



**Human
Rights
Now**

Human Rights Now

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Statement regarding the calls for the resignation of the chairperson of CEDAW

In March 2016, the Committee on the Elimination of Discrimination against Women, the treaty body responsible for the monitoring and implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), published its concluding observations on the 7th and 8th periodic review of Japan.¹ The observations expressed concern towards the Japanese government's response to the issue of 'comfort women'. Within Japan, it is argued that the government's explanations were ignored, and that there are growing calls for the resignation of Yuko Hayashi, the chairperson of the Committee. On 16th November Hideaki Kase, of the National Movement for Truth of Comfort Women, submitted a petition to Fumio Kishida, the Minister for Foreign Affairs, calling for Ms. Hayashi's immediate dismissal.

Human Rights Now, a Tokyo-based international human rights NGO with ECOSOC Special Consultative Status, considers these demands to be unjustified and grounded upon a misunderstanding of the duties as a member of a human rights treaty body. We object to these demands and are calling upon the government to respect human rights treaty bodies in the execution of their functions.

Members of human rights treaty bodies are selected by the representatives of State parties, on the basis of their high moral character and broad expertise in human rights law. While they are citizens of the member state, they carry out their responsibilities in a personal capacity. In addition, to ensure the impartiality of the investigatory process, it is customary for Committee members to refrain from taking part in the investigation of their national states, a principle explicitly reflected in the procedural rules for investigations. In 1998, in Decision 18/III on the Consideration of Reports, the Committee on the Elimination of Discrimination against Women stated:

“The Committee on the Elimination of Discrimination against Women reaffirmed in its past practice that members of the Committee should refrain from participating in any aspect of the consideration of the reports of the States of which they were nationals in order to maintain the highest standards of impartiality both in substance and appearance.”²

¹ UN Doc. CEDAW/C/JPN/CO/7-8.

² UN Doc. A/53/38/Rev.1 (1998), p. 3

At present, the procedural rules for human rights treaty bodies are found in the ‘Addis Ababa guidelines on the independence and impartiality of members of human rights treaty bodies’.³ The Committee on the Elimination of Discrimination against Women relies upon these guidelines. Consequently, Ms Hayashi, as a Japanese citizen, in compliance with these rules, would not have taken part in the investigation of the report on the Japanese government, or in the writing of the concluding observations. This remains true regardless of her status as the chairperson of the Committee. It is for this reason that the demand for Ms. Hayashi’s dismissal, on the basis of the Committee’s adoption of the concluding observations, which expressed concern over Japan’s treatment of the ‘comfort woman’ issue, is absurd. Moreover, as Ms. Hayashi was appointed to the Committee by the votes of State parties, the Japanese government does not have the power to order her dismissal. The submission of this demand to the Minister for Foreign Affairs displays a complete lack of understanding of the responsibilities of a Committee member, and constitutes not only an attempt to improperly pressure a member of the Committee, but also an effort to disrupt the smooth execution of the treaty body’s reporting responsibility placed upon it by the treaty.

Furthermore, the problems identified by the Committee with regards to ‘comfort women’⁴ are, as

³ Addis Ababa guidelines on the independence and impartiality of members of the human rights treaty bodies, UN Doc. A/67/222 (2012), annex I.

⁴ 28. The Committee recalls its previous concluding observations (CEDAW/C/JPN/CO/6, paras. 37 and 38) and also refers to numerous recommendations on the unresolved issue of “comfort women” made by other United Nations human rights mechanisms such as the Committee on the Elimination of Racial Discrimination (CERD/C/JPN/CO/7-9), the Human Rights Committee (CCPR/C/JPN/CO/6), the Committee Against Torture (CAT/C/JPN/CO/2), the Committee on Economic, Social and Cultural Rights (E/C.12/JPN/CO/3), several United Nations Special Procedures mandate holders of the Human Rights Council and the Universal Periodic Review (A/HRC/22/14/Add.1, para.147- 145 et seq.). While noting the efforts by the State party to attempt to resolve the issue of “comfort women”, most recently through the bilateral agreement between the State party and the Republic of Korea announced on 28 December 2015, the Committee regrets the State party has not implemented the aforementioned recommendations and its position that the issue of “comfort women” does not fall within the mandate of the Committee, as the alleged violations occurred prior to the entry into force of the Convention for the State party in 1985. The Committee further regrets that: (a) Recently, there has been an increase in the number of statements from public officials and leaders regarding the State party’s responsibility for violations committed against “comfort women”; and that the announcement of the bilateral agreement with the Republic of Korea, which asserts that the “comfort women” issue “is resolved finally and irreversibly” did not fully adopt a victim-centred approach; (b) Some “comfort women” have died without obtaining an official unequivocal recognition of responsibility by the State party for the serious human rights violations that they suffered; (c) The State party has not addressed its obligations under international human rights law towards “comfort women” victims in other concerned countries; and (d) The State party deleted references to the issue of “comfort women” in textbooks. 29. The Committee reiterates its previous recommendations (CEDAW/C/JPN/CO/6, paras. 37 and 38) and observes that the issue of “comfort women” gives rise to serious violations that have a continuing effect on the rights of victims/survivors of those violations that were perpetrated by the State party’s military during the Second World War given the continued lack of effective remedies for these victims. The Committee, therefore, considers that it is not precluded *ratione temporis* from addressing such violations, and urges the State party to: (a) Ensure that its leaders and public officials desist from making disparaging statements regarding responsibility, which have the effect of retraumatizing victims; (b) Recognize the right of victims to a remedy, and accordingly provide full and

evidenced by the citations in the concluding observations, a common matter of concern amongst other human rights treaty bodies and the Human Rights Council. They have been repeatedly discussed in the context of international human rights standards.

As a signatory to CEDAW and other international human rights treaties, Japan must comply with all of its treaty obligations. This, of course, includes an obligation to respect the Committee's execution of the responsibilities placed upon it by the treaties. The Japanese government is obliged to respect the functioning of the Committee with regard to the reporting mechanisms, and must defend the independence and impartiality of the committee. As a lawyer, Ms. Hayashi has long been an effective advocate for the rights of women. Her highly regarded character and expertise led to her selection, by the State parties, as a member of the Committee. Furthermore, her diligence in carrying out her responsibilities as a member was recognized within the committee, leading to her appointment as the chairperson.

Human Rights Now strongly objects to the call for the dismissal of Ms. Hayashi, which is nothing but an insidious attempt to pressure the committee and disrupt its functioning. We call upon the Japanese government to resist such action.

We further call on the government to correct the erroneous arguments that are being advanced, and to educate and enhance public awareness of the mechanism and significance of United Nation's human rights treaty bodies. The Japanese government should take this opportunity to clarify Japan's continuing firm commitment to respect and strengthen human rights treaty bodies.

effective redress and reparation, including compensation, satisfaction, official apologies and rehabilitative services; (c) Ensure that in the implementation of the bilateral agreement announced jointly with the Republic of Korea in December 2015, the State party takes due account of the views of the victims/survivors and ensure their rights to truth, justice, and reparations; (d) Adequately integrate the issue of "comfort women" in textbooks and ensure that historical facts are objectively presented to students and the public at large; and (e) Provide information in its next periodic report on the extent of consultations and other measures taken to ensure the rights of victims/survivors to truth, justice and reparations.