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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 International Career Support Association, 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.

[05 June 2019]

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



Republic of Korea's Supreme Court rulings are gross Human Rights violation

Mobilized workers were wartime laborers from the Korean Peninsula

1) So-called mobilized workers were wartime laborers

In October 2018, the Supreme Court of Korea returned a verdict on Shin Nittetsu Sumikin, Japan's leading steel manufacturer, ordering the company to pay compensation to Koreans who had been allegedly forced to work as slave labors during World War II. Following this, in November of the same year, a similar verdict was brought against Mitsubishi Heavy Industries.

The Supreme Court of Korea stated its verdict: "The Japanese rule of the Korean Peninsula was unlawful colonial control and therefore forced mobilization on the part of Japanese companies that cooperated in the colonial control was also illegal. Those forcibly mobilized workers have the right to personally demand compensation."

However, this so-called verdict greatly ignores the historical facts. Japan's Annexation of Korea is in fact an "annexation of States" as the phrase indicates. Japan in fact did not rule the Korean Peninsula as a "colony". Through Japan's Annexation of Korea, the Korean people became Japanese nationals, and they had the same rights and responsibilities as the Japanese people. This is a historical fact. There was no "illegality" in "mobilizing" Koreans who became Japanese nationals based on Japanese law. Draftees from the Korean Peninsula were not "forced laborers," but merely wartime laborers as any Japanese citizen.

The mobilization of the Japanese people came into effect in 1939, while the "Mobilization Act" for the Korean Peninsula came into effect in September 1944--five years later. Wartime "mobilization" is legal in terms of international law. The ILO (International Labor Organization) Forced Labor Convention (#29) acknowledges wartime mobilization. Japan ratified the Convention in November 1932, and faithfully observed the ILO Conventions, which Japan ratified. In accordance with international law, Japan did not abuse or harm Korean wartime laborers.

2) The true circumstance of recruiting Korean workers

To demonstrate that the Korean Supreme Court's thinking is entirely without merit, we will show how things were at that time.

After Japan's Annexation of Korea in 1910, the entry of laborers from the Korean Peninsula to mainland Japan was tightly restricted. However, with the beginning of the Second Sino-Japanese War in 1937, many Japanese men were drafted and there was a serious shortage of workers in domestic industries. Therefore, from 1939 onward, a "free recruiting" system was introduced. Through this system, it became possible for each company's department of human resources to go over to the Korean Peninsula and directly recruit Korean workers, and procedures for emigrating to Japan were also simplified.

With the outbreak of World War II broke out, the shortage of workers at places like coal mines became even worse and the system of "official good offices" was introduced in 1942. This was a system of recruiting workers through Korean administrative offices, aiming to encourage Korean people to apply for jobs at coal mines through officially guaranteeing good salaries and working conditions at recruiting companies.

Towards the end of World War II, all industries suffered critical shortages of workers. In September 1944, the "Mobilization Act" came into effect in the Korean Peninsula. The Act did not apply to the Korean Peninsula until then. The Act was in operation for only six months after its enactment. As we pointed out earlier, all actions taken by Japan was entirely consistent with international law at the time.

3) **Korean workers were treated fairly and favorably**

Now, let us look at the real circumstances of Korean workers who worked in Japan. According to an autobiography, entitled *Note of a Mobilized Korean Worker* (Kawai Shuppan, 1990), written by Jeong Chung-hae, who was mobilized in November 1944 and worked at Toyo Kogyo (present day Mazda), as of May 1945, mobilized Korean workers had parties in their dormitories, night after night, and even they even gambled. Also, Jeong Chung-hae's salary was \ 140, which was higher than that of a school teacher or a government official at that time. When the war finally ended, Jeong expressed his gratitude to the Japanese who took good care of his fellow Koreans in his dormitory.

In addition, workers' pay in demanding occupations such as coal miners was extremely high. A monthly salary at Kyushu coal mines (in southwestern Japan) in 1944 was \200 to \300 for good workers. At that time, 300 yen was equivalent to the monthly pay of a Japanese military colonel. There was no discrimination at all in terms of wages.

4) **The issue concerning rights to claims has already been settled between Japan and Korea**

Japan and Korea began negotiations to revive their diplomatic relationship in 1952 and discussions and consultations dragged over seven intergovernmental sessions. Finally, the Treaty on Basic Relations between Japan and the Republic of Korea, together with adjunct agreements, was concluded on June 22, 1965. Diplomatic relations between the two countries revived. The issue concerning claims, including individual rights, was completely and finally resolved by one of the adjunct agreements, The Agreement Concerning the Settlement of Problems in Regard to Property and Claims between Japan and Korea and Economic Cooperation, which was confirmed by the Republic of Korea and Japan. Following this Agreement, Japan abandoned its assets (valued currently at \16 trillion) that it left behind on the Korean Peninsula after the War and dually handed over to Korea: \$300 million in economic aid, \$200 million in loans and \$300 million in a private trust, totaling \$800 million. By comparison, the Korean national budget for fiscal 1965 was \$350 million-\$800 million was equivalent to two to three years of their national budget.

During negotiation, it was evident, from diplomatic documents at the time that Japan proposed to individually compensate Koreans who worked for Japanese governmental offices or private companies by paying unpaid salaries or pensions. However, the Korean Government turned down the Japanese Government's proposal, insisting that "compensation to individuals be taken care of by the Korean Government on its own responsibility, and accordingly, the Korean Government entirely receive Japan's aid money." Finally, the Japanese Government agreed to the Korean Government's plan and gave all aid money, including compensation for individuals, to the Korean Government.

The Korean Government enacted its compensation scheme with Japan's money. From 1974 to 1976, they paid to "forcibly mobilized workers" 9,502 million won (equivalent to \$19.8 million). In addition, in 2005, President Roh Moo-hyun officially stated that "non-reciprocal aid worth \$300 million received from Japan includes funds for resolving the issue of forcibly mobilized Koreans." Following this statement, the Korean Government paid consolation to 72,631 former "mobilized workers" and their bereaved families, totaling 620 billion won (approximately \$600 million) by 2015. With this, the issue of forcibly mobilized workers was completely settled domestically in Korea.

As explained so far, the issue of forcibly Korean mobilized workers was completely resolved, both diplomatically and domestically. Inexplicably, the Korean Supreme Court returned a verdict that ordered Japanese companies to pay compensation on this very issue.

Upon this verdict, having won the lawsuit, the plaintiff completed procedures to seize the assets of Japanese companies. And procedures to cash in part of the assets are now under way.

Moreover, Koreans claiming to be former mobilized laborers or their bereaved families are filing one lawsuit after another against Japanese companies. It is estimated that the total amount money involved in the lawsuits will amount to \2 trillion (or nearly \$18 billion).

5) The Korean Supreme Court's verdict is violation of the ICERD

We should also mention the fact that the Japanese Supreme Court ruled that earlier claims made by the same plaintiff in Japan were null and void. In the verdict of the recent lawsuit, the Korean Supreme Court ruled that the Japanese Supreme Court's ruling was "against Korean public order, good custom and other social order" and furthermore, galling demanded that the Japanese court accept the Korean court's verdict.

The Executive branch of the Korean Government stated that "we respect our judicial judgment," thereby backing the Korean Supreme Court's decision. In other words, any intergovernmental treaty can be nullified based on a Korean judicial judgement. However, any agreement made between states transcends judicial, legislative, and executive powers and restrains states, which is clearly stipulated in the Vienna Convention on the Law of Treaties.

That the Korean Government and its judicial authorities do not apply international law with respect to Japan is a latent violation of the ICERD (International Convention on the Elimination of Racial Discrimination): the Korean government is compelling the people of Japan to accept an entirely unlawful verdict issued by a foreign, Korean Supreme Court.

We request that the United Nations Human Rights Council impress upon the Republic of Korea, which is in direct violation of the ICERD, that it promptly cease trampling on the basic human rights of the Japanese people, observe international law and desist on reviving issues that have been already resolved by international agreement.
