

Committee on the Elimination on Discrimination Against Women
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Written Submission by

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



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Summary

Since the Korean government signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on May 25, 1983, and ratified it on December 27, 1984, it has submitted a total of seven government periodic reports on the implementation of the Convention. However, in any of them, the Government of the Republic of Korea never mentioned any issue related to Japanese military sexual slavery.

Of course, since 1994, the United Nations Committee on the Elimination of Discrimination against Women has advised 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. In particular, its report on Japanese government (CEDAW/C/JPN/CO/7-8) ¹ adopted on March 7, 2016, immediately after the announcement of the Korea-Japan agreement on December 28, 2015, expressed its concern at the consensus on the issue that did not sufficiently take the victim-centered approach, and recommended official apology of the Japanese government and the demand for reparation.

On May 12, 2017, in concluding observations on period reports of the Republic of Korea, the United Nations Convention against Torture (CAT/C/KOR/CO/3-5) ² also recommended the

¹ 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.

² 47. The Committee:

- (a) While welcoming the agreement reached at the meeting of Ministers for Foreign Affairs of Japan and the

Korean government to revise the agreement of 28 December 2015 between the Republic of Korea and Japan.

Despite multiple recommendations from the United Nations Human Rights Treaty Bodies, as they have demanded the removal of the Peace Monument established by the Korean Council in front of the Japanese Embassy in Korea, as well as the Peace Monuments constructed by citizens in other countries, and interruption of enactment of National Memorial Day for 'Comfort Women', Japanese Prime Minister Abe and other high-ranking government officials have been constantly making reckless remarks and undermining the honor of victims and support groups, causing conflicts and injuries in Korean society.

In addition, during the 28th UPR process on the government of Japan held on November 14, the Japanese government even denied its crime by claiming that, as a result of the establishment of Reconciliation and Healing Foundation and the consolation money paid to survivors, the issue of the Japanese military sexual slavery was finally and irreversibly resolved.

The Korean government, which has an obligation to collect opinions and requirements of the survivors and supporting groups to nullify the 2015 Korea-Japan Agreement and to restore the honor and human rights of the victims, has not yet offered any proper response to the issue, but also repeatedly saying 'public sentiment can't accept the 'comfort women' agreement'.

In particular, the more disappointing thing is that, even though the administration of President Moon Jae-in, who started his term on May 9, 2017, was launched through a series of Candlelight Vigil of the people of South Korea against the Park administration's political scandal and its corruption, it has not made any concrete efforts to nullify the Agreement, which was a part of the scandal.

The Korean Council would like to point out the problems of the Korean government, focusing on the Ministry of Gender Equality and Family and the Ministry of Foreign Affairs, which have played major roles in resolving the issue of military sexual slavery by Japan, including the 2015 Agreement, through this NGO report.

Republic of Korea held on 28 December 2015 and taking note that 38 victims of sexual slavery during the Second World War are still alive, is concerned that the agreement does not comply fully with the scope and content of its general comment No. 3 and that it fails to provide redress and reparation (including compensation and the means for as full a rehabilitation as possible) or to ensure the right to truth and assurances of non-repetition;

48. The State party should:

(d) Revise the agreement of 28 December 2015 between Japan and the Republic of Korea in order to ensure that the surviving victims of sexual slavery during the Second World War are provided with redress, including the right to compensation and rehabilitation, and that they are guaranteed the right to truth, reparation and assurances of non-repetition, in keeping with article 14 of the Convention;

Problems of the Government of Republic of Korea by focusing on before and after 2015 Agreement

1) Ministry of Gender Equality and Family (hereafter MOGEF)

The Ministry of Gender Equality and Family in Korea is responsible for prevention of domestic violence and sexual violence, victim support, prevention of human trafficking and sexual crimes against children and adolescents, and it is also in charge of supporting the Japanese military sexual slavery victims and operating the online history center through focusing sexual violence, work-life balance, protection of adolescents and human rights as its main policy direction.

However, despite MOGEF has to play a major role in building gender equality society through eradication of sexual violence against women, MOGEF, which has to play a key role in resolving the issue of the Japanese military sexual slavery, has considered the issue as merely one of 12 tasks, including the response to domestic violence and violence against migrant women under the Women's Rights Promotion Bureau.

MOGEF has done only subsidiary work such as support for the life stabilization of Japanese military sexual slavery victims and commemorative project for them, however it has not been able to converge and represent the practical demands of victims. MOGEF did not play any role in collecting the opinions of the victims in the negotiation process of the 2015 agreement by ignoring the victim-centered approach, which is part of UN human rights principle for resolving serious crimes against humanity such as Japanese military sexual slavery.

On July 28, 2016, the year after the announcement of 2015 Korea-Japan agreement, despite of opposition from survivors and civil society groups including support groups, MOGEF granted permission to establish Reconciliation and Healing Foundation. And in which one director-level government official of MOGEF participates as one member of board of directors of the foundation.

Since its foundation, it has continued to encourage the survivors and victims' families to receive money from the Japanese government in a manner of conciliating and threatening them. In fact, starting with the last board meeting held in July 2017, the foundation has continued to use the Japanese government's consolation money as its operating expenses without any project.

The Foundation is becoming more and more problematic because the Foundation's existence is being used as a basis to support the Japanese government's claim that the issue of military sexual slavery by Japan was finally and irreversibly resolved through the 2015 Korea-Japan agreement. Recently, during the 28th UPR review of the Japanese government, the Japanese Ambassador to the UN repeatedly claimed complete resolution of the war crimes committed by them through referring to the foundation and recipients of its consolation money. And such claims caused damages of the victims' honors, and collateral damages to the victims again.

Through repeated raised serious questions from the survivors and support groups about the management of the Reconciliation and Healing Foundation, MOGEF, which is the managing and supervising the body of the foundation, announced that it would proceed with the audit and investigation procedures. According to the coverages of Tong-Il news on December, 19 2017, they confirmed that in the process of providing consolation money to the survivors, the Reconciliation and Healing Foundation gave the money to person who has no legal rights to receive them by proxy, and MOGEF hasn't taken any proper measure to correct false payment despite MOGEF was already aware of the fact. "I think that is not the unique case. MOGEF doesn't have any responsible for once the foundation paid the money to survivors or other persons", MOGEF official in the news article. Such attitude of MOGEF has caused worries and concerns to the survivors and support groups.

Despite this serious situation, neither there has been no procedure to collect opinions from the survivors and the support groups, nor the auditing contents has not disclosed yet and any measures.

In addition, during the Park Geun-hye administration, MOGEF has distributed a report on the issue of the Japanese military sexual slavery, which includes information promoting legitimacy of the 2015 agreement. The report contains the military brothel 'comfort station' system of the Japanese army and the future direction of the resolution of the Japanese military sexual slavery. As support groups including the Korean Council pointed out that the report contains errors and distortions regarding the description of fact of damage and that of the agreement itself since the announcement of this report in May, they have claimed that the report should be fully reviewed through discussions with various experts, survivors, and support groups themselves. Even though it sufficiently understands these concerns, current MOGEF makes these concerns worse, as it plans to utilize the report as an international report by translating and publishing it into four different languages without reviewing process of the report.

2) Ministry of Foreign Affairs (hereafter MOFA)

The issue of Japanese military sexual slavery is a serious human rights violation against women as well as war crimes. However, for both governments and the international community, the issue has been mainly referred only as a subject of foreign affairs between the Republic of Korea and Japan. It is undesirable of that this issue has been discussed only as a diplomatic issue between two countries as the majority victims were Korean women and Japan was the perpetrator, and that the international community also rather approached this issue as one of diplomatic and political matters than a matter of human rights for women.

However, based on such awareness, MOFA of the Republic of Korea eventually agreed with the Japanese government on December 28, 2015, in a press conference, the Ministers of Foreign Affairs of the two countries declared that the Japanese military sexual slavery resolved 'finally and irreversibly'. Furthermore, in the process and afterwards of negotiation, it has been ignored victim-centered approach and the recommendations from the UN Human Rights Treaty Bodies.

Since the announcement of the agreement, many citizens, including the survivors and support groups, have been constantly raising questions about the process and outcome of the agreement by considering it as an example of deep-rooted corruption of the Park Geun-hye administration. In addition, the Japanese government has been insulting victims as well as Korean society through remarks made by senior officials including Prime Minister Shinzo Abe after the 2015 agreement.

Nevertheless, the newly launched Korean government's Ministry of Foreign Affairs insists only on the review of the process and contents of the agreement, and has not made any efforts to resolve the essential problems of the 2015 agreement.

In particular, not only the opinions of survivors were excluded in the process of 2015 agreement discussion, but also even after the announcement of the agreement, MOFA has not disclosed the information on the settlement despite the survivors' demands. In addition, MOFA announced in July that it would review the process and content of the 2015 agreement by the end of 2017, but the position and opinions of survivors and support groups is still being ruled out in the process of reviewing the agreement. MOFA official also said that they would only announce reviewing result of the 2015 agreement without expression of the Korean government's position due to their concerns on additional relations worsen between Korea and Japan and the 2018 Winter Olympics. Furthermore, while considering the Japanese military sexual slavery issue as a past affairs between Korea and Japan, MOFA official said that minister of MOFA would refrain from mentioning on issues related to the 2015 agreement during minister's visit to Japan from December 19th to 20th.

In the meantime, as mentioned above, even though the Ministry of Gender Equality and Family is mainly responsible for the actual management and supervision of the Reconciliation and Healing Foundation, with one director-level government official from the Ministry of Gender Equality and Family, one government official also from the Ministry of Foreign Affairs participates as one of the board members of directors of the foundation. Along with the participation of the official, since MOGEF is required to consult with MOFA in the process of deciding all the execution and operation of all projects, MOFA is also not free from the operational problems of Reconciliation and Healing Foundation

Conclusion

Since the announcement of the agreement on December 28, 2015, as of December 2017, 14 survivors out of 46 registered survivors at the time have already passed away and the number of survivors has now decreased to the number of 32. Based on the consideration of the age of the elderly survivors of whom average age is 90.5, no one can deny that resolving the issue of Japanese military sexual slavery is one of the most urgent issues to be addressed by the Korean government.

However, while leaving the issue only as 27 years of fighting done by the survivors and the support organizations such as the Korean Council, the Korean government has failed to fulfill its obligations to fundamentally resolve the issue of the Japanese military sexual slavery.

The righteous resolution of the issue of the Japanese military sexual slavery, which is a serious

violation of human rights and war crimes that have not been resolved over the past 72 years after the end of World War II should be a standpoint for resolving other sexual violence crimes committed in many disputed regions.

Rape against women is still utilizing as one of the weapons of war in many conflicts regions around the world. As these problems have always been subordinated and become objects of diplomatic trade between the governments in the international community, it has failed to take appropriate measures, including the fulfilment of legal responsibilities about the crimes of perpetrators and restoration of victims' honor and human rights.

The core values to be followed in resolving all sexually assaulted crimes are victim-centered approaches and clear punishment for perpetrators. In this context, the war crimes of the Japanese military sexual slavery, which created 200,000 victims, cannot be resolved through the consensus between the victimized country and the perpetrator country, that is, diplomatic agreement between Korea and Japan.

In addition, not only the 2015 Korea-Japan agreement completely excluded victims from across Asia Pacific regions caused silencing their voices, but also it has ignored the recommendations made by UN human rights treaty bodies to address the issue of Japanese military sexual slavery since 1996. For those reasons, it should be the object of the nullification.

Thus, the Korean government must implement the following measures:

- Release process and contents of the 2015 Agreement to the survivors and the general public;
- Accept the recommendations made by the UN Committee Against Torture in May 2017 (CAT_C_KOR_CO_3-5) and renegotiate to revise the 2015 Korea-Japan agreement in accordance with the UN human rights principle of victim-centered approach;
- Suspend the operation of the Reconciliation and Healing Foundation that was established against the will of the survivors.