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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.

[9 February 2019]

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

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The Republic of Korea should not revive an issue that has already been resolved and ignoring international law

So-called mobilized workers were wartime laborers

In October 2018, the Supreme Court of the Republic 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 during World War II. Following this, in November of the same year, a similar verdict was brought to Mitsubishi Heavy Industries.

The Supreme Court of Korea gave an account of the 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 are left with the right to personally demand consolation money."

However, this account of the verdict greatly distorts historical facts. Japan's Annexation of Korea is in fact an "annexation of States" as the phrase indicates. Japan 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 duties as the Japanese people did. This is a historical fact.

Moreover, wartime "mobilization" does not conflict with the ILO (International Labor Organization) Forced Labor Convention. (Japan ratified this convention in November 1932.) The mobilization of the Japanese people came into effect in 1939. It was legal in terms of both domestic Japanese law and international law to mobilize Koreans who were at the time Japanese nationals. Draftees from the Korean Peninsula were not "forced laborers," but merely wartime laborers.

The true circumstance of recruiting Korean workers

To demonstrate that the Korean Supreme Court's conception is totally wrong, we will state how things were at that time.

After Japan's Annexation of Korea in 1910, to prevent cheap Korean labor from flowing into Japan proper, 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. So, the restriction on Korean workers entering Japan proper was loosened and from 1939 onward, a "free recruiting" system was introduced. Through this system, it became possible for each company's human resources department to go over to the Korean Peninsula and directly recruit Korean workers.

Towards the end of World War II, all industries suffered critical shortages of workers and in September 1944, the "Mobilization Act" came into effect in the Korean Peninsula. The Act had not been applied to the Korean Peninsula until then. As we pointed out earlier, all actions taken by Japan was legal from the viewpoint of international law.

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), written by Jeong Chung-hae, who was mobilized in November 1944 and worked at Toyo Kogyo (currently Mazda), as of May 1945, mobilized Korean workers had parties in their dormitories, night after night, and even gambled amongst themselves. Also, the salary of Jeong Chung-hae was ¥140, higher than that of a school teacher or a public official at that time. When the war was finally over, Jeong expressed gratitude toward the Japanese who took good care of the Koreans at the dormitory.

In addition, the workers' pay in rigorous environments was extremely high. A monthly salary at coal mines in Kyushu in 1944 was ¥200 to ¥300 for good workers. Three hundred yen was equivalent to the monthly pay of a colonel in the Japanese military at that time.

Salaries at coal mines were strictly calculated based on work efficiency and coal production. There was no difference at all between Japanese and Korean workers. Korean workers steadily sent home to Korea a part of the money they earned.

This is all about what really happened to Korean workers at that time, and there is nothing that can be pinned on either the Japanese Government or Japanese companies.

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 finally, the Treaty on Basic Relations between Japan and the Republic of Korea, together was concluded on June 22, 1965. The issue concerning claims, including individual rights, was completely and finally resolved by one of the adjunct agreements, Agreement on Concerning the Settlement of Problems in Regard to Property and Claims and Korea and Economic Cooperation, which was confirmed by the Governments of Japan and the Republic of Korea. Following this Agreement, Japan decided to abandon private Japanese assets (amounting to ¥16 trillion at current value) left behind in the Korean Peninsula after the War and give to Korea, \$300 million in economic aid, \$200 million in loans, together with \$300 million for a private trust, totaling \$800 million, which Japan duly sent. By comparison, the Korean national budget for fiscal 1965 was \$350 million and \$800 million is equivalent to two to three years of their national budget.

Japan actually 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 the aid money, including compensation for individuals, to the Korean Government.

Korean government executed compensation using this money. From 1974 to 1976 they paid to forcibly mobilized workers 9,502 million won (equivalent to \$19.8 million) and then from 2005 to 20015 paid totaling 620 billion won (approximately \$ 600 million) to 72,631 former mobilized workers and bereaved families. With this, the issue of forcibly mobilized workers was completely settled domestically in Korea.

As we have explained so far, the issue of forcibly mobilized workers has been completely resolved, both diplomatically and domestically. Nevertheless, the Korean Supreme Court returned a verdict that ordered Japanese companies to pay compensation regarding this issue.

Upon this verdict, having won the lawsuit, the plaintiff completed procedures to seize the assets of Japanese companies. In Korea, nearly 270 Japanese companies are regarded as "war criminal companies" and it is highly likely that from now on one lawsuit after another against Japanese companies will take place. Moreover, if the Korean Supreme Court's assertion of "Japan's unlawful colonial rule", apparent distortion of the historical fact, is justified, all conduct on the part of Japanese people during Japan's rule of the Korean Peninsula will become targets of lawsuits and the money involved in these lawsuits will be astronomical. The conflict between the two countries will go on forever.

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

Moreover, we should mention the fact that the Japanese Supreme Court stating that claims were null and void in a similar lawsuit the same plaintiff filed earlier in Japan. 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 rejected it, demanding that the Japanese court accept the Korean court's verdict. This ruling damages

the authority of the Japanese Supreme Court, which is the highest judicial organ in Japan, and at the same time infringes upon Japan's sovereignty and the human rights of the Japanese people.

The Executive branch of the Korean Government stated that "we respect our judicial judgement," and practically supports the Korean Supreme Court's decision. However, any agreement made between states transcends the three national powers (judicial, legislative, and executive) and restrains states, which is clearly stipulated in the Vienna Convention on the Law of Treaties. If it were permissible for a state to rescind a treaty which the government concluded on account of a judicial judgement of a state, the treaty itself would be of no significance in the first place.

Nevertheless, the Korean Government and its judicial authorities have revived an already settled issue of claims following their judicial judgement without the slightest hesitation.

It is a clear violation of the ICERD (International Convention on the Elimination of Racial Discrimination) that the Korean Government and its judicial authorities do not apply international law with respect to Japan and, thus, infringes upon Japan's sovereignty and the human rights of the Japanese people.

We request that the United Nations Human Rights Council demand that the Government of the Republic of Korea promptly improve present circumstances, in which they trample on the human rights of the Japanese people, in violation of the ICERD, observe international law and not to revive issues which have been already resolved.
