

Racism in Japan and “The 1952 System”: Japanese Immigration Control Laws and the Rise of the “Zainichi Privilege” Myth

Yong-Song Ryang

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Since the late 2000s, there has been no shortage of hate speech (1) targeting Zainichi Koreans in Japan. While such incidences of racism (2) share many similarities with that of the 20th century, they are also distinct in their level of cruelty (as exemplified by statements calling for the murder of Zainichi Koreans in Japan). Some of the most damaging of these remarks, however, revolve around the myth of “Zainichi Privilege”—the false belief that Zainichi Koreans (3) are awarded special privileges that other foreigners lack, sometimes even at the expense of Japanese nationals—such as the false claim that Zainichi Koreans are not obligated to pay their water bills.

But why has the notion that Zainichi Koreans hold special privileges in Japanese society proved to be such an effective tool for inciting racism against them? And why have discriminatory members of the public as well as far right local and national politicians been able to successfully utilize this myth?

At first glance, one might be surprised to learn that the myth of “Zainichi Privilege” holds such an incendiary power in Japanese society. In truth, as will be described in detail, this response is nothing short of a racist backlash in a country that not only refuses to recognize dual citizenship, but is also devoid of any kind of anti-discrimination law, policies regarding minorities, multiculturalism policies, a migrant integration policy, and an official policy regarding foreign residents.

This paper will seek to explain why despite the absence of any major legislative gains for Zainichi Koreans and other minorities, a racist backlash is occurring that is arguably more ferocious than that in the United States or Europe. Although a multitude of factors must be taken into consideration in order to accurately understand this phenomenon, this paper will focus on what is commonly considered to be a key factor: Immigration control laws and related policies enacted in post-occupation Japan (4). One of these acts would also grant Special Permanent Resident Status to Zainichi Koreans, an often-cited example of “Zainichi Privilege.” Furthermore, one cannot accurately comprehend the “Zainichi Privilege” Myth without an understanding of the ways in which the fundamental structure of immigration control laws and regulations, particularly those established on the eve of Japan’s independence from American Occupation (also referred to as The 1952 System), enable discrimination against Zainichi Koreans and other foreign residents in Japan.

The 1952 System

The 1952 System is defined as a system of control laws pertaining to foreign residents, immigrants, and immigration that was enacted on April 28, 1952. This system, which went into

effect alongside the San Francisco Peace Treaty, mainly comprises of the Immigration Control Order, the Alien Registration Law, and Law 126 (Onuma, 94).

Established in the context of Japanese support for U.S. military efforts during the Korean War, The 1952 System explicitly aimed at the repression of Zainichi Koreans. In addition, through stripping Zainichi Koreans of Japanese Nationality, The 1952 System ensured that racist institutions and policies dating back to the colonial era that utilized the *koseki system* (family registry system) would continue to endure in the form of the Immigration Control Order.

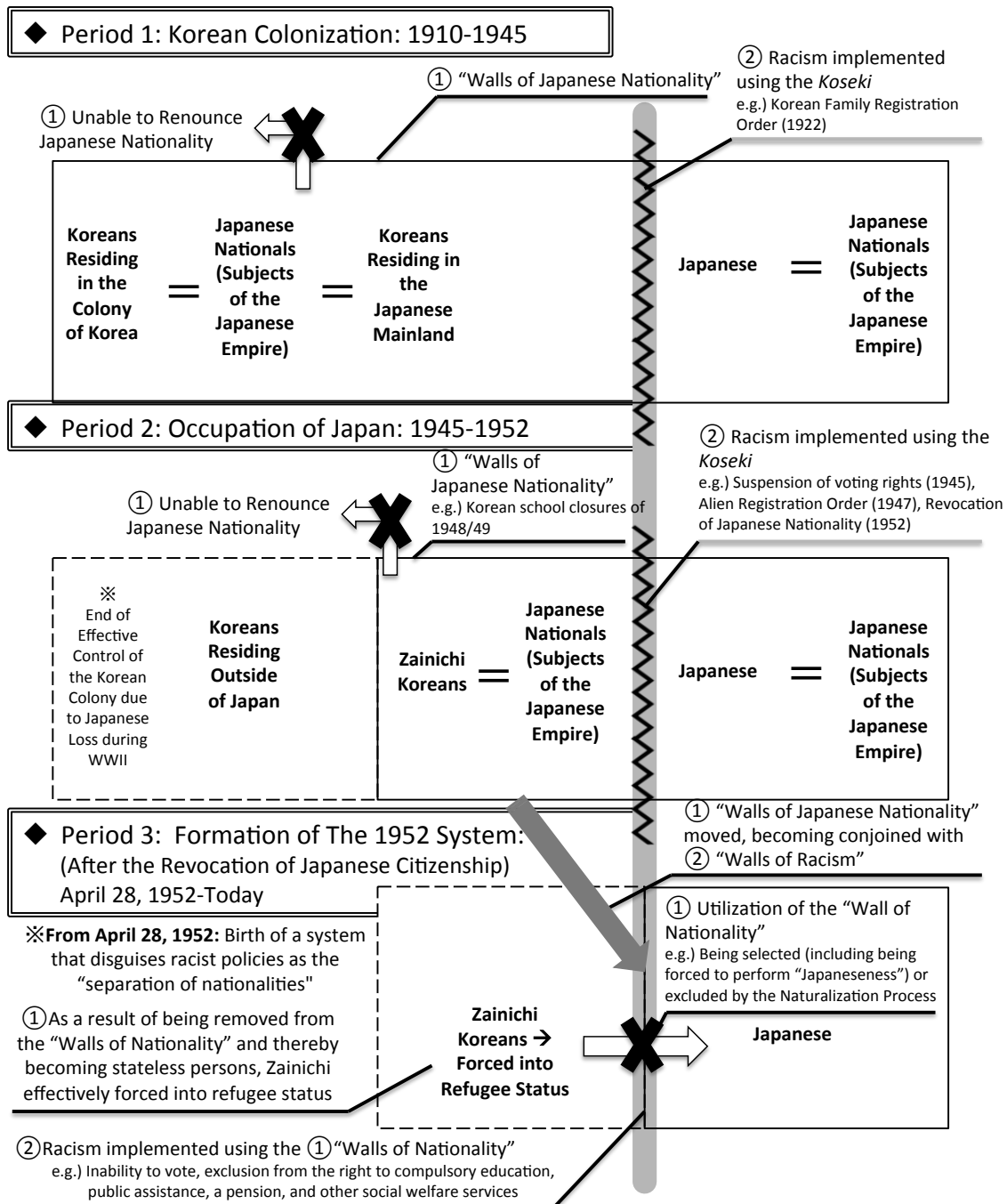
Next, this paper will more closely examine the framework of The 1952 System. This system comprises of two types of laws: General laws in the form of the Immigration Control Order and the Alien Registration Law, and a special law that handles exceptions to the above general laws in the form of Law 126.

The Immigration Control Order regulated and managed the movement of those entering into or leaving Japan, while the Alien Registration Law (abolished and integrated into the Immigration Control Order in 2009) allowed for the supervision of foreign residents and immigrants until their departure. These general laws operated under the assumption that foreign residents and immigrants possessed a foreign passport, acquired a visa that permitted entry into Japan prior to their arrival, were assigned a residence status (qualification for residing in Japan) at the time of their arrival, and would leave the country within a prescribed period of time.

In contrast, the *Act Relating to the Measures for the Orders Concerning the Ministry of Foreign Affairs, based upon Matters Relating to the Ordinances Issued as a Result of Accepting the Potsdam Declaration* (*potsudamu sengen no judaku ni tomonai hassuru meirei ni kan suru ken ni motozuku gaimusō kankei shomeirei no sōchi ni kan suru hōritsu*, ポツダム宣言の受諾に伴い発する命令に関する件に基づく外務省関係所命令の措置に関する法律) often shortened to Law 126 of April 28, 1952, was a special law that granted a special residence status or, in the absence of any residence status, permission to reside in Japan to those residents who traced their roots to the former colonies of Korea and Formosa. Law 126 would serve as the prototype for the 1991 “Special Law on Immigration Control” (the cornerstone of the Zainichi Privilege Myth), which granted the status of “special permanent resident” to the descendants of those who lost Japanese Nationality in 1952.

While in principle The 1952 System (in the form of the Immigration Control Order and the Alien Registration Law) did not allow those without Japanese nationality to (freely) enter into or reside in Japan, Zainichi Koreans were treated as an exception to this rule; in other words, these laws were constructed with the connotation that Zainichi Koreans were given preferential treatment under the law. In this way, the structure of The 1952 system in and of itself gave way to the notion that special permanent residency is an unfair privilege granted to Zainichi Koreans. The following chart is provided in order to better elucidate this argument.

The Formation of The 1952 System (The Continuity of the “Walls of Racism”)



It is important to note that the 1952 System has come to govern foreign residents and immigrants in the absence of any official, comprehensive policies concerning non-Japanese nationals. In addition, while it can be said that explicit and official racist laws and systems, such as the former apartheid system of South Africa, do not exist in Japan, such immigration control

laws and regulations effectively function as discriminatory policies that target Zainichi Koreans and other minorities in Japan. Investigating the inner workings of these seemingly neutral racist policies is essential for understanding racism and hate speech in Japan. In the following section, this paper will delve into the discriminatory system of laws that governed Colonial Korea, a precursor to The 1952 System. Such an analysis is critical in order to fully understand the formation of The 1952 System.

Racism and Nationality in Colonial Korea

The following laws governed the Colony of Korea under Japanese rule: First as stipulated in the Japan-Korea Treaty of 1910, Koreans were considered subjects of the Japanese Empire and uniformly placed under Japanese rule; second in order to prevent Korean colonial subjects from renouncing Japanese Nationality, the Nationality Act was made invalid in the colony of Korea; finally, the *koseki* was utilized to differentiate between the colonized subjects of the Japanese Empire and the Japanese (Chong, 5). Thus, the Annexation of Korea trapped Koreans within the "Walls of Japanese Nationality" (国籍の壁, *kokuseki no kabe*), leaving them without any means of escape, as well as ensnaring them within "Walls of Racism" (レイシズムの壁, *racism no kabe*) that were constructed using the *koseki* and maintained by the laws governing the colony. In this way, this system was dualistic in nature, cleverly utilizing the "Walls of Nationality" as well as the "Walls of Racism" to dominate the people of Korea.

Following annexation, the government of Japan used these "Walls of Nationality" to exercise unrestrained legal authority over the people of Korea. In one instance, the Japanese Government successfully invaded parts of Northeastern China under the pretext of protecting Koreans who resided there (many as a result of displacement caused by annexation), now subjects of the Japanese Empire. These "Walls of Nationality" also allowed Japan to justify the suppression of Korean Independence Movements. Thus, Japanese Nationality proved an effective tool for trapping Koreans within the confines of empire.

However as the population of Koreans residing in Japan grew exponentially following the First World War, the legal distinction between ethnic Koreans and ethnic Japanese became increasingly unclear. To combat this trend, the government of Japan established the *Korea Family Register Ordinance* (*Chōsen Kosekirei*, 朝鮮戸籍令) in 1922. This law utilized the *koseki* to draw a sharp distinction between those with Japanese lineage and those descended from the colonies, effectively creating a racist legal system that separated peoples in Japan on the basis of ethnicity.

In short under the legal system of Japanese colonial rule, Koreans were not only forced to adopt Japanese Nationality (placing them within the "Walls of Japanese Nationality"), but they were also deprived of human rights and discriminated against on the basis of their ethnic background (thus placing them within the "Walls of Racism"). This double-layered legal system that combined restrictions on nationality with racial discrimination would continue in virtually the same form into the Occupation period.

Racism and Nationality During the Occupation of Japan

Following the end of the Pacific War (as well as the decolonization of Korea), the aforementioned colonial legal system was repealed in the Korean Peninsula. However, this would not be the case for the Zainichi Koreans left behind in the Japanese mainland. From the onset of the Occupation, the General Headquarters of the Supreme Commander for the Allied Powers (GHQ/SCAP) took an ambivalent position on the question of Zainichi nationality; SCAP

tacitly approved of legal restrictions on Zainichi Koreans resulting from the forced retention of Japanese Nationality, as well as recognized the authority of the Japanese Government on Zainichi issues as they saw fit throughout the Occupation Period. This section will explore the particulars of the "Walls of Racism" and "Walls of Nationality " that entrapped Zainichi Koreans during this period.

On the question of Zainichi Nationality, the well-known *Basic Initial Post Surrender Directive to Supreme Commander for the Allied Powers for the Occupation and Control of Japan* of November 1945 stipulated the following:

"You <General Douglass MacArthur> 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"(Kazimura, "Basic Initial Post Surrender").

In this way although those considered to be "liberated peoples" were no longer defined as Japanese subjects, this was limited in "so far as military security" would permit. Furthermore "in case of necessity," Koreans and Formosan-Chinese could be treated as Japanese subjects ("enemy nationals"). This equivocal stance of SCAP fostered the conditions necessary for the Japanese Government to ensure that Zainichi Koreans would continue to be the target of racist policies after the war in a manner virtually identical to that of the prewar period, all the while allowing SCAP to maintain a public stance of nonintervention in matters concerning Zainichi Nationality. Thus, Japanese Nationality continued to constrain Zainichi Koreans even into the occupation period, a situation effectively approved by SCAP and resulting from the concerted efforts of the Japanese Government to preserve its authority over Koreans even into the postwar period.

"Walls of Racism" preserved by the Japanese government following the war took a similar path. For instance, revised election laws enacted on December 1945 effectively disenfranchised "those who did not fall under the application of the Family Registration Law." New members of the Diet, chosen by an electorate that comprised of women voters for the first time in history, would deliberate on the new Japanese Constitution, which went into effect on May 3, 1947. Even at the onset of a new constitution, those descended from formerly colonized peoples (as well as the people of Okinawa still under U.S. Military occupation) were excluded as a result of racist policies.

And on the eve of the adoption of the new constitution, the Alien Registration Order (Imperial Ordinance No. 207), the final imperial order of the emperor, was enacted on May 2, 1947. The Alien Registration Order of 1947 originally encompassed the laws included in both the Alien Registration Law of 1952 and the Immigration Control Ordinance of 1951 and would serve as the precursor for subsequent immigration control laws and policies in the postwar period. In principle, this order prohibited nonJapanese nationals from (freely) entering the country and required nonJapanese residents within its borders to register their name and other personal information with Japanese officials.

While at first glance such an order may appear to be a general immigration control law that applied indiscriminately to all nonJapanese nationals entering into or residing in Japan, this was not in fact the case. With regards to its application, Article 11 of the Alien Control Order stipulated that, "those subject to the Korean Family Registration Order" would effectively be

treated "as nonJapanese nationals for the time being." With the inclusion of this single condition, the Alien Control Order was transformed into an oppressive law targeting Zainichi Koreans. The Alien Control Order of 1947 left Zainichi Koreans vulnerable to racist policies ("Walls of Racism"), while leaving them trapped within "Walls of Nationality" as they were still forced to hold onto Japanese Nationality. This order would serve as "the legal point of origin for stripping Zainichi Koreans of their Japanese Nationality <on April 28, 1952>, while continuing to deprive them the right to choose their own nationality"(Kazimura, 256)(5).

Incidentally, Japanese officials attempted to include a clause similar to Article 11 of the Alien Control Order in the Immigration Control Ordinance of 1951 but were met with opposition from the SCAP (Onuma). SCAP, with its focus on anti-communism, and the Japanese Government, which prioritized the preservation of racist policies into the postwar era, were certainly not always in agreement, at times clashing as a result. Nonetheless throughout the occupation period, the Japanese Government succeeded in maintaining a system of laws that kept Zainichi Koreans entrapped within "Walls of Nationality" while implementing racist laws against them ("Walls of Racism").

Zainichi Koreans and the Revocation of Japanese Nationality (April 28, 1952)

As the San Francisco Peace Treaty went into effect on April 28, 1952, the Japanese Government ruled to indiscriminately revoke the Japanese Nationality of all residents descended from its former colonies. The less than logical explanation for this vicious policy went as follows: Since the San Francisco Peace Treaty recognized the Korean Peninsula as an independent entity, in order to properly return to the status quo of the pre colonial period, the nationality of Zainichi Koreans should also return to that which it was before colonization. This measure was enforced by a directive (Directive No. 438 from the Director-General of the Civil Affairs Bureau of the Attorney General's Office) issued on April 19, 1952.

The revocation of Japanese Nationality proved to be problematic in a multitude of ways. First, the San Francisco Peace Treaty did not contain any kind of rule or provision regarding the nationality of Zainichi Koreans. Second, not a single person of Korean descent participated in the peace conferences leading up to the creation of the San Francisco Peace Treaty. In this way, the will of the Korean people was not at all reflected in this process. Third, Zainichi Koreans were deprived of their right to choose their own nationality (a right which was respected in other countries). Finally, these measures were unconstitutional (Article 10 of the Constitution attempted to legally define Japanese Nationality).

Zainichi Koreans who lost Japanese Nationality also experienced a profound change in legal status. Thereafter Zainichi Koreans were removed from within the "Walls of Nationality," becoming nonJapanese nationals who were under the complete authority of the Immigration Control Order. In other words, Zainichi Koreans were deprived of the foundation of their right to life--the right of residency in Japan--and forced into an unstable situation where the threat of forced deportation (often on trivial pretexts) always loomed. Owing to the loss of Japanese Nationality, Koreans and Formosans within Japan came to be treated as stateless persons and were effectively placed in a legal status lower than that of refugees.

Law 126: The Original "Zainichi Privilege"

Framing the circumstances mentioned above in terms of the Immigration Control Order reveals yet another aspect of the precarious situation in which Zainichi Koreans were placed. Generally speaking, the Immigration Control Order assumed that nonJapanese Nationals were in

possession of a passport from a foreign country officially recognized by the Japanese State, were issued a visa, and were granted a particular residence status. Thus under the Immigration Control Order, any nonJapanese national who possessed neither a visa nor passport was ineligible for any residence status and, therefore (in principle), unable to enter the country.

However, those Koreans who resided in Japan as a result of colonization were naturally without either. Given this, what would be the result of defining Zainichi Koreans, who could not possibly possess a passport, visa, or any kind of residence status, as "nonJapanese nationals" (placed outside of the "Walls of Nationality"), and placing them under the complete authority of the Immigration Control Order "in an indiscriminate matter?" Almost overnight 600,000 nonJapanese Nationals, who were ineligible for any residence status under the Immigration Control Order, were considered to be residing in Japan illegally.

It was in this context that the government of Japan created the special law, Law 126. The Japanese Government took measures to ensure that residents who were descended from its former colonies were permitted to remain in the country (for the time being) despite lacking a residence status. However, this measure was anything but a privilege; it was a racist policy that forced Zainichi Koreans into an incredibly unstable situation in which they possessed no legal qualifications for residing in Japan.

In addition, Law 126 did not apply to all Zainichi Koreans. This law was only limited to those who lived in Japan continuously from September 2, 1945 to April 28, 1952 and children born on or before April 28, 1952. It goes without saying that this unjust and limited categorization was far from accurate. For instance, any Koreans who traveled to (or from) the Korean Peninsula during this period—even once—were disqualified. This included any Koreans who fled the terrors of the Korean War and escaped to Japan. Furthermore, this categorization was grossly inconsistent with the lived realities of many Koreans who built a life in both Japan and the Korean Peninsula throughout the colonial period. Thus, for those Koreans and other descendants of former Japanese colonies who traveled back and forth between Japan and their former homeland, this limitation was far from reasonable.

Additionally, there existed no provision or rule regarding the children of Zainichi Koreans who were granted permission to stay; if the Immigration Control Order were to be applied "in an indiscriminate manner," such children would be considered to be residing in Japan illegally. In response, the government of Japan refused to expand Law 126, choosing instead to place the children of Zainichi Koreans under the legal status of "special residence" (*tokutei zairyū*, 特定在留), an extremely unstable legal status that had to be renewed once every three years. Furthermore, those who would become the grandchildren of those Zainichi Koreans permitted to stay in Japan were placed under the status of "special permission" (*tokubetsu zairyū*, 特別在留), which had to be renewed even more often (anywhere from 1 to 3 years) (Park, 158).

In short, Law 126 was not a law created with the history and lived realities of Zainichi Koreans in mind. Nor did it officially recognize their existence or guarantee their right to life. Instead, it was a haphazardly constructed, unprecedented legal measure that simply allowed Zainichi Koreans, forcibly stripped of their nationality, to reside in Japan for the time being. As a result, Law 126 effectively resulted in a legal "separation of families." This law was designed to create a situation in which members of the same family were assigned a variety of different legal statuses, as well as to ensure that the legal status of successive generations of Zainichi Koreans would become less and less secure.

The logic behind what Zaitokukai and others call "Zainichi Privilege" can easily be glimpsed in Law 126, namely their claim that Zainichi Koreans should be "equal" under the law

to other nonJapanese Nationals. Following the revocation of Japanese Nationality for Zainichi Koreans as well as the passage of Law 126, the Japanese government was able to use "equality" under the law as a pretext to effectively enact racist policies targeting Zainichi Koreans.

The Significance of The 1952 System Today: The Use of Immigration Control Laws and Policies as a Substitute for Governing NonJapanese Nationals in the Absence of Any Official Anti- Discrimination Laws or Policies Concerning NonJapanese Nationals

The 1952 System is still alive and well today. Following a major revision of the general laws of this system in 2009, the Alien Registration Law was abolished and integrated into the Immigration Control Order. The special law (which allowed for those descended from Japan's former colonies to be treated as special exceptions) would change form from Law 126 to the Special Immigration Law in 1966 (*nyūkan tokubetsuhō*, 入管特別法; a law that only granted permanent residence status to Republic of Korea nationals as part of the *Agreement Between Japan and the Republic of Korea on the Legal Status and Treatment of the People of the Republic of Korea Residing in Japan*), the Revised Immigration Control Law in 1982 ("special permanent residence" status as stipulated in the Geneva Convention on the Status of Refugees), until finally becoming the "Special Permanent Residence" status still in use today as a result of the Special Act on the Immigration Control of, Inter Alia, Those Who Have Lost Japanese Nationality Pursuant to the Treaty of Peace with Japan of 1991.

The following section will reevaluate the various roles that The 1952 System played in reshaping Japan from the postwar era into today.

1. The Rise of a System that Disguises Racist Policies as Immigration Control Laws

It goes without saying that the forced termination of Japanese Nationality for those descended from the former colonies, a policy implemented under The 1952 System, was unjust. However what more concerning was that the "Walls of Nationality" suddenly shifted, becoming aligned with the "Walls of the *Koseki*" seemingly overnight. According to Okamoto Masataka in *Nihon no Minzoku Sabetsu* (日本の民族差別, *Ethnic Discrimination in Japan*),

In the case of Japan, until the 1980s, nonJapanese residents of Japan were virtually all descendants from its former colonies, particularly Korea and Formosa. Additionally, government policies regarding ethnic minorities descended from the former colonies were implemented by way of the Japanese nationality system, the Nationality Clause established thereafter, as well as a naturalization system that demanded assimilation. Furthermore, racial or ethnic discrimination was cloaked as the "separation of nationalities" and even outside of the government, ethnic discrimination became nearly synonymous with discrimination against foreigners (nonJapanese nationals) (38).

Such a situation could not exist if not for The 1952 System. Thus, "Walls of Racism" would move and align themselves with "Walls of Nationality," holding a new significance as they became much harder to recognize, a result of racist policies and laws being disguised as the "separation" of nationalities.

2. The Use of the Immigration Control Order as a Substitute Policy for Governing NonJapanese Nationals in Postwar Japan

To make matters worse as a result of the following set of societal conditions, The 1952 System (which already passed off racist policies as immigration control laws) would come to be used as a stand-in policy for managing NonJapanese Nationals, a fact that still holds true today.

First, the government failed to establish anti-racism legislation or any form of multiculturalism policies or policies governing minorities (the latter of which often develop following anti-racist legislation). Therefore in the case of Zainichi Koreans, not only did the state fail to officially recognize them as minorities, but there also existed no legal definition of Zainichi Koreans aside from their differentiation by nationality.

Second, the Japanese Nationality Law continued to be based upon the principle of *jus sanguinis*, requiring parents or ancestors to be of Japanese descent. As a result, the *jus sanguinis* state of Japan only adopted the uncompromising immigration control laws of the Immigration and Nationality Act of the United States, a *jus soli* state that based such laws on the supposition of accepting immigrants, into its own law system. Thus nonJapanese permanent residents of Japan who did not become Japanese Nationals under the discretion of the Minister of Justice, were in principle, still under the authority of The 1952 System, even if they were born in the country. Furthermore with each successive generation, the legal status of such residents would become less and less secure.

Finally, there existed no official migrant integration policy or any official policies concerning foreign nationals in postwar Japan. The state did not even establish government offices or a ministry of government to oversee such policies.

3. The Role of Immigration Control Laws and Policies in Sustaining the Zainichi Privilege Myth

During the postwar era, The 1952 System would become the sole guideline used by the Japanese government in dealing with Zainichi Koreans. But beyond setting the Immigration Control Law (a law under which any nonJapanese national can be subject to forced deportation) as a guideline, the concept of foreign permanent residents being granted a defined set of rights while living in Japan in and of itself came to be regarded as an unfair "privilege." However in the absence of policies concerning minorities or anti-discrimination legislation, there is no possible way to secure rights for Zainichi Koreans without establishing special legal provisions or exceptions to existing immigration control laws and policies.

As a result, the goals of furthering the rights of Zainichi Koreans, establishing anti-discrimination laws and policies, as well as realizing a policy that deals with minorities in Japan have not come into fruition. Instead at best, the special law of The 1952 System was revised or systems (and pretexts), such as the provision of subsidiary aid to Korean Schools, were put into place by progressive local government officials that only resulted in a conflicting series of measures that were limited in scope and only weakly secured the rights of Zainichi Koreans.

The Zainichi Privilege Myth uses the general laws of immigration control laws and policies as a standard, views the above-mentioned policies that only weakly secure the rights of Zainichi Koreans as a "privilege," and condemns them. It is true that such a trend shares the same context—increasing racism within neoliberalism—as the racist backlash occurring in the United States, Europe, and other parts of the developed world against anti discrimination laws, affirmation action legislation, and multiculturalism policies. However, the Zainichi Privilege Myth is also entirely different, specifically in its degree of racism as well as level of viciousness. This is owing to the fact that rather than taking the form of a backlash against previously gained anti-racist legislation and measures, it is in the absence of any form of anti-discrimination laws

or policies that this myth seeks to utilize the general laws of The 1952 System to launch an all-out attack on the special laws and provisions serving nonJapanese permanent residents.

Border Walls, the "Walls of Nationalism," and the "Walls of Racism"

The 1952 System is distinct in that it utilizes immigration control laws and policies, a system of laws that have been deemed essential since the establishment of the nation-state and thus exist in any country, in functionally the same manner as the Apartheid System of South Africa, the Nuremberg Laws of Nazi Germany, Jim Crow of the United States, and other law systems used to institutionalize racism. While this phenomenon has been described throughout this paper as the collusive relationship between "Walls of Racism" and "Walls of Nationality," the following section will explore the meaning of these concepts more deeply.

"Walls of Racism" refers to those racist laws and institutions that are currently outlawed by the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) such as the Apartheid System of South Africa, the Nuremberg Laws of Nazi Germany, and the Jim Crow laws of the United States. The racist laws and institutions that utilized the *koseki* during the Colonization of Korea should also be included in this category.

In contrast, "Walls of Nationality" refers to the category of racist laws and institutions that have not been prohibited by the ICERD, namely nationality acts and immigration control laws and policies, both of which are seen as essential for the existence of the modern nation-state. In a world where a global capitalist system is broken up into nearly 200 states, individual countries are compelled to regulate the movement of labor across borders using immigration control measures. It is for this reason that every country possesses nationality acts to regulate its own population (as well those considered to be aliens) and does not, in principle, recognize the right of non-nationals to enter the country (freely). Or in the case where aliens are allowed entry into a given country, immigration control laws and policies ensure that non-nationals are only able to stay so long as their visit is strictly supervised by means of a passport, visa, or residence status. Such policies and regulations should be viewed as racist institutions of the modern era that utilize borders and nationality. This fact is especially evident in the current European migrant crisis.

However it is precisely because "Walls of Nationality" are viewed as the foundation of the modern nation-state that not even the ICERD has regulations against them. In other words despite the fact that nationality acts as well as immigration control laws and policies are by all means racist systems, it is impossible for any modern nation-state to outlaw them. The same does not apply in the case of "Walls of Racism," racist laws and institutions that have been prohibited and condemned by the ICERD.

When comparing "Walls of Racism" and "Walls of Nationality" in this way, the ingenuity behind The 1952 System becomes clear. Please refer once again to the figure on page 3. Despite the fact that The 1952 System falls under the category of "Walls of Racism," this system stands out in that it has not been vehemently criticized to the same extent as Apartheid in South Africa or Jim Crow in the United States. This is because these "Walls of Racism" work in tandem with "Walls of Nationality," or in other words, this system is made up of "Walls of Racism" with a "Wall of Nationality" coating. Thus, the fact that The 1952 System is a system of racist laws and institutions becomes invisible precisely because these "Walls of Racism" work together with nationality acts and immigration control laws and policies, which are present in every modern state.

Viewing this phenomenon through a different lens, it can also be said that The 1952 System—and a configuration that can be called "the racist state," the inevitable form that any modern, capitalistic nation-state including the countries of the European Union or the United States must take—is a type of racist system that is exceptionally basic in form. Countries in the European Union as well as the United States possess various immigration control acts and policies and utilize border walls and "Walls of Nationality" to severely limit the rights of refugees and undocumented migrants, and in this way, they can obviously be defined as "racist states." However, the United States as well as many countries of the EU possess a number of laws and policies that foster multiculturalism, mitigate or outlaw racism, and deal with minorities. Thus while these countries have been unable to do away with racist systems that fall under the category of "Walls of Nationality," they have not only succeeded in abolishing racist institutions that fall under "Walls of Racism," but in enacting anti-racist legislation, they have been able to create systems that suppress racism, even if only on a national scale. However in the case of Japan, in addition to "Walls of Nationality" that exist in virtually every other country, there also exist "Walls of Racism" that take the form of immigration control acts and policies ("Walls of Nationality") in their operation. And to matters worse, there exists no anti-racist legislation, policies concerning minorities, multiculturalism polices, or any other types of laws that are used to restrain racism.

Racism present in the United States, countries belonging to the EU, as well as most other developed nations no longer falls under the category of "Walls of Racism." Having moved beyond dealing with "Walls of Racism," these countries have entered into the stage of attempting to overcome "Walls of Nationality" such as border control and nationality acts. It is for this reason that the social scientific theories present in these countries include critiques of the "Walls of Nationality" as well as criticisms of anti-racist legislation and multiculturalism policies. Thus when attempts are made to simply apply the theories of countries whose focus is on critiquing "Walls of Nationality" to Japan, a nation that is still grappling with how to take down its "Walls of Racism" and implement anti-racist laws and policies, it can lead to nothing but a complete misinterpretation of the actual problems present in Japan.

The Rights of Zainichi Koreans under The 1952 System

The 1952 System has become the foundation of the racism present in every domain in Japanese society. This is evident when considering racism in education policy.

After April 28, 1952, the Japanese government moved to take full advantage of the nonJapanese national status of Zainichi Koreans and ramp up efforts to eliminate Korean Schools. This would be the case for the Metropolitan Korean School, which was originally allowed to continue as a public school in Tokyo, a narrow victory the result of fervent protests by Zainichi Koreans during an era of Korean School closures in 1948 and 1949. However after April 28, 1952, the Japanese State would quickly change its tune, declaring that "foreigners" were not obligated to attend school and that school attendance was, in the end, simply a "privilege." On February 11, 1953 the government put out an official directive and established this policy into law. In Tokyo, the Metropolitan Korean School would be forced to close in 1955, a result driven by the logic that taxes should not be used to fund the education of "foreigners."

Consequently, Zainichi Koreans (foreigners) as well as Korean Schools came to be treated in the following way under this education policy: First, the right to education as well as compulsory education would in the end only apply to those with Japanese Nationality, and the schooling of nonJapanese Nationals would become a "privilege." In this way, Zainichi Koreans

could be denied admission to a school or the right to compulsory education at any time. Cases where individuals have been denied admission to school on the basis of being Zainichi Korean have actually occurred. Or in other cases, Zainichi Koreans were compelled to write statements (containing clauses such as promising to "not make trouble") in order to be permitted admission into school.

Second, Korean Schools as well as other ethnic schools for foreign nationals became systematically excluded from the Japanese educational system. In short, not only were Koreans (if they did not possess Japanese Nationality) unable to attend Japanese Schools, but even if they decided to pursue ethnic education, they were forced to do so independently, outside of the system and security of the Japanese educational system. In truth, such policies can be considered as segregationist, and fundamentally, they are still in effect today. Once the nature of these policies is understood, it is easy to see why the positionality of the issue of subsidiary aid to Korean Schools is so ambiguous. In other words, because the central Japanese government refused to acknowledge the right to education, even the right to Japanese public education, of Zainichi Koreans as well as denied them their right to ethnic education, Zainichi Koreans had no other choice but to put pressure on progressive local governments and fight to secure more rights relating to education at Korean Schools one way or another. This movement would not make definite gains until the 1960s, one of which would be the securing of subsidiary funding from the government.

The 1952 System is still alive and well today. So long as The 1952 System continues to be used as a substitute law to govern non-Japanese Nationals—in other words, as long as Japan continues to lack even a semblance of anti-racist legislation, policies concerning minorities, multiculturalism policies, as well as refuses to officially acknowledge Zainichi Koreans as minorities—these indirect, racist policies will continue. Furthermore, the Zainichi Privilege Myth will continue to be aided and abetted whenever there is an opportunity to do so.

Notes

(1) There are various definitions of hate-speech, but in this paper, hate-speech is defined as "any discriminatory remark made against a group or individual who is considered to be a minority based on their race, ethnicity, nationality, gender or other such attributes for the reason that they possess such attributes." At its core, hate-speech is said to be "discrimination, hostility, or the incitement of violence" (International Covenant on Civil and Political Rights, Article 20) as well as "any form of incitement to discrimination" (International Convention on the Elimination of All Forms of Racial Discrimination, Article 4).

(2) The definition of racism is similarly ambiguous. However since my intention throughout this paper is to analyze ethnic discrimination in Japan while placing it in the same category as racial discrimination that has been occurring in other developed nations (and that has been subject to regulation for more than half a century now), I define racism as discrimination that takes the form of "racial discrimination" as specified in Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.

(3) Throughout this paper, those belonging to the Korean ethnic group are referred to by the general term "Korean." Additionally, people residing in Japan whose roots are traced back to the Korean Peninsula are referred to as "Zainichi Korean." This term is equivalent to the Japanese term "Zainichi Chōsenjin (在日朝鮮人)."

(4) This paper is a revised and reconfigured version of a section titled "The Formation of The 1952 System" located in chapter 3, part 2 of my book *Japanese-Style Hate Speech: The Rise of Racism and the Destruction of Society* (Kageshobo Publishing Co., 2016).

(5) At the time, Zainichi Koreans, who were compelled to register as aliens despite being forced to hold on to Japanese Nationality, were uniformly assigned the designation "Chōsen" in the nationality column of their registration forms. Today, this designation has become "Chōsen Nationality (朝鮮籍)." While "Chōsen Nationality" is not an officially recognized nationality under Japanese Law, this designation is used as a symbol to distinguish these Zainichi Koreans.

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