



## Online Series

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# Effects of South Korea-Japan dispute on DPRK-Japan Dialogue

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There are various takes on the causes of South Korea-Japan dispute, which began to escalate when Japan imposed export restrictions on South Korea. This article analyzes the dispute between the two countries in relation to the incomplete 1965 Claims Settlement Agreement as well as potential normalization of North Korea-Japan relations. As Japan intends to sustain the “post-war regime” contrary to Prime Minister Abe’s personal belief, it is expected that South Korea-Japan Claims Settlement Agreement based on the San Francisco System will become the standard for Japan when it negotiates with North Korea on issues such as compensation and abandonment of individual’s right to claim compensation from Japan. North Korea’s recent comments on Japan were also made in consideration of potential DPRK-Japan talks. Therefore, Seoul needs to actively engage in cooperation such as providing assistance to the North while being cautious with elements that could lead to dispute between North Korea and Japan.

Recently, South Korea-Japan dispute has escalated since Japan imposed export restrictions on Seoul. Japan is citing security concerns as the motive for such a restrictive measure while claiming that it is unrelated to the recent ruling by the South Korean Supreme Court with regard to Korean forced laborers suffered under Japan’s colonial era.

However, in an interview with Japan's Yomiuri Shimbun published on July 1, 2019, Prime Minister Shinzo Abe of Japan said that "the measures taken based on the faith between the two countries were reevaluated," which hints that Tokyo's action is in fact relevant to Korean Supreme Court's ruling.

Current discussions on the intention behind Japan's export restrictions on South Korea focus on the following: Japan's discontent<sup>1)</sup> with "Japan Passing" arising from Moon Jae-in administration's Korean peace process; Tokyo's attempt to strike a blow to the South Korean economy to preemptively prevent Seoul from surpassing its economy (Theory of Hegemonic War); and Japan's opposition against South Korean Supreme Court's ruling regarding Korean forced laborers. This paper proposes the direction that the South Korean government should take going forward by addressing the recent South Korea-Japan conflict and North Korea-Japan relations from a different perspective: a conflict between Japan that wants to sustain the "post-war regime" based on the San Francisco System and South Korea that seemingly seeks to change the post-war order represented by Agreement on the Settlement of Problem concerning Property and Claims and the Economic Cooperation between the Republic of Korea and Japan (hereinafter referred to as "the 1965 Claims Settlement Agreement" or "1965 Regime").

### **Prime Minister Abe's Contradictory Awareness of Post-war Regime and Response**

Prime Minister Abe has insisted that Japan should "go beyond the post-war regime" even before his re-election in 2012. In his book *Towards a Beautiful Country*, Minister Abe emphasized "strong Japan" and defined his country, which has been governed by the Constitution of Japan in the wake of post-war order, as

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1) Moon Jae-in Administration, while pursuing a peaceful resolution of denuclearization of the Korean Peninsula, has consistently sought for communication and talks with Japan. The Korean peace process focuses on improving North Korea-Japan relations via a virtuous cycle of South Korea-Japan cooperation and talks, as well as the positive effects of North Korea-Japan relations on the denuclearization of the Korean Peninsula and infrastructure development in North Korea. Moreover, President Moon made three promises: 1) there will be no "Japan Passing," 2) South Korea will cooperate in improving North Korea-Japan relations, and 3) South Korea will help Japan with the abduction issue.

“incomplete.” According to the Prime Minister, replacing the current constitution written under the leadership of Douglas MacArthur, the Supreme Commander for the Allied Powers, with the one written by Japanese is the establishment of a new system that replaces the post-war regime.

Accordingly, Mr. Abe claims that Japan will be able to become a “normal country” that can wage war through the revision of the country’s current Constitution. On a personal level, the Prime Minister has the intention of resurrecting a “strong Japan” of the past via historical revisionism. Nevertheless, after his re-election in 2012, he decided to pursue historical reconciliation with the United States, as historical revisionism may potentially end Japan’s relations with the U.S., or the post-war order. Although he visited Yasukuni Shrine in 2013, he no longer visited the shrine due to the opposition from the U.S. Moreover, the two countries made historical reconciliation in 2016 when President Barack Obama visited Hiroshima and Prime Minister Abe visited the Pearl Harbor.

Currently, Mr. Abe has not insisted on “going beyond the post-war regime” since his re-election in 2012. He intends to maintain the San Francisco System via strengthening the U.S.-Japan relations while seeking to make Japan become a normal country. Meanwhile, he defines emerging China as a country that is seeking to destroy the San Francisco System. In other words, he is strengthening U.S.-Japan relations to counteract China’s emergence while maintaining the post-war regime, which is contradictory to his personal belief.

### **Incomplete South Korea-Japan Claims Settlement Agreement**

The issue of forced labor victims is significant in that for the first time the Supreme Court of South Korea acknowledged the illegality of Japan’s past occupation of Korea. In fact, South Korea-Japan Claims Settlement Agreement, in principle, denied compensation for the victims since it did not acknowledge the illegality of Japan’s occupation. The Agreement was not about compensation for Japan’s illegal occupation. According to the Treaty of San Francisco in 1952, South Korea and Japan settled financial and civil claim-obligation relationship via political agreement.

Therefore, the Claims Settlement Agreement was signed as an extension of the San Francisco System.

Yet, the South Korean Supreme Court's ruling on forced labor acknowledges the illegality of Japan's occupation of Korea made possible by Japan's forced annexation of Korea in 1910 and orders accordingly that the Japanese companies provide compensation to the victims. Japan claims that this is "a violation of international law." However, considering that recent international laws recognize individual's right to seek compensation from a country, Japan's assertion disregards both the international law and South Korea's legal system, obstinately shifting the blame on to the South Korean government.

### **Linkage between Normalization of South Korea-Japan Relations and Normalization of North Korea-Japan Relations**

In September 2002, then Prime Minister Koizumi of Japan visited Pyongyang and announced the DPRK-Japan Pyongyang Declaration with Kim Jong-il. Based on Article II of the Pyongyang Declaration, Japan is attempting to disregard individual's right to claim compensation, as it did in South Korea-Japan Claims Settlement Agreement. The core content of the Article II<sup>2)</sup> is the normalization of North Korea-Japan relations based on the same conditions as the 1965 South Korea-Japan Claims Settlement Agreement. In other words, Japan pledged to provide economic assistance to North Korea in return for the abandonment of North Korean individual's right to seek compensation from Japan after the war. Regarding the recent South Korea-Japan dispute that arose from the South Korean Supreme Court ruling on Korean forced laborers, Tokyo claims that shaking the foundations of the South Korea-Japan Claims Settlement Agreement will negatively impact the North

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2) "Both sides, pursuant to the basic principle that when the bilateral relationship is normalized both Japan and the DPRK would mutually waive all their property and claims and those of their nationals that had arisen from causes which occurred before August 15, 1945, decided that they would discuss this issue of property and claims concretely in the normalization talks."(underline by the author)

Korea-Japan relations which is based on the Pyongyang Declaration. Accordingly, Japan insists that Seoul must share the significance of the Pyongyang Declaration to improve North Korea-Japan relations.

The purpose of Japan's claim is to disregard the issue of individual's right to claim compensation from Japan, which was raised both domestically and internationally after the Treaty on Basic Relations between Japan and the Republic of Korea in 1965. Therefore, Tokyo explicitly stipulated mutual abandonment of the right to property and claim compensation of nationals of both Japan and the DPRK in the Pyongyang Declaration. However, compensation for damage and individual's rights to seek compensation from Japan for forced labor mobilized during illegal occupation of Korea in 1910 cannot lapse, as shown in the South Korean Supreme Court's ruling. Even after the normalization of North Korea-Japan relations based on the Article II of the Pyongyang Declaration, the Korean Peninsula will eventually demand the payment of compensation for forced labor depending on possible internal changes of the North, such as democratization, and Japan will face yet another dispute with Korea.<sup>3)</sup>

### North Korea's Stance and Response

Tokyo has consistently argued for imposing maximum pressure on North Korea ever since the emergence of DPRK's nuclear weapons and missile threats. In 2019, however, Prime Minister Abe changed the perception of and strategy for North Korea, proposing an "unconditional" DPRK-Japan summit. Japan's commitment for the summit is clearly present in their recent efforts: Japan's Ministry of Foreign Affairs, in the Diplomatic Bluebook released in March, deleted the expression, "We will maximize the pressure on North Korea" and Japan suspended the U.N. resolution

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3) Of course, the DPRK-Japan Pyongyang Declaration was not signed by the current leaders of both countries and it was a mere political declaration that was not ratified by their national assemblies; nevertheless, both countries are insisting on the implementation of the DPRK-Japan Pyongyang Declaration. North Korea criticizes Japan for ignoring the human rights of the forced laborers and not seriously considering "coming to terms with the past," which is stipulated in the DPRK-Japan Pyongyang Declaration.

on North Korea's human rights, which has been presented to the U.N. Human Rights Council by Japan for the last 11 years. Tokyo also expressed the willingness to establish dialogue based on the 2002 DPRK-Japan Pyongyang Declaration, which pursues the normalization of diplomatic relations via coming to terms with the past and resolving the abduction issue.

Despite such a change in Japan's North Korea policy, DPRK's response is not positive. In fact, the North has increasingly intensified criticism towards Japan's export restrictions on South Korea. It is interpreted that such a criticism is a sign that North Korea has the normalization of North Korea-Japan relations in mind. In other words, North Korea's criticism intends to lead Japan to ease up on sanctions against the DPRK and to hold a dominant position in a potential summit with Japan, which could be held after the U.S.-DPRK summit. It is expected that North Korea will maintain a strong stance against Japan. As the North's top priority is the easing of economic sanctions via U.S.-DPRK talks, there is no reason for the North to hastily initiate dialogue with Japan.

North Korea, above all, emphasizes moral high ground when it comes to past affairs with Japan. By maintaining its identity as a government established through anti-Japan movement, it will underscore its superior legitimacy over South Korea's past pro-Japan governments (namely, Rhee Syngman and Park Geun-hye administrations) and Japan. The DPRK has a stake to claim in the future that it has rightly received compensation from Japan by righting the wrongs of past affairs, done by the "wrongful 1954 agreement." Therefore, in handling its relations with Japan, the North will actively utilize issues of past affairs based on its moral high ground and strive to have economic sanctions relieved while trying to gain as much assistance as possible. Through the "the two Koreas vs. Japan" narrative based on nationalism, North Korea seemingly intends to create an environment conducive to resuming South Korea's assistance. It should be noted that the North's intention may be linked to its possible strategy to shake the foundations of the trilateral security cooperation among South Korea, U.S., and Japan while weakening their cooperation in imposing sanctions against North Korea.

After all, we must consider the potential impact of the South Korea-Japan

dispute on North Korea–Japan relations. It is likely that Japan would request domestic legislation to completely remove North Korean individual’s right to claim compensation from Japan upon the normalization of North Korea–Japan relations. On the other hand, North Korea is expected to include additional compensation, including the individual’s right to seek compensation from Japan, in a more comprehensive economic cooperation fund. From this perspective, wisely handling the issue of forced labor between South Korea and Japan means restoring the “completeness” of the incomplete 1965 regime. It is also significant in that it could propose a new standard for the normalization of North Korea–Japan relations.

### South Korean Government’s Response

In August 2019, South Korea and Japan have removed each other from the whitelist of trusted trade partners one after another. South Korea decided to terminate GSOMIA (General Security of Military Information Agreement) owing to Japan’s continued refusal for dialogue proposed by the South, further worsening their relations. However, as the cooperation between South Korea and Japan will still be necessary in terms of North Korea policy, the author would like to make a few suggestions.

First, after the termination of GSOMIA, we need a renewed perspective in approaching South Korea–Japan security cooperation. The recent dispute between the two countries began when Japan started to impose export restrictions on Seoul for South Korea’s systematic mismanagement of some exported Japanese goods citing a security concern. For South Korea, whether to extend GSOMIA or not was its ace in the hole in negotiating with Japan, who had remained unresponsive to South Korea’s dialogue gesture. Tokyo seems to be flustered about the termination of GSOMIA, claiming that it will negatively impact the trilateral cooperation among South Korea, U.S., and Japan. Withdrawing from the intelligence–sharing pact could be viewed as removing a barrier that hinders realization of North Korea–Japan dialogue in relation to the Korean peace process. Accordingly, we must have serious discussions about which form of security cooperation South Korea and Japan should

pursue in shaping the new order on the Korean Peninsula.

Second, the South Korean government must conduct a thorough analysis on Japan's attempt to become a normal country while maintaining the post-war regime. Currently, South Korea's autonomy is limited in terms of foreign affairs and security issues due to escalating tension between the U.S. and China as well as the "us vs. them" narrative based on the San Francisco System. Therefore, current issues including the recent South Korea-Japan dispute must be analyzed from the perspective of international politics as opposed to South Korea-Japan relations. Especially, we must seek ways to realize the coexistence of Moon Jae-in Administration's new peace regime on the Korean Peninsula and Japan's commitment to become a normal country. In other words, we must find a way in which Japan could assume a new role in bringing peace and prosperity on the Korean Peninsula and Northeast Asia by genuinely becoming a normal country, rather than escalating the new cold war structure in the region through such an attempt.

Third, we must seek solidarity with Japanese civil society to discuss and resolve the incompleteness of the 1965 regime. The South Korea-Japan dispute arises from the incomplete 1965 regime and it may have impact on the future North Korea-Japan relations. The fact that Japan is pursuing the maintenance of the 1965 regime while the two Koreas insist on its modification is linked to the illegality of Japan's occupation of Korea made possible by the Korea-Japan Annexation Treaty of 1910. Unresolved South Korea-Japan relations may hinder the process of establishing sustainable peace on the Korean Peninsula. Thus, Seoul must take this as an opportunity to resolve the issue of the incompleteness of the 1965 regime with Japan. To do so, South Korea must continue to interact with Japanese civil society and form a consensus on the illegality of Japan's occupation.

Fourth, the South Korean government must create a space where Japan can assume a constructive role in advancing the denuclearization of the Korean Peninsula. In the long term, Japan's economic assistance to the North after the normalization of North Korea-Japan relations could be considered as an incentive for the North to pursue denuclearization. In the meantime, South Korea could act as an arbitrator (or a facilitator) between not only the DPRK and the U.S. but also the DPRK and

Japan. We need to refer to the role of Kim Dae-jung administration in DPRK-Japan talks when then Prime Minister Koizumi visited North Korea. Moon Jae-in administration's active role in improving North Korea-Japan relations could, to a certain extent, help South Korea take a leading role in realizing peace and prosperity on the Korean Peninsula in the future.

Fifth, the South Korean government must take a neutral stance between improvement of inter-Korean relations and South Korea-Japan cooperation and make rational decisions during the normalization process of North Korea-Japan relations. To make sure that DPRK-Japan talks lead to the normalization of diplomatic ties, normalization of South Korea-Japan relations is expected to be the standard of DPRK-Japan negotiations on the compensation issues. Meanwhile, North Korea is expected to try to establish a united front with South Korea on historical issues, including comfort women (wartime sex slaves under the Japanese imperial rule) and territorial dispute over Dokdo islands, to enhance its negotiation power. Therefore, South Korea must respond cautiously to elements that could lead to dispute between the North and Japan, but actively respond to cooperation measures such as providing assistance to North Korea. ©KINU 2019

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