

# Japan Fellowship of Reconciliation (JFOR)

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Secretary, UPR Working Group 28<sup>th</sup> session (Oct-Nov 2017)  
Office of the United Nations High Commissioner for Human Rights (OHCHR)  
Palais Wilson 52 rue des Pâquis CH-1201 Geneva, Switzerland.

## **Re: UPR documentation on Review of Japan**

Dear Sir/Madam,

This is to submit an UPR documentation representing Japan Fellowship of Reconciliation (JFOR) concerning Japanese Review in 3<sup>rd</sup> cycle of the UPR.

Yours sincerely,

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## **Japan: UPR documentation**

Submitted by Japan Fellowship of Reconciliation (JFOR)<sup>1</sup>

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1. Japan-South Korea Statement on ‘Comfort Women’ in 2015 never becomes the “final and irreversible” solution of the issue of Japanese Military Sexual Slavery.

Governments of Japan and South Korea announced that they took “final and irreversible” measures to solve this issue. But the measures only made a foundation and took a payment in order to comfort survivors. But the nature of payment should be compensatory, not for comforting. This measure does not include the proceedings of human rights relief. The proceedings to solve this issue should include measures to prosecute and punish the perpetrators, to disclose all available evidence, to educate students and general public about the issue, to make adequate references in textbooks and to condemn any attempts to defame victims or to deny the events as the latest UPR and other Human Rights treaty bodies have strongly recommended.

### I. Surviving comfort women rejected disbursements from the foundation

On December 28, 2015, Japanese Foreign Minister and South Korean Foreign Minister announced that both sides had reached a “final and irreversible” deal on the comfort women issue<sup>2</sup>. On July 28, 2016, **South Korean government officially**

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<sup>2</sup> *South Korea-Japan Comfort Women Agreement: Where Do We Go From Here?*  
<http://thediplomat.com/2016/09/south-korea-japan-comfort-women-agreement-where-do-we-go-from-here/> (hit on 29 March, 2017)

**established the Foundation for Reconciliation and Healing**, a non-governmental organization that aims to assist surviving comfort women and relatives of deceased comfort women. **Japan provided the promised 1 billion yen (roughly \$9 million) to the Foundation for Reconciliation and Healing**. South Korea's Ministry of Foreign Affairs has also promised to disburse twenty million won (roughly \$18,000) and one hundred million won (roughly \$90,000) to the families of deceased comfort women and surviving comfort women, respectively.

Opposition to the deal has manifested in many parts of Korean society. **Surviving comfort women have already rejected disbursements from the foundation. They insist that the nature of payment should be compensatory, not consolatory.** Compensation would entail that the Japanese government recognizes itself as primarily responsible for its wartime crimes related to comfort women and provide legal liability to make amends for its past misdeeds. Consolatory payments would be an easy exit for Japan to shirk away from legal responsibilities within an ambiguous context. The women go as far as to argue that without their consent, the South Korean government had absolutely no qualifications to negotiate or reach a deal, let alone call it "final and irreversible."

These women insist that the only means to restore their dignity is the Japanese government's public apology and compensatory payments. The comfort women's opposition to the deal is further evidenced by the continuation of the weekly Wednesday Demonstrations in front of the Japanese Embassy in Seoul, which started in 1992 to demand the Japanese government redress the comfort women issue.

## II. Relevant information and recommendations concerning this issue

UPR recommendations in 2<sup>nd</sup> cycle in 2012 (A/HRC/22/14)

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

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

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

**147.158. Ensure that future generations continue to be informed of all aspects of their history, by taking measures such as the introduction of the topic of comfort**

**women in textbooks for school children (Netherlands);**

Recommendations of the Committee of Human Rights (CCPR/C/JPN/CO/6, 20 August 2014)

**Sexual slavery practices against “comfort women”**

Para. 14. The Committee is concerned by the State party’s contradictory position that the “comfort women” were not “forcibly deported” by Japanese military during wartime but that the “recruitment, transportation and management” of women in comfort stations was done in many cases against their will, through coercion and intimidation by the military or entities acting on behalf of the military. The Committee considers that any such acts carried out against the will of the victims are sufficient to consider them as human rights violations involving the direct legal responsibility of the State party. The Committee is also concerned about revictimization of the former “comfort women” by attacks on their reputations, including by public officials, and some that are encouraged by the State party’s equivocal position. The Committee takes into account information that all claims for reparation brought by victims before Japanese courts have been dismissed, and all complaints to seek criminal investigation and prosecution against perpetrators have been rejected on the ground of the statute of limitations. The Committee considers that this situation reflects ongoing violations of the victims’ human rights, as well as a lack of effective remedies available to them as victims of past human rights violations (arts. 2, 7 and 8).

**The State party should take immediate and effective legislative and administrative measures to ensure:**

- (a) That all allegations of sexual slavery or other human rights violations perpetrated by the Japanese military during wartime against the “comfort women” are effectively, independently and impartially investigated and that perpetrators are prosecuted and, if found guilty, punished;**
- (b) Access to justice and full reparation to victims and their families;**
- (c) The disclosure of all available evidence;**
- (d) Education of students and the general public about the issue, including adequate references in textbooks;**
- (e) The expression of a public apology and official recognition of the responsibility of the State party;**
- (f) Condemnation of any attempts to defame victims or to deny the events.**

**Victims of military sexual slavery**

19. Notwithstanding the information provided by the State party concerning some steps taken to acknowledge the abuses against victims of Japan's military sexual slavery practices during the Second World War, the so-called "comfort women", the Committee remains deeply concerned at the State party's failure to meet its obligations under the Convention while addressing this matter, in particular in relation to:

- (a) Failure to provide adequate redress and rehabilitation to the victims. The Committee regrets that the compensation, financed by private donations rather than public funds, was insufficient and inadequate;
- (b) Failure to prosecute perpetrators of such acts of torture and bring them to justice. The Committee recalls that on account of the continuous nature of the effects of torture, statutes of limitations should not be applicable as these deprive victims of the redress, compensation, and rehabilitation due to them;
- (c) Concealment or failure to disclose related facts and materials;
- (d) Continuing official denial of the facts and retraumatization of the victims by high-level national and local officials and politicians, including several diet members;
- (e) Failure to carry out effective educational measures to prevent gender-based breaches of the Convention, as illustrated, inter alia, by a decrease in references to this issue in school history textbooks;
- (f) The State party's rejection of several recommendations relevant to this issue, made in the context of the universal periodic review (A/HRC/22/14/Add.1, paras.147.145 ff.), which are akin to recommendations made by the Committee (para. 24) and many other United Nations human rights mechanisms, inter alia, the Human Rights Committee (CCPR/C/JPN/CO/5, para. 22), the Committee on the Elimination of Discrimination against Women (CEDAW/C/JPN/CO/6, para. 38), the Committee on Economic, Social and Cultural Rights (E/C.12/JPN/CO/3, para. 26) and several special procedures mandate holders of the Human Rights Council (arts. 1, 2, 4, 10, 14 and 16).

**Recalling its general comment No. 3 (2012), the Committee urges the State party to take immediate and effective legislative and administrative measures to find a victimcentred resolution for the issues of "comfort women", in particular, by:**

- (a) Publicly acknowledging legal responsibility for the crimes of sexual slavery, and prosecuting and punishing perpetrators with appropriate penalties;**
- (b) Refuting attempts to deny the facts by government authorities and public figures and to re-traumatize the victims through such repeated denials;**

- (c) Disclosing related materials, and investigating the facts thoroughly;
- (d) Recognizing the victim's right to redress, and accordingly providing them full and effective redress and reparation, including compensation, satisfaction and the means for as full rehabilitation as possible;
- (e) Educating the general public about the issue and include the events in all history textbooks, as a means of preventing further violations of the State party's obligations under the Convention.

## 2. Discrimination against Korean School in the tuition-free high school program

### I. Discrimination against Korean Schools

JFOR would like to strongly recommend the Working Group of the UPR to pay strict attention to the issue of discrimination against Korean Schools in Japan.

There are about seventy Korean schools where Korean children learn their language, history and culture in Japan. A significant number of students in these schools are children who have the Korean nationality or are born from parents between Japanese and Korean people.

In April 2010, the law called Free High School Tuition Law was implemented to promote the rights to education for students of all high school in Japan. It is aimed to provide subsidy of tuitions for all high schools including the all kinds of international and racial schools in Japan. However, in February 2013, the Japanese government officially notified to the Korean high schools that these schools shall be excluded from the benefits providing by the Law and many non-governmental organizations have pointed out it shall be the obvious violation of human rights.

As for the reason of the exclusion of Korean Schools, Japanese government pointed out the relationship of the schools with The General Association of Korean Residents in Japan (Chosen Soren) . Chosen Soren is one of two main organization for Zainichi Koreans (long term Korean residents in Japan), and has close ties to North Korea (DPRK). The reason of exclusion of Korean School is relating to the political conflict between Japan and North Korea. But Children of Korean schools have nothing to do with any political conflicts between Japan and North Korea.

The right to educations is one of the most important fundamental human rights, and it should not be violated by any reason concerning political affairs.

### II. Relevant information and recommendations concerning this issue

UPR recommendations in 2<sup>nd</sup> cycle in 2012 (A/HRC/22/14)

**147.91. Take measures to eliminate all forms of discrimination against Koreans (Democratic People's Republic of Korea);**

Recommendations of the Committee on Economic, Social and Cultural Rights (E/C.12/JPN/CO/3, 10 June 2013)

27. The Committee is concerned at the exclusion of Korean schools from the State party's tuition fee waiver programme for high school education, which constitutes discrimination (arts. 13 and 14).

**Recalling that the prohibition against discrimination applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination, the Committee calls on the State party to ensure that the tuition fee waiver programme for high school education is extended to children attending Korean schools.**

Recommendations of the Committee on the Elimination of Racial Discrimination (CERD/C/JPN/CO/7-9, 26 September 2014)

**Korean schools**

19. The Committee is concerned about the legislative provisions and government actions that hinder the right to education of children of Korean origin, including: (a) the exclusion of Korean schools from the High School Tuition Support Fund; and (b) the suspension or continued decrease of funding allocated by local governments to Korean schools (art. 2, 5).

**Recalling its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee reiterates its recommendation, included in paragraph 22 of its previous concluding observations, that the State party ensure that there is no discrimination in the provision of educational opportunities and that no child residing in its territory faces obstacles to school enrolment. The Committee encourages the State party to revise its position and to allow Korean schools to benefit, as appropriate, from the High School Tuition Support Fund and to invite local governments to resume or maintain the provision of subsidies to Korean schools. The Committee recommends that the State party consider acceding to the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education (1960).**