

**Committee on the Elimination of All Forms of Racial
Discrimination (CERD)**

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Written Submission by

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



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Slavery by Japan**

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Summary

Since 1994, the United Nations has recommended through various Human Rights Treaty Bodies and Special Procedure the Japanese government to seek a permanent solution to the problem of its military sexual slavery, including reparation for victims, indictment of responsible persons, and education for "comfort women" to the public.

However since last review on the combined seventh to ninth periodic reports of Japan in 2014 (CERD/C/JPN/CO/7-9)¹, the situation of 'Comfort Women' issue has been retrogressed due to the announcement of the Korea-Japan Agreement on "comfort women" issue on December 28, 2015. They announced that the issue of "comfort women" is resolved "finally and irreversibly" through the Agreement with a consolation money of 1 billion yen from the Japanese government.

Following the announcement of the 2015 agreement, the UN High Commissioner for Human Rights², major UN Human Rights experts³ and the Committee on the Elimination of All Forms

¹ 18. The Committee notes information provided by the delegation of the State party about efforts made to solve the issue of foreign "comfort women" who were sexually exploited by the Japanese military during the World War II. The Committee also notes information on compensation provided through the Asian Women Fund established by the State party in 1995 and Government expressions of apology, including the apology of the Japanese Prime Minister in 2001. Bearing in mind that human rights violations against surviving "comfort women" persist as long as their rights to justice and reparation are not fully realized, the Committee is concerned at reports that most of "comfort women" have never received recognition, apologies or any kind of compensation (art. 2, 5). The Committee urges that the State party take immediate action to: (a) Conclude investigations on violations of the rights of comfort women by the Japanese military, and bring to justice those responsible for human rights violations; (b) Pursue a comprehensive, impartial and lasting resolution of the issue of comfort women including expressions of sincere apology and the provision of adequate reparation to all surviving comfort women or to their families; and (c) Condemn any attempts at defamation or denial of such events.

² Statement by Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights (the 31st session of Human Rights Council, March 10, 2016)

Mr President,

..... Last year I highlighted the unresolved suffering, and search for justice, of the women who survived sexual slavery by Japanese military forces during World War II. Since then, in December 2015, the Governments of Japan and the Republic of Korea have announced a bilateral agreement to address the issue. Its terms have been questioned by various UN human rights mechanisms, and most importantly by the survivors themselves. It is fundamentally important that the relevant authorities reach out to these courageous and dignified women; ultimately only they can judge whether they have received genuine redress.

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=17200&LangID=E>

³ Ms. Eleonora Zielinska, Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; Mr. Pablo de Greiff, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Mr. Juan E. Méndez, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (March 11, 2016)

Japan / S. Korea: "The long awaited apology to 'comfort women' victims is yet to come" – UN rights experts
GENEVA (11 March 2016) – A group of United Nations human rights experts today raised concerns at the agreement on the issue of 'comfort women' passed between Japan and the Republic of Korea in December 2015, and urged the Japanese Government to implement without delay the recommendations* made earlier this week by the UN Committee on the Elimination of all Forms of Discrimination against Women (CEDAW/C/JPN/CO-7-8).

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The human rights experts drew attention to the fact that the agreement does not meet standards of State accountability for gross human rights violations and was reached without a proper consultation process. "Neither

of Discrimination Against Women(CEDAW/C/JPN/CO/7-8)⁴ expressed their deep regrets. In particular, the CEDAW expressed concern that the agreement failed to take the victim-centered approach with recommending the Japanese government to make an official apology and reparation.

Despite the CEDAW's recommendation, the Japanese government has kept insisting that the Statue of Peace erected by NGOs and civil society should be removed, not only in Korea but also ones in the world.

Furthermore, the Japanese government officials and right wing organizations has been continued re-traumatizing of the survivors by attempts at defamation on survivors as well as denial of such events.

As a result, not only the Japanese government has been failed to fulfill recommendation made by the CEDAW, but also failed to fulfill ones made by the CERD in 2014.

We, therefore, would like to explain the situation of "comfort women" after the announcement of the 2015 Agreement as well as correct the facts of the 'Asian Women Fund' and 'Apology', in which was commented in the Concluding observations of the CERD.

the surviving victims nor the organizations representing them for more than 20 years were consulted in the preparation of this agreement," they stated. "This undermines decades of activism and efforts to seek truth and justice and naturally leaves the survivors in considerable distress." The experts stated that "the Governments of Japan and South Korea should understand that this issue will not be considered resolved so long as all the victims, including from other Asian countries, remain unheard, their expectations unmet and their wounds left wide open." They underscored that this is now a race against time given the age of the survivors. "It is the responsibility of States to put an end to impunity by condemning and addressing sexual and other violence against women and girls used as a war weapon, and by upholding women victims' right to redress," the experts said. The Committee observed the continuing effect of the serious human rights violations of the 'comfort women' victims. It urged Japan to, among other things, recognize the rights of victims to remedy, to provide full and effective redress and reparation, including compensation, official apologies and rehabilitative services, to ensure that the views of the victims be taken into account as well as their rights to truth, justice and reparations ensured in the implementation of the 2015 agreement. "We urge Japan to implement CEDAW's new recommendations. This will grant effective access to justice, truth and adequate reparation to these women whose inalienable human rights were brutally violated by the State," the experts concluded.

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17209&LangID=E>

⁴ 29. The Committee reiterates its previous recommendations (CEDAW/C/JPN/CO/6, paras. 37 and 38) and observes that the issue of "comfort women" gives rise to serious violations that have a continuing effect on the rights of victims/survivors of those violations that were perpetrated by the State party's military during the Second World War given the continued lack of effective remedies for these victims. The Committee, therefore, considers that it is not precluded *ratione temporis* from addressing such violations, and urges the State party to: (a) Ensure that its leaders and public officials desist from making disparaging statements regarding responsibility, which have the effect of retraumatizing victims; (b) Recognize the right of victims to a remedy, and accordingly provide full and effective redress and reparation, including compensation, satisfaction, official apologies and rehabilitative services; (c) Ensure that in the implementation of the bilateral agreement announced jointly with the Republic of Korea in December 2015, the State party takes due account of the views of the victims/survivors and ensure their rights to truth, justice, and reparations; (d) Adequately integrate the issue of "comfort women" in textbooks and ensure that historical facts are objectively presented to students and the public at large; and(e) Provide information in its next periodic report on the extent of consultations and other measures taken to ensure the rights of victims/survivors to truth, justice and reparations; (e) Provide information in its next periodic report on the extent of consultations and other measures taken to ensure the rights of victims/survivors to truth, justice and reparations.

http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/JPN/CEDAW_C_JPN_CO_7-8_21666_E.pdf

1. The situation after the announcement of the 2015 Agreement

Following the announcement of the 2015 Agreement, the survivors, their support organizations and civil society organizations opposed the Agreement demanding nullification of the Agreement. Moon Jae-in administration that took the office after the impeachment of President Park Geun-hye conducted review procedure on contents and negotiation process of the Agreement, which was directly ordered by the Minister of Foreign Affairs, as President Moon pledged during his candidacy campaign for the presidential election.

The result of review on the 2015 Agreement came out on December 27, 2017 following by an official announcement of the position of the South Korean government on January 9, 2018.

In the official statement, the Minister of Foreign Affairs of South Korea announced that the 2015 Agreement cannot be a resolution to the issue of “Comfort Women”, in which violated the international human rights principle of victim-centered approach and against principles of truth and justice. However, the Japanese government immediately released its position⁵ on the South Korean government’s review result of the 2015 Agreement saying that they will not accept the result and take no measure for additions to the Agreement. According to the Sankei, Japanese daily newspaper, the Prime Minister Shinzo Abe reportedly said to other Japanese government officials that the Agreement cannot be moved even 1mm.

<Statue of Peace>

As soon as the Agreement was announced, the Japanese government started pushing the South Korean government to remove the Statue of Peace located in front of the Japanese embassy in Seoul, which was erected by the Korean Council to commemorate the Japanese Military Sexual

⁵ The Announcement of the Results of the Assessment by the Taskforce to Review the Agreement on Comfort Women Issue reached between the Governments of Japan and the ROK (Statement by Foreign Minister Taro Kono) December 27, 2017 (https://www.mofa.go.jp/press/release/press4e_001857.html)

1) On December 27 the Taskforce to Review the Agreement on Comfort Women Issue reached between the Government of Japan and the ROK under the direct jurisdiction of Ms. Kang Kyung-wha, Minister of Foreign Affairs of the Republic of Korea (ROK), published a report stating the results of its assessment of the December 28, 2015 Japan-ROK agreement on the comfort women issue. The report criticizes the negotiation structure in the ROK in the lead-up to the agreement and also the content of the agreement, and presents to the Government of the ROK a way of thinking that casts doubt on the agreement that has already been implemented in both countries.

2) Regarding the Japan-ROK agreement at the end of 2015, as a result of efforts led by the democratically chosen leaders of Japan and the ROK at every level including Director-General level talks between the diplomatic authorities, then Minister for Foreign Affairs Fumio Kishida and then Minister of Foreign Affairs of the ROK Yun Byung-se confirmed the “final and irreversible” resolution of the comfort women issue and announced the agreement at a joint press conference. Furthermore, the “final and irreversible” resolution was confirmed in the Summit Telephone Talk held the same day, so this agreement is also an agreement between the leaders of the two countries. This agreement was formed through a legitimate negotiating process between the Japanese and ROK Governments, so we cannot conclude that there was any problem in the process leading up to the agreement.

3) The Japan-ROK agreement is an agreement between the governments of Japan and the ROK, and it is highly appreciated by the international community as well. The position of the Government of the ROK regarding the Japan-ROK agreement is not included in the report, but the position of the Government of Japan is that if the Government of the ROK attempts based on this report to change an agreement which has already been implemented, the Japan-ROK relationship will become unmanageable; therefore such an attempt cannot be acceptable whatsoever. The Government of Japan will strongly urge the ROK to ensure that the Government of the ROK continues to steadily implement the agreement as a “final and irreversible” agreement.

Slavery victims' lives and celebrate its 1000th Wednesday Demonstration, and ones in front of the Japanese consulate in Busan, claiming that they violate the Vienna Convention on Diplomatic Relations, which requires a hosting state to prevent any disturbance of the peace of a diplomatic mission or impairment of its dignity. Such pressure has not just ended in Korea, but the Japanese government also pressured a church where the Statue of Peace was built at Sydney in Australia.

The Japanese government kept demanding the removal of the first Statue of Peace in Germany located at the Nepal Himalaya Pavillon, which is a private property, in Wiesent of the district of Resenburg and the inscription is now gone because of the persistent pressure from the Japanese government⁶.

More recently, "Comfort Women" statue erected by civil society organizations in December 2017 at Bay walk area in Manila city in the Philippines was removed in the middle of the night on April 27 by the Manila city due to heavy economical pressure from the Japanese government shortly after the Prime Minister Shinzo Abe visit to the Philippines⁷.

<Lawsuit raised by the South Korean survivors of the Japanese Military Sexual Slavery>

The "Comfort Women" system has clearly defined as war crimes, which is against humanity, since 1994 in the United Nations. Hence, on December 28, 2016, 11 survivors of the Japanese Military Sexual Slavery and descendants of 5 victims filed a lawsuit to exercise their claim rights and to claim for damages for signing 2015 Agreement against the Japanese government. However the lawsuit hasn't moved one step forward after almost 2 years have passed due to rejection of the Ministry of Foreign Affairs of Japan.

The Korean Court administrative office has tried to deliver lawsuit files to the Japanese government, which is essential process to move forward the lawsuit. As of August 16, 2017, the Ministry of Foreign Affairs of Japan refused to receive the lawsuit files, claiming that receiving the file is interpreted as an Infringement of Sovereignty according to an article 13 in the Hague Service Convention⁸

There was a case of the Italian forced labour victims' lawsuit against Nazi of Germany. On March 2004, the Italian court ordered that the German government has an obligation to make reparations for those who victimized during the World War II. Although considering the decision made by the ICJ was controversially reversed, it doesn't mean that perpetrator government has a right to infringe their claim rights.

⁶ <https://www.scmp.com/news/world/europe/article/2077424/first-comfort-women-statue-europe-unveiled-germany>

⁷ <http://www.manilatimes.net/removal-comfort-women-statue-opposed/373698/>

<http://newsinfo.inquirer.net/989329/solons-look-probe-of-comfort-woman-statue-removal-dfa-role>

⁸ <https://assets.hcch.net/docs/f4520725-8cbd-4c71-b402-5aae1994d14c.pdf>

<History education on the “Comfort Women”⁹>

Not only the Japanese government puts pressure on the removal of Statue of Peace, but they also have been removing the history of “Comfort Women” in their history textbooks since 2001 when the Japanese government authorized the revised version of history textbook from the Society for History Textbook Reform.

During the third UPR session of Japan, the South Korean government delegation called on the Japanese government to teach students about historical facts, including “Comfort Women” in last November.

However denial of the Japanese government to include the “Comfort Women” issue in history textbook has started even long before the 2015 Agreement was announced and its denial has gotten worse after the Agreement was announced.

Furthermore, during the 37th session of the United Nations Human Rights Council, Manabu Horii, Parliamentary Vice-Minister for Foreign Affairs of Japan, said, “Forceful abduction of comfort women by the military and government authorities could not be confirmed in any of documents in this study.” He also took issue with the South Korean Foreign Minister Kang Kyung-wha’s use of the expression ‘sex slaves’ in an earlier speech, and the term contradicts the facts and should not be used.

During the third UPR Session, 219 recommendations were issued including China, North and South Korea’s calls on the Japanese government to apologize and pay reparation to the Japanese Military “Comfort Women” victims, which have been rejected.

In the meantime, the South Korean scholars and researchers discovered the video¹⁰ in the US National Archives and Records Administration through joint research with the Seoul Metropolitan and they made it public on February 27th 2018.

This video adds to the existing documentary evidence that the Japanese military shot 30 Korean girls to death in the western Chinese city of Tengchong, near Myanmar, on September 13, 1944. However, after the video was discovered, a member of the Japanese cabinet reportedly said that the dead bodies in the video are not the Comfort Women victims and they rather more looked like soldiers.

With regard to recognition of history of “Comfort Women”, in its report (A/HRC/35/22/Add.1, paras 28~30, 37~40, 70)¹¹ on mission to Japan, which came out during the thirty-fifth session of the United Nations Human Rights Council, the Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression has expressed concern and made recommendation to the Japanese government on May 29, 2017.

⁹ <http://koreabizwire.com/japan-rejects-south-koreas-request-to-teach-about-comfort-women-in-textbooks/113336>

¹⁰ <http://www.koreaherald.com/view.php?ud=20180227000639>

¹¹

https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session35/_layouts/15/WopiFrame.aspx?sourcedoc=/EN/HRBodies/HRC/RegularSessions/Session35/Documents/A_HRC_35_22_Add.1_AUV.docx&action=default&DefaultItemOpen=1

<Absurd Remarks by the Japanese government officials>

1. Shinzo Abe, Prime Minister

- On October 3, 2014 “There is no evidence that the Japanese government forcibly made those women as a sex slave. Thus that is a groundless slander, so we should strengthen our external publicity.”

- On March 27, 2015 Interview with the Washington Post “The Comfort Women were victims of human trafficking (by private). Whenever I think about them I feel heartbroken”

- On December 28, 2015 Press conference immediately after the announcement of the Agreement) “We can’t leave a fate of continuous apology for the issue of comfort women to our future generation. This agreement was a result of our commitment to implement such thought”

- On January 18, 2016 at the Budget Reviewing Committee “The government of Japan has decided a position in the diet meeting in 2017 that there is no written description in discovered documents to show directly so called ‘forcible abduction’ done by the Military or government authorities. There is no change on this view.”

2. Sakurada Yoshitaka, Former Ministerial member of Education, Culture, Sports, Science and Technology Ministry

- January 13, 2016 “Comfort women were prostitutes.”

- January 14, 2016 “Comfort women were a professional prostitutes. They pretended to be victims. We have been deceived too much by propaganda maneuvers.”

3. Others

- On June 23, 2017 Shinozuka Dakashi, General Counsellor of the Japanese Consulate in Atlanta, GA, USA “According the investigation done by the Japanese government in 1990s and 2000s, it is not yet confirmed that 200,000 sex slaves were mobilized. Even the South Korean government has not yet discover evidences. The number of Comfort Women is not 200,000 and they are neither sex slaves nor forcibly mobilized.”

- On November 15, 2015 (Column for the Sankei Daily Newspaper) “It is a fabrication of revenge disguising the name of history. At that time, there were only population of 20 million lived in Chosun(old name of Korea). So if it is true that the 200,000 Korean women were abducted by the Japanese government authorities, did it means that all men in Chosun just ignored the situation while they were doing nothing about that?”

2. Distorted apology by the Japanese government

As we have stated in many written submission to the United Nations and for other occasions, the Japanese government constantly denied to acknowledge its war crime and its legal responsibility such as an official apology and reparation to the victims.

There are three representative statement made by the Japanese Prime Ministers in 1993, 1994 and 2015. In 1993, Taro Kono confirmed that they mobilized those women forcibly. In 1994,

Tomiichi Murayama expressed its apology and regret at the level of acknowledgement its moral responsibility.

After 20 years later, historical revisionism was raised and the Japanese government even considered to review previous announced statements from two Prime Ministers of Kono and Murayama. On August 15, 2015, Prime Minister Shinzo Abe announced its statement to commemorate the 70 years anniversary of end of the World War II. In the statement, he said, “We will bear the past in our minds when dignity and honor of countless women were seriously damaged under the wars in the 20th century. Japan, thus, would like to become a country who goes near to such women’s minds. We will lead towards the world where there is no more damage of women’s human rights in the 21st century.”

Finally, they announced that the issue of “comfort women” was resolved finally and irreversibly with the consolation money of 1 billion yen, in which no words of sincere and official apology by the Japanese government.

After the announcement of the Agreement, the Japanese government not only silencing the voices of victims, but also they distorted the historical facts, which are acknowledged by the international community, and denied to make sincere and an official apology.

In 2016, Shinzo Abe said that legal responsibility of the Japanese government is already finished. On April 19, 2016, the Japanese government also submitted the report to the Human Rights Council in response to the Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression’s follow-up concluding observations. In the report, it said that there was no evidence founded to prove forcible mobilization of girls for the comfort women.

3. Asian Women’s Fund and Consolation money of 1 Billion yen

What the victims of Japanese Military Sexual Slavery have demanded since the beginning stage of the movement is reparation based on acknowledgement of war crimes, which committed by the Japanese government and its military authorities. However the Japanese government has never made reparation until now.

1) Asian Women’s Fund

The Asian Women’s Fund (AWF) was a quasi-public fund. The fund raised from the private sector between 1995 and 2000. The AWF collected amount of 448 million yen, while the Japanese government grants the fund several hundred million yen each year for its operation. The AWF dissolved in 2007.

Although the fund was established by the Japanese government and run with the state funds, which directly supervised by the Diet and Ministry of Foreign Affairs, such fund couldn’t be considered as reparation unless the money comes from the government budget. The money also should be set up based on acknowledgement of its war crimes along with an official apology.

2) Consolation money based on the 2015 Agreement

Like the AWF, the 1 billion yen was also just a consolation money. The Japanese government funded the 1 billion yen from the reserve fund, which is only purpose for withdrawal money aiming to provide support for the international organizations. According to the Japanese budget system, the withdrawal money supposed to be used for humanitarian projects such as ODA, which is clearly different from reparation and compensation.

4. Suggested Recommendations

While the Committee reiterates its previous recommendations (CERD/C/JPN/7-9, para. 18), the Committee urges that the State Party take immediate action to:

- (a) Make an official apology, and Re-negotiate the 2015 Agreement to reflect opinions of survivors and victims' families;
- (b) Investigate the facts and punish those responsible, and recognize discovered documents, which prove the war crimes;
- (c) Stop any attempts at defamation, at a removal of the historical facts, and denial of such events