

CEACR:

Individual Observation concerning Convention No. 29, Forced Labour, 1930 Japan (ratification: 1932) Published: 1999

1. The Committee notes the Government's report in reply to its previous comments, as well as a number of observations received from workers' organizations. The matters raised in these comments, and addressed by the Government, concern two main issues, which are dealt with in turn.

I. Wartime "comfort women"

2. In its previous observations, the Committee took note of observations made by the Osaka Fu Special English Teachers' Union (OFSET) alleging gross human rights abuses and sexual abuse of women detained in so-called military "comfort stations" during the Second World War and the years leading up to it, when the women confined were forced to provide sexual services to the military. The Committee has found that this was contrary to the requirements of the Convention, that such unacceptable abuses should give rise to appropriate compensation, but that it did not have the power to order relief. The Committee also stated that this relief could only be given by the Government and that in view of the time elapsed, it hoped that the Government would give proper consideration to the matter expeditiously.

3. In its last observation adopted at its session in 1996, the Committee noted the Government's position that, irrespective of whether or not there was a violation of the Convention, it has sincerely fulfilled its obligations under international agreements and, therefore, the matter had been settled between the Government of Japan and the other governments which are parties to the agreements. The Government stated that it had been expressing its apologies and remorse in this regard; and it has been providing the maximum support to the "Asian Women's Fund" (AWF), which was established in 1995 with the aim of achieving the atonement of the Japanese people to the former wartime "comfort women", and providing atonement money to them. The Committee noted the detailed information provided, including the fact that the Government has supported the operational cost of the AWF, as well as providing medical and welfare support through the use of government resources. The Committee expressed its trust that the Government would continue to take responsibility for the measures necessary to meet the expectations of the victims, and asked it to provide information on further action taken.

4. One of the workers' organizations (OFSET), in a letter dated 14 October 1998 together with enclosures, made the following points. The union states that the problem remains basically unchanged and that there has been no compensation paid by the Government and no apology based on legal responsibility towards the victims. The union provided information to the effect that the majority of the Korean, Taiwanese, Indonesian and Filipino "comfort women" have refused to accept monies from the AWF on the basis that money from the Fund is not compensation from the Government but consists of money raised by donations from private organizations. The union also indicated that five Filipino "comfort women" who have accepted AWF monies, have refused to accept the letter of apology sent by the Prime Minister and have returned it as not being a recognition of the Government admitting its official accountability for the abuses committed against them by the military. The union provided information about payments made by the Government of South Korea and Taiwan to women victims in their own countries who have refused AWF monies. The Korean Confederation of Trade Unions, in a communication dated 31 July 1998 together with enclosures, makes similar points. The trade union stated that the Government had not yet taken proper measures, as it had not changed its argument that the issue of military sexual slavery had been legally settled by Japan and the victimized Asian countries, and cited consideration of the matter by the present Committee, the United Nations and others. It noted that although some women had accepted funds from the AWF, most have rejected them, stating that this was "sympathy" money and not legal compensation.

5. The Committee was also provided with copies of a judgment, issued on 27 April 1997 by the Yamaguchi Lower Court, Shimoneshi Branch, Section 1. The case is one of the 50 suits filed in Japanese courts. The judge ordered the Government to pay three plaintiffs, former South Korean comfort women, 300,000 yen plus interest. The judgment was based in part on the present Convention, and principally on the failure of the Government to legislate a necessary law, where the failure to legislate infringed basic human rights, and compensation was ordered under the State Tort Liability Act.

6. The Korean Federation of Trade Unions noted that the compensation was small. It also indicated that the Government has appealed against the decision to a higher court, that it could take ten to 20 years for appeal procedures to be exhausted and that the women were already advanced in age.

7. The Government reviews in its report its role in the establishment of the AWF and indicated that in the Philippines, the Republic of Korea and Taiwan, approximately 85 to 90

women received "atonement money" from the AWF and that some had expressed their gratitude in various ways. The Government also indicated that women who were given atonement money also received a letter of apology from the Prime Minister. The Government states that with the support of individuals, enterprises, trade unions and others more than 483 million yen has been donated to the AWF. In March 1997, it began providing financial support for facilities for the elderly in Indonesia, with priority to be given to those who state they are former "comfort women", as the Government of Indonesia has found it difficult to identify those who were concerned. It concluded an agreement on 16 July 1997 with a non-governmental group in the Netherlands for a project aimed at helping to enhance the living conditions of those who suffered incurable physical and psychological wounds during the war. The Government also reports efforts to make the historical facts better known through school education, and outlines measures to address contemporary issues concerning the honor and dignity of women. The Government has provided no information in relation to the above-mentioned judicial decision.

8. The observation received from the Japanese Trade Unions Confederation (JTUC-RENGO) adds that, as regards the Korean wartime "comfort women", the Government of the Republic of Korea has started providing support allowances to them on condition that the women concerned do not receive any donation from the AWF or, if they have, that they return it. JTUC-RENGO believes that "the settlement of this tragic history is in the hands of the Korean and Japanese Governments" and expects that "dialogue will lead to a final settlement of the problem".

9. The Committee notes this very detailed information. It notes further the report of the United Nations Special Rapporteur on Systematic rape, sexual slavery and slavery-like practices during armed conflict (UN document E/CN.4/Sub.2/1998/13, 22 June 1998), who examined inter alia the situation of "comfort women" and the liability of the Japanese Government. The Committee again repeats its trust that the Government will take responsibility for the measures necessary to meet the expectations of the victims. The rejection by the majority of "comfort women" of monies from the AWF because it is not seen as compensation from the Government, and that the letter sent by the Prime Minister to the few who have accepted monies from the AWF is also rejected by some as not accepting government responsibility, suggest that the expectations of the majority of the victims have not been met. The Committee requests the Government to take steps expeditiously, and also to respond on measures taken further to the court decision and any other measures to compensate the victims. With each passing year this becomes more urgent.

II. Wartime industrial forced labour

10. The Committee has also received observations from the Kanto Regional Council, All-Japan Shipbuilding and Engineering Union (in September and December 1997, and March 1998), as well as from the Tokyo Local Council of Trade Unions (Tokyo-Chiyo) in August and September 1998. These communications raised, for the first time in the ILO, concern about conscripted labourers from China and Korea in industrial undertakings, during the Second World War. It is stated by the Shipbuilding and Engineering Union that some 700,000 workers from Korea and some 40,000 from occupied areas of China were conscripted as forced labourers and made to work under private-sector control in mines, factories and construction sites. Conditions of work were said to be very harsh, and many died. Though these workers had been promised pay and conditions similar to those of Japanese workers, they in fact received little or no pay, according to the allegations. The Union -- supported by more than 35 other workers' organizations which signed the communication -- asks that these workers receive compensation for unpaid wages, and damages, from the Government and from the companies that benefited. It indicates that, because of poor relations between the countries concerned and Japan for many years after the war, it was virtually impossible for individuals to make any claims against either the Government or the companies concerned until relations had been re-established. Tokyo-Chiyo has communicated a report said to have been drawn up by the Japanese Ministry of Foreign Affairs (MOFA) in 1946 entitled "Survey of Chinese Labourers and Working Conditions in Japan" intended to account to Chinese authorities after the war. The report disappeared, but was rediscovered in 1994, independently in China and in the United States. The report details very harsh working conditions, and brutal treatment including a death rate of 17.5 per cent, up to 28.6 per cent in some operations.

11. The Government states in its report in response to these observations that it has repeatedly acknowledged regret and remorse to the South Korean Government for damages and suffering caused through its colonial rule. The Government also indicated that it had similarly stated to China that it was keenly conscious of the serious damage it had caused to Chinese people in the war. The Government states that it has taken many positive steps towards establishing friendly relations with both China and the Republic of Korea. This includes high-level visits and accompanying statements and agreements as recently as October-November 1998. The Government states that it has furnished detailed information to both countries on the situation of conscripted labourers, including 110,000 Korean workers. It has concluded agreements with both countries, including legal settlements of the issue of reparations, property and claims relating to the Second World War, with the Republic of Korea in 1965 and with

China in 1972. Negotiators from Japan and the Republic of Korea concluded during the discussions leading up to this agreement that the loss of documentation was so severe that only a general approach could be taken, and in consequence Japan and the Republic of Korea agreed that the problems of claims related to the war would be deemed to be completed and finally settled with the extension of \$500 million in economic assistance from Japan to the Republic of Korea in 1965. The Government also indicated that it had provided to the Republic of Korea a total of 0.67 trillion yen by the fiscal year 1997 since 1965, making significant contributions to that country's economic growth. In addition the Government had provided assistance to China of a total of 2.26 trillion yen by the fiscal year 1997. The Government has also taken steps to make the historical record accurate. Neither of the other two Governments is requesting further compensation, but the Government indicates that some individual cases are now pending before Japanese courts.

12. The Committee has noted the information placed before it and the Government's response. The Committee notes that the Government does not refute the general contents of the MOFA report but instead points out that it has made payments to the respective governments. The Committee considers that the massive conscription of labour to work for private industry in Japan under such deplorable conditions was a violation of the Convention. It notes that no steps have been taken with a view to personal compensation of the victims, though claims are now pending in the courts. The Committee does not consider that government-to-government payments would suffice as appropriate relief to the victims. As in the case of the "comfort women", the Committee recalls that it does not have power to order relief, and trusts that the Government will accept responsibility for its actions and take measures to meet the expectations of the victims. It requests the Government to provide information on the progress of the court cases and on action taken.