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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 August 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Japan's Military Sexual Slavery

1. Ongoing violations of the victims' human rights

The human rights of the survivors of Japan's military sexual slavery continue to be violated, as UN High Commissioner for Human Rights Navi Pillay recently pointed out with profound regret just before her tenure in office came to an end.¹ Not only their rights to justice and reparation have not been realized, they have been facing increasing denials and degrading remarks by some public figures, politicians including cabinet members and the mainstream media in Japan. Instead of refuting and sanctioning such attempts to defame victims or to deny the incident, the government has condoned such attempts. The survivors have been re-victimized and continue to suffer grave distress. Many of them have passed away without having their rights and dignity restored and without receiving the reparation to which they are entitled.

The Japanese government has never acknowledged its legal responsibility for this grave human rights violation. Nor has it recognized the victims' right to effective redress and reparation. In spite of the recommendations reiterated on this issue by the UN human rights bodies including this Council, the Japanese government has yet to take any legislative and administrative measures to provide victims with full and effective compensation or other reparations. The government has never publicly disclosed all the documents in its possession pertaining to this issue. Further, no action has been taken to investigate and prosecute perpetrators who are still alive. 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.²

The government has failed to educate the general public about the issue, while the public are seriously affected by the repeated false denials of the heinous crime.

2. Denial of the forcible nature of the sexual slavery

It is an internationally recognized fact that the entire system of sexual slavery was planned, designed and operated by the Imperial Military of Japan. However, the government, particularly the administration of Prime Minister Shinzo Abe, since its inception in December 2012, has tried to evade its obligations by denying the forcible nature of the military sexual slavery by reducing the point of the debate to the manner of recruiting the victims. For instance, a report issued by a Government-appointed study team on 20 June 2014 stated that "it was not possible to confirm that women were forcefully recruited." Following the release of this report, a group in Tokyo publicly declared that "comfort women were not sex slaves but wartime prostitutes."³

The Abe administration reinstated its cabinet decision in 2007, which denied the forcible nature of the sexual slavery by indicating that "among the documents obtained by the Japanese government, the government found no statements which directly suggest the forcible recruit made by the army or authority". This statement is contrary to the so-called Kono statement 1993 that was released in the middle of the growing criticism in the international community by the then Chief Cabinet Secretary Yohei Kono, admitting the "involvement" of the Japanese military and expressing "apologies and remorse". The statement clearly admitted that "[t]he recruitment of the 'comfort women' was conducted mainly by private recruiters who acted in response to the request of the military. The government study has revealed that in many cases they were recruited against their will, through coercion, etc., and that, at times, administrative / military personnel directly took part in the recruitment". Since the government had consistently said that the statement should be regarded as its official apology, it was compelled to

¹ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14920&LangID=E>

² See Human Rights Committee's concluding observations on the sixth periodic report of Japan (UN Doc. CCPR/C/JPN/CO/6 of 24/July/2014, para.14.)

³ *Op cit* 1.

withdraw its commitment to reviewing this statement, immediately facing strong criticism from the governments of neighboring countries.

As the Human Rights Committee rightly argues,⁴ it should be stressed that whether the victims were ‘forcibly deported’ by Japanese military during wartime or ‘recruited, transported and managed in comfort stations’ by entities on behalf of the military, 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 Japan.

3. Refusal to implement treaty bodies’ recommendations

In 2013, the Committee Against Torture (CAT) expressed grave concern over Japan’s failure to address the victims of sexual slavery, and urged the government to take immediate measures to find victim-centered solutions to the issues of “comfort women”.⁵ In response, the Abe administration declared that the government has no obligation to implement UN human rights treaty bodies’ recommendations since they are not legally binding. Such an attitude is contrary to the state party’s duty of implementing treaty obligations and is damaging to the monitoring mechanisms of human rights treaties. It also contravenes Article 98 of the Constitution of Japan that stipulates that “the treaties concluded by Japan... shall be faithfully observed.”

In fact, the government has rejected recommendations relevant to this issue, made by this Council,⁶ and UN human rights treaty bodies⁷ and UN independent experts, without openly challenging its legal significance as it did in case of the Committee Against Torture as stated above.

4. Recommendations

Endorsing the recommendations that have been made by UN human rights bodies and mechanisms as indicated above, Human Rights Now would like to suggest this Council make the following recommendations to the Japanese government:

- (a) Officially acknowledge legal responsibility for the crime of planning and operating the sexual slavery system as committed by the Imperial Military of Japan, including the forcible nature of the system
- (b) Apologize unreservedly to the victims and survivors so as to restore the victims’ dignity;
- (c) Prosecute and punish perpetrators who are still alive with appropriate penalties;
- (d) Refrain from any attempt to deny the facts or negate responsibility;
- (e) Refute and sanction any attempts to deny the facts or to defame and re-traumatize the victims through repeated denials;
- (f) Take immediate and effective measures, both legislative and administrative, and provide all the survivors with appropriate remedies including compensation, rehabilitation, and guarantees of non-recurrence
- (g) Disclose all the relevant documents and information materials in the government’s possession;
- (h) Acknowledge the survivors’ oral testimony as solid evidence; and

⁴ *Op cit 2*.

⁵ UN Doc. CAT/C/JPN/CO/2, para.19.

⁶ UN Doc. A/HRC/22/14/Add.1, paras.147.145 ff.

⁷ For the latest recommendations of this kind, see Human Rights Committee’s concluding observations on the sixth periodic report of Japan (UN Doc. CCPR/C/JPN/CO/6 of 24/July/2014, para.14). See also its previous recommendations (CCPR/C/JPN/CO/5, para. 22). Many other UN human rights bodies that made recommendations pertinent to this issue include the Committee on the Elimination of Discrimination against Women (UN Doc.CEDAW/C/JPN/CO/6, para. 38), and the Committee on Economic, Social and Cultural Rights (UN Doc.E/C.12/JPN/CO/3, para. 26).

(i) Educate students and the general public about this issue by citing the factual events in all history textbooks and other educational materials.

Human Rights Now also suggests that a new mechanism be established so as to enable the Human Rights Council to effectively prevent UN member states, particularly the members of this Council from concealing or denying the facts relating to grave violations of human rights, from justifying the atrocities, from neglecting to provide remedies to victims, and from insulting and re-traumatizing victims through such acts.
