

Examining Japan's Legal Responsibility regarding the 'Comfort Women' Question — with a Focus on the Kato Statement and the Kono Statement

Hosaka Yuji¹, Han Sungrea²

¹Professor of Daeyang Humanity College at Sejong University, South Korea.

²Researcher of Dokdo Research Institute at Sejong University, South Korea.

***Corresponding Author:** Hosaka Yuji, Professor of Daeyang Humanity College at Sejong University, South Korea.

ABSTRACT

The comfort women problem is the problem of sex slaves initiated by Japan during W.W. II. Following the late Kim Hak-sun's public confession in 1991 that she was a comfort woman for the Japanese military, the Japanese government apologized to the female victims who were comfort women for the Japanese military and promised follow-up actions through the Kato Statement, which was issued in July 1992, and the Kono Statement, which was made in August 1993. The Kato Statement did not recognize the forcefulness involved with the mobilization of comfort women, whereas the Kono Statement acknowledged the forcefulness to some extent, considering that it took place during the period of Japanese occupation of the Korean Peninsula. The latter, which recognized the responsibility of the private recruiters and the officials of the Japanese Governor-General in Korea who received requests from the military, which brought ambiguity to the accountability of the Japanese military or the Japanese government. Also, it brought limitations of the Kono Statement as well.

An analysis of the official documents collected and disclosed by the Japanese government showed that the Japanese government cannot be exempted from legal responsibility for mobilizing the comfort women because the Home Ministry and the Ministry of Foreign Affairs actively provided assistance for it as part of the mobilization system. Another problem is that while the documents that the Japanese government has yet to recognize include documents, which show that the installation of comfort stations was instructed by the old Japanese military, the related ministries do not recognize as documents that are related to comfort women and refuse to submit them to the Japanese government. To retrieve the documents that are still unrecognized by the Japanese government and have them acknowledged as official documents, more aggressive effort is needed by researchers and groups working on the comfort women situation.

Keywords: Comfort Women, the Kato Statement, the Kono Statement, Government Officials, Legal Responsibility

INTRODUCTION

What is the comfort women problem? The Japanese government and the Japanese Imperial army mobilized young girls from Japan, Korea, China and other countries that they invaded, and made the girls from these countries sex slaves for the Japanese soldiers by force. The comfort women problem is the problem of sex slaves initiated by Japan during W.W. II. With the view to settling the issue of comfort women, Chief Cabinet Secretary Koichi Kato of the Japanese Miyazawa cabinet made the Kato Statement in July 1992, which was followed up with the Kono Statement. The Kono Statement was delivered in August 1993 by Chief Cabinet Secretary Yohei Kono of the same cabinet. Of

the two statements, the Kono Statement has been regarded as the statement where the Japanese government has recognized its forced mobilization of comfort women.

Following the launch of the first Abe cabinet, however, the Japanese cabinet made a statement that denounced the existence of a government document that showed the forced mobilization of comfort women, and they denied the forcefulness with the mobilization of comfort women. Furthermore, the Abe cabinet conducted a review of the Kono Statement for the purpose of denying it. However, facing pressure from the international community, the Abe cabinet could not scrap the Kono Statement and decided to ceremonially continue with it.

As a result, the Korea-Japan Comfort Women Agreement was reached on Dec. 28, 2015, when the Abe cabinet offered an official apology, stating their most sincere apologies and remorse while recognizing the involvement of the Japanese military authorities in mobilizing the comfort women. However, the Abe cabinet didn't ever recognize Japan's legal responsibility regarding the issue of comfort women.

Because of this fact, the purpose of the thesis is to discuss the reasons why Japan does not recognize its legal responsibility for the mobilization of comfort women and also suggest the limitations of the Kato Statement and the Kono Statement.

An earlier study, which included an examination of the Kato Statement and the Kono Statement, is called *The Issue of Comfort Women for the Japanese Military and the Korea-Japan Relations*, (Jo Yun-soo, *Collected Essays on the History of Korean Politics and Diplomacy*, Vol. 36, No. 1, Aug. 2014, 69-96) and an earlier study that discussed the limitations of the Kono Statement is *21 Select Documents Related to the Comfort Women for the Japanese Military* (Hisatomo Kobayashi (小林久公), Jun. 2015, 26).

Ch. 1 Examining the Kato Statement, Which Came before the Kono Statement

When the late Kim Hak-sun became the world's first person to disclose that she was a victim of being a comfort woman for the Japanese military in 1991, the issue of comfort women came into the spotlight. Japan's Miyazawa cabinet took the development seriously and conducted an investigation before Chief Cabinet Secretary Koichi Kato made a statement on July 6, 1992.

Analyzing the Kato Statement of 1992

The Kato Statement was issued on July 6, 1992. Chief Cabinet Secretary Koichi Kato (加藤紘一) of the Miyazawa cabinet, which was formed by the Liberal Democratic Party, delivered a statement on the Issue of the so-called wartime comfort women from the Korean Peninsula (朝鮮半島出身者のいわゆる従軍慰安婦問題に関する加藤内閣官房長官発表).

Kernel summary of the statement is as follows.

The inquiry has revealed that the

government had been involved in: the establishment of comfort stations, the control of those who recruited comfort women, the construction and reinforcement of comfort facilities, the management and surveillance of comfort stations, the hygiene maintenance in comfort stations and among the comfort women, and the issuance of identification as well as other documents to those who were related to the comfort stations.¹

This Statement officially recognized the Japanese government's involvement in the mobilization of comfort women. And this Statement acknowledged the Japanese government's involvement in: ① the establishment of comfort stations, ② the control of those who recruited the comfort women, ③ the construction and reinforcement of the comfort facilities, ④ the management and surveillance of the comfort stations, ⑤ the hygiene maintenance in the comfort stations and among the comfort women, and ⑥ the issuance of identification as well as other documents to those who were related to the comfort stations.

After it investigated various official documents in Japan, which had not been brought to light in 1991 but were disclosed following the Kono Statement, the Miyazawa cabinet acknowledged in the Kato Statement that the Japanese government prior to 1945 was involved in the 6 acts mentioned above.

- Regarding the establishment, the construction and reinforcement of the comfort facilities, the management and surveillance of the comfort stations, and the hygiene maintenance among the comfort women

It was the Defense Attache Offices (DAO; 武官室) with the local Japanese military forces that were in charge of the establishment,

* This thesis was created with support from Sejong University Industry-University Cooperation Group in 2016.

¹The original text for the gist of the Kato Statement: 私から要点をかいつまんで申し上げると、慰安所の設置、慰安婦の募集に当たる者の取締り、慰安施設の築造・増強、慰安所の経営・監督、慰安所・慰安婦の衛生管理、慰安所関係者への身分証明書等の発給等につき、政府の関与があったことが認められたということである。

<http://www.mofa.go.jp/mofaj/area/taisen/kato.html>

construction and reinforcement of the comfort facilities, the management and surveillance of the comfort stations, and the hygiene maintenance among the comfort women, corresponding to the segments ①, ③, ④, and ⑤ in the above passage. According to Regarding the Suspected Abduction of Women That Exploits the Current Situation (時局利用婦女誘拐被疑事件に關する件)

(Haruki Wada <和田春樹> et al., 1997, 38), a document from the Home Ministry that was created on Feb. 7, 1938, stated that the DAO was in charge of the task of health affairs and inspection². This means that the Japanese military was in charge of the establishment, the construction and reinforcement of the comfort facilities, the management and surveillance of the comfort stations, and the hygiene maintenance among the comfort women.

- Regarding the control of those who recruited the comfort women

The above phrase in ②, stating the control of those who recruited the comfort women suggests that the Japanese government controlled the private recruiters who were in charge of recruiting the comfort women. The ministry that was responsible for this was the Home Ministry and more specifically, its Bureau of Police was in charge of the task.

In fact, the control operation was quite problematic. Regarding the Handling of Women Crossing to China (支那渡航婦女の取扱に關する件) (Haruki Wada <和田春樹> et al., 1997, 57-68), a Home Ministry document, which was sent to different ministries on Feb. 18, 1938, describes the government crackdown on recruiters of comfort women, which involved private recruiters who falsely passed themselves off as operating with the permission of the military. In other words, the fact is that the Home Ministry and its affiliated Bureau of Police provided assistance to the private recruiters who obtained permission from the military. Therefore, the Kato Statement should have said stated the controlled and provided assistance to the recruiters of the comfort women. It shows how the Miyazawa cabinet was involved in falsehood.

²Inspection: It mainly referred to as STD testing in those days.

Recently, we witnessed the emergence of those recruiters of the women throughout the homeland, who said they had the consent of the military authorities. The crossing of women is an inevitable necessity, considering the local circumstances. The police should give it special consideration and needs to take action that fit the situation.³ (Underline is ours)

The quoted passage shows that while the authorities mentioned the need to control the recruiters that operated, saying as if they got consent of the military authorities, they provided assistance to those recruiters who had permission from the military.

The authorities said that as the crossing of women was an inevitable necessity considering the local circumstances the police should give it special consideration and needs to take actions that fit the actuality. Mentioning appropriate control of the recruiters in the same document, the Home Ministry emphasized a possible issue regarding the prestige of Japan.

If the recruiters of women are not properly controlled, it will not only damage the prestige of the Empire and soil the honor of the Imperial Army, but it will also have a bad influence on the surviving families of the soldiers who are out there to fight a war and hardly suit the purpose of the international treaties about the trafficking of women. [Omitted]⁴

In addition, the Home Ministry warned that if the recruiters were not properly controlled, the prestige of the Japanese Empire and the honor

³The original text of the relevant part of the Home Ministry document, Regarding the Handling of Women Crossing to China (支那渡航婦女の取扱に關する件): 内地に於て是等婦女の募集周旋を為す者にして恰も軍当局の諒解あるかの如き言辞を弄する者も最近各地に頻出しつつある状況に在り婦女の渡航は現地に於ける実情に鑑みるときは蓋し必要已むを得ざるものあり警察当局に於ても特殊の考慮を払ひ実情に即する措置を講ずるの要あり

⁴The original text of the relevant part of the Home Ministry document, “Regarding the Handling of Women Crossing to China (支那渡航婦女の取扱に關する件): 是等婦女の募集周旋等の取締にして適正を欠かんか帝国の威信を毀け皇軍の名誉を害ふのみに止まらず銃後国民特に出征兵士遺家族に好ましからざる影響を与ふると共に婦女売買に関する国際条約の趣旨にも悖ること無きを保し難き

of the Japanese military will be brought into question, which could create a bad opinion of the Japanese people. Moreover, it cautioned the government ministries that it went against the purpose of the international treaties on the sale of women.

The international treaties that the Home Ministry document mentioned were the International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic and to the International Convention of 4 May 1910 for the Suppression of the White Slave Traffic (醜業ヲ行ハシムル爲ノ婦女賣買禁止ニ關スル國際條約) signed in 1910 by thirteen countries and the International Convention for the Suppression of the Trafficking of Women and Children (婦人及児童ノ売買禁止ニ關スル國際條約) which was adopted by the League of Nations in 1921 and went into force in 1922. (Kaori Nakagawa <中川かおり>, 2004, 3) In 1925, Japan accepted the three treaties, and Japan became a signatory (Kaori Nakagawa <中川かおり>, 2004, 3).

The three treaties agreed about: (a) the prosecution and punishment of a person who operates in trading women as prostitutes, (b) the approval and supervising of the employer's operations, and (c) the protection of migrating women and children. (Kaori Nakagawa <中川かおり>, 2004, 4).

Even though they were well aware that the establishment of comfort stations abroad violated the three treaties that Japan signed, the Home Ministry of Japan expressed concern that it would go against the purpose of the international treaties regarding the traffic in women. Despite expressing a deep concern, the Home Ministry connived, which is illustrated below, about the overseas travel of women for the purpose of taking up undesirable occupations.

As for the overseas travel of women for the purpose of taking up unseemly occupations, for those who are currently practically engaged in prostitution or other unseemly occupations at home, are 21 years or older, have no venereal disease or other contagious disease, or are headed to northern China or central

*China, we shall connive at this for the time being [omitted].*⁵

This resulted in the Japanese government maintaining a formal cap, which allowed only women who were 21 or older, to engage in activities that were out of line with the contemporary international conventions. Also, the passage quoted above included, "We shall connive at it for the time being". This is because the Japanese government was well aware that the women they were sending overseas were going to be comfort women, even if they had been engaged in unseemly occupations in Japan, they would constitute a violation of the contemporary international treaty. The international treaty stipulated above (a) the prosecution and punishment of a person who operates in trading women as prostitutes.

- Regarding the issuance of identification to those related to the comfort stations

In its final part, the Kato Statement disclosed that the Japanese government was involved in ⑥ the issuance of identification as well as other documents to those who were related to the comfort stations. In fact, the government offices, which were in charge of issuing identification to those related to the comfort stations, which were the private recruiters, the managers of comfort stations, and women who were going to be comfort women, were the Ministry of Foreign Affairs in Japan and the local consulates abroad. This means that the Ministry of Foreign Affairs, which had the consulates under its wing, served as one of the systems involved in the mobilization of the comfort women. The duties for the Japanese consulates overseas were established as follows.

The Consulate

- Decide whether to give permission to a person who submitted an application for a business operation
- Identify comfort women and implement the general contract procedures for their business

⁵The original text of the relevant part of the Home Ministry document, "Regarding the Handling of Women Crossing to China (支那渡航婦女の取扱に關する件)": 一、醜業を目的とする婦女の渡航は現在内地に於て娼妓其の他事実上醜業を営み満二十一歳以上且花柳病其の他伝染性疾患なき者にして北支、中支方面に向ふ者に限り当分の間之を黙認すること(omitted)

Examining Japan's Legal Responsibility regarding the 'Comfort Women' Question — with a Focus on the Kato Statement and the Kono Statement

- Provide assistance for overseas travel
- Inquire and reply among the related ministries regarding the identity of the business owners and the women
- In principle, those who arrive to the port shall not be allowed to stay at the consulate and shall be transferred to the military police following the decision over permission 6 (underline is ours)

The above passage shows that the overseas consulates reviewed the identification and other documents, concluded the business agreement, and provided assistance for maritime passage. Providing assistance for maritime passage means providing a warship that could carry women to Japan through negotiations with the local military units.

The existence of the cooperation system for mobilizing comfort women between the Japanese military and the Ministry of Foreign Affairs is proven with this statement. Furthermore, they arranged things as if there were formal procedures for deciding whether women were fit to be comfort women, but such procedures were meant to avoid creating an international issue and practically no woman was disqualified as a result of the review.

Also, the underlined part is the question; those who arrive to the port shall not be allowed to stay at the consulate and shall be transferred to the military police following the decision over permission. This statement refers to the procedure in which women who were taken onboard a warship and were not given a break but on their arrival to the port, they were immediately transferred to the military police. We cannot view this as a ploy designed to give women a chance to refuse unlawful employment. The sentence that immediately follows describes the role of the military police as follows.

The Military Police

- Transporting business owners and women

⁶ The original text for the passage from 'Regarding Suspected Abduction of Women That Exploits the Current Situation(時局利用婦女誘拐被疑事件に関する件)': 領事館 (イ) 営業願出者に対する許否の決定 (ロ) 慰安婦女の身許及び斯業に対する一般契約手続 (ハ) 渡航上に関する便宜取計 (ニ) 営業主並びに婦女の身許其也に関し関係諸官署間の照会並回答 (ホ) 着港と同時に当地に滞在せしめざるを原則として許否決定の上直に憲兵隊に引継ぐものとす

transferred from the consulate to their place of employment

- Protecting and controlling the private recruiters and the in-house women⁷

The military police took the women who arrived to the port to the comfort stations as soon as their consular processing was finished. Therefore, boarding a warship in Japan meant forced mobilization that never allowed them to return.

The Apology and the Promise in the Kato Statement

The Kato Statement issued an apology and promised the appropriate actions as follows.

*The [Japanese] government again would like to express its sincere apology and remorse to all those who have suffered indescribable hardship as so-called wartime comfort women, irrespective of their nationality or place of birth. [Omitted] As I listen to many people, I feel truly grieved for this issue. By listening to the opinions of people from various directions, I would like to consider sincerely in what way we can express our feelings to those who suffered such hardships.*⁸

But at the press conference on July 6, 1992, where the Kato Statement was disclosed, journalists asked if there were documents that showed the forced mobilization. In responding to the question, Chief Cabinet Secretary Kato said, "They were not discovered previously."⁹

⁷ The original text for the passage from 'Regarding Suspected Abduction of Women That Exploits the Current Situation(時局利用婦女誘拐被疑事件に関する件)': 憲兵隊 (イ) 領事館より引き継を受けたる営業主並びに婦女の就業地輸送手続 (ロ) 営業主並びに稼業婦女に対する保護取締

⁸ The website of the Japanese Ministry of Foreign Affairs: <http://www.mofa.go.jp/mofaj/area/taisen/kato.html> The original text for the passage: 政府としては、国籍、出身地の如何を問わず、いわゆる従軍慰安婦として筆舌に尽くし難い辛苦をなめられた全ての方々に対し、改めて衷心よりお詫びと反省の気持ちを申し上げます。(香啓) この問題については、いろいろな方々のお話を聞くにつけ、誠に心の痛む思いがする。このような辛酸をなめられたの方々に対し、我々の気持ちをいかなる形で表すことができるのか、各方面の意見も聞きながら、誠意をもって検討していきたいと考えている。

⁹ The website of the Japanese Ministry of Foreign Affairs: <http://www.mofa.go.jp/mofaj/files/000042166.pdf> The original text for the passage from "The History of the Japan-Korea Discussions over the Issue of Comfort

This was as far as the Kato Statement could go and became the official view of the Japanese government, which went through the Kono Statement before it was resurrected with the Abe cabinet.

Issues with the Kato Statement

As mentioned earlier, the Kato Statement acknowledged the Japanese government was involved in: ① the establishment of the comfort stations, ② the control of those who recruited the comfort women, ③ the construction and reinforcement of the comfort facilities, ④ the management and surveillance of the comfort stations, ⑤ the hygiene maintenance of the comfort stations and among the comfort women, and ⑥ the issuance of identification as well as other documents to those who were related to the comfort stations.

Saying that the Japanese government was involved, the Kato Statement formally recognized the involvement of the local Japanese military forces, the Bureau of Police affiliated with the Home Ministry, and the Ministry of Foreign Affairs. The Japanese government as described in the Kato Statement was a concept that comprised the old Japanese military, the Home Ministry, and the Ministry of Foreign Affairs. The Kato Statement did not recognize the forcefulness involved in the mobilization of the comfort women.

The Miyazawa cabinet cannot escape the criticism by using the trick of non-disclosure that it covered up the forcefulness involved in the mobilization of the comfort women, which would have been brought to light by a close analysis of the contemporary government documents that have been addressed in this thesis. It only mentioned that the Japanese government was involved. Involvement has broad meaning, it cannot be known whether it means they cooperated, gave instruction, or something else. The Japanese cabinets have chosen and used expressions designed to avoid the responsibility for the issue of the comfort

women.

Ch. 2 Analyzing the Kono Statement

Issues with the Creation of the Kono Statement

Following the Kato Statement, a working-level meeting about the measures to be taken was held in October 1992 between the Republic of Korea and Japan (website of the Ministry of Foreign Affairs of Japan). One crucial demand from the Republic of Korea is that Japan bring facts to light and recognizes the forcefulness involved in the mobilization of the comfort women. In February 1993, the Kim Young-sam government took office in the Republic of Korea. The Japanese government's basic thoughts in considering how it should handle the issue of comfort women were as follows.

The review around February and March 1993 of the guidelines on how the Japanese government should respond shows basic thoughts such as, "We seek to settle the issue through a package deal which gets the Rep. of Korea government to agree to implement a certain measure in exchange for the Japanese government's decision with a view to bringing facts to light," "as far as bring facts to light is concerned, we are trying to figure out what expression we will use to describe our understanding of the fact that there was nearly forceful recruiting", [omitted] and, as for "forcefulness", "we suggest to the Japanese government that we are ready to express the Japanese government's understanding to the effect that we cannot deny that there were some cases in which military or government officials were involved and women were made into comfort women 'against their own will'".¹⁰

¹⁰The original text for the passage from the aforementioned website: 1993年2月～3月頃の日本側の対処方針に係る検討においては、基本的考え方として、「真相究明についての日本政府の結論と引き換えに、韓国政府に何らかの措置の実施を受け入れさせるというパッケージ・ディールで本件解決を図る」、「真相究明については、半ば強制に近い形での募集もあったことについて、なんらかの表現により我々の認識を示すことにつき検討中」、(중략)「強制性」については、「例えば、一部には軍又は政府官憲の関与もあり、『自らの意思に反した形』により従軍慰安婦とされた事例があることは否定できないとのラインにより、日本政府としての認識を示す用意があることを、韓国政府に打診する」との方針が示されている。

Women — from the Creation of the Kono Statement to Asian Women's Fund (慰安婦問題を巡る日韓間のやりとりの経緯～河野談話作成からアジア女性基金まで～) The original text for the passage: 他方、徴用の仕方に関し、強制的に行われたのか、あるいは騙して行われたのかを裏付ける資料は調査で出てこなかったのかと問われ、「今までのところ、発見されておりません」と応じた。

Examining Japan's Legal Responsibility regarding the 'Comfort Women' Question — with a Focus on the Kato Statement and the Kono Statement

This resulted in the Miyazawa cabinet letting the South Korean side know that it would include in its next statement that there was nearly forceful recruiting and that some of the recruiting was done against their own will because the military or the government officials were involved.

The Debates between the Rep. of Korea and Japan Regarding the Forcefulness Involved in the Recruiting of the Comfort Women

From July 1993, there was more phrasing coordination for a new statement between the Rep. of Korea and Japan. Between Korea and Japan, there were three issues of ① the military's involvement in the establishment of the comfort stations, ② the military's involvement in the recruiting of the comfort women, and ③ the forcefulness involved in the recruiting of the comfort women. (Website of the Ministry of Foreign Affairs of Japan). As for ① the establishment of the comfort stations, the Japanese argued for the phrase of the military's intent, whereas the Koreans demanded a phrase regarding the military's instruction of the occurrence. Because the Japanese stated that there was no verifying instruction and suggested the term of wish be used instead, the phrase of the military's request was adopted in the end. As to the above ② There were debates between Korea and Japan about the military's involvement in the recruiting of the comfort women. The expression that private recruiters at the request of the military were in charge of recruiting the comfort women was adopted.

The most difficult part was the phrasing coordination regarding the ③ force fullness involved in the recruiting of comfort women. After all, Japan acknowledged that the Korean Peninsula was under Japanese rule, and Korea and Japan came to agree on the phrasing of against their own will through coaxing, or coercion to the effect that considered the steps of the recruitment, the management, and the transport of the comfort women. There were many cases where it was done against the individuals' own will, regardless of how things got that way. (website of the Ministry of Foreign Affairs of Japan)

The Main Culprit and Accomplices of the Forceful Abductions of Women as Shown in the Kono Statement

The Kono Statement was released on Aug. 4, 1993, which acknowledged some cases where

the old Japanese military forcefully took away comfort women. Also, the Kono Statement adopted expressions, such as the military, the business operator, and the officials, instead of the Japanese government. It is a crucial part, and it is illustrated in the following paragraph.

*The recruitment of the comfort women was conducted mainly by private recruiters who acted in response to the request of the military. The government study has revealed that in many cases they were recruited against their own will, through coaxing, coercion, etc., and that, at times, administrative/military personnel directly took part in the recruitments.*¹¹

The Kono Statement acknowledged that the private recruiters recruited women against their own will through coaxing, or coercion in response to the request of the military authorities. Nevertheless, the early part of the sentence does clearly state the responsibility of the military. It states that the private recruiters engaged in coaxing, or coercion at the request of the military. This means that the Kono Statement provides no further detail that show what the request was that the military made to the private recruiters. This is the fulfillment of the intention of the Miyazawa cabinet that refused to adopt the expression, the military's instruction, which the Korean side demanded during the making of the Kono Statement. Even though the military requested the private recruiters to recruit comfort women, the agent who committed the coaxing or coercion would be the private recruiters.

The Kono Statement went on to mention that the administrative/military personnel directly took part in the recruitments. This implies that the Kono Statement mentioned the administrative /military personnel as the accomplices in forcefully taking the women away against their own will. It means that when the private recruiters were the main culprits, the administrative/military personnel were

¹¹ The original text for the crucial part of the Kono Statement: 慰安婦の募集については、軍の要請を受けた業者が主としてこれに当たったが、その場合も、甘言、強圧による等、本人たちの意思に反して集められた事例が数多くあり、更に、官憲等が直接これに加担したこともあったことが明らかになった。
<http://www.mofa.go.jp/mofaj/area/taisen/kono.html>
(website of the Ministry of Foreign Affairs of Japan)

accomplices.

This leaves this question. What group or groups of people does the administrative/military personnel refer to? The History of the Japan-Korea Discussions over the Issue of Comfort Women — from the Creation of the Kono Statement to Asian Women's Fund (慰安婦問題を巡る日韓間のやりとりの経緯 ~ 河野談話作成からアジア女性基金まで ~) , the afore-mentioned document, which came from the review of the Kono Statement, used the phrase of government and military personnel and apparently thereby acknowledged the forcefulness applied by the Japanese government, but apparently, it was not an accurate expression.

This is because when the Miyazawa regime disclosed the Kono Statement, further details were disclosed in the form of explanatory notes and the document titled Regarding the Issue of So-called Wartime Comfort Women distinguished the Japanese government from the administrative/military personnel.

Regarding the Issue of the So-called Wartime Comfort Women, a Document Disclosed in Conjunction with the Kono Statement

The document titled Regarding the Issue of So-called Wartime Comfort Women was released on Aug. 4, 1993 in conjunction with the Kono Statement as a supplement to it. The document included an explanatory note as follows.

- The Recruiting of the Comfort Women

The brokers were more often than not in charge of recruiting the comfort women, at the request of the business operators who were requested by the military authorities. Even in that case, as the war escalated and the need to get such people increased, the private recruiters in countless instances recruiting women against their own will by coaxing them or terrifying them, or administrative/military personnel often got directly involved in the process.

- The Transfer etc. of Comfort Women

As far as the transfer of the comfort women is concerned, when the private recruiters transported women including comfort women with a boat, the old Japanese military granted permission to their application for maritime passage as by treating the women particularly as civilian military workforce and the Japanese

government issued their identification.¹² (Underline is ours)

In the official document titled Regarding the Issue of So-called Wartime Comfort Women (いわゆる従軍慰安婦問題について), which was disclosed in conjunction with the Kono Statement, the Miyazawa cabinet included the Japanese government and the administrative/military personnel that were involved in the recruiting of the comfort women side by side in the same document while clearly distinguishing them. This means that the administrative/military personnel were not the Japanese government.

In this document, the Japanese government's involvement in the issue of the comfort women was reduced to the issuance of identification etc. The issuance of identification was the role of the Ministry of Foreign Affairs and the local consulates affiliated with it.

The Kato Statement of 1992 acknowledged the Japanese government's involvement in the six categories previously mentioned. The Kato Statement provided an excellent description of the roles of the old Japanese military (DAO, MP), the Home Ministry, and the consulates (the Ministry of Foreign Affairs) of the Japanese government in the concept of the Japanese government.

However, the Kono Statement did not mention the control of those who recruited comfort women, which was mentioned in the Kato Statement as the role of the Home Ministry. The Kono Statement took a step forward from the Kato Statement, because it acknowledged the forcefulness to some degree, but it failed to mention the involvement of the Home Ministry

¹²The original text for the passage from "Regarding the Issue of So-Called Wartime Comfort Women": 7) 慰安婦の募集 慰安婦の募集については、軍当局の要請を受けた経営者の依頼により斡旋業者らがこれに当たることが多かったが、その場合も戦争の拡大とともにその人員の確保の必要性が高まり、そのような状況の下で、業者らが或いは甘言を弄し、或いは畏怖させる等の形で本人たちの意向に反して集めるケースが数多く、更に、官憲等が直接これに加担する等のケースもみられた。(8) 慰安婦の輸送等 慰安婦の輸送に関しては、業者が慰安婦等の婦女子を船舶等で輸送するに際し、旧日本軍は女らを特別に軍属に準じた扱いにするなどしてその渡航申請に許可を与え、また日本政府は身分証明書等の発給を行うなどした。

http://www.mofa.go.jp/mofaj/area/taisen/pdfs/im_050804.pdf (website of the Ministry of Foreign Affairs of Japan)

or the Ministry of Foreign Affairs.

The True Face of the Administrative/military Personnel Mentioned in the Kono Statement

The Kono Statement acknowledged the request from the military, the responsibility of the private recruiters, and the complicity of the administrative/military personnel. As a result, it actually left out the military's responsibility for forcefully taking the women away. Hence, the argument here involves that the recruiters were civilians, and their responsibility could not be considered the responsibility of the military or the Japanese government.

However, the Kono Statement *did* mention 'administrative/military personnel' as accomplices in forcefully taking women away. Then, who were the 'administrative/military personnel' who were distinguished from the Japanese government? In this regard, *Sankei Shimbun* on Mar. 17, 2014 reported the circumstances in which the Kono Statement was disclosed. The title of the article was "The 'Executor' of Comfort Woman Recruitment — Who Was the Person That Performed Coercion and Coaxing? (慰安婦募集の「実行犯」“強圧と甘言”駆使したのは誰か)". And the article stated who 'administrative/military personnel' was as follows.

Then, what is this administrative/military personnel? The expected questions, which Cabinet Councilors' Office on External Affairs (内閣外政審議室) compiled for the press conference at the disclosure of the Kono Statement, included the following statement.

"The administrative/military personnel' refers to soldiers, policemen, staff of myeon (village in those years) etc. These people were present at the comfort women recruiting and were often involved in forceful acts."

In fact, at the personal interview survey in South Korea of sixteen former comfort women, which provided the basis for the Kono Statement, four women mentioned the policemen and myeon staff, respectively.¹³

¹³Original text: それでは、ここで言う「官憲」とは何なのか。内閣外政審議室が河野談話発表時にまと

The above article from the *Sankei Shimbun* described how the expected questions' for the press conference, which were prepared by the Miyazawa cabinet at the time of the disclosure of the Kono Statement, included an explanation for the administrative/military personnel. The expected questions explained the administrative/military personnel as the soldiers, the policemen, and the staff of the *myeon* on the Korean Peninsula. These people on the Korean Peninsula were affiliated not with the Japanese government organization, but with the Government-General in Korea.

The Government-General in Korea during the Period of Japanese Occupation was not a subgroup of the Japanese government but a separate organization that directly reported to the Japanese Emperor, which was similar to the old Japanese military or Imperial Army. In other words, the Home Ministry and the Ministry of Foreign Affairs of the Japanese government in those days were excluded from the agents and the participants in the act of forcefully taking the women away.

Furthermore, the phrase the request from the military diluted the forcefulness involving the military. In a nutshell, the people who were pointed out by the Kono Statement as the agents and the participants turned into private recruiters that had a request from the military, the soldiers, the policemen, and the *myeon* staff that was affiliated with the Government-General in Korea.

Another Meaning for Administrative/military Personnel

The Miyazawa cabinet characterized the administrative/military personnel as the public officials of the Government-General in Korea because the testimonies from the comfort women victims included the testimony that they were forcefully taken away by policemen and the *myeon* staff on the Korean Peninsula.

めた記者会見の「想定問答」には、次のように書いてある。「『官憲等』とは、軍人、巡査、面（当時の村）の職員などを指す。これらの者が慰安婦の募集の際に立ち会うなどして、強圧的な行為に加担するケースがあった」実際、河野談話の根拠となった韓国での元慰安婦16人の聞き取り調査では、巡査と面職員の関与に言及している女性それぞれ4人ずついた。

(Source: <http://www.sankei.com/politics/news/140317/pl1403170031-n1.html>)

However, as it was said that the argument that relied exclusively on the comfort women victims was less convincing. The Miyazawa cabinet, while preparing the Kono Statement, mobilized the Indonesian case, because it appeared to be similar to the forceful taking of the Korean comfort women. It is called the Semarang comfort women incident or the Batavia incident.

Nobuo Ikeda (池田信夫), the CEO of the magazine *AGORA* wrote the article about this on Oct. 17, 2014.

When they asked the question, "Is it the understanding that forceful taking of people existed?" In regard to the meaning of the phrase, administrative/military personnel directly took part in the recruitments Mr. Yohei Kono's answered, "Such a fact existed. You may think so." He gave this statement at a press conference for the disclosure of the Kono Statement, and it became the basis for South Korea's argument that the Japanese government recognized that it forcefully took women away."(Omitted)

Mr. Kono did not get involved in preparing the document and did not know the content of the phrase was involved. In that regard, the Ministry of Foreign Affairs reportedly explained it as referring to the Semarang comfort women incident at the press conference. In answering to the National Diet in 1997, a councilor of the Cabinet Councilors' Office on External Affairs said, "Other than the former comfort woman's testimony that the South Korean government heard, the Batavia incident was the only one that ever came out."¹⁴

¹⁴Original text: この「官憲等が直接これに加担」の意味について、このときの記者会見で「強制連行の事実があったという認識なのか」という質問に、河野洋平氏が「そういう事実があったと。結構です」と答えたことが、韓国側が「日本政府は強制連行を認めた」と主張する根拠になっている。(omitted) ただ河野氏は文書の作成にはかかわっておらず、この「加担」の中身は知らなかった。これについて、当時の外務省の記者レクではスマラン事件のことだという説明が行なわれたとされる。1997年の国会答弁でも、内閣外政審議室審議官が「韓国政府が行ったという元慰安婦の証言以外にはバタビア[インドネシア]の事件が1つあっただけだ」と答弁している。

In preparing the Kono Statement, the Miyazawa cabinet took as its model the Semarang comfort women incident or the Batavia incident where the Japanese forces forcefully took the Dutch women as comfort women in 1944, and the face-to-face survey of the sixteen Korean comfort women victims.

The content of such findings was already known to the comfort women researchers, and they reportedly became the model for the Korean Statement in October 2013 when the National Archives of Japan disclosed the findings about the Semarang comfort women incident. They called these the fundamental documents for the Kono Statement. The passage below is taken from an article in the *Tokyo Shimbun* that reported it in detail.

Disclosing details of the military's forcefulness in taking people as comfort women: The National Archives of Japan exhibits the fundamental documents for the Kono Statement. The National Archives of Japan disclosed to the civil society an official artifact, which describes the old Japanese military forcefully, took thirty-five Dutch women away from the prisoner camp in Indonesia and made them comfort women. The document became the basis for the Statement by the Chief Cabinet Secretary Yohei Kono (1993).

(Omitted) The court ruling includes testimonies from a military officer etc. including, "We asked the chief of the provincial police to cull women for brothels from the camp," "women were taken away by the provincial official at the request of _____ (the name of the military officer)," and "Women never heard what they were going to do before they went into the brothels." (Tokyo Shimbun, Oct. 7, 2013)

From the article in the *Tokyo Shimbun*, it can be seen that that the administrative/military personnel who forcefully took women away were the provincial police in addition to the military soldiers of Indonesia. The police belong to the so-called administrative/military personnel. We think the Abe cabinet disclosed the documents with to the intention of forcefully arguing that there were no documents that showed that the Korean women were forcefully taken away. In October 2013, the Park Geun-

hye government strongly demanded that the Abe cabinet settle the issue of comfort women.

Ch. 3 The Need to Reexamine the Existing Documents and Study the Documents That the Japanese Government Has yet to Recognize

Our discussions so far suggest that with the Kono Statement alone, it had limitations involved with demanding that the Japanese government recognize their legal responsibility for forcefully taking people away as comfort women. In response, the existing documents need to be reexamined and research the documents that the Japanese government has yet to recognize.

The Need to Raise the Legal Responsibility of the Japanese Government Based on the Existing Documents

The legal responsibility of the Japanese government can be seen considering the already disclosed documents. For example, the Japanese argument is that the Home Ministry controlled the private recruiters, and it is easy to point out that its mode of control had loopholes in the first place. Regarding the Handling of Women Crossing to China, the afore-mentioned Home Ministry document dated Feb. 18, 1938, included the following description.

In case a woman with a view to unseemly occupations applies for the issuance of identification for maritime travel, she is required to obtain approval from the parents as the closest available direct ancestors in the same family register, or, absent the parents as the closest available direct ancestors, from the head of the family, and absent a person who is qualified to give approval, the fact must be indicated.¹⁵ (underline is ours)

This provision, which required a woman who wanted to move abroad with the view of becoming a comfort woman to get approval from the closest available direct ancestors or the head of the family, stated that in the absent of a person who is qualified to give approval, the

fact must be indicated. One problem with such a provision is that it allowed all women who were wanted by the private recruiters to become comfort women. In a nutshell, one could deduce from this situation that there was a good chance that private recruiters would forge documents to verify that some women didn't have a person qualified to give them approval. One cannot say that the Home Ministry of the Japanese government, which made such a provision, faced a huge legal responsibility.

The Need to Research the Documents Unrecognized by the Japanese Government

In 1996, following the disclosure of the Kono Statement, the Japanese government sent out a notice to its different ministries, which instructed them to submit any newly discovered documents on the comfort women issue. This is commonly referred to as the Hirabayashi circular notice (女たちの戦争と平和資料館, <http://wam-peace.org/ianfu-koubunsho/intro.html>).

Although it is up to the different ministries to recognize documents that are related to the comfort women, the central government only has to receive them. The documents held by the private sector are not recognized unless they go through the government ministries. Therefore, however precious they may be, the documents that are not owned by the different ministries of the Japanese government are not recognized as official documents. These are not official documents about the comfort women until they are recognized by the ministries as related to the comfort women and sent to the central government. The Japanese government has seen to it that its ministries may not collect these types of documents that show that the women were forcefully taken away as comfort women, or hide them even if they have them. (小林久公, 2015, 3). Nevertheless, the documents that the Japanese government has yet to recognize include the ones whose existence has been known to the world.

One of such documents is Regarding the Field Commissary Regulations (野戦酒保規定ニ関スル件)” (Sep. 21, 1937) (小林久公, 2015, 11), which is a document in the collection of the Ministry of Defense. The document include the Guide to the Amendment of Field Commissary Regulations” (野戦酒保規定改正説明書) (Sep. 15, 1937) (小林久公, 2015, 12), and its Article

¹⁵The original text for the passage from the Home Ministry document, “Regarding the Handling of Women Crossing to China(支那渡航婦女の取扱に関する件)”: 四、醜業を目的とする婦女の渡航に際し身分証明書の発給を申請するときは必ず同一戸籍内に在る最近尊族親、尊族親なきときは戸主の承認を得せしむることとし若し承認を与ふべき者なきときは其の事実を明ならしむること

1 states as follows.

Article 1: A field commissary has its purpose in selling accurately and at a reasonable price daily goods, food, etc. needed by the soldiers, the civilian military workers, and other persons authorized to follow the forces in a theater of war or an area with an incident.

Reason for the Amendment: in order to clarify the scope of the users of the field commissary and because it is necessary to recognize that the comfort facilities may be created between the sessions of the confrontation of the armies. (Underline is ours)

'Comfort facilities' in the above document refer to 'comfort stations', but the Japanese government refuses to recognize the document as related to the comfort women because they are not indicated as 'special comfort stations'. (小林久公, 2015, 12)

After all, one can see that the Japanese government chooses a tough document recognition procedure to avoid its legal responsibility for the issue of comfort women. To overcome this, more research effort is seriously needed.

CONCLUSION

The Kato Statement recognized that the Japanese government was involved in mobilizing the comfort women, but it denied that they were forcefully taken away. The Kono Statement describes how not only the private recruiters at the request of the military and also the administrative/military personnel were involved in forcefully taking women away as comfort women. However, the Kono Statement reduced the roles of the Home Ministry and the Ministry of Foreign Affairs of Japan and included them in explanatory notes.

The Kono Statement described the old Japanese military as an entity that requested the private recruiters recruit comfort women and excluded it from the responsible agency. The expected questions that the Cabinet Councilors Office on External Affairs compiled for the press conference at the disclosure of the Kono Statement (1993) described the administrative/military personnel as referring to the soldiers, the policemen, and the staff of *myeon* that belonged to the Government-General in Korea. The responsibility is thus attributed to the Government-General in Korea, which was a

separate entity independent from the Japanese government during that time.

The former Minister of Defense, Nobuo Ishihara, who was involved in the preparation of the Kono Statement, said in an interview with *Sankei Shimbun*, "Most of such people were Koreans." (*Sankei Shimbun*, Mar. 17, 2014)

The administrative/military personnel were the officials of the Governor-General in Korea, but the Governor-General of Korea was usually appointed from among the army or navy generals, who were on a par with the Prime Minister of Japan. The Governor-General in Korea reported directly to the Japanese Emperor, so when the Kono Statement said that the administrative/military personnel was directly involved in the recruitments, the Japanese government was not implicated. We cannot say whether this also serves as a basis in which the Japanese government tried to avoid its legal responsibility for the issue of the comfort women.

On the other hand, the 2013 review of the Kono Statement disclosed what served as the actual model for the Kono Statement was the incident where the Dutch women, who were taken prisoners by the Japanese military, were forcefully taken away and turned into comfort women in Indonesia in 1944. To sum up, the Kono Statement was prepared considering the policemen or the *myeon* staff on the Korean Peninsula, which was brought to light by the comfort woman victim and adopted its legal framework from the Indonesian incident, had no direct bearing on the Korean Peninsula, in which the Dutch women were forcefully taken away.

This was reported by the *Tokyo Shimbun* on Oct. 7, 2013, and it was also covered by *Hokkaido Shimbun*, *Chunichi Shimbun*. Their report interpreted the administrative/military personnel as the provincial police of Indonesia. It didn't show any connections to the Japanese government. In this regard, Tetsuo Ito (伊藤哲生), the Director of the Japan Policy Institute, offered his explanation in the April 2014 issue of *Choices for Tomorrow*, (明日への選択) which are as follows.

The administrative/military personnel directly took part in the recruitments in the statement actually refers to an extraordinary case in crime in which some of the army soldiers forced the female Dutch prisoners of war to work at

Examining Japan's Legal Responsibility regarding the 'Comfort Women' Question — with a Focus on the Kato Statement and the Kono Statement

brothels for several months in Indonesia, and it is not intended to recognize such things on the Korean Peninsula. This is not widely known, but it is the explanation from the Japanese government official in charge of the matter.

<http://www.seisakucenter.net/node/737?page=6>

While reviewing the Kono Statement, the Abe cabinet adopted the view that the administrative/military personnel were the soldiers, the policemen, *myeon* staff, and the provincial police of Indonesia. What is missing from the Kono Statement is the responsibility of the Japanese government. The Abe cabinet, which reviewed the Kono Statement, said that it was inheriting the Kono Statement, but the Japanese statement for South Korea-Japan Comfort Women Agreement deleted the phrase of administrative/military personnel while retaining only the phrase regarding the involvement of the Japanese military authorities.

However, we can confirm that the Japanese government was part of the comfort women mobilization system, because the existing documents recognized by the Japanese government confirm that the Home Ministry and the Ministry of Foreign Affairs provided assistance in mobilizing the comfort women. As a result, there is no way for the Japanese government to avoid its legal responsibility. The documents that are unrecognized by the Japanese government include the documents where the old Japanese military provided the legal basis for the establishment of the comfort stations, but they have yet to be recognized in relation to the comfort women. This is where researchers need to put in more effort.

REFERENCES

- [1] 和田春樹他編(1997)『「従軍慰安婦」関係資料集成①』, 龍溪書舎, pp.25-46, pp.57-68.

- [2] 小林久公(2015)『日本軍「慰安婦」関係資料21選』, 愛甲社, pp.3-26.
- [3] 中川かおり(2004)「人身取引に関する国際条約と我が国の法制の現状(総論)」, 『外国の立法』, 国立国会図書館, pp.3-4.
- [4] 「朝鮮半島出身者のいわゆる従軍慰安婦問題に関する加藤内閣官房長官発表」(Jul. 6, 1992) <http://www.mofa.go.jp/mofaj/area/taisen/kato.html>(searched on Sep. 18, 2017)
- [5] 「慰安婦問題を巡る日韓間のやりとりの経緯～河野談話作成からアジア女性基金まで～」(Jun. 20, 2014) <http://www.mofa.go.jp/mofaj/files/000042166.pdf> (searched on Sep. 20, 2017)
- [6] 「慰安婦関係調査結果発表に関する河野内閣官房長官談話」(Aug., 4, 1993) <http://www.mofa.go.jp/mofaj/area/taisen/kono.html> (searched on Sep. 20, 2017)
- [7] 「いわゆる従軍慰安婦問題について」(Aug. 4, 1993)http://www.mofa.go.jp/mofaj/area/taisen/pdfs/im_050804.pdf (searched on Sep. 20, 2017)
- [8] 産経新聞』(2014.3.17.) 「慰安婦募集の実行犯」“強圧と甘言”駆使したのは誰か <http://www.sankei.com/politics/news/140317/pl1403170031-n1.html>(searched on Sep. 21, 2017)
- [9] AGORA』(Oct. 17, 2014) <http://agora-web.jp/archives/1615720.html> (searched on Sep. 22, 2017) 東京新聞』(Oct. 7, 2013)
- [10] 女たちの戦争と平和資料館,<http://wapeace.org/ianfu-koubunsho/intro.html> (searched on Nov. 14, 2017)
- [11] 『明日への選択』(April 2014 issue) <http://www.seisaku-center.net/node/737?page=6> (searched on Sep. 23, 2017)