A short while ago, while commenting on the dominant themes in the war of words between Japan and South Korea, we noted South Korea’s attempt to stop Japan’s navy from flying under the “flag of the rising sun”, as, apparently, this is an unacceptable symbol, associated with Japanese militarism. As a result Japan decided not to take part in the International Naval Review off the waters of Jeju Island, and on 20 October, on the sidelines of the fifth ASEAN security forum, held in Singapore, the Japanese Minister of Defense, Takeshi Iwaya, expressed regret that Japan had been presented with demands that were in breach of the agreed rules of conduct.

Shinzo Abe, the Japanese Prime Minister, also stated that Seoul’s actions were having a negative effect on the efforts to establish a positive and forward-looking relationship between Japan and South Korea. This is the first time the Japanese premier has openly stated his position on these questions, but zealous South Korean analysts see an ulterior motive in his statement: according to them, he is seeking to influence the opinion of both the public and the government concerning the hearings in the South Korean Supreme Court on the Japanese government’s use of Koreans as forced labor during the Colonial era. We will consider at those hearings, and their results, in more detail below.

But first of all, let us take a look at the historical background. When Japan and South Korea entered into diplomatic relations, in 1965, Seoul was given $300 million in outright subsidies, plus a further $200 million in government loans on highly favorably terms (annual interest rates of 3-5%, and a payment period of 20 years, with no installments due for the first seven years) as well as $300 million in commercial loans. These payments were made as final compensation for Japan’s actions during its Colonial past, and they were intended to close this issue. Tokyo therefore considers that individual Koreans have no right to demand any additional compensation from Japan, as all
claims were satisfied by the general agreement signed in 1965.

However the current feeling in South Korea is that “at that time the South Korean government was pressurized into accepting those proposals because the national economy was in urgent need of development, and the compensation issue has still not been resolved.”

South Korean nationalists are continuing to demand more money, as well as apologies, from Japan: they consider that the agreement was incomplete, and believe that it should be treated as a concession made under duress. This is all the more so as “today Japan denies that Koreans were forced to work in production facilities, and refuses to accept that the Japanese authorities were responsible”, and Shinzo Abe has ordered that, instead of the phrase “forced labor”, the term “workers from the Korean Peninsula” should be used. He has claimed that the workers were recruited voluntarily, through state organizations, and, in some cases, were conscripted.

In fact, Koreans were frequently forced to work in harsh conditions, without adequate compensation. As a result, 13 years ago four Koreans, who had been sent to work in factories belonging to the Nippon Steel & Sumitomo Metal Corp during the colonial occupation (1910-45), sought compensation in court for having being used as forced labor and for the harsh conditions they had to work in. The Japanese court ruled that these claims for compensation were illegal, but South Korea considers such claims by individuals to be legitimate, as they do not fall within the scope of the general agreement between Japan and South Korea, signed in 1965.

In 2003, other claimants brought a similar claim in the Osaka Central Court. However, on that occasion the court ruled that the Nippon Steel Corporation, which was named as the defendant in the claim, had ceased to exist a long time before, and that its successor, Nippon Steel & Sumitomo Metal, was under no obligation to pay another company’s debts. In South Korea, such claims were also rejected by the lower courts: it was only in 2012 that the Supreme Court ruled that the decision of the Japanese court could not be recognized as valid.

That takes us up to 25 October, 2018. The South Korean Supreme Court upheld the previous rulings and ordered the Nippon Steel Corporation to pay the claimants 100 million won, or $87 000 each, although only one of the original claimants was still alive. The court also rejected the Nippon Steel Corporation’s claim that the limitation period for individual claims by victims had expired.

Lee Nak-yeon, the South Korean Prime Minister, has said that his government welcomes the Supreme Court’s ruling and will study it in detail and then take the appropriate steps in order to assist the victims of forced labor. He has also stated that Seoul wishes to improve its relations with Tokyo.

Tokyo’s official position is that the South Korean Supreme Court’s decision may further complicate relations between Japan and South Korea, which were not particularly good even before the ruling. An official protest was issued to the South Korean ambassador in Japan, and Shinzo Abe has declared that all the disputes relating to the colonial occupation were finally resolved by the Treaty on Basic Relations between Republic of Korea and Japan.

Taro Kono, the head of the Japanese Foreign Ministry, said the same thing after speaking by telephone to the South Korean Foreign Minister Kang Kyung-wha on Wednesday. According to the Japanese Foreign Minister, the court ruling is in breach of the legal framework that underpins relations between Seoul and Tokyo. Taro Kono later described the ruling by the South Korean Supreme Court as a challenge to the international order, and called on the South Korean government to take responsibility for the situation and resolve the problem.

South Korea has called this demand “highly undiplomatic, and unacceptable”. Lee Nak-yeon has expressed indignation and has said that, on the contrary, it is the Japanese government’s statements that are unreasonable and without foundation.

On November 13 South Korean lawyers acting for the claimants in the lawsuit on forced labour during the Japanese occupation attempted to visit the head office of the defendant, the Nippon Steel Corporation, but were refused admittance. Seoul interpreted this refusal as yet another confirmation of Japan’s position.

Earlier, on November 6 the Japanese government complained to the World Trade Organisation that the South Korean government was giving financial support to help the restructuring of the country’s commercial shipbuilding industry, in breach of the WTO Agreement on Subsidies and Countervailing Measures. It is alleged that the South Korean company Daewoo Shipbuilding & Marine Engineering, a recipient of state subsidies, has decreased its prices, thereby causing loss to other companies in the market. Japan claims that the company was given $10.5 billion as part of the restructuring program. Japan has also complained about the restructuring of two other companies, Sungdong Shipbuilding & Marine Engineering and STX Shipbuilding.
The South Korean government, on the other hand, points out that the measures to support the restructuring of its shipbuilding industry have a legitimate commercial purpose, and that the Japanese complaints are just a ploy to deflect the perfectly justified South Korean claims. As a result, Japan is expected to take countermeasures and launch a claim in the international court, which will only serve to further inflame the already difficult relations between the two countries. And then there may be new claims from South Korea, brought by other victims. Fourteen claims relating to colonial-era forced labor have also been brought against Mitsubishi Heavy Industries: these are still under consideration.

And the issue of comfort women has not gone away either. In the latest high-profile case a former professor of Sunchon University has been sentenced to six months in prison for “insulting the feelings of victims of Japanese sexual slavery”. The insult consisted of a statement the professor made in a lecture on April 26, 2017: he said that comfort women probably had a clear idea what they were expected to do, and they became victims of sexual aggression because they were “seductive”. On September 26 the human rights group Sunchon Nabi accused the professor of spreading false information and defaming the wianbu, or comfort women.

As the present author has pointed out more than once, the South Korean Government has made anti-Japanese sentiments part of its official ideology, and still uses them as a political tool: it can distract attention from the country’s many internal problems by pointing out that the Japanese have, once again, refused to apologize and pay compensation for things that happened a long time ago.

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