

# Constitutionality of the Agreement between the Foreign Affairs Ministers of the Republic of Korea and Japan on the Issue of 'Comfort Women' on 28 December 2015

Seung Ju Bang\*

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*Abstract:* On 28 December 2015, Korean Foreign Minister Yun Byung-se and Japanese Foreign Minister Fumio Kishida held a meeting at the Korean Foreign Ministry in Seoul and announced that they had reached an agreement to resolve the so-called 'comfort women' issue, who were forcibly drafted into sexual slavery by the Japanese imperial army in World War II. But the agreement's binding effect and constitutionality are highly controversial. This agreement violates not only the principle of the statutory or parliamentary reservation by the restriction of the basic rights and the power of the National Assembly to consent to the treaty pursuant to Article 60 (1) of the Constitution, but also infringes the constitutional rights of the 'comfort women' victims, such as the right to human dignity, the right to know, and the right to property. This article provides a review of current and potential constitutional litigation regarding the agreement, including the claim that has already been brought by the comfort women survivors, and potential suits concerning the competence dispute and impeachment by the National Assembly.

*Keywords:* Comfort Women Agreement on 28 December 2015, Consent of the National Assembly, Statutory or Parliamentary reservation, Crime against Humanity, Legal Responsibility and Compensation of the Japanese Government.

## I. Introduction

On 28 December 2015, Korean Foreign Minister Yun Byung-se and Japanese Foreign Minister Fumio Kishida held a meeting at the Korean Foreign Ministry in Seoul and announced that they had reached an agreement to resolve the so-called 'comfort women' issue. Whether this agreement is a binding treaty or a non-binding bilateral agreement is highly controversial.

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\* Seung Ju Bang is Professor at the Hanyang University, School of Law, South Korea.  
Email: [frieden@hanyang.ac.kr](mailto:frieden@hanyang.ac.kr)

This work was supported by the National Research Foundation of Korea Grant funded by the Korean Government (NRF-2013S1A2A1A01034423). The author notes that parts of this article consists of modified and translated passages from an article that was originally published by the author in Korean in *Democratic Legal Studies* Vol 60 (2016 3), but this article also contains updated information reflecting the new developments. The author wishes to thank his assistant Hanui Jo for her support in the drafting of this English translation and also his colleague, Prof Billy Gage Raley, for proofreading of the entire text. All responsibility for this work falls on the author.