JAPAN

ALTERNATIVE REPORT

Written information for the examination of the State party's report (CAT/C/JPN/2), dated 15 September 2011

Issues concerning: **Japan's Military Sexual Slavery**

(The "comfort women" issue)

Referred to in:

Paragraphs 158-161 of the Government Report (CAT/C/JPN/2)
Paragraph 19 of the List of Issues (CAT/C/JPN/2)
Paragraph 12 (Statute of Limitations) and paragraph 24 (Compensation and Rehabilitation) of the Conclusions and Recommendations (CAT/C/JPN/CO/1)

Contents

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1. Introduction

The Women's Active Museum on War and Peace (WAM) is a non-governmental organization as well as a museum, established in August 2005 with donations from people in Japan and abroad. WAM focuses on violence against women in war and conflict situations, particularly the issue of Japan's military sexual slavery, or the so-called "comfort women" issue. WAM holds exhibitions and other educational events, conducts fact-finding projects, archives data and testimonials, and acts as an advocate for victims of wartime violence in order to prevent the recurrence of these atrocities. WAM has submitted alternative reports on Japan's military sexual slavery issues to various UN human rights bodies, such as CCPR, CESCR, CEDAW, and UPR.

In this written information for the examination of the State party's report(CAT/C/JPN/2) dated 15 September 2011, we focus on the "comfort women" issue. We will point out some flaws in the Japanese government's reply to the List of the Issues(CAT/C/JPN/Q/2), as well as adding information which the state party's report either fails to touch upon or has not updated since the new administration took over in December 2012.

2. The evaluation of the State Party's Report

The response of the Japanese government to the List of the Issues is a repetition of comments submitted to the conclusions and recommendations for the initial report(CAT/C/JPN/CO/1/Add.1). The response may be summarized as follows: the Japanese government expressed its apology in the statement issued by former Chief Cabinet Secretary Kono in 1993 (the Kono Statement) and on other occasions; the issue was solved through the Peace Treaty and bilateral agreements signed after WWII, and; nevertheless, in order to fulfill its moral obligation, , the Japanese government established the "Asian Women's Fund" with people of Japan, and although this private fund has been dissolved, it continues to support the victims.

This response does not answer questions from the committee about what steps the government has taken to realize effective legislative and administrative measures to provide compensation, to investigate and prosecute the perpetrators, to educate the public, or what initiative has been taken to refute denials of actual events. The government of Japan has not taken action on any of the measures recommended by the committee. Regarding education and efforts to refute denials, the situation is getting worse, as we report below.

3. Updated Information from NGO

The fact that the State Party has not yet accepted its own legal responsibility for Japan's military sexual slavery system is in itself an impediment to redress for the victims who suffered grave human rights violations. Moreover, politicians and the media continue to deny the facts, to accuse the victims of lying, to expunge references to the "comfort women" from history textbooks used in compulsory education, and to fail to prosecute the perpetrators of this crime. These factors inflict anxiety and fear on the survivors, many of whom continue to suffer from PTSD. Accordingly, human rights violations against the survivors continue even today.

3-1. Denial of the Facts / Failure to Refute Denials

3-1-1. Denying the "comfort women" system as a system of sexual slavery

The Japanese government has never admitted that the "comfort women" system was a system of sexual slavery. In fact, the Government of Japan officially replied to Doudou Diène, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, that "it is inappropriate to regard 'comfort women' as 'a system of sexual slavery,"'[1] without explaining why, despite the fact that numerous UN

[1] A/HRC/1/G/3, 26 June 2006, Note verbale dated 30 May 2006 from the Permanent Mission of Japan to the United

documents regard the "comfort women" system as Japan's military sexual slavery system during WWII (Please see Appendix 3 and 4 for UN documents).

3-1-2. Failure to Refute Denials

In August, 2012, public figures including the governor of Metropolitan Tokyo and the mayor of Osaka openly claimed that no evidence has been found to support the forcible recruitment of the women[2]. The Government of Japan did not refute but in effect condoned such claims by asserting that no documents have been found that prove the "comfort women" were forcibly recruited, and by expressing their willingness to hold an open discussion.

Most recent examples may be found in the Budget Committee on March 8, 2013, when a member of the Diet(Nariaki NAKAYAMA, former Minister of Education) presented his view that the "comfort women" were commercial prostitutes and/or that the Japanese officials merely tried to regulate private agents in a good way[3]. His speech went unchecked, with no one from the government including Prime Minister Abe and Education Minister Shimomura making any rebuttal at all to these statements[4].

3-1-3. Threats to the Kono Statement of 1993

Concerning the Kono Statement, the first Abe Cabinet (2006-2007) officially stated that no direct references had been found in official documents to the forcible recruitment of women by military or government officials.

A month before the second Abe Cabinet started, during the electoral campaign in the fall 2012, Mr. Abe openly and repeatedly stated that he would retract the Kono statement, saying that "we cannot burden our children and grandchildren with this dishonor"[5] He even endorsed an advertisement denying historical facts concerning the "comfort women" in the *Star-Ledger*, a US newspaper (See page 5, Picture 1). This provoked heated discussions on the "comfort women" issue in the Japanese Diet in 2013.

In his second Cabinet, Prime Minister Abe has not stated even once that he will adhere to the Kono statement issued in 1993. Instead, he repeats the claim that no direct reference has been found in official documents to the forcible recruitment of the women by military or government officials[6]. In these discussions, neither the Prime Minister nor the chief cabinet secretary has ever accepted the testimony of survivors as evidence, when questioned by members of parliament[7].

3-1-4. Official government position explained in the Japanese Diet session in 2013

The position of the Japanese government on the "comfort women" issue, explained by Yoshihide SUGA, the Chief Cabinet Secretary in the Diet session on March 8, 2012 was as follows:

"It should not be politicized or turned into a diplomatic issue. Further, based on the fact that

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Nations Office at Geneva addressed to the Secretariat of the Commission on Human Rights

[2] "[The Japanese forces] never forced them. In those days of poverty, prostitution was a very profiting business for anyone be they Japanese or Korean, and poor people picked it up never unwillingly." Shintaro ISHIHARA, then Governor of Tokyo, At press conference on 24 August, 2012. "There is no evidence to prove that the alleged comfort women were recruited by the military with the use of force or threat. If they claim there is, I want the Koreans to prove it", Toru HASHIMOTO, Mayor of Osaka, to the press, 21 August, 2012.

[3] March 8, 2013, Budget Committee, House of Representatives.

[4] The video clips of these scenes are multiple-posted on YouTube and other internet movie sites, spreading such views as a result.

[5] At the discussion forum of the candidate for presidential election of the LDP, September 16, 2012.

[6] February 7 and March 8, 2013, Budget Committee, House of Representatives.

[7] March 8, 2013, Budget Committee, House of Representatives.

there was a Cabinet decision in the first Abe Cabinet (the decision that no direct reference has been found in official documents to the forcible recruitment of women by military or government officials), and that historians and other eminent persons are currently reviewing various issues, it would be desirable that this issue (the "comfort women" issue) also be reviewed from an academic view point[8].

Regarding the initiative to review the "comfort women" issue "by historians and eminent persons", no information has been given as to the mission, members, or schedule of this review; nor is it clear how transparent the process will be. In gauging the character of the proposed institution, the policy pledge document distributed by the LDP before the election is very suggestive. It asserts:

"We will make a new institution to conduct historical and academic research on territorial issues....The honor of our nation has been called into question by unjust claims not based on historical facts which have been made openly during various post-war compensation trials, and in the so-called "comfort women" discourse. This new institution will make a precise rebuttal and disprove these unjust claims".

3-1-5. Elimination of the word of "apology"

There is retrogression in terms of the acknowledgement and apology. The Kono statement of 1993 states: "the Government of Japan would like to take this opportunity once again to extend its sincere apologies and remorse to all those, irrespective of place of origin, who suffered immeasurable pain and incurable physical and psychological wounds as comfort women."

However, in the Diet session as well as the UPR 2012, the present government statement says only: "the Government of Japan is also deeply pained when thinking of the comfort women who experienced immeasurable pain and suffering".

The word "apology" is no longer used either by the government of Japan or Prime Minister Abe. The expression "deeply pained", which is used instead, seems to refer to a third party who is unrelated to Japan's past aggression and related responsibility issues.

3-2 Education

3-2-1. History textbooks

Most victims hope that history will be taught to succeeding generations in order to ensure that the same mistakes will not be made. However, even though from 1997 through 2001 all history textbooks used in compulsory education included some reference to the 'comfort women' issue, the number of such textbooks decreased in 2002 and 2006, and now in 2012, no references to the 'comfort women' can be found in any compulsory education textbook (Please see Chart 1).

3-2-2. National history museums

No reference to "comfort women" is found in any of Japan's national history museums. As the "comfort women" issue did not appear in textbooks in mandatory education until 1997, most adults have not had a chance to learn about this issue. Thus, it is important to provide other means of educating the people about "comfort women". However, the National Museum of Japanese History makes no reference to the facts about "comfort women". The

[8] March 8, 2013, Budget Committee, House of Representatives.

Showa-kan (National Showa Memorial Museum), another national museum, which was established next to the Yasukuni Shrine in 1999 to preserve a record of the hardships of "Japanese people" during and after WWII also makes no reference to the "comfort women", or to anything concerning the suffering of other people from the Asia-Pacific region.

3-2-3. Opposition to memorials

On December 14th, 2011, a peace memorial was set up in front of the Japanese Embassy in Seoul, Korea, in commemoration of the 1000th weekly Wednesday Demonstrations, which started in January 1992. The Japanese government, however, has been demanding the removal of this memorial, claiming that it is against the Vienna Convention on Diplomatic Relations and impairs the dignity of its diplomatic establishments abroad. The Japanese Consulate General in New York also requested the removal of a monument to the "comfort women" erected in the city of Palisades Park City, New Jersey, USA.

3-3. The Evaluation of the Asian Women's Fund

The "Asian Women's Fund", a private foundation set up by the Japanese government in 1995, was not an acceptable measure for the survivors of the "comfort women" system. UN human rights bodies, namely CEDAW(2003/2009), CAT(2007), ICCPR(2008), and the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), as well as a number of foreign national assemblies (Please see Appendix 2), have repeatedly recommended that the government of Japan should take new legislative and administrative measures.

This fund was insufficient not only because it was a private scheme but also because of the limited scope of the states and territories covered by its activities. The survivors of the "comfort women" system who came forward and testified are from 10 counties and regions, namely, the Republic of Korea, the DPRK, Taiwan, China, the Philippines, Malaysia, Indonesia, the Netherlands, East Timor, and Japan. However, survivors in the Republic of Korea, Taiwan, and the Philippines were the only ones who received "atonement money" and a letter from the Prime Minister of Japan. Further, the Japanese government insists that they contributed 4.8 billion yen from the government budget, but only 7,550 million yen, which means less than one-sixth of the money, was directly paid to the victims.

The "Asian Women's Fund" was disbanded in March, 2007. What the government has been doing since then is to allocate small amounts of money from the government budget to individuals who worked for the fund, who will then take the survivors who received "atonement money" to restaurants, etc.. These "follow-up" measures are criticized by NGOs supporting the victims, who say that they discriminate against the victims who didn't accept "atonement money", as well as creating other kinds of friction. Other government initiatives, such as lending support for a symposium on contemporary women's issues, have no relation to the violation of human rights of "comfort women" survivors, or to the government's obligations to the Convention.

4. Conclusion

In order for the State Party to comply with the Convention against Torture, and Other Cruel, Inhuman and Degrading Treatment or Punishment, and in order to stop further violation of the survivors' human rights, it is imperative that the Japanese government fully acknowledge historical fact and accept legal responsibility for Japan's military sexual slavery system immediately. Then, the Japanese government needs to apologize in a way that is acceptable to the survivors, take legislative and administrative measures for compensation, teach the historical facts concerning the

"comfort women" through textbooks used in compulsory education and make a clear reference to the issue in national history museums in order to prevent recurrence, and refute any denial of the facts by politicians or mass media.

The remedial measures that Japanese government should take have already been made clear during the 22 years of struggle and action taken by the survivors of Japan's military sexual slavery as well as by supporters, experts, and activists who work for the elimination of all gender based violence.

Reference to "Comfort Women" in History Textbooks used in Junior High School

After the Kono statement was issued in 1993, all the history textbooks in compulsory education came to include some reference to the 'comfort women' issue. However, the number of such textbooks decreased in 2002 and 2006. Finally, since 2012, no reference whatsoever to 'comfort women' can be found in any compulsory education textbook.

	1993	1997	2002	2006	2012
Kyoiku Shuppan	No reference	(1)[War and the people's life] …, and many Korean women were sent to the battlefield as comfort women for Japanese soldiers. (2)[Prospect of the post-war compensation issue]… they include former comfort women, victims of massacres, forcible draft and forced labor (3)[Japan in Asia] As of 1994, more than 20 lawsuits were filed by the victims of forcible draft / forced labor and military note, in addition to the former comfort woman in the picture above. (4) *A former comfort woman seeking for compensation and the citizen's group in support.* *caption of the picture	**No reference**	**No reference**	**No reference**
Tokyo Shoseki	No reference	(1)[Prolonged war and China and Korea] There were many young women who were forcibly sent to the battlefield.	**No reference**	**No reference**	**No reference**
Osaka Shoseki	No reference	(1)[War and the People]…, and young women such as from Korea were taken to the battlefield as comfort women. (2)[Postwar Compensation] Among serious issues are the comfort women, forcible draft, Taiwanese taken by Japanese military and the discrimination in postwar compensation based on nationalities. (3)*Former Korean comfort women march in protest seeking for postwar compensation from the government of Japan(Tokyo, 1994).* *caption of the picture	**No reference**	**No reference**	*Not published
Nihon Bunkyo Shuppan	No reference	(1)[People's Life in War] There were women who were forced to go with the army as comfort women.	**No reference**	**No reference**	**No reference**
Nihon Shoseki Shinsha ***"Nihon Shoseki" until 2002**	No reference	(1)[People's Life in War: "Luxury is the Enemy"] …and made women go with the army as comfort women and treated them brutally.	(1)["Greater East Asia Co-prosperity Sphere' Illusion] Young women were forcibly collected in many areas in Asia, such as Korea, and sent to the battlefield as comfort women. (2)[Japan's Postwar Settlement] …based on this, people forcibly drafted for labor, former comfort women and the victims of the Nanking Massacre have brought court cases seeking apologies and compensation from the Government of Japan. (3) *Ms. Kim Haksun appeals: Ms. Kim Haksun brought a court case seeking apologies and compensation from the Government of Japan (1991).*	(1)[Greater East Asia Co-prosperity Sphere' Illusion] Requested by the army, young women were collected in many areas in Asia, such as Korea, and sent to the battlefield as comfort women for Japanese soldiers. (2)*A newspaper reporting a court case against the Government of Japan bought by 'Association for the Pacific War Victims" in Korea (Asahi Shimbun, December 6, 1991).*caption of the picture. In the picture, the headline of the newspaper article reads: 35 people including former comfort women.	*Not published
Teikoku Shoin	No reference	(1)[Remaining Scars of the War] Some were former comfort women…among those from these areas… (2)[Japan's Policy to make Korean People the Emperor's Subject]…urged people to the war front by drafting men as soldiers and women as comfort women, giving them unbearable hardship.	(1)[in a note of "Postwar Compensation and Neighboring Countries"] Court cases seeking postwar compensation were brought by women who had been sent to comfort facilities, or by men from Korea and Taiwan who had been drafted as Japanese soldiers in the wartime.	(1)[in a note of "Postwar Compensation and Neighboring Countries"] Court cases seeking postwar compensation were brought by women who had been sent to comfort facilities, or by men from Korea and Taiwan who had been drafted as Japanese soldiers in the wartime.	**No reference**
Shimizu Shoin	No reference	(1)[Forcible draft of people from Korea, China and Taiwan] Among the women from Korea and Taiwan, there were ones who were made to work in the comfort facilities on the battlefield.	(1)[War and People] In inhuman comfort facilities on the battlefield, there were women from Korea and Taiwan, as well as Japan.	**No reference**	**No reference**
Fusosha	*Not published	* Not published	**No reference**	**No reference**	**No reference**
Jiyusha	*Not published	*Not published	*Not published	*Not published	**No reference**

【Picture 1】

ADVERTISEMENT ADVERTISEMENT ADVERTISEMENT

Yes, we remember the facts.

The purpose of this paid public comment is to present historical facts.

This is an objection advertisement of the "Do you remember?" ad which is currently being posted in Times square. (P.S. It was also posted on the New York Times in May this year as well)
We are here to convey the truth, based on actual historical facts and datas achieved as a result of years of research.

And before you move on, let us please introduce you a videoclip which we believe is indispensable to the basic understanding of this issue.

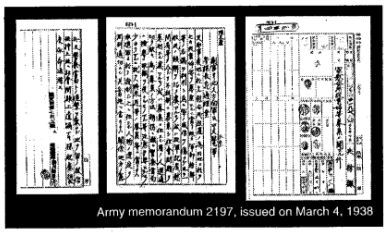
"Sex, Lies, and Comfort Women"
http://www.youtube.com/watch?v=iwv2qDJ57SY&

Fact 1

No historical document has ever been found by historians or research organizations that positively demonstrates that women were forced against their will into prostitution by the Japanese army. A search of the archives at the Japan Center for Asian Historical Records, which houses wartime orders from the government and military leaders, turned up nothing indicating that women were forcibly rounded up to work as *ianfu*, or comfort women."
On the contrary, many documents were found warning private brokers not to force women to work against their will.

Army memorandum 2197, issued on March 4, 1938, explicitly prohibits recruiting methods that fraudulently employ the army's name or that can be classified as abduction, warning that those employing such methods have been punished. A Home Affairs Ministry directive (number 77) issued on February 18, 1938, states that the recruitment of "comfort women" must be in compliance with international law and prohibits the enslavement of abduction of women. A directive (number 136) issued on November 8 the same year, moreover, orders that only women who are 21 years old or over and are already professionally engaged in the trade may be recruited as "comfort women." It also requires the approval of the woman's family or relatives.

A historian who claims that the number of "comfort women" reached 200,000 - a contention frequently quoted in the US media - believes, on the other hand, that the memorandum offers proof of the army's active involvement.



Army memorandum 2197, issued on March 4, 1938

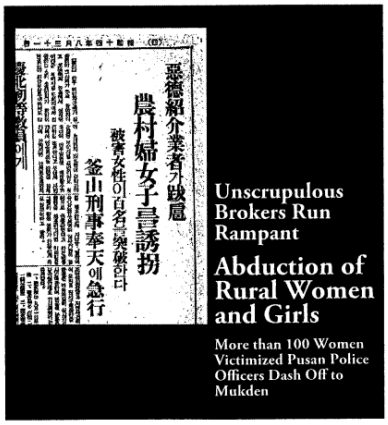
Please read a compelling essay on comfort women written by a historian and a former professor of Nihon University, Ikuhiko Hata. (Posted on the "Monthly Shokun Magazine" May 2007)
"TRANSLATION OF AN ARTICLE DEMONSTRATING THAT THERE WAS NO ORGANIZED OR FORCED RECRUITMENT: MISCONCEPTIONS ABOUT COMFORT WOMEN AND THE JAPANESE MILITARY"
http://www.sdh-fact.com/CL02_1/31_S4.pdf

Also, if you are eager to look further into the truth, we strongly recommend Tokyo Christian University Professor Tsutomu Nishioka' s book *"The truth of Comfort Women"* (Soshisha Publishing/2007), which was written based on convincing proofs.
"BEHIND THE COMFORT WOMEN CONTROVERSY"
http://www.sdh-fact.com/CL02_1/39_S4.pdf

Committee for the Historical Facts
*THE TRUTH ABOUT THE COMFORT WOMEN:
http://www.sdh-fact.com/CL02_1/84_S4.pdf

Fact 2

There are many newspaper articles, moreover, that demonstrate that these directives were dutifully carried out. The August 31, 1939, issue of Dong-A Ilbo, published in Korea, reports of brokers who forced women to become ianfu against their will being punished by the local police, which was under Japanese jurisdiction at the time. This offers proof that the Japanese government dealt severely with inhumane crimes against women.



Fact 3

The *ianfu* who were embedded with the Japanese army were not, as is commonly reported, "sex slaves."

They were working under a system of licensed prostitution that was commonplace around the world at the time. Many of the women, in fact, earned incomes far in excess of what were paid to field officers and even generals (as reported by the United States Office of War Information, Psychological Warfare Team Attached to U.S. Army Forces, India-Burma Theater, APO 689), and there are many testimonies attesting to the fact that they were treated well.

Sadly, many women were made to suffered severe hardships during the wretched era during World War II, and it is with profound regret that we contemplate this tragic historical reality. At the same time, we must note that it is a gross and deliberate distortion of reality to contend that the Japanese army was guilty of "coercing young women into sexual slavery" in "one of the largest cases of human trafficking in the 20th century," as the House Resolution claims. After all, two-fifth of the approximately 20,000 ianfu during the war were Japanese women, as detailed in an academic paper by historian Ikuhiko Hata.

We are interested, foremost, in sharing the truth with the American public. Criticism for events that actually occurred must be humbly embraced. However, any sort of apology over falsified information or fabrication of history will not only harm the fair and a balanced justice within the society, but also destabilize the Japan-U.S ties and friendship. We ask only that the Facts be objectively regarded so that we may share a correct perception of history.

Assentors

Diet members

The Democratic Party of Japan: Nobuyuki Fukushima, Hiroki Hanasaki, Yoichi Kaneko, Jin Matsubara, Noboru Miura, Koichi Mukoyama, Takashi Nagao, Masanao Shibahashi, Kenji Tamura, Shu Watanabe, Izumi Yoshida
Liberal Democratic Party of Japan: Shinzo Abe, Haruko Arimura, Seiichi Eto, Keiji Furuya, Tomomi Inada, Yoshihiko Isozaki, Yoshitaka Ito, Yasushi Kaneko, Kouichi Kishi, Nobuo Kishi, Seigo Kitamura, Shigeo Kitamura, Yutaka Kumagai, Hirokazu Matsuno, Shoji Nishida, Hiroshige Seko, Hakubun Shimomura, Yoshitaka Shindo, Sanae Takaichi, Naokazu Takemoto, Ichiro Tsukada, Michiko Ueno, Junzo Yamamoto, Yuji Yamamoto, Eriko Yamatani, Hiroyuki Yoshiie
The Sunrise Party of Japan: Takeo Hiranuma, Kyoko Nakayama

Professors/ Political Commentators/ Journalists/ Movie & TV Producer

Professors: Hayaru Fukuda, Kohichi Endoh, Masahiro Miyazaki, Shudo Higashinakano, Kazuhiro Araki, Youichi Shimada, Tsutomu Nishioka, Satoshi Fujii
Political Commentators: Hideaki Kase, Kanji Nishio, Kouichirou Tomioka, Hisahiko Okazaki
Journalists: Hiromichi Moteki
Movie & TV Producer: Satoru Mizushima

We, the undersigned members of the Committee for Historical Facts, endorse the public comment presented above

Shigeharu Aoyama, *J.I.I. President* | Yoshiko Sakurai, *Journalist* | Koichi Sugiyama, *Composer* | Kohyu Nishimura, *Journalist* | Nobukatsu Fujioka, *Professor*

- The advertisement denying the historical facts of Japan's military sexual slavery system posted on a local newspaper in New Jersey, "Star Ledger", on November 4, 2012.
- It says that there is no official document of military involvement in forcible recruitment (Fact 1), Japanese police involved in a good way arresting the Korean brokers (Fact 2), and "comfort women" were mere prostitutes (Fact 3).
- Mr. Shinzo ABE, presently the Prime Minister of Japan, is in the list of "assentors" above.
- Nine of his cabinet members are also in the list, including four other ministers (Hakubun SHIMOMURA, Minister of Education, Keiji FURUYA, Minister for Abduction issue and the chairman of the National Public Safety Commission, Tomomi INADA, Minister for Administrative Reform, and Yoshitaka SHINDO, Minister of Public Management, Home Affairs, Posts and Telecommunications.)

APPENDIX No.1

Excerpts of the Communications between CAT and the government of Japan regarding the issue of "comfort women"

CAT/C/JPN/CO/1 3 August 2007
Conclusions and Recommendations of the Committee against Torture JAPAN

Statute of limitations

12. The Committee notes with concern that acts amounting to torture and ill-treatment are subject to a statute of limitations. The Committee is concerned that the statute of limitations for acts amounting to torture and ill-treatment may prevent investigation, prosecution and punishment of these grave crimes. In particular, the Committee regrets the dismissal of cases filed by victims of military sexual slavery during the Second World War, the so-called "comfort women", for reasons related to statutory limitations.

The State Party should review its rules and provisions on the statute of limitations and bring them fully in line with its obligations under the Convention, so that acts amounting to torture and ill-treatment, including attempts to commit torture and acts by any person which constitute complicity or participation in torture, can be investigated, prosecuted and punished without time limitations.

24. The Committee is concerned at the inadequate remedies for the victims of sexual violence, including in particular survivors of Japan's military sexual slavery practices during the Second World War and the failure to carry out effective educational and other measures to prevent sexual violence- and gender-based breaches of the Convention. The survivors of the wartime abuses, acknowledged by the State party representative as having suffered 'incurable wounds', experience continuing abuse and re-traumatization as a result of the State party's official denial of the facts, concealment or failure to disclose other facts, failure to prosecute those criminally responsible for acts of torture, and failure to provide adequate rehabilitation to the victims and survivors.

The Committee considers that both education (article 10 of the Convention) and remedial measures (article 14 of the Convention) are themselves a means of preventing further violations of the State party's obligations in this respect under the Convention. Continuing official denial, failure to prosecute, and failure to provide adequate rehabilitation all contribute to a failure of the State party to meet its obligations under the Convention to

prevent torture and ill-treatment, including through educational and rehabilitation measures. The Committee recommends that the State party take measures to provide education to address the discriminatory roots of sexual and gender-based violations, and provide rehabilitation measures to the victims, including steps to prevent impunity.

CAT/C/JPN/CO/1/Add.1 5 November 2008

Comments by the Government of Japan (GOJ) concerning the conclusions and recommendations of the Committee against Torture (CAT/C/JPN/CO/1) May 29, 2008

19. The GOJ, though it has been observing international discussion since the review session last year, has not found any new development to change its position that the Convention (adopted in 1984) does not apply retroactively to issues that arose before 1999 when the Convention came into force for Japan and during the Second World War (including the issue of so-called "comfort women"). Based on these premises, the GOJ provides with facts as set forth below, concerning the issues referred to in this paragraph.

20. The GOJ repeatedly expressed its position on this issue at its UPR session in May this year as well as at the examination of its initial report for CAT in May last year, and thus there has been no official denial.

21. Besides its legal position, as explained at the examination last May, the GOJ, together with the people of Japan, seriously discussed what could be done about this issue, which led to the foundation, in July 1995, of the Asian Women's Fund (AWF). The Fund was designed to facilitate feasible remedies for so-called former "comfort women" who had reached advanced ages. The GOJ exerted its maximum efforts for the projects of the AWF, by such means as contributing about 4.8 billion yen from the national budgets, through to the time the Fund was dissolved in March 2007. Furthermore, the AWF actively compiled documents and materials relating to the issue, including the results of surveys by GOJ. The AWF publicized its activities as well as the factual findings of the so-called "comfort women" issue via its website (http://www/awf.or.jp/e-guidemap.htm). The Japan Center for Asian Historical Records has also publicized related historical documents of the Japanese Government via its website (http://www.jacar.go.jp/english/index.html). Thus, it is not appropriate, as the Committee points out, to state that there exists concealment or failure to disclose facts.

22. The GOJ will continue its efforts to promote understanding of the sympathy of the Japanese people represented by the activities of the AWF.

23. Concerning article 10 of the Convention on human rights education, as mentioned in its initial Report, the GOJ provides the public officials with education on the importance of human rights through various training programs. Furthermore, the AWF also engaged in contemporary women's issues by: organizing of international fora on these issues; providing public relations support to NGOs; initiating research and fact-finding projects; initiating counselling projects for women; and conducting research on counseling and mental care techniques.

11 May 2009

Letter by Rapporteur on Follow-up on Conclusions and Recommendations, CAT, Felice Gaer

Paragraph 24

Finally, with the reference to the recommendations in paragraph 24, the Committee would like to reiterate that it views the continued failure to prosecute anyone responsible and to provide adequate rehabilitation for victims of World War II sexual abuse to foster continuing abuse and re-traumatization for these victims, which demonstrates the State party's actions are not in accord with its obligations under the Convention. Please provide the Committee with information on the steps taken by the State Party to prosecute perpetrators of sexual slavery during World War II. We would also appreciate information on effective legislative and administrative measures taken by the Government to provide official compensation to all survivors of war time abuse, as well as information on the measures taken(particularly through junior-high school history textbooks), to educate students and the general public about the issue of sexual and gender-based violence. The committee called on the Government of Japan to refute publicly and sanction any attempt to defame the victims of wartime sexual abuse or to deny the events.

CAT/C/JPN/Q/2 **19 January 2010**

List of issues prior to the submission of the second periodic report of JAPAN (CAT/C/JPN/2)

19. In its previous concluding observations, the Committee expressed its concern that the State party's continued failure to prosecute anyone responsible and to provide adequate rehabilitation for victims of World War II sexual abuse fosters continuing abuse and re-traumatisation for these victims (CAT/C/JPN/CO/1, para. 24). Please provide information on steps taken to address this concern. Has the State party taken effective legislative and administrative measures to provide official compensation to all survivors of war time abuse, to investigate and prosecute perpetrators of sexual slavery, as well as to provide education to students and the general public to address the discriminatory roots of sexual and gender-based violence? Please provide information on steps taken by the State party to refute publicly and sanction any attempts to defame the victims of wartime sexual abuse or to deny the events.

Reply to the issues raised in paragraph 19 of the list of issues

158. Japan has humbly accepted the fact that it caused substantial damage and pain to people in many countries, particularly in Asian countries, by colonial rule and invasion, and has expressed its feelings of deep remorse and feelings of sincere apology in the past. In addition, since the war, Japan has consistently refrained from becoming a military power and has firmly maintained the position of solving any problems in a peaceful manner.

159. The Government of Japan is aware that the comfort women issue is an issue that has been a grave affront to many women's honor and dignity, and has expressed feelings of sincere apology and remorse to former comfort women through the issuance of a letter from the Prime Minister and in a speech by the Chief Cabinet Secretary (1993).

160. As the issues of compensation, property and the right to claim have already been legally solved in relation to the parties to a convention, the Murayama Cabinet determined that it was appropriate to take action through the "Asian Women's Fund", which was established through the cooperation of Japanese citizens and the government, in order to aim at a realistic remedy for former comfort women who had already grown old. Subsequently, the government has been providing maximum cooperation for the Fund's projects, including medical/welfare services for former comfort women and the payment of "atonement money."

161. The said Fund was dissolved as of the end of March 2007 as a result of coordination with related countries. However, the government intends to continue to make the maximum efforts to gain the understanding of Japanese citizens on this issue, which was shown through the projects of the said Fund. Thus the government continues to follow up on the projects of the said Fund. Specifically, in South Korea, Taiwan, the Philippines and Indonesia, which were covered by the said Fund, the government has entrusted the provision of visiting care (South Korea, Taiwan, and the Philippines) and group counseling (South Korea) for former comfort women to persons related to the former Asian Women's Fund and has conducted meetings with government officials and academia (Indonesia and the Philippines). In addition, the government has provided support for the holding of the "ASEAN+3 Human Security Symposium on Women and Poverty Eradication" in order to deal with contemporary issues relating to women.

APPENDIX No.2

Resolutions on the "Comfort Women" Issue Adopted by Foreign and Domestic Assemblies

Contents

wam アクティブ・ミュージアム 女たちの戦争と平和資料館 women's active museum on war and peace

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I. Resolutions Adopted by Foreign National Assemblies

1. United States of America

H. Res. 121
House of Representatives
30 July 2007

Whereas the Government of Japan, during its colonial and wartime occupation of Asia and the Pacific Islands from the 1930s through the duration of World War II, officially commissioned the acquisition of young women for the sole purpose of sexual servitude to its Imperial Armed Forces, who became known to the world as *ianfu* or "comfort women";

Whereas the "comfort women" system of forced military prostitution by the Government of Japan, considered unprecedented in its cruelty and magnitude, included gang rape, forced abortions, humiliation, and sexual violence resulting in mutilation, death, or eventual suicide in one of the largest cases of human trafficking in the 20th century;

Whereas some new textbooks used in Japanese schools seek to downplay the "comfort women" tragedy and other Japanese war crimes during World War II; Whereas Japanese public and private officials have recently expressed a desire to dilute or rescind the 1993 statement by Chief Cabinet Secretary Yohei Kono on the "comfort women", which expressed the Government's sincere apologies and remorse for their ordeal;

Whereas the Government of Japan did sign the 1921 International Convention for the Suppression of the Traffic in Women and Children and supported the 2000 United Nations Security Council Resolution 1325 on Women, Peace, and Security which recognized the unique impact on women of armed conflict;

Whereas the House of Representatives commends Japan's efforts to promote human security, human rights, democratic values, and rule of law, as well as for being a supporter of Security Council Resolution 1325;

Whereas the United States-Japan alliance is the cornerstone of United States security interests in Asia and the Pacific and is fundamental to regional stability and prosperity;

Whereas, despite the changes in the post-cold war strategic landscape, the United States-Japan alliance continues to be based on shared vital interests and values in the Asia-Pacific region, including the preservation and promotion of political and economic freedoms, support for human rights and democratic institutions, and the securing of prosperity for the people of both countries and the international community;

Whereas the House of Representatives commends those Japanese officials and private citizens whose hard work and compassion resulted in the establishment in 1995 of Japan's private Asian Women's Fund;

Whereas the Asian Women's Fund has raised $5,700,000 to extend "atonement" from the Japanese people to the comfort women; and

Whereas the mandate of the Asian Women's Fund, a government-initiated and largely government-funded private foundation whose purpose was the carrying out of programs and projects with the aim of atonement for the maltreatment and suffering of the "comfort women", came to an end on March 31, 2007, and the Fund has been disbanded as of that date: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Government of Japan--

(1) should formally acknowledge, apologize, and accept historical responsibility in a clear and unequivocal manner for its Imperial Armed Forces' coercion of young women into sexual slavery, known to the world as "comfort women", during its colonial and wartime occupation of Asia and the Pacific Islands from the 1930s through the duration of World War II;

(2) would help to resolve recurring questions about the sincerity and status of prior statements if the Prime Minister of Japan were to make such an apology as a public statement in his official capacity;

(3) should clearly and publicly refute any claims that the sexual enslavement and trafficking of the "comfort women" for the Japanese Imperial Armed Forces never occurred; and

(4) should educate current and future generations about this horrible crime while following the recommendations of the international community with respect to the 'comfort women'.

2. The Netherlands

Motion by Van Baalen
House of the Netherlands

Adopted 8 November 2007

The House, having heard the debate,

considering that Japan is a strategic partner in Asia, with whom the Netherlands has been maintaining relations for 400 years, 150 years of which diplomatic relations by 2008, and with whom our country wants to shape a common future;

taking the view that Japan should publicly take full responsibility, without any reserve, for the system of forced prostitution as operated in the years before and during the Second World War, and for the suffering thus caused to the so-called comfort women and about which no doubts can and should be raised;

observing that the Japanese government, by means of the so-called Kono statement from 1993, has acknowledged the fate of the comfort women, has expressed their regret towards the victims and has accepted responsibility with this statement, but at the same time observing that the Japanese government and Japanese members of parliament have, on various occasions, distanced themselves from this, as is shown by the statements by the then prime minister Shinzo Abe last March which were later retracted, and by the advertisement of members of the Japanese House of Representatives in the Washington Post earlier this year on the same subject;

having read the letter which the chairman of the Japanese House of Representatives wrote on 7 November last in reply to the letter of the chairman of the House of 26 June last about the advertisement in the Washington Post and in which he distances himself from said advertisement;

considering that certain teaching materials in Japanese schools do insufficient justice to the acknowledgement of the Japanese war crimes, among them the treatment of the comfort women;

considering that Japan, via the Asian Women's Fund, has offered forms of compensation to the former comfort women, partly financed by public funds, but that this compensation was granted by a private organisation;

entreats the government to urgently ask the government of Japan to abandon any statement which devalues the expression of regret from 1993 and to take full responsibility for the involvement of the Japanese army in the system of forced prostitution;

entreats the government to urgently ask the government of Japan to make an additional gesture by offering the comfort women still alive today some form of direct moral and financial compensation respectively for the suffering caused;

entreats the government to urgently ask the government of Japan to encourage that all teaching materials in Japanese schools provide a factual picture of the Japanese role in the Second World War, including the fate of the comfort women;

and proceeds to the order of the day.

Van Baalen	Wilders	Van der Staaij
Van Gennip	Peters	Thieme
Van Dam	Voordewind	Verdonk
Van Bommel	Pechtold	

3. Canada

Journals No. 26
Motion by Olivia Chow
House of Commons of Canada
Adopted 28 November 2007

Moved that, in the opinion of the House:

i. during its wartime occupation of Asia and the Pacific Islands, from the 1930s through the duration of World War II, the Imperial Armed Forces of Japan officially commissioned the acquisition of young women for the sole purpose of sexual servitude, who became known as "comfort women";

ii. some Japanese public officials have recently expressed a regrettable desire to dilute or rescind the 1993 statement by Chief Cabinet Secretary Yohei Kono on the "comfort women", which expressed the Government's sincere apologies and remorse for their ordeal;

iii. Japan has made progress since 1945 in recognizing and atoning for its past actions, and for many decades has been a major contributor to international peace, security, and development, including through the United Nations;

iv. the Canada-Japan alliance continues to be based on shared vital interests and values in the Asia-Pacific region, including the preservation and promotion of political and economic freedoms, support for human rights and democratic institutions, and the securing of prosperity for the people of both countries and the international community; and

v. the Government of Canada should therefore encourages the Government of Japan to abandon any statement which devalues the expression of regret from the Kono Statement of 1993; to clearly and publicly refute any claims that the sexual enslavement and trafficking of the 'comfort women' for the Japanese Imperial Forces never occurred; to take full responsibility for the involvement of the Japanese Imperial Forces in the system of forced prostitution, including through a formal and sincere apology expressed in the Diet to all of those who were victims; and to continue to address those affected in a spirit of reconciliation.

4. European Parliament

Resolution on Justice for the 'Comfort Women' (sex slaves in Asia before and during World War II)
European Parliament
13 December 2007
P6_TA(2007)0632

The European Parliament,

- having regard to the 200th anniversary of the abolition of the slave trade in 2007,

- having regard to the International Convention for the Suppression of the Traffic in Women and Children (1921), to which Japan is a signatory,

- having regard to ILO Convention No. 29 on Forced Labour (1930), ratified by Japan,

- having regard to United Nations Security Council Resolution 1325 (2000) on Women and Peace and Security,

- having regard to the report by Gay McDougall, UN Special Rapporteur on Systematic Rape, Sexual Slavery and Slave-like Practices during Armed Conflict (22 June 1998),

- having regard to the conclusions and recommendations of the 38th session of the UN Committee Against Torture (9-10 May 2007),

- having regard to the Report of a Study of Dutch Government Documents on the Forced Prostitution of Dutch Women in the Dutch East Indies During the Japanese Occupation, The Hague (2004),

- having regard to the resolutions on the comfort women adopted by the US Congress on 30 July 2007, and by the Canadian Parliament on 29 November 2007,

- having regard to Rule 115(5) of its Rules of Procedure,

A. whereas the government of Japan, during its colonial and wartime occupation of Asia and the Pacific Islands from the 1930s until the end of World War II, officially ordered the acquisition of young women, who became known to the world as ianfu or "comfort women", for the sole purpose of sexual servitude to its Imperial Armed Forces,

B. whereas the "comfort women" system included gang rape, forced abortions, humiliation, and sexual violence resulting in mutilation, death or eventual suicide, in one of the largest cases of human trafficking in the 20th century,

C. whereas the dozens of "comfort women" cases brought before Japanese courts have all ended in the dismissal of plaintiffs" claims for compensation, despite court judgments acknowledging the Imperial Armed Forces" direct and indirect involvement, and the State's responsibility,

D. whereas most of the victims of the "comfort women" system have passed away, and the remaining survivors are 80 or more years of age;

E. whereas over the past years numerous high-ranking members and officials of the Japanese Government have made apologetic statements on the "comfort women" system, while some Japanese officials have recently expressed a regrettable desire to dilute or rescind those statements,

F. whereas the full extent of the sexual slavery system has never been fully disclosed by the government of Japan and some new required readings used in Japanese schools try to minimise the tragedy of the "comfort women" and other Japanese war crimes during World War II,

G. whereas the mandate of the Asian Women's Fund, a government-initiated private foundation whose aim was the implementation of programmes and projects to compensate for the abuse and suffering of the "comfort women", came to an end on 31 March 2007,

1. Welcomes the excellent relationship between the European Union and Japan based on the mutually shared values of a multi-party democracy, the rule of law and respect for human rights;

2. Expresses its solidarity with the women who were victims of the "comfort women" system for the duration of World War II;

3. Welcomes the statements by Japanese Chief Cabinet Secretary Yohei Kono in 1993 and by the then Prime Minister Tomiichi Murayama in 1995 on the "comfort women", as well as the resolutions of the Japanese parliament (the Diet) of 1995 and 2005 expressing apologies for wartime victims, including victims of the "comfort women" system;

4. Welcomes the Japanese Government's initiative to establish, in 1995, the now-dissolved Asian Women's Fund, a largely government-funded private foundation, which distributed some "atonement money" to several hundred "comfort women", but considers that this humanitarian initiative cannot satisfy the victims" claims of legal recognition and reparation under public international law, as stated by the UN Special Rapporteur Gay McDougall in her above-mentioned report of 1998;

5. Calls on the Japanese Government formally to acknowledge, apologise, and accept historical and legal responsibility, in a clear and unequivocal manner, for its Imperial Armed Forces' coercion of young women into sexual slavery, known to the world as "comfort women", during its colonial and wartime occupation of Asia and the Pacific Islands from the 1930s until the end of World War II;

6. Calls on the Japanese Government to implement effective administrative mechanisms to provide reparations to all surviving victims of the "comfort women" system and the families of its deceased victims;

7. Calls on the Japanese parliament (the Diet) to take legal measures to remove existing obstacles to obtaining reparations before Japanese courts; in particular, the right of individuals to claim reparations from the government should be expressly recognised in national law, and cases for reparations for the survivors of sexual slavery, as a crime under international law, should be prioritised, taking into account the age of the survivors;

8. Calls on the government of Japan to refute publicly any claims that the subjugation and enslavement of "comfort women" never occurred;

9. Encourages the Japanese people and government to take further steps to recognise the full history of their nation, as is the moral duty of all countries, and to foster awareness in Japan of its actions in the 1930s and 1940s, including in relation to "comfort women"; calls on the government of Japan to educate current and future generations about those events;

10. Instructs its President to forward this resolution to the Council, the Commission, to the governments and parliaments of the Member States, the Japanese Government and Parliament, the UN Human Rights Council, the governments of the ASEAN States, to the governments of the Democratic People's Republic of Korea, the Republic of Korea, the People's Republic of China, Taiwan and Timor-Leste.

5. Republic of Korea

Summary of
A resolution that demands Japan's formal apology and full compensation to war time "Comfort Women" for the sake of restoration of their honor and dignity
Presented by Shin Hak Kyun
Parliament of South Korea

8 October 2008
Bill No. 1125

The South Korea Parliament passed a resolution condemning Japan and demanding Japan to compensate and officially apologize to hundreds of thousands of women from Korea and other Asian/Oceanic countries who were abducted and were forced to serve frontline Japanese imperial soldiers as sex slaves during World War II.

The South Korea Parliament was inspired by similar resolutions first adopted in 2007 by the United States House of Representatives and subsequently by the Netherlands, Canada and the European Union, demanding the Japanese government's sincere apology and compensation. It was also inspired by the international recognition of the necessity of an awareness campaign for future generations in order to pass on a record of the negative legacy.

It should be noted that several Japanese local governments such as the Takarazuka and Kiyose City Councils, etc. have also adopted resolutions and written statements since March 2008, demanding that Japan take full responsibility for committing the abuse of war-time "Comfort Women." The South Korea Parliament supports these recent movements.

The UN Conference for Human Rights was held in Vienna in 1993. Since then, a wide range of recommendations aiming for a solution to the "Comfort Women" issue have been continuously presented by the UN Commission on Human Rights and various other international organizations. As of June 2008, the Japanese government has not accepted these recommendations. The South Korea Parliament declares the deepest concern about the Japanese government's failure to officially acknowledge its responsibility for these crimes.

The majority of the surviving comfort women are now in their late 70s or older and their numbers continue to diminish as the condition of their health deteriorates. The South Korea Parliament adopted a resolution for the sake of restoring the honor and dignity of the comfort women with the detailed statement shown below.

1. South Korea Parliament demands that Japanese government officially give a full apology to these women from many Asian and Oceanic countries who had been sexually enslaved for the Japanese imperial soldiers since 1930s until the end of WWII for the restoration of the honor and dignity of the war victims.

2. In order to restore the substantial human rights and dignity of these "Comfort Women," the South Korean Parliament demands that the Japanese government admit these crimes against humanity and allow school textbooks to carry facts about the "Comfort Women" so that those inhumane acts will not be repeated. It also calls for the Japanese government to provide adequate and effective compensation to the comfort women which should be promoted by decisive action, such as having the Japanese Diet establish related regulations.

3. For "Justice for the Comfort Women," the South Korean Parliament demands that the South Korean government play an active and evidential role in ensuring that the Japanese government officially apologizes, provides compensation and allows for the teaching of the true story in history textbooks by accepting the recommendations of international bodies including the UN Commission on Human Rights and the UN Committee on the Elimination of Discrimination Against Women, etc.

6. Taiwan

Legislative Branch
Documentation of:7th period, 2nd session, 8th meeting
Drafted by Sue-Ying Huang, Li-Huan Yang, Ching-Te Lai, Men-An Pan
5 November 2008

PROPOSAL

Twenty-eight members of the Legislative Branch, including Sue-Ying Huang, Li-Huan Yang, Ching-Te Lai, and Men-An Pan, have issued the following proposal. It documents that "we ask that the Government of Japan should officially recognize its historical responsibility on its war-time sexual slavery system, make a sincere apology and due compensation directly to victims alive thereby recovering their dignity and realizing their justice, and henceforth, sincerely observe the proposal by the UN Human Rights Council and educate the relevant historical truths to the present and the future generations forever."

RATIONALE

1. The Japanese military forcibly put a number of women into sexual slavery through recruitment, abduction, threatening, and cheating at the sites occupied by the Japanese military during the WWII. The Government of Japan has not yet officially recognized, and even denied its historical responsibility for this sexual slavery, thereby damaging the dignity of the victims. The continued Japanese refusal of apology and compensation further defames the victims whose trauma has not yet healed.

2. It has been sixty-three years since the end of the WWII. The Government of Japan must take necessary action to resolve the remaining problems resulting from the sexual slavery by the Japanese military, and to compensate the victims for the defamation and the damage inflicted upon them.

3. The victims in Taiwan are all in their 80s and/or 90s. While they are alive, it is necessary that the Government of Japan resolve the problem of compensation, which will enable the recovery of the dignity and secure the human rights of the victims. The House Resolution 121, passed in the U.S. House of Representatives on July 2, 2007, states that the Government of Japan should formally acknowledge, apologize, and accept historical responsibility in a clear and unequivocal manner for its Imperial Armed Force's coercion of young women into sexual slavery. Upon the passage of this resolution in the U.S. House of Representatives, the Legislative Branch of Taiwan sincerely hopes that the human rights issue of "comfort women" has to be diligently observed by the international milieu of justice. We pay special attention to the serious situation in which the Government of Japan has not resolved the "comfort women" issue, and thus, demand the Government of Japan should attend to the problem, to legislate to take its historical responsibility, and to provide compensation directly to the victims.

Signed by Cheng-Er Lin, Yi-Shih Lin, Hung-Chih Lin, Chieh-Jung Lin, Hsueh-Chang Lu, Chin-Chu Wong, Hsiu-Chu Hung, Tsai-Feng , Huang Ho, Shen-Liang Liu, Wen-Chi Kung, Chieh Chen, Ying Chen, Fu-Hai Chen, Ken-Te Chen, Ting-Fei Chen, Fong-Chi Chu, Shao-Ping Lin Hsu, Jen-Fu Yang, Yi-Hsiung Chiang, Ching-Chih Wu, Chia-Chun Chang, Kuo-Tung Chi, Li-Yun Chao, Tian Yu

II. Resolutions Adopted by City Assemblies in Foreign Countries

1. Resolutions adopted by city councils in Australia

Minutes of the Ordinary Meeting of the Council of the Municipality of Strathfield
Resolution by Councillors Brett-Bowen and Kwon

3 March 2009

Resolved:

THAT this Council:

(a) Acknowledges the suffering of the so called "Comfort Women" and the importance of restoring their human rights and dignity in marking International Women's Day on 8 March 2009;

(b) Joins the world community and Japanese councillors from City of Takarazuka, City of Kiyose and City of Sapporo in urging the Japanese government to:

(i) Formally and unequivocally apologise to the victims,
(ii) Take legal responsibility according to international law,
(iii) Take historical responsibility by correct teaching of history.

(c) Calls on the Commonwealth Government to promptly pass a motion in parliament to the effect of (b) (i), (ii) and (iii).

(d) Conveys recognition and support to Australian "Comfort Women" survivor Jan Ruff O'Herne in celebration of International Women's Day 2009.

Voting on this item was unanimous.

Minutes of City of Ryde Council Meeting

Motion by Councillors Li and Campbell

10 March 2009

RESOLUTION:

1. That in light of International Women's Day on 8 March 2009 and as one initiative to celebrate Harmony Day 2009, the City of Ryde formally recognises the suffering of the so called World War Ⅱ"Comfort Women" and the importance of restoring their human rights and dignity.

2. That the City of Ryde Write to the Federal Government to urge the Government of Japan to continue a dialogue with the 'Comfort Women' in the spirit of reconciliation and respect for human rights.

3. The City of Ryde writes a letter to support the Friends of Comfort Women Australia and Korean Australians in their efforts to secure for the victims a formal apology and appropriate acknowledgment, and promote the correct teaching of history internationally. As part of this letter also acknowledge the strength and courage of Australian "Comfort Women" survivor Jan Ruff O'Herne.

2. Resolutions adopted by local councils in the United States

BILL NO J00304	the New York State Senate
SPONSOR AVELLA	
	January 29, 2013

LEGISLATIVE RESOLUTION memorializing a Memorial Monument in the State of New York that pays tribute to those who have become known to the world as 'Comfort Women'

WHEREAS, During the Japanese colonial and wartime occupation of Asia and the Pacific Islands from the 1930s through the duration of World War II, approximately 200,000 young women were coerced into the Comfort Women system of forced military prostitution; and

WHEREAS, On June 16, 2012, the Comfort Women Memorial Monument was established in the Veterans Memorial at Eisenhower Park in Westbury, New York, to honor and commemorate the victims of the Comfort Women system; and

WHEREAS, The Memorial Monument, being the second memorial of its kind in the United States, symbolizes suffering endured by comfort women and serves as a reminder of the crime against humanity committed through the Comfort Women system; and

WHEREAS, It is the custom of this Legislative Body to recognize historical monuments within the State of New York that are established to increase awareness of serious events that have taken place in history; and

WHEREAS, The United Nations reports that 2.4 million people across the globe are victims of human trafficking at any one time, and 80 percent of them are being exploited as sexual slaves; now, therefore, be it

RESOLVED, That this Legislative Body pause in its deliberations to memorialize a Memorial Monument in the State of New York that pays tribute to those who have become known to the world as 'Comfort Women'; and be it further

RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to the Korean American Public Affairs Committee, the Kupferberg Holocaust Resource Center and Korean American Civic Empowerment.

ASSEMBLY CONCURRENT RESOLUTION No. 159	STATE OF NEW JERSEY
Sponsored by:	
Assemblyman GORDON M. JOHNSON District 37 (Bergen)	
Assemblywoman CONNIE WAGNER District 38 (Bergen and Passaic)	Introduced September 24, 2012
	Adopted March 21, 2013

A CONCURRENT RESOLUTION commemorating the suffering endured by comfort women during their forced internment in Japanese military camps.

WHEREAS, The term "comfort women" is a euphemism used by the Japanese government to describe women forced into sexual slavery by the Imperial Japanese military between 1932 and 1945; and

WHEREAS, The majority of comfort women were of Korean or Chinese descent but women from Thailand, Vietnam, Indonesia, Malaysia, the Philippines, Australia, and the Netherlands were also interned in military comfort stations run directly by the Imperial1Japanese military or by private agents working for the military; and

WHEREAS, Some of the women were sold to the comfort stations as minors, others were deceptively

recruited by middlemen with the promise of employment and financial security, and still others were forcibly kidnapped and sent to "work" for soldiers stationed throughout the Japanese occupied territories; and

WHEREAS, Lack of official documentation, most destroyed on the orders of the Japanese government after World War II, has made it difficult to estimate the total number of comfort women; most historians and media sources approximate that about 200,000 young women were recruited or kidnapped by soldiers to serve in Japanese military brothels; and

WHEREAS, Approximately three-quarters of the comfort women have died as a direct result of the brutality inflicted on them during their internment. Those who survived were left infertile due to sexual violence or sexually transmitted diseases and many are now dying without proper acknowledgment by the Japanese government of the suffering they endured during their forced internment in military comfort stations; and

WHEREAS, It is fitting for this House to commemorate the fifth Anniversary of the passage by the United States House of Representatives of H.Res.121 (110th) that called upon the Japanese government to accept historical responsibility for the sexual enslavement of comfort women by the Imperial1 Japanese military and educate future generations about these crimes; now, therefore,

BE IT RESOLVED by the General Assembly of the State of New Jersey (the Senate concurring):

1. The General Assembly commemorates and supports comfort women in their fight for proper acknowledgement by the Japanese government of the suffering they endured during their forced internment in military comfort stations and calls upon the Japanese government to accept historical responsibility for the sexual enslavement of comfort women by the Imperial Japanese military and educate future generations about these crimes.

2. Duly authenticated copies of this resolution, signed by the President of the Senate and attested by the Secretary of the Senate and signed by the Speaker of the General Assembly and attested by the Clerk of the General Assembly, shall be transmitted to the Embassy of the Republic of Korea in the United States, The Office of the Consulate General of the Republic of Korea-New York, The Office of Korean American Civic Empowerment, and The Mayor and Council President of Palisades Park, New Jersey.

3. Resolutions adopted by local councils in the Republic of Korea

Resolution of the City Council of Daegu

July 24, 2009.

Motion Urging the resolution of the Japanese Military "Comfort Women" Issue

Daegu metropolitan city council notes that, regarding the Japanese military "Comfort Women" (Japanese Military Sexual Slavery System), a human rights violation sanctioned by the Japanese Imperial Army during WWII, despite repeated recommendations from the UN Human Rights Council, International Labour Organisation, Amnesty International, and the US House of Representatives, the government of Japan is not only refusing to formally apologise but is refusing to accept responsibility which raises serious concern.

With the belief that a just resolution of past history between Korea – Japan will improve relations between the two nations as well as facilitate co-operation among provincial governments, we adopt the following motion.

Daegu metropolitan city council, for the restoration of honour for the victims of Japanese Military "Comfort Women", urges the Japanese Parliament and Government to officially recognise and apologise for the Japanese Military "Comfort Women" system inflicted by Japanese Imperialism.

Daegu metropolitan city council, urges the establishment of an official Japanese government body for the purpose of a thorough fact finding on the human rights violations and war crimes committed by the Japanese Imperial Army.

Daegu metropolitan city council urges the government of Japan to repent on its history, regarding the issue of Japanese Military "Comfort Women" through its official government fact finding and to record the factual accounts in history text books to prevent a repetition of such tragic history. Further, we urge the government of Japan to enact through its legal system, compensation that is acceptable to the victims.

4. Daegu metropolitan city council urges our government to do its upmost in restoring the honour and human rights of the Japanese Military "Comfort Women" by proactively fulfilling its obligation in the right of claim and in Korea-Japan diplomatic relations.

Following is the list of Local Assemblies in the Republic of Korea which passed resolutions on the issue of "comfort women". Their texts are not included here as their contents are similar.

2. Bucheon City, Gyeonggi-do Province, September 8, 2009.
3. TongYeong City, Gyeonsangnam-do Province, November 30, 2009.
4. Geoje City, Gyeonsangnam-do Province, December 24, 2009.
5. Munincipality of Gyeonsangnam-do Province, December 24, 2009.
6. Changwon City, Gyeonsangnam-do Province, January 12, 2010.
7. Jeongeup-si, Jeollapuk-do Province, January 15, 2010
8. Hapcheon County, Gyeonsangnam-do Province, January 21, 2010.
9. Jeonju city, Jeonlabuk-do Province, January, 27, 2010.
10. Mokpo City, Jeollanam Province-do, February, 1, 2010.
11. Nam-gu, Incheon Metropolitan City, February, 5, 2010.
12. Ansan City, Gyeonggi Province-do, February, 24, 2010.
13. Seongnam City, Gyeonggi Province-do, February, 26, 2010.
14. Nam-gu, Ulsan Metropolitan City, March, 4, 2010
15. Hanam city, Gyeonggi Province-do, March, 4, 2010.
16. Yangsan City, Gyeonsangnam-do Province, March, 15, 2010.

17. Namhae County, Gyeonsangnam-do Province, March, 16, 2010.
18. Ulsan Metropolitan City, March, 23, 2010.
19. Masan City, Gyeonsangnam-do Province, April, 5, 2010.
20. Busan Metropolitan City, April, 9, 2010.
21. Geochang County, Gyeongsangnam-do Province, April 13, 2010
22. Jinhae City, Gyeongsangnam-do Province, April 16, 2010
23. Jinju City, Gyeongsangnam-do Province, April 19, 2010
24. Sacheon City, Gyeonsangnam-do Province, April 27, 2010.
25. Special City of Seoul, August 13, 2010.
26. Seo-gu [district], Metropolitan City of Gwangju, August 15, 2010.
27. Songpa-gu [district], Special City of Seoul, August 15, 2010.
28. Wonju City, Gangwon-do Province, August 31, 2010.
29. Metropolitay City of Daejeon, September 1, 2010.
30. Buk-gu [district], Metropolitan City of Gwangju, September 3, 2010.
31. Jungnang-gu [district], Special City of Seoul, September 10, 2010.
32. Gurye County, Jeollanam-do Province, September 13, 2010.
33. Hamyang County, Gyeongsangnam-do Province, September 15, 2010.
34. Chungcheongbuk-do Province, September 16, 2010.
35. Anyang City, Gyeonggi-do Province, September 16, 2010.
36. Changnyeong County, Gyeongsangnam-do Province, October 25, 2010.
37. Osan City, Gyeonggi-do Province, October 29, 2010.

42. Dong-gu [district], Metropolitan City of Daejeon, February 8, 2011
43. Nowon-gu [district], Special City of Seoul, February 18, 2011
44. City of Uijeongbu City, Gyeonggi-do Province, February 22, 2011
45. Yeonggwang County, Jeollanam-do Province, February 22, 2011
46. Jongno-gu [district], Special City of Seoul, February 28, 2011
47. Gwangsan-gu [district], Metropolitan City of Gwangju, March 9, 2011
48. Seocheon county, Chungsheongnam-do Province, May 13, 2011
49. Seo-gu [district], Metropolitan City of Daejeon
50. Jeollabuk-do Province, May 17, 2011
51. Gyeongsangbuk-do Province, June 24, 2011
52. Gwangjin-gu [district], Special City of Seoul, June 30, 2011
53. City of Chuncheon, Gangwon-do Province, August 30, 2011
54. Jeollanam-do Province, September 29, 2011
55. City of Gwangju, Gyeonggi-do Province, February 7, 2012

*According to the Korean Council for the Women Drafted for Military Sexual Slavery by Japan, the leading Korean NGO which supports the survivors, 55 city councils have already adopted resolutions on the issue as of March 1, 2013, although some of their names are missing from this list .

III. Resolutions/Position Statements Adopted by Local Assemblies in Japan

City Council of Takarazuka, Hyogo prefecture

March 26, 2008

Written Opinion expressing the sense of Takarazuka City Council
that the Japanese Government should settle the issue of the Military Sexual Slavery in good faith.

The U.S. House of Representatives adopted the resolution on July 30, 2007 that the Government of Japan should formally acknowledge and apologize for its sexual enslavement of young women known as "Comfort Women" during World War II. On July 31st, the Prime Minister Shinzo Abe commented that he regretted the resolution implying that the Government has no intention of making a formal apology to the survivors. His attitude contradicts the Kono statement of 1993.

With such attitude, it is inevitable that the repeated apologies of the Government in the past years are dismissed as mere lip service. Moreover, there is no denying those who argue that the money from "Asian Women's Fund" distributed to some victims with the apology from Prime Minister Murayama was a deceptive scheme to dodge criticism from the international society.

Following the US, similar resolutions and motions were adopted in the Netherlands, Canada in November and EU Parliament on December 13th, during the Japanese Government to make an official apology, compensation, history education and etc. These actions demonstrate the rising criticism of the world against the Japanese government which has neither issued a formal apology, compensation to the damaged victims, full investigation of the system, nor prosecuted those responsible while the related articles are disappearing from school textbooks as if there never were such practices.

The citizens' movements have been strengthened internationally to accelerate the settlement although the developments have never been reported in full by the Japanese media. We request that the Government, in addition to the promises of the 1993 Kono statement, thoroughly investigate the military "Comfort Women" system and exert its honest and sincere efforts to recover the dignity of victims.

As stated above, we hereby submit our position statement in accordance with Article 99 of the Local Autonomy Act.

Tetsushi Koyama
Chairperson,Takarazuka City Council

To: Hon. Yohei Kono, Speaker of the Lower House, Hon. Satsuki Eda、President of the Upper House, Prime Minister Fukuda Yasuo

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Following is the list of the 39 local assemblies which passed statements calling on the government of Japan to resolve the issue of "comfort women". Their texts are not included here as their contents are similar.

2. City Council of Kiyose, Tokyo, June 25, 2008
3. City Council of Sapporo, Hokkaido, November 7, 2008
4. City Council of Fukuoka, Fukuoka prefecture, March 25, 2009
5. City Council of Mino-o, Osaka prefecture, June22, 2009
6. City Council of Mitaka, Toyko, June 23, 2009
7. City Council of Koganei, Tokyo, June 24, 2009
8. City Council of Kyo-Tanabe, Kyoto prefecture, June 29, 2009

9. City Council of Ikoma, Nara prefecture, September 11, 2009
10. City Council of Sen-nan, Osaka prefecture, September 25, 2009
11. City Council of Kokubunji, Tokyo, October 1, 2009
12. City Council of Nagaokakyo, Kyoto prefecture, December 14, 2009
13. City Council of Funabashi, Chiba prefecture, December 14, 2009
14. City Council of Kunitachi, Tokyo, December 18, 2009
15. City Council of Tagawa, Fukuoka prefecture, December 22, 2009
16. City Council of Fujimino Saitama prefecture, March 16, 2010
17. City Council of Okayama, Okayama prefecture, March 19, 2010 *resolution
18. City Council of Mukoh, Kyoto prefecture, March 23, 2010
19. Village Council of Nakijin, Okinawa, March 25, 2010
20. City Council of Suita, Osaka prefecture, March 26, 2010
21. City Council of Sakai, Osaka prefecture, March 29, 2010
22. City Council of Otaru, Hokkaido, June 21, 2010
23. City Council of Nishitokyo, Tokyo, June 21, 2010
24. City Council of Nanjo, Okinawa prefecture, June 21, 2010
25. City Council of Tomigusuku, Okinawa prefecture, June 22, 2010
26. Village Council of Yomitan, Okinawa prefecture, June 22, 2010
27. Village Council of Tarama, Okinawa prefecture, June 24, 2010
28. City Council of Ichinoseki, Iwate prefecture, June 25, 2010
29. City Council of Takatsuki, Osaka prefecture, June 28, 2010
30. City Council of Shibetsu, Hokkaido, September 16, 2010
31. Town Council of Hokuei, Tottori prefecture, September 24, 2010
32. City Council of Yawata, Kyoto prefecture, September 29, 2010
33. City Council of Hakodate, Hokkaido, September 30, 2010
34. City Council of Kitsugawa, Kyoto prefecture, October 1, 2010
35. City Council of Osaka, Osaka, October 13, 2010
36. Town Council of Miyashiro, Saitama prefecture, September 28, 2011
37. City Council of Sapporo, Hokkaido, March 28, 2012
38. City Council of Uji, Kyoto prefecture, June 27, 2012
39. City Council of Kouryou, Nora prefecture, September 26, 2012
40. Kyoto Prefectural Assembly, Kyoto prefecture, March 26, 2013

APPENDIX No.3

Compilation of Recommendations by the UN Human Rights Bodies on the "Comfort Women" Issue

Contents

wam アクティブ・ミュージアム 女たちの戦争と平和資料館 women's active museum on war and peace

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I. Concluding Observations by Treaty Bodies

The following table contains excerpts of relevant clauses pertaining to the "Comfort Women" issue from aforementioned UN human rights treaty bodies' documents.

Year	Document Number	Excerpt

1. Human Rights Committee (CCPR)

2008	CCPR/C/JPN/CO/5	22.The Committee notes with concern that the State party has still not accepted its responsibility for the "comfort women" system during World War II, that perpetrators have not been prosecuted, that the compensation provided to victims is financed by private donations rather than public funds and is insufficient, that few history textbooks contain references to the "comfort women" issue, and that some politicians and mass media continue to defame victims or to deny the events. (arts. 7 and 8) **The State party should accept legal responsibility and apologize unreservedly for the "comfort women" system in a way that is acceptable to the majority of victims and restores their dignity, prosecute perpetrators who are still alive, take immediate and effective legislative and administrative measures to adequately compensate all survivors as a matter of right, educate students and the general public about the issue, and to refute and sanction any attempts to defame victims or to deny the events.**

2. Committee on Economic, Social and Cultural Rights (CESCR)

2001	E/C.12/1/Add.67	**C. Principal subjects of concern** 26. The Committee expresses its concern that the compensation offered to wartime "comfort women" by the Asian Women's Fund, which is primarily financed through private funding, has not been deemed an acceptable measure by the women concerned. **E. Suggestions and recommendations** **53. The Committee strongly recommends that the State party find an appropriate arrangement, in consultation with the organizations representing the "comfort women", on ways and means to compensate the victims in a manner that will meet their expectations, before it is too late to do so.**

3. Committee on the Elimination of Discrimination against Women(CEDAW)

2009	CEDAW/C/JPN/CO/6	37. The Committee notes that some steps were taken by the State party to address the situation of "comfort women" but regrets the State party's failure to find a lasting solution for the situation of "comfort women" victimized during the Second World War and expresses concern at the deletion of references to this issue in school textbooks. 38. **The Committee reiterates its recommendation that the State party urgently endeavour to find a lasting solution for the situation of "comfort women" which would include the compensation of victims, the prosecution of perpetrators and the education of the public about these crimes.**
2003	A/58/38	361. [abbr.]…While appreciative of the comprehensive information provided by the State party with respect to the measures it has taken before and after the Committee's consideration of the second and third periodic reports of the State party with respect to the issue of .wartime "comfort women.," the Committee notes the ongoing concerns about the issue. **362. [abbr.]…The Committee recommends that the State party endeavour to find a lasting solution for the matter of "wartime comfort women".**

1994	A/50/38	633. The Committee expressed its disappointment that the Japanese report contained no serious reflection on issues concerning the sexual exploitation of women from other countries in Asia and during World War II. It noted that Japan's commitment to the Convention required it to ensure the protection of the full human rights of all women, including foreign and immigrant women. **635. [abbr.]…The committee also encourages the Government to take specific and effective measures to address these current issues as well as war-related crimes and to inform the Committee about such measures in the next report.**

4. Committee against Torture(CAT)

2007	CAT/C/JPN/CO/1	Statute of limitations 12. The Committee notes with concern that acts amounting to torture and ill-treatment are subject to a statute of limitations. The Committee is concerned that the statute of limitations for acts amounting to torture and ill-treatment may prevent investigation, prosecution and punishment of these grave crimes. In particular, the Committee regrets the dismissal of cases filed by victims of military sexual slavery during the Second World War, the so-called "comfort women", for reasons related to statutory limitations. **The State Party should review its rules and provisions on the statute of limitations and bring them fully in line with its obligations under the Convention, so that acts amounting to torture and ill-treatment, including attempts to commit torture and acts by any person which constitute complicity or participation in torture, can be investigated, prosecuted and punished without time limitations.** Compensation and rehabilitation 23. The Committee is concerned at the inadequate remedies for the victims of sexual violence, including in particular survivors of Japan's military sexual slavery practices during World War II and the failure to carry out effective educational and other measures to prevent sexual violence- and gender-based breaches of the Convention. The survivors of the wartime abuses, acknowledged by the State party representative as having suffered 'incurable wounds', experience continuing abuse and re-traumatization as a result of the State party's official denial of the facts, concealment or failure to disclose other facts, failure to prosecute those criminally responsible for acts of torture, and failure to provide adequate rehabilitation to the victims and survivors. **The Committee considers that both education (article 10 of the Convention) and remedial measures (article 14 of the Convention) are themselves a means of preventing further violations of the State party's obligations in this respect under the Convention. Continuing official denial, failure to prosecute, and failure to provide adequate rehabilitation all contribute to a failure of the State party to meet its obligations under the Convention to prevent torture and ill-treatment, including through educational and rehabilitation measures. The Committee recommends that the State party take measures to provide education to address the discriminatory roots of sexual and gender-based violations, and provide rehabilitation measures to the victims, including steps to prevent impunity.**

B. Reports of the Special Rapporteurs

The following table contains excerpts of relevant clauses pertaining to the "Comfort Women" issue from aforementioned Special Rapporteur reports. The reports by the Special Rapporteur on violence against women in 1996 (E/CN.4/1996/53/Add.1) and the Special Rapporteur on Systematic rape, sexual slavery and slavery-like practices during armed conflict (E/CN.4/Sub.2/1998/13) that are quoted below were both only parts of comprehensive studies concerning the "Comfort Women" issue. As such, the excerpts chosen represent only some of the recommendations made in the complete reports.

Year	Document Number	Title and Excerpt
1, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy		
2003	E/CN.4/ 2003/75/ Add.1	**Integration of the Human Rights of Women and the Gender Perspective, Addendum 1** **International, regional and national developments in the area of violence against women 1994-2003** **JAPAN Issues of concern** 1043. At the invitation of the Governments of the Republic of Korea and Japan, the Special Rapporteur on violence against women, its causes and consequences, visited Seoul from 18 to 22 July 1995 and Tokyo from 22 to 27 July 1995 to study in depth the issue of military sexual slavery in wartime, within the wider framework of violence against women (E/CN.4/1996/53/Add.1). Japan has still not accepted legal responsibility for the "comfort women" who were kept in military sexual slavery during the Second World War. It has also not punished many of the perpetrators responsible for such crimes.
2001	E/CN.4/ 2001/73	**Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission** **Alternative Approaches and Ways and Means Within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms** **Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000)** **Executive summary** The ongoing impunity of those who perpetrated Japan's system of military slavery during the Second World War is only one of many examples of an ongoing failure by Member States to investigate, prosecute and punish those found responsible for past acts of rape and sexual violence. This failure has contributed to an environment of impunity that perpetuates violence against women today. Whether the violence described in this report is investigated and punished, and whether such acts are prevented in the future depends ultimately on the firm commitment of the States Members of the United Nations. I. Japan: developments with regard to justice for comfort women 92. Although the Government of Japan has acknowledged moral responsibility for the system of organizing sexual slaves euphemistically called "comfort women" during the Second World War, it has refused to accept legal liability or to pay compensation to the victims. There has been no attempt to implement the set of recommendations the Special Rapporteur made in her 1996 report, or those outlined by the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights in the appendix to her final report on systematic rape, sexual slavery and slavery-like practices during armed conflict. 93. According to the December 2000 report of The Asian Women's Fund, the private fund set up to compensate the victims and to carry out projects to assist them, the project of atonement from

		the Japanese people involves recipients receiving a letter from the Prime Minister of Japan expressing apology and remorse and compensation of 2 million yen. To date 170 former comfort women have received atonement money. In addition, the Fund conducts many other laudable activities to assist women and elderly people affected by the Second World War and violence against women. 94. In recent years, several of the victims of sexual slavery have brought lawsuits in Japanese courts; a number of these cases are still pending. Of those that have been decided, the results are decidedly mixed. Three "comfort women" were each awarded 300,000 yen (US$ 2,300) by the Shimonoseki Branch of the Yamaguchi District Court on 27 April 1998, after the court found that the women had been held in sexual slavery and that their human rights had been violated. The court essentially held that there was a legal obligation for the Government of Japan to compensate the women, holding that the failure of the Diet to pass legislation compensating the women for their suffering "constituted a violation of Japanese constitutional and statutory law". Both the plaintiffs and the Government filed an appeal at the Hiroshima Higher Court, which is currently pending. 95. By contrast, the Tokyo District Court rejected the lawsuit of 46 former "comfort women" from the Philippines on 9 October 1998, as well as the claim of a Dutch former "comfort woman" on 30 November 1998. An appeal filed by the plaintiffs in the Filipino women's case was rejected by the Tokyo Higher Court on 6 December 2000. An appeal in the case of the Dutch woman is pending before the Tokyo Higher Court. Similarly, the Japanese High Court of Justice rejected the appeal of a former Korean "comfort woman" on 30 November 2000, acknowledging her suffering but ruling that she - as an individual - did not have the right under international law to bring an action against a State for compensation. The Court also held that the statute of limitations for Koreans living in Japan to claim compensation for war damages ended in 1985. In September 2000, a group of 15 former "comfort women" filed a class action suit in the Washington District Court demanding compensation for the crimes committed against them. 96. In December 2000, women's groups held a Women's International War Crimes Tribunal on Japan's Military Sexual Slavery (Tokyo Tribunal 2000), to highlight the ongoing denial of compensation to the victims of Japan's system of "comfort women" by the Government and the impunity that continues for its perpetrators. Evidence from "comfort women" living in the two Koreas, the Philippines, Indonesia, East Timor, China and the Netherlands were gathered in detail and were now finally available as a matter of record. The evidence was presented by an international prosecutor before an eminent panel of international judges. The findings of the judges to the Tribunal reiterated the legal liability of the Government of Japan and the need to set up a process to punish the perpetrators of the crimes. The Government was, however, not represented at the Tribunal.
1998	E/CN.4/ 1998/54	**Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission** **Alternative Approaches and Ways and Means Within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms** **Violence perpetrated and/or condoned by the State** Japan: the case of Chong, a former "comfort woman" during the Second World War 1. "One day in June, at the age of 13, I had to prepare lunch for my parents who were working in the field and so I went to the village well to fetch water. A Japanese soldier surprised me there and took me away ... . I was taken to the police station in a truck where I was raped by several policemen. When I shouted, they put socks in my mouth and continued to rape me. The head of the police station hit me on the left eye because I was crying. I lost eyesight in the left eye. After ten days or so I was taken to the Japanese army garrison. There were around 400 other Korean

		young girls with me and we had to serve over 5,000 Japanese soldiers as sex slaves every day. Each time I protested, they hit me or stuffed rags in my mouth. One held a matchstick to my private part until I obeyed him. My private parts were oozing with blood." 2. The Government of Japan has made some welcome efforts at dealing with the problems of past violence to "comfort women". The Government of Japan and successive Japanese prime ministers have expressed remorse and have apologized to former "comfort women". A private fund called the Asian Women's Fund has been set up to assist individual victims with a grant of 2 million yen each. As of this writing, over 100 victims have applied to receive funds and about 50 would have actually received atonement money. The Fund also attempts to help elderly women in countries in which there exist former "comfort women", but where cultural restraints prevent women from coming forward. The Government has set aside 700 million yen from the national budget for medical and welfare projects of the Asian Women's Fund. It has also made a commitment to raise awareness and to include reference to these tragedies in textbooks so that such practices do not emerge in the future. However, the Government of Japan has not accepted legal responsibility. Perhaps it is waiting for decisions of the six court cases filed with Japanese courts.
1996	E/CN.4/ 1996/53/ Add.1	**Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission** **Alternative Approaches and Ways and Means Within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms** **Addendum** **Report on the mission to the Democratic People's Republic of Korea, the Republic of Korea and Japan on the issue of military sexual slavery in wartime** 137. The Government of Japan should: (a) Acknowledge that the system of comfort stations set up by the Japanese Imperial Army during the Second World War was a violation of its obligations under international law and accept legal responsibility for that violation; (b) Pay compensation to individual victims of Japanese military sexual slavery according to principles outlined by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms. A special administrative tribunal for this purpose should be set up with a limited time-frame since many of the victims are of a very advanced age; (c) Make a full disclosure of documents and materials in its possession with regard to comfort stations and other related activities of the Japanese Imperial Army during the Second World War; (d) Make a public apology in writing to individual women who have come forward and can be substantiated as women victims of Japanese military sexual slavery; (e) Raise awareness of these issues by amending educational curricula to reflect historical realities; (f) Identify and punish, as far as possible, perpetrators involved in the recruitment and institutionalization of comfort stations during the Second World War.
1995	E/CN.4/ 1995/42	**Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission** **Alternative Approaches and Ways and Means Within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms** **Preliminary report** 291. Nearly 50 years have passed since the end of the Second World War. And yet this issue should not be considered a matter of the past but of today. It is a crucial question that would set a legal precedent at the international level for the prosecution of perpetrators of systematic rape and sexual slavery in times of armed conflict. A symbolic gesture of compensation would

		introduce a remedy of "compensation" for women victims of violence perpetrated during times of armed conflict.

2. Special Rapporteur on Systematic rape, sexual slavery and slavery-like practices during armed conflict, Ms. Gay J. McDougall

2000	E/CN.4/Sub.2/2000/21	**Contemporary Forms of Slavery, Update to the final report** VI. DEVELOPMENTS CONCERNING JAPAN.S SYSTEM OF MILITARY SEXUAL SLAVERY DURING THE SECOND WORLD WAR 71. One of the most egregious documented cases of sexual slavery was the system of rape camps associated with the Japanese Imperial Army during the Second World War. A significant impetus for the creation of the mandate of the Special Rapporteur was the increasing international recognition of the true scope and character of the harms perpetrated against the more than 200,000 women and girls enslaved in so-called .comfort stations. throughout Asia. The Special Rapporteur, in an appendix to the final report, included a case study on the continuing legal liability of the Government of Japan for the .comfort women. system, which in its totality constitutes crimes against humanity. 72. The atrocities committed against the so-called .comfort women. remain largely unremedied. There has been no reparation to the victims: no official compensation, no official acknowledgement of legal liability, and no prosecutions. While the Government of Japan has taken some steps to apologize for its system of military sexual slavery during the Second World War, it has not admitted or accepted legal liability and has failed to pay legal compensation to the victims. Thus, the Government of Japan has not discharged fully its obligations under international law.
1998	E/CN.4/Sub.2/1998/13	**Contemporary Forms of Slavery** **Final report, Appendix** C. Recommendations **1. The need for mechanisms to ensure criminal prosecutions** 63. The United Nations High Commissioner for Human Rights should work for the prosecution in Japan, and in other jurisdictions, of those responsible for the atrocities that have now been clearly linked to the actions of the Japanese military in establishing the Japanese rape camps. It is incumbent upon the United Nations to ensure that Japan fully satisfies its obligation to seek out and prosecute all those responsible for the “comfort stations” who remain alive today and that other States similarly do all they can to assist in the capture and prosecution of offenders in other jurisdictions. Accordingly, the High Commissioner, together with Japanese officials, should work to: (a) gather evidence on individual military and civilian personnel who may have established, supported or frequented Japanese rape centres during the Second World War; (b) interview victims; (c) forward the preparation of cases for trial to Japanese prosecutors; (d) work with other States and survivors’ organizations to identify, arrest and prosecute offenders within their jurisdictions; and (e) assist States in any way in the development of legislation to allow such prosecutions in their jurisdictions. **2. The need for mechanisms to provide legal compensation** 64. The Sub-Commission has joined other United Nations bodies in “welcoming” the creation in 1995 of the Asian Women's Fund. The Asian Women’s Fund was established by the Japanese Government in July 1995 out of a sense of moral responsibility to the “comfort women” and is intended to function as a mechanism to support the work of NGOs that address the needs of the “comfort women” and to collect from private sources “atonement” money for surviving “comfort women”. The Asian Women’s Fund does not, however, satisfy the responsibility of the Government of Japan to provide official, legal compensation to individual women who were victims of the “comfort women” tragedy, since “atonement” money from the Asian Women’s Fund is not intended to acknowledge legal responsibility on the part of the Japanese Government

		for the crimes that occurred during the Second World War. 65. Because the Asian Women's Fund does not in any sense provide legal compensation, a new administrative fund for providing such compensation should be established with appropriate international representation. To accomplish this, the United Nations High Commissioner for Human Rights should also appoint, together with the Government of Japan, a panel of national and international leaders with decision-making authority to set up a swift and adequate compensation scheme to provide official, monetary compensation to the "comfort women". Accordingly, the role of this new panel would be to: (a) determine an adequate level of compensation, looking to compensation that may have been provided in comparable settings as guidance; (b) establish an effective system for publicizing the fund and identifying victims; and (c) establish an administrative forum in Japan to expeditiously hear all claims of "comfort women". Such steps, moreover, should be taken as quickly as possible in light of the advancing age of the comfort women. **3. Adequacy of compensation** 66. An appropriate level of compensation should be based on considerations such as the gravity, scope and repetition of the violations, the intentional nature of the crimes committed, the degree of culpability of public officials who violated the public trust, and the extensive time that has passed (and thus the loss of the present value of the money, as well as the psychological harm caused by the extensive delay in relief). In general, applies to any economically assessable damage, such as physical or mental harm; pain, suffering and emotional distress; lost opportunities, including education; loss of earnings and earning capacity; reasonable medical and other expenses of rehabilitation; harm to reputation or dignity and reasonable costs and fees of legal or expert assistance to obtain a remedy. Based on these factors, an adequate level of compensation should be provided without further delay. Some consideration should also be given to the level of compensation that may be required to act as a deterrent to ensure that such abuses will not occur in the future.

3. Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène

2006	E/CN.4/ 2006/16/ Add.2	**Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination Addendum, Mission to Japan** **III. PRESENTATION OF THEIR SITUATION BY THE COMMUNITIES CONCERNED** D. The Koreans 59. Finally, concerning the most shameful form of discrimination endured by the Koreans --the system of sexual slavery whereby Korean women were put at the disposal of the Japanese military during World War II-- only in 1993 did the Government of Japan recognize its responsibility in the establishment of this system. However, issues such as official apology, compensation and proper education about this tragic historical episode known as "comfort women" have still not been settled. The Special Rapporteur was even informed that, starting from next year, school textbooks will not include any reference to the "comfort women". **V. RECOMMENDATIONS** 82. [abbr.]…Textbooks should also include explanations of the crimes linked to the colonial era and wartime committed by Japan including a recognition of its responsibility for the establishment of the "comfort women" system. The Special Rapporteur is concerned that decisions on the content of the school textbooks can be taken locally without any capacity of control at the national level. He therefore recommends the adoption of a legal provision at the national level which guarantees that the above-mentioned minimum content requirements be

		included in school textbooks. Moreover, given the fundamental impact of the drafting and teaching of history in the actual and future relations between the countries of the region, the Special Rapporteur recommends that, in the spirit and the scientific methodology of the drafting by UNESCO of the regional histories of Africa, Latin America, the Caribbean countries and Central Asia, Japan in consultation and with the agreement of all the countries of the region invite UNESCO to start the process of drafting the general history of the region.

[REFERENCE]
The Comments of the government of Japan to the report of the Special Rapporteur, Doudou Diène.
Note verbale dated 30 May 2006 from the Permanent Mission of Japan to the United Nations Office at Geneva addressed to the Secretariat of the Commission on Human Rights

2006	A/HRC/1 /G/3	First, there are many statements in the report which are beyond the Special Rapporteur's mandate. The mandate of the Special Rapporteur is "to examine … incidents of contemporary forms of racism, racial discrimination, any form of discrimination against Blacks, Arabs and Muslims, xenophobia, negrophobia, anti-Semitism, and related intolerance, as well as governmental measures to overcome them"(E/CN.4/RES/1994/164). However, for example, the Special Rapporteur reports on the issue of the military bases in Okinawa (paragraphs 6, 51, 52, 88), which has no relation to the issue of racial discrimination. Also he reports on past issues which have no relation to the issue of "contemporary forms of" discrimination: "forced labor" (paragraph 8) and "comfort women" (paragraph 59, 82) during World War II. The Special Rapporteur's mandate given by the Commission on Human Rights was carefully decided in order to resolve the various human rights issues confronted all over the world. Japan believes that the Special Rapporteur should follow his mandate and act within it. Japan considers his comments beyond his mandate to be inappropriate. **8. Paragraph 59** The remarks in this paragraph have no relation to the Special Rapporteur's mandate. Therefore it is not necessary to comment on the report's content in this paragraph, but commenting for reference, it is inappropriate to regard "comfort women" as "the system of sexual slavery." In addition, other remarks contain factual errors and they are also inappropriate. The Government of Japan has extended its sincere apologies and remorse to all those who suffered immeasurable pain and incurable physical and psychological wounds as "comfort women" on many occasions, such as the Statement by the Chief Cabinet Secretary Yohei Kono on August 4, 1993. The Government of Japan addressed in good faith the issues of reparations, property and claims arising from the Second World War, according to the provisions of the San Francisco Peace Treaty and other related treaties, agreements and instruments. The issues, including the so-called "comfort women" issue, have been legally settled by these treaties, agreements and instruments. However, to fulfill its moral responsibility, the Government of Japan, together with the people of Japan, seriously discussed what could be done for expressing their sincere apologies and remorse to the former "wartime comfort women," and the Asian Women's Fund(AWF) was established in 1995 to extend atonement from Japanese people to the former "wartime comfort women." The AWF has provided 2 million yen(atonement money) from contributions of the people of Japan to over 285 former "wartime comfort women" and also carried out medical and welfare support projects with the financial support of the Government of Japan. At the time when the atonement money was provided and medical and welfare support projects were being implemented, the Prime Minister, on behalf of the Government of Japan, sent a letter expressing apologies and remorse directly to each former "wartime comfort woman." The report says "Starting from next year, school textbooks will not include any reference to the comfort women." But this is a misunderstanding of the facts, as some of the history textbooks to be used in middle schools and high schools in 2006 mention "comfort women."

3. Universal Periodic Review (UPR) of Human Rights Council

*The following is the excerpt of relevant reference on the "comfort women" issue from the reports.

Report of the Working Group on the Universal Periodic Review, Japan
A/HRC/8/44 **30 May 2008**

I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS
B. Interactive dialogue and responses by the State under review

15. The Democratic People's Republic of Korea said that military sexual slavery represents crimes against humanity with no statutory limitations and referred to the resolutions of human rights mechanisms which called on Japan to acknowledge legal responsibility for the Japanese Military Sexual Slavery of 200,000 people, bring the perpetrators to justice and compensate the victims. Reference was also made to the serious concerns expressed and recommendations made by two human rights treaty bodies and to the resolutions adopted by parliaments of many countries and the European Parliament, which called on Japan to address this problem. The Delegation recommended that Japan take concrete measures to address, once and for all, the Japanese Military Sexual Slavery and other violations committed in the past in other countries, including Korea.

18. [abbr] **China** also referred to some historic issues mentioned in reports of the Special Rapporteur on violence against women, the Committee on the Elimination of Discrimination against Women, the Committee against Torture and several NGOs. [abbr] China hoped that the Japanese Government will seriously address those concerns and adopt effective measures to implement the recommendations of those mechanisms.

26. [abbr] On the issue of "comfort women", **France** indicated that in the light of the many recommendations put forward by several committees on this subject, it would like to encourage Japan to find a long-lasting solution to this problem of women who were forced into prostitution during the Second World War.

32. **The Netherlands** highlighted Japan's accession to the International Criminal Court and asked how it will respond to the recommendations made by the international community and various human rights mechanisms with regard to Japan's military sexual slavery practices during the Second World War.[abbr]

37. [abbr] It[**The Republic of Korea**] referred to concerns expressed by various human rights mechanisms about the issue of "comfort women", which they considered had not been adequately addressed and their recommendations to Japan on this matter. The Republic of Korea called on the Government to respond sincerely to the recommendations of the United Nations mechanisms (Special Rapporteur on violence against women, the Committee on the Elimination of Discrimination against Women and the Committee against Torture) on the issue of "comfort women" during the Second World War.

45.[abbr] Japan referred to a statement released by the Government in August 1993, which recognized that the issue of "comfort women" had severely injured the honour and dignity of many women, and extended apologies and remorse. Japan stressed that the statement was its consistent basic position. Japan stated that it has been dealing with the issue of reparation, property and claims concerning the Second World War, including the issue of "comfort women", in good faith, pursuant to the San Francisco peace treaty, bilateral peace treaties, and other relevant agreements. In this way, such issues, including that of "comfort women", have been legally settled with the countries of the parties to these treaties. It also mentioned the activities of the Asian Women's Fund (AWF), which was established in 1995 and dissolved in March 2007, and its efforts for the projects of the AWF to facilitate feasible remedies for former "comfort women" who had reached advanced ages by such means as contributing about 4.8 billion yen from its national budget. Japan stated that letters from the Prime Minister were delivered to the former "comfort women" through the activities of the AWF. Japan stressed that it would continue its efforts to promote understanding of the sympathy of the Japanese people represented by the AWF and actively cooperate in the activities for caring the former "comfort women" succeeding the purpose of the AWF. The Government expressed its readiness to continue to have a dialogue with the treaty bodies on this issue.

II. CONCLUSIONS AND/OR RECOMMENDATIONS
60. In the course of the discussion, the following recommendations were made to Japan:

5. Respond sincerely to the recommendations of the United Nations mechanisms(Special Rapporteur on violence against women, the Committee on the Elimination of Discrimination against Women and the Committee against Torture) on the issue of "comfort women" during the Second World War (Republic of Korea);

18. Take concrete measures to address, once and for all, the Japanese Military Sexual Slavery and other violations committed in the past in other countries including Korea (Democratic People's Republic of Korea);

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38. The Netherlands regretted that the issue of "comfort women" during the Second World War was no longer part of the school curriculum. This eliminated an instrument to raise awareness on past atrocities and a discussion of the relevant rights involved. It made recommendations.

46. The Republic of Korea commended Japan for its adoption of the Third Plan for Gender Equality. It noted treaty body and stakeholder concerns that Japan had not taken effective measures to address the issue of "comfort women" victims during the Second World War. It made recommendations.

58. Timor-Leste appreciated Japan's commitment to United Nations human rights mechanisms. It encouraged Japan to pursue its dialogue with the international community to reach understanding, possibly entailing direct, genuine communication with survivors of past atrocities.

113. China noted Japan's gender equality plan and campaign to eliminate violence against women, but expressed concern over inadequate measures implementing earlier UPR recommendations. It raised concerns over comfort women. China made recommendations.

II. CONCLUSIONS AND/OR RECOMMENDATIONS

147.145. Recognize its legal responsibility for the issue of the so-called "comfort women" and take appropriate measures acceptable to the victims, as recommended by the relevant international community (Republic of Korea);

147.146. Face up to and reflect on its past and present a responsible interface to the international community by making apologies on the issue of comfort women and giving compensation to its victims (China);

147.147. Acknowledge its responsibility for the issue of "comfort women" used during World War II, and take steps to restore the dignity of victims and compensate them adequately (Costa Rica);

147.158. Ensure that future generations continue to be informed of all aspects of their history, by taking measures such as the introduction of the topic of comfort women in textbooks for school children (Netherlands);

147.148. Accept legal responsibility for and address, once and for all, the Japanese military sexual slavery and other violations committed in the past in other Asian countries including Korea (Democratic People's Republic of Korea);

Report of the Working Group on the Universal Periodic Review* Japan Addendum
Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review
A/HRC/22/14/Add.1 **8 March 2013**

Japan has carefully reviewed the 174 recommendations received during its UPR on 31 October 2012 and is pleased to provide the following responses. Japan will continue to follow up the recommendations which Japan has accepted to follow up, including recommendations for which Japan has been already working.

147.145. Not accept

The Government of Japan acknowledges that during a certain period in the past, Japan caused tremendous damage and suffering to the people of many countries, particularly to those in Asian nations. The Government of Japan, squarely facing these historical facts, has expressed its feelings of deep remorse and heartfelt apology, and has also expressed feelings of sincere mourning for all World War II victims, both at home and abroad.

The Government of Japan is also deeply pained when thinking of the comfort women who experienced immeasurable pain and suffering.

The position of the Government of Japan regarding the comfort women issue is that it should not be politicized or be turned into a diplomatic issue.

With a view to offering realistic relief to former comfort women who are now advanced in years, the Government of Japan decided in 1995 to address the matter through the Asian Women's Fund (AWF) established in cooperation between the Japanese people and the Japanese Government. The Government thereafter has continued to extend maximum cooperation to the AWF in implementing medical and welfare support projects and providing atonement money for the former comfort women. The Government of Japan will continue to make maximal efforts and to implement follow-up activities of the AWF.

The issue of reparations, property and claims concerning the Second World War has been legally settled with the countries that are parties to the San Francisco Peace Treaty, bilateral treaties, agreements and instruments.

147.146. Not accept See 147.145.
147.147. Not accept See 147.145.
147.148. Not accept See 147.145.

147.158.

(a) Japan's position is stated in the interactive dialogue as recorded in the Draft Report of the UPR (para.62).

(b) Our official Courses of Study, which sets standards for educational courses, stipulates "to foster an ability and attitude to consider from a multilateral and multifaceted perspective and judge fairly historical events by using of a wide range of materials and express them appropriately" Each school offers instruction based on this stipulation in order to enable students to consider historical events from various perspectives and judge them fairly rather than to apprehend them from a one-sided perspective.

APPENDIX No.4

ILO

Committee of Experts on the Application of Conventions and Recommendations（CEACR）

Observation on the "Comfort Women" Issue

Contents

Observation (CEACR) concerning Forced Labour Convention, 1930 (No. 29)
Japan (Ratification: 1932)

wam
アクティブ・ミュージアム 女たちの戦争と平和資料館
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Observation (CEACR) - adopted 1995, published 82nd ILC session 1996

The Committee takes note of the observations of the Osaka Fu Special English Teachers' Union (OFSET), dated 12 June 1995, concerning the application of the Convention during the years prior to the Second World War, and during that war. The Committee notes that the Convention was in force for Japan during that period. The allegations refer to gross human rights abuses and sexual abuse of women detained in so-called military "comfort stations", a situation which falls within the prohibitions contained in the Convention. The Committee recognizes that such conduct should be characterized as sexual slavery in violation of the Convention. The Government has made no comment on OFSET's letter, a copy of which was sent to it on 31 August 1995.

OFSET has asked for wages, compensation and other benefits arising from the forced labour of the women concerned. On the basis of the allegations as they appear in the trade union's communication, it would appear that these women would have been entitled to wages and other benefits under the Convention.

Under the Convention and the Committee's terms of reference, the Committee does not have the power to order the relief sought for compensation and wages. This relief can be given only by the Government. The Committee hopes that, in view of the time that has elapsed since these events, the Government will give proper consideration to this matter expeditiously.

Observation (CEACR) - adopted 1996, published 85th ILC session 1997

The Committee has noted the information supplied by the Government in reply to earlier comments in its reports dated 31 May 1996 and 30 October 1996, as well as the comments made by the Japanese Trade Union Confederation (JTUC-RENGO) in a communication dated 30 September 1996, a copy of which was transmitted to the Government on 14 October 1996.

In its previous observation, the Committee took note of observations of the Osaka Fu Special English Teachers' Union (OFSET) dated 12 June 1995 concerning the application of the Convention during the years prior to the Second World War and during the war. The allegations referred to gross human rights abuses and sexual abuse of women detained in so-called military "comfort stations", and OFSET asked for appropriate compensation to be made.

The Committee had noted that the abuses referred to fell within the absolute prohibitions contained in the Convention. The Committee further considered that such unacceptable abuses should give rise to appropriate compensation, since the Convention had provided, even for forms of compulsory service that could be tolerated under Article 1(2) during a transitional period after its coming into force, that the persons called up for such service were to be paid compensation and entitled to disability pensions under Articles 14 and 15.

The Committee had, however, noted that under the Convention and the Committee's terms of reference, it did not have the power to order the relief sought. This relief could be given only by the Government and, in view of the time that had elapsed, the Committee expressed the hope that the Government would give proper consideration to the matter expeditiously.

In its report dated 31 May 1996, the Government indicates that, irrespective of whether or not there was a violation of the Convention, regarding the issues of reparations and/or settlement of claims relating to the war, including those of former wartime "Comfort Women", Japan has sincerely fulfilled its obligations according to the relevant international agreements and, therefore, the issues have been legally settled between Japan and the parties to those agreements.

The Government indicates that it has been expressing its feeling of apologies and remorse on the issue of wartime "Comfort Women". As a way of demonstrating such feelings, the Government has been working to face squarely the facts of history, including the issue of wartime "Comfort Women", in order to ensure that they are properly conveyed to future generations and thus promote better mutual understanding with the countries and areas concerned. In this context, the Government has inaugurated a "Peace, Friendship and Exchange Initiative".

In addition, the Government reports that it has been providing its maximum support to the Asian Women's Fund, which was established with the aim of achieving the atonement of the Japanese people for former wartime "Comfort Women" and protecting women of today from menaces to the honour and dignity of women in full cooperation with the Japanese people at large including both employers and workers. The Government states that, through these efforts, Japan has been sincerely addressing the issue of wartime "Comfort Women". The Committee also notes that in its comments on the application of the Convention, the Japanese Trade Union Confederation (JTUC-RENGO) considers that these measures, in which it has been actively participating, could constitute significant progress for the compensation of the victims, if carried out smoothly.

In its report of 31 May 1996, the Government further states that the Committee's observation was based solely on the letter dated 12 June 1995 from the Osaka Fu Special English Teachers' Union (OFSET) and that the Government was not given appropriate notice to comment on that letter, contrary to established practice. Also prior to the submission of the letter by OFSET, a separate representation had already been made in March 1995 by the Federation of Korean Trade Unions (FKTU) to the International Labour Office under article 24 of the ILO Constitution regarding the same issue, and the Government considers that the Committee's observation was made while the examination of the separate representation was in progress.

The Committee has taken due note of these indications. As regards the representation made on 20 March 1995 under article 24 of the ILO Constitution by the FKTU, the Committee notes that the ILO Governing Body did not examine the substance of the representation, nor take a decision on its receivability by the time the FKTU withdrew the representation by letter of 30 May 1996.

As regards the question of whether or not there was a violation of the Convention, the Committee also has noted the discussion that took place at the 48th Session of the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities in August 1996 on the issue of systematic rape, sexual slavery and slavery-like practices during wartime. During the discussion, a question was raised regarding the relevance of the Convention to the issue of wartime "Comfort Women" in the light of the exemptions in Article 2 of the Convention.

In this regard, the Committee refers to the explanations provided in paragraph 36 of its General Survey of 1979 on the abolition of forced labour concerning the exemption made in Article 2(2)(d) of the Convention for "any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population". The Committee has pointed out that the concept of emergency - as indicated by the enumeration of examples in the Convention - involves a sudden, unforeseen happening calling for instant counter-measures. To respect the limits of the exception provided for in the Convention, the power to call up labour should be confined to genuine cases of emergency. Moreover, the extent of compulsory service, as well as the purpose for which it is used, should be limited to what is strictly required by the exigencies of the situation. In the same manner as Article 2(2)(a) of the Convention exempts from its scope "work exacted in virtue of compulsory military service laws" only "for work of a purely military character", Article 2(2)(d) concerning emergencies is no blanket license for imposing - on the occasion of war, fire or earthquake - any kind of compulsory service but can only be invoked for service that is strictly required to counter an imminent danger to the population.

The Committee concludes that the present case does not fall within the exemptions contained in Article 2(2)(d) and 2(2)(a) of the Convention, and clearly therefore there was violation of the Convention by Japan.

The Committee recalls that, under Article 25 of the Convention, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying the Convention to ensure that the penalties imposed by law are really adequate and strictly enforced. The Committee notes that, under sections 176 and 177 of the Penal Code of Japan (Act No. 45 of 24 April 1907) indecency through compulsion and rape are punishable offences.

The Committee has taken note of the detailed information supplied by the Government in its report of 30 October 1996 on measures it has taken to express its apologies and remorse to the "wartime Comfort Women" and to support the whole operational cost of, and provide all possible assistance to, the "Asian Women's Fund" set up to offer atonement money to the former "Comfort Women", as well as medical and welfare support through the use of governmental resources. The Committee trusts that the Government will continue to take its responsibility for the measures necessary to meet the expectations of the victims and will provide information on further action taken.

Observation (CEACR) - adopted 1998, published 87th ILC session 1999

The Committee notes the Government's report in reply to its previous comments, as well as a number of observations received from workers' organizations. The matters raised in these comments, and addressed by the Government, concern two main issues, which are dealt with in turn.

I. Wartime "Comfort Women"

A. In its previous observations, the Committee took note of observations made by the Osaka Fu Special English Teachers' Union (OFSET) alleging gross human rights abuses and sexual abuse of women detained in so-called military "comfort stations" during the Second World War and the years leading up to it, when the women confined were forced to provide sexual services to the military. The Committee has found that this was contrary to the requirements of the Convention, that such unacceptable abuses should give rise to appropriate compensation, but that it did not have the power to order relief. The Committee also stated that this relief could only be given by the Government and that in view of the time elapsed, it hoped that the Government would give proper consideration to the matter expeditiously.

B. In its last observation adopted at its session in 1996, the Committee noted the Government's position that, irrespective of whether or not there was a violation of the Convention, it has sincerely fulfilled its obligations under international agreements and, therefore, the matter had been settled between the Government of Japan and the other governments which are parties to the agreements. The Government stated that it had been expressing its apologies and remorse in this regard; and it has been providing the maximum support to the "Asian Women's Fund" (AWF), which was established in 1995 with the aim of achieving the atonement of the Japanese people to the former wartime "Comfort Women", and providing atonement money to them. The Committee noted the detailed information provided, including the fact that the Government has supported the operational cost of the AWF, as well as providing medical and welfare support through the use of government resources. The Committee expressed its trust that the Government would continue to take responsibility for the measures necessary to meet the expectations of the victims, and asked it to provide information on further action taken.

C. One of the workers' organizations (OFSET), in a letter dated 14 October 1998 together with enclosures, made the following points. The union states that the problem remains basically unchanged and that there has been no compensation paid by the Government and no apology based on legal responsibility towards the victims. The union provided information to the effect that the majority of the Korean, Taiwanese, Indonesian and Filipino "Comfort Women" have refused to accept monies from the AWF on the basis that money from the Fund is not compensation from the Government but consists of money raised by donations from private organizations. The union also indicated that five Filipino "Comfort Women" who have accepted AWF monies, have refused to accept the letter of apology sent by the Prime Minister and have returned it as not being a recognition of the Government admitting its official accountability for the abuses committed against them by the military. The union provided information about payments made by the Government of South Korea and Taiwan to women victims in their own countries who have refused AWF monies. The Korean Confederation of Trade Unions, in a communication dated 31 July 1998 together with enclosures, makes similar points. The trade union stated that the Government had not yet taken proper measures, as it had not changed its argument that the issue of military sexual slavery had been legally settled by Japan and the victimized Asian countries, and cited consideration of the matter by the present Committee, the United Nations and others. It noted that although some women had accepted funds from the AWF, most have rejected them, stating that this was "sympathy" money and not legal compensation.

D. The Committee was also provided with copies of a judgment, issued on 27 April 1997 by the Yamaguchi Lower Court, Shimoneshi Branch, Section 1. The case is one of the 50 suits filed in Japanese courts. The judge ordered the Government to pay three plaintiffs, former South Korean Comfort Women, 300,000 yen plus interest. The judgment was based in part on the present Convention, and principally on the failure of the Government to legislate a necessary law, where the failure to legislate infringed basic human rights, and compensation was ordered under the State Tort Liability Act.

E. The Korean Federation of Trade Unions noted that the compensation was small. It also indicated that the Government has appealed against the decision to a higher court, that it could take ten to 20 years for appeal

procedures to be exhausted and that the women were already advanced in age.

F. The Government reviews in its report its role in the establishment of the AWF and indicated that in the Philippines, the Republic of Korea and Taiwan, approximately 85 to 90 women received "atonement money" from the AWF and that some had expressed their gratitude in various ways. The Government also indicated that women who were given atonement money also received a letter of apology from the Prime Minister. The Government states that with the support of individuals, enterprises, trade unions and others more than 483 million yen has been donated to the AWF. In March 1997, it began providing financial support for facilities for the elderly in Indonesia, with priority to be given to those who state they are former "Comfort Women", as the Government of Indonesia has found it difficult to identify those who were concerned. It concluded an agreement on 16 July 1997 with a non-governmental group in the Netherlands for a project aimed at helping to enhance the living conditions of those who suffered incurable physical and psychological wounds during the war. The Government also reports efforts to make the historical facts better known through school education, and outlines measures to address contemporary issues concerning the honour and dignity of women. The Government has provided no information in relation to the above-mentioned judicial decision.

G. The observation received from the Japanese Trade Unions Confederation (JTUC-RENGO) adds that, as regards the Korean wartime "Comfort Women", the Government of the Republic of Korea has started providing support allowances to them on condition that the women concerned do not receive any donation from the AWF or, if they have, that they return it. JTUC-RENGO believes that "the settlement of this tragic history is in the hands of the Korean and Japanese Governments" and expects that "dialogue will lead to a final settlement of the problem".

H. The Committee notes this very detailed information. It notes further the report of the United Nations Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict (UN document E/CN.4/Sub.2/1998/13, 22 June 1998), who examined inter alia the situation of "Comfort Women" and the liability of the Japanese Government. The Committee again repeats its trust that the Government will take responsibility for the measures necessary to meet the expectations of the victims. The rejection by the majority of "Comfort Women" of monies from the AWF because it is not seen as compensation from the Government, and that the letter sent by the Prime Minister to the few who have accepted monies from the AWF is also rejected by some as not accepting government responsibility, suggest that the expectations of the majority of the victims have not been met. The Committee requests the Government to take steps expeditiously, and also to respond on measures taken further to the court decision and any other measures to compensate the victims. With each passing year this becomes more urgent.

II. Wartime industrial forced labour

A. The Committee has also received observations from the Kanto Regional Council, All Japan Shipbuilding and Engineering Union (in September and December 1997, and March 1998), as well as from the Tokyo Local Council of Trade Unions (Tokyo-Chiyo) in August and September 1998. These communications raised, for the first time in the ILO, concern about conscripted labourers from China and Korea in industrial undertakings, during the Second World War. It is stated by the All Japan Shipbuilding and Engineering Union that some 700,000 workers from Korea and some 40,000 from occupied areas of China were conscripted as forced labourers and made to work under private-sector control in mines, factories and construction sites. Conditions of work were said to be very harsh, and many died. Though these workers had been promised pay and conditions similar to those of Japanese workers, they in fact received little or no pay, according to the allegations. The Union -- supported by more than 35 other workers' organizations which signed the communication -- asks that these workers receive compensation for unpaid wages, and damages, from the Government and from the companies that benefited. It indicates that, because of poor relations between the countries concerned and Japan for many years after the war, it was virtually impossible for individuals to make any claims against either the Government or the companies concerned until relations had been re-established. Tokyo-Chiyo has communicated a report said to have been drawn up by the Japanese Ministry of Foreign Affairs (MOFA) in 1946 entitled "Survey of Chinese Labourers and Working Conditions in Japan" intended to account to Chinese authorities after the war. The report disappeared, but was rediscovered in 1994, independently in China and in the United States. The report details very harsh working conditions, and brutal treatment including a death rate of 17.5 per cent, up to 28.6 per cent in some operations.

B. The Government states in its report in response to these observations that it has repeatedly acknowledged regret and remorse to the South Korean Government for damages and suffering caused through its colonial rule. The

Government also indicated that it had similarly stated to China that it was keenly conscious of the serious damage it had caused to Chinese people in the war. The Government states that it has taken many positive steps towards establishing friendly relations with both China and the Republic of Korea. This includes high-level visits and accompanying statements and agreements as recently as October-November 1998. The Government states that it has furnished detailed information to both countries on the situation of conscripted labourers, including 110,000 Korean workers. It has concluded agreements with both countries, including legal settlements of the issue of reparations, property and claims relating to the Second World War, with the Republic of Korea in 1965 and with China in 1972. Negotiators from Japan and the Republic of Korea concluded during the discussions leading up to this agreement that the loss of documentation was so severe that only a general approach could be taken, and in consequence Japan and the Republic of Korea agreed that the problems of claims related to the war would be deemed to be completed and finally settled with the extension of $500 million in economic assistance from Japan to the Republic of Korea in 1965. The Government also indicated that it had provided to the Republic of Korea a total of 0.67 trillion yen by the fiscal year 1997 since 1965, making significant contributions to that country's economic growth. In addition the Government had provided assistance to China of a total of 2.26 trillion yen by the fiscal year 1997. The Government has also taken steps to make the historical record accurate. Neither of the other two Governments is requesting further compensation, but the Government indicates that some individual cases are now pending before Japanese courts.

C. The Committee has noted the information placed before it and the Government's response. The Committee notes that the Government does not refute the general contents of the MOFA report but instead points out that it has made payments to the respective governments. The Committee considers that the massive conscription of labour to work for private industry in Japan under such deplorable conditions was a violation of the Convention. It notes that no steps have been taken with a view to personal compensation of the victims, though claims are now pending in the courts. The Committee does not consider that government-to-government payments would suffice as appropriate relief to the victims. As in the case of the "Comfort Women", the Committee recalls that it does not have power to order relief, and trusts that the Government will accept responsibility for its actions and take measures to meet the expectations of the victims. It requests the Government to provide information on the progress of the court cases and on action taken.

Observation (CEACR) - adopted 2000, published 89th ILC session 2001

The Committee recalls that in several recent sessions, it has considered the application of the Convention to two situations which occurred during the Second World War: that of wartime "Comfort Women" and of wartime industrial forced labour. It notes that since the last such examination, there has continued to be considerable volume of correspondence from workers' organizations, requesting the Committee to examine the case further, as well as substantial replies from the Government recalling the reasons for which it considers the questions to be closed.

In its report, the Government states that it "has made it clear from the outset that Japan has already settled the issues of reparation, property and claims relating to the last war with the governments concerned, and that the issues raised by the Committee of Experts are within the scope of these issues which have been settled. Accordingly, the Government of Japan considers that they should not be taken up for deliberation by the ILO". In this regard, the Government refers to the San Francisco Peace Treaty, bilateral peace treaties, and other relevant treaties and agreements between Japan and Indonesia, China, the Republic of Korea and the United States, all of which included provisions foreclosing individual claims against Japan by citizens of those countries. The Government also refers to various formal expressions of apology, as well as to substantial development assistance to a number of the countries concerned. The Government adds that: "It is quite clear that ... these issues hold no relevance to the ILO as current topics for deliberation. The Government of Japan therefore strongly hopes that this will be the last time for the Committee of Experts to take up and deliberate on these issues." The Government also refers to the comments of the Japanese Trade Union Federation (JTUC-Rengo), in a letter dated 20 October 2000, indicating that "Rengo supports the report of the Japanese Government" and that "Rengo insists also strongly that it is appropriate for the Committee to close deliberations on these cases".

The Committee recognizes that, as a matter of law, the Government is correct in stating that compensation issues have been settled by treaty. It feels, nonetheless, that it is important to continue to deal with the extensive comments of trade unions on this subject, to note developments in how claims for compensation are handled, and to provide information on how the Government views the question. It hopes that it will be unnecessary to do so again

at future sessions.

The Committee notes that in addition to the workers' organizations' observations it discusses below, it has also received observations from Tokyo Local Council of Trade Unions - Tokyo-Chihyo, in a letter dated 1 November 2000. This communication has been sent to the Government for any comments it may wish to make, and will be examined when any such comments arrive.

I. Wartime "Comfort Women"

A. In its previous observations, the Committee has noted the gross human rights abuses and sexual abuse of women detained in so-called military "comfort stations" during the Second World War and the years leading up to it, when the women concerned were forced to provide sexual services to the military. The Committee has found that this was contrary to the requirements of the Convention, and that such unacceptable abuses should give rise to appropriate compensation, while noting also that it did not have the power to order relief. The Committee has stated that this relief could only be given by the Government as the responsible body under the Convention and that, in view of the time elapsed, it hoped that the Government would give proper consideration to the matter expeditiously. The Committee notes that the Worker members of the Conference Committee on the Application of Standards stated in 1998 that, while the case was not to be discussed in full by the Conference Committee, they hoped that the Government would meet with the trade unions and the representative organizations of the women concerned, as well as with other governments, to find an effective solution which met the expectations of the majority of the victims.

B. The Committee has also noted in previous observations that the Government has indicated that, while it was not directly liable for compensation to these women, it has provided the maximum possible support to the "Asian Women's Fund" (AWF), which was established in 1995 with the aim of achieving the atonement of the Japanese people and providing funds to the women concerned. The Committee also noted the Government's indication that it has also provided considerable medical and welfare support to countries in which the victims live through the use of government resources. The organizations which have asked for additional measures from Japan have taken the position that the AWF is not a sufficient response, as there has been no compensation paid to victims directly by the Government and no apology based on an acknowledgement of legal responsibility towards the victims. They have noted that most of the women concerned have not availed themselves of the assistance of the AWF, though the Government has indicated some 170 cases in which assistance from this fund has been accepted.

C. Further comments have been received on this question from several workers' organizations. The Federation of Korean Trade Unions and the Korean Confederation of Trade Unions, in a letter of 8 September 2000, forwarded information on the consideration by the United Nations Sub-Commission on the Promotion and Protection of Human Rights of the issue of wartime sexual slavery, in particular the report by Ms. Gay McDougall, Special Rapporteur on systematic rape, sexual slavery and slavery-like practices (UN doc. E/CN.4/Sub.2/2000/21) and the resolution on the same issue adopted by the Sub-Commission in 2000. (Similar references have been made by other organizations, but will not be repeated below.) The Government has noted that although the report did deal in part with Japan, the resolution makes no mention of Japan, but refers instead to ongoing and more recent situations. The Committee notes, however, the opinion expressed in the resolution on an earlier report of the Special Rapporteur that "the rights and obligations of States and of individuals referred to in the present resolution cannot, as a matter of international law, be extinguished by treaty, peace agreement, amnesty, or by any other means" (UN document E/CN.4/Sub.2/RES/1999/16).

D. The two unions also indicate that eight lawsuits are being examined by Japanese courts in which wartime "Comfort Women" are demanding compensation and formal apologies from the Government. The Government has indicated that - as noted by the Committee in its previous comment - in April 1998 the Shimonoseki Branch of the Yamaguchi District Court (the lowest of three tiers of courts) ordered the Government to pay consolation money to each of three plaintiffs who had brought lawsuits in Japan, as state compensation for failure to legislate a necessary law, but that this was appealed to the Hiroshima High Court in May 1998, and is still under examination. The Government states that the reasoning behind the earlier ruling was rejected by the Tokyo High Court in another lawsuit in August 1999. In three of the cases mentioned by the two unions which are pending in high courts, lower courts ruled in favour of the State; the five others are still under examination by district courts. The Committee requests the Government to keep it informed of developments regarding these lawsuits.

E. In another communication, the Netherlands Trade Union Confederation (FNV), by a letter of 23 November 1999, submitted documentation provided to it by the "Foundation of Japanese Honorary Debts". The Government has questioned the validity of this communication as the information did not originate with the workers' organization; but the Committee recalls that it has always considered that information provided by trade unions in these circumstances falls within the bounds of its practice in dealing with workers' and employers' comments. The FNV communication indicates that Japan has not provided compensation to women of Dutch nationality who were forced to become "Comfort Women". The Government has stated in reply that as the identification of wartime "Comfort Women" in the Netherlands has not been carried out by the Dutch authorities, the Government of Japan and the AWF, "in consultation with the Dutch people concerned", have explored projects to be implemented in the Netherlands, including, for instance, the provision of goods and services in the medical and social welfare areas. The Government also refers to expressions of appreciation for these actions made by the Dutch Prime Minister during Japan-Netherlands summit talks on 21 February 2000.

F. The Committee notes the considerable number of claims and actions still under way. In view of the fact that many of the claimants do not consider the AWF compensation to be acceptable, the Committee hopes the Government will find an alternative way, in consultation with them and the organizations which represent them, to compensate the victims before it is too late to do so, in a manner that will meet their expectations.

II. Wartime industrial forced labour

A. In this case as well the Committee has previously found forced conscription of many thousands of persons from other Asian countries to work in Japanese wartime factories to have been contrary to the Convention. The Government indicates in its response that all legal claims were settled by treaties after the Second World War, and by formal apologies by the Government, and that no further individual claims are admissible. It has detailed relations with several governments in this regard, including China, Indonesia, the Republic of Korea and the United States. The Government indicates that in this case as well, court actions are proceeding in Japan, and that seven cases raised by Korean nationals and seven others by Chinese nationals are in the courts. In two cases by Korean nationals and two by Chinese nationals, the lower courts ruled in favour of the Government and appeals are now pending, while the ten others are being examined by district courts. Three other cases raised by Korean nationals have been settled out of court, without any recognition of legal responsibility by the companies concerned pertaining to the conscription of these persons.

B. The Committee understands, however, that during its session a settlement was reached in one of the pending court cases, by which the contracting firm Kajima agreed to establish a 500 million yen (approximately $4.5 million) fund to compensate survivors and relatives of conscripted Chinese labourers who died at its Hanaoka copper mine during the war, with the fund to be administered by the Chinese Red Cross. The Committee requests the Government to provide additional information on this case, and its impact on similar lawsuits against other firms.

C. The Committee notes that the two Korean trade unions which submitted comments compared the response of the Government and of Japanese companies to that of governments and companies in Europe and North America that were asked to compensate former wartime slave labourers. The Government indicates that it is difficult and inappropriate to simply compare and evaluate actions taken by different countries since they involve different historical, social and economic backgrounds and circumstances. It notes, for instance, that Germany did not conclude any treaties which covered questions of reparations, property and claims in a comprehensive manner, because it was divided into two countries after the war.

D. The Kanto Regional Council of the All Japan Shipbuilding and Engineering Union submitted comments in a letter of 1 October 1999, referring to actions taken in the US State of California. It indicates that the state adopted a law in June 1999 which extended the statute of limitations for forced labour victims from the Second World War to bring claims. The Government indicates in response that Japan and the United States are in full agreement that the two countries have already settled the issues concerned by the San Francisco Peace Treaty. It notes that several former United States prisoners of war filed a series of suits against Japanese companies and their subsidiaries in the United States, but that on 21 September 2000, the United States District Court for the San Francisco Division of the Northern District of California dismissed the claims on the grounds that the Peace Treaty waived all the reparations claims against Japan by the United States and its nationals. Other similar suits are pending but have not yet been resolved. The Committee has also received information on other lawsuits which have been brought in the United

States in this regard, but has not been notified of their disposition. The Engineering Union has also stated, however, that some lawsuits brought against companies in Japan which benefited from wartime forced labour (or are successors of those companies) have resulted in settlements by the companies without recognition of liability.

E. As concerns claims by Indonesian survivors of forced labour in Thailand and Myanmar, the Government repeats that this issue has also been settled by a comprehensive treaty of peace with the Government of Indonesia. There are also indications of the conscripted labour of more than 8,000 children from Taiwan under Japanese rule in Japanese fighter plane factories. In this instance the Government indicates that the Taiwanese authorities were to deal with the issues of property and claims, but that it became impossible for Japan to deal with the issues after it normalized relations with China. The Government indicated that it provided "condolence money" under special legislation to Taiwanese people who were soldiers or civilian workers in the Japanese military.

F. In the light of the information referred to above, it is apparent that a number of former prisoners and others still feel that they were not adequately compensated by inter-state peace agreements and other arrangements, and that there are still a number of claims pending in different instances. In view of the age of the victims, and the rapid passage of time, the Committee again expresses the hope that the Government will be able to respond to claims of these persons in a way which is satisfactory both to the victims and to the Government.

Observation (CEACR) - adopted 2001, published 90th ILC session 2002

I. Wartime "Comfort Women" and Industrial Forced Labour

A. Further to its previous observations under the Convention, the Committee has noted a communication of the All Japan Shipbuilding and Engineering Union, received by the ILO on 6 June 2001, a copy of which was transmitted to the Government on 26 June 2001, as well as a letter dated 9 October 2001 from the Government, referring to its views concerning the Union's communication.

B. The Committee notes that in its communication of June 2001, the All Japan Shipbuilding and Engineering Union indicates that, with regard to war-related compensation, the position of the Japanese Government is that a treaty had put an end to the right to demand compensation and the right to diplomatic protection at the state level but not the right of individuals to damages. The Government is stated to have made this position clear on many occasions, as shown by the examples quoted below in the terms of the Union's communication.

Since Japan lacked diplomatic relations with the Republic of Korea (South Korea) and the People's Republic of China for a long period after the end of WWII, it was virtually impossible for individual victims in these countries to seek redress and payment of overdue wages from Japan and Japanese firms. As for the Democratic People's Republic of Korea (North Korea), Japan has yet to normalize bilateral relations even today.

In 1992, the Japanese government for the first time acknowledged that these individual victims still hold the right to seek damages. Shunji Yanai, then chief of the Foreign Ministry's Treaties Bureau, told an Upper House Budget Committee session on 27 August that the Japan-South Korea Basic Treaty of 1965 had not deprived individual victims of their right to seek damages in domestic legal terms. "(The treaty) only prevents Japanese and South Korean governments from taking up issues as exercise of their diplomatic rights," Yanai told the Diet session. The turnaround in government position prompted many victims to take legal action with Japanese courts.

In other words, the Japanese government admitted that individual (legal) right to seek compensation did not become void due to a bilateral treaty for a decade. Before Yanai, the government officials made a statement to that effect twice as follows.

C. The Japanese Government's Statement in Atomic Bomb Victims Lawsuit (Final Judgment in 1963)

"5. Waiver of the Right to Damage under the Treaty of Peace with Japan.

The item (a) of the article 19 in the San Francisco Treaty does not mean that the country of Japan has given up the

right of individual Japanese people to demand compensation for the damages from Truman or the country of the United States of America."

(Article 19(a) of the Treaty of Peace with Japan, signed in San Francisco on 8 September 1951, is quoted in the Union's communication in the following terms:)

Article 19

(a) Japan waives all claims of Japan and its nationals against the Allied Powers and their nationals arising out of the war or out of actions taken because of the existence of a state of war, and waives all claims arising from the presence, operations or actions of forces or authorities of any of the Allied Powers in Japanese territory prior to the coming into force of the present Treaty.

2. Government Statement for the Siberian Internee Compensation Lawsuit (Final Judgement in 1989)

"3. Waiver of the Right to Damages Clause 6 item 2 under the Joint Declaration of Japan and Soviet

The plaintiff insist that Japan waived all claims to Soviet legally or in substance as a result of the Joint Declaration of Japan and Soviet. However, the right Japan waived under the Clause 6 item 2 are claims and the right of diplomatic protection the state of Japan had, but not the claims of individual Japanese people. When we say the right of diplomatic protection, it means the internationally acknowledged right of state to seek the responsibility of a foreign country for the damages Japanese people suffered in the foreign territory arising out of violation of the international laws on the side of such foreign country.

As stated before, Japan did not give up any right belonging to individual Japanese nationals under the Joint Declaration of Japan and Soviet."

In its communication of June 2001, the All Japan Shipbuilding and Engineering Union supplied further information and comments on the settlement reached in the Hanaoka court case, referred to by the Committee in point 12 of its previous observation.

D. By letter dated 9 October 2001, the Government of Japan referred to its views concerning the communication dated 6 June 2001 of the All Japan Shipbuilding and Engineering Union in the following terms.

The Government of Japan is now making efforts to prepare its comments on the matters raised therein and wishes to express its intention to submit the comments to the ILO before the session of the Committee of Experts on the Application of Conventions and Recommendations to be held in 2002. This is due to the fact that more time is needed to allow the Government to gather sufficient informations on the basis of which it will examine the issue.

The Committee takes due note of these indications. In its previous observation, it had noted that there were still a number of claims by former prisoners and others pending in different instances, and in view of the age of the victims and the rapid passage of time, it had hoped that the Government would be able to respond to claims of these persons in a satisfactory way. One year later, the Committee hopes that the Government will be in a position to supply particulars to the Conference at its 90th Session in 2002, as regards both its comments on the matters raised in the communication of the All Japan Shipbuilding and Engineering Union, and action taken to respond to the claims of wartime "Comfort Women" and industrial forced labour.

Observation (CEACR) - adopted 2002, published 91st ILC session 2003

The Committee notes the Government's report, received on 1 November 2002, in which it has provided responses, including four attachments, to the Committee's last two observations, as well as to a number of comments received from workers' organizations. The Committee also notes the Government's report, also received on 1 November 2002, containing additional responses to the communications of the trade unions.

The Committee notes the communication of the Tokyo Local Council of Trade Unions, received on 6 June 2002, along with five attachments, a copy of which was transmitted to the Government on 29 July 2002, as well as a

communication of the All Japan Shipbuilding and Engineering Union dated 29 July 2002, and seven attachments, received by the ILO on 12 August 2002, a copy of which was transmitted to the Government on 2 September 2002. The Committee also notes a communication of the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU) dated 27 August 2002, received on 4 September 2002, as well as of its 11 attachments received on 1 October 2002, a copy of which was transmitted to the Government on 1 October 2002.

The Committee recalls that in several recent sessions it has considered the application of the Convention to two issues relating to the Second World War and the years leading up to it: military sexual slavery, of which the victims are referred to as wartime "Comfort Women", and wartime industrial forced labour.

I. Victims Wartime Sexual Slavery

The Committee has previously considered the occurrence, during the Second World War and the years leading up to it, of a system by which women and girls, referred to euphemistically as "Comfort Women", were confined to military camp facilities, so-called "comfort stations", and forced to provide sexual services to military forces, and it has found that this conduct fell within the absolute prohibitions contained in the Convention. The Committee has recognized that this conduct involved gross human rights abuses and sexual abuse of the women and girls detained in the military "comfort stations", and that it should be characterized as sexual slavery.

In paragraphs 8 and 10 of its 2000 observation, the Committee noted the considerable number of claims which had been commenced in Japanese courts by Comfort Women which were pending examination or had been decided or alternatively were awaiting appeal to superior courts. The Committee also noted in paragraph 5 of the observation that, under the Committee's terms of reference, it did not have the power to order the relief which could be given only by the Government as the responsible body under the Convention. However, in paragraph 10 of that observation, the Committee expressed that the Government would find an alternative way, in consultation with the Comfort Women and the organizations representing them, to compensate them before it was too late and in a manner which met their expectations.

Subsequently in its 2001 observation, the Committee following receipt of a communication from a workers' organization and the Government correspondence in reply, again reiterated its hope that the Government would be able to respond to the claims made by the Comfort Women in a satisfactory way and that it would be in a position to supply particulars to the International Labour Conference in 2002.

The Government by response in its latest detailed report in relation to the topic of Comfort Women makes three major points.

Firstly, it considers that there are procedural irregularities in the preparation of the 2001 observation in that in its view the observation:

- Was prepared and published in reliance on the communication from the trade union pending further submissions from the Government on the trade union communication;

- "Jumped to the conclusion" without scrutiny of the contents of the communication of the trade union that the issue should be discussed in the International Labour Conference;

- Took up the issue of the Comfort Women when the trade union had addressed another issue in relation to conscription of forced labour.

Secondly, the Government expressed the view that there is no legal basis for individual claims for compensation arising from the issues related to the circumstances of Comfort Women and that the trade union assertions are wrong. It therefore urges the Committee to bring its deliberations to an end and declare the case closed.

Thirdly, the Government contends that although there is no legal liability in relation to individual claims, it has nevertheless expressed its apologies and remorse on numerous occasions and refers to the Asian Women's Fund subsidized by the letters sent by the Japanese Prime Minister expressing apologies.

A. Procedural issues

In relation to the first issue raised, the Committee rejects that there has been any procedural irregularity. The trade union communication addressed the issue of war-related compensation in general which was also relevant to the circumstances of Comfort Women. The serious matters raised by the Committee in its 2000 observation concerning Comfort Women as at that time had not been dealt with by the Government and regardless of whether the trade union specifically raised the matter, the Committee is fully entitled to pursue the situation and request that it be taken up at the Conference.

B. Legal basis for individual claims

In relation to the second issue, the Committee notes that the Government takes the position, as it has previously, that with regard to reparations, property, and claims arising out of the Second World War, "including the issues known as 'wartime Comfort Women' and 'conscription as forced labourers'", it has "fulfilled its obligations". It argues that the provisions of post-war multilateral and bilateral peace treaties and agreements with governments of the Allied Powers and the States of the Asia-Pacific region, waive or renounce war reparations and other claims between the government parties and their nationals.

1. The treaties

The treaties referred to by the Government include, but are not limited to:

> - Article 14(b) of the 1951 Treaty of Peace with Japan ("San Francisco Peace Treaty") under which the Allied Powers "waive all reparations claims ... and other claims of the Allied Powers and their nationals";
>
> - Article 2 of the 1965 Agreement on the Settlement of Problems concerning Property and Claims and on Economic Cooperation between Japan and the Republic of Korea, which states in part: "The Contracting parties confirm that (the) problem concerning property, rights and interests of the two contracting parties and their nationals ... is settled completely and finally"; and
>
> - Article 5 of the Joint Communiqué・of the Government of Japan and the Government of the People's Republic of China which stated that China "renounces its demand for war reparations".

The Government states: "In this sense, the issues of claims, including claims of individuals under domestic law, are settled completely and finally between Japan and its nationals and the Allied Powers and their nationals."

2. Previous government statements

In its previous observation, the Committee noted that the All Japan Shipbuilding and Engineering Union indicated in its communication of June 2001 that, with regard to war-related compensation, the position of the Japanese Government is that a treaty had put an end to the right to demand compensation and the right to diplomatic protection at the state level, but not the right of individuals to damages. The union stated that the Government had made this position clear on many occasions, such as:

> - The Government's statement in Atomic Bomb Victims Lawsuit (Final Judgment in 1963), that "item (a) of the Article 19 in the San Francisco Treaty does not mean that the country of Japan has given up the right of individual Japanese people to demand compensation for the damages from Truman or the country of the United States of America";
>
> - The Government's statement in relation to the Siberian Internee Compensation Lawsuit (Final Judgment in 1989), in which it took the position that the waivers, under clause 6, item 2, under the Joint Declaration of Japan and the Soviet Union, "are claims and the right of diplomatic protection the State of Japan had, but not the claims of individual Japanese people. When we say the right of diplomatic protection, it means the internationally acknowledged right of States to seek the responsibility of a foreign country for the damages Japanese people suffered in the foreign territory arising out of violation of the international laws on the side of such foreign country ... As stated before, Japan did not give up any right belonging to individual Japanese nationals under the Joint Declaration of Japan and Soviet (Union)";

- A statement by Shunji Yanai, then chief of the Foreign Ministry's Treaties Bureau, to an Upper House Budget Committee session on 27 August 1991, that the Japan-South Korea Basic Treaty of 1965 had not deprived individual victims of their right to seek damages in domestic legal terms, but "only prevents the Japanese and South Korean governments from taking up issues as exercise of their diplomatic rights".

The Committee notes that, in its reply to the union's reference to these comments, the Government indicates that the statement of Mr. Shunji Yanai "was intended to explain that all the issues of reparations claims related to the last war between Japan and the Allied Powers, including the claims of individuals, had been settled from the viewpoint of the right of diplomatic protection that is a concept of general international law. In other words, he explained that even if Japanese nationals' claims against the Allied Powers or their nationals were dismissed, Japan could no longer pursue state responsibilities of the Allied Powers". The Government further notes an additional statement by which "Mr. Yanai clearly explained at the Committee on Foreign Affairs of the House of Representatives of the Diet of Japan on 26 February 1992 that, 'with regard to substantive rights with legal basis, namely property rights, the Government of Japan nullified the property rights of the nationals of the Republic of Korea with certain exceptions by this Agreement', and therefore that 'the Korean nationals are no longer able to claim against Japan these property rights with legal basis either as private rights or rights in domestic law'".

The Committee notes that the Government did not provide any comments which refute the other examples cited by the union, namely, its statement in the Atomic Bomb Victims Lawsuit (Final Judgment in 1963) and its statement of interpretation of article 6 of the Joint Declaration of Japan and the Soviet Union, in relation to the Siberian Internee Compensation Lawsuit (Final Judgment in 1989), other than to quote the text of article 6 of that declaration.

3. Reports to United Nations human rights bodies

The Committee also notes the final report of 22 June 1998 on systematic rape, sexual slavery and slavery-like practices during armed conflict (UN document E/CN.4/Sub.2/1998/13), submitted by Ms. Gay McDougall to the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities (now the Sub-Commission on the Promotion and Protection of Human Rights) at its 50th session. The Committee notes that Ms. McDougall, who was appointed by the Sub-Commission as UN Special Rapporteur, is the Executive Director of the International Human Rights Law Group, and that her report, which was forwarded with the observation of the KCTU and the FKTU, has been cited by the International Criminal Tribunal for the former Yugoslavia as an authoritative statement of international criminal law. The Committee also notes the appendix to the report, "An analysis of the legal liability of the Government of Japan for 'Comfort Women stations' established during the Second World War".

In her report, Ms. McDougall finds that "the Japanese military's enslavement of women throughout Asia during the Second World War was a clear violation, even at that time, of customary international law prohibiting slavery ... As with slavery, the laws of war also prohibited rape and forced prostitution" (appendix, paragraphs 12 and 17). The Committee also notes the further findings: "The widespread or systematic enslavement of persons has also been recognized as a crime against humanity for at least half a century. This is particularly true when such crimes have been committed during an armed conflict ... In addition to enslavement, widespread or systematic acts of rape also fall within the general prohibition of 'inhumane acts' in the traditional formulation of crimes against humanity ..." (appendix, paragraphs 18 and 20).

Referring to article 2 of the 1965 Settlement Agreement between Japan and the Republic of Korea and Article 14(b) of the 1951 Treaty of Peace, the report of Ms. McDougall states: "The Government of Japan's attempt to escape liability through the operation of these treaties fails on two counts: (a) Japan's direct involvement in the establishment of the rape camps was concealed when the treaties were written, a crucial fact that must now prohibit on equity grounds any attempt by Japan to rely on these treaties to avoid liability; and (b) the plain language of the treaties indicates that they were not intended to foreclose claims for compensation by individuals for harms committed by the Japanese military in violation of human rights or humanitarian law" (appendix, paragraph 55).

The Committee also notes the reference in the trade unions' comments to paragraph 58 of the appendix to the McDougall report, which states: "It is also self-evident from the text of the 1965 Agreement on the Settlement of Problems concerning Property and Claims and on Economic Co-operation between Japan and the Republic of Korea that it is an economic treaty that resolves 'property' claims between the countries and does not address human rights issues (citation omitted). There is no reference in the treaty to 'Comfort Women', rape, sexual slavery, or any

other atrocities committed by the Japanese against Korean civilians. Rather, the provisions in the treaty refer to property and commercial relations between the two nations. In fact, Japan's negotiator is said to have promised during the treaty talks that Japan would pay the Republic of Korea for any atrocities inflicted by the Japanese upon the Koreans (citation omitted)." The Committee notes further that in paragraph 59 of the appendix, the report states: "Clearly, the funds provided by Japan under the Settlement Agreement (with Korea) were intended only for economic restoration and not individual compensation for the victims of Japan's atrocities. As such, the 1965 treaty - despite its seemingly sweeping language - extinguished only economic and property claims between the two nations and not private claims ...".

The Committee further notes the points made in paragraph 62 of the appendix to the report: "As with the 1965 Settlement Agreement between Japan and Korea, moreover, the interests of equity and justice must prevent Japan from relying on the 1951 peace treaty to avoid liability when the Japanese Government failed to reveal at the time of the treaty the extent of the Japanese military's involvement in all aspects of the establishment, maintenance and regulation of the comfort stations (citation omitted). As an additional principle of equity, when *jus cogens* norms are invoked, States that stand accused of having violated such fundamental laws must not be allowed to rely on mere technicalities to avoid liability. And, in any event, it must be emphasized that Japan may always voluntarily set aside any treaty-based defences to liability that may be available to them in order to facilitate actions that are clearly in the interests of fairness and justice." The report, at paragraph 12, recognizes that "the prohibition against slavery ... has clearly attained *jus cogens* status (citation omitted)". The Committee notes that, according to Article 53 of the Vienna Convention on the Law of Treaties of 23 May 1969 (UN document A/Conf.39/28), a *jus cogens* (peremptory) norm is "a norm accepted and recognized by the international community of States as a norm from which no derogation is permitted ...".

The Government in its comments on the report of UN Special Rapporteur McDougall, states that resolutions based on the report were adopted annually by the Sub-Commission on Promotion and Protection of Human Rights from 1998 to 2002, and that "these resolutions only 'welcomed' the report of Special Rapporteur McDougall and made no reference at all to Japan, nor to the issue known as 'wartime Comfort Women'. There was absolutely no language in the resolutions making any recommendations to Japan or condemning Japan for anything".

The Committee points out, however, that whilst the resolutions of the Sub-Commission, such as resolution 2000/13 on the June 2000 update to the final report of Special Rapporteur McDougall do not include specific references to, or recommendations for, any individual country, the resolutions have taken general note of the report and also call upon the UN High Commissioner for Human Rights to monitor and report to the Sub-Commission on the status and implementation of the resolution and of the recommendations made in the Special Rapporteur's report of which note is taken.

The Committee notes the 1996 "Report on the mission to the Democratic People's Republic of Korea, the Republic of Korea, and Japan on the issue of military sexual slavery in wartime", submitted by Ms. Radhika Coomaraswamy, UN Special Rapporteur, to the 52nd session of the UN Commission on Human Rights (UN document E/CN.4/1996/53/Add.1). Addendum 1 of that report, which was forwarded as an attachment to the observation of the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU), refers in paragraph 107 to the report of the International Commission of Jurists (ICJ) of a mission on "Comfort Women" published in 1994, which states that the treaties referred to by the Government of Japan "never intended to include claims made by individuals for inhumane treatment. (The ICJ) argues that the word 'claims' was not intended to cover claims in tort and that the term is not defined in the agreed minutes or the protocols. It also argues that there is nothing in the negotiations which concerns violations of individual rights resulting from war crimes and crimes against humanity. The (ICJ) also holds that, in the case of the Republic of Korea, the 1965 treaty with Japan relates to reparations paid to the Government and does not include claims of individuals based on damage suffered".

4. Women's International War Crimes Tribunal Rulings for the Trial of Japan's Military Sexual Slavery

The Committee notes the report of the New York Times of 4 September 2001, referred to by the Women's International War Crimes Tribunal for the Trial of Japan's Military Sexual Slavery, in its "Judgement on the Common Indictment and the Application for Restitution and Reparation" (Case No. PT-2000-1-T), delivered on 4 December 2001 (corrected 31 January 2002), a copy of which was forwarded by the All Japan Shipbuilding and Engineering Union in its communication. The report, authored by Steven C. Clemons refers to a recently (April 2000) declassified exchange of letters between Prime Minister Shigeru Yoshida of Japan and the Minister of Foreign Affairs of the Government of the Netherlands, and occurring just prior to the signing of the San Francisco

Treaty of Peace in 1951, in which Prime Minister Yoshida conveyed the understanding that "the Government of Japan does not consider that the Government of the Netherlands by signing the Treaty has itself expropriated the private claims of its nationals so that, as a consequence thereof, after the Treaty comes into force these claims would be non-existent".

The Committee notes the "Judgment on the Common Indictment and the Application for Restitution and Reparation" (Case No. PT-2000-1-T), of the Women's International War Crimes Tribunal for the Trial of Japan's Military Sexual Slavery, delivered on 4 December 2001 (corrected 31 January 2002), a copy of which was forwarded by the union in its communication. The Committee notes that the Tribunal, which sat in Tokyo from 8 to 10 December 2000, is a People's Tribunal, which was established to adjudicate gender-related crimes that the International Military Tribunal for the Far East, the original Tokyo Tribunal, failed to redress. The Committee notes the indication of the All Japan Shipbuilding and Engineering Union, that the judges, chief prosecutors, and legal advisers of the Tribunal were "internationally renowned experts involved in International Criminal Tribunals for the former Yugoslavia and the International Criminal Court for Rwanda", as well as its reference to several of the important findings in the Judgment. The Committee further notes the comments of the Korean trade union organizations, the FKTU and the KCTU, on the Tribunal as "a civilian initiative, with a highly respected panel of judges".

The Committee notes the indication of the Tribunal, in the Introduction and Background of the Proceedings of its Judgment, that the Registry of the Tribunal served the Government with notice of the proceedings, including an invitation to participate in the proceedings, on 9 November 2000 and 28 November 2000, but received no reply. The Tribunal nevertheless endeavoured to consider all defences the Government might conceivably raise on its own behalf had it agreed to participate. To that end, it requested that the anticipated arguments of the Government be compiled by an attorney assisting as amicus curiae (or "friend of the court") and it received an amicus curiae brief submitted in response to this request. The Tribunal further considered arguments advanced by the Government in cases pending before its courts, and the responses of the Government to the reports of the United Nations Special Rapporteurs who have investigated the military sexual slavery system.

The Committee notes the finding of the Tribunal at paragraph 1034 of the Judgment, with regard to the 1965 Agreement between Japan and the Republic of Korea: "It can be questioned whether 'property, rights and interests' includes claims such as those of the 'Comfort Women' against Japan. The two States adopted Agreed Minutes of their negotiation of the Peace Treaty in which they agreed that 'property, rights and interests means all kinds of substantial rights which are recognized under law to be of property value'. This would appear to exclude the 'Comfort Women's' extensive claims. Korea submitted an outline of claims of the Republic of Korea (called the Eight Items) at the negotiations. There is no evidence that this list included that claims of the Comfort Women for crimes against humanity committed against them and indeed the Treaty provisions encompass 'either the disposition of property or the regulation of commercial relations between the two countries, including the settlement of debts'" (citation omitted).

The Tribunal in turn quoted a 1970 Opinion of the International Court of Justice (Barcelona Traction, Light and Power Co. Ltd., 1970 ICJ Rep. 3, paras. 33-34 (5 February)), which articulates the notion of obligations of a State which, by their very nature, are owed *erga omnes* - to the international community as a whole: "Such obligations derive ... from the principles and rules concerning basic rights of the human person, including protection from slavery and racial discrimination." Referring also to the third report of the UN Special Rapporteur on State Responsibility (UN document A/CN.4/507/Add.4, 4 August 2000), the Tribunal found that: "the category of norms which are generally acceptable as universal in scope and non-derogable as to their content, and in the performance of which all States have a legal interest, is small but includes 'the prohibitions of genocide and slavery ...'" In light of these principles, the Tribunal found that "it is legally impossible for bilateral or multilateral agreements, even agreements concluded by States of which the victims are nationals, to waive the interests of non-participating States in redressing injury done to all" (paragraphs 1041-1043).

The Committee notes that, on the basis of the reasoning of these and other legal points, the Tribunal concluded that, with regard to Japan's reliance on the Peace Treaties, "the negotiating parties had no power to waive the claims of individuals for harm suffered as a result of the commission of crimes against humanity and we reject the assertion that these claims were effectively or permanently waived".

The Government, in its comments on the Women's International War Crimes Tribunal and the Judgment it delivered in December 2001, states: "The Tribunal was privately organized by the people concerned and was not an official

organization. Therefore, the Government of Japan is not in a position to make any comments on the statements made by the Tribunal, nor any views expressed therein."

5. Japanese and American court decisions

In its report, the Government states that its interpretation that Article 14(b) of the San Francisco Peace Treaty waived all individual claims "is consonant with a series of court rulings", and it then quotes from rulings in two cases involving claims brought by former prisoners of war: a ruling of 21 September 2000 of the United States District Court for the Northern District of California, in the case of In re: World War II Era Japanese Forced Labor Litigation, and a ruling of 11 October 2001 of the Tokyo High Court on a lawsuit filed by former Dutch prisoners of war. The Committee notes the ruling of the United States District Court of California, as set out by the Government: "(T)he treaty waives 'all' reparations and 'other claims' of the 'nationals' of Allied powers 'arising out of any actions taken by Japan and its nationals during the course of the prosecution of the war.' The language of this waiver is strikingly broad, and contains no conditional language or limitations, save for the opening clause referring to the provisions of the treaty. ... The waiver provision of Article 14(b) is plainly broad enough to encompass the plaintiffs' claims in the present litigation. ... The court ... concludes ... that the Treaty of Peace with Japan was intended to bar claims such as those advanced by the plaintiffs in this litigation."

The Committee also notes that the portion of the ruling quoted by the Government in the U.S. case omits the court's finding which specifies only that the Treaty, by its terms, adopted a settlement plan "for war-related economic injuries." (emphasis added)

Further, the Government in its latest report indicates that, during the period from 1 January 2001 to 30 June 2002, there were two cases in high courts and three in district courts in Japan involving claims by victims of the wartime practice of military sexual slavery. The Government indicates that the courts "rejected the plaintiffs' claims against the Government of Japan in all the cases". With regard to the April 1998 judgment of the Shimonoseki Branch of the Yamaguchi District Court, the Government states that both the defendant and plaintiffs appealed to the Hiroshima High Court. The Government states that the High Court issued its judgment on 29 March 2001, accepting the plea of the Government and ruling that it was not clear that the Government had a constitutional obligation to legislate, and that how to deal with post-war settlement should be left to the discretion of the legislature in terms of comprehensive policy-making. The Government also states that the plaintiffs appealed to the Supreme Court in March 2002 and are awaiting its final judgment.

The Committee notes that the rulings in this case were discussed in the December 2001 judgment of the Women's International War Crimes Tribunal: "The Hiroshima High Court reversed the Shimonoseki judgment on the ground that the individuals lack standing under international law. Not only does this Tribunal disagree with the Hiroshima court ruling as a matter of international law; we note also that, as a matter of principle, international law does not extinguish domestic law or remedies that are more protective of human rights."

C. Conclusions on legal basis for individual claims

The Committee has set out these matters in some detail in order to reflect the complexity of the issue and also to demonstrate the diversity of opinions which have been expressed as to whether there is a legal basis for the Comfort Women to claim compensation. In the view of the Committee the issue remains an open question. The Committee notes that the Government in the recent past has expressed the view that such rights have been extinguished by treaties; however, the texts quoted above demonstrate that such a view is not necessarily supported by independent experts.

This Committee has already previously emphasised that it does not have power to order relief for breach of the Convention. The Committee in its 2000 observation has also accepted that "the Government is correct in stating that compensation issues have been settled by treaty". The Committee has however refrained from expressing any legal view on whether those treaties have or have not resulted in individual claims of Comfort Women being extinguished as a matter of law. The Committee does not have any mandate to rule on the legal effect of bilateral and multilateral international treaties. The Committee is therefore unable and does not finally pronounce on that legal issue, which is the remit of other bodies.

1. Government response to claims of Comfort Women

As to the third major issue raised by the Government, in its report the Government indicates once again that, in recognition of the issue of the so-called wartime "Comfort Women", it has expressed its apologies and remorse on numerous occasions. It states that it has cooperated to the fullest extent possible with the Asia Peace National Fund for Women, or "Asian Women's Fund" (AWF), set up to provide "atonement" money to the victims by, among other things, bearing the operational costs of the fund and sending letters of apology from the Prime Minister. The Government indicates that in September 2002 the AWF completed the implementation of its programmes for the provision of atonement money. The Government states that, since October 2000, when the Government submitted its previous views to the Committee, an additional 114 victims had accepted the atonement money, and that the AWF has delivered atonement money to a total of 285 victims in the Philippines, the Republic of Korea and Taiwan.

The Committee also notes from the comments of the trade union organizations, that in 2002 the AWF announced the closure of its programmes. In its communication of 29 July 2002, the All Japan Shipbuilding and Engineering Union noted that on 20 July 2002, the AWF announced that 285 survivors had accepted atonement money. It points out, however, that this number does not include survivors from China, the Democratic People's Republic of Korea, or Indonesia, and that only some of the survivors from the Republic of Korea, Taiwan, the Philippines and the Netherlands had accepted atonement money.

In their observation, the KCTU and the FKTU point out that the "goodwill" of the AWF is refuted by many Korean victims who had to suffer the various "approaches" made by Fund-related persons to persuade them to accept the so-called "consolation money". The union organizations point out that, while the Fund may be an expression of goodwill by the Japanese people, Korean victims have not regarded the Fund and its activities as a valid response of the Government to their demands or as a resolution of the legal responsibilities of the Government under international law. They indicate further that the AWF is perceived as an effort by the Government to make a financial contribution without any prior official acknowledgement of responsibility and to evade the essential process of an official inquiry.

In its reply, the Government refers to statements in its report indicating, in part, that the Government came to consider the Asian Women's Fund as "the only feasible means for providing a practical remedy for former 'Comfort Women' who were already of an advanced age, because the issue of claims had been legally settled between the Governments and peoples of the parties to the treaties and agreements". The Government replies further, in part, that a number of the beneficiaries of the programmes "expressed their appreciation in one way or another", and that the Government considers that the Fund's programmes "have been steadily implemented and welcomed by a large number of the former 'Comfort Women' as illustrated by their words of appreciation".

The Committee notes the 1998 final report of UN Special Rapporteur McDougall, which states: "The Sub-Commission (on Prevention of Discrimination and Protection of Minorities) has joined other United Nations bodies in 'welcoming' the creation in 1995 of the Asian Women's Fund. The Asian Women's Fund was established by the Japanese Government in July 1995 out of a sense of moral responsibility to the 'Comfort Women' and is intended to function as a mechanism to support the work of NGOs that address the needs of the 'Comfort Women' and to collect from private sources 'atonement' money for surviving 'Comfort Women'. The Asian Women's Fund does not, however, satisfy the responsibility of the Government of Japan to provide official, legal compensation to individual women who were victims of the 'Comfort Women' tragedy, since 'atonement' money from the Asian Women's Fund is not intended to acknowledge legal responsibility on the part of the Japanese Government for the crimes that occurred during the Second World War" (appendix, paragraph 64).

The Committee has noted that organizations seeking additional measures from the Government have not considered the AWF to be a sufficient response, as there has been no compensation paid to victims directly by the Government and no apology based on an acknowledgement of legal responsibility towards the victims. In view of the latest comments and indications supplied by the Government and trade union organizations, the Committee considers, as it has previously, that the rejection by the majority of "Comfort Women" of monies from the AWF because it is not seen as compensation from the Government, and that the letter sent by the Prime Minister to the few who have accepted monies from the AWF is also rejected by some as not accepting government responsibility, suggest that the expectations of the majority of the victims have not been met.

The Committee further notes the recommendations of UN Special Rapporteur Coomaraswamy in Addendum 1 to her 1996 report. Pointing out that she "counts, in particular, on the cooperation of the Government of Japan, which has already shown, in discussions with the Special Rapporteur, its openness and willingness to act to render justice

to the few surviving women victims of military sexual slavery carried out by the Japanese Imperial Army", Special Rapporteur Coomaraswamy recommended, inter alia, that the Government of Japan should: (a) acknowledge that the system of "comfort stations" set up by the Japanese Imperial Army during the Second World War was a violation of its obligations under international law and accept legal responsibility for that violation; and (b) pay compensation to individual victims of Japanese military sexual slavery according to principles outlined by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms.

The Committee further notes the similar recommendations in paragraphs 63-67 of the final report of UN Special Rapporteur McDougall, as well as those in paragraph 1086 of the December 2001 Judgment of the Women's International War Crimes Tribunal for the Trial of Japan's Military Sexual Slavery.

The Committee notes the comments of the KCTU and the FKTU that the Government, despite the repeated recommendations of the UN human rights bodies and this Committee's observations, there has been no change by the Government in its approach. The Committee also notes the comments of the All Japan Shipbuilding and Engineering Union that aged victims are having great difficulty in travelling to Japan either for appearing before the court or for negotiating with government officials, and it expresses the fear that "most of the victims would pass away in a few years and that the chance of correcting the wrongdoings of the past would be lost forever".

D. Final conclusions on victims of wartime sexual slavery

This Committee reiterates that it has no mandate to rule on the legal effect of bilateral and multilateral international treaties and is therefore unable and does not finally pronounce on that legal issue. It has previously indicated its concerns about the ageing of the victims of the Government's earlier breach of the Convention and the failure of the Government to meet their expectations in spite of similarly publicly expressed views by other reputable bodies and persons on the issue. The Committee repeats its hope that the Government will take measures in the future to respond to the claims of these victims. The Committee asks to be kept informed as to any relevant court decisions, legislation or government action. The Conference Committee may wish to consider whether to look at the matter on a tripartite basis.

II. Wartime Industrial Forced Labour

The Committee has previously considered the wartime practice involving the forcible conscription of hundreds of thousands of labourers from other Asian countries, including China and the Republic of Korea, to work under private-sector control in Japanese wartime factories, mines and construction sites. The Committee has noted a 1946 report of the Japanese Ministry of Foreign Affairs (MOFA) entitled "Survey of Chinese labourers and working conditions in Japan", which details very harsh working conditions and brutal treatment, including a death rate of 17.5 per cent, and up to 28.6 per cent in some operations. Although these workers had been promised pay and conditions similar to those of Japanese workers, they in fact received little or no pay. The Committee has found that the massive conscription of labour to work for private industry in Japan under such deplorable conditions was a violation of the Convention.

In its last two observations, the Committee noted that there were still a number of claims by former prisoners and others pending in different instances, and in view of the age of the victims and the rapid passage of time, it had hoped that the Government would be able to respond to the claims of these persons in a satisfactory way.

The Committee notes in its latest very detailed report, that the Government remains of the view that, with regard to the issue of wartime industrial forced labour, it has "fulfilled its obligations" in accordance with the post-war treaties and agreements it entered into with the governments of the Allied Powers and other governments of the Asia-Pacific region, and that the issue has been "legally settled" by the parties to these agreements.

As it has indicated previously, the Government points out that it has actively promoted friendship and cooperation with the governments of its neighbouring countries. It refers in particular to the economic development assistance it has provided to the Republic of Korea and to China. The Government also indicates that it has formally expressed apologies for "past history" on various occasions, citing:

- The 1972 Joint Communiqué • of the Government of Japan and the Government of China, which includes a statement that the Government of Japan "deeply feels responsible for the serious damage it caused in the past to the Chinese people through the execution of the war, and profoundly reproaches itself";

- The 1993 statement by Chief Cabinet Secretary Yohei Kohno on the results of the study of the issue of wartime "Comfort Women", in which he said: "It is incumbent upon us, the Government of Japan, to continue to consider seriously, while listening to the views of learned circles, how best we can express this sentiment (of apology). We shall face squarely the historical facts as described above instead of evading them ...";

- The statement of Prime Minister Tomiichi Murayama on the "Peace, Friendship and Exchange Initiative" in 1994 in which he stated that one way to demonstrate such feelings (of apology) is "to face squarely to the past and ensure that it is rightly conveyed to future generations";

- The statement delivered by Prime Minister Murayama on 15 August 1995 on the occasion of the 50th anniversary of the war's end; and,

- The letters sent out in 2002 from Prime Minister Junichiro Koizumi to the victims of wartime sexual slavery. The letters state in part: "We must not evade the weight of the past, nor should we evade our responsibilities for the future. I believe that our country, painfully aware of its moral responsibility, with feelings of apology and remorse, should face up squarely to its past history and accurately convey it to future generations."

The Committee notes that the statements and expressions of apology cited by the Government include repeated references to the expression of an intent by the Government to "squarely face" its past history and not to evade its "moral responsibility".

In its 2001 observation, the Committee noted that a settlement was reached in one of the pending court cases, by which the contracting firm Kajima agreed to establish a 500 million yen (approximately $4.5 million) fund to compensate survivors and relatives of conscripted Chinese labourers who died at its Hanaoka copper mine during the war, with the fund to be administered by the Chinese Red Cross. The Committee requested the Government to provide additional information on this case and its impact on similar lawsuits against other firms.

The Committee notes the Government's indication that is not in a position to provide the Committee with information on the Hanaoka case in any detail because it was a civil law case brought by Chinese nationals against a private company and because certain lawsuits of a similar nature are currently pending at the Japanese courts. The Government notes that the settlement has not involved an admission of any legal responsibilities on the part of the company defendant for apologies or compensation.

The Committee notes the comments of the Tokyo Local Council of Trade Unions, indicating that the implementation of the settlement is moving forward. Kajima has set up the Hanaoka Friendship Fund with a donation of half a billion yen. The Council notes that on 26 March 2001, the executive committee of the fund held its first meeting at the Chinese Red Cross headquarters in Beijing, that on 27 September 2001, an initial allocation of funds was presented to 21 survivors, and that on 15 December 2001, a similar ceremonial presentation was made to 40 members of the bereaved families.

The Tokyo Local Council of Trade Unions refers to decisions on wartime forced labour compensation claims in three recent court rulings at the district court level. These include two against the Government: the judgment of the Tokyo District Court on 12 July 2001 in the Liu Lianren case, and a judgment of the Kyoto District Court on 23 August 2001 in the case of the Ukishima-Maru incident; and one against a private enterprise: the judgment of the Fukuoka District Court on 26 April 2002.

With regard to the judgements in the Liu Lianren and Ukishima-Maru cases, the Council indicates that these rulings are considered to be major victories. It points out that, while the court did not recognize the liability of the Government based directly on its policy and practice of wartime conscription and exaction of forced labour, the rulings are important in that they found that the Government had a duty to rescue and protect conscripted Chinese labourers who were the victims of that policy and to promote their repatriation, and because they found the

Government to be liable for compensatory damages in negligently failing, in these cases, to meet these obligations. The Council indicates that the Government has appealed these rulings to the higher courts "based on the statute of limitations and other legal technicalities". The Council expresses the view that the Government "is trying to evade its responsibilities counting out all possible legal excuses". The Council further states that the Government has "continued to turn down all forced labour-related claims and demands".

In its reply, the Government indicates that, during the period from 1 January 2001 to 30 June 2002, there were five rulings in high courts and two rulings in district courts in cases involving claims for compensation from the Government over its wartime policy of industrial forced labour, and that in all of these cases the plaintiffs' claims were dismissed. The Government states that, therefore, the two favourable rulings mentioned in the comments of the Tokyo Local Council of Trade Unions "are very exceptional" and "cannot be over-evaluated". The Government has noted that "it is not responsible for compensation claims for damages" and that it has appealed both rulings to the High Court. The Government indicates that, since the claims of Chinese and Korean nationals were "legally settled" according to post-war peace treaties and bilateral agreements to which the Government of Japan was a party, the district court rulings in the Liu Lianren and Ukishima-Maru cases "were not based on correct understanding of the settlement reached by these treaties, and were completely inappropriate".

The Committee notes the judgment of the Fukuoka District Court dated 26 April 2002, in which the court, while dismissing the claims against the Government, held the Mitsui Mining Company liable for damages in the amount of 11 million yen to each of 15 Chinese workers because of its actions, planned and carried out jointly with the Government, involving the wartime conscription and exaction of forced labour of the plaintiffs. In its comments, the All Japan Shipbuilding and Engineering Union points out that this is the first case in which a court has issued a ruling ordering the payment of damages caused by the practice of forced labour and forced recruitment during the Second World War. In its opinion, the court referred to article 5 of the 1972 Joint Communiqué・of the Governments of Japan and the People's Republic of China, and to the Treaty of Peace and Friendship between the two governments, in which China renounced its demands for war reparations. The court also referred, on the other hand, to a finding that at the time the San Francisco Peace Treaty was concluded in 1951, the Government of China maintained the position that individual Chinese citizens were in a position to bring claims, and to a public statement in March of 1995 by Qian Qichen, then Vice-Premier and Foreign Minister, indicating that the Government of China had renounced war reparations claims only at the state level, and not those of individual Chinese citizens. The court, taking these facts into consideration, held that it was unclear as a matter of law whether the claims of individual Chinese citizens had been finally renounced, and it concluded that it "does not recognize that the plaintiff's claim for damages has been renounced by the Joint Communiqué・and the Treaty of Peace and Friendship between the two countries".

In commenting on the judgment of the Fukuoka District Court, the Government points out that the court dismissed the claims against the Government and that the court ruled that there was a legal doubt as to whether individual claims of Chinese nationals for damages suffered during the war between Japan and China were renounced by the Joint Communiqué・of the Government and the Government of the People's Republic of China. The Government states further that the judgment "is based on the trivial and biased information which the plaintiffs provided without considering the views of the Government and the Government of the People's Republic of China, regarding the Joint Communiqué・ ... and others". The Government notes that the Mitsui Mining Company did not accept this ruling and has appealed it to the Fukuoka High Court, which is examining the case. With reference to the court's finding that, in March of 1995, Qian Qichen, then Vice-Premier and Foreign Minister made a public statement indicating that the Government had renounced war reparations claims at the state level but not those of individual Chinese citizens, the Government states that "this remark was reported only by the media and has not been confirmed by the Government of the People's Republic of China". The Government proceeds to cite three other remarks by Chinese government officials reported by the media, which appear to conflict with the March 1995 remark by the then Vice-Premier Qian Qichen.

The Committee notes the reference of the All Japan Shipbuilding and Engineering Union to H.R.1198, the Justice for United States Prisoners of War Act of 2001 ("Rohrabacher Bill"), introduced in the 107th Congress of the United States on 22 March 2001 in the House, and on 29 June 2001 in the Senate, of which the aim is "to preserve certain actions in federal courts brought by members of the United States armed forces held as prisoners of war by Japan during World War II against Japanese nationals seeking compensation for mistreatment or failure to pay wages in connection with labor performed in Japan to the benefit of the Japanese nationals". Section 3(a)(1) stipulates that courts "shall not construe section 14(b) of the Treaty of Peace as constituting a waiver by the United States of claims by nationals of the United States" against Japanese nationals, so as to preclude such actions. The

Committee notes the union's comment that the Rohrabacher Bill exemplifies that opinions are gaining ground in favour of a position that the San Francisco Peace Treaty should not preclude individual forced labour compensation claims.

In its response, the Government states that the Rohrabacher Bill "has serious problems because the Bill would change the settlement by the Treaty of Peace retrospectively. Moreover the Government of the United States has strongly opposed to this Bill which would violate the obligation stipulated in the San Francisco Peace Treaty, and would undermine the relations between Japan and the United States".

Final conclusions on wartime industrial forced labour

As with the victims of wartime sexual slavery, the Committee indicates that it has no mandate to rule on the legal effect of bilateral and multilateral international treaties. The Committee takes the same approach, namely, that it requests to be kept informed as to the outcome of the Liu Lianren, Ukishima-Maru and Fukuoka District Court cases and any relevant court decisions, as well as any legislation or government action. The Conference Committee may wish to consider whether to look at the matter on a tripartite basis.

Observation (CEACR) - adopted 2003, published 92nd ILC session 2004

The Committee in its last observation discussed at some length the extent of the mandate of the Committee in respect of the two historical breaches by the Government of the Convention relating to the Second World War and the years leading up to it; namely military sexual slavery referred to as the "Comfort Women" and wartime industrial forced labour. The Committee concluded in each case that it had no mandate to rule on the legal effect of the bilateral and multilateral treaties and whether they extinguished individual claims for compensation; it refers to its previous observation on the Convention. The Committee in all the circumstances asked the Government to inform it of any future decisions, legislation or government action in respect to the long-running claims being made by the victims. The Committee also suggested that the Conference Committee "may wish to consider whether to look at the matter on a tripartite basis".

The Committee notes the information provided by the Government in a lengthy report on 14 January 2003, responding to the observations of the Committee. In its report the Government reiterates its point of view on the legal issues; refers to the expressions of apologies and remorse which have already been made; refers to the activities undertaken by the Asian Women's Fund and provided information on the results of past proceedings before various judicial bodies.

The Committee also notes that during the Conference Committee on the Application of Standards in June 2003, whilst there was some general discussion in response to the observation of this Committee, the Conference Committee did not include this issue for examination in more detail on a tripartite basis.

I. Additional comments received

- Comments made by the Korean Confederation of Trade Unions (KTCU) and the Federation of Korean Trade Unions (FKTU), received on 8 September 2003;

- Comments made by the All Japan Shipbuilding and Engineering Union, received on 29 August 2003;

- Comments made by the Japanese Trade Union Confederation (JTUC-RENGO), received on 30 September 2003.

A report is due from the Government in relation to this Convention in 2004 and the Committee requests the Government at that time to comment on the above communications and any changes occurring in relation to further decisions, legislation or Government action on these issues.

Observation (CEACR) - adopted 2004, published 93rd ILC session 2005

The Committee has discussed on a number of occasions the application of this Convention to sexual slavery (so-called "Comfort Women") and industrial slavery, both during the Second World War.

The issues have been examined at length in earlier comments by the Committee, and there is no need to repeat them again. The Committee noted in 2001, after a very detailed examination of the situation, that: "it has no mandate to rule on the legal effect of bilateral and multilateral international treaties and is therefore unable and does not finally pronounce on that legal issue. It has previously indicated its concerns about the ageing of the victims of the Government's earlier breach of the Convention and the failure of the Government to meet their expectations in spite of similarly publicly expressed views by other reputable bodies and persons on the issue. The Committee repeats its hope that the Government will take measures in the future to respond to the claims of these victims. The Committee asks to be kept informed as to any relevant court decisions, legislation or government action". This statement has been repeated in later observations in 2002 and 2003.

I. Additional Comments Received

In the Committee's previous observation, in 2003, it requested the Government to reply to observations received from workers' organizations under article 23 of the Constitution, as follows:

- Comments made by the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU), received on 8 September 2003;

- Comments made by the All Japan Shipbuilding and Engineering Union, received on 29 August 2003;

- Comments made by the Japanese Trade Union Confederation (JTUC-RENGO), received on 30 September 2003.

Since the Committee's last session, three additional sets of observations have been submitted by the All Japan Shipbuilding and Engineering Union, which were communicated to the Government between June and September 2004. A 347- page observation (which included many historical documents) was also received from the Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU), which was communicated to the Government on 2 September 2004. The Government communicated its comments on all these in a 794-page observation (much of which consisted of the text of Court decisions) on 8 October 2004. Additional information from the All Japan Shipbuilding and Engineering Union was also received by the Office only very shortly before its session began, and it had been sent to the Government on 10 November 2004.

Save the most recent information forwarded to the Government on 10 November, the Government has replied to these observations in its communication of 8 October 2004 with minor amendments indicated by letter of 20 October 2004. The Committee notes that the Government has once again stated that the Committee should desist from further examination of this case, in particular since in 2004 the Conference Committee declined to take up the Committee's comments in a tripartite discussion.

The Government referred to the observation received from JTUC-RENGO on 30 September 2003 which stated that there is no violation of the Convention in current legislation or practice in Japan, and that it is beyond the mandate of the ILO to examine a case in which there has been no violation for 55 years. In this respect, the Committee has earlier indicated the basis on which it has kept the situation under review. In addition, the Government in its response referred, as it has done previously, to the Asian Women's Fund (AWF), which is supported by the Government. The AWF is comprised of donations from private Japanese corporations and citizens in a public-private partnership with the Government. The Government has again emphasized its financial contribution to the AWF which consists of bearing administrative costs and sending the Prime Minister's letter of apology to women victims. The Government also referred to the payment of atonement money from the AWF to 285 former Comfort Women in the Philippines, the Republic of Korea and Taiwan.

II. Relevant court decisions.

The Government's response and observations from workers' organizations have detailed a number of lawsuits filed by victims of sexual or industrial slavery, seeking compensation for damages against the Government, the

corporations concerned, or both. This information is provided in response to the Committee having asked to be kept informed of relevant court decisions. The Government has informed the Committee that in relation to women's claims for compensation for damages against the Government, court rulings in the Japanese Supreme Court, High Court and district court, as well as in the United States district court in cases which have so far been completed through the relevant processes, have resulted in their claims against the Government being dismissed. The Committee also notes that, at the time of the Government's report, some cases were still awaiting finalization of appeal processes. The Committee further understands that, in at least one case, one of the companies sued has decided to offer a monetary settlement to wartime victims of forced labour, at the suggestion of the court, before the appeals process was concluded.

The Committee notes this information, and asks the Government to continue to inform it in future reports of the results of those cases still not finally resolved, and of any others that may be filed.

Observation (CEACR) - adopted 2006, published 96th ILC session 2007

The Committee refers to its last examination published in 2005 of the application of this Convention concerning the issue of sexual slavery (so-called Comfort Women) and industrial slavery during the Second World War. In its observation of 2005 the Committee recalled its earlier conclusion that it:

... has no mandate to rule on the legal effect of bilateral and multilateral international treaties and is therefore unable and does not finally pronounce on that legal issue. It has previously indicated its concerns about the ageing of the victims of the Government's earlier breach of the Convention and the failure of the Government to meet their expectations in spite of similarly publicly expressed views by other reputable bodies and persons on the issue. The Committee repeats its hope that the Government will take measures in the future to respond to the claims of these victims. The Committee asks to be kept informed as to any relevant court decisions, legislation or government action.

The Committee had requested the Government to comment on communications received from workers' organizations and on any changes occurring in relation to further decisions, legislation or government action on these issues.

Since this last examination, the Committee has received the following observations from workers' organizations: from the Kanto Regional Council of the All Japan Shipbuilding and Engineering Union (ZENZOSEN) dated 24 May, 29 August and 9 September 2005, copies of which were forwarded to the Government on 16 September and 14 October 2005; from the Federation of Korean trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU) dated 31 August 2005, which were sent to the Government on 1 September 2005; from ZENZOSEN dated 30 May 2006, sent to the Government on 26 June 2006; and from the Tokyo Regional Council of Trade Unions (Tokyo-Chihyo) on 25 August 2006 transmitted to the Government on 14 September 2006.

The Committee notes the Government's communications dated 9 August and 20 October 2005, and 31 October 2006, in response to the comments of workers' organizations, as well as its report and attached comments received on 26 September 2006.

In addition, the Committee notes the communications on these matters sent by ZENZOSEN dated 25, 27 and 28 August 2006 and forwarded to the Government on 27 September 2006 and in relation to which it has not yet provided any comments. The Committee notes that the Government should have the opportunity to respond to those matters in it next report.

I. Industrial forced labour

A. The Committee notes that, according to ZENZOSEN and Tokyo-Chihyo, most of the cases of industrial forced labour brought by Chinese victims have been dismissed, usually on procedural grounds, and that the few favourable rulings in the lower courts have been reversed on appeal, also on procedural grounds. ZENZOSEN also states that in one lawsuit, filed against the Nishimatsu Construction Company, the plaintiffs won a favourable judgement in the Hiroshima High Court, which reversed a district court judgment and ordered a payment of compensation. A

number of these cases were specifically referred to in these communications from the workers' organizations.

B. The Committee notes that the Government, in its report received on 26 September 2006, has referred to cases and supplied copies of judgments, which appear to coincide with the cases referred to by the workers' organizations. The Committee notes that, according to information supplied by the Government, there were 19 cases concerning this issue, 14 had been decided and other cases were pending. In each of those 14 cases which had been decided, the respective courts had dismissed the plaintiff's claims for compensation, save for one case which appears to be the lawsuit, filed against the Nishimatsu Construction Company, in which the High Court sustained the claim for compensation "concerning the atomic bomb benefit".

C. In addition, the Government also advised the Committee that the following cases were pending, being those referred to in the ZENZOSEN communication, namely in:

- The Miyazaki District Court, filed by former Chinese victims of forced labour in the Makimine mine of Miyazaki Prefecture, on 10 August 2004, against the Japanese Government and Mitsubishi Material Co.;

- The Yamagata District Court, filed on 17 December 2004, against the Japanese Government and the Sakata Land-and-Sea Transportation Company, (based in Sakata-Shi) by former victims of forced labour from the Sakata harbour in the Yamagata Prefecture;

- The Kanazawa District Court, filed by former victims of forced labour in the Nanao Land-and-Sea Transportation Company (based in Nanao-Shi) by former victims of forced labour in the Nanao harbour of the Ishikawa Prefecture, on 19 July 2005.

D. Further, the Committee also notes the Government's reference to a case in the Osaka High Court, in which a financial settlement was reached with the defendant company, Nippon Yakin Kogyo Co., Ltd., and that a related claim in which the Government is the party-defendant is still pending in the Osaka High Court.

E. The Committee notes the Government's indication that it will provide further information to the Committee about each of these pending cases in due course. The Government has also reported on cases which have been taken in the California State Court against Japanese companies, which it reported have also been dismissed.

III. Sexual slavery

A. The Committee notes from the communications of the FKTU and KCTU that a global petition with 200,000 signatures calling on the Government to comply with the recommendations of the United Nations Commission on Human Rights and the ILO Committee of Experts and provide an official apology and reparations, which was forwarded in March 2005 to the Director-General of the ILO by the Chairperson of the Workers' group, on behalf of the KCTU and the FKTU. The Committee further notes the information from the observation of the FKTU/KCTU, dated 25 August 2006, that 106 victims of military sexual slavery have passed away in the Republic of Korea over the past 11 years, and 11 in the last year alone.

B. The Government further reports that during the period from 1 June 2004 to 30 June 2006, six court judgments and decisions were issued in military sexual slavery cases, all of which have entailed dismissals of plaintiffs' claims for compensation.

C. The Committee notes the information from ZENZOSEN that, in the case filed against the Government in the Tokyo District Court in 2001 concerning alleged practices of sexual violence occurring on Hainan Island in China, hearings and court sessions were concluded in March 2006, with no date set for final judgment. The Committee also notes the information from ZENZOSEN concerning a second case by Chinese victims involving similar alleged acts in the Shanxi Province of China. According to the same information, in that case the Tokyo High Court, on 17 March 2005, upheld a lower court's ruling, finding the government liable but rejecting the claims for compensation as being extinguished by the 1952 Treaty of Peace.

D. In relation to the two abovementioned cases, the Committee notes the Government's indication in its report that the Hainan Island case is still pending before the Tokyo District Court and, that in the second case, the plaintiffs have appealed the March 2005 ruling of the Tokyo High Court to the Supreme Court, where the case is still pending. The

Government indicates that it will provide the Committee with information about developments in both these cases in due course.

E. In relation to the issue of the Asian Women's Fund (AWF), the Government reports among other matters that, "Since all the projects to assist former 'Comfort Women' have been concluded as planned, the AWF has decided to be dissolved in March 2007". The Government further states in its report, received on 26 September 2006 that it "will continue to make efforts to seek further reconciliation with the victims and obtain their understanding for the sincere sentiment of the GOJ Government and its people".

F. The Committee firmly repeats its hope that the Government will in the immediate future take measures to respond to the claims of these victims, the number of whom are continuing to decline with the passing years. The Committee asks that the Government continue to inform it about the course and outcomes of pending cases and also to provide any other related information to the Committee.

Observation (CEACR) - adopted 2007, published 97th ILC session 2008

I. In its previous comments, the Committee has discussed at length the limits of its mandate in respect of the two historical breaches by the Government of the Convention relating to the Second World War and the years leading up to it namely, military sexual slavery (the system of so-called "Comfort Women") and wartime industrial forced labour. It will not repeat them here.

II. The Committee, in its last two observations, has requested the Government to continue to inform it about the course and outcomes of litigation in relation to claims of the victims and also to provide information about any related action. Next year is the reporting year for the Government under this Convention.

III. This year, following its previous observation, the Committee has received further information from numerous workers' organizations, including communications from:

- The All Japan Shipbuilding and Engineering Union received on 28 May, 27 and 28 August 2007, copies of which were forwarded to the Government on 5 June and 5 September 2007;

- The Japan Dockworkers Union (Nagoya Branch), received on 24 July 2007, of which a copy was forwarded on 21 August 2007;

- The All Toyota Labour Union (ATU), received on 10 August 2007, with a copy forwarded on 17 August 2007;

- The Heavy Industry Labour Union (Japan), received on 27 August 2007, with a copy forwarded to the Government on 5 September 2007;

- The Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU) received on 30 August 2007, with a copy forwarded to the Government on 11 September 2007;

- The Federatie Nederlandse Vakbeweging (FNV) received on 30 August 2007 with a copy forwarded on 13 September 2007. A second communication was received on 28 November 2007; and

- The International Trade Union Confederation (ITUC), received on 13 September 2007, of which a copy was forwarded to the Government on 21 September 2007.

IV. The Committee notes that the communications essentially referred to a number of recent judgments by Japanese courts in cases involving individual claims by victims of wartime industrial forced labour and military sexual slavery, in which the courts have dismissed the claims, finding that the legal basis of the claims has been extinguished by post-war treaties (or barred by statutes of limitation). At the same time, factual findings have been made in favour of the victim plaintiffs and encouraging the party defendants to settle the claims on moral or humanitarian grounds. Some cases may be the subject of future appeal on legal grounds.

V. In addition, the communications of the workers' organizations referred to above include reference to public

remarks in October 2006 and March 2007 by then Prime Minister Shinzo Abe and other Cabinet officials. The communications assert that the remarks amount to assertions denying proof of the use of direct, physical coercion by the Japanese military to recruit women and girls into conditions of wartime sexual slavery, which statements appeared to repudiate the August 1993 statement of the then Chief Cabinet Secretary, Mr Yohei Kono, reporting on the findings of a government inquiry, and noted by this Committee in its 2002 observation.

VI. The Committee notes the communication submitted by the Government dated 30 November 2007, informing it that, given the volume of communications it has received, it will provide a comprehensive report in 2008, which is its regular reporting year for this Convention. The Government however provided a copy in Japanese of the Supreme Court judgment on the Nishimatsu Corporation case on 27 April 2007. It also stated as regards the issue of "Comfort Women" that the position of the Government expressed in the statement of the then Chief Cabinet Secretary, Mr Yohei Kono, on the result of the study on the issue of "Comfort Women" in 1993 remained unchanged and that the then Prime Minister Abe has expressed his support for this statement.

VII. The Committee requests the Government to fully respond to the recent judicial and related developments referred to in the communications from the workers' organizations referred to above as well as to the observation contained in its last report.

Observation (CEACR) - adopted 2008, published 98th ILC session 2009

In its earlier comments, the Committee examined the issues of sexual slavery (so-called "Comfort Women") and industrial slavery during the Second World War. The Committee refers in this connection to its earlier considerations concerning the limits of its mandate in respect of these historical breaches of the Convention. In 2006, the Committee in its observation firmly repeated its hope that the Government would in the immediate future take measures to respond to the claims of the surviving victims, the number of whom have continued to decline with the passing years. The Committee also requested the Government to continue to inform it about any recent judicial decisions and related developments. In its 2007 observation, the Committee, in addition, requested the Government to respond to the communications by the workers' organizations.

The Committee notes the information communicated by the Government in its reports received on 10 July 2008, 1 September 2008 and 17 October 2008, as well as the Government's electronic communications dated 10 and 18 October 2008.

I. Comments received from workers' organizations

A. In 2008, the Committee has received further information from a number of workers' organizations, such as:

- All Japan Shipbuilding and Engineering Union (dated 25 May and 21 August 2008);
- Tokyo Regional Council of Trade Unions (Tokyo-Chihyo) (dated 27 May and 20 August 2008);
- All Japan Dockworkers Union-Nagoya Branch (dated 25 May and 2 June 2008);
- Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU) (dated August 2008);
- Heavy Industry Labor Union (Japan) (dated 25 August 2008);
- Teachers' Union of Nagoya Municipal High School (dated 26 August 2008);
- Aichi Union Seibonoie Branch (dated 25 August 2008);
- International Trade Union Confederation (ITUC) (dated 2 September 2008);
- Japanese Trade Union Confederation (JTUC-RENGO) (dated 17 September 2008).

Copies of these communications were forwarded to the Government for any comments it might wish to make. The Committee notes the Government's response to these communications received on 19 November 2008.

B. The above communications of the workers' organizations referred, inter alia, to the status of cases pending in Japanese courts involving claims by victims of wartime industrial forced labour. The Committee notes that, according to the information communicated by the Tokyo Regional Council of Trade Unions (Tokyo-Chihyo), as of 31 July 2008 there were five such cases pending in the appellate courts. In all of these cases the lower courts had

dismissed the claims, either on procedural grounds as time-barred and barred by state immunity or as having been waived by post-war treaties and communiqué. In two cases, final judgments dismissing the appeals were issued in July of 2008 by the Supreme Court of Japan, including the Niigata case, which involved a favourable decision on 26 March 2004 by the Niigata District Court and a judgment awarding compensation of 8 million yen to each victim, but which was subsequently overturned by the Tokyo High Court on 14 March 2007.

C. The Committee notes the indication of the Tokyo Regional Council of Trade Unions (Tokyo-Chihyo), in its communication dated 20 August 2008, that in one of the cases pending before the Fukuoka High Court, the court issued a ruling on 21 April 2008, in which it recommended that the parties, including the Government of Japan as one of the defendants, seek reconciliation and an amicable settlement of the claims involved. The All Japan Dockworkers Union- Nagoya Branch, in its communication dated 2 June 2008, referred to a petition for a recommendation for reconciliation and amicable settlement lodged with the Japan Supreme Court, in the case against the Government of Japan and Mitsubishi Heavy Industries, Ltd, brought by Korean victims of wartime industrial forced labour, the petition having been lodged after the Government of Japan declined to respond to a recommendation for settlement made by the Nagoya High Court in its judgment on 31 May 2007.

D. The communications from the workers' organizations also referred to the issue of military sexual slavery as it continues to be taken up by several UN bodies, in particular, in the form of recommendations of the Working Group (of the UN Human Rights Council) on the Universal Periodic Review adopted in May 2008 (A/HRC/8/44, paragraph 60); as an item on the List of Issues taken up by the UN Human Rights Committee (CCPR/C/JPN/Q/5), in connection with its consideration in September 2008 of the Government's fifth periodic report under the International Covenant on Civil and Political Rights; and in recommendations of the UN Committee against Torture in connection with its consideration, in May 2007, of the first periodic report of the Government under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/JPN/CO/1, paragraphs 12 and 24).

E. The communications from the workers' organizations also referred to recent motions and resolutions on the issue of military sexual slavery adopted by several parliamentary bodies, which call for further measures to be taken by the Government of Japan. These include: a unanimous resolution passed by the lower house of the Netherlands Parliament on 20 November 2007; Motion 291 passed by the House of Commons of Canada on 28 November 2007; a joint motion for a resolution on "Justice for Comfort Women"', adopted by the European Parliament on 13 December 2007; as well as resolutions adopted by the Japanese District Councils of Takarazuka and Tokyo Kiyose on 25 March 2008 and 25 June 2008, respectively, urging the Government to take measures to examine and reveal the historical truth about the issue, to restore dignity and justice to the victims, to provide them with compensation, and to further educate the public.

II. Government's response

A. The Committee notes the Government's indication, in its report received on 1 September 2008, that as of 31 May 2008 there were 13 cases still pending in the Japanese courts involving claims by victims of military sexual slavery and wartime industrial forced labour (one and 12 cases, respectively). According to the report, during the period from 1 June 2006 to 31 May 2008 the courts pronounced on these issues in three "Comfort Women" cases (two cases by the Supreme Court and one at the district court level) and in 17 "conscripted forced labour" cases (seven cases by the Supreme Court, five judgments at the high court level, and five at the district court level). The Government also indicates that: "In all these cases, the courts have dismissed the plaintiffs' claims for compensation against the GOJ in accordance with domestic law and international law including the relevant treaties settling war-related issues".

B. The Committee notes the Government's indications in its report received on 1 September 2008 and in its electronic communications of 10 and 18 October 2008 that, with regard to the issue of "Comfort Women", the position of the Government expressed in the August 1993 statement of the then Chief Cabinet Secretary, Yohei Kono, in connection with a report on the findings of a government inquiry, had remained unchanged and continued to represent the Government's present position on this matter, and that the new Prime Minister Taro Aso had recently reaffirmed his support for this statement. The statement reads in part as follows:

Undeniably, this was an act, with the involvement of the military authorities of the day that severely injured the honour and dignity of many women. The Government of Japan would like to take this opportunity once again to

extend its sincere apologies and remorse to all those, irrespective of place of origin, who suffered immeasurable pain and incurable physical and psychological wounds as Comfort Women ... It is incumbent upon us, the Government of Japan, to continue to consider seriously, while listening to the views of learned circles, how best we can express this sentiment ...

C. The Committee has noted from the Government's statements in its report received on 1 September 2008, as well as in its replies to and comments on the recommendations of UN bodies referred to above, that with regard to non-legal measures to respond to the claims of surviving victims of wartime industrial forced labour and military sexual slavery and to meet their expectations, the Government has placed a heavy, almost exclusive emphasis on the Asian Women's Fund (AWF) and its related activities, an initiative launched in 1995 and continued until the Fund was dissolved on 31 March 2007, and that the AWF appears to constitute the sole measure the Government has contemplated taking to fulfill its acknowledged moral responsibility to the victims. The Committee recalls that in its 2001 and 2003 observations it considered that the rejection by the majority of former "Comfort Women" of monies from the AWF because it was not seen as compensation from the Government, and the rejection, by some, of the letter sent by the Prime Minister to the few who accepted monies from the Fund as not accepting government responsibility, suggested that this measure had not met the expectations of the majority of the victims. The Committee therefore expressed the hope that the Government would make efforts, in consultation with the surviving victims and the organizations which represent them, to find an alternative way to compensate the victims in a manner that would meet their expectations. The Committee recalls in this connection the Government's statement in its report received on 26 September 2006, with reference to the dissolution of the AWF in March 2007, that it "will continue to make efforts to seek further reconciliation with the victims".

D. The Committee hopes that in making these further efforts to seek reconciliation with the victims, the Government will, in the immediate future, take measures to respond to the claims being made by the aged surviving victims. The Committee also requests the Government to continue to provide information about recent judicial decisions and related developments.

Observation (CEACR) - adopted 2010, published 100th ILC session 2011

I. Referring to its earlier comments, the Committee notes the information provided by the Government in its reports received on 13 and 30 September 2010, as well as in the Government’s communications received in November 2009 and November 2010.

In its earlier comments, the Committee examined the issues of wartime industrial forced labour and sexual slavery (so-called “comfort women”) during the Second World War. It refers in this regard to its earlier considerations and conclusions concerning the limits of its mandate in respect of these historical breaches of the Convention. In its previous observation, the Committee expressed the hope that, in making further efforts to seek reconciliation with the victims, the Government would take measures in the immediate future to respond to the claims of the aged surviving victims. The Government was also requested to continue to provide information about recent judicial decisions and related developments.

-The Committee notes communications received in 2009 and 2010 from the following workers’ organizations:
-All-Japan Shipbuilding & Engineering Union (AJSEU) (dated 10 August 2009 and 20 August 2010);
-Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU) (dated 26 August 2009 and 27 August 2010);
-Teachers’ Union of Nagoya Municipal High School (dated 12 August 2009 and 20 August 2010);
-National Federation of Construction Engineering Workers’ Unions for Japan (JCEW) (dated 18 August 2010);
-International Trade Union Confederation (ITUC) (dated 16 September 2009 and 1 September 2010);
-The Netherlands Trade Union Confederation (FNV) (dated 30 August 2010).

Copies of the above communications from workers’ organizations were forwarded to the Government for any comments it might wish to make on the matters raised therein. The Committee notes the Government’s response to these communications received on 13 September and 19 November 2010.

Some of the above communications of the workers’ organizations referred, inter alia, to positive developments,

such as settlement of certain forced labour cases. Thus, the Nishimatsu Construction Company, a private company profiting from industrial forced labour during the Second World War, reached an agreement with all 360 former victims of forced labour at the Yasuno Power Plant in Hiroshima Prefecture on 23 October 2009; it also reached an agreement with 183 Chinese victims of forced labour at a power plant in Niigata Prefecture on 26 April 2010. These settlements were reached after the decision of the Supreme Court of Japan of 27 April 2007, according to which Chinese plaintiffs had no legal right to seek compensation for the damages caused by forced labour exacted by the Nishimatsu Construction Company, but the Court suggested in conclusions that the parties involved (the Nishimatsu Company and the Government) take voluntary measures to relieve the pain of the victims. The settlement provides 250 million yen to 360 victims in the Hiroshima case and 128 million yen to 183 victims in the Niigata case.

The communications from the workers' organizations also referred to the issue of military sexual slavery as it continues to be taken up by the United Nations bodies, in particular, in the form of recommendations of the Committee on the Elimination of Discrimination Against Women (CEDAW), which examined the issue of "comfort women" at its forty-fourth session (20 July to 7 August 2009). This issue was also referred to in the report of the Special Rapporteur on violence against women, its causes and consequences, submitted to the United Nations Human Rights Council on 23 April 2010 (A/HRC/14/22).

Some of the above communications also referred to resolutions adopted by the local councils of Japan. Since March 2008 and up to August 2010, 30 local councils adopted resolutions urging the Government to solve the Japanese military sexual slavery issue, to restore dignity and justice to the victims, to provide them with compensation, and to further educate the public.

The Committee notes the Government's indication in its report received on 13 September 2010 that, during the period from 1 June 2008 to 31 May 2010, the courts "pronounced" on two cases regarding the "comfort women" issue (one decision by the Supreme Court and one judgment at the high court level) and on 16 cases regarding "conscripted forced labourers" (six decisions by the Supreme Court, nine judgments at the high court level and one judgment at the district court level), in which the plaintiffs claimed state compensation for damages. The Government states that, in all these cases, the plaintiffs' claims for compensation against the Government of Japan have been dismissed, in accordance with the relevant international agreements and joint communiques on the settlement of problems. The Government also indicates that, as of 31 May 2010, there were no cases pending in the Japanese courts concerning the "comfort women" issue and only five cases still pending in courts concerning "conscripted forced labourers".

The Committee takes due note of the Government's statement in the report that the Government of Japan has sincerely and faithfully dealt with the issues of reparations, property and claims relating to the Second World War, including those related to the issue of "comfort women", in accordance with its obligations under the San Francisco Peace Treaty, bilateral peace treaties and other relevant treaties and agreements. Concerning, more particularly, the issue of "comfort women", the Government reiterates that it remains committed to the position expressed in the August 1993 statement of the then Chief Cabinet Secretary, Yohei Kono, where he expressed sincere apologies and remorse to the former "comfort women", while recognizing that this issue was, with the involvement of the military authorities of the day, a grave affront to the honour and dignity of a large number of women. This statement embodies the Government of Japan's official position on this matter which remains unchanged. The Government also states that the Government of Japan has since expressed its sincere apologies and remorse on many occasions. In addition, when the activities of the Asian Women's Fund (AWF) were implemented, the Prime Minister, on behalf of the Government of Japan, sent a letter expressing apologies and remorse directly to each former "comfort woman".

The Committee previously noted from the Government's earlier statements in its reports that, with regard to non-legal measures to respond to the claims of surviving victims of wartime industrial forced labour and military sexual slavery and to meet their expectations, the Government has placed emphasis on the AWF and its related activities, an initiative launched in 1995 and continued until the Fund was dissolved in March 2007, after it had completed its objectives. As the Committee has considered in its 2001 and 2003 observations, the rejection by the majority of former "comfort women" of monies from the AWF because it was not seen as compensation from the Government, and the rejection, by some, of the letter sent by the Prime Minister to the few who accepted monies from the Fund as not accepting government responsibility, suggested that this measure had not met the expectations of the majority of the victims. The Committee therefore expressed the hope that the Government would make efforts, in consultation with the surviving victims and the organizations which represent them, to find an alternative

way to compensate the victims in a manner that would meet their expectations.

The Committee notes the Government's statement in its report that it will continue to implement follow-up activities of the AWF. The Government indicates that, as part of such follow-up, the Government of Japan has entrusted the people who were involved in the AWF to implement visiting care activity and group counselling activity (Republic of Korea and the Philippines), as well as exchange of opinions with government officials and academia (Indonesia and the Philippines). The Committee also notes the Government's statement in its communication received on 19 November 2010, that the Government of Japan is arranging an occasion for a government member in a responsible position to meeting with former "comfort women" to directly convey the views of the Government of Japan and to listen carefully to their current living circumstances, past experiences and their personal sentiments.

Given the serious long-standing nature of the case and noting the abovementioned government indications, the Committee reiterates its hope that, in making these further efforts to seek reconciliation with the victims, the Government will take measures, in the immediate future, to respond to the claims being made by the aged surviving victims of wartime industrial forced labour and military sexual slavery, the number of whom has continued to decline with the passing years. Please provide information, in particular, on the implementation of the follow-up activities of the AWF referred to above and on any other measures, taken or envisaged, including any follow-up to the information received on 19 November 2010.

Observation (CEACR) - adopted 2012, published 102nd ILC session 2013

For a number of years, the Committee has been examining the issues of wartime industrial forced labour and sexual slavery (so-called "comfort women") during the Second World War. It has referred in this regard to its earlier considerations and conclusions concerning the limits of its mandate in respect of these historical breaches of the Convention. On numerous occasions, the Committee expressed the hope that, in making further efforts to seek reconciliation with the victims, the Government would take measures to respond to the claims of the aged surviving victims. The Government was requested to continue to provide information about any developments in this regard.

The Committee notes the information provided by the Government in its reports received on 5 September and 1 October 2012, as well as in the Government's communications received on 28 February and 14 and 16 November 2011.

The Committee notes communications received in 2011 and 2012 from the following workers' organizations:
-All-Japan Shipbuilding & Engineering Union (AJSEU) (dated 24 and 28 August 2011 and 17 August 2012);
-Federation of Korean Trade Unions (FKTU) and Korean Confederation of Trade Unions (KCTU) (dated 27 August and 5 October 2011 and 28 August 2012);
-National Confederation of Trade Unions (ZENROREN) (dated 21 September 2012).

Copies of the above communications from workers' organizations were forwarded to the Government for any comments it might wish to make on the matters raised therein. The Committee notes the Government's response to most of these communications received on 5 September and 14 November 2012.

The Committee notes that, in the above communications, the workers' organizations express concern about the position of the Government with regard to the issue of "comfort women" and call on the Government to take urgent measures to resolve the issue. Some of the above communications deny the role of the Asian Women's Fund (AWF) in restoring the victims' dignity, since the surviving victims largely rejected the compensation offered by the Fund and expressed their opposition to its activities. Some of the workers' organizations also express their scepticism about the follow-up activities of the AWF being implemented by the Government. They also call on the Government to review national laws with a view to removing existing obstacles to obtaining full reparations before Japanese courts and to settle the wartime forced labour issue.

Some of the above communications refer to a decision of the Constitutional Court of the Republic of Korea passed on 30 August 2011 on the constitutional appeal filed by 109 surviving victims of military sexual slavery, in which the Constitutional Court urged the Korean Government to take proactive action to restore the violated human rights of the victims. In compliance with this decision, the Korean Government proposed bilateral talks to settle the issue

with the Government of Japan. Following the above ruling of the Constitutional Court, the Korean Supreme Court ordered the lower courts of the Republic of Korea to retry two cases of wartime industrial forced labour on 24 May 2012.

The communications from the workers' organizations continue to refer to the issue of military sexual slavery as it had been taken up by the United Nations bodies, in particular, in the report of the Special Rapporteur on violence against women, its causes and consequences, submitted to the United Nations Human Rights Council on 23 April 2010 (A/HRC/14/22). Some of the above communications also referred to resolutions adopted by the local councils of Japan and the Republic of Korea. Thus, since March 2008 and up to August 2012, 36 Japanese city councils and 54 Korean city councils adopted resolutions urging the Government to solve the Japanese military sexual slavery issue, to restore dignity and justice to the victims, to provide them with compensation, and to further educate the public.

The Committee has taken due note of the Government's repeated statement in its reports that it remains committed to the position expressed in the August 1993 statement of the then Chief Cabinet Secretary, Mr Yohei Kono, where he expressed sincere apologies and remorse to the former "comfort women", while recognizing that this issue was, with the involvement of the military authorities of the day, a grave affront to the honour and dignity of a large number of women. The Government reiterates that this statement embodies its official position on this matter which remains unchanged. It recalls that the Government of Japan has since expressed its sincere apologies and remorse on many occasions, based on the then Prime Minister Tomiichi Murayama's statement in August 1995. The Government also refers once again to a letter expressing apologies and remorse, which was sent by the Prime Minister, on behalf of the Government of Japan, directly to each former "comfort woman", in connection with the activities of the AWF.

As regards the non-legal measures to respond to the claims of the surviving victims of wartime military sexual slavery and to meet their expectations, the Government refers once again to the activities of the AWF, which was established in 1995 in order to extend atonement from the Government and people of Japan to the former "comfort women" and was dissolved in 2007, after it had completed its objectives. The Committee has noted the Government's indication that it provided all possible assistance for the AWF, including bearing its total operational costs, fully supporting its fund-raising activities and providing the necessary funds to implement its activities. In this regard, the Government once again indicates that it contributed approximately US$60 million from the national budget and Japanese people donated approximately US$7 million to the AWF. However, the Committee recalls that it has considered in its earlier observations that the rejection by the majority of former "comfort women" of monies from the AWF, because it was not seen as compensation from the Government, suggested that this measure had not met the expectations of the majority of the victims. The Committee therefore expressed the hope that the Government would make efforts, in consultation with the surviving victims and the organizations which represent them, to find an alternative way to compensate the victims in a manner that would meet their expectations.

The Committee notes that the Government repeats its previous statement that it will continue to implement follow-up activities of the AWF. The Government reiterates that, as part of such follow-up, the Government of Japan has entrusted the people who were involved in the AWF to implement visiting care activity and group counselling activity (Republic of Korea and the Philippines), as well as exchange of opinions with government officials and academia (Indonesia and the Philippines). The Committee also notes from the Government's report, and from a communication received in February 2011, that Mr Yutaka Banno, then State Secretary for Foreign Affairs, and Ms Makiko Kikuta, then Parliamentary Vice-Minister for Foreign Affairs, met with former "comfort women" in November 2010 and January 2011 in Japan and explained in person the Government's views and listened to their current living circumstances, past experiences, wishes and personal feelings. The Government also indicates that, in the light of the meetings, it has increased the budget of the visiting care activities and group counselling activities and will continue to implement follow-up activities of the AWF, while continuing its efforts to grasp the needs of former "comfort women".

Finally, the Committee notes the Government's indication in its report that, during the period from 1 June 2010 to 31 May 2012, the courts "pronounced" on five cases regarding "conscripted forced labourers" with regard to lawsuits in which the plaintiffs claimed state compensation for damages. The Government indicates that, in all these cases, the plaintiffs' claims for compensation against the Government of Japan have been dismissed by reason that all these cases do not fall under the reasons of final appeals of the Code of Civil Procedure. There were no court decisions regarding the "comfort women" issue. The Government also indicates that, as of 31 May 2012, there were no cases pending in the Japanese courts concerning the "comfort women" and "conscripted forced

labourers" issues.

While observing that representatives of the Government met with the "comfort women" in 2010 and 2011, the Committee notes with **concern** that no concrete outcome has been noted. ***The Committee expresses the firm hope that, given the seriousness and long-standing nature of the case, the Government will continue to make further efforts to achieve reconciliation with the victims, and that measures will be taken, without further delay, to respond to the claims being made by the aged surviving victims of wartime industrial forced labour and military sexual slavery. The Committee requests the Government to provide information on the implementation of the follow-up activities of the AWF referred to above and on any other measures taken or envisaged, including any follow-up to the meetings with former "comfort women" referred to above.***