

I . Issue related to Article 15 of the International Covenant on Civil and Political Rights
Request for an objective examination of the Japan-South Korea Agreement

1. Relevant ICCPR Article and paragraphs of the government report

• Article 15-1

No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.

• The seventh periodic report of JAPAN(CCPR/C/JPN/7)
paragraphs 148~154

2. Abstract

- The issue of comfort women is not one to be dealt with at the Human Rights Committee (CCPR), as clearly stated in the Article 15 of the International Covenant on Civil and Political Rights.
- The Japan-South Korea Agreement is the final and irreversible agreement on the comfort women issue.
- In response to Japan's genuine implementation of the Agreement, South Korea should be urged to implement it and its implementation will definitely contribute to maintaining the world peace.
- In response to the clear breach of the Japan-South Korea Agreement on the part of South Korea, the Japanese Government should resolutely state Japan's position and take the necessary sanctions against groundless criticism and slander.

3. Background and current situation of the issue

3-1. Contents of the Agreement

The Japan-South Korea Comfort Women Agreement (hereinafter, Japan-South Korea Agreement) announced in 2015 was an agreement between the Government of Japan and the Government of the Republic of Korea, confirming that the issue of the comfort women between Japan and South Korea was to be resolved finally and irreversibly as follows:

[Japan]

- (1) Regarding the comfort women issue, the then-Prime Minister Abe Shinzo expresses his most sincere apologies and remorse to the comfort women, as the prime minister of Japan.
- (2) With funds contributed by the Government of Japan as a one-time contribution through its budget, the Government of the Republic of Korea shall establish a foundation for the

purpose of carrying out projects to recover the honor and dignity and heal the psychological wounds of all former comfort women.

- (3) The Government of Japan confirms that this issue is resolved finally and irreversibly. In addition, together with the Government of the ROK, the Government of Japan will refrain from accusing or criticizing each other regarding this issue in the international community, including at the United Nations.

[South Korea]

- (1) The Government of the ROK confirms that the issue is resolved finally and irreversibly on the premise that the Government of Japan will steadily implement the measures specified in (2) above.
- (2) Regarding the statue built in front of the Embassy of Japan in Seoul, the Government of the ROK will strive to solve this issue in an appropriate manner through taking measures, such as consulting with related organizations about possible ways of addressing this issue.
- (3) The Government of the ROK, together with the Government of Japan will refrain from accusing or criticizing each other regarding this issue in the international community, including at the United Nations on the premise that the Government of Japan will steadily implement the measures it announced.

3-2. Analysis of whether and how the measures are implemented

Regarding the measures agreed upon, the Government of Japan has faithfully implemented all of them. On the other hand, South Korea stated that the mutual agreement has no legal binding power, and it has implemented none of the agreed measures.

[Japan]

- (1) Japan promised to provide one billion yen to the “Foundation for Conciliation and Healing” and carried out its promise on August 31, 2016.
- (2) The Foundation for Conciliation and Healing, based on the funds provided by Japan, paid each former comfort woman 0.1 billion won in cash (approximately 10 million yen), and each of the bereaved families received about 20 million won. As of October 2016, 36 out of the surviving 46 former comfort women received the cash or were in the process of applying for it, and regarding deceased former comfort women, 35 bereaved families indicated their intention to receive the money.

[South Korea]

- (1) The Government of the ROK stated that the Japan-South Korea Agreement had no legally

binding power.

- (2) The comfort woman statue in front of the Japanese Embassy in Seoul has not been removed. On the contrary, more and more comfort women statues and monuments are being built within South Korea and overseas.
- In December 2016, a comfort woman statue was established in front of the Consul General of Japan in Busan.
 - In September 2017, the comfort woman statue in front of the Japanese Embassy in Seoul was designated as a special public matter by the city of Seoul, against Japan's request to remove the statue.
 - As of March 2022, comfort women statues within South Korea increased to 144 from the 20 built before the Agreement.
 - As of March 2022, comfort women statues and monuments built overseas at both public and private properties increased to 20 from the 9 existing before the Agreement.
- There are many cases reported about Japanese living abroad who are often bullied by other members of the local communities because of these statues and monuments.
- (3) One-sided dissolution of the Foundation for Conciliation and Healing
- In November 2018, based on the South Korean claim that 75% of the population demanded renegotiation of the Japan-South Korea Agreement on the comfort women issue, South Korea unilaterally stated that the Foundation for Conciliation and Healing shall be dissolved without preliminary consultation with Japan. Japan reacted to this act by asking for a decisive implementation of the Japan-South Korea Agreement, and expressed opposition to the dissolution of the Foundation. However, South Korea completed the dissolution of the Conciliation and Healing Foundation on July 3, 2019, totally ignoring Japan's opposition.
- (4) The funds provided by Japan were not given to the comfort women, but those in charge of the Korean Council for the Women Drafted for Military Sexual Slavery by Japan used them for their own sake. In 2020, the former comfort woman Lee Yong Soo revealed this fact in her accusation.

As seen so far, South Korea's act of unilaterally cancelling the international agreement due to its domestic situation is an extremely grave breach of diplomatic protocol and as such should be strongly condemned. Whatever the domestic circumstances may be, once an agreement is reached between two countries, the agreement must be decisively and faithfully carried out. Otherwise, the international order will fall apart, and the diplomatic activities supposed to be carried out peacefully based on mutual trust among countries of the world will not function the way they should. In this sense, South Korea's act was extremely evil and

barbaric.

3-3. The numerous diplomatic breaches committed by South Korea

Such diplomatic nonsense on the part of South Korea is not at all new.

- (1) The Syngman Rhee Line in 1952 and the occupation of Takeshima Island.

In 1952, South Korean President Syngman Rhee declared “Maritime Sovereignty” and established the so-called “Syngman Rhee Line,” beyond the internationally accepted territorial waters, including Takeshima Island within the Line. In June 1954, South Korea stationed a Korean Coast Guard unit on Takeshima. South Korea continues to station a guard unit on the island to this day, which surely constitutes unlawful occupation.

- (2) Following the Japan-South Korea Basic Treaty and the accompanying Agreement concluded in 1965, Japan provided South Korea with \$300 million grant in economic aid and \$200 million loans, together with \$300 million in loans for private trusts, amounting to \$800 million in total. In exchange for these funds, South Korea abandoned its war-related claims. Nevertheless, the reality is that South Korea continues to make groundless compensation demands, bringing up the issues of the comfort women and “forcibly” mobilized workers. There was no coerced abduction in either case. Many of the mobilized workers voluntarily came to Japan to work and received the same salaries as the Japanese workers.

- (3) South Korea has been making no efforts to pursue friendly relationship with Japan.

There are a lot of examples showing that South Korea has no intention to promote friendship with Japan, such as the South Korea’s anti-Japan education implemented from the elementary school stage; museums exhibiting fabricated comfort women materials, fabricated photos and films of alleged mobilized workers; and enactment of the law “Special Act related to confiscation of properties belonging to pro-Japan, anti-Korea Koreans to the State (Pro-Japan crime).”

South Korea’s current abandonment of the Japan-South Korea Comfort Women Agreement only prolongs the comfort women issue and can be seen as a makeshift scheme to force Japan to pay further compensations by bringing the issue to global attention. This situation only reveals that South Korea intends to abandon the efforts to maintain a friendly relationship with Japan.

3-4. Inadequateness of the recommendation by the CCPR Human Rights Committee

- (1) Inadequateness of addressing the comfort women issue in the International Covenant on Civil and Political Rights (ICCPR Article 15, CCPR/C/JPN/7 paragraph 148).

The comfort women issue should not be dealt with in the scope of the International Covenant on Civil and Political Rights. This is extremely reasonable from the perspective of Article 15 of this Covenant, and paragraph 148 of the periodical report CCPR/C/JPN/7 also states the same.

- (2) Inadequate use of the term “sexual slavery” (Refer to paragraphs 149 and 150 of the ICCPR).

In the wartime, comfort women were legally employed under authentic contracts, as stated in paragraphs 149 and 150. Comfort women were prostitutes. Many records state that the environment and living conditions of the former comfort women were far better than those of ordinary soldiers. Totally ignoring those records, the term “sexual slavery” was suddenly introduced in 1993 to describe the comfort women. Since then, without examining and verifying facts, the word came to be commonly used, without criticism within the United Nations. Thus, the term “sexual slavery” spread rapidly to the entire world, extremely damaging Japan’s honor and dignity.

- (3) Inadequateness for the United Nations to meddle with the issue which has been legally resolved through bilateral treaties and agreements between the two countries (paragraphs 152-153 of the ICCPR).

Before reaching the conclusion of the Treaty, both countries thoroughly discussed and negotiated the issue and confirmed that the claims dispute was resolved. After the conclusion of the treaty, it is extremely dishonest and unforgiveable to bring up the settled issue again and to claim that it was not settled by distorting the interpretation of the treaty and to justify not observing the agreement. Moreover, on the part of Japan, it is also outside of the jurisdiction of the United Nations to intervene in the treaties, agreements and instruments, which have been settled between both countries and to recommend them to be reexamined. Against the irrational demands on the part of South Korea, Japan took a variety of relief measures out of good will, as stated in paragraph 153.

- (4) Inadequateness of criticizing Japan, which faithfully implemented the Japan-South Korea Agreement and inadequateness of not criticizing South Korea, which has not implemented the Agreement.

It is the Republic of Korea that unilaterally abandoned the Japan-South Korea Agreement. It is extremely improper to criticize Japan, which faithfully implemented it, without criticizing South Korea, which failed to implement it. South Korea’s treacherous act infringes the fundamental diplomatic principles. Yet surprisingly, the United Nations unfairly criticized Japan but not South Korea.

3-5. In diplomacy, apology is due only once. Agreements and treaties with other countries are

to be observed and implemented as a priority before anything else, including domestic matters. After two countries enter into an agreement, it is clearly against the diplomatic principles and thus improper to bring up a domestic situation or public opinions. Such acts of betrayal not only prompt Japan to distrust South Korea, but also damage South Korea's own global credibility.

Such a grave diplomatic breach nullifies trustfulness among countries and makes it impossible to reach peaceful resolutions through dialogue. Moreover, it must be understood that such a foolish and uncivilized act may well destroy the international order.

What the United Nations should do is to hold South Korea strictly responsible for having unilaterally broken the diplomatic principles between the countries and to recommend South Korea to promptly implement the Agreement.

4. Conclusion

(1) We request that the Government of Japan:

- 1) Continue to state that there was no forced abduction, based on various historical sources,
- 2) Continue to state that the comfort women were not victims of "sexual slavery," based on various historical facts,
- 3) Straightforwardly and resolutely protest the groundless criticism and slander against Japan, related to the comfort women issue, including the above points 1) and 2),
- 4) Ask South Korea to promptly implement the Japan-South Korea Agreement, which it breached,
- 5) Impose sanctions against South Korea until it implements completely the Japan-South Korea Agreement.

(2) We request that the CCPR Human Rights Committee:

- 1) Strictly observe Article 15 of the ICCPR and avoid addressing the comfort women issue in the Human Rights Committee,
- 2) Refrain from calling comfort women "sexual slaves," a term that totally contradicts the facts,
- 3) Request that South Korea observe the Japan-Korea Agreement,
- 4) Duly appreciate that Japan has implemented all measures mentioned in the Japan-South Korea Agreement.

Lastly, we add that there were many other cases when women went through more miserable experiences than contracted prostitutes, like the comfort women. In wartime, many women were sexually abused, like the victims of atrocious rapes. No investigation has been conducted

about these women, and no attempts made to save them. At the same time, no accusations have been made against perpetrators of sexual crimes. Under the present circumstances, we cannot help but feel it extremely unfair and unreasonable that only the comfort women issue has been criticized and condemned.

The following are examples of sexual crimes committed during wars. Needless to say, they are only a tip of the iceberg.

- Mass suicides committed by 22 Japanese military nurses: In 1946, 9 out of 34 military nurses in Manchuria were raped by Russian soldiers and used as sexual slaves, the remaining 22 killed themselves together, ashamed of the prospect of being raped by Russian soldiers.
- Lai Dai Han (Vietnamese term for a racially mixed person born to a South Korean father and a Vietnamese mother): In 1968, racially mixed babies were born to Vietnamese mothers who were raped and impregnated by South Korean soldiers. It is estimated that there are 5,000 to 20,000 of them. The South Korean Government avoids admitting the fact and has not apologized in any manner.
- Turkish Baths: During the Vietnam War, the South Korean Government established comfort stations called "Turkish Bath" and forced Vietnamese women into sexual acts there.
- Military comfort women for the South Korean and the U.S. Forces: During the Korean War, the South Korean Government maintained the operation of military comfort stations for South Korean and the United States forces and made South Korean women work at the stations. The number of comfort women there is said to have been 300,000 to 350,000.

II. Issue related to Article 1-1, 1-3 of the International Covenant on Civil and Political Rights Remove the “Neighboring Countries Clause” that violates freedom of education in Japan

1. Relevant ICCPR Articles

- Article 1-1 and 1-3

Article 1-1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 1-3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

2. Summary

The “right of self-determination” can be applied to freedom of education in any sovereign state. However, for nearly forty years, Japan alone has been forced to have its own history interpreted by its neighbors (China, South and North Korea), owing to a one-sided contract, the “neighboring countries” clause. Thus, Japan has been robbed of its educational freedom as an independent, sovereign state, as a hyper-response to its neighbors’ reaction regarding passages in history textbooks for school and the approval and adoption of textbooks to be used by schools.

Voices have been raised in the Japanese Diet and in local municipalities, calling for removal of the “Neighboring Countries” Clause, which has brought about a horrible situation in Japan. However, the Government of Japan has turned a deaf ear to these voices and holds a limp position, allowing for circumstances to go unchallenged, in which educational rights in Japan continues to erode. The Japanese Government should be told to immediately improve the current circumstance.

3. Problems

3-1. The Neighboring Countries Clause threatens educational freedom and self-determination

The “right of self-determination” is secured in the International Covenant on Civil and Political Rights (ICCPR), Article 1-1: “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” As this right appears first and foremost in Article 1-1, “the right of self-determination” is the most fundamental and most important right. However, a clause that impedes the right of self-determination exists in Japan--the “Neighboring Countries” Clause, which was concluded in 1982 between Japan and its neighbors (China, and South and North Korea), with respect to school history

textbooks.

In the Neighboring Countries Clause, it states that “deliberate considerations be made from the perspective of international understanding and cooperation in dealing with modern and contemporary history pertaining to the neighboring Asian countries as criteria for school textbook approval. The criteria for compulsory education school textbooks are to be applied to social study (excluding geography) (Ministry of Education Notice No. 15, 1988) and high school textbook approval criteria to be applied to Geography/History (excluding geography) (Ministry of Education Notice No. 96, 1999).”

Because of this clause, Japanese social study/geography/history textbooks are forced to undergo changes regarding certain historical events and facts. This clearly infringes on Japan’s educational freedom.

Education forms the basis of the “pursuit of social and cultural development” by virtue of the right of self-determination as stated in ICCPR Article 1. Moreover, education carried out by an independent sovereign state, with purposes and goals determined by the state, are things that no other state can interfere with.

3-2. The Neighboring Countries Clause distorts the study of history

The Neighboring Countries Clause targets the learning of history. History is not a matter that is fixed or concrete for all eternity. When new historical facts are uncovered or a new interpretation based on historical facts is duly established, previous thinking should be modified according to the new facts. Always pursue the truth and if necessary, make corrections or improvements. This is the proper method of learning. “Historical revisionists” are those who account for new facts and new interpretations, and slandering them show how weak people are with respect to deep, serious thinking. Not only unscientific, such criticism and slander impede the development of a truly unbiased understanding of history and furthermore intimidate those who are seriously engaged in the study of history.

3-3. The Neighboring Countries Clause impedes the achievement of education goals

Historical views can vary depending on one’s position and circumstance. There is no absolute right when it comes to historical views. Depending on positions of all involved, there may be totally different views. Only through hearing and understanding many views and constantly reexamining old views, freedom of thought and freedom of education are secured. However, the Neighboring Countries Clause allows neighbors (China, and South and North Korea) to impose on Japan their unilateral and slanted views of history and threatens the independence of state education. This is particularly evident

in the official approval of history textbooks, in which excessive diplomatic and political considerations have been made. We must not overlook diplomatic and political considerations when considering education and academic study.

3-4. Remove the “Neighboring Countries Clause” that infringes diplomatic mutualism

The biggest flaw of this clause is that it is one-sided and violates the spirit of mutualism. Japan’s catering to neighbors (China, and South and North Korea) and accepting their historical views without even the least amount of resistance is sadistic and prevents the achievement of goals stated in Japan’s Fundamental Law of Education (2006), Article 2-5, “To respect tradition and culture and to love our country and homeland that have cultivated them and at the same time to respect other countries and nurture attitudes which enable us to contribute to peace and development of the international community.” Furthermore, if we fail in our efforts, Japan will surely end up as a land of hollow people without any pride or love for the country.

3-5. The Japanese Government ignores voices calling for rescinding the “Neighboring Countries Clause”

Regrettably, most Japanese people do not know of the “Neighboring Countries” Clause. This dismal fact is the consequence of the Japanese Government’s irresponsible attitude, fearing that this issue will become a diplomatic problem and counter to the Government’s policy of “don’t rock the boat.”

Contrary to the Japanese Government’s position, petitions and demands asking for the removal of this “Neighboring Countries” Clause regularly occur at the Japanese Diet and in local municipalities. Here are some examples:

- (1) Adachi Ward Assembly petition/appeal “6. Petition for securing quiet environment for textbook approval“, June 7, 2005
https://www.gikai-adachi.jp/g07_Seigan_s.asp?sflg=3&kaigi=11&SrchID=68
- (2) The 183 Session of the Diet, “Petition related to removal of the Neighboring Countries Clause,” February 8, 2013
<https://www.sangiin.go.jp/japanese/joho1/kousei/seigan/183/yousi/yo1830015.htm>
- (3) Chiba Prefectural Assembly Education Standing Committee, “Number 10, regarding submission of statement calling for removal of the Neighboring Countries Clause in the criteria for compulsory education school textbook approval“, June 17, 2015
<https://www.pref.chiba.lg.jp/gikai/giji/gaiyou/h27/h27-6-teirei/documents/seigan10.pdf>

- (4) The 201 Session of the Diet “Question No. 156, question regarding the Neighboring Countries Clause in the textbook approval criteria“, June 17, 2020

<https://www.sangiin.go.jp/japanese/joho1/kousei/syuisyo/201/syuh/s201156.htm>

Even today, however, the Japanese Government displays no concern over Japan’s sovereignty, let alone rescinding the Neighboring Countries Clause. One cannot help but state that the Japanese people’s rights have been continuously infringed upon.

4. Conclusion

As we have seen, the “Neighboring Countries” Clause, concluded in 1982, violates freedom of education in Japan and the essential diplomatic principle of mutualism. By this one-sided clause, Japan has not only been forced to accept historical views held by its neighbors, China, South and North Korea, but also faces the loss of its freedom of historical study and learning. Moreover, the clause has prevented the realization of Goal 5 set up in the Japanese Fundamental Law of Education, which states: “to respect tradition and culture and love our country and homeland that have cultivated them, and at the same time respect other countries and nurture attitudes which enable us to contribute to peace and development of the international community”. This goal is nowhere in sight in Japan and may in the end lead to a hopeless low-minded people.

We request that the Committee on Civil and Political Rights to make the following recommendations to the Government of Japan, which has neglected all efforts to rescind an unfair clause and ignored the people against it:

The Japanese Government should:

- 1) rescind the “Neighboring Countries” Clause,
- 2) protect Japan’s right of self-determination in education and freedom of education,
- 3) make utmost efforts to accomplish its educational goal toward nurturing a national attitude which enables Japan to contribute to peace and development of the international community.