

Japan All Solidarity Network for the Settlement of the “Comfort Women” Issue

3-13-1-B1 Takadanobaba Shinjuku-ku Tokyo, Japan

TEL: +81(3)-3362-6307

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NGO report on the issue of ““comfort women””

I. The consultation process followed for the preparation of information provided under the UPR

1. Japan All Solidarity Network for the Settlement of the “Comfort Women” Issue (All Solidarity Network) is a network of researchers, attorneys, support groups and concerned citizens whose goal is to realize decent settlement of the comfort women issue.

2. The Ministry of Foreign Affairs is calling for the stakeholders to submit comments for UPR at its website. However, since the government message is not well known, there is little public awareness among stakeholders that the Government is trying to get the public comments. There are many NGOs and citizen’s organizations in Japan including “All Solidarity Network”. NGOs have been requesting the Government to have consultation with them as referred late in the item IV. The Japanese government has not accepted their request on the ground that the Government office is busy preparing for UPR.

II .Existing framework for the promotion and protection of human rights

3. Mr. Kono Yohei, the then chief cabinet secretary, published his statement on August 4, 1993 and admitted the fact that during the period from the Sino-Japan War to the end of the WWII, Japan forced women in various parts of Asia into military sexual slavery to serve Japanese soldiers and 1. accepted the facts of perpetration, 2. apologized to the victims, 3. promised that the Government of Japan would take appropriate measures to make the apology sincere and real, 4. indicated that the history would be taught to the next generation through education. And successive prime ministers and their cabinets stated that they will respect the position of Kono Statement. Therefore, the framework should have been the mechanism for the materialization of the principles of the Kono Statement.

III Implementation of existent human rights mechanism

Relief by Asian Women's Fund

5. With regard to the “comfort women” issue, the Japanese government set up the Asian Women's Fund¹ (henceforth AWF) on July 19, 1995 and implemented the "atonement project" trying to materialize the spirit of Chief Cabinet Secretary Yohei Kono statement on August 4, 1993. The fund was disbanded in March, 2007.

6. The Japanese government is supposed to have admitted the facts of perpetration in the Kono Statement. However, the Government appeared to be attempting to deny the responsibility of the Government in such frequent incidents as the Prime Minister Abe’s statement that there is no evidence to prove that the women were coerced, and a cabinet decision to that effect. The project included distribution of atonement money and Prime Minister’s letter of apology. As the Government did not express the apology clearly to the victims except for those who agreed to receive the atonement money, most of the victims do not think that the Government of Japan admitted the facts of atrocity or offered sincere apology to them.

7.. AWF held a symposium entitled "Final International Symposium General Overview of 12 years and proposal to the future" on November 19, 2006. On the occasion, Mr. Haruki Wada, Secretary General and Executive Director of AWF, stated;

. "AWF implemented the atonement project for the victims in the Philippines, South Korea, Taiwan, the Netherlands, and Indonesia. Among them, more than half of the registered victims in South Korea and Taiwan, refused to receive the money from the fund. In Indonesia, no individual compensation was realized after all. Furthermore, AWF could do nothing to victims in the other countries including China and North Korea. In that sense, I have to conclude that there is a lot more left for the Japanese government to do for the victims after AWF is disbanded.

8. Under the political influence to deny the Government’s responsibility, account of “comfort women” are removed from secondary school textbooks. In regard of this phenomena, a Minister of Education and Science said, “I am really glad that comfort women disappeared from the textbooks.” So the promise is not fulfilled about passing the facts to future generations.

9. As is stated, in spite of AWF activities, many victims have never received “atonement money”, leaving the issue of the ““comfort women”” unsolved. That is why resolutions in US and the above-mentioned countries are requesting the Japanese Government to make the "public and clear apology".

¹ The Asian Women’s Fund http://www.awf.or.jp/pdf/news_28.pdf

10. All victims are in advanced age. As far as this organization knows, 11 victims in Taiwan, 47 in South Korea, 16 in the Philippines, 11 in Taiwan, and 15 in China passed away during these four years as of February 1, 2008.

11. It is an urgent challenge for the Japanese Government to give relief to victims who were forced into "“comfort women””.

Relief by judicial system

12. All together ten lawsuits against the Japanese Government have been filed at Japanese courts by the victims who had been forced into the military sexual slavery (data 3). Plaintiffs are victims from South Korea, China, Taiwan, the Philippines, the Netherlands and a Korean resident in Japan. Presently the case of “comfort women” in Hainan Island, China, is being tried at Tokyo High Court. In all the other cases, final judgments were rendered denying the plaintiffs' demands.

13. According to the report submitted to the U.N. Commission on Human Rights on by Radhica Coomaraswamy on January 4, 1996,.the Japanese government owes legal liability to the victims who were forced into the military sexual slavery. However, the Japanese judicial courts ruled that the Japanese Government has no obligation on the grounds that the claim for damages is waived by the San Francisco Peace Treaty, bilateral treaties, statute of limitations or state immunity. However, neither the San Francisco Peace Treaty nor the bilateral treaties were concerned with serious violation of human rights such as sexual slavery and it is also against the principle of jus cogens. Japan is still liable for the damages done to victims.

14. In view of the situations stated above, no relief was provided to "“comfort women”” victims through the legal proceedings.

IV Cooperation with Human Rights Organization or National institutions

15. On June 21, 2007, 44 Japanese attorneys submitted "the petition for the final settlement of the "“comfort women””to the Prime Minister Abe (data 4). They are the ones who volunteered to take charge of the lawsuits on the cases of "“comfort women”” in South Korea, Taiwan, the Netherlands, the Philippines, and China.

16. On July 31, 2007, the same attorneys published "The proposal for the final settlement of the "“comfort women”” issue. (Data 5). They requested the Government to set up a forum for discussion for the settlement of the "“comfort women”” issue.

After all these requests, it was expected that the Government would discuss the issue with the above-mentioned attorneys for preparation of UPR. Unfortunately, the Japanese government has not show any sign that it is willing to discuss the matter with above-mentioned attorneys. Instead the Government ignored the petition and has never replied to the petition and proposal.

17. Nichibenren is a national organization to which all the attorneys licensed in Japan are supposed to be members. Article 1 of Practicing Attorney Law says, "A practicing attorney is entrusted with a mission to protect fundamental human rights and to realize social justice". So the protection of human rights is the central activities of the Japan Federation of Bar Associations. As the matter of fact, Nichibenren has repeatedly made the declaration about the "'comfort women'" issue, chairman's statement, and recommendation on many occasions so far.

18. Therefore, the Government should have set up meetings or opportunities to have consultations with Nichibenren on the "comfort women" issue including preparation of UPR. However, the Japanese government refused to talk with Nichibenren.

19. There are many other citizens' groups and NGOs who have been struggling to support "comfort women". Yet the Government has not showed any interest in cooperating with them.

20. Victims see such attitude of the Government as its refusal to resolve the issue of the "comfort women", which, in turn, causes more mental anguish to the "'comfort women'".

V Best Practice

21. The Japanese judicial courts have recognized the damages done to the plaintiffs "comfort women" and perpetration of Japanese soldiers. Moreover, in the case of Sexual Violence Damage in Shanxi Province, China, Tokyo District Court put an additional remark at the end of judgment that it is amply possible to resolve the matter by legislation or administrative measures, although judgment denied the claim for compensation on April 24, 2003, urging the Government to take the action.

22. The expectation was high that the Government would go ahead for a new plan to settle the issue in answer to the additional remark above-mentioned. However, nothing was done in that regard until now.

VI Measures which Japanese Government should take

23. The Japanese government should take the following measure for the settlement of the "'comfort women'" issue.

20-1. Provide the opportunities of consultation and deliberations on the issue with those who are interested in the resolving the matter.

20-2. Admit the fact that members of the Japanese military forces perpetrated systematic sexual violence and make official apology" publicly and clearly, such as in the form of a diet resolution.

20-3. Implement appropriate "compensation" measures, such as enacting the compensation legislation which clearly indicates state responsibility to the victims at the diet

20-4. Publish all the documents and resources associated with the “comfort women” issue for the promotion of history study and include the historical facts of “comfort women” in textbooks so as to pass the history on to the next generation as well as to establish relation of mutual trust among people of Asian nations, and to build the relation of friendship and peace.

End of the Report

(Attachment)

Data 1 Lists of recommendations on the “comfort women” issue from international organizations to the Japanese government

Data 2-5 Resolutions in US House of Representatives and others

Data 6 Proposal for the final settlement of the “comfort women” issue