

## CEACR: Individual Observation concerning Forced Labour Convention, 1930 (No. 29) Japan (ratification: 1932) Published: 2007

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1. 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 痲 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.

2. 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 ZENZOSSEN 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.

3. The Committee notes the Government 痴 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.

4. In addition, the Committee notes the communications on these matters sent by ZENZOSSEN 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.

#### Industrial forced labour

5. The Committee notes that, according to ZENZOSSEN 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. ZENZOSSEN 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 judgement and ordered a payment of compensation. A number of these cases were specifically referred to in these communications from the workers' organizations.

6. The Committee notes that the Government, in its report received on 26 September 2006, has referred to cases and supplied copies of judgements, 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 痴 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 田 concerning the atomic bomb benefit.

7. In addition, the Government also advised the Committee that the following cases were pending, being those referred to in the ZENZOSSEN 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.

8. Further, the Committee also notes the Government 痴 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.

9. The Committee notes the Government 痴 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.

#### Sexual slavery

10. 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.

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

12. 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 judgement. 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 痴 ruling, finding government liability but rejecting the claims for compensation as being extinguished by the 1952 Treaty of Peace.

13. In relation to the two abovementioned cases, the Committee notes the Government 痴 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.

14. In relation to the issue of the Asian Women 痴 Fund (AWF), the Government reports among other matters that, 鉄 ince all the projects to assist former 祖 omfort 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 努 ill 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•

15. 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.