

**CEACR: Individual Observation concerning Convention No. 29, Forced Labour, 1930 Japan (ratification: 1932)  
Published: 2005**

Description:(CEACR Individual Observation)

Convention:C029

Country:(Japan)

Subject classification: Forced Labour

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Document No. (ilolex): 062005JPN029

1. The Committee has discussed on a number of occasions the application of this Convention to sexual slavery (so-called "comfort women") and industrial slavery, both during the Second World War.

2. The issues have been examined at length in earlier comments by the Committee, and there is no need to repeat them again. The Committee noted in 2001, after a very detailed examination of the situation, that: "it has no mandate to rule on the legal effect of bilateral and multilateral international treaties and is therefore unable and does not finally pronounce on that legal issue. It has previously indicated its concerns about the ageing of the victims of the Government's earlier breach of the Convention and the failure of the Government to meet their expectations in spite of similarly publicly expressed views by other reputable bodies and persons on the issue. The Committee repeats its hope that the Government will take measures in the future to respond to the claims of these victims. The Committee asks to be kept informed as to any relevant court decisions, legislation or government action". This statement has been repeated in later observations in 2002 and 2003.

3. Additional comments received. In the Committee's previous observation, in 2003, it requested the Government to reply to observations received from workers' organizations under article 23 of the Constitution, as follows:

- comments made by the Korean Confederation of Trade Unions (KTCU) and the Federation of Korean Trade Unions (FKTU), received on 8 September 2003;

- comments made by the All Japan Shipbuilding and Engineering Union, received on 29 August 2003;

- comments made by the Japanese Trade Union Confederation (JTUC-RENGO), received on 30 September 2003.

4. Since the Committee's last session, three additional sets of observations have been submitted by the All Japan Shipbuilding and Engineering Union, which were communicated to the Government between June and September 2004. A 347- page observation (which included many historical documents) was also received from the Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU), which was communicated to the Government on 2 September 2004. The Government communicated its comments on all these in a 794-page observation (much of which consisted of the text of Court decisions) on 8 October 2004. Additional information from the All Japan Shipbuilding and Engineering Union was also received by the Office only very shortly before its session began, and it has been sent to the Government on 10 November 2004.

5. Save the most recent information forwarded to the Government on 10 November, the Government has replied to these observations in its communication of 8 October 2004 with minor amendments indicated by letter of 20 October 2004. The Committee notes that the Government has once again stated that the Committee should desist from further examination of this case, in particular since in 2004 the Conference Committee declined to take up the Committee's comments in a tripartite discussion.

6. The Government referred to the observation received from JTUC-RENGO on 30 September 2003 which stated that there is no violation of the Convention in current legislation or practice in Japan, and that it is beyond the mandate of the ILO to examine a case in which there has been no violation for 55 years. In this respect, the Committee has earlier indicated the basis on which it has kept the situation under review. In addition, the Government in its response referred, as it has done previously, to the Asian Women's Fund (AWF), which is supported by the Government. The AWF is comprised of donations from private Japanese corporations and citizens in a public-private partnership with the Government. The Government has again emphasized its financial contribution to the AWF

which consists of bearing administrative costs and sending the Prime Minister's letter of apology to women victims. The Government also referred to the payment of atonement money from the AWF to 285 former comfort women in the Philippines, the Republic of Korea and Taiwan.

7. Relevant court decisions. The Government's response and observations from workers' organizations have detailed a number of lawsuits filed by victims of sexual or industrial slavery, seeking compensation for damages against the Government, the corporations concerned, or both. This information is provided in response to the Committee having asked to be kept informed of relevant court decisions. The Government has informed the Committee that in relation to women's claims for compensation for damages against the Government, court rulings in the Japanese Supreme Court, High Court and district court, as well as in the United States district court in cases which have so far been completed through the relevant processes, have resulted in their claims against the Government being dismissed. The Committee also notes that, at the time of the Government's report, some cases were still awaiting finalization of appeal processes. The Committee further understands that, in at least one case, one of the companies sued has decided to offer a monetary settlement to wartime victims of forced labour, at the suggestion of the court, before the appeals process was concluded.

8. The Committee notes this information, and asks the Government to continue to inform it in future reports of the results of those cases still not finally resolved, and of any others that may be filed.