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Human rights situations that require the Council's attention

Written statement* submitted by GAHT-US Corporation, 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.

[6 February 2019]

* Issued as received, in the language(s) of submission only.



The “Comfort Women” Issue Raised by Numerous U.N. Organs

GAHT-US Corporation, in Special Consultative status, respectfully offers a proposal on the long-standing issue – the “Comfort Women” to end the controversy.

1. The Origin of “Comfort Women” in the U.N.

The controversy on the “comfort women” began in the U.N. from 1992, and in January 1996 the U.N. did “*taking note*” the report of the Special Rapporteur Ms. Radhika Coomaraswamy¹. Since then the issue has been taken up and argued in almost all U.N. human rights bodies such as former CHR, HRC², ILO³, CCPR⁴, CESCR⁵, CAT⁶, CEDAW⁷, CERD⁸, and CED⁹.

She examined the comfort women and “considers the case of women forced to render sexual services in wartime by and/or for the use of armed forces a practice of military sexual slavery”.¹⁰ Based on her “studying in depth the issue of military sexual slavery in wartime”¹¹, she made the following recommendations:

(a) the Government of Japan (GoJ) should

1. acknowledge her legal responsibility
2. pay compensation to individual victims and disclose all the related documents
3. make a public apology
4. teach the subject in schools in Japan, and
5. punish the perpetrators.

(b) NGOs should continue to raise these issues within the U.N. system, and

(c) the Governments of the ROK (the Republic of Korea, GoROK) and DPRK might consider requesting the International Court of Justice (ICJ) to help resolve the legal issues (responsibility and payment of compensation)..

2. The Inability of the “Coomaraswamy’s Report”, in Resolving the Controversy

Twenty-three years have passed since the publication of the Coomaraswamy Report, and almost all human rights organs of the U.N. and NGOs attempted to persuade GoJ to carry out the recommendations. Several NGOs have been active in promoting her recommendations in third countries such as the United States of America, Canada, Australia, China, and Germany. A Korean NGO erected a statue of “comfort women” in front of the Japanese Embassy in

¹ - E/CN.4/1996/53/Add.1, January 4, 1996 - E/1996/23 E/CN.4/1996/177 COMMISSION ON HUMAN RIGHTS REPORT ON THE FIFTY-SECOND SESSION (18 March-26 April 1996) ECONOMIC AND SOCIAL COUNCIL OFFICIAL RECORDS, 1996 SUPPLEMENT NO. 3)

² A/HRC/37/15 Jan. 4, 2018, Letter of High Commissioner Zeid Ra’ad Al Hussein dated presumably Mar.-Apr. 2018

³ Observation (CEACR) - adopted 2015, published 105th ILC session (2016), November 2015

⁴ CCPR/C/JPN/CO/6 August 20, 2014

⁵ E/C.12/JPN/CO/3 June 10, 2013

⁶ CAT/C/JPN/CO/2 June 28, 2013

⁷ CEDAW/C/JPN/CO/7-8 March 10, 2016

⁸ CERD/C/JPN/CO/10-11 September 26, 2018

⁹ CED/C/JPN/CO/1 November 19, 2018

¹⁰ pp4, E/CN.4/1996/53/Add.1, page 4

¹¹ E/CN.4/1996/53/Add.1, January 4, 1996, page 3

Seoul in 2011, an apparent violation of the Article 22 of the Vienna Convention on Diplomatic Relations.

Her recommendations did not contribute to solving or even lessening the intensity of the controversy. Even though GoROK attempted to pressure the counterpart in Japan, there was no effect. As a result the relationship between the two nations soured. No effort has been made for a settlement with ICJ.

Since then new documents became available on this issue that have been generally in denying the points Ms. Coomaraswamy made in her report. The first was the U.S. Office of War Information Report No. 49 prepared in 1944.¹² On the basis of interviewing twenty Korean comfort women in Burma (now Myanmar), the report concluded that the comfort women were well paid prostitutes employed by private operators.

Another was a U.S. Government Interagency Working Group Report completed in 2007.¹³ By investigating within the U.S. government agencies, the team could not find any new information that would support allegation of enslavement. The comprehensive study by Ikuhiko Hata, a Japanese historian, published in 1999 concludes that the comfort women system was an extension of the publicly recognized prostitution system existed in Japan at the time.¹⁴ Furthermore, C. Sarah Soh, an anthropologist with the San Francisco State University from Korea, published a book in 2007, contending that the testimonial narratives former comfort women made in the past have been evolving over time.¹⁵ For each former comfort woman, their narratives have tended to obey political objectives of the nation to which she belonged more closely as the time passes, indicating that some comfort women have decided to follow the guidance of an organization which has been taking care of them.

At the end of December 2015, GoJ and GoROK agreed to settle the issue, to refrain from accusing each other in international community including the U.N., and to work on removing the statue in Seoul. Without removing the statue in Seoul, GoROK, connived at a new erection of similar statue in front of the Japanese Consulate in Busan in December 2016. The Japanese ambassador and the consul general in Korea were recalled in January 2017 to protest the new statue and her derelictions.

GoJ has been keenly aware of the development of the issue on the alleged enslavement theory, and have expressed denial to the widespread comfort women theory in committees'/council meetings of UPR, CCPR, CEDAW, etc., and very recently of CERD whose meeting was held on August 17, 2018.

On the contrary, supporters of the *military sexual slavery theory* have merely repeated “*military sex slaves*” and the original recommendations.

It becomes apparent why the issue has become contended so fiercely between the nations, and why the issue cannot be solved in the U.N. system.

The reasons appear to be:

- (i) The original report was not based on credible evidence, and based on hasty judgments,
- (ii) There has not been any serious review of the process since the original report.

The same recommendations are still repeated in the concluding observations of CERD and CED on September 26, and November 19, 2018 respectively.¹⁶

¹² U.S. Office of War Information Psychological Warfare Team. *Japanese Prisoner of War Interrogation Report No.49*. October 1, 1944. Available at NARA, MD, U.S.A.

¹³ U.S. Interagency Working Group. *Final Report to the U.S. Congress of the Nazi War Crimes and the Japanese Imperial Government Records*. April 2007.

¹⁴ Hata, Ikuhiko. *Comfort Women and Sex in the Battle Zone*. Hamilton Books. 2018 (Originally published in Japanese from Shinchosha, 1999).

¹⁵ Soh, C. Sarah. *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan*. University of Chicago Press, 2008.

¹⁶ CERD/C/JPN/CO/10-11, CED/C/JPN/CO/1

The observations repeat the recommendations although GoJ explicitly denied the enslavement theory in the U.N. human rights meetings.

OHCHR and its commissioner are not exceptional. After the UPR on Japan, two recommendations for the issue were raised on January 4, 2018.¹⁷

On March 1, Japan, as usual, replied “Not accept” for the claims based on enslavement¹⁸.

On March 19, HRC adopted both the UPR Working Group report on Japan and the replies from Japan at the 37th.Session.

On April 14 then High Commissioner Zeid Ra’ad Al Hussein submitted a letter to the Minister of Foreign Affairs Taro KONO¹⁹, which stated its purposes that “*I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office prepared for the review – the compilation of UN information and the summary of stakeholders’ submissions - which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR.*”

Because GoJ officially rejected the relevant recommendations of UPR, the letter would be purported to put a foothold for the next cycle and to repeat the recommendations.

We should be more sensitive about the facts that for 23 years under the name of “violations of human rights of women” or “wartime sexual slavery crimes”, the bi-lateral relations between Japan and ROK become worse due to the reasons originated by the U.N.

It also can be said that the issue would not be solved, and the bi-lateral cooperation would be lost forever unproductively if the original U.N. position were maintained.

The Charter of the U.N. stipulates for her purposes as “to maintain international peace and security”, “to develop friendly relations among nations”, “to achieve international co-operation in solving international problems, and in promoting and encouraging respect for human rights”, and for these purposes “to be a centre for harmonizing the actions of nations in the attainment of these common ends”.

Minding that human rights should be respected, that UN should not promote controversies, not destroy international peace and security between Japan and ROK, and not to be one side supporter on the issue, we respectfully offer our proposal.

3. Proposal

The core of the controversy is whether the comfort women were forced to be sex-slaves, or mere professional prostitutes, with the military of Japan.

What the U.N. should do first is to review why the U.N. cannot solve the issue for such a long time, and consequently the organization may conclude that the issue should be re-examined.

If the U.N. still maintains the present position of upholding the Coomaraswamy report, it should recommend ROK to file the case to ICJ, the last resort as Ms. Coomaraswamy proposed.

¹⁷ A/HRC/37/15/Add.1 page 11

¹⁸ A/HRC/37/15/Add.1

¹⁹ <https://lib.ohchr.org/HRBodies/UPR/Documents/Session28/JP/JapanHCLetter.pdf>