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Supplementary submission by

**The Korean Council for the Women Drafted for Military Sexual
Slavery by Japan**



The Korean Council for the Women Drafted for Military Sexual Slavery by Japan

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► Updated information on the result of government review

1. Result of TFT's review on the 2015 agreement, established under direct control of the Foreign Minister (Dec. 27, 2017)

1) Launching of the TFT (July 31 ~ Dec. 27, 2017)

- Main purpose: assessment on details and contents of the 2015 ROK-Japan agreement on the 'Comfort Women' issue
- Composition: 9 members having various backgrounds from experts on Korea Japan relations, to experts on international politics, international laws and human rights were appointed by the Foreign Minister
- Assessment criteria: 1) Contents 2) Composition 3) Victim-centered approach 4) Decision making process and structure

2) Assessment on details and progress of the Agreement

- Before Director-level consultations (~ April 2014)
 - Japanese government insists that the 'Comfort Women' issue was resolved through 1965 Treaty on Basic Relations between the Republic of Korea and Japan whereas Korean government considers that the 'Comfort Women' issue is not resolved through the Treaty
 - In August 2011, Constitutional court of Korea ruled that it is unconstitutional that the Korean government has not put its efforts to resolve the 'Comfort Women' issue through dispute resolution procedure of Treaty
 - In December 2011, Yi, Myung-bak, back then president of Korea, urged definite decision of the Japanese government
 - In March 2012, the Japanese government informally suggested humanitarian resolution plan, a.k.a Sasae Proposal, to the Korean government, but the

Korean government refused saying that there should be included a state responsibility

- Park, Geun-hye government, inaugurated in Feb, 2013, set a policy to bring out sincere measures from the Japanese government by convincing them. In the meantime, they constantly demanded working-level consultation to the Japanese government. However, due to the difference of opinions between both governments, there had been no progress made
- Process of Director-level consultations (April 2014 ~ Feb. 2015)
 - 12 meetings of Director-level consultation held including closed meetings in between before Dec, 28 2015
 - Although the Director-level consultation opened, no progress made. Eventually, the necessity of closed High-level consultations had been raised by both governments
- Conclusion through High-level consultations (Feb. 2015 ~ Dec. 2015)
 - As the Japanese government appointed Mr. Yachi Shotaro (back then Head of National Security Council) as a representative, in response to it, president Park appointed Mr. Yi, Byung-gi (back then Director of the Korean National Intelligence Service) as a representative of Korea
 - However, the Ministry of Foreign Affairs (MOFA) couldn't take part directly in the consultation process. In the process, role of the MOFA was limited by only reviewing consultation results and to give feedback
 - In April 11, 2015, two months later of opening the High-level consultations, both governments were able to reach a tentative agreement as follows:
 - > Responsibility, apology and reparation of Japan;
 - > Final and irreversible resolution, Peace statue related matters, issues related to refrain from making mutual criticism in the international

community;

> Secret contents – Convincing of supporting organizations, issue of peace statue erection in other regions, issue of using term 'Sex Slaves'

However, in the process of ratification from both president and prime minister of governments, the Japanese government requested to include secret contents such as follows: With regard to erect of Peace statue in other regions, Korean government shall not support activities related to erection of Peace statue

- In response to such request, Korean government expressed that such request was not acceptable since such additional request was a fundamental change to settled agreement
- In the meantime, at the end of June, 2015, as conflicts between two governments had raised due to the issue of registration of Japanese industrial facilities including 'Battleship island (a.k.a 'Gunhamdo' in Korea)', there was no progress made in the consultation process of the 'Comfort Women' issue
- Korea, Japan and China summit, held on Nov. 1, 2015, became a trigger to reopen consultation process on the issue of 'Comfort Women' between Korea and Japan
- On Nov. 2, 2015, considering the year of 2015 was the 50th anniversary of normalization of Korea-Japan relations, both governments concluded to settle the issue of 'Comfort Women' as soon as possible
- At last, both Foreign ministers confirmed and announced contents of agreement by holding a press conference on Dec. 28, 2015
- Excluding amendment of contents on Peace statue, the contents of final version of agreement was identical to the tentative agreement

3) Assessment of the Agreement

3-1) Contents of the agreement

① Open contents

- Japanese government's responsibility

: In comparison with Kono statement, it could be interpreted as a certain progress by removing the term 'ethical' before the term 'responsibility'

: Nevertheless, Korean government failed to derive the term 'legal responsibility' or 'acknowledgement' of its responsibility from the Japanese government.

- Japanese government's apology

: The Prime Minister Abe expressed its regret and introspection on behalf of the cabinet. However, in terms of formal procedure, not only it failed to reach an apology made through decision of cabinet, but also it failed to deliver the message directly to the victims

: In terms of contents, it only repeated same text with back then prime minister's letter for Asian Women's Fund excluding the term 'ethical'

- Japanese government's financial measures

: The Japanese government had never made financial contribution for purpose of providing to individual victims from government budget before the agreement

: However, the Japanese government clearly defined financial contribution made was not a legal compensation, but only a consolation money

: Furthermore, there was no proving information seen that the Korean government had taken any process to collect opinions on the amount of money from survivors

: In the process of providing the money through 'Reconciliation and Healing

Foundation', consequently there had been conflict triggered between survivors and furthermore, so did late victims' families. In consequence, the issue of 'Comfort Women' caused conflict in the Korean society itself

- **Final and Irreversible resolution**

: Originally, Korean government insisted 'irreversible apology' on behalf of victims' demands, however, later, the term 'irreversible apology' changed to 'irreversible resolution' only reflecting Japanese government's demand

: In the consultation process, Korean government had not put its efforts to include expression, which reflect victims' demand

- **Peace statue erected in front of the Japanese embassy to Korea**

: Peace statue related issue was only included in a secret agreement

: Japanese government mentioned on Peace statue related matters such as -
 "Through this agreement, the issue will be resolved finally and irreversibly, thus, if supporting organizations such the Korean Council expressed its complaints, Korean government shall not accord with them, rather putting its efforts to persuade such organizations. We also would like to ask how to move the Peace statue in front of the Japanese embassy, and government's concrete plan regarding the issue"

: In the final version of the agreement, the Peace statue issue was included as "to put efforts through consultation with related organizations in order to resolve the issue in a proper manner"

: Nevertheless, Korean government had kept saying that the Peace statue was difficult to be removed, because it was erected by NGO, Korean government, at last, included the issue in the agreement

- **Refraining from mutual criticism in the international community**

: Korean government insisted that criticism related matters would be resolved

naturally, once the issue is resolved, but the Japanese government consistently demanded to include this issue

: However, the Korean government agreed to the demand from Japan based on the assumption of that the measures committed by the Japanese government would be done sincerely

: The president actually instructed to the Ministry of Foreign Affairs to not to make any comments on the 'Comfort Women' related issues in the international community

② Secret contents

- Having secret contents was an intention of the Japanese government. The contents were 1) Secret contents in the Ministerial talks 2) Measure related to the establishment of Foundation 3) Minutes related to establishment of the Foundation 4) Q & A guideline on the announcement in the press conference
- Even at the beginning stage of consultation, the Korean government took the issue related to supporting organizations as secret contents. This shows that the Korean government settled the agreement based on the government-centered approach excluding victim-centered approach
- Although, in the agreement, the Korean government does not commit such as removing the Peace statue, or interfering with activities related to erect peace statue in other regions, or not to use the term 'Sexual Slavery', it still leaves room for the government to be involved in such issues
- The Foreign Ministry, which was excluded throughout the whole consultation process, reviewed the tentative agreement settled on April, 2015, and they came up with four issues to be either removed or amended
- Two of them were Peace statue erection in other regions and expression of the term 'Sexual Slavery' in secret contents, and the others were all related

to the Peace statue in front of the Japanese embassy to Korea. This shows that the Foreign Ministry was aware of that those secret contents would cause side effects later on

3-2) Characteristic of the agreement

- This agreement is an official commitment by joint announcement of both Foreign ministers, and summit ratification, and the characteristic of it is not a treaty but a political agreement

3-3) Composition of the agreement

- With regard to the victims' three core demands to the Japanese government, that is 1) acknowledgement of accountability 2) official apology 3) reparation, it would be desirable that the Japanese government voluntarily take measures without imposing a condition
- However, the agreement was settled as the Korean government took demands made by the Japanese government such as confirmation of final and irreversible resolution, putting efforts to resolve on Peace statue issue in a proper manner, restraint mutual criticism in the international community and so on

3-4) Victim-centered resolution

- Korean government has been dealing with the 'Comfort women' issue in terms of universal value as ensuring women's human rights in conflict
- According to the UN General Assembly Resolution in December 2005, victims should be fully and effectively recovered depends on the extent of damage and in the historical context of circumstances caused the damage

- In the year of 2015 solely, there was 15 times of meetings done by Foreign Ministry with survivors and supporting organizations. On the side of survivors, they have constantly kept telling that three important issues must be fulfilled such as the acknowledgment of accountability, official apology, and individual reparation in order to resolve the issue
- In the process of consultation, the Foreign Ministry had recognized that it is the most critical factor to persuade survivors and supporting organizations because they were well aware of that any agreements would return to starting point without getting a consent from survivors and supporting organizations
- Although the Foreign Ministry sometimes explained the consultation process to victims' side, they had never provided detailed information on measures, which needs to be taken by the Korean government such as confirmation of final and irreversible resolution, and restraint mutual criticism in the international community and so on
- Consequently, the agreement failed to get a consent from survivors and supporting organizations in terms of either process or contents

3-5) Decision making process and structure

- In the first place, Park, Geun-hye government had caused various burden due to rigid response by making the 'Comfort Women' issue a precondition to improve Korea-Japan relations
- A worsening in Korea-Japan relations became a burden to Asia-Pacific regional strategy of the United States of America, thus this burden resulted intervention of the US in the historical matter between Korea and Japan
- Under such diplomatic circumstances, Korean government had no choice but facing to resolve the 'Comfort Women' issue through consultation with

the Japanese government

- Furthermore, authority of decision on the consultation of 'Comfort Women' issue was concentrated into the President. Thus, main agency and presidential aides didn't suggest proper opinion and concerns on the decision of President
- The Ministry of Foreign Affairs failed to reflect its opinions on the controversial issue. Also there was lack of cooperation and proper allocation of role between the President and the Ministry

4) Conclusion

- Victim-centered approach, which situated an international standard in terms of dealing with wartime women's human rights issue, has not fully reflected to the consultation process. Thus, the consultation process was dealt with just like any other diplomatic matter
- As former government of Korea tried to solve the 'Comfort Women' issue by connecting with Korea-Japan relations in general, they resulted worsening relations with Japan
- Today's diplomacy should go with the People. In particular, subject like the 'Comfort Women' issue, which interested by the general public, should have focused on democracy in terms of procedure and process. However, whole consultations process was not open to the public
- Lastly, there was a lack of communication among the President, consultation representative and the Foreign Ministry. Thus, this review proved that it is very critical to have such element: collection of broad opinions, cooperation, and proper allocation of role in the process of decision making

2. Result of TFT's review on the Reconciliation and Healing Foundation, established under the Ministry of Gender Equality & Family (Dec. 27. 2017)

- **The Ministry of Gender Equality & Family (MOGEF) launched TFT to review the establishment process of the 'Reconciliation and Healing Foundation' and financial support project done by the foundation on July 21, 2017**

• Process of establishment of the foundation

- The Reconciliation and Healing Foundation was promoted as a follow-up measure based on the 2015 agreement, which stipulates "Korean government shall establish a foundation in charge of providing support to the victims by the Japanese government contribution of 1 billion yen"
- In the relevant ministries meeting held on Dec. 30, 2015, the Foreign Ministry suggested a proposal on plan for establishment of foundation stipulating the Gender Equality Ministry as a main agency along with procedure and timeline without separate consultation with the MOGEF
- On Jan. 6, 2016, the Foreign Ministry delivered a message "Promote establishment of foundation quietly and rapidly", which ordered by back then president Park, Geun-hye
- Accordingly, the launched Private and Public Task Force Team in order to launch the foundation with the Foreign Ministry, then they took necessary procedure aiming to launch the foundation around March and April 2016
- Yet they found out no illegitimate matter in the process of establishment of the foundation, although the procedure usually takes 20 days in average, but in the case of the foundation, it took only 5 days
- Furthermore, they confirmed circumstances that they received an active support from the government such as letting unauthorized employee to sign a lease contract for the office space by proxy, which is one of critical

element for an approval of foundation establishment

- **Providing support of government subsidies for management expenses**

- On August 30, 2016, the MOGEF provided the foundation a proportion of budget categorized under commemoration project for the victims in the name of operating expenses such as payroll and management costs despite of the foundation has no project record
- Furthermore, it was not reviewed in the inquiry commission, which is a normal procedure before receiving government subsidies

- **Financial support project to survivors**

- In case of the survivors, before the foundation provided the money, they had an individual interview in order to confirm survivors' intent. Then, they received application form to review
- The individual interviews had been done by officials from the MOGEF and employees of the foundation for 18 months from Jan, 2016, and there were one to six times of interviewing procedure, which depends on cases
- In the process of interview, we confirmed that there were comments only highlighting positive side of the agreement and persuading survivors to receive the money actively
- In the process, application form was an essential, which should have been signed by the survivors unless they are illiterate or sick. However, although some survivors expressed its consent, we are not sure whether those survivors, who are aged and has lack of Korean language ability, would have been aware of the meaning of the money
- With regard to the UNESCO registration of the issue, the MOGEF halted government subsidies to private organization who was doing the project since 2016 following by the instruction given by the President saying "in the

promotion process, you have to remove the image of government-initiated project.”

3. Official position of the Korean government after the announcement of the review

▶ President Moon, Jae-in on the review result (Dec. 27, 2017)

- We have confirmed that ROK-Japan agreement on the ‘Comfort Women’ issue in 2015 has a significant defect in terms of contents and procedure
- In dealing a resolution of historical issue, this agreement is not only violation of universal human rights, but also excluded victims and the people. The confirmed existence of secret contents disappointed the people at the most
- Although I am well aware of that it is an official commitment between two countries, as a president of Korea, I deliver my sincere sympathy to the victims, confirming that the ‘Comfort Women’ issue can’t be resolved with the agreement
- Therefore, I request to the government agencies to take follow-up measures rapidly according to the diplomatic principle of victim-centered approach

▶ Foreign minister’s official announcement on follow-up after TFTs reviewing (Jan. 9, 2018)

- The government will put most efforts to restore dignity and honor and to heal psychological wounds of victims
- In the process, we will seek victim-centered measures by collecting broad opinions from victims, supporting groups and the people. In the meantime, we allocate the government budget the amount of 1 billion yen contributed by the Japanese government for the Reconciliation and Healing foundation, we will have further consultation with Japan on dealing direction of the money henceforth. With regard to the foundation, responsible government agency will take

regarding measures by collecting broad opinions from victims and supporting organizations

- The 2015 agreement that didn't reflect the survivors' opinions can't be a sincere resolution to the issue
- We can't deny the fact that the agreement was an official. Considering this fact, we will not request the Japanese government to renegotiate. We only expect that Japanese government would put its efforts to solve the issue by acknowledgement of the truth as it is in accordance with the international universal standard. Constant demand of the victims to Japan is a sincere and voluntary apology
- The Korean government will deal with the historic issue based on the truth and the principle. We will put its efforts to solve the issue wisely and to future-oriented cooperation at the same time
- Finally we are deeply sorry that today's announcement will not fulfill the demands from survivors. In the future, the government will come up with additional follow-up measures by taking survivors' demands in a sincere manner

► **NGOs' response and position on the government's official announcement**

- **The 2015 agreement, which against the principle of truth and justice, can't have any efficacy. The Korean government must dissolve the foundation and return 1 billion yen to Japan**
- The agreement has been denied not only by survivors and the people, but also by UN Human Rights Treaty Bodies clearly. As the government confirmed that the agreement can't be a resolution to the issue, the agreement is already lost its validity. Therefore, in the process of resolving the issue, the agreement has no

mean at all. In particular, all follow-up measures from the government should start over under the clear premise that the agreement is nullity

- The foundation established based on illegitimate agreement should be dissolved immediately, so unused funding should be reverted to the National Treasury. Furthermore, 1 billion yen must be reverted to Japan as the Korean government officially announced to compile the budget in the government in responding to 1 billion yen contribution. Thus the government compiled budget should be used for a specific purpose to revert the money to Japan
- Korean government should take its own measures in order to win a just resolution for the victims. The Korean government should address the Japanese government's wrongdoings, which against a just resolution, and should constantly urge the Japanese government in order to realize justice for the victims through following measures:
 - > Acknowledgement of its crimes;
 - > Making an official apology;
 - > Making reparation;
 - > Punishment of accountable perpetrators;
 - > Research and fact finding;
 - > Education in history;
 - > Taking measures for commemoration of victims
- At the same time, the Korean government should take measures actively for a just resolution in the international community, and as an extension of the issue, should proactively raise women's human rights related issues such as wartime sexual violence, human trafficking and gender-based violence in general, and provide all forms of assistance in order to resolve such issues

► **Suggested recommendations**

- **The Korean government should take active follow-up measures with providing time line to fully fulfill the survivors' demands such as providing redress and reparation including ensuring the right to truth and assurances of non-repetition**
- **The Korean government should take all measures to ensure victims right to legal remedy against the perpetrator Japanese government(Reference to the first written submission made on December 18, 2017)**