

KOREA

Japan's Colonial Responsibility under International law: The Korean Supreme Court Decision of May 24, 2012

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1. Background

The year 2010 was the centennial of Japan's forceful annexation of Korea; it reminded both the Korean and the Japanese of an unceasing historic challenge to find the root of and a viable solution to such historical conflicts. At this cornerstone, they resumed seeking a genuine sense of historical reconciliation.¹ The Japanese government, in contrast, normatively perceives that its 'coerced' annexation of Korea in 1910 was concluded 'legitimately' by signing a treaty under international law, thereby making Japanese occupation of and colonial rule over Korea lawful. In this vein, Japan has consistently denied its liability to pay compensation for any 'illegal' acts directly associated with its colonial rule including crimes against humanity. The Japanese government even claimed that such liability was fully satisfied by the 1965 Agreement on the Settlement of Problems Concerning Property and Claims and the Economic Cooperation between the Republic of Korea and Japan [hereinafter Korea-Japan Settlement Agreement].²

In order to realize 'historical justice,' however, 1,139 intellectuals from both Korea and Japan issued a joint statement in 2010 to declare "the 1910 Korea-Japan Annexation Treaty already null and void." This is based on the ground that Korea

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¹ See Hwan Doh, *Considerations of the Korea-Japan Annexation Treaty from the Viewpoint of Historical Truth and International Law* <available only in Korean>, 55 KOREAN J. INT'L L. 14-16 (2010).

² See Hwan Doh, *International Legal Evaluation of Korean Supreme Court's Decision on 1965 Korea-Japan Settlement Agreement* <available only in Korean>, 19 J. KOREA PRIVATE INT'L L. 27-30 (2013).