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JAPAN ALLIANCE FOR TRUTH ABOUT COMFORT WOMEN  
September 14, 2018

STATEMENT CONCERNING “CONCLUDING OBSERVATIONS” ISSUED BY THE  
UNITED NATIONS COMMITTEE ON THE ELIMINATION OF RACIAL  
DISCRIMINATION (CERD)

**CERD’s recommendations demonstrate bias against and infringement upon the  
human rights of the Japanese people**

**We urge the Japanese government to request that CERD be structurally and  
procedurally reformed**

On August 16 and 17 the United Nations Committee on the Elimination of Racial Discrimination (hereinafter CERD) considered reports submitted by Japan. On August 30 CERD released its concluding observations, as well as recommendations to the Japanese government concerning problems stemming from alleged racial discrimination, e.g., the comfort-women issue.

These recommendations are exceedingly biased, and threaten to destroy the very fabric of our nation, Japan. CERD has been entrusted with protecting human rights, but instead it is fostering racial discrimination against the people of Japan, and infringing upon their human rights.

The Japanese government has already expressed its disappointment via the Ambassador Extraordinary and Plenipotentiary of the Permanent Mission of Japan to the International Organizations in Geneva. Nevertheless, it behooves our government to tender to the United Nations, clearly and straightforwardly, its objections to the workings of a committee that issues recommendations of this ilk, and to call for the reform of CERD. If no reform is accomplished, Japan should withdraw its ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, or resign from the Human Rights Council. We cannot think of a single reason for Japan to remain a member of an organization that infringes upon Japanese human rights, especially given Japan’s enormous financial contribution.

The Japan Alliance for Truth About Comfort Women submitted a memorandum prepared jointly with the 21-member Japan NGO Coalition Against Racial Discrimination to CERD. We also participated in the CERD session in Geneva, during which we presented our position. In view of the events that transpired there, we have outlined our objections to CERD’s recommendations and our reasons for requesting the reform of that committee. To these we add our appeals to the Japanese government.

## I. The Comfort-Women Problem

### A. Appeal to the Japanese government

#### 1. Japanese government's confusing statements

Having stated that it “recognized that the issue of comfort women was an affront to the honour and dignity of a large number of women,” the Japanese government representative spent a great deal of time explaining the various gestures of apology Japan has offered, including the Asian Women's Fund, the Japan-Korea Agreement of 2015, and other efforts toward compensation. Only at the end of the presentation did the government representative state that the recommendations had included some inaccurate and inappropriate language, among which were the accusations of coercive recruitment of comfort women and the term “sexual slavery.”

However, apologies and compensation send the message that Japan is acknowledging crimes against the comfort women. By following that message with the denial of sexual slavery and coercive recruitment, the government was contradicting itself. This must surely have confused committee members, a confusion that the government invited.

Committee member Marc Bossuyt is a member of the Permanent Court of Arbitration in The Hague and a former judge at the Belgian Constitutional Court. Even someone with his credentials said, at the end of the session, that CERD would not tolerate the minimization of the comfort-women problem. Bossuyt also said that he “did not understand the State party's position that ‘sexual slavery’ was not an appropriate term to describe it.”

#### 2. Clarifications needed from Japanese government

As the Japanese government representative stated at the beginning of the CERD session, all events pertaining to the comfort-women issue took place prior to 1995, when the Convention on the Elimination of All Forms of Racial Discrimination was concluded. Therefore, said issue is not within the purview of the Convention. If the government feels compelled to provide explanations concerning the comfort-women issue, it is objective facts that are needed, not a litany of apologies.

Problems relating to military personnel and sex arise in the armed forces of every nation. Are problems similar to the comfort-women issues, but that occurred in other nations, also going to be questioned? Why did the government representative not voice an objection on this point, which sorely needed to be raised?

## B. Protest to CERD

### 1. The “honor and dignity of women” mantra

One of CERD’s recommendations concerning the comfort-women issue was a victim-centered approach. However, CERD should be committed to a fact-centered approach. We are appalled at the committee’s basing its examination on the testimonies of former comfort women — uncorroborated testimonies. This is a violation of one of the main principles of law — only corroborated testimony is admissible.

Gay McDougall is a CERD member representing the United States, and the author of *Systematic rape, sexual slavery and slavery-like practices during armed conflict*, published in 1998, when she was Special Rapporteur. In that report McDougall criticizes the Japanese government for its denial of legal liability for the comfort stations, which she calls “rape centres.” At the August 2018 session, McDougall called for a halt to discussions of facts, and then inserted her pet phrase (“the honor and dignity of women”). She insisted that the great majority of comfort women were from Korea, a claim that is totally spurious. When the facts did not coincide with her viewpoint, she trotted out “the honor and dignity of women.”

### 2. The inapplicable “sex slave” argument

Chinsung Chung, a CERD member who represents South Korea, is a former co-chairperson of the Council for the Handling of Problems Associated with the Korean Volunteer Corps. Korean Council for the Women Drafted for Military Sexual Slavery by Japan (often referred to as the Korean Council). Upon hearing the Japanese delegation’s denial of coercive recruitment, Chung claimed that there are many written works, photographs, films, and testimonies that bear witness to the suffering of comfort women.” She then mentioned that she uses the term “sexual slavery” in the English translation of the organization’s name: The Korean Council for the Women Drafted for Military Sexual Slavery by Japan. This had nothing to do with the topic at hand and explained nothing.

### 3. Repudiation of an intergovernmental agreement

The Japanese government representative stated that with an agreement concluded in December 2015 between Japan and the Republic of Korea, “the [comfort-women] issue is resolved finally and irreversibly.” CERD member McDougall reacted by saying that intergovernmental agreements do not resolve wartime problems. In CERD’s concluding observations, McDougall said that the agreement between Japan and Korea does not clearly state that Japan bears responsibility for infringing upon the human rights of former comfort women, thereby repudiating the statement that the issue had been resolved. In raising

objections to an intergovernmental agreement, CERD is overstepping its authority.

#### 4. CERD is not fulfilling its mission

Committee members are biased. They issue recommendations that have no basis in fact, that change topics or points of issue in midstream, that offer reasons that make no sense, and that repudiate an intergovernmental agreement. It is obvious that CERD is not acting objectively or fairly, and thus has failed to accomplish its mission.

### II. Other Issues Concerning Racial Discrimination (Koreans Residing in Japan, Okinawans)

The aforementioned Marc Bossuyt opened his remarks about Korean residents in Japan as follows: “There were approximately 400,000 Koreans in Japan, the majority of them forced to live in Japan when Korea was a Japanese colony, and their descendants.” This statement is patently untrue. Bossuyt goes on to opine about the human rights of the Korean minority in Japan. We believe that his comments can be traced to a biased memorandum submitted by NGOs, which Bossuyt accepted at face value. We find especially unwelcome recommendations that Japan allow Korean residents to vote in local elections, offer subsidies to Korean schools, and permit Korean residents to hold public office and participate in the National Pension Plan.

Additionally, we issued a memorandum stating that the Okinawans are not indigenous people; we also voiced this opinion at the CERD session. That notwithstanding, CERD recommended that we recognize Okinawans as indigenous people. Given that most of the inhabitants of Okinawa Prefecture do not labor under this recognition, we find CERD’s recommendation unforgivable. Here again, CERD has adopted the biased position taken by some NGOs.

When, in cases like this, CERD receives multiple memoranda from NGOs, we suggest that they consult the Japanese government to arrive at the facts, instead of adopting a particular position for reasons that we cannot fathom. It is impossible to accomplish the mission of a United Nations human-rights committee by adopting a position without such a consultation.

### III. Effect of Recommendations Should Not Be Underestimated

CERD recommendations are not legally binding. But NGOs submitting memoranda that served as the basis for actual recommendations will announce that they have received the UN “seal of approval” when they return to Japan.

We cite the Hate Speech Elimination Act of 2016. The following statement describing how the law came into being appeared on the website of the Ministry of Justice:

Ways of dealing with hate speech were recommended to the government in Concluding Observations on the Sixth Periodic Report of Japan by the UN Human Rights Committee in July 2014 and Concluding Observations on the Combined Seventh to Ninth Periodic Reports of Japan by the UN Committee on the Elimination of Racial Discrimination in August of the same year.

This law was enacted because the recommendations of CERD had an impact on the Japanese government.

When a CERD member suggested that the action the Japanese government had taken to eliminate hate speech was inadequate, the Japanese government representative replied that draconian regulations specifying punishments threaten to suppress legitimate freedom of speech. The Hate Speech Elimination Act applies only to hate speech directed toward persons originating from outside Japan. This law without a doubt discriminates against the Japanese, suppresses their freedom of speech, and constricts the space in which discourse takes place.

Another of CERD's recommendations involves amending the Hate Speech Elimination Law so that its scope embraces all people, not only those of foreign origin. We will be paying close attention to the government's response to this recommendation.

#### IV. On the Centenary of Japan's Racial Equality Proposal

At the beginning of the session, the Japanese government representative described the first step toward eliminating racial discrimination, made by the Japanese government via the presentation of the Racial Equality Proposal 99 years ago, at the 1919 Paris Conference. In our capacity as an NGO, we also submitted a memorandum to CERD stating that Japan was a pioneer in the movement to eliminate racial discrimination. We are discouraged by CERD's failure to acknowledge this achievement in its concluding observations.

We strongly urge CERD to issue a statement commemorating the centenary of Japan's Racial Equality Proposal. Such a gesture may inspire the peoples of the world to contemplate the significance of eliminating racial discrimination.

Further, we ask the Japanese government to organize commemorative events to remind us of Japan's estimable achievement and of the trajectory of efforts to eliminate racial discrimination, as well as to encourage future endeavors in that direction. One possibility would be the hosting of an international symposium on racial discrimination that would feature the world's most

prominent specialists. Still another possibility would be to invite Prime Minister Abe to deliver an address at the UN General Assembly describing Japan's admirable accomplishment, and encourage all peoples of the world to join together and work toward ending the horrific oppression of specific ethnic groups by particular nations; racial discrimination remains a serious problem even in the 21<sup>st</sup> century.

## V. Conclusion

The UN human-rights committees that have concerned themselves with the comfort-women issue are the Committee on the Elimination of Discrimination Against Women, the Committee Against Torture, the Human Rights Committee, and the Committee on Economic, Social and Cultural Rights. The Japanese government has made statement after statement to these committees describing the apologies that have been offered to the former comfort women. These apologies have given the misleading impression that Japan is acknowledging criminal behavior on its part. According to recommendations issued by CERD, Japan is responsible even to the *families* of the former comfort women. At this rate the problem will persist even when there are no longer any comfort women. We urge the government to refrain from offering any apology whatsoever in the future.

We also request that the government limit the issues addressed by the various UN committees to those arising after the Convention on the Elimination of All Forms of Racial Discrimination was concluded. The committees should be asked to make their recommendations after having conducted a *thorough* investigation of the facts. If they are unwilling to comply with this request, Japan should withdraw from the organization that has oversight of these committees, the Human Rights Council.

We must put an end to debates over the comfort women at the United Nations. Otherwise we will not be able to eradicate the falsehoods about comfort women that are spread throughout the world. It is crucial that the people of Japan be told precisely how biased CERD is. And finally, we urge the government to take resolute action at the UN on behalf of the Japanese people and our national interests.