Repatriation", March 16, 1946.

³⁵ SCAPIN 927/6, "Repatriation", July 20, 1946.

³⁶ It was reported that many Koreans who were repatriated to Korea tried to re-enter Japan illegally to repossess their disposed properties. For example, SCAP said that 15,000 Koreans who tried to enter Japan illegally were apprehended during one month and a half, from August 1 to September 15, 1946. See Japan Times, September 15, 1946.

Summary

The historical developments of Korean emigration to Japan are divided, for the convenience of this study, into three different periods: from the early centuries of the Christian era to 1904, from 1905 to 1937, and from 1938 to 1945. The characteristics of their emigration in each period are quite different in accordance with the causes of their emigration. As a whole, however, it appears that almost all Koreans in Japan at present are those who came to Japan after the Japanese annexation of Korea in 1910, and their descendants.

At the time of the end of World War II, there were approximately two million Koreans in Japan, yet in a few years almost three quarters of them returned to Korea either by the official repatriation program of SCAP or by private means.

Currently, it is estimated that over 600,000 Koreans are residing in Japan. They comprise the biggest national minority group in Japan. Among these Koreans, the majority are former immigrants or forced laborers and their descendants. Others entered Japan illegally after World War II, and especially after the Korean war. Many Korean students and youths entered Japan illegally to attend Japanese universities, or to escape from military duties. Finally, a small number of politicians also chose political asylum in Japan.

CHAPTER II

THE LEGAL AND SOCIO-ECONOMIC STATUS OF KOREAN RESIDENTS IN JAPAN SINCE THE END OF WORLD WAR II

I. The Legal Status of Korean Residents in Japan after World War II

1. General Background

From the time of the Japanese annexation of Korea to the end of World War II, in legal theory, Koreans in Japan were Japanese nationals, and enjoyed almost complete equality with Japanese. But, in practice, Koreans were not granted privileges equal to those of Japanese people. They were treated not merely as "second class citizens" but as colonial subjects.¹ As to their political rights, for instance, it was only after 1925 that participation in politics and in voting were granted to some Koreans who satisfied certain qualifications.² On the other hand, legal obligations imposed on Koreans were little less than those expected of the Japanese citizens.

The liberation of Korea from the Japanese government at the end of World War II brought a great change in the

¹John M. Maki, Government and Politics in Japan(New York: Frederick A. Praeger Inc., 1962), p. 218.

²There were two conditions which Koreans had to satisfy to vote. First, he must not receive relief or other similar government support. Second, he must meet the residence requirement of one year.

legal status of Koreans in Japan. Immediately after the war, although the Occupation authorities had jurisdiction over all peoples in Japan, the legal status of Koreans was not clearly defined. This seemed to be partly because no single agency within SCAP was charged with primary responsibility for Koreans. Each separate occupation office took action on the problems of Koreans.

At first, SCAP treated Koreans in Japan merely as a "liberated people".³ Nevertheless, this classification of the status had little meaning as far as legal rights and duties were concerned. Literally speaking, it meant only that Koreans were liberated from the hand of the Japanese government. It also appeared to be a temporary device because it was believed that all Koreans in Japan would be repatriated to Korea as soon as possible.

During the first few months after the war, the attitudes of the Occupation authorities were very generous to Koreans. As for Koreans in Japan, it was the first time

³The U.S. government's "Basic Initial Post-Surrender Directive to Supreme Commander for the Allied Powers for the Occupation and Control of Japan" of November 3, 1945, Part 1, 8-(d) reads; "You will treat Formosan-Chinese and Koreans as liberated peoples in so far as military security permits. They are not included in the term 'Japanese' as used in this directive but they have been Japanese subjects and may be treated by you, in case of necessity, as enemy nationals. They may be repatriated, if they so desire...." See SCAP, Political Reorientation of Japan: September 1945 to September 1948, p. 432.

they were out of the Japanese jurisdiction. Taking advantage of their peculiar status, namely "liberated people", and from the sympathetic attitudes of the Occupation authorities, Koreans in Japan enjoyed some privileges both legal and illegal. Furthermore, they often defied the Japanese government's order and neglected some of the SCAP directives as well.⁴ Accordingly, their social and economic activities were virtually uncontrolled by any authority. As time went on, it became apparent that many Koreans would remain in Japan, since repatriation was not based on compulsory return to Korea.⁵ It also became clear that some control over the Koreans who remained in Japan must be established, because the violent activities of some Koreans without any government control occasionally caused serious social problems,⁶ which in turn induced many complaints from the Japanese. In August 17, 1946, for instance, a Diet member, Saburo Shiikuma, delivered a vigorous speech in the Diet which reads in part:

We refuse to stand by in silence watching Formosans and Koreans, who have resided in Japan as Japanese

⁴An example is that in 1947 the Japanese government was directed by SCAP to register all Koreans in Japan but Koreans vigorously refused.

⁵SCAP announced that "No Korean was required to repatriate unless he desired so..." See Nippon Times, June 22, 1946.

⁶The economic police of the Japanese Home Ministry reported a great difficulty in carrying out enforcement

up to the time of the surrender, swaggering about as if they were nationals of victorious nations. We admit we are a defeated nation but it is most deplorable that those who lived under our law and order until the last moment of the surrender should suddenly alter their attitude to act like conquerors... the actions of these Koreans and Formosans make the blood in our veins, in our misery of defeat, boil. 7

Near the end of the official program of Korean repatriation, scheduled to be terminated on December 31, 1946, SCAP, for the first time, clarified the status of the Koreans who would remain in Japan. On November 12, 1946, SCAP issued a statement announcing that "Koreans who refuse to return to their homeland under the SCAP repatriation program will be considered as retaining Japanese nationality until such time as duly established Korean government accords them recognition as Korean nationals."⁸ Only a month after this announcement, on December 20, 1946, SCAP issued a slightly different statement concerning the status of Koreans in Japan which specified the following points:

1. Koreans have been liberated from any and all vestiges as subjects, citizens or nationals of Japan.
2. Koreans remaining in Japan must necessarily abide by the laws and regulations of the Japanese government.

measures against Chinese and Koreans who maintained that a liberated national was not subject to Japanese law. See New York Times, April 12, 1946.

⁷As quoted in David Conde, "The Korean Minority in Japan", Far Eastern Survey, February 1947, p. 42.

⁸Nippon Times, November 14, 1946.

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3. The American Military Government in Korea is making every effort to see that legitimate Korean interests abroad are protected. However, it can not make representation to other governments requesting special considerations and exemptions from the observances of appropriate local laws and regulations for Koreans residing abroad.⁹

This statement authorized the Japanese government to resume jurisdiction over Koreans who remained in Japan. Moreover, the Japanese government was left to determine what laws and regulations were appropriate to Koreans.

Regaining jurisdiction over the Koreans in Japan, the Japanese government declared that both Japanese and Koreans residing in Japan would be treated as equal before the law and any violation should be subject to punishment, and that it was the duty of Koreans in Japan to obey the law of the Japanese government.¹⁰ Since then, Koreans in Japan have been once again put under the jurisdiction of the Japanese government. Robert A. Fearey described the situation thus:

Due partly their depressed economic status, the Korean minority had included a considerable proportion of Communists and other unruly elements and this fact, plus their large number, has made it necessary that they remain subject to Japanese police jurisdiction....¹¹

⁹Quoted from Robert T. Oliver, Verdict in Korea(Pennsylvania: Bald Eagle Press, State College, 1952), p. 178.

¹⁰Radio Broadcast, Tokyo, Kyoto Release in Japanese and English, April 27, 1948, 1:00 am, EST-T.

¹¹Robert A. Fearey, The Occupation of Japan: Second Phase; 1948-1950(New York: The MacMillan Co., 1950), p. 17.

In 1947, for purposes of administration and control, the Alien Registration Order was enacted, and all foreigners and Koreans in Japan were required to register as aliens. At first, Koreans protested against this order claiming that the purpose of their registration was to discriminate between them and Japanese in treatment. Yet, eventually 535,236 Koreans completed their registration by the end of March, 1950.¹²

In 1952, upon the Japanese independence, a new Alien Registration Law was enacted, and Koreans were ordered to register again. From this time on, Koreans in Japan have been treated as foreigners by the Japanese government,¹³ and their legal rights and duties have been determined exclusively by the Japanese government.

2. Legal Rights

During the early days of the Occupation period, Koreans in Japan enjoyed some privileges given by the Occupation authorities. Above all, a significant legal right provided for Koreans by SCAP was that of having SCAP review the sentences imposed on Korean convicts by the Japanese

¹²Japan Statistical Yearbook, 1951, p. 36.

¹³A detailed discussion on this point is presented in Chapter III.

criminal courts. In other words, a Korean criminal who was not satisfied with the sentence imposed on him by the Japanese judge could request a review of the sentence by SCAP.¹⁴ However, such request could be made only when two conditions were met. First, he had to furnish adequate proof of his intention to return to Korea.¹⁵ Second, the request could be made only after all Japanese court remedies were exhausted.¹⁶ Upon the acceptance of the request, SCAP reserved the right to change the sentence imposed by Japanese courts, but the new sentence of SCAP could not be heavier than the previous one of Japanese courts.¹⁷ The purpose of this measure appeared to be a device to protect Korean offenders from possible unfair sentences from the Japanese judges because of emotional tensions between Koreans and Japanese. However, this special privilege became ineffective at the end of 1946 upon the termination of the official repatriation program.

Today, Koreans in Japan can enjoy those general rights provided by laws to all foreigners in Japan, mainly the principal fundamental human rights. The Japanese Constitution,

¹⁴SCAPIN 757, "Review of Sentences Imposed on Koreans and Certain Other Nationals", February 19, 1946.

¹⁵Ibid.

¹⁶New York Times, February 21, 1946.

¹⁷Ibid.

adopting modern democratic theory and universal principles, also contains articles of fundamental human rights.¹⁸ Although the basic idea of the provisions in the Constitution is to provide Japanese citizens with these rights, it also recognizes the rights of all human beings in Japan regardless of their status.¹⁹ The fundamental human rights which the Japanese Constitution provides include personal liberty, freedom of religion, freedom of speech, freedom of residence, the protection of personal property, and the right to a fair and public trial.²⁰ Yet, the Constitution does not deny the Japanese government's right to place certain restrictions on these rights in the case of foreigners.²¹

It is unquestionable that Koreans do not enjoy the rights reserved for Japanese citizens only, especially political rights. In its nature, it is conceivable that the political rights, such as the rights of franchise and of being a government official, are denied to non-citizens. However, it seems important to mention that there are two special privileges Koreans have been enjoying, which are

¹⁸The Japanese Constitution, Chapter III.

¹⁹Toshiyoshi Miyazawa, Nihonkoku Kempo (The Japanese Constitution) (Tokyo: Nihonhyoron-shinsha, 1962), p. 189.

²⁰The Japanese Constitution, article 33, 20, 21, 22, 32 and 37.

²¹Miyazawa, op. cit.

normally denied to many other foreign nationals in Japan. These are the privileges of receiving livelihood protection from the Japanese government and of residing in Japan without acquiring the status of residence.²²

In May 4, 1950, the Livelihood Protection Law was enacted to protect the livelihood of the Japanese who can not meet the minimum standard of living,²³ which involves the government payment of cash and materials.²⁴ In principle, only Japanese are subject to the benefits of this law, since the Japanese government reserves the right to deport a foreigner to his own country if he is considered to be a financial burden on the Japanese government.²⁵ Nevertheless, for humanitarian reasons, the Japanese government, with an administrative measure, extended the application of this benefit to Koreans and some Chinese in Japan.²⁶ In any case,

²²Up until the present, Korean residents in Japan have been allowed to stay in Japan without having a status of residence. A thorough discussion is presented in Chapter III.

²³The Japanese Livelihood Protection Law, article 1.

²⁴An average cash payment for a family of five is about ¥9,400 (about \$26.10 at the current exchange rate of ¥360 : \$1.00). See the Japanese Ministry of Welfare, "Wagakoku no Shakai Hoshō Seido" (The Social Security System of Our Country), Official Gazette, No. 8435, Appendix, February 5, 1955, p. 16.

²⁵The Japanese Immigration Control Order, article 24, section 4.

²⁶"Korean Residents' Problem", The Oriental Economist, May 1959, p. 239

this privilege is characterized by Japanese scholars as a social right which is, they claim, not a positive right with which one can file claims on the Japanese government.²⁷

Under this Livelihood Protection Law, according to the survey conducted by the Ministry of Welfare in October 1958, the number of Koreans receiving benefits was 81,000, which represented 13.3 percent of all Korean residents in Japan at that time.²⁸

3. Legal Duties

Although the legal duties of foreign nationals differ from one country to another, it is a generally recognized principle that all peoples in a country must carry certain legal duties provided by laws of the government where they reside. For Koreans in Japan, the most important duty they carry is considered as a financial duty, the payment of taxation. Article 30 of the Japanese Constitution requires all peoples in Japan to pay certain taxes stating that "The people shall be liable to taxation as provided by law."²⁹

²⁷Oyama Shinjiro, Shakai Hosho Kankei Ho(The Social Security Laws)(Tokyo: Nihon Hyoronsha, 1953), p. 15.

²⁸"Korean Residents' Problem", op. cit.

²⁹The term "the people" in this provision includes not only Japanese but also foreigners in Japan. See Miyazawa, op. cit., p. 283.

Accordingly, Koreans in Japan have been required to pay all taxes which Japanese people must pay.

In relation to taxation, however, it is important to mention that there was a special tax levied on Japanese and Koreans in Japan during the occupation period, from which all other foreign nationals were exempted. Immediately after World War II, in order to revive the collapsed economy and to control inflation, the Japanese government established two special taxes: the Wartime Indemnity Special Tax and the Capital Levy.³⁰ Koreans in Japan were also liable for the Capital Levy.³¹

At any rate, the application of the Capital Levy to Koreans raised charges of discrimination between Koreans and all other foreign nationals since the latter were exempted from this tax. In defending the position of the government, the Tax Bureau director testified in the House of Peers War-time Loss Indemnity Committee that "Koreans are not included among foreign nationals to be fixed by law.... The law refers

³⁰The Wartime Indemnity Special Tax was established in order to invalid all financial claims against the Japanese government for the actions it took during the war.

³¹The Capital Levy was imposed on the basis of the value of the property owned by a person as of March 3, 1946. The rate of the tax was extremely high; 25 percent of property valued over ¥100,000, 90 percent of over ¥15,000,000. See The Japanese Ministry of Finance, "Wagakoku no Seizei"(The Tax System of Our Country), Official Gazette, No. 8711, Appendix, January 16, 1956, p. 9.

to nationals of countries which are members of the United Nations."³²

The Korean reaction to the imposition of the tax was very vigorous. They launched campaign to protest against the payment of this tax charging that Koreans had already suffered bitterly under the Japanese during the war.³³ They also claimed that they could not obey any law which was connected with payment of war reparations. But their protest was unheeded and they were ordered to surrender to the payment of this tax by the Occupation authority.

II. The Socio-economic Status of Koreans in Japan

1. The Extent and the Nature of Korean Employment

The collapse of the Japanese war economy and the increasing population in Japan proper resulting from a great influx of the Japanese repatriates from former Japanese territories caused a serious unemployment problem in the post-war period. Apparently, the competition among

³²Nippon Times, October 10, 1946.

³³On December 21, 1946, for example, about 1,500 Koreans marched to the residence of Premier Yoshida accusing "illegal discrimination" against Koreans. They demanded that they would not be taxed on the same basis as Japanese people. This meeting wound up with the bloodshed between Koreans and the Japanese police. See New York Times, May 24, 1946.

Japanese people in search of jobs was incredibly fierce.³⁴ Under such circumstance, it is small wonder that many Koreans were also unemployed, and that Japanese people discriminated against Koreans in employing workers.³⁵

With regard to the economic activities of Koreans during the first few years after the war, it cannot be ignored that many Koreans were active in the black market operation.³⁶ The black-marketing was an inevitable product of the economic confusion and appeared as one of the "major" business activities in post-war Japan. Many Koreans, taking advantages of their peculiar status of "liberated people", were very active in the black market with the support of various Korean organizations, and they enjoyed unusual economic prosperity for a while.

Gradually, realizing the harmful effects of the black market on the development of a stable economy, the Japanese

³⁴In October 1947, the Japanese Ministry of Welfare announced that the nation's unemployment was seven to eight millions. Radio Broadcast, Kyoto, October 2, 1947, 1:00 am.

³⁵As to the discrimination, SCAPIN 360, "Employment Policies", November 28, 1945, warned that "The Imperial Japanese Government will insure that no discrimination will be exercised or permitted for or against any worker either in private or government, in wages, hours or working conditions by reason of nationality, creed or social status."

³⁶The major goods dealt in the black market were the items of daily needs such as rice, coals, and clothes.

public began to oppose the black-marketing and to charge Koreans with responsibility for its existence.³⁷ This Japanese ill-feeling toward Koreans' activities in the black market was likely to become one of the factors which intensified the development of Japanese discrimination against Koreans. At any rate, the outbreak of the Korean war marked the beginning of a turn for the better in the Japanese economy, and the government control over the black market had been strongly enforced. As a consequence of such developments, the economic prosperity in the black market decreased drastically and in turn the economic position of Koreans in Japan rapidly deteriorated.

In the analysis of the status of Korean employment, the statistics for 1952 show that the number of Koreans who had jobs was 168,555 out of a total 571,008 Koreans in Japan.³⁸ The notable facts the statistics indicate are that about 40 percent of them were employed in the tertiary industries, mostly engaging in scrap iron and entertainments, and that the considerable number of 18,339 Koreans were engaging in anti-social activities such as illicit distilling and trade in narcotics.

For a more detailed analysis of the nature of Korean employment, a comparative statistical study of 1959 is made

³⁷ See Conde, op. cit., p. 43, also Nippon Times, January 9, 1947.

³⁸ See Appendix IV.

to compare Koreans with Americans and Chinese in Japan.³⁹ As of April 1, 1959, only 24.5 percent of the total 609,533 Korean population was employed in comparison with 28.2 percent of the total of 44,599 Chinese and 42.3 percent 9,082 Americans. Among those Koreans employed, 52.82 percent were engaged in manual labor and only 0.81 percent were in office jobs.⁴⁰ On the other hand, the majority of the Chinese were employed in service businesses such as restaurants, and in entertainment which represents 37.17 percent whereas only 8.95 percent of them were engaged in manual labor. Most Americans were in professional work, such as medical, religious and educational activities. These numbers represent 65.27 percent of the total American employment, 44.69 percent of whom were in religious activities. The number of American manual workers was only 2.06 percent of their total.

Since the majority of Koreans are laborers, the regional distribution of their residence is highly concentrated in the big cities. A survey conducted by the Japanese Ministry of Justice, as of February 1958, showed that over 50 percent of

³⁹The data are collected from JMJ, "Zairyu Gaikokujin no Kosei to Bunpo" (The Components and Distributions of Aliens in Japan), Official Gazette, No. 10307, Appendix, May 1, 1961, pp. 15-16. See Appendix V.

⁴⁰The meaning of the "office job" used here is limited only to that of those who were employed by others.

total Koreans in Japan numbering 332,241 out of 603,083 were living in five big cities; Tokyo, Osaka, Kyoto, Aichi and Hyogo.⁴¹

Another significant fact which cannot be overlooked in relation to Korean employment in Japan is the employment practices of Korean business establishments there. Among Koreans in Japan there are some who have achieved success in their business and operate big firms. Ironically, these Korean firms prefer in most cases to employ Japanese workers rather than Koreans themselves. Although such practices were condemned by many Koreans, it is likely to be true that such a policy would place the Korean firms in a better position in their relations with Japanese people and firms.⁴²

In conclusion, under the unfavorable conditions such as Japanese discrimination, unwillingness of Korean managements to employ Korean workers, the lack of skill among them and the lack of confidence in them, it seems inevitable that Koreans will suffer from unemployment. As a result, a considerable number of Koreans have to live on the Japanese government relief program, and some of them are still operat-

⁴¹JMJ, "Suji kara Mida Zairyu Gaikokujin"(A Numerical Aspect of Aliens in Japan), Official Gazette, No. 9464, Appendix, July 11, 1958, p. 6.

⁴²As of the end of 1957, among 19,309 workers employed by 731 Korean firms in Japan, 15,498 were Japanese in contrast to 3,764 Koreans. See Kyu Hwan Kim, "Jaeil Kyopo nun Ibangan inka ?"(Are Korean residents in Japan Aliens to Us ?), Sasangge, January 1961, p. 132.

ing illegal activities. This problem of Korean employment is likely to be one of the most significant factors in depressing the status of Koreans, which have endangered their very existence in Japan.

2. Education

The education of Korean children after the liberation of Korea emerged as one of the great concerns of Korean residents in Japan. Distrusting the Japanese education and hoping to educate their children as "Korean", Koreans in Japan made tremendous efforts to solve this problem in their own way. During a few years after the war, with the active support of the League of Korean Residents in Japan(LKRJ)⁴³ they established hundreds of Korean schools throughout the country.⁴⁴ Most of these schools were primary schools, and the average standard was far below that of the equivalent Japanese schools. Despite the all-out efforts of Koreans, not much progress was made because of the lack of school facilities and qualified teachers.

⁴³The League of Korean Residents in Japan was then the largest Korean organization in Japan. The LKRJ was once dissolved by the Japanese government for its violent activities. Shigeru Yoshida, The Yoshida Memoirs(Cambridge: The Riverside Press, 1962), p. 234, described it that "The League of Koreans in Japan, which was in those days even more addicted to acts of violence than the Communists and caused considerable trouble to the authorities: this body was dissolved and its property confiscated."

⁴⁴By the end of 1947, over 600 schools were established, and the total number of students attending these Korean schools

Eventually, SCAP and the Japanese government began to control Korean schools. On January 24, 1948, the Japanese Ministry of Education announced that all Korean schools would be subject to the Japanese School Education Law and other regulations. All Korean children were also required to attend only schools with a legal standard set up by the Japanese government. In general, since many Korean schools were far below this legal standard and failed to comply with the Japanese government order, these schools were ordered to close down immediately.⁴⁵ Nevertheless, many schools continued operating in defiance of the Japanese government order.⁴⁶

The closing down of Korean schools caused a great social turmoil with the protests of Koreans accompanied by mass meetings, demonstrations and often violence.⁴⁷ For the

reached over 62,000 and over 1,500 teachers were employed. See Edward W. Wagner, The Korean Minority in Japan 1904-1950 (New York: Institute of Pacific Relations, 1951), pp. 68-69.

⁴⁵The Japanese School Education Law was enacted on March 31, 1948 and became in effective from April 1, that year. The article 13 of the law reads; "If the school authority deliberately violates the regulations of the law and order, or does not comply with the order of the government, or fails to operate school for more than six months, school shall be ordered to be closed."

⁴⁶Radio Broadcast, Tokyo, JIJI Release in Japanese and English, April 28, 1948, 2:30 am, EST-T.

⁴⁷The most serious violence took place in Kobe on April 28, 1948, when 1,500 Koreans held a meeting in protest

settlement of the problem, the Japanese Education Minister Tatsuo Mirito announced that:

The Ministry decided to apply all laws and regulations governing education to the Koreans on an equal basis with the Japanese after a most careful study of the question since the enactment of the Basic Education Law, the School Education Law and others.⁴⁸

Koreans also claimed that they would respect the Japanese law and comply with the regulations, "if the Japanese authorities promise to recognize the special character of Korean education within the bounds of the basic Japanese Education Law."⁴⁹

With regard to the Korean schools in Japan, it seems very important to look at the elements among them. The Korean schools in Japan are distinctly divided into two groups in accordance with the political ideologies they pursue, and depending on whether their sponsors are South Korea or North Korea. As of 1959, 226 schools, including one college, were supported by North Korea, which totaled 24,301 students. On the other hand, only 12 schools were sponsored by the ROK government involving only 2,037 students.⁵⁰

against the order of closing Korean schools. Koreans occupied the governor's office by force and threatened the governor until he withdrew his order. New York Times, April 26, 1948.

⁴⁸Radio Broadcast, Tokyo, JIJI Release in Japanese and English, April 27, 1948, 6:00 am, EST-T.

⁴⁹One of the demands of Koreans was the use of the Korean language in their textbooks. See Ibid.

⁵⁰Kyu Hwan Kim, op. cit., p. 134.

Of course, there may be many explanations for the big difference in the numbers of the two groups of schools. However, an insincere effort of the ROK government toward Korean education in Japan seems one of the most significant factor. For over a decade after World War II, little effort was made by the ROK government to promote the education of Koreans in Japan. It was only after the middle of the 1950's that the ROK government began to send small amounts of aid to Koreans in Japan for their education.⁵¹ On the other hand, the North Korean government has been very active in operating its schools in Japan with an incredibly large financial aid through communist Korean organizations in Japan.⁵² Under such circumstances, it is apparent that most Korean children attending Korean schools are being given communist indoctrination through communist education.⁵³

⁵¹The ROK Ministry of Education remitted a certain amount of financial aid for teachers salaries and textbooks through Korean Mission in Japan. See ROKMFA, Korean Report, v. VI, 1958, p. 96.

⁵²It was reported that, for instance, the North Korean government sent over ¥601,440,000 (about \$167,056) to the communist schools in Japan during three years from 1957 to 1959. See Kyu Hwan Kim, op. cit.

⁵³The Japanese Public Security Investigation Agency reported that "...the educational policy of the Chosen Soren has been devoted to the ideological transformation of Korean people in Japan by taking in all ideas from North Korea and by inspiring them with revolutionary principles advocated by Marx and Lenin..." See the Japanese Public Security Investigation Agency, Current Phases of the Activities of Korean Residents in Japan, September 1957, pp. 12-13.

After Japanese independence, a major change came in its policy toward Korean education, namely that Koreans were no longer the subject of compulsory education.⁵⁴ The majority of Korean students in Japan are attending Japanese schools, since most of the Korean schools are not accredited by the Japanese government. Furthermore, it is also true that generally well-equipped Japanese schools can provide them with a better education than the Korean schools can.

In general, the educational standard of Korean residents in Japan as a whole is still low. For example, the number of Korean students attending high schools and colleges in 1954 was only 13,970.⁵⁵ Again, this is one of the reasons for their lower social status in Japanese society.

Summary

Ever since Japanese independence in 1952, the legal status of Korean residents in Japan has been exclusively determined by the Japanese government, for no treaty has yet been signed between ROK and Japan. However, some of the legal problems such as the question of nationality and permanent residence still remain unclarified or have been settled

⁵⁴ The Japanese Basic Education Law, article 4, provides that the education up to the middle school (9th grade in American standard) must be compulsory. This principle is no longer applied to Korean residents in Japan.

⁵⁵ See Appendix VI and VII.

only temporarily. These problems comprise the major issues of the current disputes between the two governments with regard to the legal status of Korean residents in Japan.

As for the socio-economic status of Koreans in Japan, it seems an unquestionable fact that the limited extent and the nature of their employment along with the generally low standard of their education inevitably depress their status in Japanese society.

CHAPTER III

THE MAJOR PROBLEMS OF KOREAN RESIDENTS IN JAPAN IN THE DISPUTES BETWEEN ROK AND JAPANESE GOVERNMENTS

I. The Problems of the Nationality of Korean Residents in Japan

1. The Nature of the Problems and Its Significance

Upon the termination of "Japanese nationality" which Koreans had possessed under the Japanese government, Korean residents in Japan became non-Japanese nationals, and both the governments of ROK and of Japan recognized that Korean residents in Japan regained their "Korean nationality". Yet, the concept of "Korean nationality" in terms of international law is very obscure since the interpretations by the two governments are divergent from each other.¹

At present, in accordance with the Japanese Alien Registration Law,² Korean residents in Japan are registered as having "Korean nationality" which is indicated by either

¹Although there are many different definitions of nationality in terms of international law, the writer, at this point, uses the concept of nationality as a legal link with which a person belongs to the State. See Kisaburo Yokota, Kokusaiho(I)(International Law)(Tokyo: Aobashi Shoin, 1960), p. 171.

²The Japanese Alien Registration Law authorized all aliens in Japan to register, and it requires the identification of nationality. See article 4 of the Japanese Alien Registration Law.

"Gankoku"(South Korea) or "Chosen"(North Korea).³ This distinction between the two categories of "Korean Nationality" in the registration process was officially established by the Japanese government, and the opportunity was given to Korean residents in Japan to choose either term at the time of their registration. However, according to the Japanese government's explanation, this distinction was made only for the convenience of registering all Koreans in Japan, and neither designation definitely represents any specific government in Korea.⁴ This measure was probably taken solely for administrative convenience, because it seemed obvious, as long as Koreans in Japan were divided into two large groups supporting different governments in Korea, that many Koreans would refuse to register at all if the Japanese government forced them to register in a single category of "Korean nationality".

³The terms "Gankoku" and "Chosen" are the abbreviation of Japanese words for the Republic of Korea and for the Democratic People's Republic of Korea(North Korea) respectively. Up until the establishment of the Republic of Korea in 1948, Korea including both south and north had been called "Chosen"("Chosun" in Korean) for over five hundred years. Because of this historical heritage, even today, many Japanese people call Korea "Chosen" regardless of whether South or North Korea. But, the Japanese government in its official usage distinguishes "Gankoku" for South Korea from "Chosen" which represents North Korea at present.

⁴JMJ, "Zainichi Gaikokujin no Bunpo to Sono Zitsudai" (The Distribution of Aliens in Japan and Their Reality), Official Gazette, No. 8300, Appendix, September 1, 1954, p. 2.

To the Japanese government, it seems clear that "Korean nationality" is likely to be a mixture of "Gankoku" and "Chosen", so it still remains unclear what State the term legally represents. Since the politico-legal concept of nationality means "the quality of being a member of a State which is vested with the character of a subject of international law",⁵ the term "Korean nationality" in this sense must link Koreans in Japan to a certain State too. Although a State must have a single government,⁶ beyond the controversies of the legitimacy, two governments do exist in Korea at the present time and each of them claims it represents the entire Korean people and territory, even though neither government effectively exercises such sovereignty.

In this situation, the Japanese government's interpretation of "Korean nationality" lacks a legal clarity and has only historico-biological or ethnological-sociological

⁵Paul Weis, Nationality and Statelessness in International Law (London: Stevens & Sons Limited, 1956), p. 14. Another interesting definition of nationality refers to "the relationship between a State and an individual which is such that the former may with reason regard the latter as owing allegiance to itself"; see Charles Cheney Hyde, International Law: Chiefly as Interpreted and Applied by the United States, v.I (Boston: Little, Brown, and Company, 1922), p. 610.

⁶See Hersch Lauterpacht, Oppenheim's International Law: A Treaties, v. I (Peace) (London: Longmans, Green and Co., 1948), p. 114.

implications of "nationality".⁷ In this sense, "Korean nationality" has no more specific meaning than a simple identification of Korean "race" or the people of Korean cultural heritage.

On the other hand, for the ROK government, the term "Korean nationality" is regarded as ROK nationality, and it extends the application of her nationality law to all Korean residents in Japan. The acquisition of ROK nationality under its nationality law is mainly based on the principle of jus sanguinis, based on parentage.⁸ The principle of jus soli, which is based on birth in the territory of the State, has only a supplementary function to the former.⁹

Under this premise, the ROK government authorized the Korean Mission in Japan to have all Koreans register in accordance with the ROK Registration Law of Nationals Abroad.¹⁰ The result of this registration has been very unsuccessful in terms of total number registered. As of August 1961, only

⁷According to Weis' definition, nationality in the historico-biological sense means "the subjective corporate sentiment of unity of members of a specific group forming a 'race' or 'nation' which may, though not necessarily, be possessed of a territory and which, by seeking political unity on that territory, may lead to the formation of a State". See Weis, op. cit., p. 3.

⁸ROK Nationality Law, article 2.

⁹Ibid.

¹⁰ROK Registration Law of Nationals Abroad, article 5 and 13.

161,360 out of over 600,000 Koreans in Japan completed their registration.¹¹ Yet, the ROK government does not distinguish those who have not registered from those who did in its claim that all Koreans in Japan are her nationals. It argues that the failure to register under the law does not cause the lapse of one's ROK nationality.¹²

In this context, the main objective of the settlement sought by the two governments is the clarification of the term "Korean nationality". It is not a question of conferring a new nationality on Korean residents in Japan but of recognizing all Koreans in Japan as nationals of ROK. Also, they seek a settlement of the problem as an international agreement between the two governments, not through the individual decision of Korean residents themselves.

¹¹This figure was prepared by the Korean Mission in Japan as quoted in Joon Chun, "Bonkuk Chungbue Keuni handa" (The Suggestions to the Home Government), Sasangge, January 1961, pp. 115-116.

¹²The only outcome of the failure of registration is that the government may refuse one's request for protection; ROK Registration Law of Nationals Abroad, article 8. Yet, the effect of this provision reaches only to the relations between the ROK government and its nationals, and it has no effect on the matter of international relations. As to such a point, Georg Schwarzenberger, International Law (London: Stevens & Sons Limited, 1957), Third edition, v.I, p. 375, said "The fact that a State deprives certain groups or classes of its citizens of most, or all, rights of active citizenship at home does not deprive it of the right of diplomatic protection or of its locus sandi before international judicial institution."

The problems of nationality have various aspects. First of all, on the level of international relations between the two governments, there is the matter of diplomatic protection of Korean residents in Japan by the ROK government in the case of legal injuries.¹³ In past years, some efforts have been made by the ROK government to protect the rights of Korean residents in Japan, and on some occasions the Japanese government showed favorable reaction.¹⁴ Yet, the legal basis of diplomatic protection over

¹³Diplomatic protection concerns only a government's intervention in behalf of its citizens in a foreign country as a matter of right in international law. Therefore, the subject of protection is primarily a legal subject. See Frederick Scherwood Dunn, The Protection of Nationals: A Study in the Application of International Law (Baltimore: The Johns Hopkins Press, 1932), pp. 20-21. As to the extent of injuries, Borchard said "If the alien receives the benefit of the same laws, administration, protection and means of redress for injuries which the State accords to its own subjects, the national government of the alien has no ground to complain or interpose in his behalf, provided that the system of municipal law, administration and protection applied to citizens meets the recognized standards of civilized justice." See Edwin M. Borchard, The Diplomatic Protection of Citizens Abroad (New York: The Banks Law Publishing Co., 1928), p. 350. See also Kisaburo Yokota, Kokusaiho (International Law)(II)(Tokyo: Yuhikaku, 1961), p. 158.

¹⁴A typical case is found in the ROK government's claim against the Japanese government for better treatment of Korean detainees in Omura camp for the violation of the Japanese Immigration Control Order. In August 18, 1955, the ROK government announced that she would request International Red Cross to investigate the situation of "inhuman" treatment of Korean detainees by the Japanese government. See JMJ, "Omura Nyukokusha Shyuyosho"(Omura Detention Camp), Official Gazette, No. 8638, Appendix, October 15, 1955, p. 8.

nationals in another country must be consistent with international law.¹⁵ In other words, in order to provide the ROK government with a legal right of diplomatic protection over Korean residents in Japan, they must possess ROK nationality in terms of international law.

Another important aspect involves the disadvantages that Koreans in Japan suffer in the Japanese legal system. The Japanese private international law,¹⁶ for instance, provides, in many cases, the application of the law of the State of one's origin to the foreigner concerned.¹⁷ According to the Japanese law, the determination of the law of the State of

¹⁵ H. P. Van Panhuys, The Role of Nationality in International Law (Netherland: Leyden, A. W. Sythoff, 1959), p. 59, stated "...the rule appeared that in order to enable a State to present a diplomatic claim on behalf of an individual the latter must possess the nationality of the complainant State.. ." See also Georg Schwarzenberger, op. cit., p. 590; Commissioner Nielsen in the United States-Mexican Special Claims Commission in the case of Naomi Russell said "Nationality is the justification in international law for the intervention of one government to protect persons and property in another country...", see Opinions of Commissioners (Sp. Cl. C) (1931), p. 44 at p. 51; U.N. Reports, v. IV, p. 805.

¹⁶ The term "private international law" is referred to as the conflict of laws by American writers.

¹⁷ As for foreigners in Japan, the law of the State of one's origin is applied to cases of legal capacity such as minority and incompetency, of kinship relations such as marriage and divorce, and of inheritance. See the Japanese Law No. 10, article 3, 4, 13-16, 19-22, and 25.

one's origin is based on one's nationality,¹⁸ and the law of the State of residence is applied in cases in which the nationality of the foreigner concerned is unknown.¹⁹

Thus, as far as Korean residents in Japan are concerned, the application of the law of the State of origin is, at least in legal theory, very difficult unless their nationality is determined. Otherwise, it is obvious that only Japanese laws will apply to them, since Japan is the State of residence.

Consequently, the problem of the nationality Korean residents in Japan has great significance in terms of international law, of the Japanese legal system, and particularly in terms of ROK's sovereignty over her nationals in Japan.

2. An Analysis of the Claims of the Two Governments and Their Theoretical Bases

A. The Date of the Termination of Japanese Nationality

Although the two governments agree that Korean residents in Japan were denationalized from Japanese citizenship, they present different arguments on the effective date of the termination of Japanese nationality.

The Japanese government's position is that Korean residents in Japan definitely became foreigners on April 28,

¹⁸ Aoki Jiroichi, Kokusaishiho (Private International Law) (Tokyo: Hyoronsha, 1957), p. 42.

¹⁹ Japanese Law No. 10, article 27-(2).

1952 upon the enforcement of the Treaty of Peace with Japan.²⁰ The theoretical basis of its claim is the interpretation of the article 2-(a) of the treaty which reads:

Japan, recognizing the independence of Korea, renounces all right, title, and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.²¹

In other words, according to the Japanese Ministry of Justice, Korea was legally separated from the Japanese territories on the effective date of the treaty, and thus became independent on April 28, 1952.²² Accordingly, Korean residents in Japan who had their permanent address²³ in Korea lost Japanese nationality on the same date.²⁴

²⁰The Treaty of Peace with Japan was signed by Japan and 49 other nations at San Francisco on September 8, 1951. Upon the proclamation by the President of the United States, the treaty entered into force on April 28, 1952. See USDS, United States Treaties and Other International Agreements, v. 3, 1952, p. 3168.

²¹The Treaty of Peace with Japan, article 2-(a); see Ibid., p. 3172.

²²JMJ, "Kokusekiho Junen no Ayumi" (Nationality Law: Ten Years' Process), Official Gazette, No. 10092, Appendix, August 11, 1960, p. 12.

²³The permanent address is the place where a person's family registry is recorded. It has nothing to do with the actual address of one's residence. However, any change of a permanent address must be accorded with the provisions of the law. A Japanese national must have his permanent address in Japan proper only. All Koreans in Japan have their permanent address in Korea. See Yoshito Aoki, Kosekiho (Family Registry Law) (Nihon Hyoronsha, 1951), p. 33.

²⁴JMJ, "Kokusekiho Junen no Ayumi", op. cit.

This interpretation by the Japanese government of article 2-(a) of the treaty provoked strong reactions from Korea. Especially with regard to the date of ROK independence, bitter criticisms were heard from every sector of Korean society.

The ROK government stands on the claim that all Koreans, regardless of their residence either in Korea or in Japan at the time of the Japanese surrender, automatically lost Japanese nationality as a result of the Japanese defeat.²⁵ ROK claims the acquisition of Japanese nationality by Koreans originally was a result of the Japanese annexation of Korea in 1910, and that, therefore, the liberation of Korea from Japan brought the end of Japanese nationality.²⁶

²⁵Yong-dal Ohm, "Problems and Prospects of Korea-Japan Talks", Korea Journal, April 1962, p. 56.

²⁶The ROK government claims that the Japanese annexation of Korea in 1910 should be considered as invalid since it was achieved against the wills of Koreans. See Hapdong Year-book (Seoul), 1959, p. 392. The ROK claim is very similar to that of the Austrian government against Germany after World War II. The incorporation of Austria into Germany in 1938 brought the end of Austrian nationality. Upon the re-establishment of Austrian government in 1945 the problem arose with respect to the nationality of Austrians who remained in Germany. The Austrian government claimed that all its nationals whether they resided inside or outside Austria automatically re-acquired Austrian nationality. Because, it declared that Austria's incorporation into Germany was considered by Austria as null and void. Furthermore, the compulsory naturalization of Austrian nationals by Germany was to be considered as invalid. See Weis, op. cit., pp. 157-158. See also Nissim Bar-Yaacov, Dual Nationality (New York: Frederick A. Praeger, 1961), pp. 205-206.

In observing the Japanese claim, it is noticeable that the independence of Korea itself brought the denationalization of Korean residents in Japan. Thus, a discussion on the date of Korean independence may be of great significance in relation to the time of the loss of Japanese nationality by Korean residents in Japan.

Korean independence was agreed to in principle by the Big Three, President Roosevelt, Prime Minister Churchill, and Generalissimo Chiang Kai-Shek, in the Cairo Declaration of 1943 which reads in part:

Japan will also be expelled from all other territories which she has taken by violence and greed. The aforesaid three great powers, mindful of the enslavement of the people of Korea, are determined that in due course Korea shall become free and independent....²⁷

This agreement was reconfirmed by the Potsdam Proclamation of 1945.²⁸ At the time of the Japanese surrender, the Japanese government agreed to carry out the full provisions of the Potsdam Proclamation.²⁹ Then, theoretically, the

²⁷USDS, Foreign Relations of the United States: The Conferences at Cairo and Teheran 1943, 1961, pp. 448-449.

²⁸"Proclamation Calling for the Surrender of Japan, Approved by the Heads of Government of the United States, China, and the United Kingdom", (8) reads; "The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the island of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine". See USDS, Foreign Relations of the United States: The Conference of Berlin (The Potsdam Conference) 1945, v. I, 1960, p. 1475.

²⁹The "Instrument of Surrender" of World War II reads in part: "We hereby undertake for the Emperor, the Japanese

legal effect of the Japanese surrender brought about the end of Japanese sovereignty over Korea. Moreover, in 1948, ROK was established succeeding the U. S. Military Government in Korea, and was recognized by the United Nations. It was almost five years prior to the enforcement of the Treaty of Peace with Japan.

The Japanese recognition of Korean independence prescribed in the treaty, therefore, could not be a condition of the independence of ROK, but could have only a declaratory function in terms of the recognition of the State.³⁰ In other words, the effect of the article 2-(a) of the Treaty of Peace with Japan must be interpreted as merely the Japanese recognition of ROK as being the subject of international law in the relations between Japan and Korea.

Consequently, the Japanese government's claim, which presented the date of April 28, 1952 for the loss of the Japanese nationality in connection with the date of Korean independence, lacks its logical basis.

Government and their successors to carry out the provisions of the Potsdam Declaration in good faith..." See USDS, Bulletin, v. 13, July-December, 1945, p. 364.

³⁰There is divergence of opinion among writers as to whether recognition of State is declaratory or constitutive; that is whether a State exists prior to recognition or whether it is brought into being by the act of recognition. The Japanese recognition of Korea, in any sense, must be considered as declaratory, otherwise, the U. N.'s recognition of ROK would become meaningless.

On the other hand, Korean's assertion of the automatic loss of the Japanese nationality of Korean residents in Japan merely as a result of Korean liberation from Japan itself also has an obscure basis in the light of international law. Because nationality of a person, except for the inhabitants of the territory absorbed in the case of State succession,³¹ cannot be automatically changed.

In its legal analysis, the independence of Korea from Japan is regarded as a case of partial succession of State as a consequence of the war. With respect to the change of nationality in the case of State succession, there is considerable disagreement as to the manner in which change of nationality may be brought about. Yet, many writers have asserted that upon change of sovereignty the inhabitants of the territory concerned lose the nationality of predecessor State and become ipso facto nationals of successor State.³² But, as to the persons residing outside the territory

³¹In the case of universal succession of the State, it is largely recognized that people in the territory automatically lose the nationality of ceding State; see Weis, op. cit., p. 140. See also Yokota, op. cit., p. 80, Oppenheim's, op. cit., p. 571.

³²Georg Schwarzenberger, A Manual of International Law (London: Stevens & Sons Limited, 1960), 80, described "... unless anything to the contrary is agreed, the nationals of the ceding State living in the ceded territory acquire automatically the nationality of the cessionary State..." D. P. O'Connell, The Law of State Succession (Cambridge: the University Press, 1956), p. 247, presented an interesting point stating "...international law can have very little to say

concerned, it is largely claimed that they would continuously retain nationality of predecessor State.³³ Thus, it would appear to follow from such a theory that Korean residents in Japan did not lose their Japanese nationality as a result of the liberation of Korea from Japan per se.

In any case, on December 20, 1946, SCAP clarified the status of Koreans in Japan as liberated from any and all vestige as subjects, citizens or nationals of Japan. Considering that SCAP had legitimate and full authority in Japan during the occupation period, such clarification of the status

upon the question of change of nationality consequent upon a succession State. It is the municipal law of the predecessor State which is to determine which persons have lost their nationality as a result of the change; it is that of the successor State which is to determine which persons have acquired its nationality. The function of international law is at the most to delimit the competence of the former to retain certain persons as its nationals, and of the latter to claim them as its own. It cannot prescribe that such persons change their nationality, either automatically or by submission...."

³³ An interesting case was found in the decision of the German Federal Administrative Court. The court held on October 30, 1954, in *Pollak v. Land Hesse* and *Ulleram v. City of Heidelberg* that certificates of German nationality must be refused to the plaintiffs, who were Austrian nationals by birth and who had resided in Germany on April 27, 1945, the date of the re-establishment of the Austrian Republic, and ever since that date. The defendants pleaded that in the case of secession of a part of a State, or in case of re-establishment of a State, the population concerned changed its nationality automatically. The plaintiffs had, therefore, by their acquisition of Austrian nationality, lost their German nationality. The court stated in its judgement that the plaintiffs were not "inhabitants" of Austria. They had acquired German nationality by virtue of the law of March 13, 1938 concerning the incorporation of Austria into Germany and the ensuing Nationality Decree of July 3, 1938. Even assuming that

must be regarded as lawful and effective on the question of the nationality of Korean residents in Japan. This clarification, of course, did not specify what nationality they would acquire, but definitely pointed out that Koreans lost Japanese nationality. Furthermore, Koreans in Japan have been registered as aliens from the time of the first Japanese Alien Registration Order was enacted in 1946.

In observation of these facts, it can be said that Japanese nationality of Korean residents in Japan terminated when SCAP clarified their status, namely in December of 1946.

B. The Problems of Confirming ROK Nationality of All Korean Residents in Japan

For the clarification of the nationality of Korean residents in Japan, the ROK government has been insisting that the Japanese government must confirm that all Koreans

the plaintiffs had re-acquired Austrian nationality-a question which the court was not competent to decide-they had not thereby lost German nationality according to German Law. German municipal law did not regulate the question of loss of nationality in consequence of territorial changes. The general rules of international law formed part of German law, but there was no generally recognized rule of international law relating to loss of nationality in case of transfer of territory. Even if the acquisition of German nationality by the plaintiffs in 1938 had constituted a violation of international law, it remained effective under German municipal law until it was withdrawn. Such withdrawal of nationality could, according to the German Constitution, only be effected by virtue of a law. (Quoted from Weis, op. cit., pp. 156-157.)

in Japan are ROK nationals.³⁵ The theoretical basis of its claim is based on the legitimacy of the ROK government in Korea; that is, it is the only government in Korea recognized by the United Nations.³⁶ The ROK government asserts, therefore, that it represents the entire Korean people and territory including the north.

The Japanese government, on the other hand, has been reluctant to accept the ROK claim and takes a narrowly legal stand concerning nationality problems; that is the problem of nationality is within the domestic jurisdiction of the State.³⁷ Beyond this purely legal interpretation, the Japanese government seems to be concerned with other factors too. First of all, as to the legitimacy of the ROK government, the Japanese government fully recognizes it,³⁸ yet it

³⁵Hanguk Ilbo, October 18, 1962. See also "Statement by Foreign Minister Chung Whan Cho, on Conditions for the Repatriation of Korean Residents in Japan", ROK Foreign Affairs Bulletin, No. 19, September 1958, p. 30.

³⁶On December 12, 1948, the U. N. General Assembly adopted Resolution 195(III) declaring the Government of ROK, established in the southern part, as the only lawful government in Korea. See Louis B. Sohn, ed., Cases on United Nations Law (Brooklyn: The Foundation Press, Inc., 1956), p. 507.

³⁷Hanguk Ilbo, October 18, 1962.

³⁸The Japanese Prime Minister Nobusuke Kishi said at the plenary session of the Diet that the Japanese government recognized the ROK government as the only lawful government in Korea. See Korea Times, March 21, 1958. Also when the Japanese Foreign Minister Zentaro Kosaka visited ROK in 1960, he said at a press conference that Japan had recognized the U. N. resolution which recognized ROK. See Hanguk Ilbo, September 7, 1960.

questions the ROK claim of personal and territorial sovereignty over all of Korea.³⁹ Secondly, the Japanese government, though it has not recognized the North Korean government, neither expressly nor impliedly,⁴⁰ takes an ambivalent attitude toward North Korea by admitting the existence of the de facto government in the north.⁴¹ Thirdly, the Japanese government seems to have difficulties in gaining the Diet approval of ROK nationality for the pro-Communist Koreans who refuse to accept it.⁴²

In analysis of the claims of the two governments, their positions seem to lack justification for their stands. As to the ROK claim, it does not, either in a legal or a real sense, represent the entire Korean people and territory including the north. While it is true that the ROK government is the only lawful government recognized by the United Nations, its resolution recognized ROK sovereignty

³⁹Unlike the question of ROK, Japan recognized by the treaty that the Nationalist Chinese government represents the entire China. See "Korea-Japan Diplomacy", The Oriental Economist, April 1958, p. 189.

⁴⁰As to the recognition of the North Korean government, the Japanese government has not made any form of declaration, the conclusion of a treaty, or exchange of diplomatic representatives.

⁴¹The Japanese Foreign Minister Zentaro Kosaka said in the Diet of 1961 that "...there is an authority in North Korea too..." As quoted in Bun San So, "Nikkan Gyosho to Boku Seiken no Seikaku" (The Japan-ROK Negotiation and the Characteristics of Park Regime), Sekai, May 1962, p. 159.

⁴²Hanguk Ilbo, October 18, 1962.

only over South Korea, which reads in part:

...declares that there has been established a lawful government (the Republic of Korea) having effective control and jurisdiction over that part of Korea where the Temporary Commission was able to observe and consult and in which the great majority of the people of all Korea reside;...and that this is the only such Government in Korea;⁴³

The Japanese government, on the other hand, though it denies the ROK sovereignty over the north, often appears to recognize it in effect. The problem of ROK property claims against Japan, which has been one of the pending issues in the current ROK-Japan Conference, is concerned with the interests of all of Korea although the Japanese government has been negotiating on the problem only with the ROK government.

At any rate, it appears that the question of ROK sovereignty over the entire Korean peninsula could not be the sufficient basis upon which the nationality of Korean residents in Japan could be determined.

At present, there is no recognized principle of international law or established rule which is properly applicable to the case of Korean residents. Thus, it might be the intentions of the two governments to settle the problem politically by making a certain agreement between them. If so, it is inevitable for the two governments to take into

⁴³U. N. Document, A/810(GAOR, Resolutions, 3rd Session, Pt. I, 1948), pp. 25-27.

account the various political and ideological aspects of the problem. In that respect, the Japanese government especially has been faced with furious opposition on the subject stemming from its internal politics.

Yet, there still appears a basic question: that is, is it absolutely necessary for the two governments, ROK and Japan to participate in determining the nationality of Koreans? If it follows the general principle of international law, the question of nationality is under the domestic jurisdiction of the State to which a person is alleged to belong.⁴⁴

Accordingly, the nationality of Korean residents might also be determined domestically. In other words, the question of whether all Koreans in Japan are nationals of ROK or not is likely to be determined by the ROK's municipal law,⁴⁵ and as long as its determination is not in violation of the general principles of international law, such determination

⁴⁴In the present state of international law, a question of nationality of a person is under the domestic jurisdiction of a State. See Yokota, op. cit., pp. 150-151. Oppenheim's International Law, v. I, p. 586, prescribes that "The question, to what State a person belongs, must ultimately be settled by the municipal law of the State to which he claims or is alleged to belong." The Hague Codification Conference of 1930, the Convention on Certain Questions Relating to the Conflict of Nationality Laws, article 2 also reads "Any question as to whether a person possesses the nationality of a particular State shall be determined in accordance with the law of that State." See The League of Nations Treaty Series, v. 179, p. 89.

⁴⁵The term "municipal law" as used here is referred to as domestic law of the State.

of the ROK government could be considered valid by other countries.⁴⁷

Then, as for the Japanese government, which has only the territorial jurisdiction over Korean residents in Japan at present, it could merely recognize them as ROK nationals on the basis of the ROK determination. The Japanese government, therefore, assumes neither responsibility nor right to confer any nationality upon them except in cases of Japanese nationality in the process of naturalization.⁴⁸

⁴⁷The ROK Nationality Law provides that the acquisition of ROK nationality by birth is based on the principles of jus sanguinis and jus soli which are generally adopted principles of international law on nationality. Thus, the determination of the ROK government which is based on these principles should be respected by other nations. Article 1 of the Convention on Certain Questions relating to the Conflict of Nationality Laws of 1930 also reads "It is for each State to determine under its own laws who are its nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality."

⁴⁸In the case of naturalization, the Japanese government has an exclusive right to determine what category of Koreans in Japan can be naturalized to Japanese nationals. Herbert W. Briggs, The Law of Nations: Cases, Documents, and Notes (New York: Appleton-Century-Crofts, 1952), Second edition, p. 510, said "The right of a State, in conformity with international law, to naturalize a resident applicant for its nationality is not limited by any provisions of his national law which may forbid or restrict his expatriation. Conversely, the fact of his naturalization abroad imposes no obligation, in the absence of treaty, on his State of origin either to recognize his acquisition of a new nationality or to regard him as having lost his original nationality."

As to the question of those Korean residents in Japan who might be designated as ROK nationals against their will, it would not be the Japanese government that could bring about the solution. Again in the case of those Korean residents who might claim that they would have North Korean nationality, neither the Japanese nor ROK government could make the decision.

Even assuming that some Korean residents might acquire the nationality of some other country or of North Korea and this was regarded as legitimate on the level of international law, the loss of ROK nationality would not take place automatically unless it were determined by the ROK nationality law.⁴⁹ In that case, they could have dual nationality, and it could be settled only by the rules of international law on each individual case.

As to the limit on the right of the State in the case of naturalization, Hyde, op. cit., p. 1066 said "...State should not be free to impose its nationality on an individual against his will. This is the existing rule of international law in cases of forced naturalization." The number of Koreans in Japan naturalized to Japanese nationals during the past ten years, from 1950 to 1960, reached 17,013. See JMJ, "Kokusekiho Junen no Ayumi", op. cit., p. 12.

⁴⁹ It should be mentioned that Korean residents in Japan also have the right to change their nationality in process of naturalization; this is one of the fundamental human rights adopted universally. The Universal Declaration of Human Rights, article 15 also reads: (1) Everyone has the right to a nationality; (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality. The ROK Nationality Law, article 14 also provides for the loss of ROK nationality in the cases of naturalization of its citizens who become nationals of other country.

Consequently, the problem could also be settled domestically under the general principles of the international law on nationality, and the two governments could avoid various difficulties of political and ideological nature.

II. The Problems of Permanent Residence and Subsequent Problems in the Treatment of Korean Permanent Residents in Japan

1. The Nature of the Problems

Under the Japanese Immigration Control Order, all foreigners who intend to stay in Japan, whether permanent or temporary, must have permission from the Japanese government by satisfying at least one of the eighteen qualifications of the status of residence provided by the Order.⁵⁰ Among these qualifications the status of permanent residence is one, except for the status of foreign diplomats and those engaging in foreign government services, which carries no restriction on the period of stay in Japan whereas others are normally limited to a one to three-year period.⁵¹

Up to the present, Korean residents who have been living in Japan since before September 2, 1945 and their lineal descendants born before April 28, 1952 are exempted from the requirement of the status of residence by special

⁵⁰ Japanese Immigration Control Order, article 4-(1).

⁵¹ Ibid., article 4-(2).

legislation of the Japanese government.⁵² In other words, most Koreans in Japan today are allowed to stay without having acquired the status of residence. This special status given to Korean residents, however, is considered as a temporary measure, and eventually they will also have to obtain a certain status of residence. Therefore, the question of permanent resident appears as an important problem faced by those Koreans who intend to live in Japan permanently.

In general, a question of permanent residence of a foreigner in the country is a domestic problem of the State in which he intends to stay. Since this is so, in the case of Korean residents in Japan, the Japanese government may have an exclusive right to make decisions over the problem domestically. Yet, the case of Korean residents in Japan seems so significant in the relations between the two countries that both governments try to establish an agreement for the settlement of the problem. Moreover, the

⁵²Article 2-(6) of the Japanese law No. 126: "Law for Disposition of Orders under the Ministry of Foreign Affairs issued on the Imperial Ordinance concerning the Orders to be issued in consequence of the acceptance of the Potsdam Declaration" reads: "Any person who loses Japanese nationality on the date of the first coming into force of the Treaty of Peace with Japan under the provisions of the same Treaty and who has resided in Japan until the effective date of this law continuously since before September 2, 1945 (including the children of such person who were born during the period from September 3, 1945 to the effective date of this law)

status of Korean residents in Japanese society is so peculiar that it may be considered to be inappropriate to apply the normal requirements of permanent residence prescribed by the Japanese government to the case of Korean residents in Japan.

For instance, according to the normal requirements, permanent residence shall be granted only after a thorough examination of an applicant's status. The important qualifications for permanent residence are: first, he has to have a stable financial background or capacity for his own independent career; second, he must have a record of good behavior; third, and most important of all, his permanent residence in Japan must be considered to be to the benefit of Japan.⁵³ In view of these qualifications, it seems very obvious that few Koreans in Japan are really eligible for permanent residence. In fact, the majority of Koreans in Japan have no financial background, and their stay would not be considered as a benefit of Japan at all. On the

may continue to reside in Japan without acquiring the status of residence, pending the determination of his or her status of residence and period of stay as prescribed by laws, regardless of the provision of article 22-(2) paragraph 1 of the Immigration Control Order." See Japanese Official Gazette, English edition, Extra No. 48, April 28, 1952, pp. 8-9. See also JMJ, "Shuriku Kanri to Sono Jitsudai" (Immigration Control and Its Reality), Official Gazette, No. 9738, Appendix, June 11, 1959, pp. 4-5.

⁵³JMJ, "Zairyu Gaikokujin no Kanri Seido" (Management System of Aliens in Japan), Official Gazette, No. 9046, Appendix, February 21, 1957, pp. 86-87.

contrary, they are regarded as a "cancer" in Japanese society by Japanese people. Besides that, the Japanese government has been so strict in granting permanent residence that only a small number of foreigners acquire it every year.⁵⁴ Under these circumstances, it is hardly expected that many Koreans in Japan can meet the normal qualifications.

For these reasons, the main issue of the problem is to separate out a certain category of Korean residents in Japan who can be eligible for permanent residence. Also, for the assurance of their future security once permanent residence is granted, the settlement of three subsequent problems appears next. These problems are: the problems of a special privilege in engaging business, of properties to be carried out or money to be remitted by the repatriating Koreans, and of the limits on deportation of convicted Koreans to Korea by the Japanese government.

2. An Analysis of the Positions of the Two Governments on the Problems

A. The Category of Korean Residents in Japan Eligible for Permanent Residence

The position of the Japanese government has been to delineate the category of Koreans who will be granted permanent residence only to those who have resided in Japan continuously since before September 2, 1945 and their lineal

⁵⁴Ibid.

descendants born before the effective date of the Treaty of Peace with Japan, April 28, 1952.⁵⁵ Korean children born after April 28, 1952 are "exempted" from the category. It is probably because that they have never been Japanese nationals as their parents were. The Japanese government, however, claims that those children will also be treated on an equal basis to that of other Korean permanent residents in their status even though they are not given permanent residence.⁵⁶ Nevertheless, it claims, those children will have to apply for permanent residence after they reach the legal age of majority.⁵⁷

At present, such children are given a permit for a three-year residence period and required to get an extension of the permit every three years. Only for the benefit of such children would the normal fee for renewal charged by the Japanese government be exempted.⁵⁸

Against this Japanese government stand, which is based on exactly the same theory as in the case of the problem of nationality, the ROK government, though it generally agrees

⁵⁵Asahi Shimbun, April 24, 1961.

⁵⁶Ibid.

⁵⁷Hanguk Ilbo, October 18, 1962.

⁵⁸JMJ, "Suji kara Mida Zairyu Gaikokujin"(A Numerical Aspect of Aliens in Japan), Official gazette, No. 9464, July 11, 1958, p. 7.

with the position of the Japanese government, insists that all Korean children who are lineal descendants of those living in Japan since before 1945 must be also accorded the right of permanent residence regardless of the date of their birth.⁵⁹

The position of the ROK government is likely to stem from the probability that the Japanese government, with its rigid restriction in granting permanent residence, would refuse to accept the applications of Korean children in the future unless an agreement is established between the two governments at present. The question of these Korean children, the number of whom is estimated over 100,000⁶⁰ and who appear to be more "Japanized" than their parents are, should be considered for their benefit, because the need of permanent residence for them seems more apparent and acute.

Another minor question in connection with requirement of permanent residence is the certificate of nationality of a person concerned. The ROK government requested the Japanese government to waive this particular requirement for

⁵⁹Young-dal Ohm, op. cit., p. 56. See also Mainichi Yearbook, 1962, p. 141.

⁶⁰The data of 1958 showed that the number of Korean children in Japan born after April 28, 1952 was 78,000, and the annual rate of increase in number was estimated about 10,000. See JMJ, "Suji kara Mida Zairyu Gaikokujin", op. cit., p. 7.

Korean residents in Japan,⁶¹ since it seems obvious that many pro-Communist Koreans will not obtain the certificate of ROK nationality.

B. The Subsequent Problems of Korean Permanent Residents in Japan

Once permanent residence is granted to Koreans in Japan, their future treatment by the Japanese government becomes the next problem to be settled. In general, as to the treatment of foreign nationals in the country, in the absence of a treaty which provides otherwise, it is the generally recognized principle that the government which has territorial jurisdiction over them has the right to do what it considers best.⁶² Yet, for the protection of the human rights and preservation of international justice, the treatment of foreign nationals cannot be discriminated from their own nationals unless such a law is provided.⁶³ This general principle of international law, at least in the minds of

⁶¹Hanguk Ilbo, October 18, 1962.

⁶²Yokota, Kokusaiho(II), p. 182, said "As to the right of aliens, there is no established principle of international law. Thus, each State with its domestic law determines the category of rights which aliens can enjoy."

⁶³The State must provide aliens in the country with a certain degree of protection which is prevailing in the ordinary civilized nations. See Ibid. As to the limit on the right of the State, Panhuys, op. cit., p. 45, said "One of the most important rules of the unwritten law concerning treatment of foreign nationals is that the State of residence must guarantee a minimum of legal protection...."

Koreans, is not regarded to be sufficient to protect the security of Korean permanent residents because of their delicate relations with Japanese people. The governments of ROK and of Japan, therefore, have been trying to make an agreement for three specific problems.

The first problem is concerned with the ROK request for the special privileges of Korean permanent residents which are normally denied to other foreigners in Japan. In many cases, the Japanese laws prohibit foreigners in Japan from engaging in certain professions such as mining and owning land and patent right.⁶⁴ But, ever since before the end of World War II, many Koreans in Japan have been engaging in such professions. Even today, they are not restricted in their business activities, because they are exempted from acquiring the status of residence.⁶⁵ But, there is no doubt that their business activities will be restricted to those of their status of residence after they acquire permanent residence.

In order to protect the rights of such Koreans, the ROK government claims that Korean permanent residents must be allowed to continue their present business even after

⁶⁴The Japanese Government Ordinance Concerning Property Acquisition by Aliens, article 3.

⁶⁵Generally, an activity of a foreigner in Japan is limited to what is permitted in accordance with his status of residence. Up to present, Koreans are, however, not

they acquire permanent residence.⁶⁶ Nevertheless, the Japanese government, though it admits that a special consideration is necessary, is not willing to consider the ROK demand for special business privileges of Koreans. It agreed, however, to give Koreans privileges equal to those Japanese people have in so far as the livelihood protection and compulsory education in the public schools are concerned.⁶⁷

The second problem is the matter of the properties and money to be carried out or remitted to Korea by the repatriating Korean permanent residents. It is the contention of the ROK government that all the properties and money a Korean permanent resident accumulated in Japan must be permitted to be carried out if he returns to Korea for good.⁶⁸ The position of the Japanese government generally coincides with that of the ROK government. The questions that remain are those of procedures, methods and proper timing. The Japanese government agreed that vocational tools and accompaniable materials would be permitted to be carried out, but

limited in their business activities since they have no status of residence. See JMJ, "Zainichi Gaikokujin no Bunpo to Sono Jitsudai", op. cit., p. 3.

⁶⁶Asahi Shimbun, April 24, 1961.

⁶⁷Ibid. See also Korea Times, June 12, 1958.

⁶⁸Young-dal Ohm, op. cit.

goods the nature of which are in commercial classification would be restricted because of the possible danger of their effect on formal trade between the two countries.⁶⁹ As far as money is concerned, the maximum of ¥1,800,000(\$5,000) per family can be remitted at a time and remnants must be deposited in Japanese banks and remitted to Korea gradually in the future.⁷⁰

The ROK government demands that it be increased from \$5,000 to \$10,000 per family, and future remittances must also be made by an agreement between the two governments, not solely by Japanese law.⁷¹ Another notable claim of ROK, which the Japanese government entirely rejects, is that if the Korean permanent residents, who are now under Japanese livelihood protection, return to Korea, the Japanese government must pay \$2,000 per family.⁷² This amount of money is considered by the ROK government as the Japanese compensation for Koreans' services exploited by them during World War II.⁷³

⁶⁹Asahi Shimbun, April 24, 1961.

⁷⁰Ibid.

⁷¹Hanguk Ilbo, October 18, 1962.

⁷²Ibid.

⁷³The ROK Ex-Ambassador to the U. S., You Chan Yang, "Current Crisis between Korea and Japan", Vital Speeches of the Day, April 1, 1959, p. 366, said "The Japanese Government has the moral, humanitarian and legal obligation to fulfill its original promise to make compensation to these Koreans for the labor and sacrifices...". This ROK claim of indivi-

For the financial and property restrictions on returning Koreans, special attention must be given to assure that the settlement will not hinder many Koreans from their return as happened during the few years following World War II.

The third problem is the matter of deporting convicted Koreans to Korea by the Japanese government. Generally, deportation of an alien by the State, if his stay in the country is considered to be dangerous or undesirable to the social order or to the security of the country, is an established practice in international law.⁷⁴ The degree of offense, for the subject of deportation, however, varies from one country to another in accordance with the domestic law of that State. The Japanese Immigration Control Order also prescribes the deportation of an alien.⁷⁵

As for Korean permanent residents, in principle, both governments agreed that those who are sentenced to two years or more in prison by Japanese courts after being indicted

dual compensation for the war services seems rather emotional in its nature. Even though the historical basis of such claim may be certain, it is practically impossible to trace the amount of each person's war service exploited by Japanese. It was reported that the diplomatic reports submitted to the U. S. government by U.S. ambassadors to Japan Douglas MacArthur 2nd and to ROK Walter P. McConaughy indicated that ROK was willing to call off its claim of individual compensation and, in turn, Japan was also considering to give a special status to Korean permanent residents. See Donga Ilbo, September 22, 1961.

⁷⁴Yokota, Kokusaiho(I), p. 177.

⁷⁵Japanese Immigration Control Order, article 24.

for murder, robbery, narcotics, and "crime against State" are subject to deportation.⁷⁶ But, a significant difference in the claims of the two governments centered on the matter of Koreans who are not convicted of any crime but charged with violation of the Japanese Immigration Control Order. The ROK government contends that the application of article 24 of the Order to Korean permanent residents should be restricted to the minimum,⁷⁷ because, if a person charged with a minor offense is easily deported, permanent residence becomes meaningless. The Japanese government opposes the ROK claim on the grounds that such an exemption would require a revision of the Order itself, but it is willing to make a certain rule which would prescribe "not forcibly deported" in the case of Korean permanent residents.⁷⁸

This problem of deportation seems to attract much attention from both governments because of the high rate of Korean crime incidence in Japan. As for Koreans, they appear to be very much afraid that Japan might deliberately impose heavy sentences on Koreans so charged in order to have a legitimate excuse for the deportation of "undesirable" Koreans.

⁷⁶Hanguk Ilbo, October 18, 1962.

⁷⁷Asahi Shimbun, April 24, 1961.

⁷⁸Ibid.

III. The Problem of the Repatriation of Korean Residents in Japan to North Korea by the Japanese Government

1. Development of the Repatriation Plan and Its Process

Demands for voluntary return to North Korea by Korean residents in Japan had already been voiced in 1953, about the time the Korean War Truce Agreement was concluded.⁷⁹ Yet, the problem remained inconspicuous due to the relatively small number of those actually desiring to return and the lack of transportation facilities.⁸⁰

From September 1958, an active movement for the repatriation started among Koreans with support from Chosen Soren. This movement was also encouraged by the announcement of North Korean Foreign Minister Nam Il declaring the North Korean government's willingness to accept all Koreans in Japan who wish to come back to their "fatherland", North Korea.⁸¹ This was followed by another statement by the North Korean Vice Premier Kim Il:

...the government of the republic warmly welcomes the aspiration of compatriots who, having lost the means of livelihood in Japan, are desirous of returning to the bosom of the homeland... Realization of the demand and desire of our compatriots in Japan to return to their fatherland is fully justifiable both from the

⁷⁹JMFA, "Zainichi Chosenjin no Hokusen Gikan Mondai" (The Problems of Repatriation of Koreans to North Korea), Official Gazette, No. 9655, Appendix, March 2, 1959.

⁸⁰Ibid.

⁸¹"Korean Residents' Problems", The Oriental Economist, May 1959, p. 237.

moral point of view and in the light of international practice. They have every right to return to their fatherland and the government of the republic warmly welcomes their return home... As for the question of travel expenses and transport, the government of the republic will bear all travel expenses necessary for their return home, and it is making all preparations for transporting them by steamship or by other means as soon as their exit from Japan is settled...⁸²

The next year, January 20, 1959, the Japanese Red Cross(JRC) formally launched a campaign to support the repatriation plan affirming their desire "to separate the problem of repatriation from political matters and to settle it in the light of humanitarianism".⁸³ Soon this plan won enthusiastic support from over 170 Japanese private organizations, and the so-called "Society to Cooperate for the Return of Korean Residents in Japan" was formed to promote the plan.⁸⁴

On February 13, 1959, Japanese Prime Minister Kishi's cabinet officially adopted a resolution to repatriate Koreans who would desire to return to North Korea by making the following policy:

1. The repatriation of Korean residents in Japan to North Korea will be based on the "freedom of choice in residence" provided in international principles of fundamental human rights.

⁸²North Korean Broadcast, Pyongyang, KCNA, October 16, 1958, 2022-GMT-B.

⁸³Unai Fujishima, "Chosenjin Gikoku to Nihonjin no Moten"(Korean repatriation and A Blind Spot of the Japanese People), Sekai, October 1959, p. 190.

⁸⁴JMFA, "Zainishi Chosenjin no Hokusen Gikan Monda", op. cit., p. 1.

2. The International Committee of the Red Cross(ICRC) will be asked to confirm the true wills of Koreans and to mediate the realization of repatriation.
3. All the necessary procedures will be discussed with ICRC through JRC, but Japanese vessels will never be used as a mean of transporting repatriates.⁸⁵

Upon this Japanese cabinet decision, the ROK government demanded that the Japanese government withhold the decision, claiming it to be an inhumanitarian deportation.⁸⁶ Nevertheless, the Japanese government reaffirmed its decision to carry out the plan claiming that repatriation would be based on humanitarian reasons.⁸⁷

In response to the Japanese government decision, on February 16, 1959, the North Korean Red Cross Society(NKRC) formally proposed a talk with JRC. As a result, delegates of the Japanese and the North Korean Red Cross societies managed to hold a conference at Geneva on April 13, 1959, two months after the Japanese cabinet decision.⁸⁸

The progress of the conference was, from the beginning, unsuccessful owing to the divergent attitudes of the two parties toward the question of the ICRC's intervention.

⁸⁵Asahi Shimbun, (Evening Edition), February 13, 1959.

⁸⁶The Korean Mission in Japan delivered a note of protest to the Japanese Foreign Ministry on that very day, February 13, 1959.

⁸⁷The Japanese government also delivered a note, in response to the ROK's, the same evening.

⁸⁸Asahi Yearbook, 1960, p. 207

The Japanese proposal was to have direct participation of ICRC to confirm the true wills of the Korean repatriates, whereas the North Korean delegates opposed the participation of ICRC at all. An ostensible reason of the North Korean position was given by the leader of its delegation Il-kyong Yi:

In no norm of international law can one find the provision that in returning to their country the overseas citizens of a country must have their will "confirmed" and the International Committee of the Red Cross must intervene in this and must act as a "court of appeal" in "settling complaints".⁸⁹

The agreement, however, reached the point that ICRC would undertake a merely advisory function with regard to the repatriation.⁹⁰ Meanwhile, ICRC was reluctant to accept this offer and delayed making its decision. Being indignant at the delaying attitude of ICRC, North Korean delegates broke off the conference and returned home.⁹¹

After some delay ICRC finally agreed to act in such a capacity, and delegates of the Japanese and North Korean Red Cross societies once again held a conference at Calcutta, India, and signed an agreement of repatriation on August 13, 1959.

⁸⁹North Korean Radio Broadcast, Pyongyang, KCNA, May 27, 1959, 1715-GMT-B.

⁹⁰"Japan and Korea: a Diplomatic Triangle", The Economist, December 19, 1959, p. 1167.

⁹¹Asahi Yearbook, 1960, p. 219

In Japan, from September 23, JRC set up 3,655 registering offices throughout the country,⁹² and accepted the registration of Koreans who desired to return to North Korea. At last, on December 14, the same year, the first ship loaded with repatriating Koreans set out for North Korea despite all-out protests and threats from the ROK government.⁹³ Transport ships under the flag of the International Red Cross were provided by Russia and all other expenses were paid by JRC and NKRC.⁹⁴

In consternation over the actual departure of the repatriates, the ROK government suggested the Japanese government present the case to the International Court of Justice, but the Japanese government refused on the grounds that the repatriation of Koreans to North Korea was purely a humanitarian matter.⁹⁵

The length of the repatriation period set up in the agreement of Culcutta was one-year, ending on November 12, 1960. It was renewed twice: first, on November 10, 1960

⁹²"Jaeil Kyopo Buksong kwa Daeil Oigyo ui Mangchyum" (The Repatriation of Koreans to North Korea and a Blind Spot in the ROK Diplomacy), Sasangge, February 1959. p. 191.

⁹³Besides the formal diplomatic protests, the ROK government publicly threatened to take all possible measures, including the use of military forces, to prevent the "deportation" of Koreans to North Korea.

⁹⁴"Japan and Korea: a Diplomatic Triangle", op. cit.

⁹⁵Asahi Yearbook, 1960, pp. 218-219.

and again in 1961. The repatriation continued until November 12, 1962 when official repatriation was once ended.⁹⁶ Even after the end of this official repatriation program, the Japanese government permitted Koreans in Japan to return to North Korea paying their own expenses or with financial support from JRC.⁹⁷

2. An Analysis of the Positions of the Two Governments on the Problem

The Japanese government position was clearly defined by its Foreign Ministry, stating that the repatriation of Koreans to North Korea was based on the principle of freedom of choice in residence,⁹⁸ fundamental human rights, humanitarianism, and democracy. There was no implication

⁹⁶ Although the up-to date data are not available, the statistics of 1961 showed, as of December 1, 1961, 74,533 Koreans were repatriated. See Asahi Yearbook, 1962, p. 299.

⁹⁷ The Japanese government announced that the mass repatriation would end on November 12, 1962, owing to the drastic decrease in the number of desiring Koreans. But, it said that an individual return would be permitted as long as the expense is met by the repatriate. It also announced that JRC would pay expense if the repatriate is not able to pay it. See Nihon Keizai Shimbun, June 1 and June 10, 1962.

⁹⁸ The Universal Declaration of Human Rights, Article 13 reads; (1) Everyone has the right to freedom of movement and residence within the borders of each State, (2) Everyone has the right to leave any country, including his own, and return to his country..

of recognition of the North Korean authority nor was there any violation of ROK sovereignty.⁹⁹

The ROK government, on the other hand, vigorously protested against the repatriation plan by calling it an inhuman deportation of Koreans into the hands of Communists. The principal basis of its protest against the repatriation was largely based on four reasons. First, repatriation was initiated by the North Korean Communists for propaganda purpose and repatriation will give North Korea greater manpower, thereby strengthening its industrial and military establishment. Second, it is inhuman to send Koreans, who were brought to Japan by force during World War II, to the hands of Communists. Third, repatriation in collaboration with North Korea directly injures ROK sovereignty. Finally, the repatriation plan is a violation of the Agreed Minutes of December 31, 1957.¹⁰⁰ The first three claims are found in statements made by the ROK President Syngman Rhee and by the ROK Foreign Ministry. President Rhee said:

⁹⁹JMFA, "Zainichi Chosenjin no Hokusen Gikan Mondai", op. cit., pp. 1-2.

¹⁰⁰On December 31, 1957, the representatives of ROK and Japan signed an "Agreed Minutes". The text of this agreement is not available, because, both sides agreed to keep it in secret. It was known, however, that the article 3 of this agreement prescribed that the future settlement of the problems of Korean residents in Japan would be carried out through a negotiation between the two governments. See "Note Verbal on the Deportation Issue, handed by Ambassador Tai Ha

Japan appeared intent upon aggressively attempting to maintain its conviction of superiority over Korea. The deportation attempt is a similar challenge to Korea's sovereignty and to its right to be consulted about what happens to its own people...¹⁰¹

The statement made by the ROK Foreign Ministry reads in part:

Japan took this action in full knowledge of the fact that the Republic of Korea is at war with the Communists, and also with realization that deportation to Communism would mean the enslavement of those deported. The representations of this country were ignored even as Communists agents were permitted to recruit, to lie, to bribe, to intimidate, and even to use physical violence against the Korean residents. Japan concealed its intentions behind a false facade of humanitarian double talk...The whole deportation scheme is thus revealed as a part of the Communist master plan for world conquest and as a major attempt to win an important propaganda victory and *de facto* recognition from Japan.¹⁰²

In observing claims of the two governments, both sides seem to have some reasonable basis for their stands. Particularly the Japanese government's stand, which it claimed was based on humanitarianism and the universal principles of human rights, could be reasonable in the eyes of justice for the human beings. The ROK government also presented at least some justifiable facts. Nevertheless, a notable fact is that

Yiu to Hisanari Yamada, Vice-Minister of the Japanese Foreign Ministry", ROK Foreign Affairs Bulletin, No. 20, December 1959, p. 75.

¹⁰¹"President Rhee's Answers to the Questions Submitted by U.P.I. on the Occasion of the 6th Anniversary of the Korean Armistice", Ibid, No. 18, July 1959, p. 50.

¹⁰²"Statement by the Ministry of Foreign Affairs on the Occasion of the First Anniversary of the Opening of the Fourth Korea-Japan Conference", Ibid., pp. 66-68.

the two governments deliberately approached the problem from different angles by asserting only a part of the truth. Whatever the two governments' publicly announced statements may be, however, criticism should be centered on the reality of the repatriation: its cause and process.

As for the ROK government, its responsibility for the demand of Koreans to return to North Korea may be much greater than that of anyone else. The ROK government, which has been asserting that all Koreans in Japan are its nationals, failed to promote the welfare of Korean residents in Japan as its nationals. An effort, of course, had been made to settle over-all problems of Korean residents with the Japanese government through diplomatic talks, but up to the time of the repatriation, none of the problems was settled. It also failed to see that such formal talks alone could not satisfy the need of poverty-stricken Koreans in Japan. On the contrary, it was known that the North Korean government through its organizations in Japan had poured considerable amounts of money into activities to promote the welfare of Korean residents in Japan and to achieve its political aims. The ROK government had been busy in blaming the North Korean activities in Japan as a master piece of Communists propaganda, but it did not realize that its denunciations alone would not be sufficient to protect such Koreans from the Communists' influence.

Furthermore, the ROK government virtually did not give Koreans in Japan any other choice but to go to North Korea by refusing to accept their repatriation to ROK. It refused to accept the return of Koreans to South Korea, for the Japanese government did not pay the compensations to them individually for the losses and wrongs they had suffered during World War II.¹⁰³ This attitude might be the outcome of the impotence of the ROK government to provide them with a financial basis for their new lives in Korea if they returned with bare hands and of the "over-emotional" anti-Japanese diplomacy of the ROK government.

The ROK government, when the problem had already become too late to settle, started condemning and threatening frantically against the repatriation. By such a diplomatic policy the ROK government induced criticisms from even other Western countries against its stand,¹⁰⁴ and consequently created a blot in its diplomatic history.

¹⁰³"Statement by Foreign Minister Chung Whan Cho, on Conditions for the Repatriation of the Korean Residents in Japan", Ibid, No. 19, September 1959, p. 30, said "The Republic of Korea is prepared to accept the repatriation of all Korean residents in Japan, as soon as the Japanese Government settles the matter of their compensation, regardless of whether they are Communists. Repatriation conditions include only these two points: (1) That Japan pay compensation for the forced labor previously imposed upon Korean resident....; (2) That Korean residents be permitted to take all their property with them...."

¹⁰⁴Many newspapers in the Western countries, including some American, supported the Japanese government's stand on

The Japanese government was also responsible for its failure to remedy many unjust practices in the process of repatriation. First of all, on many occasions, the free wills of Korean repatriates were not fully respected but were affected by outside pressures. Influences on the repatriates by pro-Communist Koreans and some Japanese agencies through propaganda activities and often physical threats were so great that ICRC had to suggest that JRC stop such practices.¹⁰⁵ Such malicious activities continued all the time. Secondly, at the time of registration, the free will of Koreans was not asked individually, but collectively on a family basis.¹⁰⁶ Moreover, since the ICRC's activity was

the repatriation of Koreans to North Korea. See Wall Street Journal, February 17, 1959; The Times(London), February 14, 1959; The Times of India, February 26, 1959.

¹⁰⁵In a note dated January 4, 1960, Andre Durand, chief of the ICRC observation team in Japan, told JRC that "(a) political organizations used microphones to harangue the returnees, and this and other massive political or collective manifestation should be stopped; (b) the microphones of government-owned railway stations are used for speeches, and the rule providing only for the presence of relatives and friends is not observed...; (c) the embarkation camp at Nigata port is frequented by members of other organizations who are alien to the Red Cross organization." Quoted from The Korea Foreign Policy Association, Truth About Deportation of Korean Residents in Japan, 1960, pp. 9-10.

¹⁰⁶Yoshisuke Kasai, Vice President of JRC said "...the registration of Koreans for repatriation was being conducted 'collectively'." See "Statement by the Korean Mission in Japan on JRC Vice President Kasai's Statement of November 5th concerning the Resumed Registration of Koreans for the so-called Repatriation to the northern part of Korea", ROK Foreign Affairs Bulletin, No. 20, December 1959, p. 71.

limited only to an advisory, not supervisory function, it was not in a position to confirm the true wills of the repatriates.¹⁰⁷ Under such a circumstance, it was doubtful how well the true will of the repatriate was reflected and fundamental human rights were respected as the Japanese government promised at first.

For these reasons, Koreans contended that the real Japanese intention was to deport as many Koreans as possible to reduce their financial burden and also to put pressure on the ROK government in settling other pending problems between the two countries.¹⁰⁸ Wherever the truth lies, however,

¹⁰⁷ The editorial of Asahi Shimbun, March 15, 1959, emphasized the necessity of the ICRC's confirmation of the true will of the repatriates since they would be repatriated by their wills. On the contrary, the editorial, "Chosenjin Gikoku to Jindo Chugi" (Koreans' Return and Humanitarianism), Sekai, May 1959, p. 50, opposed it arguing that the repatriation should be carried out solely on the Japanese government's responsibility, and that no ICRC confirmation would be necessary.

¹⁰⁸ Chul Kim, "Chunhu Ilbon Oigyo Shibsam Nyun" (Thirteen Years' Post-war Japanese Diplomacy), Sasangge, July 1960, p. 192. The editorial, "Jaeil Kyopo Buksong kwa Dail Oigyo ui Mangchyum", op. cit., p. 191. At this point, "Koreans in Japan", Japan Quarterly, April 1959, p. 141, also said "... the Japanese people hoped for the repatriation of as many Koreans as possible-if only as an escape from the discontent and uneasiness their presence causes, from the burden on public finances imposed by the need to give them relief, and from the threat they pose to the public peace." It is conceivable that many Japanese people really expect many Koreans return to Korea since the existence of Koreans in Japan causes many social problems. It is also true that the Japanese government spends a considerable money for Koreans.

it was true that there was a close relation between the Korean repatriates' motive of return and their lower socio-economic status in Japan. They may be also regarded as victims of the North Korean Communists' propaganda campaign and of insincere efforts to promote their status especially by the ROK government.¹⁰⁹

In summary, unlike other problems of Korean residents, the repatriation problem was suddenly emerged in 1959 as a result of the Japanese government decision to repatriate Koreans in Japan to North Korea. During the period of 1959 through 1960, ROK-Japan diplomacy was almost exclusively concerned with this problem. The problem of repatriation, even during the most hectic period of disputes, had never been formally discussed at the table among delegates of the two governments, but merely handled by a series of exchanging denunciations and explanations against each other, and ended in that manner.

Nevertheless, this problem, in comparison with other issues, developed an unusual phenomena in the internal politics of the two countries. Particularly in Japanese politics, the government won strong support from the public and

¹⁰⁹In Korean newspapers, many stories of Koreans escaped from north to south Korea or to Japan were reported, which revealed the true facts that many Korean repatriates from Japan realized they had been deceived by the Communists' "honey words". See Chosun Ilbo, August 10, 1962, and Kyung-hyang Shinmun, November 29, 1962.

from almost all political parties. The opposition parties, especially the Socialist and Communist parties, that had normally been opposed to other issues of the government contributed enthusiastic support to the repatriation plan. Similarly, in Korea, the government also won support from its people against the Japanese government repatriation plan, and mass demonstrations took place throughout the country that were often encouraged by the government.

CHAPTER IV

THE ROK-JAPAN CONFERENCE AND THE PROBLEMS OF KOREAN RESIDENTS IN JAPAN

I. A Brief Picture of the Development of the ROK-Japan Conference

The need for a conference for the settlement of problems existing between ROK and Japan after World War II was urged by the ROK government even before the independence of Japan. With the aid of SCAP, an historical meeting of the delegates of the two countries was held in Tokyo on October 20, 1951 to make plans for what came to be known as the ROK-Japan Conference.¹ As a result of this preliminary meeting, the first session of the conference opened on February 15, 1952. Since then sessions have been continuing, with interruptions, for over a decade.

The problems of Korean residents in Japan (except the problem of repatriation)² have been the major agenda of the

¹The Japanese Foreign Ministry Information Bulletin, v. I, No 5 stated on the opening of the preliminary talks with ROK that "The negotiations began with preliminary talks in Tokyo held in October, 1951 at the request of the ROK government and with the good office of General Headquarters, Supreme Commander for the Allied Powers." Quoted from Hong Kee Karl, "Questions at Issue between Korea and Japan", Korean Survey, May 1955, p. 5. As to the aid of SCAP, see O. Edmond Clubb, "Rhee's War on Japan", Nation, v. 181, November 5, 1955, p. 376.

²The problem of the repatriation of Koreans to North Korea by the Japanese government was not included in the

conference along with other issues including the problems of the Peace Line (Rhee Line),³ property claims,⁴ vessels, and basic relations.

The progress of the first conference was slow, and it was broken off because of profound differences in the claims of both sides concerning the problems of the Peace

agenda of the ROK-Japan Conference. The ROK government proposed to handle the problem in the conference, but it was rejected by the Japanese government.

³The Peace Line (referred to as "Rhee Line" by the Japanese) was proclaimed by President Sygman Rhee of ROK on January 18, 1952, and was drawn over adjacent seas around Korea. The distance between the Line and the Korean coast is about 60 miles. It was proclaimed as a substitute for the MacArthur Line which had restricted Japanese fishing operations during the Allied Occupation. The ROK government has also restricted Japanese fishing operations within the Peace Line, and Japanese fishing vessels that had crossed the Peace Line were captured and confiscated by the ROK government. Japanese fishermen were also tried in Korean court. See also Tsuneo Mura, "The Rhee Line", Japan Quarterly, v. VI, No. I, January-March 1959, p. 33; Article 2 of the Republic of Korea Presidential Proclamation of Sovereignty over Adjacent Seas. The problem of the Peace Line in the ROK-Japan Conference aims to establish an agreement on fishing within the Peace Line.

⁴Originally, the problem of property had two different claims of the two governments. First, the ROK government claimed that the Japanese government should compensate for their colonial exploitation in Korea and should return the Korean articles which were taken by Japanese during that period. Second, the Japanese government claimed its ownership of the Japanese property left in Korea when they were evacuated from Korea after World War II. Later, the Japanese government withdrew its claim, because it was obvious that its ownership of the property in Korea ceased by the U.S. Military Government Ordinance No. 33: concerning "Vesting Title to Japanese Property in Korea". See Kwan Sook Park, "Some Criticisms on Japanese Claim for Property in Korea", Koreana Quarterly, v. 3, No. I, Summer 1961, pp. 41-46.

Line and property claims. The next year, the second conference was resumed on April 15, but adjourned again in July at the request of the Japanese government.⁵ By that time, the number of Japanese fishing vessels seized by the ROK government for violation of the Peace Line reached some 70 boats,⁶ a fact which stimulated Japanese anxiety to seek resumption of the talks. As a result, the third conference was opened on October 6, the same year, but lasted for only two weeks due to the ROK government's resentment of the so-called insulting "Kubota Statement".⁷

Subsequently, the ROK government intensified its seizure of Japanese fishing vessels that crossed the Peace Line,

⁵The ROK government charged that the Japanese government request for adjourning the second conference was based on its apparent intention to wait and see the result of the political conference on unification of Korea in Geneva, which was scheduled to open in December 1953. See Young-dal Ohm, "Problems and Prospects of Korea-Japan Talks", Korea Journal, No. 4, April 1962, p. 19.

⁶Ibid.

⁷Kanichiro Kubota, then the chief Japanese delegate to the conference, delivered a statement at the opening of the third conference, the text of which irritated the feelings of Koreans so bitterly that the ROK delegates requested the Japanese government to withdraw his statement and it broke off the conference. Main points of the statement are: confiscation of Japanese property in Korea by the U.S. Military Government was a violation of international law; recognition of Korean independence before the conclusion of peace treaty was also a violation of international law; the Japanese rule of Korea for thirty six years had been beneficial to Korean people. See Ibid.

and the number of Japanese fishermen detained in Korea mounted to 922 by the end of 1957.⁸ The Japanese government, in retaliation for ROK's action, confined many Koreans in the Omura detention camp charging them with violation of Japanese laws but without granting them fair trials.⁹ As a consequence of the two governments' hostile actions, tensions between the countries reached a new high.

The effect of such unfortunate events was enormous on both sides. As tension mounted, the cries increased for an agreement between the two governments, particularly by families of Japanese fishermen detained in Korea. Thanks to the efforts of U. S. representatives,¹⁰ after a series of informal talks

⁸Asahi Yearbook, 1959, p. 162.

⁹At the end of 1956, the total number of Koreans detained in Omura camp was 1,383. See Ibid, 1956, p. 248. The ROK Ambassador to U. N. Byung Chik Lim said in Tokyo denouncing the Japanese government that "After the San Francisco Peace Treaty, Japan began incarcerating Korean residents in Japan. No charges were lodged against those held in Omura, nor were nay trials held. Eight persons are known to have died as a result of inhuman treatment at Omura... It must be pointed out that Japan did not even reply to the Korean request that she permit International Red Cross inspection of camp conditions at Omura..." See Korea Times, January 14, 1954.

¹⁰The U. S., worried by the serious differences between two of its allies, made efforts to mediate them, although its mediation had never been official. For example, when U. S. Secretary of State John F. Dulles visited ROK in April 1956, on his way back to U. S. from SEATO conference, it was reported that he consulted with President Rhee about the opening of the fourth ROK-Japan Conference. See Asahi Yearbook, 1956, p. 239.

among representatives of ROK and Japan an agreement was reached on December 31, 1957, for the fourth resumption of the conference.¹¹ This was four years after the deadlock that had terminated the third conference.

The fourth conference, opened on April 15, 1958, was also interrupted by ROK due to the Japanese government's repatriation of Koreans to North Korea.¹² However, it reopened once again and continued until it ended automatically on April 19, 1960 upon the revolution in Korea which overthrew President Syngman Rhee. Throughout these four conferences, little progress had actually been made because of the intransigent hostility of President Rhee toward Japan and the unfriendly reactions and insincere efforts of Japan.

¹¹ The agreement was signed by the ROK Ambassador to Japan Yu Taik Kim and the Japanese Foreign Minister Aichihiro Fujiyama. The contents of the agreement are: (1) The Japanese government will release Korean detainees in Omura Camp, who have been living in Japan since before the end of World War II. In turn, ROK will accept those Koreans who entered Japan illegally, (2) ROK will release all Japanese fishermen detained in Korea, (3) Japan will officially withdraw "Kubota Statement" and its claim on property in Korea, (4) the fourth ROK-Japan Conference will be resumed on March 1, 1958. See JMFA, Waga Gaiko no Ginko (Current Phases of Our Diplomacy), 1958, p. 49.

¹² Upon the Japanese government decision to repatriate Koreans in Japan to North Korea, the ROK government broke off the conference. For the complete text of the statement, see "Statement by the Ministry of Foreign Affairs on the Occasion of the First Anniversary of the Opening of the Fourth Korea-Japan Conference", ROK Foreign Affairs Bulletin, No. 18, June 1959, pp. 63-68.

Upon the establishment of a new government in Korea, under the moderate Premier Myun Chang, prospects for favorable negotiation for all issues with Japan appeared to be very bright. It was partly because of the new government's "pro-Japan" foreign policy and because of the friendly attitude of Japan toward the new ROK government.¹³ But the fifth conference held under the new Korean government was also interrupted, this time by the military revolution in Korea on May 16, 1961. Meetings were resumed on October 20, 1961, and the ROK-Japan Conference has now been going on for over two years. Besides this conference, the military leaders in Korea have been exerting their efforts to have a "political negotiation" with Japan among high government officials of each country.¹⁴

¹³One of the seven principles of foreign policy set up by the new ROK government was to establish a friendly relation with Japan. The Japanese government also showed a friendly attitude toward ROK by sending its Foreign Minister Zentaro Kosaka to ROK. This was the first visit of a Japanese official to ROK since 1945.

¹⁴On March 12, 1962, ROK Foreign Minister Duk Shin Choi visited Japanese Foreign Minister Zentaro Kosaka to discuss the prospect of "political negotiation". See Donga Ilbo, March 12, 1962. For the same purpose, ROK Central Intelligence Agency Director, Chong Pil Kim visited Japanese Foreign Minister Masayoshi Ohira on October 21, 1962. See Hanguk Ilbo, October 21, 1962. As to the "political negotiation", the Japanese government did not agree to open it since the working level conference was in the process of discussing all pending problems. See Won Kyung Lee, "Che Yukcha Hanil Hoidam ui Kyunggwa wa Chyunmang"(The Sixth ROK-Japan Conference and Its Prospects), ROK Supreme Council Bulletin, January 1962, pp. 129-130.

As to the prospects of the ROK-Japan Conference, though the military leaders of the ROK government expressed confidence that a conclusion of the decade-old ROK-Japan Conference could be achieved in the near future,¹⁵ it seems very difficult to make any prediction. If it is not concluded before the establishment of the new civilian government in Korea which is expected to occur in fall of 1963, it is likely that a longer time will be needed.

II. Principal Factors Which Hampered the Early Settlement of Korean Residents' Problems in the ROK-Japan Conference

Throughout the ROK-Japan Conference, it has been understood that the problems of Korean residents in Japan have been handled more successfully than all other issues before the conference. This may be partly because the two governments agreed on many basic points in the settlement of the problems. In spite of its progress, a complete solution has not yet been achieved. Of course, many factors have hampered the progress of negotiation, and it seems appropriate to study some of the principal obstacles which have delayed an early solution. In order to understand them properly in relation to the Korean residents' problem, it is convenient

¹⁵Korean Republic, December 12, 1962, and April 17, 1963.

to classify these factors into two categories: direct and indirect.¹⁶

Among the direct factors are two very important facts. The first one is the relatively small interest of the two governments in settlement of Korean residents' problems, except for the repatriation problem for a while, as compared with other issues. The Japanese government has always been interested in settlement of the problem of the Peace Line whereas the ROK government has been eager to have an early solution of its property claims.

The Japanese government feels it is most urgent to have a settlement of the Peace Line, since this jeopardizes the lives of thousands of Japanese fisherman and their families. Because of the restrictions on fishing within the Peace Line set up by ROK, it was estimated that Japan suffered an annual loss of ¥1.3 billion in its fishing industry.¹⁷ Besides such financial loss, the protection of Japanese fishermen captured by ROK and the support of their families have been irritating the nerves of Japanese people. Accordingly, it is small wonder that the Japanese government exerts

¹⁶The distinction between direct and indirect factors is not made on the basis of the degree of their influence on the problems but merely on the writer's convenience. The direct factors are referred to as those an influence of which is clearly noticeable whereas the influence of the indirect factors is not easily measurable but may be more fundamental facts on the solution of not only Korean residents' problems but all problems between the two peoples.

¹⁷Tsuneo Mura, op. cit., p. 33.

its all-out effort on settlement of the problem of the Peace Line prior to any other pending issues.¹⁸

The ROK government, on the other hand, feels that the property claims against Japan are of the greatest concern. The property claims involve, at least to Koreans, not only economic value but also have psychological importance. It is undoubtedly true that the amount of compensation claimed against Japan, though it has been reduced from its original figure of 1,200 million dollars to the present 600 million dollars,¹⁹ will provide a real stimulus for economic development of the country, if Japan agrees to pay. Ever since the establishment of the military government in Korea, it has become clearly noticeable that the military leaders of the ROK government have been making tremendous efforts to settle the problems of property claims above all other issues.²⁰

¹⁸At this point, ROK Foreign Ministry condemned the Japanese government as only interested in the problem of the Peace Line. See ROKMFA, Korea Report, 1958, p. 3. At the Budget Committee of the Japanese Diet, Foreign Minister Masayoshi Ohira in answering the question of the Socialist party said that "the Japanese government will not have normal relations with ROK unless the problem of the Peace Line is settled"; see Hanguk Ilbo, August 24, 1962.

¹⁹See Soon Seung Cho, "Hanil Munje ui Jaekumtorul Yomang handa"(Cases for the Reconsideration on the ROK-Japan Problems), Sasangge, December 1961, p. 112. See also Donga Ilbo, September 22, 1962.

²⁰In the past two years, almost all reports and statements of the military leaders on the ROK-Japan Conference have been filled with the questions of the property claims.

Such efforts by the military leaders brought about the Japanese belief that the failure of the ROK economic policy after the revolution and their desperate desire to achieve their five-year economic goals urgently require the Japanese payment for the property claims.²¹

Aside from their economic value, the property claims mean even more to Koreans. Koreans would see the Japanese effort to pay the compensation to Korea as symbolic of the repentant attitude of Japanese for their past errors against Koreans and of the improved attitude of the Japanese government in establishing friendly relations with Korea.

At any rate, it may be said that the settlement of the Korean residents' problems has been sacrificed by those two issues in the ROK-Japan Conference. The negotiation of the Korean residents' problems was broken off, but no single claim of either side on the Korean residents' problems has been a cause of its interruptions.²²

²¹See Nobuo Nakagawa, "Nikkan Kankai no Shin Kyokumen to sono Haikei"(A New Phase of the Japan-ROK Relations and Its Backgrounds), Economisto(Asahi Shimbunsha), December 19, 1961, p. 48, Misao Obata, "Nikkan Koso eno Judaina Gimon"(An Important Question on the Japan-ROK Negotiation), Sekai, December 1962, pp. 29 and 32. The Japanese Foreign Minister Masayoshi Ohira said "...settling the issues between Korea and Japan is a matter of life or death to Koreans and Korea should shoulder the whole responsibility in solving the pending issues..." See Korean Republic, August 1, 1962.

²²The fourth conference was temporarily interrupted by the Japanese repatriation plan of Koreans to North Korea. But the repatriation issue was not in the agenda of the ROK-Japan Conference.

The second direct factor is the frantic opposition of the pro-Communist Korean organizations in Japan and the Japanese opposition political parties. The most intensive opposition came from the General Federation of Korean Residents in Japan (Chosen Soren), which has about 150,000 active members.²³ The Chosen Soren's concern has been mainly with the problems of Korean residents, but in order to interrupt any settlement, it has been very active in disturbing the progress of the over-all ROK-Japan Conference. The reasons and means of its opposition are well described by the Japanese government Public Security Investigation Agency which said:

And this talk the CHOSEN SOREN regards as a program by which the American imperialists intend to strengthen their aggressive position in the northeastern Asia through directing the two nations, as well as to prevent a peaceful unification of the Korean land; it also condemns that the talk is a plot in which they are going to force the nationality of South Korea on all Korean residents in Japan, whom they intend to draft into the army or deport forcibly to South Korea. Thus, the organization argues that the program must be smashed by carrying out struggles for absolute opposition, and has already issued instructions to that effect to prepare for such struggles to be carried on with protests and complaints made by all its national machineries...²⁴

²³The Japanese Public Security Investigation Agency, Current Phases of the Activities of Korean Residents in Japan, September 1957, p. 4.

²⁴Ibid., pp. 17-18.

Traditionally, the general policy of the Chosen Soren has been closely related to that of the Japanese Communist Party. Therefore, it is no wonder that the Japanese Communist Party has been taking the same policy as that of the Chosen Soren as to the ROK-Japan Conference.²⁵ In contrast to the activities of the Chosen Soren, the movement of anti-Communist organization, the Community of Korean Residents in Japan (Min Dan) has been very unimpressive and meager. The Min Dan naturally supports the ROK-Japan Conference but mainly for the position of ROK.²⁶

The most influential opposition to the Japanese government comes from the Socialist Party, the strongest and biggest opposition party in Japan, which holds the second largest number of seats in the Diet. The Socialist Party's interest, however, is not only in the Korean residents' problems but in the over-all ROK-Japan Conference. Fortunately for the pro-Communist Koreans, the basis of the socialists' opposition generally coincides with that of the Chosen Soren, and such a coincident policy could create more powerful influence.

²⁵Do Kyung Lim, "Jaeil Chochongryun ui Naemak"(Inside Story of the Federation of Korean Residents in Japan), Sasangge, January 1961, p. 123.

²⁶The Japanese Public Security Investigation Agency, op. cit., p. 20.

The Socialist Party's draft of its action policy for 1962, adopted by the Central Committee, listed the reasons for its opposition, including the statement that the ROK-Japan Conference is the outcome of the United States' scheme to strengthen its Far Eastern military alliance system which it had already established by U.S.-Japan and U.S.-ROK military security agreements; also that the ROK-Japan Conference is the Japanese government device to pave the road for its monopoly capitalism to penetrate into the market in Korea, which will eventually be an excuse for its imperialistic military intervention; finally, that the conference prevents Korea from its peaceful unification permanently by ignoring the existence of the North Korean government.²⁷ Besides these official attitudes, many Japanese socialists and Communists argue that the conference is the overture of the future establishment of the Northeast Asia Treaty Organization (NEATO), devised by the United States, including Japan, ROK and the Republic of China.²⁸ They often threatened the Japanese

²⁷See Socialist Party's action policy for 1962; Kokkai Nenkan(Diet Yearbook), 1962, pp. 244-245. See also F. V. Moment, "Korea and U.S. Policy in Asia", Monthly Review, May 1961, p. 32.

²⁸Misao Obata, op. cit., p. 32. Hirokatsu Komuku, "Nanno Dameno Kokyo Seijoka ka"(The Normalization of Relations: What for ?), Sekai, December 1962, p. 94. Toichi Nawa, "Futatsu no Chosen Mondaini Tsuite"(The Problems of Two Koreas), Sekai, December 1962, p. 97.

government by warning to raise a "people's demonstration" against the ROK-Japan Conference.²⁹

This opposition from the leftist Japanese and particularly from the Socialist Party has been unquestionably a decisive factor affecting the position of the Japanese government in the conference. Indeed, it is true, because the factional struggle among different political parties has been one of the important factors in the Japanese post-war foreign policy-making process.³⁰

Addition to these two direct factors, there are three more indirect factors which cannot be ignored. These three indirect factors are likely to be more fundamental to the solution of all issues pending between the two countries.

The first one is the psychological aspects of the two peoples: the traditionally hostile feeling of Koreans against Japanese and the Japanese superiority complex over Koreans. Hostility against the Japanese has been deeply rooted in the minds of Koreans because of their bitter experiences under Japanese rule in the past thirty-six years. They are also afraid of a probable Japanese advance into Korea again in the

²⁹Edward Seidensticker, "Petty Asian Differences", The New Leader, v. 45, June 11, 1962, p. 10. Donald C. Hellmann, "Basic Problems of Japanese-South Korean Relations", Asian Survey, May 1962, p. 22.

³⁰Hellmann, Ibid.

future, either economically or militarily. Such a fear was typically expressed by President Syngman Rhee of ROK:

The problem in the Orient is further complicated by the role of Japan. Asians are disappointed and distressed, but so far their protests have been in vain. The U.S. is still trying to build up Japan as a leading power in the Orient, expecting that other Asian nations will accept the re-establishment of Japanese military and industrial power. But the Far East had been under Japanese control once, and it wants no more of such bondage whether military, or economic, or both....³¹

Ex-Director of ROK Public Information Office, Hong Kee Karl also said:

The ROK would like to have a guarantee that Korean soil never again will be under the domination of the Japanese flag. By maintaining military parity with Japan-through the U.S. help-Korea will have such assurance....³²

Koreans are, therefore, in dealing with Japan, very cautious, and sometimes they are excessively influenced by "anti-Japanism".

The Japanese people, on the other side, have a superiority complex over Koreans.³³ Such a feeling of the Japanese

³¹Syngman Rhee, "The Korean Dilemma: between Russia and Japan", Korea Survey, December 1954, p. 5.

³²Hong Kee Karl, op. cit., p. 13.

³³Dan Kurzman, Kishi and Japan(New York: Ivan Obolensky, Inc., 1960), p. 365. The ROK Foreign Minister Duk Shin Choi accused of Japanese saying "...many Japanese politicians feel they are superior than Koreans..." See "Hanguk Oigyo ui Gamdo" (The Sensivity of ROK Diplomacy), Sasangge, June 1962, p. 118.

people has been inherited largely from their colonial rule in Korea, and stemming out of the post-war Japan's strong position in the world economy. Many Japanese people think Koreans are "over-conscious" of their past memories and protest too much their alleged injuries, ignoring the positive benefits of Japanese rule in Korea.³⁴

In general, though both peoples appear to look forward to having friendly relations with each other, the psychological aspects of the two peoples always play an invisible but significant role underlying the facts.

A second factor is the reality of the post-World War II Korean situations: the division of the country and political instability. The existence of the two de jure and de facto governments in Korea and the unstabilized political situation in ROK politics often puzzles the Japanese government.

The North Korean government, since it has not been a participant in the conference, opposes any settlement of the issues between ROK and Japan. In his statement on the ROK-Japan Conference, for instance, the North Korean Foreign

³⁴The so-called "Kubota Statement" may be a typical example. Especially, as to the ROK property claims, many Japanese think ROK claim is the outcome of Koreans' anti-Japanese sentiment. See Arai Dakao, "Ujigawa kara Mita Nikkan Kosho" (The Japan-ROK Negotiation Viewed from Inside), Economisto (Asahi Shimbunsha), February 14, 1961, p. 14.

Minister Il Nam declared:

Inasmuch as the South Korean authorities do not represent all the Korean people, any unilateral negotiations or agreements between the Japanese Government and the South Korean authorities concerning the question of the citizenship of Koreans living in Japan and questions affecting the interests of all the Korean people will be completely invalid, and as such the Government of the Democratic People's Republic of Korea shall not recognize them....³⁵

Such a statement of the North Korean government has, of course, no significance for the ROK government but it is likely that it has some meaning to the Japanese.

It is also unquestionably true that the two government revolutions in Korea hampered the progress of negotiations at least for a while. Although it may be regarded as of minor significance, there are many Japanese who criticize the legitimacy of the present military government as a subject of any international agreement. The Japanese government official position, of course, has been to recognize it as the legitimate government.³⁶ Nevertheless, many Japanese argue that the present military government in Korea lacks legitimacy and that it is unsafe to make any settlement or agreement with it since it has no political institution like the legislature through which Korean people can ratify the

³⁵ North Korean Radio Broadcast, Pyongyang, Home Service, January 4, 1958, 10.00 GMT-B.

³⁶ The Japanese Prime Minister Ikeda said in the Diet that the military government in ROK was the legitimate government. See Nihon Keizai Shimbun, February 6, 1962.

agreement.³⁷ Furthermore, they claim that it is wise to leave any settlement of the problems to a new future civilian government in Korea. Recently, similar voices were also heard in ROK.³⁸

Finally, the third factor is the basic difference in the foreign policy issues of ROK and Japan. The anti-Communism which has been the most significant element of the ROK foreign policy seems to have less significance to Japan. The Japanese government has adopted a policy of establishing close economic relations especially with Afro-Asian nations as one of its major foreign policy aims.³⁹ Accordingly, the Japanese government, while committed to the Western bloc, attempts to cultivate economic ties with Red China and North Korea,⁴⁰ although such an attempt irritates Koreans who have

³⁷ Asahi Shimbun, January 6, 1962, Hisao Kuroda, "Naze Nikkan Kyoshoni Hantai Suruka" (Why the Japan-ROK Negotiation is Opposed), Chuo Koron, February 1963, p. 203.

³⁸ It was reported that thirteen civilian opposition leaders warned the military government in Korea and the Japanese government that they would reject "any settlement or treaty between ROK and Japan which might cause damage to the nation's interests." They also demanded of the ruling military leaders that they leave the settlement of the ROK-Japan Conference to a new civilian government. See Asian Students, May 11, 1963.

³⁹ JMFA, Waga Gaikono Ginko, 1957, p. 9. See also the Japanese Foreign Minister's statement concerning foreign policy as quoted in Kokkai Nenkan, 1961, pp. 40-41.

⁴⁰ Although the Japanese government has not established normal relations with Red China and with North Korea, many Japanese private circles established many trade and cultural

objected to any relations with the Communists bloc ever since the establishment of ROK.

As for the ROK-Japan Conference, it is likely that the Japanese government anticipates economic benefits expected to flow from the normalization of relations between the two countries. The Japanese government, especially after the downfall of President Syngman Rhee, has been making an intensive effort to expand economic ties with ROK while the establishment of political relations is still pending.⁴¹ On the other side, for Koreans, the normalization of relations with Japan is judged by not only economic but also political criteria in the anti-Communist group of nations. It is probable, therefore, that some Koreans intend to see the true growth of Japanese democracy through the "mirror" of the ROK-Japan Conference and believe that the conference could have concluded earlier if Japan were as strong an anti-Communist nation as is ROK.⁴²

exchange agreements with them. For example, on September 9, 1956, the agreement of cultural exchange was signed between Japanese and North Koreans. See Hapdong Yearbook(Seoul), 1959, p. 393.

⁴¹ Ever since the downfall of President Rhee, numerous Japanese business groups, mostly encouraged by their government, visited ROK to see the prospect for their investments.

⁴² See Ki Won Chung, "Hanil Hoidam kwa Ku Kibon Muncheye Daehan Gochal"(A Study of ROK-Japan Conference and Its Basic Problems), Kukhoibo(National Assembly Bulletin), August 11, 1956, p. 56. See also ROK Foreign Minister Duk Shin Choi's opinion; "Hanguk Oigyo ui Gamdo", op. cit., p. 110.

Summary

Both the governments of ROK and of Japan have been making continuous efforts to settle the problems of Korean residents through the ROK-Japan Conference which has been going on for eleven years with some occasional interruptions. During this period, progress on the problems has been made very slowly, yet, up to the present, no final solution has been reached on any major subject. It is because of various obstacles largely stemming from historical and psychological aspects of relations between the two peoples and from the political and ideological climate of each country.

CHAPTER V

CONCLUSION

Korean residents in Japan, the majority of whom have been confronted with enormous difficulties in their living ever since they came to Japan, have created many social problems for Japanese society and have also created political problems between ROK and Japan as well. The currently pending questions of Korean residents in Japan in the ROK-Japan Conference are mainly concerned with their legal status, which are likely to be only a part of the over-all Korean residents' problems. The more important fundamental problems underlying their residence appear to stem from their extremely low socio-economic status.

In this context, whatever the purely legal or political settlements of the currently pending questions, their low socio-economic status would virtually remain the same for some time unless they could be completely assimilated into Japanese society, both socially and legally, or repatriated en mass to Korea. In reality, however, the assimilation of these Koreans into Japanese society undoubtedly needs a certain period of time, at least a period of several generations. On the other hand, their complete repatriation to Korea seems unrealistic and impractical, at least under the present circumstances. As for the ROK government, it is not

ready or probably not willing to have complete repatriation of Koreans in Japan to her territory. An increase of 600,000 new population in densely populated her territory, if all of them return to ROK, will inevitably result in new population pressure but also new economic and social chaos. Thus, the ROK government has not made any vigorous effort to encourage these Koreans to return to ROK. Furthermore, even if an agreement is made by both governments of ROK and of Japan to repatriate all Koreans in Japan to ROK, the majority of them likely wish to remain in Japan since their lives are deeply rooted in Japanese society. Again, a realization of forcible repatriation still remains in question.

At any rate, unfortunately, the significance of the position of Korean residents in Japan in future relations between Koreans and Japanese appears to be little understood. This is partly because the two peoples are blinded by the immediate benefits that they hope to gain from the settlement of other pending issues, and partly from the lack of thorough understanding of the problems confronting most Koreans in Japan. For instance, the geographical distance between Koreans in Korea and in Japan hinders more close understanding with each other, while Japanese generally take it for granted that the present status of Korean residents in Japan is an established phenomenon for inferior people.

Yet, it should be pointed out that the Korean residents' problems will be one of the important factors in determining the nature of future relations between the two peoples. Because, as long as their low socio-economic status remains unchanged, their poor living condition will be a causal factor in the high incidence of Korean social crimes in Japan, which will inevitably irritate the feeling of Japanese toward Koreans as a whole. Moreover, the Communists' activities which have already gained the sympathies of the majority of Koreans in Japan will possibly be strengthened by taking advantage of Koreans' dissatisfaction with their low socio-economic status. Then too, it is probable that the anti-Communist feeling of Japanese coincides with the form of an "anti-Korean" attitude. This symptom has already been shown by a strong anti-Korean sentiment among the Japanese ultra rightists. It is also likely that an image of Korean people held by Japanese, particularly by the younger generation, will be influenced by the image of Korean residents as their situation has created them. On the other hand, as for Koreans, they will probably maintain their claim that Japanese are entirely responsible for the low status of Korean residents as being a result of the past Japanese colonial rule in Korea. Consequently, such feelings of the two peoples toward Korean residents in Japan will harden the traditionally inherited psychological aspects of their hostile attitudes against each other.

A possible solution of the over-all problems of the Korean residents would be obtained by promoting their socio-economic status. An increased financial support to Korean schools and Koreans in need, and extending the efforts of Korean Mission in Japan may be considered to be possible means. The ROK government and its people must assume the legal and moral responsibility for the achievement of this purpose. It is also vital to have Japanese people ending discrimination against them by adopting the principle of humanitarianism, which they claimed motivated their repatriation of Koreans to North Korea.

In conclusion, tremendous efforts must be made by the two governments and their peoples to settle the current legal problems of the Korean residents, and also a further attention should be given to the solution of the over-all problems if friendly relations between the two peoples are to be achieved.

APPENDIX I

DISTRIBUTION OF KOREAN RESIDENTS IN JAPAN,
BY OCCUPATION, 1928 a/

Occupation	Number of Residents	Percent of Total
Students and pupils	12,320	4.6
Salaried individuals	3,670	1.4
Commercial	6,883	2.5
Unskilled laborers		
Factory	19,560	7.4
Day laborers	150,803	56.8
Farm	19,370	7.3
Others	<u>52,987</u>	<u>20.0</u>
Total	265,593	100.0

a/: Either constitutes only a partial investigation or else does not include elements of the Korean population not in the labor force.

Source: Fukuoka District Employment Office, "Labor Conditions of Koreans in the Fukuoka Area", p. 12, as quoted in Edward W. Wagner, Korean Minority in Japan 1904-1950 (New York: Institute of Pacific Relations, 1951), p. 93.

APPENDIX II

NUMBER OF KOREAN RESIDENTS IN JAPAN

Year	Number of Residents	Sources
1930	419,009	Population census of Japan.
1938	799,878	Based on survey carried out by Bureau of Police, Ministry of Home Affairs, Japan.
1943	1,880,456	"
1955	539,635	Based on "Population Census of Japan" taken as of October 1, 1955.
1957	600,403	"
1958	611,085	Based on survey carried out by Immigration Bureau, Ministry of Justice, Japan

Source: Economic Planning Board, Republic of Korea, Korea Statistical Yearbook, 1961, p. 23.

APPENDIX III

SURVEY OF RESIDENT KOREANS, BY INDUSTRY AND OCCU-
PATION, JAPAN PROPER,
31 December, 1941

In labor force	777,023
Agriculture and fishing	9,480
Mining	94,320
Manufacturing	208,338
Metal, machinery and tools	102,648
Chemical	47,053
Fiber	43,953
Electrical	6,488
Other manufacturing	8,196
Construction and civil engineering	220,969
Communication and transportation	15,754
Stevedore	26,982
General workers	32,830
Other workers	66,084
Hotel and restaurant	4,751
Trade	60,430
Professional	5,116
Other employed	31,630
Unemployed	339
Not in labor force	692,207
Total Koreans	1,469,230

Source: Plans for carrying out 1943 National Mobilization, Cabinet Planning Board, Tokyo, 14 June, 1943, p. 128, as quoted in USSBS (United States Strategic Bombing Survey), "The Effects of Strategic Bombing on Japan's Economy", p. 103.

APPENDIX IV

VOCATIONAL DISTRIBUTION OF KOREAN RESIDENTS IN JAPAN

Classification	Manager	Worker	Total
Primary Industry			
Agriculture	7,044	2,553	9,597
Animal Husbandry	3,329	1,216	4,545
Forestry	1,977	1,793	3,770
Fishery	376	680	1,056
Sub-total	12,726	6,242	18,968
Secondary Industry			
Engineering	2,272	24,481	26,753
Spinning	1,606	5,368	6,974
Machinery	744	4,001	4,745
Rubber	475	2,255	2,730
Confectionary	1,097	984	2,081
Leather	504	1,307	1,811
Shoes	735	571	1,306
Printing	87	476	563
Others	2,571	15,497	18,068
Sub-total	10,091	54,940	65,031
Tertiary Industry			
Scrap iron	9,929	5,682	15,611
Entertainment	4,255	6,218	10,473
Transportation	1,049	5,943	6,992
Restaurant	4,428	2,480	6,908
Intellectual labor	228	2,240	4,468
Second-hand goods	2,572	1,598	4,170
Brokerage	1,531	561	2,092
Hotels	424	272	696
Trading	312	297	609
Monetary	139	146	285
Others	7,341	6,511	13,852
Sub-total	32,208	33,948	66,156
Anti-Social Profession			
Illicit distilling		6,994	
Narcotics dealing		1,706	
Others		9,699	
Sub-total		18,399	

Source: The Japanese Red Cross. The figures were made as of December 1952, as quoted in ROK Ministry of Foreign Affairs; "Koreans in Japan", Korea Journal, April 1962, p. 52.

APPENDIX V

THE EMPLOYMENT STATUS AND THE PROPORTIONAL DISTRIBUTION OF THE VOCATIONS OF KOREANS, CHINESE AMERICANS IN JAPAN
(As of April 1, 1959)

	Korean	Chinese	American
Total numer	607,533	44,599	10,548
Number of employed	148,543 (24.5%)	12,590 (28.2%)	4,466 (42.3%)
Type of work			
Labor works	52.82%	8.95%	2.06%
Sales business (trade included)	18.52%	27.93%	10.82%
Agriculture and fishery	7.72%	0.74%	1.70%
Service business	6.53%	37.17%	1.68%
Transportation	5.93%	1.39%	1.77%
Professional works	1.82%	-a/	65.27%
Business Managemental works	0.81%	-a/	7.48%
Other office works	-a/	12.40%	8.58%
Others	5.85%	12.42%	0.64%

a/: Number is not available.

Source: The Japanese Ministry of Justice, "Zairyu Gaikokujin no Kosei to Bunpo" (The Components and Distributions of Aliens in Japan), Official Gazette, No. 10307, Appendix, May 1, 1961, pp. 15-16.

APPENDIX VI

NUMBER OF KOREAN STUDENTS IN JAPAN

(As of 1954) a/

Type of School	Primary School	Middle School	High School	University, College
Japanese schools	92,000 (80%)	36,000 (86%)	8,200 (71%)	2,400 (96%)
Korean schools (sponsored by North Korea)	16,000 (19%)	4,700 (12%)	2,800 (29%)	120 (4%)
Korean schools (sponsored by South Korea)	1,200 (1%)	1,400 (2%)	450 (0.5%)	0
Total	109,200	42,100	11,450	2,520

a/: This year is based on the writer's estimation.

Source: The Japanese Metropolitan Police, Zaijitsu Chosenjin Undo (The Movements of Korean Residents in Japan), as quoted in Kyu Hwan Kim, "Jaeil Kyopo nun Ibangin inka ?" (Are Korean Residents in Japan Aliens to us ?), Sasangge, January 1961, p. 134.

APPENDIX VII

DISTRIBUTION OF THE MAJOR FIELDS OF KOREAN
STUDENTS IN JAPANESE UNIVERSITIES

(As of May 1, 1954)

Field	Number of Students
Agriculture	83
Education	62
Engineering	501
Fine Art	39
Humanities	448
Law	229
Medical Science	115
Natural Science	108
Social Science	663
Non-specified	<u>65</u>
Total	2,383

Source: The figures are collected from the Japanese Ministry of Education, Education in Japan 1956: Graphic Presentation, p. 105.

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