

11 January 2016

United Nations Secretary General Ban Ki-moon
UN Headquarters
405 East 42nd Street
New York, NY 10017
USA

Cc : Zainab Hawa Bangura, UN Special Representative on Sexual Violence in Conflict

Zeid Ra'ad Al Hussein, UN High Commissioner for Human Rights

Rashida Manjoo, UN Special Rapporteur on Violence against Women

Pablo de Greiff, UN Special Rapporteur on the Promotion of Truth, Justice, Reparation, and
Guarantees of Non-recurrence

H.E. Choi Kyong-lim, President of the UN Human Rights Council

Members of the UN Committee against Torture

Members of the UN Human Rights Committee

**Re: Clarification on the UN Secretary-General's Position on the Recent Republic of Korea-Japan
Agreement on Wartime "Comfort Women"**

People's Solidarity for Participatory Democracy (PSPD) is a non-governmental organization based in Seoul, the Republic of Korea (ROK) with United Nations(UN) ECOSOC consultative status. We are writing to you today to seek clarification of the Secretary-General's position on the recent ROK-Japan agreement on wartime "comfort women". We express our concern on your recent congratulatory remarks on the agreement, because we view that the agreement was not made in a way to implement the values and principles put forth by the UN, which has emphasized a victim-centered approach.

In the official statement regarding the recent agreement between the ROK and Japan on issues related to "comfort women" from the ROK which was released on 28 December 2015, you welcomed "that the Governments of Japan and the Republic of Korea have reached an agreement," and hoped "that the agreement will contribute to improving the bilateral relationship between the two countries." Following your statement, the ROK President's Office (Blue House) released a briefing on 1 January 2016, saying that you congratulated President Park

Geun-hye, via telephone, on reaching the agreement with Japan, and stated that “history will laud President Park’s courageous decision based on her vision.”¹

Yet, the latest agreement between the ROK and Japan hardly reflects the wishes of the victims themselves, nor did the process involve any participation by the victims. Lee Yong-soo, one of the few surviving victims of Japan’s wartime sexual slavery policy, harshly criticized the agreement, saying “The agreement does not reflect the views of former ‘comfort women’. I will ignore it completely.”² Ms. Lee condemned the deal as amounting to “a second death of the victims.” The latest agreement indeed does not incorporate any of the demands which include official apologies, legal reparations, and guarantees of non-recurrence. The victims have consistently put forward these demands since making their past agony public for the first time in 1991. According to the recent agreement, the Japanese government did promise to provide JPY 1 billion (around 8.3 million USD) for a new special fund to be set up for a foundation for the surviving “comfort women”. However, Mr. Fumio Kishida, Japanese Minister of Foreign Affairs, made it clear that the money was not legal reparation³, and still refuses to recognize Japan’s legal responsibility for wartime sexual slavery. However, the governments of both countries have concluded that the latest agreement will be the “final and irreversible” resolution to the “comfort women” issues, thus inviting mounting criticism from inside and outside the ROK.

We would like to remind you that the latest agreement on “comfort women” does not even satisfy the UN recommendations regarding Japan’s wartime sexual slavery and related issues which were made in the past. Different human rights mechanisms of the UN have condemned the acts of wartime sexual slavery committed by Japan as “crimes against humanity,” and recommended that the Japanese government acknowledge its legal responsibility, make formal reparations to the victims, and prosecute the parties responsible for such crimes. During its review on Japan in July 2014, the UN Human Rights Committee noted that most “comfort women” were recruited by, transported to, and managed at Japanese military bases or agencies working on behalf of the Japanese military through force and coercion, and expressed concerns at the Japanese government’s continued denial that these women were “ever mobilized or migrated by force” (CCPR/C/JPY/CO/6, para 11). In August 2014, the UN Committee on the Elimination of Racial Discrimination expressed its concerns that the Japanese government had

¹ The Cheong Wa Dae, “The President Exchanges New Year’s Greetings by Phone with UN Secretary-General Ban Ki-moon”, Briefing, 1 January 2016, <http://bit.ly/1IVC3UI>

² The New York Times, Japan and South Korea Settle Dispute Over Wartime ‘Comfort Women’, 28 December 2015, <http://nyti.ms/1ZUts1>

³ *Ibid.*

not recognized nor apologized to “comfort women”, and urged the Japanese government to immediately conclude investigations and bring to justice those responsible for human rights violations (CERD/C/JPN/CO/7-9, para 18).

We would also like to point out that the UN and the international community at large uphold a consistent set of victim-centered principles and standards with respect to the rights of victims of human rights violations.

In February 2005, the UN Commission on Human Rights (now the UN Human Rights Council) adopted “Principles for the protection and promotion of human rights through action to combat impunity” (E/CN.4/2005/102/Add.1), followed by “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law” (A/60/509/Add.1) adopted by the UN General Assembly in December 2005. These two documents endorse the “victim-centered perspective” in international human rights law, and emphasize the victims’ right to justice, right to reparation, and right to know. These documents also stress as essential principles the need to give victims restitution, compensation, rehabilitation, reparation, and redress.

Since its establishment in 2002, the International Criminal Court has also stressed the need for victim participation in all phases of investigation and judicial procedures. “The Chicago Principles on Post-Conflict Justice 2001-2008”, which provide basic guidelines on the handling of atrocities perpetrated under authoritarian rule and amid armed conflicts, also emphasize: “Policies that seek justice for past violations should be victim-centered and should address victims’ rights to remedies and reparations.”

We note with serious concern that your remarks on “welcoming” the recent agreement between the ROK and Japan, and lauding it as a “courageous decision” by the South Korean President are not in line with the human rights principles and positions the UN and the international community have accumulated so far.

We would therefore like to request your response to the following questions to further clarify your position.

1. Do you think that the recent agreement between South Korea and Japan satisfy the UN-emphasized principles of the rights of the victims of human rights violations and properly address war crime legacies and past recommendations made by the UN human rights

mechanisms to Japan?

2. According to the briefing issued by the Presidential Blue House of the ROK, you phoned the President of the ROK to discuss the recent agreement. Have you done the same with the Prime Minister of Japan? If so, what exactly was discussed or remarked in the latter conversation? If no such conversation took place with the Prime Minister of Japan, why have you had such a conversation with the President of the ROK and not with the Prime Minister of Japan?

3. The UN Secretary-General is obligated to make efforts to promote human rights in all Member States. Therefore, some argue that the UN Secretary-General should help invalidate the recent agreement between the ROK and Japan that seems to condone war crimes. What do you think of this argument?

4. Is the Secretary-General inclined to urge both the government of the Republic of Korea and Japanese governments to resolve the “comfort women” issues through official apologies, legal reparations, and guarantees of non-recurrence from the Japanese state through processes that are actually based upon victim participation?

We thank you for your reply in advance and look forward to hearing back from you at the earliest possible time. If you have any questions or would like clarification, please do not hesitate to contact us at peace@pspd.org or +82 (0)2 723 4250.

Yours sincerely,



Ms. Hyunback Jung
Co-Representative
People's Solidarity for Participatory Democracy