

Japan

The “Comfort Women” Issue

Basic Information

(1) Subject

Violence against women (Japan’s military sexual slavery/ the “Comfort Women” issue)

(2) Relevant CEDAW Article

Article 2 (b) (d)

(3) Reference to Past CEDAW Concluding Observations

A/58/38 [outcome of 2003 Review]

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.”

A/50/38 [outcome of 1994 Review]

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) Response in the government report

The relevant information is provided in Paragraphs 91-97 entitled “Asian Women’s Fund” in the Government report (CEDAW/C/JPN/6). NGO information to each paragraph of the Government Report are provided on the following pages.

Contents of Shadow Report

1. Executive Summary	p1
2. NGO Information Concerning the Government Report to CEDAW	p2
Chart 1: Diminishing references in history textbooks used in compulsory education	p6
3. Legal Argument Concerning the “Comfort Women” Issue	p7
Map 1: “Comfort Stations” identified in the Asia-Pacific region	

Appendix1: The list of Recommendations/Resolutions by UN human rights mechanisms, foreign assemblies, city councils in Japan, and the “Comfort Women” bill presented to the Diet of Japan

Appendix2: Compilation of the Individual Observation by the Expert Committee (CEACR) of the ILO concerning the "comfort women" issue

1. Executive Summary

The Eighteen-year History of the "Comfort Women" Issue Significant Differences from the 2003 Review

1. The call of the international community for a solution is growing.

Since the last review of the Committee in 2003, several UN and other international human rights organizations including the Committee Against Torture (CAT), the Human Rights Committee (CCPR), the Universal Periodic Review of the Human Rights Council (UPR), and the ILO, have made recommendations over the "comfort women" issue. Further, foreign legislatures, including the United States, the Netherlands, Canada, South Korea, Taiwan, the European Union, and several city councils in Australia have passed resolutions calling for the Government of Japan to respond to the international community's concern regarding the "Comfort Women" issue. Throughout the world, more and more people want the Government of Japan to take positive steps to provide a solution acceptable for the survivors.

2. Why should the international community raise the issue now?

The Government of Japan points only to the activities of the Asian Women's Fund (AWF), a private fund as its effort to redress the pain, suffering, and humiliation caused by the state-sponsored "Comfort Women" system. The AWF, however, was never designed to compensate all the women abused in this system and was terminated in March 2007. The Government of Japan no longer has the means or desire to continue to address this issue.

At the same time, denials of the "Comfort Women" system have continued and intensified. Parliamentary groups exist solely to disprove that the "Comfort Women" were part of a coercive government policy. In the Diet on February 19, 2007, then-Foreign Minister Taro ASO noted that the "comfort women" system involved no coercion. On March 1, 2007, then-Prime Minister Shinzo ABE stated publicly that there had been no coercion used by authorities against any "Comfort Women".

As of 2006, no history textbooks used in Japan's compulsory junior high school system contains the phrase "Comfort Women", with ambiguous descriptions of the matter remaining in only two of them. This is in contrast to 1997 when all did. Thus, only 17.3 percent of students in junior high school currently have the opportunity to learn anything concerning the "Comfort Women." The international community understands how all these forms of denial continue to traumatize and deny the former "Comfort Women" of their human dignity and rights.

3. Need for a solution - very little time is left for the aging survivors.

Eighteen years have passed since the first victim came forward and spoke out. The survivors are now very senior and many of them have passed away¹. Nine out of the ten claims (except for the last one still pending at court) filed with Japanese courts by "Comfort Women" survivors against the Government of Japan for apology and state compensation were dismissed finally by the Supreme Court, thus exhausting domestic remedies. Without legislative and/or administrative measures by the Government of Japan, the survivors will remain victims and Japan's obligations under the CEDAW unfulfilled.

Recommendation

The State party has not accepted its legal responsibility for the "Comfort Women" system established and operated by Japanese Imperial Military during World War II. The fact that perpetrators have not been prosecuted, that the references to the "Comfort Women" issue are being removed from history textbooks used for compulsory education, and that politicians and the mass media continue to defame victims or to deny the facts themselves, intensifies the suffering of the women survivors and constitutes continuing violations of their rights and dignity.

The State party should immediately issue an apology that is acceptable to the majority of the victims of the "Comfort Women" system, take immediate and effective legislative and/or administrative measures to adequately compensate all survivors, prosecute perpetrators who are still alive, and educate students and the general public about the historical facts. These measures are essential in order to remedy the survivors and to prevent the recurrence of wartime sexual violence.

¹ E.g., In South Korea, out of 234 survivors registered, 143 survivors have passed away. In Taiwan, out of 58, 40 survivors have passed away, as of May 2009.

2. NGO Information Concerning the Government Report to CEDAW

Government of Japan Says:

4. Asian Women's Fund (AWF)

91. *The Government of Japan provides the following updates regarding so-called 'comfort women issue' in response to the Concluding Comments issued in 2003 by the UN Committee on the Elimination of Discrimination against Women on Japan's Fourth and Fifth Periodic Reports.*

92. *The Government cooperated fully with the AWF, which was established in July 1995, to fulfill the AWF's activities. The Government provided a total of approximately 4.8 billion yen from the time of the AWF's founding through the end of fiscal year 2005.*

93. *Using the donation by the Japanese people, the AWF provided 2 million yen each to so-called former comfort women in the Philippines, South Korea, and Taiwan as 'atonement money'. The Government of Japan also disbursed about 510 million yen from the national budget so that the AWF could undertake medical and welfare support projects. In addition, a letter from the Japanese prime minister expressing apologies and remorse was sent directly to each of the so-called former comfort women along with atonement money, and when medical and welfare support projects were initiated. These projects ended in September 2002.*

In reality:

The Asian Women's Fund was not state compensation. The government report merely describes the projects of the Asian Women's Fund, which was dissolved in March 2007. It does not refer to any new measures or solutions as requested in the last concluding observations of the Committee. Many UN human rights organizations have pointed out that the AWF was insufficient and recommended that the state's responsibility should be taken through administrative or legislative measures. Jan Ruff-O' Herne, one of the survivors from the Netherlands, stated that the AWF itself was a humiliation, that they wanted no charity, but demanded compensation from the Government of Japan as a legitimate and legal remedy².

AWF was not directed at all the survivors. Despite the fact that "comfort stations" were practically wherever the Japanese troops went (See: Map 1), AWF projects did not cover DPRK, China, Malaysia, East Timor, Burma, Papua New Guinea and Japan, where the survivors had come out. Thailand, Vietnam, Cambodia, Singapore, India, Guam, Solomon Islands, Palau, and other Southern Islands are the countries/regions where the existence of "comfort stations" has been identified, although survivors have not yet come out. To date, Japan has not announced any plans to conduct investigations in these areas or to provide redress to any survivors.

Government funds were used mostly for management. The amount provided to the individual survivors would be only 765 million yen, as opposed to the 4.8 billion yen the Government of Japan reports that it provided for the AWF. 3.6 billion yen was used for management and other activities in the AWF.³

The governments of Taiwan and South Korea have not welcomed the Asian Women's Fund. Both these governments offer their survivors financial assistance for medical care and living expenses. In particular, the Taiwanese Government has made it clear that this is advance payment to be distributed until the Government of Japan begins to pay compensation.

The letters of apology from the Prime Ministers were sent only to those survivors who accepted the "atonement money" from the AWF. This means that the vast majority of the survivors did not receive a letter of apology.

² Testified on December 9, 2000, at the Women's International War Crimes Tribunal for the Trial of Japan's Military Sexual Slavery held in Tokyo, Japan.

³ Calculating from the government report, 510 million yen for medical and welfare support projects who accepted "atonement money," 255.5 million yen for the scheme in the Netherlands, and 380 million yen to build elderly houses in Indonesia, which did not include survivors.

Government of Japan Says:

94. *As regards the Netherlands, the AWF discussed with those concerned in the Netherlands ways to provide support for the so-called former comfort women residing in the Netherlands. As a result, it initiated a project in the Netherlands worth a total of 2.45 million yen to improve the living conditions of those in need.*

In reality:

Neither of the two Dutch survivors who have come out to date approve of the scheme. They chose to continue to fight for proper apology and state compensation. Jan Ruff-O' Herne, the first Dutch survivor who came forward in 1992, testified at the US Congress in 2007 prior to their House of Representatives adoption of the resolution calling the Japanese government to provide an "unequivocal" apology to the survivors. Elly Colly van der Ploeg fought through the lawsuit against the government of Japan claiming for its official apology and compensation (first filed in 1994, dismissed in 2001).

Nor the people of the Netherlands accept the AWF as sufficient. In November 2007 the parliament of the Netherlands passed a resolution calling on the Government of Japan to make direct moral and financial compensation to the survivors. The Minister of Foreign Affairs, Maxime Verhagen, has stated that the Government of the Netherlands will follow-up the resolution. (See: Appendix No 1, p11.)

Government of Japan Says:

95. *Respecting the intent of the Government of Indonesia, the Government of Japan provided 380 million yen to support a project to build housing for elderly Indonesians as a way of improving social welfare for the so-called former comfort women. This project was completed by the end of March 2007.*

In reality:

The money the Government of Japan expended in Indonesia was NOT used for the survivors. The Indonesian "Comfort Women" survivors who had come out verified that they received no information from the government or any local governments concerning "the projects for the elderly" funded by the Government of Japan. In 2002, a visiting delegation of Diet members found that no one in the Japan-funded facilities for the elderly that they visited seemed to have been a "Comfort Women". The Indonesian survivors have received neither any form of redress nor the Prime Minister's "letter of apology."

In Indonesia, when the Ex-*Heiho* association called for the registration in 1992, as many as twenty thousand women submitted documents as survivors of the "comfort women" system. No further research or hearing by such NGOs has been done since then due to the lack of resources. Neither the government of Japan nor the government of Indonesia has conducted any fact-finding research on this matter.

Government of Japan Says:

96. *The AWF was actively engaged in resolving various issues that confront women today. These efforts included holding international forums, supporting NGO public relations activities, conducting opinion surveys and research, providing counseling for women, and conducting research to provide mental care.*

97. *Although the AWF was dissolved on 31 March 2007, the Government of Japan will continue to endeavour for the enhancement of public awareness concerning the efforts made by Japanese people and government through the AWF.*

In reality:

During the time period when the AWF was spending a big budget from the government, the phrase "comfort

women” was being erased from the history textbooks used in compulsory education, and the number of minister level politicians who deny the facts of the “comfort women” issue increased. Apart from the AWF, the government of Japan has done nothing to address the issue of “comfort women”.

References to “comfort women” erased from history textbooks. After Chief Cabinet Secretary KONO Yohei issued an official statement (the “Kono Statement”) in August 1993, which acknowledged the involvement of the government and military of Japan and the use of force in the “comfort women” system, descriptions of the “comfort women” appeared in all the seven textbooks approved by the Education and Science Ministry for use in junior high schools (the last phase of mandatory education) by 1997. However, references to the “comfort women” issue have been gradually erased. In February 2004, the Minister of Education even stated: “It is wonderful that words like ‘military comfort women’ and ‘forced recruitment’ no longer appear in most textbooks”. This statement has brought to light the stance of the Government of Japan.

In the textbooks used in 2006, the phrase “comfort women” was completely gone, and weakened descriptions (without using the phrase) remained in only two textbooks. This means that only 17.3% of students in junior high school has the opportunity to learn anything about the fact of “comfort women” system now. (See Chart 1)

No references to “comfort women” in 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, is important to provide other means of educating the people about “comfort women”. However, the National Museum of Japanese History makes any reference to the facts about “comfort women”. The Showa-kan (National Showa Memorial Museum), another national museum, which was established next to the Yasukuni Shrine in 1999 to preserve the hardships of “Japanese people” during and after WWII also makes no reference “comfort women”, nor anything about the suffering of other people from the Asia-Pacific region.

Denial of the facts by Minister-level politicians and the absence of governmental rebuttals. In the Diet session on February 19, 2007, Foreign Minister ASO Taro agreed with Representative INADA Tomomi that the “comfort women” system involved no coercion. On March 1, 2007, Prime Minister ABE Shinzo stated that there had been no coercion used by authorities against “comfort women”. Both Ministers later stated that they adhered to the 1993 Kono Statement (see above).

Other cabinet members and minister-level politicians, including former cabinet ministers, have repeatedly been denied the historical facts, sometimes calling “comfort women” commercial prostitutes of the time. For instance, a full-page advertisement entitled “The Facts” appeared in the Washington Post on 14 June 2007, which reiterated these claims. Forty-four Diet members were among the signatories of this advertisement.

The Government of Japan has never officially refuted such negative comments. Those politicians who made false comments have hardly been sanctioned for those statements. Denials by Minister-level and other politicians, and the fact that the government makes no rebuttal or sanctions have a broad negative impact on the general public in Japan.

Furthermore, the recent Cabinet decisions show that the government of Japan is determined to keep its position equivocal with regard to this issue. In particular on 16 March 2007, the Cabinet disclosed its decision that the documentation concerning “comfort women” found as of 1993 included no “direct” evidence of “coercion”, and that “it [the Cabinet] has no plan to make into a cabinet decision the content of the [Kono] Statement”, which acknowledged the official involvement and use of coercion.⁴ The Government of Japan intends to keep the acknowledgement of coercion and the “Comfort Women” system in an ambiguous legal and political status.

Insincere response to the UN Human Rights Treaty Bodies. In 2008, the Human Rights Committee(CCPR) issued concrete recommendations on the issue, referring to matters including the acceptance of legal responsibility, apology that is acceptable to the majority of victims, prosecution of perpetrators, legislative and administrative measures for compensation, educating the general public, and the refutation and sanction for denial⁵.

In response, the Government of Japan issued an official statement that “a recommendation [of the committee] is

⁴ On this day, the Cabinet officially replied in writing to a parliamentary enquiry made by Representative TSUJIMOTO Kiyomi. The reply notes as follows: “Among the materials the government had found prior to the day when the research results [and the Kono Statement, which is a result of the research] were disclosed, no reference was found that directly indicates so-called “coercion” [carried out] by the military or constituted authorities.” “The Cabinet Secretary’s Statement is not a Cabinet decision, but something that the subsequent Cabinets have succeeded.” “The basic stance of the government is that it keeps to the Statement; An Official Cabinet reply in writing is a Cabinet decision. In other words, this reply of 16 March 2007 made it clear that the acknowledgement of the official involvement and use of coercion as described in the Kono Statement has less authority than the government’s intention for keeping the acknowledgement under ambiguous legal and political status.

⁵ Concluding observations of the Human Rights Committee. Para. 29. Human Rights Committee Ninety-fourth session, Geneva, 13-31 October 2008. (CCPR/C/JPN/CO/5)

not legally binding and is not such that it is a duty for a State party to the International Covenant on Civil and Political Rights to adhere to.”⁶. This insincere attitude of the Government of Japan is a denial of the efforts of the international community to improve human rights situations through the UN human rights mechanisms. Another example of an insincere response was to the Committee against Torture (CAT). The concluding observation of the CAT recommended that the government of Japan provide education, rehabilitation, etc, since “remedial measures are themselves a means of preventing further violations of the State party’s obligation in this respect under the Convention”. The CAT asked the government of Japan to provide follow-up information. However, the government did not do so and repeated the same statement in the follow-up procedure. The CAT reiterated in its communication that the government non-action “foster continuing abuse and re-traumatization”, and stated it look forward to pursuing “the constructive dialogue”⁷.

Opposition to Efforts for Parliamentary Resolutions Overseas. 2007 marked a year of parliamentary resolutions over the “comfort women” issue. A resolution or motion calling for Japan’s official and unequivocal apology was adopted in the US House of Representatives, as well as the Dutch, Canadian and the European Parliaments. The government of Japan is reported to have worked very hard to prevent the passage of these resolutions. In the case of the US resolution, the government of Japan reportedly paid to a firm in 2006 “about \$60,000 per month to lobby on the sole matter of historical issues related to World War II” including claims concerning Japan’s abuses of American P.O.W.s as well as “comfort women”⁸.

⁶ The cabinet written response on January 13, 2009, to the memorandum on questions submitted by MP Ikuko TANIOKA

⁷ REFERENCE: jmn/pdf/follow up/CAT, May 11, 2009

⁸ Silverstein, K. *Cold Comfort: the Japan Lobby Blocks Resolution on WWII Sex Slaves*, Harper's Magazine, October 5, 2006.

Chart 1: Diminishing references in history textbooks used in compulsory education

Publisher	1993	1997	2002	2006	Adoption rate(2006)
Kyoiku Shuppan	No reference	<p>["War and the people's life" ...], and many Korean women were sent to the battlefield as 'comfort women' for Japanese soldiers.</p> <p>["Prospect of the post-war compensation issue"]... they include former 'comfort women,' victims of massacres, forcible draft and forced labor</p> <p>["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.</p> <p>A former comfort woman seeking for compensation and the citizen's group in support * caption of the picture</p>	No reference *1	No reference	11.8%
Tokyo Shoseki	No reference	<p>["Prolonged war and China and Korea] There were many young women who were sent to the battlefield against their will.</p>	No reference	No reference	51.2%
Osaka Shoseki	No reference	<p>["War and the people's life" ...], and many Korean women were sent to the battlefield as 'comfort women' for Japanese soldiers.</p> <p>["Postwar compensation"] Among serious issues are the 'comfort women for Japanese soldiers', forcible draft, difference in postwar compensation between nationalities including Taiwanese.</p> <p>Victimized former comfort women march in protest against the Government of Japan seeking for postwar compensation * caption of the picture of "Postwar compensation"</p>	No reference	No reference	15.4%
Nihon Bunkyo Shuppan	No reference	<p>["People's life in war"] There were women who were forced to go with the army as 'comfort women'.</p>	No reference	No reference	1.4%
Nihon Shoseki Shinsha * "Nihon Shoseki" until 2002	No reference	<p>["People's life in war: Luxury is the enemy"] ...and made women go with the army as 'comfort women' and treated them brutally.</p>	<p>["Greater East Asia Co-prosperity Sphere' Illusion"] ...and young women were forcibly collected in many areas in Asia, such as Korea, and sent to the battlefield as 'comfort women'.</p> <p>["Japan's postwar settlement"] ...based on this, men forcibly drafted for labor, former comfort women and the victims of the Nanking Massacre have brought court cases seeking compensation and apologies from the Government of Japan.</p> <p>Ms Kim Haksun appeals: Ms Kim Haksun brought a court case seeking compensation and apologies from the Government of Japan [1991] * caption of the picture</p>	<p>["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.</p> <p>[as the headline of the newspaper article presented in the textbook] 35 people including former comfort women.</p> <p>* Its caption reads: 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]</p>	3.1%
Teikoku Shoin	No reference	<p>["Still remaining scars of the war"] Some were former comfort women...among those from these areas...</p> <p>["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.</p>	<p>[in a note of "Postwar compensation and neighboring countries"] ...court cases were brought by women seeking compensation for having been sent to comfort facilities in the wartime ...</p>	<p>[in a note of "Postwar compensation and neighboring countries"]...court cases seeking postwar compensation were brought by women who were sent to comfort facilities, or by men from Korea or Taiwan who were drafted as Japanese soldiers in the wartime...</p>	14.2%
Shimizu Shoin	No reference	<p>["Forcible labor draft of people from Korea, China and Taiwan"] ...women from Korea and Taiwan, ..., were made to work in the facilities for comfort on the battlefield.</p>	<p>["War and common people"] ...women from Korea or Taiwan, as well as Japan, in human facilities for comfort on the battlefield...</p>	No reference	2.4%
Fusosha	*Not published	* Not published	No reference	No reference	0.4%

*1 The original textbook applied for authorization included an account: "and many Korean women were sent to the battlefield" -- which could infer 'comfort women'. The correction was ordered to this part: "many Korean women were sent to the factories".

3, Legal Argument concerning the “Comfort Women” Issue

(A) Legal Responsibility of Japan

The Government of Japan has repeatedly insisted that the matter is already resolved by the San Francisco Peace Treaty and other bilateral treaties. A number of UN human rights bodies, including CCPR, CAT, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) of ILO, the Special Rapporteurs on Violence against women, its causes and consequences and the Special Rapporteur on Systematic rape, sexual slavery and slavery-like practices during armed conflict, however, have clarified Japan’s legal responsibility under international law. The following is the summary of the Japan’s legal responsibility under international law as well as domestic law clarified by many legal experts.

(1) Japan’s legal responsibility under international law

Japan is responsible for its wrongful acts under international law. Internationally, the government of Japan had and still has legal obligations to prevent, prosecute and punish these wrongful acts, and to provide remedy to the victims of those acts. Japan’s legal state responsibility has not been discharged.

· Japan was a signatory to the following international agreements:

The 1907 Hague Convention on Land Warfare and its Regulations

Japan ratified this Convention in 1911. The Convention and Regulations cover the wrongful acts committed to the women in the occupied areas. The women from Japan’s “colonies” (namely Taiwan and the Korean Peninsula) and Japan proper may not be covered by these regulations, but are within the scope of crimes against humanity.

The agreements and conventions concerning suppression of traffic in women in 1910s and 1920s

Japan was a signatory to the following agreements and conventions in 1925:

- the International Agreement for the Suppression of White Slave Traffic of 1904
- the International Convention for the Suppression of White Slave Traffic of 1910
- the International Convention for the Suppression of Traffic in Women and Children of 1921

Japan was required under Articles 2 and 3 of the 1921 Convention to prosecute persons engaged in trafficking of women and children. Japan declared that its colonized territories were not included within the scope *ratione territorii* upon acceptance of the Convention. Most of the “comfort women” were minors, however; as such Japan’s international obligation under this Convention was applied to their cases regardless of the girl’s place of origin. Also, many of the “comfort women” from the colonies were put into sexual slavery in China and other areas that were under Japan’s occupation; as such were also covered by the Convention.

The 1930 International Labour Organisation Convention Concerning Forced Labour (ILO Convention No. 29)

Japan ratified this convention in 1932. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) of ILO repeatedly pointed out that Japan’s military sexual slavery until 1945 was in breach of this Convention (See Appendix 2).

· Japan recognized international customary law as expressed in the 1926 Slave Convention

While Japan was not party to this convention, the convention was an expression of international customary law of the time, which had become *jus cogens* by at least the time of WWII. As early as 1872, a Japanese court ruled in favour of a Chinese labourer who tried to flee from coolie trade (The Maria Luz Incident)⁹.

· The waivers in the San Francisco Peace Treaty and subsequent bilateral peace agreements that the government of Japan keeps as its grounds do not cover the following cases:

The cases of the people from the countries and regions that are not parties to the San Francisco Peace Treaty or have not signed bilateral peace agreements with Japan. This category may include The DPRK.

Further, “women did not have an equal voice or equal status to men at the time of conclusion of the Peace Treaties, with the direct consequence that the issues of military sexual slavery and rape were left unaddressed at the time and formed no part of the background to the negotiations and ultimate resolution of the Peace Treaties¹⁰. For example, the sexual damage suffered by women under the Japanese military was not at all

⁹ Yoshimi, Y. , *Comfort Women*, Columbia University Press, New York, 2000, p202.

¹⁰ Para. 1051, The Women’s International War Crimes Tribunal for the Trial of Japan’s Military Sexual Slavery, Judgement on

addressed in the bilateral negotiation for the 1965 Treaty of Basic Relations between Japan and ROK. This fact was revealed in 2005, when the government of ROK declassified the whole records and documents of the negotiation process. In contrast, the government of Japan has not declassified all its documents, especially the minutes and internally discussed records related to the claims on the war damages. The lawsuits filed by citizens of Japan in 2006 demanding the declassification of all the documentation related to the bilateral treaty are ongoing.

(2) Japan's Legal responsibility under domestic law

·The acts committed against “comfort women” were prohibited by Japan's own domestic law at the time. Acts of traffic in women and girls were also illegal.

– The Official Order No. 295 of 1872 confirmed the ban on traffic in people and released prostitutes from their debt bondage.¹¹

– The Penal Code of 1907 criminalized confinement and trans-border transportation of persons against their will, be it by force or threat, or by deception or use of “sweet words”. (Articles 224-228; effective today through repeated revisions, most recently Act No. 36 of 2006)”

– In 1937, the Supreme Court of Imperial Japan found guilty certain procurers for collecting women in Japan proper with a false promise of a job, sending them to Shanghai and forcing them into “comfort stations” for Japanese troops¹².

·The Government of Japan is liable under Japan's Civil Code for the wrongful acts committed to “comfort women”.

When contesting the claims that it is legally responsible for the damage suffered by “comfort women”, the government of Japan takes up different arguments domestically and internationally. Against the claims of survivors in Japanese courts, the government of Japan includes the following “grounds” that it does not assert to UN organizations and others outside Japan: the principle of State Immunity (the pre-war Japan's principle which made the State immune of liability for the damages the State unlawfully inflicted upon its citizens) should be applied to the acts committed until 1945; and the technical statute of limitations by which the right to bring a matter to court diminishes after twenty years from the time when the act in question was committed. The government also claims that the San Francisco Peace Treaty and subsequent bilateral peace agreements have settled the victims' claims finally. Most of the decisions by Japanese courts have accepted these arguments and rejected the claims made by the women survivors.

These arguments of the government of Japan, however, are not regarded as established legal principles even in Japanese courts. Some of the courts have dismissed them. The Tokyo High Court on 18 March 2005 found that the principle of State immunity should not be applied to such cases as the case of Chinese “comfort women”. The Supreme Court on 12 June 1998 found that the technical statute of limitations for making lawsuits are not applicable for certain cases. The Supreme Court on 27 April 2007 found that only the authority to make a claim, but not the right itself for compensation, was waived in the post-war peace treaties.

(B) Failure to investigate and prosecute perpetrators

On February 7th, 1994, twenty-seven Korean “comfort woman” survivors and the Korean Council for the Women Drafted for Military Sexual Slavery by Japan tried to submit criminal complaints to the Tokyo District Public Prosecutors Office in order to seek criminal investigation and prosecution for the “comfort women” system. The Prosecutors office did not accept them on the following legal technical grounds: 1. the statute of limitation had run; 2. the names of the perpetrators were unidentified; 3. the facts of damage were

Common Indictment and the Application for Restitution and Reparation, The Hague, 2001.

¹¹ The system of licensed prostitution that existed in Japan until 1946 may be described as a de facto system of sexual slavery and prostitutes then were hardly able to exercise their rights. Since 1900, however, Japanese law provided for prostitutes' freedom to quit altogether. In 1872 the Government of Japan had issued Official Order No. 295, in which it “confirmed the ban on traffic in people, released prostitutes from their contracts and settled the issue of their debts.” Women put under Japan's military “comfort women” system had no freedom “to quit, to change or choose their residence, or even to leave the vicinity temporarily... Women transported to areas under Japanese occupation far from their homes found escape utterly impossible, as all transportation routes were under Japanese military control... Japan's military ‘comfort women’ system was literally sexual slavery, in a far more thorough and overt form”, run by the State itself, who illegalized the same act when committed by its citizens.

¹² *Mainichi Shimbun*, 6 August 1997

unidentified; and 4. penalty articles were inadequate¹³. On September 7th, 2008, in response to the inquiry made by a member of the Diet concerning the grounds of this rejection, the Japanese Ministry of Justice replied that it had no knowledge since there were no records kept on this case.

In order to amend this failure of Japan and other States to discharge their responsibility *erga omnes* for ensuring justice, the “Women's International War Crimes Tribunal on Japan's Military Sexual Slavery” was held in Tokyo in December 2000 by the initiative of the survivors, their supporters and other human rights workers from the victimized countries, the perpetrating country Japan and the global civil society at large. Sixty-four survivors from eight victimized countries gathered at the Tribunal and testified to their ordeal. Four eminent international lawyers, led by Gabrielle Kirk McDonald, former President of the International Criminal Tribunal for the Former Yugoslavia (USA) as the Presiding Judge, were the Judges of the Tribunal¹⁴. The Tribunal invited the Government of Japan to take part, but received no response whatsoever. The Tribunal issued its final Judgment in The Hague, The Netherlands, in December of the following year¹⁵. The accused ten high-ranking officials, including Emperor Hirohito, were found guilty for crimes against humanity through the Japanese Imperial Army's mass rape and sexual slavery. The Tribunal further acknowledged the Government of Japan's state responsibility and made concrete recommendations. The judgment was handed to Japan's Minister of Foreign Affairs in 2002. To date, however, the Government of Japan has not followed up on the recommendations made by the global civil society through this Judgment.

(D) Failure to compensate the victims

(1) Opposition to Court Cases

There have been ten cases filed against the government of Japan at Japanese domestic courts by women survivors of Japan's military sexual slavery. The plaintiffs are from five different countries and regions, all claiming legal state compensation and apology from the government. One of them is still pending but in other nine cases, the women's claims have been dismissed finally by the Supreme Court. In all these court cases, the government of Japan has contested the plaintiffs' claims on such technical grounds as statute of limitations and the immunity of the State at the time of the act concerned.

To this day, the Japanese court has stated on two occasions that the redress of the "comfort women" survivors should be done through legislation. In 1998, the decision of the Shimonoseki Branch, the Yamaguchi District Court, in which the plaintiffs enjoyed a partial victory, accepted that the government was responsible for the lack of legislation for a very limited period of the few years after 1993 when the government had officially acknowledged its involvement, and ordered the government to pay compensation to the victimized women plaintiffs for the inaction during the period. The decision of the Tokyo District Court of April, 2003, though it dismissed the plaintiffs' claims and negated that the inaction of the government for a solution through legislation constitute an illegal act, found facts of damage according to the plaintiffs' allegation and went even as far as stating that redress through legislation and administration is hoped for.

The government of Japan, however, instantly made an appeal in 1998 in the former case, and contested exhaustively in court until the Supreme Court finally dismissed the women's claims in March 2003. And the government has shown no sign of trying to act upon the direction of the particular Tokyo District Court's decision of 2003 as described above¹⁶.

In addition to its refusal to accept legal responsibility over the matter, the government of Japan has never

¹³ Totsuka, E., “Nihon ga shiranai sensou sekinin”(war responsibility that Japan doesn't know), Hogaku Seminar (legal seminars), No. 472, 1994, pp 104-105

¹⁴ The other three Judges were: Carmen Maria Argibay, President of the International Women's Association of Judges (Argentina); Christine Chinkin, expert on gender and international law (United Kingdom); and Willy Mutunga, President, Commission on Human Rights (Kenya)

¹⁵ The ILO Committee of Experts introduced the legal discussion of the Hague Judgment of the Tribunal and cited for seven paragraphs in its report published in 2003 (CEACR: Individual Observation concerning Convention No.29, Forced Labour, 1930 Japan(ratification: 1932) published 2003.

¹⁶ Generally speaking, in the post-war Japan, it has often been the situation related to various lawsuits filed by citizens against the government for compensation (for the damages of pollution, inappropriate social welfare, etc), where the government contested in court while it passed new laws or altered related administrative measures, so that even though the plaintiffs finally lost their case, those citizens suffering a similar damage were later provided redress somewhat or rather in the way the plaintiffs of the lawsuits had demanded. Regarding the issue of Japan's military sexual slavery, however, the government shows no sign of making such a response.

seized these lawsuits as an opportunity for fact-finding or finding of the truth. In some of the cases, this has led the court to stay away even from making factual findings in its decisions, thus resulting in depriving the women of a formal/official recognition of the harm inflicted upon them, which is an essential aspect for the rehabilitation and healing of a victim of sexual violence.

(2) Failure to provide redress through legislation and/or administration

The government of Japan has never approached the Diet for a resolution through legislation, a necessary step towards that end. If the government of Japan wishes to provide victims with redress, measures through legislation or administration should be an effective option¹⁷. The government, however, makes no such effort despite the explicit requests from the judiciary. The Government and the LDP the ruling party, however, far from making positive efforts for a resolution through legislation, have been making even negative movements against the "*Promotion of Resolution for Issues concerning Victims of Wartime Sexual Coercion Bill*" that the opposition parties proposed for the first time in March 2001.¹⁸

¹⁷ In Japan, about 80 % of newly established legal codes are originated by the Cabinet.

¹⁸ *Promotion of Resolution for Issues concerning Victims of Wartime Sexual Coercion Act (Bill)*. Introduced to the House of Councilors jointly by the Democratic Party of Japan, the Japanese Communist Party, the Social Democratic Party on March.31th 2001 for the first time, and the bill was discarded and reintroduced several times since then.

An NGO Shadow Report to CEDAW

JAPAN

44th Session 2009

APPENDIX No.1

List of Recommendations / Resolutions on the “Comfort Women” Issue

	Contents
I, Recommendations by UN Human Rights Bodiesp1	
	<i>A. Concluding Observations by Treaty Bodies</i>
1. Human Rights Committee (CCPR) (CCPR/C/JPN/CO/5)	
2. Committee against Torture(CAT) (CAT/C/JPN/CO/1)	
3. Committee on the Elimination of Discrimination against Women(CEDAW) (A/58/38)(A/50/38)	
4. Committee on Economic, Social and Cultural Rights(CESCR) (E/C.12/1/Add.67)	
	<i>B. Reports of the Special Rapporteurs</i>
1. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène	
2. The Special Rapporteur on Systematic rape, sexual slavery and slavery-like practices during armed conflict, Ms. Gay J. McDougall	
3. The Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy	
	<i>C. Universal Periodic Review (UPR) of Human Rights Council</i>
II, Resolutions Adopted by Foreign Assembliesp9	
A. United States of America: H. Res. 121, House of Representatives, July 30, 2007.	
B. The Netherlands: Motion by Van Baalen, adopted by the House of the Netherlands, November 8, 2007.	
C. Canada: Moved by Olivia Chow, adopted by the House of Commons of Canada, November 28, 2007.	
D. European Parliament: Resolution on Justice for the “Comfort Women”, December 13, 2007.	
E. Republic of Korea: Parliament of Republic of Korea, 8 October 2008	
F. Republic of China (Taiwan): Legislative Branch, 5 November 2008	
G. Australia: City Council, Municipality of Strathfield, 3 March, 2009	
H. Australia: City Council, City of Ryde, 10 March, 2009	
III, Position Statement Adopted by City Councils in Japanp16	
A. City Council of Takarazuka, Hyogo, March 26, 2007	
B. City Council of Kiyose, Tokyo, June 25, 2008	
C. City Council of Sapporo, Hokkaido, November 7, 2008	
D. City Council of Fukuoka, Fukuoka, March 25, 2009	

- E. City Council of Mino-o, Osaka, June 22, 2009
- F. City Council of Mitaka, Tokyo, June 23, 2009
- G. City Council of Koganei, Tokyo, June 24, 2009
- H. City Council of Kyo-Tanabe, Kyoto, June 29, 2009

VI, The “Comfort Women” Bill presented in the House of Councilors in Japan.....p23

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I. Recommendations by UN Human Rights Bodies

A. 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
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1. Human Rights Committee (CCPR)

2008	CCPR/C/JPN/CO/5	<p>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)</p> <p>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.</p>
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2. Committee against Torture(CAT)

2007	CAT/C/JPN/CO/1	<p>Statute of limitations</p> <p>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.</p> <p>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.</p> <p>Compensation and rehabilitation</p> <p>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.</p> <p>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.</p>
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3. Committee on the Elimination of Discrimination against Women (CEDAW)

2003	A/58/38	<p>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.</p> <p>362. [abbr.]...The Committee recommends that the State party endeavour to find a lasting solution for the matter of "wartime comfort women".</p>
1994	A/50/38	<p>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.</p> <p>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.</p>

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

2001	E/C.12/1/Add.67	<p>C. Principal subjects of concern</p> <p>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.</p> <p>E. Suggestions and recommendations</p> <p>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.</p>
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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
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1. Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène

2006	E/CN.4/2006/16/Add.2	<p>Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination Addendum, Mission to Japan</p> <p>III. PRESENTATION OF THEIR SITUATION BY THE COMMUNITIES CONCERNED</p> <p>D. The Koreans</p> <p>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”.</p> <p>V. RECOMMENDATIONS</p> <p>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.</p>
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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	<p>Contemporary Forms of Slavery, Update to the final report</p> <p>VI. DEVELOPMENTS CONCERNING JAPAN'S SYSTEM OF MILITARY SEXUAL SLAVERY DURING THE SECOND WORLD WAR</p> <p>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.</p> <p>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.</p> <p>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.</p>
1998	E/CN.4/S	Contemporary Forms of Slavery

	ub.2/1998 /13	<p>Final report, Appendix</p> <p>C. Recommendations</p> <p>1. The need for mechanisms to ensure criminal prosecutions</p> <p>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.</p> <p>2. The need for mechanisms to provide legal compensation</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> (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”. <p>Such steps, moreover, should be taken as quickly as possible in light of the advancing age of the comfort women.</p> <p>3. Adequacy of compensation</p> <p>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.</p>
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**Report of the Special Rapporteur on violence against women, its causes and consequences,
Ms. Radhika Coomaraswamy**

2003	E/CN.4/ 2003/75/ Add.1	<p>Integration of the Human Rights of Women and the Gender Perspective, Addendum 1</p> <p>International, regional and national developments in the area of violence against women 1994-2003</p> <p>JAPAN Issues of concern</p>
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		<p>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.</p>
2001	E/CN.4/2001/73	<p>Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission</p> <p>Alternative Approaches and Ways and Means Within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms</p> <p>Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000) Executive summary</p> <p>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.</p> <p>I. Japan: developments with regard to justice for comfort women</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>

		<p>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.</p>
1998	E/CN.4/1998/54	<p>Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission</p> <p>Alternative Approaches and Ways and Means Within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms</p> <p>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."</p> <p>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.</p>
1996	E/CN.4/1996/53/Add.1	<p>Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission</p> <p>Alternative Approaches and Ways and Means Within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms</p> <p>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</p> <p>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.</p>

1995	E/CN.4/ 1995/42	<p>Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission</p> <p>Alternative Approaches and Ways and Means Within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms</p> <p>Preliminary report</p> <p>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.</p>
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C. Universal Periodic Review (UPR) of Human Rights Council

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

30 May 2008

*The following is the excerpt of relevant reference on the “comfort women” issue from the report.

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);

II. Resolutions Adopted by Foreign Assemblies

A. 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'.

B. 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
Van Gennip
Van Dam
Van Bommel**

**Wilders
Peters
Voordewind
Pechtold**

**Van der Staaij
Thieme
Verdonk**

C. 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.

D. European Paliament

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.

E. Republic of Korea

<p>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</p>	<p>8 October 2008 Bill No. 1125</p>
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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

5 November 2008

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.

F. Republic of China (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

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

G. Strathfield, Australia

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

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.

H. Ryde, Australia

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 "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.

III. Position Statements Adopted by City Councils in Japan

City Council of Takarazuka, Osaka, Japan

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

City Council of Kiyose, Tokyo, Japan

June 25, 2008

**Written Opinion expressing the sense of Kiyose City Council
that the Japanese Government should deal with the "Comfort-Women" issue in good faith.**

Since June of last year, resolutions and motions have been adopted in the parliaments of US, the Netherlands, Canada and EU demanding the formal acknowledgment, apology, compensation, history education, and more, concerning the issue of "Comfort-Women". Furthermore, during the Universal Periodic Review of Japan by the U.N. Human Rights Council in May of this year, countries including

France, the Netherlands, South Korea, North Korea requested Japan to settle the issue of "Comfort-Women" in good faith.

However, the Government has not acted in a responsible manner. The lack of sincerity remains unchanged without full investigations into the truth of the "Comfort-Women" system, a formal apology to the victims as well as appropriate compensation, while at the same time the Japanese Government is pushing to eliminate the articles about "Comfort-Women" from school textbooks. The voices of criticism have risen against the shameful attitude of the Japanese Government widely in and outside the country.

We urge the Government to act in good faith respectfully in compliance with the statement of Chief Cabinet Secretary Yohei Kono of 1993, and to further it by conducting inquiries into the truth of the "Comfort-Women" system, making an apology and fulfilling the obligation to pay reparations, to teach the history at schools, and ultimately to recover the dignity and honor of the victims from different countries.

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

Kiyose City Council

City Council of Sapporo, Hokkaido, Japan

November 7, 2008

Written opinion No. 9

Written Opinion of Sapporo City Council on the Comfort Women Issue

On July 30, 2007, the U.S. House of Representatives unanimously adopted a resolution urging the Japanese Government to formally acknowledge and apologize for the sexual enslavement of young women known as "Comfort-Women" by the Imperial Military Forces of Japan.

Following the United States, similar motions and resolution have been adopted by the Parliaments in the Netherlands and Canada in November and by the EU Parliament on December 13 of last year. Moreover, the Committee of Foreign Affairs at House of Representatives in the Philippines also adopted a second resolution in March of this year, following one in 2005. Furthermore, the Government has repeatedly received recommendations and observations on this matter from international organizations such as UN human rights bodies and the ILO.

However, despite such international developments, the Government has done nothing to offer a formal apology in stark contradiction of the statement of Chief Cabinet Secretary Yohei Kono in 1993.

We call the attention to the fact that there are rising voices of criticism against the Government of Japan worldwide because the Government refuses to make a formal apology and to compensate the victims who suffered damages as "Comfort-Women", while it eliminated articles about the issue from school textbooks at the same time. The Government did not complete its investigations to reveal the entire picture of the "Comfort-Women" system.

We urge the Government and the Diet to make thorough investigations into the truth of the "Comfort-Women" system in sincere compliance with chief Cabinet Yohei Kono's statement in 1993 by performing the following actions, so that the victims may recover their dignity.

1. Acknowledge the fact that the "Comfort-Women" suffered damages and offer a formal apology to the victims through a Cabinet decision.
2. Enact legislation to settle the "Comfort-Women" issue and provide reparations to the victims so that they may recover their dignity.
3. Treat the "Comfort-Women" issue as historical fact and teach it at schools as well as to the public so that the Japanese people may pass down this lesson of history to the future generations.

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

Autonomy Act.

Sapporo City Council

The written opinion should be presented to :

Speaker of the Lower House, President of the Upper House, Prime Minister, the Minister of Public Management, Home Affairs, Posts and Telecommunications, the Minister of Justice, Minister of Foreign Affairs, the Minister of Education, Culture, Sports, Science and Technology

City Council of Fukuoka, Fukuoka, Japan

March 25, 2009

Position Paper for Seeking the Sincere Measures Initiated by the Japanese Government to Deal with the Japanese Military's "Comfort Women" Issue

Even though 64 years have passed since Japan inflicted tremendous suffering on the peoples of neighboring countries during the last World War, the injuries of suffering among the victims remain uncured. Besides those who suffered directly from the war, descendants of such victims have been suffering because their parents and grand parents remain uncured. The Japanese Military's "Comfort Women" issue is one of such symbolic example of this victimization.

In 2007, resolutions seeking recognition of responsibility and a formal apology from the Japanese government to victims of "Comfort Women" system have been passed in foreign congresses including those of the USA, the Netherlands, Canada, and the EU. In 2008, a similar resolution also passed in the committee on foreign affairs of the Philippine Congress, as well as in Congresses of Korea and Taiwan. Recommendations seeking a solution to this issue were also released by international human rights organizations including the United Nations. The international society has come to recognize the "Comfort Women" issue as a grave human rights violation that is relevant to present social issues and as such demands that the Japanese government deal with this issue sincerely.

Should the Japanese government deal with the "Comfort Women" issue sincerely, it will be recognized as the government's declaration of its intent to never again repeat the human rights violations of taking advantage of a women's sexuality in order to wage war. And at the same time, such a declaration shall lead not only to cure the injuries and suffering of war victims in Asian countries, but also help open a path towards reconciliation and peaceful co-existence among all of our nations.

Due to the continuous passing away of victims, a satisfactory solution should be reached quickly while the victims are still alive.

Therefore, the Fukuoka City Council is now strongly requesting that the Japanese Diet and Government deal with this issue sincerely by implementing the following measures, which are based on the comments made by Mr. Kono in 1993, then Chief Cabinet Secretary, concerning this issue.

1. Hold a public hearing in Diet to be attended by the victims.
2. Take responsibility for the "Comfort Women" issue and public apology.
3. Engage in restoring the honor and dignity of victims for the sake of finding a solution to the "Comfort Women" issue.

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

Hiroshi Kawaguchi, Chairperson of Fukuoka City Council

Addressed to: The Speaker of the House of Representatives, The President of the House of Councilors, The Prime Minister, The Minister of Justice, The Minister of Foreign Affairs, The Minister of Education, Culture, Sports, Science and Technology

Statement to call for sincere response from the State of Japan to the issue of “comfort women” by Japan’s military

64 years have passed since Japan caused massive damage to its neighboring countries at the past war. However, people’s wounds of war have not healed yet.

The United States House of Representatives adopted a resolution “urging Japan to formally acknowledge and apologise for its Imperial Armed Forces' coercion of women into sexual slavery” in July 2007.

Furthermore, similar resolutions were passed by the Dutch Parliament, the Canadian Parliament and the EU Parliament. International human rights bodies including the United Nations have issued recommendations for early settlement of the issue.

In 1993, then Chief Cabinet Secretary Yohei Kono issued a statement saying that “the Government of Japan would like to ... extend sincere apologies and remorse,” and “continue to consider seriously, how best we can express this sentiment.” However, no progress has been made since then.

Therefore, we demand that the government sincerely respond to the issue by making inquiries concerning the facts of the “Comfort Women” issue and by restoring honour to the survivors.

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

22 June, 2009
Mino'o City Council

Resolution on the Japanese Military “Comfort Women” Issue

Even though 64 years have already passed since people in neighboring countries suffered at Japan’s hand, the scars of those war victims have not yet healed. The issue of Japanese Military “Comfort Women” system perceived to be the most symbolic issue that involves war victims such as these.

The amount of news coverage concerning deceased ex-comfort women who suffered throughout every corner of Asia is currently increasing now that almost of them have reached ages over 80 years old. The Government of Japan once expressed its remorse over the “Comfort Women” issue through an apology issued in 1993 by then Chief Secretary of Cabinet , Sec.Kono, who said that “under the supervision of then military hierarchy, the issue represents a large number of women [who were] disgraced on their honor and dignity”

Having heard the statement, voices of those victimized women began to echo the same sentiment, saying “our honor and dignity shall not be restored truly without formal recognition of its responsibility and formal apology by the Japanese government.”

Resolutions which press the Japanese government to acknowledge its responsibility for the “Comfort Women Issue” and issue a formal apology have even been passed in foreign bodies, including the congresses of the US, the Netherlands, Canada and the EU in 2007, and in the congresses of the Philippines, Korea and Taiwan in 2008.

As victims, these women wish strongly that the misconduct and abuses of the past be addressed formally so that the sexuality of womanhood will never again be abused in the name of warfare and so that women in future generations will never be targeted for such war victims.

Secretary Kono's statement in 1993 explicitly said that "we express our firm decision to never avoid this historical fact but to face up the fact as a lesson, and to remember the fact permanently through the historical research and its educational system while voicing out our firm decision to never permit the same abuse to happen again and paying an attention at the issue including the academic research activities" based on the conduct of first and second official research.

We believe that by maintaining and developing the spirit of Kono's statement and by ensuring that the contents of the statement come to fruition, we will surely discover ways to provide war victims in Asia with healing as well as ways to coexist peacefully within the region through reconciliation.

We need to make this happen quickly so that we may restore dignity to the victims in a manner they find acceptable while they are still alive.

Therefore, the City Assembly strongly requests that the National Government take sincere measures to implement the provisions below.

1. Pay attention to the voices of victims and conduct a fact-finding mission.
2. Acknowledge its responsibility in "Comfort Women" issue and make an official apology.
3. Teach the younger generations the fact through historical education in schools in order that the same abuses and crimes not be repeated.

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

June 23, 2009
Junko Tanaka
Chairperson of the Mitaka City Assembly

City Council of Koganei, Tokyo, Japan

June 24, 2009

Statement to call for sincere response from the State of Japan to the issue of "comfort women" by Japan's military

64 years have passed since Japan caused massive damage to its neighboring countries at the past war. However, people's wounds of war have still not healed. Not only have people who were directly victimized been suffering, but also their children suffer from the victimization of their parents. The issue of "Comfort Women" by Japan's military is a symbolic case of this.

Resolutions urging Japan to formally acknowledge, apologise, and accept its responsibility for the crimes of the "Comfort Women" system were adopted by the American Congress, the Dutch Parliament, the Canadian Parliament and the EU Parliament in 2007. In 2008, similar resolutions were passed by the committee on foreign affairs at the House of Representatives in the Philippines as well as in Korea and Taiwan. International human rights bodies including the United Nations have issued recommendations for early settlement of the issue. International society has recognized the issue of "Comfort Women" as grave human rights violation that continue to the present, and called for the government of Japan to sincerely respond to the issue.

By doing so, Japan should express its resolution that such human rights violations such as the exploitation of women's sexuality in war and conflict should never be committed. This would lead to a healing people's wounds of war, facilitating reconciliation, peaceful coexistence in Asia.

The continuous news of deaths of the survivors justifies that a swift and just resolution to the issue must be provided.

Therefore, Koganei City Council urges the Government and the Diet of Japan, in a follow up to the 1993 statement by Chief Cabinet Secretary Yohei Kono on the “Comfort Women”, to sincerely respond to the issue by:

1. Holding a public hearing at the Diet inviting the survivors;
2. Accepting its responsibility for the crimes of the “Comfort women” system and issuing an official apology; and
3. Restoring honour of the survivors

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

24 June, 2009
Miyazaki Harumitsu
Chairperson of the Koganei City Council

City Council of Kyotanabe, Kyoto, Japan

June 29, 2009

Appeal to Urge the Japanese Government to Reach the Earliest and Real Settlement on the Issue of “Comfort Women.”

Sixty-four years have past since the end of World War II – Women who were victimized by the Japanese Imperial Army during the war still cry for a real apology and compensation from the Government of Japan. No words can describe the feelings of whose honor and dignity were so violated.

In July 2007, the U.S. House of Representatives passed a resolution calling on the Government of Japan to formally acknowledge its Imperial Armed Force’s coercion of young women into sexual slavery and apologize for it. Similar resolutions and motions in the Canadian House of Commons, the Dutch Parliament and the European Parliament followed the resolution. The Republic of the Philippines House of Representatives, and the Taiwan and South Korean Parliaments also adopted such resolutions in 2008. International human rights organizations such as the United Nations and the International Labor Organization (ILO) have also repeatedly conveyed suggestions and recommendations to the Government of Japan on the yet unsolved issue of “Comfort Women.”

The victimized women are now between the ages of 80 to 90. This issue must be solved respectfully and without any further delay. We urge the Government of Japan to earnestly uphold its position expressed in the Kono Statement -- to apologize for the Japanese Imperial Army’s actions, and to promise never to repeat the same mistake. We demand the Government listen to the cries of the victims for an official apology and compensation, and bring a true settlement to the issue as early as possible.

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

June 29, 2009
Noboru UEDA,
Chair Person Kyotanabe City Council, Kyoto, Japan

To: Speaker of the Lower House of Japan, President of the Upper House of Japan, Prime Minister of Japan

VI. The “Comfort Women” Bill Presented in the House of Councilors in Japan

Promotion of Resolution for Issues concerning Victims of Wartime Sexual Coercion Act (Bill)

(Objectives)

Article 1:

In view of the fact that prior to and during World War II, with the involvement of the Imperial Japanese Army and Navy, organized and prolonged coercion of sexual acts were carried out against women and, because of such coercion, the dignity and honor of the women were severely violated and considering that it is the imperative task for the nation of Japan, under its responsibility to take quick steps to restore the honor of the women, the objectives of this Act lie in providing the necessary fundamental grounds for the resolution of the issues concerning the victims of wartime sexual coercion and, by doing so, in improving the trustworthy relationship between the peoples of the concerned nations and our people in making it possible for our country to occupy an honored place in international society.

(Definitions)

Article 2:

In this act, “wartime sexual coercion” means the act of organized and prolonged sexual coercion of women, who were recruited against their will with direct or indirect involvement of the imperial army and navy before and during the past World War, as well as a series of military actions including incidents prior to it.

2 In this Act, “victims of wartime sexual coercion” are the women who have suffered from sexual coercion during the wartime and are not those who had a permanent domicile, registered under Koseki-ho (Act no. 26 of the 3rd year of Taisho).

(Measures to Restore Honor)

Article 3:

The government must singularly express an apology for the violation of the honor and dignity of the victims of wartime sexual coercion and implement necessary measures to restore their honor as soon as possible.

2 The measures in the preceding paragraph shall include monetary payment to the victims of wartime sexual coercion.

(Fundamental Policies)

Article 4:

The government must establish fundamental policies on measures for the resolution of the issues concerning the victims of wartime sexual coercion (“the fundamental policies” hereafter)

2 The fundamental policies shall prescribe the following terms:

- (1) The terms concerning the contents of the measures and the methods of their implementation as stated in the previous Article.
- (2) The terms concerning the matters such as negotiations with the concerned states that would be necessary to implement the measures as stated in the previous Article.
- (3) The terms concerning the investigation of yet to be uncovered circumstances of wartime sexual coercion and the damages caused by them.
- (4) Other than the terms as stated in these three paragraphs, the terms that are necessary for acceleration of a resolution with regard to the victims of wartime sexual coercion.

3 Whenever the government establishes fundamental policies or implements changes in existing fundamental policies, it shall report them to the Diet and make them public.

(Care for Relationship with the Governments of the Concerned States)

Article 5:

In implementation of the measures as stated in Article 3, bearing in mind the relationship with the international treaties and other international agreements that our country has concluded, the government shall exercise special care for its process, in discussing the matters with the governments and other authorities of the concerned states, and securing their understanding and cooperation.

(Care for Human Rights of Victims of Wartime Sexual coercion)

Article 6:

In implementation of the measures as stated in Article 3, the government, bearing in mind the intention of the victims of wartime sexual coercion, shall fully exercise care for their human rights.

2 In carrying out the investigation as stated in Article 4, Paragraph 2, (3), the government shall exercise care not to violate the honor of the victims of wartime sexual coercion and of other concerned individuals.

(People's Recognition and Understanding)

Article 7:

In implementation of the measures as stated in Article 3, the government shall try to secure recognition of and understanding for the measures among the general public.

(Measures including Budget)

Article 8:

The government shall secure the budgetary, legal or other measures that are necessary for the promotion of a resolution of the issues concerning the victims of wartime sexual coercion.

(Report to the Diet)

Article 9:

Every year, the government shall report to the Diet on the measures that it has implemented for the resolution of the issues concerning the victims of wartime sexual coercion and on the findings produced by the investigation as stated in Article 4, Paragraph 2, (3) and it shall also publicly announce the summary of

the report.

(Council for Promotion of Resolution for Issues concerning Victims of Wartime Sexual Coercion)

Article 10:

The Council for Promotion of Resolution for Issues concerning Victims of Wartime Sexual Coercion (the “Council”, hereafter) shall be established at Naikakuhu (the Ministry of the Cabinet).

2 The Council has the following administrative functions.

- (1) To outline the draft fundamental policies.
- (2) To arrange the necessary coordination of the pertinent administrative institutions regarding measures to resolve issues concerning the victims of wartime sexual coercion.
- (3) To promote the investigation in accordance with Article 4, Paragraph 2, (3).
- (4) Other than stated in the previous three sub-paragraphs, to examine important matters regarding the promotion of the resolution of issues concerning the victims of wartime sexual coercion and to promote the implementation of pertinent measures relative to them.

3 The Council, when it considers it necessary to carry out the business within its mandate, may ask the heads of concerned administrative authorities and concerned local authorities to cooperate in the submission of documents, clarification of materials and so on.

4 The Council, when it considers it necessary to carry out business within its mandate, may request the necessary cooperation of any persons other than those stated in the previous paragraph.

(Organization of the Council)

Article 11:

The Council consists of a President and Council Members.

2 The Prime Minister shall appoint the President.

3 The Prime Minister shall appoint the Council Members from among the Chief Cabinet Minister, the heads of the pertinent administrative authorities and Ministers with the special mandate stipulated in Article 9, 1 of the Establishment of Cabinet Act.

(Committee for Promotion of the Investigation)

Article 12:

The Committee for Promotion of the Investigation shall be set up under the Council in order to authorize it to carry out the tasks stated in Article 10, 2 (3).

2 The Committee for Promotion of the Investigation, regularly or whenever necessary, shall formulate the progress of the investigation as well as its results in accordance with Article 4, Paragraph 2, (3) and report them to the President.

3 The Prime Minister shall appoint the Members of the Committee for Promotion of the Investigation from among those staff of the pertinent administrative authorities with the appropriate knowledge, expertise, and experience.

(Delegated Legislation by Ordinances)

Article 13:

In addition to what has been stated in the three previous articles, necessary mechanisms concerning the organization and management of the Council shall be legislated by ordinances.

Additional Clauses

(Omitted)

(Tentative Translation by Sen. Shoji Motooka's Office, March 2001)

An NGO Shadow Report to CEDAW

JAPAN

44th Session 2009

APPENDIX No.2

ILO

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

Compilation of the Individual Observation on the “Comfort Women” Issue

Contents

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

CEACR: Individual Observation Published: 2009	Document No. (ilolex): 062009JPN029.....p1
CEACR: Individual Observation Published: 2008	Document No. (ilolex): 062008JPN029.....p4
CEACR: Individual Observation Published: 2007	Document No. (ilolex): 062007JPN029.....p5
CEACR: Individual Observation Published: 2005	Document No. (ilolex): 062005JPN029.....p7
CEACR: Individual Observation Published: 2004	Document No. (ilolex): 062004JPN029.....p9
CEACR: Individual Observation Published: 2003	Document No. (ilolex): 062003JPN029.....p10
CEACR: Individual Observation Published: 2002	Document No. (ilolex): 062002JPN029.....p21
CEACR: Individual Observation Published: 2001	Document No. (ilolex): 062001JPN029.....p23
CEACR: Individual Observation Published: 1999	Document No. (ilolex): 061999JPN029.....p26
CEACR: Individual Observation Published: 1997	Document No. (ilolex): 061997JPN029.....p29
CEACR: Individual Observation Published: 1996	Document No. (ilolex): 061996JPN029.....p31

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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.

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.

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 its 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 ZENZOSSEN 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 ZENZOSSEN 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.

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.

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.

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 of 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 it 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-Marui 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.

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.

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.

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, Shimonishi 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.

CEACR: Individual Observation concerning Convention No. 29, Forced Labour, 1930 Japan (ratification: 1932) Published: 1997

Document No. (ilolex): 061997JPN029

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.

CEACR: Individual Observation concerning Convention No. 29, Forced Labour, 1930 Japan (ratification: 1932) Published: 1996
Document No. (ilolex): 061996JPN029

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.