조시현.

中國“慰安婦”問題
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THE INTERNATIONAL SYMPOSIUM ON CHINESE “COMFORT WOMEN”

論文提要集

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以史为鉴　面向未来

上海师范大学校长　杨德广教授

女士们、先生们：

在这杨柳吐绿、大地回春的日子里，由本校中国慰安妇问题研究中心、北京《历史研究》编辑部和《抗日战争研究》编辑部共同主办的“中国‘慰安妇’问题国际学术研讨会”今日开幕了。我谨代表上海师范大学对大会的圆满召开，表示热烈地祝贺，并向远道而来的朋友们、学者们表示最诚挚地欢迎。

慰安妇——军队性奴隶，是日军在第二次世界大战中推行的现代性奴隶制度，是20世纪人类的灾难和耻辱。在第二次世界大战中，日本政府及其军队实施强迫各国妇女充当日军性奴隶的制度。日军在其占领地区普遍地设立了被国家默认的合法的强奸中心——慰安所。在这一制度的奴役下，40余万中国、朝鲜、东南亚和欧美各国的妇女惨遭日军的蹂躏。强征殖民地和敌国妇女为日军性奴隶，这是日本政府和军部直接策划、各地日军具体执行实施的有组织、有计划的战争行为。

可以说，日本实施的慰安妇制度是20世纪人类历史中最丑陋、最肮脏、最黑暗的一页，也是世界妇女史上最为惨痛的记录。

今天，来自菲律宾、新加坡、新西兰、朝鲜民主主义共和国、美国、大韩民国、日本和中国大陆、台湾、香港地区的140多位学者们，汇聚于上海，共同深入探析日本军国主义给亚洲和世界人民带来的灾难，探讨战争遗留的问题，并寻求解决这些问题的方法和途径，这是非常有益的，它必将大大推动我国抗日战争史、乃至第二次世界大战史的研究。

值得警惕的是，在日本，近年来不断膨胀的右翼势力，一心要掩盖慰安妇、南京大屠杀等侵略罪行，摆脱国际社会对日本战后的各种制约，甚至重温“大日本帝国”的迷梦。对于这些右翼分子的这些日益猖獗的举动，我们必须予以高度的重视。1996年9月3日，江泽民主席在接见法国《费加罗报》的佩雷菲特时就曾明确指出：“日本国内确实有那么一股势力企图重温军国主义的旧梦。他们的言论不能不激起中国人民和亚洲人民的愤慨。日本今后究竟要走和平发展道路，还是别的什么道路，应当引起时人的高度警惕。日本必须妥善处理好历史问题，肃清反动的历史观，才能有助于改善自己的国际形象，有利于日本同邻国建立信任关系。”

我们要求日本政府切实地负起责任，坚决遏制右翼势力否定侵略历史的逆流，取信于亚洲邻国，取信于包括广大日本人民在内的爱好和平的世界各国人民。

在这次国际会议中，不仅有专家的大会报告，还有受害者的血泪控诉；不仅有研究心得的交流，还有调查录象的放映，以及对慰安所遗址的实地考察。内容非常丰富。当然，我还希望各位也能抽空，观光一下日新月异中的浦江两岸。最后预祝会议取得圆满成功。祝朋友和专家们身体健康，一切顺利。

日军在亚洲实施的军队性奴隶制度
——以中国为例

上海师范大学教授 苏智良

一

“慰安妇”一词，在亚洲几乎已家喻户晓了。“慰安妇”一词是日本语中特有的名词，其发音为 Ianfu。日本最权威的日语辞典《广辞苑》第 2 版解释说：“慰安妇是随军到战地部队慰问官兵的女人。”该辞典的第3版释文更加简单：慰安妇是“慰安战地官兵的女性”。人们必然要问，“慰问”、“慰安”的内容是什么？慰安妇的性质是什么？这些女性“随军”并向军人提供“慰安”是自愿的还是被迫的？显然，《广辞苑》回避了这些实质性的问题，模糊了“慰安妇”一词的真正含义，它的释文根本无法让人们了解慰安妇的性质，无法理解日军与慰安妇的关系，无法知道慰安妇所强迫受到的来自日军的残酷无比的性虐待。

笔者给慰安妇作一个定义：慰安妇是第二次世界大战时期，被迫为日本军人提供性服务、充当性奴隶的妇女，是日本军队专属的性奴隶。

二

慰安妇制度是第二次世界大战前和战时，日本政府及其军队强迫各国妇女充当日军性奴隶的制度。日军在其占领地区普遍地设立了被国家默认的合法的强奸中心——慰安所。在这一制度的奴役下，大量中国、朝鲜、东南亚和欧美各国的妇女惨遭日军的蹂躏。强征中国、朝鲜等地妇女为日军性奴隶，可以说是日本政府和军部直接策划、各地日军具体执行实施的有组织、有计划的行为。

日军与慰安妇之间的关系，是数千年人类文明史上找不到第二例的男性对女性、尤其是对敌国及殖民地女性集体奴役、摧残的现象，这一现象充分暴露了日本军国主义的野蛮、残忍和暴虐。慰安妇制度是日本军阀违反人道主义、违反两性伦理、违反战争常规的制度化了的政府犯罪行为。

可以说，日本实施的慰安妇制度是20世纪人类历史中最丑陋、最肮脏、最黑暗的一页，也是世界妇女史上最为惨痛的记录。

三

日军在亚洲最早设立的慰安所，可以追溯到1931年初，日本海军在上海指定“大一沙龙”等4家日本娱乐场所为指定慰安所。1932 年 3 月，日本上海派遣军副参谋长冈村宁次（WOKAMURA NEICI）要求从长崎派遣“慰安妇团”到上海大场等战地。此后，日军诱骗大量朝鲜妇女到中国东北（满洲）充当性奴隶。

1937日本侵华战争全面爆发后，尤其在南京大屠杀事件以后，日军在军队中有计划配备性奴隶。经过多年的经营，日军在中国各占领地都设立了慰安所，根据笔者的调查，慰安所涉及中国的黑龙江、吉林、辽宁、内蒙古、山西、北京、天津、河北、河南、山东、江苏、安徽、江西、湖北、湖南、上海、浙江、福建、广东、广西、云南、贵州、海南和台湾等地。据目前的调查研究结果，上海一地的慰安所就达 83 个，海南岛有 62 个，南京、武汉的慰安所也分别有

60多个，日军在中国占领地的慰安所数量可以千万计。随着日军在东南亚侵略战争的进行，日军在菲律宾、新加坡、马来西亚、印度尼西亚等地建立了大量军队慰安所。

日军设立如此众多的慰安所，其掳掠、胁迫来的慰安妇的数量，自然是十分惊人的。由于日军在战败时大量销毁档案，再加上战争已经结束半个多世纪，要准确地计算出慰安妇的总量是较为困难的。但是，尽管如此，我们仍能依据现有的资料，对慰安妇的数量作一推断。在这方面，吉见义明教授、林博史教授、尹贞玉教授等作过出色的研究。笔者认为，在亚洲日本的殖民地、占领区和本土，慰安妇的总数在 40 万人以上，；至少有 20 万中国妇女先后被逼迫为日军的性奴隶，日军慰安所遍及 20 多个省，中国是日本慰安妇制度的最大受害国。

四

日本军队在亚洲太平洋战争（1931—1945年）期间实施的性奴隶制度（即慰安妇制度），是本世纪最大规模的战争性暴力。那些被害妇女们在90年代开始打破沉默，提出控诉，要求恢复正义和人权。但是，即使是在战争已过去半个世纪的现在，具有加害责任的人和国家，仍没有认罪的言论、谢罪并进行赔偿，而很多的受害妇女却已死亡。

我们衷心地希望日本政府能够顺应世界的和平潮流，尊重历史，正视事实，公正地、彻底地、勇敢地解决悬挂了半个多世纪的战争责任和连带的遗留问题，向亚洲各国的受害者谢罪，对他（她）们作出实质性赔偿；并以正确地的历史观来教育日本下一代，以免日本民族再一次走到和平的对立面，与亚洲诸国协手进入 21 世纪并共同创造亚洲灿烂的明天。

The System of Army Sexual Slaves Enforced by Japanese Army in
—— Asia: the Sample in China

Su ZhiLiang

1

The word ‘Comfort Women’ (Ianfu) is known to the most of Asians, special invented in Japanese. As to the word’s meaning, the most authority Japanesedictionary 广辞苑 2nd edition interpreted as follows: Comfort Women are the women who follow the army to comfort the officers sand soldiers in the battlefront.

More simply interpretation is given in the dictionary third edition: Comfort Women are the women who comfort the officers and soldiers in the battlefront.

We should ask how they comfort those men in the battlefront, and what the nature of the Comfort Women is. We also want to know whether these women were willing to do or had to do their‘Comfort work’ for the army. The editors of the dictionary obviously didnt want to answer these essential questions and

prefer to confused real meaning of the word 'Comfort Women'. Reading such interpretation, we can't understand the nature of the Comfort Women, what actual relationship between the Japanese army and Comfort Women, of course, we can't read out in the interpretation those women had to unusually, sadly suffered the sado-sexuelities of the Japanese army during the World War II. I give the definition of the word 'Comfort Women' as follows: Comfort Women were those women who were forced to be sexual slaves to offer the sexual service for the Japanese army during the World War II.

2

The system of Comfort Women began before and developed during the World War II, that is a system of compelling the women in many countries to be sexual salves of Japanese army by Japanese government and its military authority. Japanese army set up the Comfort Women lodges prevalently in the areas they occupied, conducting mass violation of women, acquiesced by the Japan government. Under this sexual salves system, a great number of women from China, Korea, other countries in Southeast Asia, America and Europe were ravished with violence by Japanese army. It is an intentional and organized war crime, planed by Japan government and authority of its army, conducted by occupation troops of Japan in many victim countries, to compel women of China, Korea and other countries to be the sexual slaves of the Japanese army. The relationship between the Japanese army and the Comfort Women is a aggressive country's males collectively conduct violence to the females of victim countries. This is a unique phenomenon in the history of mankind, exposing the Japanese militarism is how a cruelly, bloody and brutal one. The Comfort Women System is the systemized government crime conducted by Japanese warlord, offending humanism, the ethic between men and women, regular rules of war. We can say, the page recorded this crime is a most stigmatic, sordid, tenebrous and painful one both on the history of mankind in the 20th century and the history of women ever since.

3

The first Comfort Women lodge set up by Japanese army in Asia can be traced back to the early 1931, when Japanese navy appointed four amusement house included Da Yi salon as the Comfort Women lodges. In March, 1932, the vice chief staff of Japan army dispatch at Shanghai, Wokamura Neici, offered to send Comfort Women groups from Nagasaki to the battlefront at Shanghai. Then, many women from Korea and the northeast provinces in China were kidnapped to be the sexual slaves of Japanese army.

After Japanese aggressive war to China exploded in full-scale in 1937, special after the Nanking Massacre, the military authority systematically distributed the sexual slaves into its troops. Several years latter, the Comfort Women lodges appeared in China almost all areas occupied by Japanese. According to my investigation, these lodges were located many cites and provinces in China,

such as Heilongjiang, Jilin, Liaonin, Neimengu, Shanxi, Beijing, Tianjing, Hebei, Henan, Shandong, Jiangshu, Anhui, Jiangxi, Hubei, Hunan, Shanghai, Zhejiang, Fujian,Guangdong, Guangxi, Yunnan, Guizhou, Hainan and Taiwan, etc. On the investigation up to date, there were 83 lodges in Shanghai, 62 in the Hainan Island, and more than 60 each in Nanjing and Wuhan, total nubmer of the lodges could amount to more than ten of thousands. When Japan expanded its aggressive war to the Southeast Asia, more army's Comfort Women lodges were set up in Philippine, Singapore, Malaysia and Indonesia.

There must be a striking number of the Comfort Women kidnapped by Japanese army to be put in too many lodges. However, it is difficult to get an accurate amount of the Comfort Women, not only for the destroy incriminating evidence and archives by the Japanese war criminals after their defeat, but also for the time which has been past more than half of century since the war ended. Nevertheless, we still should do this work on the investigative materials and survival archives to get an estimate amount. Professor Yoshimi Yoshiaki, professor Lin Boshi, professor Yin Zhenyu have made outstanding research in this regards. According my estimation, the total number of Comfort Women were more than 400 thousand in Japanese colonies, occupied areas and Japan mainland, in which there were 200 thousand Chinese women forced to be Japanese army's sexual slaves in the Comfort Women lodges over more than 20 provinces. These estimation means China is the biggest victim country of the Japan comfort women system.

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Enforcing the Japanese army's sexual slaves system (Comfort Women system) during the Pacific War in Asia (1931-1945) is the largest war violence in the 20th century. The victims of this system have been no longer to be reticent since 1990's and appeal to recover justice and human rights. However, those victims couldn't get indemnity from both the men and the country that conducted the crimes after the end of the war more than half century later, the most of victims left this world even couldn't hear a word to apology or repentance from the crime conductors. The men and the country have the responsibilities to do something for their victims.

We hope heartily Japanese government, conforming to the trend of the world peace, respecting history and facing the fact bravely, thoroughly solve these problems have suspended more than half century and apologize to Asian countries and substantialize the indemnities to the all victims. Japan shall teach younger generations in correct history to avoid Japan again being an opposite nation of the peace, and cooperate with other Asian countries to create brilliant new Asia in next century.

寻求正义
——审判日本军个人性奴隶制度的罪行

菲律宾 英达尔·劳茨·塞

“在那些罪犯归案受审之前，我们的名誉和尊严不可能恢复。”二战时被迫充当日军慰安妇的妇女说出了这些勇敢的话。50年后人们才最终听到这些话。

在菲律宾，从1992年以来我们不仅记录了前慰安妇的证词，最近还发现了一起发生在马尼拉北部帕姆潘加的马帕尼克村庄的集体强奸。我们记录了50余名慰安妇的证词，在1944年11月23日这具有决定意义的一天，她们的村庄被烧为灰烬，男子被杀死，妇女遭强奸。直到今天，妇女遭强奸的那所房子仍保持原样。10年后那些妇女和家人才回到原先的村庄，屈辱和苦难继续下去。

本世纪目睹卷入战争和武装冲突的妇女身受无法估量的苦难，本世纪最后一个月——2000年12月的世界人权日前后，将对日军强迫妇女充当性奴隶的战争罪行进行审判。

妇女的起诉，将表达我们的愤慨，妇女的起诉是我们要把我们认为是非人的和不可接受的行为铭记历史以教育后代并有可能避免战争及其引起的暴行的方式。一个人只要听听韩国、中国、菲律宾、印度尼西亚、马来西亚和中国台湾的慰安妇幸存者的悲惨的证词，就能毫无疑问地懂得这样的人间地狱绝不能重演。一个人只要知道一些前南斯拉夫和卢旺达内战期间有组织集体强奸的情况，就会对折磨人身心的多种方法感到震惊。

有没有人怀疑日军性奴隶制度是一种罪恶昭张的暴行？有没有人怀疑性奴隶制度构成极其残暴的战争罪？1995年在北京举行的联合国世界妇女大会通过的《行动宣言》告诉我们需要做什么：调查！起诉犯罪！向受害者赔偿！不能浪费时间！

因为每一次战争罪行的审判都没有成功地审判包括性侵害在内的各种暴行，慰安妇幸存者长期等待正义的希望更加渺茫，因为每一次战争罪行的审判都不可能理解过去发生的性侵害，幸存的慰安妇想要得到平等和公平赔偿的信念进一步动摇。

这种情况再也不能发生了，太多的时间过去了，太多的事处于紧要关头。

急待提出的问题是：为什么日本执意拒绝向前慰安妇和战争的其他受害者支付个人赔偿？为什么第二次世界大战后东京远东国际战犯法庭和亚洲国家进行的其他战争审判没有起诉那些对妇女犯下战争罪的人？

我们，能想象这种暴行造成的痛苦的男人和女人，应该帮助其他人从事揭露战争和武装冲突中对妇女犯下的暴行的工作。让我们和NGO组织、个人、法律和历史专家携手工作，共同努力，来列举并评述这些罪行，以确定责任方，使幸存者能以应有的尊严讲述她们的故事。

我们非常钦佩那些前日军慰安妇，她们不顾年事已高和经济极度困难，拒绝接受亚洲妇女基金（为前日军慰安妇筹集的私人基金）的付款，坚信日本政府会抛弃战后条约解决所有战争赔偿的观点并承认强奸是战争罪行，为战争行为承担法律责任。

我们应继续在一起努力工作以迫使日本政府承担慰安妇问题的法律责任。要求他们认罪并认识到强奸是一项战争罪和反人类罪，以承认二战期间践踏妇女人权的骇人听闻的暴行确实发生，并且不任何限制。

今天，这种侵害妇女的战争罪行继续存在下去，甚至在犯罪上更加老练。正象卢旺达、克什米尔、南斯拉夫、阿尔及利亚、印度尼西亚和其他国家的武装冲突，我们看到二战期间日本军队创立的性奴制度的经典形式在种族、民族和性别方面都有发展，似乎能找到许多理由来证明妇女成为性暴力侵害的主要目标。作为指导我们斗争的大纲，所有的暴行都被详细叙述，我们还制定了继续工作的策略。只要正义得不到伸张，我们就会不断打官司，继续支持受害者。

这些妇女怀着公布战争记录和惩罚战争罪行的希望，打算于2000年12月在东京法庭外示威，届时法庭将审理前日军的慰安妇制度。

通过大胆地说出过去的战争罪行，这些慰安妇幸存者为战乱地区的妇女留下一笔遗产，在那些地区战争、种族冲突和大规模暴力天天发生。她们鼓舞战乱中的妇女受害者勇敢地站出来提出诉讼，要求恢复名誉，而那些人出于羞耻心，一直保守秘密。

让我们团结起来形成一支政治力量迫使现有的战争法庭能有效、公正、迅速地执行法律。我们支持这样的要求：建立一个国际犯罪法庭作为一个永久性的战争法庭发现武装冲突中的性侵害并将它作为一项违反人权的暴行提出诉讼。它对战争罪、反人类罪和种族灭绝罪的裁决很有希望为妇女的人权问题确立标准。

在20世纪结束前我们提出对日本政府的指控是很恰当的。我们希望生活在这样的21世纪——一个有良知、尊重人的生命和技能，不用战争方式而是最终用和平方式解决争端的世纪。

The Question of Justice
Women International War Crime Tribunal on Japan's Military Sexual Slavery

Indai Lourdes Sajor （英达尔·劳茨·塞）

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ur honor and dignity can never be restored until the perpetrators of the crimes against us are brought to justice."

These are the brave words of women who were forced into sexual slavery by the Japanese military of World War Ⅱ .These are the brave words that took fifty years to be finally heard.

In the Philippines, we not only documented the testimonies of former comfort women since 1992, but also we recently uncovered a case of mass rape in the villages of Mapanique, Pampanga, north of Manila. We have documented testimonies of more than 50 women whose entire village was burned to the ground, the

men executed, and the women raped on the fateful day of November 23,1944. To this day, the house where the women were raped still stands. It took 10 years before the women and their families can go back to their village. The injustice and suffering continues.

Around the time of International Human Rights Day in December 2000-the last month of a century, which witnessed the immeasurable suffering of women caught in the violence of war and armed conflicts-a Women' s International War Crimes Tribunal on Japans Military Slavery will be held.

This women's tribunal will express the outrage we feel. This women's tribunal is our way of putting acts we consider inhuman and unacceptable on history record to enlighten the coming generations and perhaps to deter war and the violence it spawns. One only has to listen to the tragic testimonies of thesurviving comfort women from Korea, China, Philippines, Indonesia, Mylaysai, Taiwan to know with immovable certainty that such a living hell must never happen again. One only has to learn about the systematic mass rape during civil wars in former Yugoslavia and Rwanda to be shocked into awareness of the multiple ways that a body can be tortured and a spirit can be broken.

Is there any doubt that the Japanese Military sex slave system is a gross act of violence? Is there any doubt that this constitutes a heinous war crime? The "latform for Action" adopted at the 1995 UN World Conference on Women in Beijing tells us what needs to be done: Investigate! Prosecute the perpetrators! Redress the victims! There is no time to waste.

For every war crime trial that fail to address all the established violations involving sexual and gender violence, the hope of women survivors of claiming long-awaited justice dims a little more. For every war crime trial that fail to understand what happened in the past with all its gender-based persecutions, the faith of women-survivors in a fair and equal chance at redress is shaken a little more.

This cannot be allowed to happen. Too much time has gone by. Too much is at stake.

The question that begs to be asked are: Why does Japan adamantly refuse to pay individual redress to former sex and other victims of war? Why hasn' t the Tokyo War Crimes Tribunal in the Far East and all other war tribunals held in Asian countries after World War II prosecuted the perpetrators of war crimes against women?

We, men and women who can imagine the pain of violation, are called upon now to help each other in the work to expose the violence against women in war and armed conflict situations. Let us work hand in hand with NGOs, individuals, law and history experts and pool our efforts to name and detail the crimes, to identify the responsible parties and to make it possible for the survivors to tell their stories with a dignity they deserve.

We greatly admire the former comfort women who, despite their dire need and old age, have refused to accepted payment from the Asian Women' s Fund, the private fund for former sex slaves, in the firm belief that Japan should stop hiding behind the argument that post war treaties settled all wartime claims and instead recognize rape as a war crime and assume legal responsibility for its wartime actions.

We should continue to work together to pressure the Japanese Government to take legal responsibility for the comfort women issue. Demand that they admit wrongdoing and recognize rape as a war crime and a crime against humanity-and in this way acknowledge that the terrible human rights violations done to women during World War II really did happen, and happened with impunity.

Today, the pattern of war crimes committed against women continue to exist, and these are even more sophisticated in their deviousness. Just like the conflicts in Rwanda, Kashmir, Yugoslavia, Algeria, Indonesia and other nations, we see that the classic form of sexual slavery by the Japanese imperial armyduring World War II betray further dimensions in race, ethnic identity and gender. It appears that many reasons have been found to justify making the women a primary target for sexual violence. The violations, in all its magnitude, should be detailed to serve as a framework to guide us in our struggles to understand and confront the issue, as well as to map out our campaign strategies for our continuing work and advocacy. As long as justice hasn't been served, we will go on filing the court cases and supporting the victims.

The women deserve no less as they prepare to make their stand at the Women' s International War Crimes Tribunal on Japan's Military Sexual Slavery in Tokyo in December 2000 in hopes of setting the war records straight and the punishment of war crimes against women. By speaking up about the war crimes of the past, the survivors of military sexual slavery leave a legacy to other women from conflict-ridden regions, where wars, ethnic strife, and communal violence happen every day. They set the stage to encourage women war victims, who keep their past a secret out of shame, to come forward, file new lawsuits, and reclaim their honor.

Unite with us and be a political force in pressuring existing war crimes tribunal to be effective, impartial and swift in their dispensation of justice. Uphold the demands of women working for the establishment of an International Criminal Court as a permanent War Tribunal that perceives gender-based prosecution during armed conflict situations as a violation of human rights. Its jurisdiction over war crimes, crimes against humanity, and genocide should hopefully set the standard for addressing women' s human rights issues.

It is but fitting that we file charges against the Japanese Government before the 20th Century comes to a close to signal the kind of 21st century we hope to live in-one that has a conscience, respect for human life and skills, not in the ways of war, but finally in the ways of peace.

Are the Human Bones Unearthed in Tokyo Specimens Collected in China?

日本　增田博光

What has been found by the Welfare Miniatry investigation and what should be done from now on March 30,2000 "citizen's group to investigation human bones found at the site of the Military Medical School

1) Human bones unearthed could be specimens collected at the battle front

Human bones of more than 100 people were unearthed at the site of the Military Medical School in Tokyo eleven years ago (1989). Recently it was found out that there is a strong possibility that they are human specimens collected at the battlefront in China. The reason is that a doctor who worked in the school testified that they needed "bodies killed in the battle" for study. This was publicly announced at the House of Representatives Welfare Committee held on March 14 2000 urged by the question asked by kened Sellchi, a member of the House of Representatives.

Professor Sokues (Hnjime) who was asked to appraise the human bones eight years ago had surmised that "the bones could have been brought from Northern Asia as materials for medical experiment during the War Shinfuku Ward where the bones were found are now in charge of them.

2) Investigation in relation to the war crimes of Unit 731 is necessary

The welfare Ministry, when the bones were first unearthed required Shinjuku Ward to bury the bones and tried to close the door to the truth of the past. But Shinjuku ward rejected the requirement and asked for full investigation by professionals. The Welfare Military although reluctantly began investigation. But the investigation was limited to only documentary studies, hearing from related people and questions. They have not done any scientific appraised of the Human bones. Although the investigation is not satisfactory, the result revealed that there is a possibility that these bones are the ones killed in the war. If Japan had collected human specimens at the battlefront. It wound violate the Red Cross Treaty Japan has a duty by facing history to clear the medial war crimes in relation to Unit 731.

3)New research on how the laboratory of the Prevention of Epidemics treated human specimens is a must.

Human bones were found in the northern part of the Military Laboratory of the prevention Epidemics. There is also a testimony that they buried specimens nearby just after World War Ⅱ Japanese medical schools and the laboratory were closely related to Unit 731 that was involved in criminal experiments on living people and biological warfare. Therefore, an excavation of this laboratory area is a must to develop the human bones investigation. The Welfare Ministry is now rejecting this requirement.

4)The fact that Japan was involved in criminal experiments on living people and that they collected human specimens

The medical magazine in war times praised the fact that Japan was involved in experiments on living people and that they are collecting good specimens for medical materials. There is a memoir written by a medical doctor that he brought human specimens to the Medical School in Tokyo. Reports have been found that experiments were done on living people. There is a testimony that human specimens were seen on the roof of the Laboratory. Even the Japanese court admired Unit 731 was involved in criminal experiments on living people by the sentence given on September 22nd 1999. Human bones are composed of several kinds of Mongoloid breeds. On top of that there is a scar on the skulls that shows that surgery was done.

5) International cooperation is necessary

The human bones issue at site of the Military Medical School is related to medical war crimes. What remains to be done is a new investigation on the Laboratory site area and an identification of the bones. In order to do this we need the help of the victims side. We are requiring the Japanese Government to face history and take due responsibility through taking human measures of this issue. We believe this is the way to answer the Chinese people who are indicting Unit 731 and also to pave way for mutual understanding and peace between our two nations.

南京大屠杀中的日军性暴力
——从参加南京战役的原士兵和被害女性的调查中得到的验证

南京大屠杀60年全国联络会联合发起人　松冈环

自1988年起，笔者和市民运动的同事一起，对南京大屠杀事件的被害者的听取开始，保存至今的记录。

南京大屠杀60个年全国联络合，在1997年组织了从南京在住75岁以上的全部老人中寻找出南京大屠杀受难者活动的学生团，并参加调查。其后，对少女性暴力被害者的听取调查，得到"南京大屠杀案敌人调查委员会"制作的调查表(一部分)，联合举办了在南京召开的南京大屠杀史研究会成果交流　会。在南京日中双方的研究者和市民运动家的共同合作地举行了性暴力的研究，研究正在深入进行中。

1999年的春天，我们得到了至今没有自己报名的新的受难者、530名的名册(南京市教育委员会作成)。在暑假和寒假期间访问了中国，依靠记载的住址，巡回访问了散落在广大的南京市管辖区域的老人们的家。此次，就性暴力被害，访问了74家新的幸存者的家庭。从早走到晚地访问，记录了在南京城内、周边和郊外地区的日本兵对女性进行性暴力的许多事实。

住在长江对岸浦口的周秀英（假名）女士，讲述了62年前的受难经过。

她讲："日本兵从北边攻进南京时，一进村就开始放火、杀人。过了3、4天正想逃离时，日本兵来了，一发现隐藏在地主家的我就抓住胳膊。想要挣开，用小刀就刺过来，恐怕手指被刺，没有办法只好跟着去。其后，羞耻得不能再讲了"。

我想起了去年到日本的少女性暴力的被害者张俊英（假名）女士的话："日本兵把我推倒，拉下裤子……碰上这种灾难，很羞耻。为什么只我一个人。60年间一直承担着痛苦"。本是受害者，却半个世纪以来一直是在自己责备中生活着。在我面前的周女士也是性暴力被害的承担者，和张女士有同样的心情。

夏瑞荣先生是自愿到我处想要讲述自己的体验的。看到报纸中登载的我正在南京进行性暴力被害的调查的消息，自愿出来，一定要讲一讲。夏瑞荣先生，当时15岁。在日本军攻进的12月13日祖父被杀害，第3天夏先生去难民区的五台山小学校避难去了。他说："去难民区的途中，在珠光路，肠子飞出来的裸体孕妇的尸体、几十具烧焦的尸体点点地连续着。路端是连接不断的烧毁的房子。到五台山难民区的第3天左右，4-5个日本 兵坐着象吉普一样的车直到运动场，冲进教室拉出年轻的女性。从那以后，每天都有2-3人来，带走不情愿的姑娘。自己逃回来的女孩子倒是不少，感到很羞耻，闷在心里不讲。其他的姑娘不知怎么样了。2个月后，被日本兵抓去做苦力，日本兵为了寻找年轻的女性我也被迫带去。在太平南路的科巷，日本兵挨家挨户巡回寻找，女性被带进空房子并被强奸。不能原谅日本军所做的一切"。还讲："当时，所体验的事情终生不能忘记"。

一直在旁边听着的妻子屈慎行女士，再也等不下去地说，当时我13岁，和家人一起在金陵女子大学避难。为了逃避日本军的屠杀，接连不断地逃到金陵女子大学来避难的 中国人，眨眼之间，教室和走廊都挤满了人群。"14日晚上8、9点左右，日本兵闯进来并拉出女性。听到救命！哎呦！等叫喊声持续了1个小时左右，我恐惧地藏在教室的角落里。说是检查，日本兵一天有3、4回进到建筑物中来。有一天，来了足有20多的维持会的人，抓着女性的胳膊就往卡车上塞。女性们一方面不向前进，同时也有高喊不要！救命！的，被从下推到上面，装进货厢。全都是20岁的年轻女性"。关于日本兵对女性的绑架和维持会对女性的抽出事件，在ボートリン（鲍得林）的日记、ラーバ（拉陪）的日记也被记载过。

去年的夏天和冬天，调查访问了74人以上的以性暴力被害为中心的老人。在南京城内强奸是多发的就不用说了，在本应是安全的难民区内，绑架女性和日常所发生的强奸事件已从几人那里听到。安全区被十六师团的士兵"警备"着，日本兵本应是不准擅自进入的，事实上却有对女性的强奸、绑架和对男性带走杀害事件。所访问的大部分女性是性暴力的被害者（未遂的很多），或者是亲属和身边的人在自己眼前被强奸的见证人。见证人自己也有被日兵发现和杀害的危险。男性也有眼见自己的母亲反复遭受日本兵的性暴力，或因拒绝帮助寻找花姑娘而遭杀害的人也很多。

和在南京被害调查平行进行的是，从2年前开始，少数人在日本国内对参加南京战役的原士兵的调查。已经访问的老人数已经超过80人次。一边说着"世上还没有象那样的大屠杀"，同时，明确承认在南京屠杀中国人的证言人达到50人。实际上，在士兵门个人眼前所发生的状况是很狭窄范围的，谁也不能看到南京大屠杀的总体。但是，原士兵们所讲的多数体验，从内容、时间和地点方面是一致的，可以认定为是事实。进一步，从被害一方的证言和当时的日记中，为不克动

摇的事实提供了有力的证据。

至今所调查听取的参加南京战役的老人们向我讲："看到过用卡车运出女孩子的事""在南京干了强奸的事"。向警备在有许多女性来避难的难民区的老人问"去过慰安所吗？"，"哪有那样的事，我们军队的人谁也不会出钱的"回答过来。就是说强奸是被频繁进行的。

十六师团三三联队二大队的I 先生讲："自己的中队在国际安全区中的金陵女子大学附近，有一个月期间成为南京直接警备部队。女子大学附近，有美国领事馆、军司令部、师团司令部等等，入城仪式一结束，其他的部队不得不出到城外去。在金陵女子大学有5千左右的人避难，其中3成是学生，女性占很多。自己警备在门口。将校和章官一来就说："进去一会儿"就进到大学中去。其他部队得将校也来过，地位在下的我只有视而不见。女孩子的喊叫声经常可以听到。因为作为人类掠夺和强奸是可耻的事，不能再多说了。女性被装满在卡车上带走的事也看到过几回。一辆车的货厢装有50人吧。士兵乘坐在上并罩上帆布，女孩子们都很老实。强奸是每天都有的"。第2次访问I先生时，一边说："说了这样的事会成为国际问题的"，一边吞吞吐吐的说起来。但是，自己的部队在南京掠夺的事和所见到的事即使讲，也没有把自己所做的一切充分地讲出来。

同样在三三联队二大队的K先生是，记忆详细，条理清楚的老人。从最初见到时就断言地讲："政府所讲的事是谎言，南京大屠杀是存在的事"。K先生是13日的早晨，从东侧的太平门进入南京的，在城墙根下聚集了500左右的居民，用地雷处理掉后再浇上汽油烧死。在这里没有详细记述的余地，随后驻扎在金陵女子大学附近，为处理死体而去下关的路程中目击了堆成山的死体。并证言地说，强奸女性是经常看得见的。在南京，因为卫兵是3班交替制，大家都很空闲，就去抓女孩子。因为部队的预备役是些年轻旺盛的，所以都想和女孩子发生性关系。现役人因惧怕上司没能做到。尽管女性隐藏在木桶中等等，也搜查出并强奸。看到过用手枪威胁女性而做的，遇到过很多强奸的场面。"还讲，自己所干的事，现在认为是残酷的，但当时并不这样认为，人们因战争而发狂。

一大队的K先生说，从小队长那里得到的 命令是"草木也、狗也、猫也杀死"。还讲："在南京强奸女性是无限制的。女人尽管隐藏在床下、或窗帘背后等，但是因为到处都有，强奸的事干过几次。因为我们是打第一战的 ，看不到宪兵，所以被宪兵发怒而制止的事是没有的"。

在南京对女性进行性暴力一事，于东京裁判时有2万件以上的证言。还有，最近中国的研究称有8万件以上。经过60年以上到现在，恐怕也不能解决详细的数量问题。其原因是，去年来日的2位少女性暴力的被害者说，已60年以上闭嘴不讲，至今尚未对丈夫讲过事实。和在这次调查明白的周秀英女士一样。象这样一直收藏在自己胸中，不想讲出来的女性还存在很多，我们在南京家庭访问时，可以肯定地讲，虽然已查明在被强奸的状况下存在过但是闭嘴不讲的人是很多的。还有，也听到几例女性自己选择死的事例。我认为，从遭受被害的女性们的精神创伤方面考虑，那就是加害的一方，只要不认罪和从心理谢罪，就无法治愈她们的精神创伤。

原士兵们的多数，一边说没有大屠杀，却讲述了自己看得见范围中目击过集团屠杀中国人和实际下手集团屠杀、玩弄杀害、强奸的事。确信，一件一件有具体性的事实存在。遗憾的是，有很多人不能以真实姓名公开发表。

由十六师团中岛今朝吾和长勇军参谋长的言行导致攻打南京的日本军对捕虏的杀害无原则的进行。是男的拉出来，当即杀死的日记和许多证言者所讲述的事。2大队的K先生说，根据上官的命令，女人和孩子也用地雷炸飞，浇上汽油烧，还有没死的用自己的军刺刀扎死。2大队的I先生讲，中队长发出的命令是“如果进入南京，杀人、放火、强奸、随便干”。立即就付诸实施。一大队的K先生说，由小队长发出“是活着的东西，包括草木、狗、猫也要杀死”的命令中领会到，干什么都可以，所以，在南京的部队，谁都在来回追赶着女人。国际安全区档案资料中也写着，即使中国人向宪兵控告取缔强奸的，宪兵以缓慢的速度跑到现场时，却也已经晚了。对于日本军来说，中国人的男性和孩子全是杀害的对象，对包括幼女在内的女性进行强奸和性器的损伤、死体的凌辱等等，即进行着灭绝中国民族的行径。这些，正象马库得卡路（マグトーカル）的报告中所指出的，由日本军造成的残酷的性暴力，如果没有 军队组织的暗然了解是不可能有的。在日本，因为有含糊不清的战争责任，对战争责任者的处罚放任不管，所以，有反复重复地否定发生在60多年前的南京大屠杀的愚论。

在日本社会否定南京大屠杀的势力，不仅是作为历史研究，在意识形态分野方面，利用一部分宣传工具进行宣传运动。进一步，政府和党的国会议员参加否定歪曲历史的团体，高声赞美侵略战争的政府高官，虽然被罢免职务却没有辞去议员的职位。肯定南京大屠杀存在的个人和市民团体被施加了各种各样的暴力和威胁。由这样的日本现状看，日本政府被认为站在了没有从自己心理承认侵略战争的立场也是没有办法的。

说出事实的见证人的语言是重要的，也决不能轻视通过资料来验证被害、加害的证言。坚信，通过稳健的作业方法、即由被害和加害的相互对证的验证方法，历史的事实会逐渐分明的。

中国受难者的证言和原日本兵所讲的南京大屠杀的证言是，查明历史事实的重要证据，更进一步地感到，对记述在南京大屠杀下的性暴力被害记录资料和加害一方的证言的致密的整理及证实的必要性。

Sexual Violence by Japanese Army in Nanking Massacre

Research of Veterans Involved in Nanking Missions and Women Victims

60th Year Anniversary of Nanking Massacre National Network

MATSUOKA Tamaki （松冈环）

I have been recording hearing of Nanking Massacre's survivors with my colleagues of citizens' movements since 1988. In 1997, we organized students' group to take part in the research to find Nanking Massacre's survivors from all the residents of Nanking who aged above 75. Since then, we have interviewed victims of sexual violence against girls at that time, got a part of the investigation records of the "investigation committee of the enemies at the Nanking Massacre" [南京大屠杀案敌人调查委员会] and took part in holding the conference in Nanking to exchange the results of historical studies of the Massacre. The research of sexual violence in Nanking has progressed with the cooperation of the scholars and

citizens of both Japan and China.

IN the spring of 1999, we got a list of 530 new names of victims (made by Nanking Board of Education). We visited China in summer and winter, when we could take a long vacation, to visit the listed victims all around Nanking .This time we managed to visit 74 newly found survivors, all related to sexual violence. We recorded a lot of facts of Japanese military's sexual violence against women not only within the city of Nanking but also outside and in the suburbs.

Zhu SiewYing 周秀英（pseudonym）, who lived in Pokou 浦口 on the other side of Yangtze River, told me about the massacre of 62 years ago. "The Japanese invaded Nanking from north, and they entered my village, started setting fire and killing the people. I thought of escaping, but within three or four days they came and found me, who was hiding myself in the landlord's house. They grasped me by the arm, and when I resisted, they pricked my finger with a little sword. I got so scared I could do nothing but go with them. I' m too embarrassed to talk about what had happened to me next."

I recalled the words of Zhang ZuYing 张俊英（pseudonym）,who came to Japan the year before last. She said, "The Japanese pushed me down and stripped off my trousers. I' m ashamed of my experience. I have been suffering for all the 60 years." Though she was a victim, she had been blaming herself for half a century. Zhu SiewYing, who was also a victim of sexual violence, feels the same.

Xia RuiRong 夏瑞荣 read an article on my research on newspaper and offered to talk about his experience. He was 15 years old at that time. His grandfather was killed on December 13th,when the Japanese army entered the city. He escaped to Wutaishan 五台山 Elementary School in a refuge zone of the city three days later. "On my way to the refuge zone in Zhuguag Street 珠光路, I saw tens of burned dead bodies of people and a body of a naked pregnant woman whose intestines were exposed. All along the streets the houses were burned. A few days after I entered the refuge zone in Mt. Wutaishan, four or five Japanese soldiers drove in to the school playground in a jeep, and came into the classrooms to capture young women. Since then two or three of them came everyday and took away resisting girls by force. Very few returned, and they all closed themselves and kept silent for shame. I don' t know what became of those who never came back. Two months later, I was captured and forced to work for them. I was forced to go with Japanese soldiers to look for young women. In Kexiang 科巷 on Taipin South Street 太平南路 , Japanese soldiers hunted every house for women, took them into vacant houses and raped them. I can never forgive what the Japanese forces did."
His wife, Gu Shengsing 屈慎行 also spoke. She was 13 when she took refuge in Jinlin/Ginling Women' s College 金陵女子大学 with her family. Escaping from Japanese attack, a lot of Chinese poured into the college and filled every classroom and corridor. "In the evening of 14th, about at 8 or 9 o' clock, Japanese soldiers broke in and pulled out women. I cloud hear women shouting "help!" "Oh, no!" for about an hour. I was so scared I was hiding at the corner of a classroom. The

Japanese soldiers entered the building three or four times a day, saying it was for inspection. One day more than 20 people of the Weici Hui 维持会("association to sustain the local community", group of local people given power by the Japanese to control local people in the area) came, pulled women by the arms into a truck. The women resisted and screamed "No! Help!", but after all they were pushed up onto the truck. It took half a day to take away 20 or 30 women in two trucks. They were all young women in their twenties." The diaries of Minnie Vautrin and John H. D. Rabe also describe the kidnaps of women by Japanese soldiers and extraction of women by Weici Hui.

Last summer and winter, we interviewed more than 74 old people mainly to inquire about sexual violence. Many witnessed a lot of rapes and captures of women taking place not only within Nanking Wall, but also within the refuge zones, which were supposed to be safe. The safety zone was "guarded" by the 16th Division, and Japanese soldiers were not allowed to enter there without permission. But in fact there were rapes and captures of women, and forceful recruitment of men. Most of women we visited were the survivors of attempted sexual violence, and the witnesses of rape against their family members and other close people. Many of them themselves were located and nearly killed by Japanese soldiers. Many of the men testified to us had had their mothers sexually assaulted by Japanese soldiers repeatedly, or been nearly killed for refusing to help them look for young women.

Along with the inquires in Nanking, we started interviews in Japan of veterans who had taken part in the Nanking missions. So far we met more than 80 veterans. More than 50 of them admitted and testified facts of the massacre of Chinese in Nanking to some degree, though they said "it was not the massacre of so bad a degree as is said to have been." Individual soldiers saw only a part of the massacre, and no one has a whole picture of it. However, the facts in the experiences these veterans testify can be accepted to be true for the details, dates and places tally. Further, the victims testimonies and diaries of the time back them up as irrefutable truth.

Many of the veterans of the Nanking mission we interviewed told us they "saw girls taken away in a truck, or committed rape in Nanking". A veteran who was on the guard of the safety zone where many women took refuge, told us when asked "Have you ever been to a comfort station?", "No one in my unit would go to any of those where we had to pay." Rapes were so prevalent in the area.

A Mr. I of the 2nd Battalion, 33 Regiment, 16th Division, said: "My company was placed around Jinlin/Ginling Women's college in International Safety Zone. We were Nanking Direct Guard Troop for a month. Around the college there were American embassy, military headquarters and division headquarters and the so on. After the ceremony of the entry, the other troops had to leave the city. At Jinlin/Ginling Women's College there about five or six thousand people took refuge. About thirty percent of them were students and many of those students were female. I was a guard at the gate. Some offices and seniors came and entered the

college, saying to us that they were going "in for only a little while". Some of them were from other troops. I could do nothing because I was in a lower rank. Scream of girls could always be heard. I do not speak any more because rapes and plunders are shames of human. I also saw women taken away in a truck several times. Each truck took at least fifty women. As Japanese soldiers put a sheet on them, they became silent. Rapes took place everyday. He spoke of the above on our second visit, faltering at times and saving his testimony will cause an international problem. He told about what he saw or that his company looted in Nanking, But not so much about what he himself did.

~~A Mr. K, who~~ belonged to the same 2nd Battalion, 33rd Regiment, remembers the massacre in detail. At our first meeting, he affirmed that "the Japanese government is telling lies: the massacre did really take place". He entered Nanking from the Taipin Gate 太平门 on the east side of the city, gathered about five hundred local people under the wall of the gate. He exploded them with a mine, and burned the bodies with gasoline. There is no room in this report to describe in detail, but he was stationed near Jinlin/Ginling women's College, witnessed a great amount of dead bodies as he processed from there to Xiaguan 下关 to dispose of the corpses. He often saw rapes. "In Nanking, guards worked in there shifts, so they had lots of time and often went to catch girls. Those in the first reserve were all young and often assaulted girls. Those who in actives service could not do that for they were afraid of the higher-ranked people. Women were hiding, for instance in a coffin, but the men would go find them and rape them. I saw a lot of rapes. Sometimes men raped women threatening her with a gun." He showed me the madness of war by saying that at that time he thought nothing of it although now he realized that he had been brutal.

Another Mr. K of the 1st Battalion was ordered by his officer to "kill even grass, dogs and cats." He said "we could do anything to women in Nanking. Women were everywhere, hiding themselves under the bed or behind the curtains, and we rape them a number of times. As we were in the first line, we did not see any military policemen, so we were never stopped by them."

In the Tokyo Tribunal the number of sexual violence against women were reported 20,000. The recent studies in China says it is 80,000. It is impossible to know the exact number now, after more than sixty years have passed. Two victims, who came to Japan last year, have never told their experiences to their husbands. Mrs. Zhu SiewYing who we interviewed this time is just the same. There must be more women who keep their secrets to themselves. It is easy to understand why quite a few numbers of women we visited in Nanking did not speak of their memory, though they had evidently been in the circumstances hard not to be raped. We were told of a lot of women who have committed suicide. Unless the perpetrators admit their crimes and apologize sincerely, the traumas of the victims will never heal, I believe. Most of the veterans denied the massacre, but spoke of the mass murder, rape, and violence against Chinese they witnessed or committed. Each

story is concrete and convincing. However, hardly no one makes his experience public or gives his name.

Following what was said and done by Kesago Nakajima, the head of the 16th Division and chief staff of 长勇军, the Japanese army dashed into Nanking and killed POWs indiscriminately. Diaries and many witnesses' accounts reveal that they picked up all the men and immediately killed them. Mr. K of the 2nd Battalion followed the senior officer's command and exploded women and children with a mine, burned them with gasoline, and stabbed with swords those who were still alive. Mr. I of the 2nd Battalion remembers the commander of a company giving command. "when in Nanking, freely murder, set fire, or rape" and putting it into practice in no time. Mr. K in the 1st Battalion says that because the platoon leader gave the order to kill everything alive, from "grass, dogs and cats" and there was a tacit understanding that they were allowed to do anything, all in his platoon raped women in Nanking. The documents of International Safety Zone also show that when Chinese appealed to the military police to stop rape, they were too slow to get to the site of the act in time. For the Japanese army, Chinese men and children were objects of murder, and women were objects of genocide of Chinese people, including rape, injury of genitals, and insult of corpses. As McDougall's report says, these cruel acts of sexual tacit understanding of military organization. In Japan we have left the issue of war responsibility war ambiguous and the responsible persons unpunished. This results in the repetition of stupid argument that denies Nanking Massacre that happened 60 years ago.

In Japanese society the power that denies the massacre campaigns not as a school of historical study but as an ideology, with the support by a part of the medial. What's more, some members of the ruling party belong to a group that distorts Japanese history, and high governmental officers are often dismissed from their posts for their remark that praises the war of aggression. But they are never expelled from the diet. Individuals and groups that affirm the fact of Nanking Massacre receive various threats and violence. It is natural that the world thinks that the Japanese government denies that the war was a war of aggression.

Witnesses' words that tell the truth carry an important weight and we cannot belittle the testimony of perpetrators and victims. I believe that only the verification of facts by closely examining both the testimonies and other evidence of perpetrators and victims and finding factual links between them will unfold the truth of history.

The testimonies of Chinese victims and Japanese veterans are very important evidence to prove the truth of history. We need to minutely substantiate the documents on cases of sexual violence on the part of the victims and testimonies of perpetrators in Nanking Massacre.

日本军“慰安妇”问题和日本国家的责任

日本中央大学教授　吉见义明

日本军“慰安妇”（随军“慰安妇”）是指，1932年的上海事变以后，到1945年的日本投降为止，于战地、占领地在日本海陆军设立的慰安所，被迫成为为日本海陆军官兵提供性交对象的女性们。其实质是军队的性奴隶。还有，在美军进攻日本的深入阶段，被预想成为战地的，日本军被大量增派的台湾、冲绳等地也设立了慰安所。

被迫成为“慰安妇”女性的总数是很难估计的，我估计在5万人到20万人吧。按民族区分，朝鲜人、中国人最多，菲律宾人、印度尼西亚人、马来人、缅甸人、泰国人、越南人、太平洋地区等地的女性被迫成为“慰安妇”。证实白人成为“慰安妇”的事例是荷兰领地的东印度在住的荷兰女性。估计日本女性的比率在10%左右。

日本国家的责任在于，制定“慰安妇”制度、并实施，侵犯了许许多多的女性的人权。值得追问的最大要点是，慰安妇制度是性奴隶制度，女性们的意思被无视。还有，就征募方法而言，①不仅仅是用露骨暴力强行带走，②还有用予支金钱的经济约束（人身买卖），③ 欺骗、诱拐， ④对殖民地、占领地的支配的背景也是“无言”的威胁等等也应值得追问。再，在日本和成为日本殖民地的朝鲜、台湾有国家公认的公娼制度，人身买卖“予支金钱制度”和自由约束的内容“事实上的”性奴隶制度，可以断定，“慰安妇”制定正如文字所写的一样，以公娼制度为范例，以日本军为主导的被制定的性奴隶 制度。

进一步，直接下手者，不仅有日本官兵、宪兵，还有被他们使用的协助者或业者也应该追问。其理由是，这样的制度的制定和实施，从中获得最大利益的是日本军，日本国家。

日本军在战地、占领地建立慰安所制度的必要性的理由是，直接的有，① 针对日本军人屡次发生的强奸事件，②战地、占领地的军队内的性病蔓延状况，③为了稳定不知何时战争结束的将士和维持士气，认为提供“性的慰安”是必要的。④为防止军队的机密泄露，防止间谍（军人在民间妓院有泄露机密的可能性）等四点。其中，军队最重视的是第③点。

但是，尽管设立了慰安所，但仍没有减少战地、占领地的强奸事件，性病却已蔓延。于是，慰安所一直在不断地增加。在这样的状况中，面对日本军的性暴力的“慰安妇”主要是，殖民地（朝鲜、台湾）和战地、占领地（中国、东南亚、太平洋地区）的女性们。还有，1944—1945年在冲绳、朝鲜人女性和冲绳人女性共同是性暴力的被害者。这些事实显示了，在1930—1940年代天皇制国家所举行的战争特征（自民族中心主义，对占领地的居民和殖民地的居民怎样做都无所谓的意识性，尤其是对女性施展的暴力和侵略性等等）。

The Issue of Japan's Military 'Comfort Women' and State Responsibility

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The ' Comfort Women' of Japanese military ('jugun ianfu') refer to those women who were forced to have sexual intercourse with the Japanese army and navy in 'Comfort Stations' ,established by 1932 until Japan finally surrendered in 1945. They were fundamentally military's sex slaves. Furthermore, Japan stared to establish those places in Taiwan and Okinawa, where a great number of Japanese solders were sent towards the end of WW Ⅱ because those areas were expected to be battleground as the United States forces gradually advanced towards Japan.

Though it is difficult to estimate the total number of 'Comfort Women' , I have it at between 50,000and 200,000. The largest ethnic groups victimized Korean and Chinese, and others included Filipions, Indonesians, Malaysians, Burmese, those of the Pacific areas and so on. Among white people, only Dutch women in the former Dutch East Indies have been documented to be made 'Comfort Women' . The ratio of Japanese women may be established to be about ten percent of the whole group.

Japan is possible for establishing and operating the 'Comfort Women' system, and thus infringing human rights of many women. The most important point it should take responsibility for is that the system was actual sexual slavery and it showed total disregard for the women and their own will. Japan also should take responsibility for the ways of recruiting them the ways include:

1) Not only taking them by explicit violence but also;

2) Binding them economically through debt bondage (trafficking);

3) Deception and abduction;

4) The 'implicit' threat under the constant colonial and occupational contral.

As acknowledged by the Japanese government, the licensed prostitution system had been established in Japan, as well as Korea and Taiwan during the Japanese occupation. In fact, it was a de facto sexual slavery system, consisting of slave trade (through debt bondage) and restriction of women' freedom. We should understand that, based on this system, the more overt sexual slavery system — 'Comfort Women' system — was established with the Japanese military taking the lead.

Furthermore, Japan should take responsibility not only for the cases of the Japanese military or government themselves directly involved, but also for the cases of civilian collaborators and proprietors. For it was the very Japanese military and State of Japan, who established and operated such a system, and got the largest benefit.

Why did the Japanese military think the comfort stations system (military sexual slavery system) necessary at the front and in the occupied areas? This was directly for the following four reasons:

1) They had to deal with that there were many rapes by Japanese soldiers;

2) Venereal diseases were spread among the troops at the front and in occupied areas;

3) They thought it necessary to provide soldiers with 'sexual comfort' to prevent them from deserting away from the war no one knew when it would end, and to keep their morale high;

4) They intended to prevent a leakage of military secrets or spying (there was a possibility of this at private-run brothers).

Among these reasons, the third one, regarding the morale, was the main motivation.

However, though comfort stations were provided the number of rapes at the front and in Japanese occupied areas did not decrease, and venereal diseases continued to spread. And the number of comfort stations continued to increase. In this situation, who fell victims as 'Comfort Women' to the sexual violence of the Japanese military were mainly the women in the colonies (Korea and Taiwan) and in the front and their occupied areas (China Southeast Asia and the Pacific regions). Also in Okinawa in 1944and 1945, local women there were made victims of sexual violence as well as Korean women. These facts clearly indicate the characteristics of the war executed by the Imperial State of Japan in 1930' s and 1940' s (e.g. ethnocentrism; an ideological quality that allows to accept that anything can be done to the people of colonies and occupied areas, including violence and aggression, exercised especially against the women.

东南亚的日本军慰安所和中国人慰安妇

日本关东学院大学教授 林博史

在日本军占领的东南亚地区中，不仅是从日本、朝鲜、中国大陆、台湾来的慰安妇，更多的是当地女性被迫充当慰安妇的。

在东南亚征集慰安妇的方法有如下几种：

1、让遗留在当地的日本人聚集的事例。特别是在马来亚，原本是妓女的日本人（外出打工的妇女）聚集慰安妇的慰安妇，同时经营也委托给她们。

2、利用报纸等募集的事例。在新加坡利用广告募集就是典型的一例。

3、命令村长、治安维持会等聚集慰安妇 的事例。在东南亚各地都可以看到。

4、用暴力绑架。在菲律宾很多。

1到3，大部分被视为利用欺诈募集的。即使是欺诈募集，以后也是强制地被充当慰安妇的。

在东南亚征集慰安妇的特点是：

1、亚洲太平洋战争开始以前，在军中枢是有计划的进行的。

2、在占领地军队在征集中所起的作用比殖民地要大。

3、在屠杀被视为反日居民的同时，征集慰安妇事例并不少见。在马来亚、菲律宾、缅甸可以见到这样的事例。

4、爪哇的女性被带到马来亚、婆罗洲等地充当慰安妇的例子很多。在战争的末期，爪哇被成为东南亚慰安妇的供给地。

在马来亚（包括新加坡）当地的中国女性（华侨）慰安妇很多。马来亚的日本军政部的规定，慰安妇“尽可能的使用当地人”的方针。

到1942年8月为止，在吉隆坡的7个地方就开设了16家慰安所。当时，慰安妇的人数超过了150人。其中，最多的是中国人，其次是朝鲜人有20人左右，再有，有少数的泰国人、爪哇人、印度人、欧亚混血人等等。80%左右是当地的中国女性。

在Negeri Sembilan州4个都市中都有慰安所，几乎没有朝鲜人。同州中部的Kuala Pilar的小村镇，被日本军指示征集女性的治安维持会的代表，从吉隆坡等城市中征集18名中国人女性，并交给日本军。

1942年7月至现在，据宪兵队的报告，马来亚和苏门答腊共有日本人、朝鲜人、台湾人“慰安妇”194人。这一时期，在马来亚主要城市都设立了慰安所。据我的调查，在马来亚可以确认慰安所的城市，包括新加坡超过30个。

在马来亚这一时点，据推测日本军的慰安妇在1000左右，其中多数慰安妇是当地的中国人女性。

别的地区，如缅甸、朝鲜人女性相当多，菲律宾、印度尼西亚等等，很多当地女性被充当慰安妇。

这样写并不是轻视朝鲜人慰安妇的被害，而是，不仅仅是朝鲜人，许许多多的东南亚当地女性也是作为慰安妇的牺牲者；要指出慰安妇的征集方法在殖民地和占领地有不同的事实。

特别是就中国人慰安妇而言，不仅是中国大陆、台湾等地，必需要关注东南亚的中国人女性。

Japanese Military Comfort Houses and Overseas Chinese' Comfort Women' in South-east Asia

Hayashi Hirofumi （林博史）

In South-east Asia occupied by Japanese Army not only Japanese, Korean, mainland Chinese, and Taiwanese but also a lot of local women were forced to be 'Comfort Women'.

The recruitment methods employed in South-east is categorized as follows.

1.To entrust the recruitment of 'Comfort Women' to Japanese who had still remained there. This was the typical method employed in Malaya. Japanese ex-prostitutes (so called Karayukisan) were entrusted the management of comfort houses as well as the recruitment.

2.To recruit through advertising such as newspapers. We can find such cases in Singapore.

3.To order local leaders, such as village headmen or Chian-iji-kai (association for maintaining the law and order) to provide 'Comfort Women'. This method is reported to have been used at various places in South-east Asia.

4.The recruitment by forcible abduction. We can find such numerous cases in the Philippines and so on.

The recruitment by fraud overlaps with 1 2and 3.Women were defrauded at the recruitment stage. And their transformation into 'comfort women' was effected through the use of force.

The characteristics of the recruitment methods employed in South-east Asia are as follows.

1.Even prior to the outbreak of the Asia-Pacific War, the Japanese military had been considering the establishment of comfort houses in the occupied territories of South-east Asia.

2.As these territories were battlefields or areas under the occupied of the Japanese army, the role of the army in recruitment was more active than that in the colonies.

3.In not a few cases the recruitment was in progress while the Japanese army was massacring local residence whom the Japanese army regarded as anti-Japanese elements. We can find such cases in the Philippines, Malaya and Burma

4.Japanese women were forced to be brought to Malaya and Borneo. At the final stage of the war, Jawa was the place which supplied 'comfort women' for the Japanese army in South-east Asia.

In Malaya including Singapore the majority of Japanese military comfort women' were local Chinese. A regulation issued by the Japanese military administration of Malaya in 1943 stated the local women should be made use of as 'comfort women' as far as possible.

In Kuala Lumpur by August 1942, sixteen comfort houses had been set up in seven areas and the total number of 'comfort women' in these houses is estimated to have been over 150. The majority of 'comfort women' in Kuala Lumpur were Chinese, Koreans numbered about 20,and the remaining few were Thai, Javanese, Indian and Eurasian. About 80% were local Chinese.

In the state of Negeri Sembilan, comfort houses were set up in four towns but there were few Korean. In Kuala Pilar, a small town in the central part of the state, the head of the Chian-iji-kai was ordered to recruit women by the garrison commander. Then, he recruited eighteen Chinese women from other towns, such as Kuala Lumpur, and handed them over to the Japanese garrison.

The Kempeitai in Malaya reported that the number of 'comfort women' living in Malaya and Sumatra of Japanese nationality (which included both Japanese and colonial subjects from Korea and Taiwan) was 194 on 20 July 1942. By this time, comfort houses had been set up in almost every city where Japanese troops were stationed. My research shows that comfort houses were present in over 30 cities, including Singapore.

As my estimate is that there were about 1000 or more 'comfort women' in Malaya at that time, the majority of 'comfort women' in Malaya were local Chinese. In other areas in South-east Asia, although there were many Korean 'comfort women' in Burma, a lot of local women were forced to be 'comfort women' in the Philippines, Indonesia and so on.

This is not to suggest that Korean women were not victims within the 'comfort women' system, nor does it diminish the suffering of Korean women. It indicates that other Asian women were also victims and that the methods of recruitment employed in the colonies were different to those used in the military occupied territories.

As for Chinese 'comfort women', we have to pay attention to Overseas Chinese women in South-east Asia as well as women in the mainland China and Taiwan.

Japanese Soldiers' Sex Violence at Hedong Fortified Post of Yu County in ShanXi Province --the Analysis of Structure of the Japanese Soldiers' Sex Violence , Including Comfort Places

(石田米子 川口和子)

As for the Japanese soldiers' sex violence to the native women at their fortified post in the west of Yu county of ShanXi province after "Baituan Wars" (the all-direction wars to the Japanese invaders by the Eighth Route Army in 1940), there have been 20 victims stepping forward bravely to witness, among which, 16 women as prosecutors have retorted to law three times in Japan. Because half the victims took their misfortune at Hedong, this thesis is aiming at revealing the fact of the Japanese army's wars have and their ruling to the natives, then further studying the actual situation of the sex violence to the female under such condition and the analysis of its nature. There are no records about the relation between Japanese soldiers and the natives from the known document of the China side that has been made known to public. There is only some statement that there was once a fortified post in the village of Hedong transiently, and the Japanese soldiers here and the puppet soldiers once made massive by the village. So far, it is still unclear whether there were files for investigating the losses during the wartime and early postwar time Similarly, there are no records among the documents of the library of the Japanese Defense Military. There is only a line of document about the wars the troops settled in Hedong had from the memoirs of some soldiers once in the army there. Though no records were found in China and Japan, the Japanese ruling to the natives and the soldiers' sex violence deeply rooted in the memory of the victims and aging villagers. The thesis, according to the investigation team's eight spot investigations since 1996, is trying to search from people's memory for the actual situation of Japanese army's ruling to the natives and the soldiers' sex violence, and to reveal the background consulting some documents meantime.

Therefore, although the thesis starts to analyze one or two specific incidents happening at fortified points of the Japanese military, it also tried to raise the curtain on such a question: How to understand and master the whole course of the series of sex violence on structure with regard to the violence in Japanese army's war fields and occupied area, and the so called "the comfort places" in the parapublic security area and public security area and the settled cities.

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关于被留在中国的朝鲜"日本军性奴隶"被害者的真相

韩国挺身队研究所 高惠贞

"韩国挺身队问题对策协议会"和"韩国挺身队研究所 990年诞生以来，至今对日本军性奴隶（sexual-slavery）的被害者进行调查、实况认识、证言、记录和研究。尤其从1993年开始实行韩中两国旅游自由化，对被留在中国的韩国被害者进行发掘和实况调查。

一、曾经在什么地方慰安所?

被害者	慰安所	怀孕、生育经验	愿回国
1Hong gang-lin	蜂天（？）上海 南京 长沙	0	0
2Hong ae-jin	上海 哈尔滨 武汉		0
3Lin kem-a	武汉		0
4Jang jun-wol	湖北省华南市 广水 武汉		
5Park pil-yeon	天津 武汉		0
6Park ma-dal	长沙		0
7Jeng hak-su	哈尔滨 山东省枣庄		回国后死亡
8	蜂天（？）武汉		0

9	南京 武汉		0
10	东宁 石门子	0	0
11	石门子	0	0
12	黑龙江省阿城 东宁县石门子		0
13	石门子	0	--
14	吉林省珲春市春化镇		愿回国，但放弃
15	吉林省珲春市		0
16	吉林省延吉市		0
17	图门	0	回国
18	黑龙江省孙吴县		回国
19	长春 牡丹江	0	0
20	内蒙古包头		0
21	宁夏省（辽宁省宁园）		
22	武汉	出生三个月后死亡	回国
一共22名		7名	19名

(现在生存者为了被害者的人权保护没有记名字)

(怀孕、生育有经验的人，现在跟自己的子女一起生活)

二、战争结束后，日本军或者慰安所管理者把那些女人怎么处理了？

日本投降后，日本军和慰安所管理者都突然不见了，跑掉了。中国人把她们称为“日本军的妓女”，她们被中国人抢自己的东西，殴打。战争结束后，她们没有任何保护就被放在中国的社会。她们不但不了解慰安所外面的社会，也不会说汉语，就处在受到生存威胁的处境。

三、当时为什么不能回老家？

大多数人找不到能回家的办法，有的人虽然能回家，但是因为没脸见自己的家人，也没有信心能回到以前的生活就犹豫了。过了一段时间，冷战开始就韩中两国的关系被断掉了，一直到1992年两国建交为止。

四、被害者们是从当时留在中国到现在怎么生活过来的？

由于她们的文化水平低、不懂汉语、当过性奴隶、人生地不熟，所以很难找工作。她们为了生存，有的在餐厅洗碗，有的帮人家洗衣服，有的甚至在酒店陪客人喝酒、当妓女。大部分人都跟中国男人结婚了。她们选择对象的时候，只能选择已经离婚有小孩儿的，或者因为太穷没法儿找对象的男人，或者跟残疾人结婚了。

五、她们的后遗症是什么？

她们至今还是被神经衰弱、头痛、抑郁症、头昏、记忆丧失症、子宫和膀胱的不正常等疾病所折磨。由于她们遭受了长期的强奸，很多人不能怀孕，不愿意听别人说她们“朝鲜妓女”，也不懂汉语，她们不愿意跟别人交流。

六、她们怎么说出口自己的存在？

找到住在中国的被害者并不是一件容易的事。被找出的被害者见到韩国人特别高兴，对能够理解自己处境的韩国人感到非常激动。但是很多人都不愿意把自己的存在露出在中国社会，她们非常恨日本。想回国的强烈的希望和已经这么老了回国干什么的两种心情交叉，但是大部分人都非常愿意回国。

七、现在怎么生活？

跟家人一起住的人，因跟收养的子女经常发生矛盾感到寂寞，一个人生活的没有人照顾她们有病就受苦。每个月收到200到400元的补贴可以凑合生活下去，但是一旦生病就医疗费远远不够。

八、在韩国为她们做什么样的努力？

民间团体调查、发掘、调查实况以后访问中国帮助她们。“居住中国慰安妇奶奶帮助会”每个月给她们200元。22位当中现在已经恢复韩国国籍回国的有4(+2)位，其中3位还住在韩国。居住中国的被害者们因为还没有拿到韩国国籍，所以韩国的“慰安妇生活支援法”的规定不能得到帮助。只用民间支援的方式很有限。

九、现在她们的希望事什么？

她们最强烈的希望是要回国。她们遗言说“因为被日本人到这儿来了，让我们能够回国的责任也是日本人要负的”，“我死了也要回国，把骨灰撒在上海或者天津的海上”。

以从通过国际活动了解到的
军慰安妇问题的构造和挺对协的ILO为中心

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1990年成立后开展活动的韩国挺身队对策协会（简称：挺对协）从成立初期开始与日本的民间团体合作，后来与一些亚洲的受害国和世界各国的妇女团体及人权团体有着连带关系。从1992年在联合国，从1995年在ILO提出慰安妇问题，引导这些国际组织的重要国际法的判断和劝告。但是，这些国际组织了解军慰安妇问题是由于他们不太明白帝国主义（殖民主义）的性质，日本政府及保守的民间团体的反对活动，国际组织很难解决这个问题。本文将主要讨论挺对协的国际活动，特别是通过ILO活动了解到的军慰安妇问题的构造。

（1）韩国的军慰安妇问题的现状：成果和难点

A、成果

援助受害者：1999年12月底，一共194名申报，47名死亡，生存者147名。

历史的发掘：在日本军文献的依赖、逃出受害者的证言积极地赋予意义和调查受害的情况。

对提高社会意识的水平（为越南战争的加害问题的活动开始）及世界人权、女性运动作出贡献。

B、面临的问题

日本政府的态度：不公开资料、否认战争责任、以国民基金给受害者引起混乱。

日本社会的右倾化：民间和运动团体的抵抗、新的右翼的扩大

国际社会的低发展，国际组织的能力有限：强制力不够、以强国为中心、日

本的影响。

韩国政府的态度：清算过去问题和经济政策的困惑。

（2）国际运动的过程：与日本团体的合作，与受害国的连带，与朝鲜的连带，国际 NGO 之间的合作，联合国活动的的成果和有限到 ILO。

（3）ILO 活动的经过

①从1995年在韩国劳总理事会提出问题开始，在大阪特殊教师专家委员会提出问题，1999 年专家委员会报告书，87 届总会标准适用委员会的报告为止。

② 1996、1997、1999 年专家委员会及 1999 年标准适用委员会的判断。

（4）ILO 活动的效果

①国际压力（联合国也是）

②与外国劳动组合连带

③与国内劳动组合连带

（5）难点

①观点的问题：强制劳动禁止规约的有限：父权制观点，帝国主义（殖民主义）观点的微弱→ 2000 年在民间法庭改善。

② ILO 的强制力不够（联合国也是）→ 通过在日本及美国的审理改善

③日本政府和日本劳动组合的反对活动 → 期待日本国内的立法活动

④国际社会的低发展：以强国为中心 → 强化与 NGO、受害国的连带关系。

（6）结论

日本国内追究慰安妇问题责任的现状

菲律宾“从军慰安妇”诉讼辩护团律师 东泽靖

1、日本政府对慰安妇问题的态度。

战后的日本，站在反省引发第二次世界大战的立场，制定了决心“根绝因政府行为而再次造成战祸”，“维护和平，根除专政与奴役压迫与狭隘”的宪法。如果遵照宪法的理念，应该迅速展开对慰安妇这一日军犯罪行为的事实调查、赎罪、赔偿以及惩罚责任者等法律方面的救济措施。这也是日本应承担的国际法的义务。但日本政府长期置这一问题于不顾。进入 90 年代以来，迫于国内外舆论的压力，对慰安妇问题进行了一些调查，也承认了部分罪行。但对其应负的法律责任，则以已经以国与国的战后协定方式解决完了，或超过时效等借口而予以搪塞。

2、日本政府及法院对赔偿问题的反应

由于日本政府一直对慰安妇制度受害人采取不负法律责任的态度，由被害人提起的要求日本政府赔偿的诉讼，委托法院进行诉讼。在日本法院提起诉讼的是慰安妇制度或性奴隶制度的受害者们，有住日韩国人、韩国人、菲律宾人、荷兰人、中国人、台湾人。在这些审判中，有 5 件已被判决。其中一件，否决了对原慰安妇的加害责任，而承认战后未对被害立法进行救济的政府责任。其余四件全部否定了日本政府的责任。

通过这些判决，我们可以这样理解：由于第二次世界大战前日本的国内法规定了国家不负责对不法行为的赔偿，日本政府就对二战前的行为不负赔偿责任。

那所谓对慰安妇加害的军国主义时代的行为只能由那个时代的法律进行解释。

因此，这些案子的原告寻求对日本使用1907年海牙陆战条约第三条对国际法的国内效力、基于国际私法的对被害地的不法行为法。但是，法院驳回了原告的请求，理由是在执行国际法中，个人不足以构成法律意义之本体，国际私法中的被害地的不法行为法对日本不适用。

在这样的现状之下，虽然日本的在野党的司法专家组成的团体也提出立法以对慰安妇问题进行事实调查及进行国家赔偿等，但估计不能很快被国会采纳。

3、日本对处罚责任者的反应

对二战中日军的性暴力行为，战后被害国组成的军事法庭以强奸罪判决有罪，而日本政府对责任者根本没有进行处罚。1949年制定了日内瓦条约，日本作为四个当事国之一却未制定惩处战犯的法律，而且也未通过1977年的第二个日内瓦条约。在90 年代，韩国的慰安妇制度的受害者准备向东京地方检察院提出诉讼，却未被受理。在日本国内适用于慰安妇问题的法律只有一般的刑法，而依据刑法二战中的犯罪行为已超出时效。

进入 90 年代以后，国际社会设置了旧南斯拉夫和卢旺达国际刑事法庭，或采用了国际刑事法庭的有关规程。在那里，武力纷争下的有组织、大范围的性暴力被确定为国际法犯罪，对这种罪行无时效限定，犯罪士兵的上司不论身份应予处罚。

4、审判由慰安妇制度而产生的罪行的重要性

现存国际刑事法庭未将二战中的犯罪列为对象。而且根据日本国内所有的法律，因存在刑法的不溯及原则也无法对二战中的犯罪进行处罚。这就意味着在正规法庭追究慰安妇制度的责任者只有通过现在的民事赔偿要求判决一条路了。

但是，即使不通过正规的法庭，运用法律对慰安妇制度这一国际性犯罪行为进行裁决也是重要的。裁决是对犯罪行为进行超出报复及憎恨的、法律和正义的运用；裁决是对长期遭受痛苦的受害人在明确了责任者之后给予的救助；审判是通过将犯罪事实和责任者公之于众，告诉后世历史的真相，将逃避责任和残暴行径之间恶性循环的链子彻底切断；裁决也是被害与加害两国人民追求共同目标、和解建立合作关系的前提条件。

期待着正在筹备中的 2000 年国际战犯女性法庭上能够实现这样的裁决。

Accusing Those Responsible For "Comfort Women" System In Japan

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Member of the Panel of Lawyers for Filipino "Comfort Women"

1.What the government of Japan has not done for victims of "comfort women" system.

Japan, with the remorse of its evil doings during W.W. Ⅱ, has been with its new Constitution where Japan was convinced " that never again shall we be visited with the horrors of war through the action of government" and "to occupy an honored place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. "According to those ideas in the Constitution, the legal and remedial steps to investigates, to apologize and compensate for victims, and to punish those responsible against "Comfort Women System " should have been taken promptly after the war in Japan. Those have been obligation of Japan under international law. The government of Japan, however, has just left those unsettled. While, in 1990s, the government committed to a partial investigation and insufficient apology under the pressure internal and international, it has yet taken any measures to assume legal responsibilities for "Comfort Women" problems, alleging that those problems was completely settled by interstate agreements and that claims are barred by prescription.

2.Government and Courts of Japan to Compensation

The issue of compensation has been dealt with in litigation in Japanese courts since the government of Japan alleges that it has no legal responsibilities individually to victims of "Comfort Women" system and sexual slavery during W.W. Ⅱ among Korean residents in Japan, Korean, Filipino, Dutch, Chinese and Taiwanese. Five judgements have been rendered so far in district courts. While one courts ordered the government to pay compensation, not for crimes themselves during W.W. Ⅱ but for legislative negligence to enact a law to give a remedy for former "Comfort Women," other courts denied responsibilities of Japanese government.

The common understanding among the courts was that the government has no obligation to pay compensation for crimes during and before W.W. Ⅱ because the former imperial Constitution then had the principal of No State Responsibility. It would be unfair to apply only laws during military regime.

In order to contest to the understanding, plaintiffs of those litigation urges the

courts to apply, among others, domestic effect of international law including Article 3 of the Hague Convention of Rules and Customs on Wars of 1907, and tort laws of plaintiffs argument, holding that victims have no individual rights under international law and that choice of law rule in Japan does not result in the application of foreign tort laws.

Under those circumstances, oppositional parties or lawyer' s group commenced initiatives to introduce bills to mandate the government sufficient investigation or compensation, thought it is unlikely for Diet to pass the bills.

3.Government of Japan to punishment on Those Responsible

The government of Japan has not provide any punishment against those responsible gender violence committed by soldiers of Japan during W.W. Ⅱ while some rape crimes were accused in military court of victimized states after the war. Japan, though having been a party to four Geneva Conventions of 1949, has not enacted any special legislation to punish war crimes. Nor Japan is not a party to two Geneva Protocols of 1997. Although Korean victims once brought criminal accusation to the Tokyo District Public Prosecutors Bureau in 90s, the Bureau refused to accept it. Since Japan has only general penal codes to apply to crimes under "Comfort Women" System, the term of prescription has long passed under the penal codes.

Nevertheless, international society in 90s, has established International Criminal Tribunals for former Yugoslavia, and adopted the Statute of International Criminal Court. Those tribunals and Statute unanimously confirmed that widespread or systematic gender violence is a crime under international law that the crime shall not be subject to any statute of limitations, and that responsible commanders and other superiors are also subject to punishment regardless of their official status.

4.Importance of Judging Crimes under "Comfort Women" System

Existing international criminal tribunals or courts have no jurisdiction over crimes during W.W. Ⅱ. The principal of Non-retroactivity ratione personae would bar any new domestic legislation from punished crimes during W.W.II. Existing official courts are available only to existing civil litigation in order to address responsibilities for "Comfort Women" System.

Nevertheless, it is important to apply laws and justice against crimes under "Comfort Women"System, even by the forum that is not a official court. To judge is applying laws and justices against crimes more than revenge or hatred. To judge is showing those responsible and provide remedies for victims who might have blamed themselves without proper redress. To judge is recording facts and lessons for future generations and contribution so as to cut off the cycle of impunity and atrocity. And to judge shall be prerequisite, both for people from victimized states and for these from attacking states, to seek for a reconciliation and for a future cooperation for the common ends.

I expect that Women' s International War-Crime Tribunal of 2000, which is now under preparation, can take a part of the role of such judgment.

不接受从军慰安妇问题的根源

政治评论家、二松大学讲师 本泽二郎

当世人将德国与日本相比较时，大概会得出这样一个奇怪而可怕的印象：像日本这样没有勇气面对过去的民族已经太少了。这并不能给日本的国家利益带来任何正面的影响。即使这样，却仍有更强硬的，要求将过去合法化的右翼势力的存在。有必要对起根源进行探讨。

一、被掩盖的从军慰安妇问题。

在讨论人权问题的时候，可以说再没有比象对慰安妇那样彻底剥夺人权更残酷的野蛮行径了。不应该以“战争中不可避免的事情”为借口将其合法化。必须坚决否定。

的确，不论何种体制，不论东西文化，都想掩盖自己历史中让人感到羞耻的部分，但是，即使这样，如果触及到了国际常识，这种体制的基础就应该崩溃了吧。在对待纳粹对犹太人的大屠杀这件事上，德国全面承认了错误，并一再向周围邻国人民道歉，官方与民间合作防止纳粹的死灰复燃。这确实可说是贤明之举。

而日本政府却反其道而行之，一直受到国际舆论的谴责。特别是周围亚洲诸国人民根本无法尊敬日本。

第一，对慰安妇问题这一不幸的事实，一直采取掩盖的方法，并在教科书中略去此事。笔者本人直到十年前从传媒中提听到一个勇敢的韩国老妇人的控诉，才知道了此事。

惊诧之余，向参战的原士兵打听，得以确认此事。喝酒的时候向他们询问，当事者才开了口。在这种场合，那种得意洋洋的样子溢于言表，展现了日本民族的本性。让我感到极度羞耻。

二、不将其表面化的理由。

尽管这样，但为什么到了二十世纪临近的时候还不将如此之野蛮行径公布于众呢？人们翘首以待。

或许是人权意识的缘故吧。可是当我们想到连欧洲女性、韩国女性也鼓起勇气揭露事实真象，这恐怕不能只说是人权问题了吧。

不久以前，我有机会同一位早稻田大学研究生院的二十岁的女学生谈起这件事，她是这样说的：“被强奸了，已无法在这世上活下去，只有去死。”

朝鲜半岛上的被征为慰安妇的女性，就算运气好能活到战争结束，也不会回到故乡。这就是对她说这句话的明证。

必须将日本、旧日军的野蛮史作为历史的教训昭示来者。因此，不能原谅那些至今仍活着的，将事实掩盖起来的日本人。甚至可以说有义务揭露事实真相，并告诉给后世。同样，我也想向中国的慰安妇说这句话，一般人是不知道此事的。我期待着本次研讨会的研究成果。

三、日本政府为什么能一直掩盖从军慰安妇问题呢？可以考虑战后的混乱和美苏对立的冷战局面成全了此事。当然并非仅仅这个理由。

一直对提倡天皇主义的极右翼势力（右翼暴力集团）有所顾虑的日本政府体制问题，那些同情他们的年轻国会议员们的存在也不容轻视。

另外，日本政界中战争势力的存在也很重要。不仅仅是年轻的议员，一直到政府内阁成员，甚至首相都可以施以压力。举一个众所周知的例子，原首相中曾根康弘及其参谋濑岛龙三等人，在旧日军中分别是海军中尉、原关东军参谋。受他们指使的小渊内阁，已在企图修改有教育的宪法之称的教育基本法。

依笔者分析，这些右倾化、将过去合法化的根源的势力的本质，是“天皇天皇的官员”之制度。

四、天皇的官员是诸恶之源。

战败后日德之间决定性德差异在哪里？那就是德国惩罚了纳粹官员而日本却对所有的天皇的官员“姑息放纵”。

请看那些要将或一直企图将“天皇的战争”合法化的“天皇的官员”的本质。他们隐藏在内阁或议会的帽子下左右着日本的内政外交。拙著《天皇的官员》一书对此有详细描写。他们是将过去合法化潮流的根源。出自文部省官员的历史教科书，至今仍在歪曲历史，掩盖事实。

How We Are To Win?
With Regard to Lost Decisions

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Attorney at law

1 The feature of decision by Japanese courts

There is no decision in favor of plaintiffs in Japanese court regarding WW II foreign victims' case besides Kampu comfort women case.

Most decisions rejected claims of victims by the statute of limitation without any fact-finding.

9.22 decision (Massacre at Nanking case, 731 Units case and bombing to open city case), which we took part as attorneys, approving the related facts and aggression of Japanese Imperial Army to China, rejected the claims of victims as its conclusion. It was fundamentally same to other preceding decisions.

It approves the aggression to China and 'Japan should' it mentions 'continue to reflect its past conducts and make its best efforts to contribute peace and development of Asia in future.'

But it rejects remedy, by the reason that. "It is a question of international law whether plaintiffs have the right to claim in such injury case as private citizens or not." "Even now, the Court could not approve the remedy concerning traditional international law."

2.Why does such decisions come out after another? It is related to political and ideological situation of Japan?

3.What is our prospects to win?

① What is object of filling case in Japan?

② How far have I come?

③What is the effect of development of international movement to pursue claims of the war-crime victims?

日本版的历史修正主义的陷阱
——从男女平等主义者历史伦理学角度

“女性·战争·人权”学会　大越爱子

二十世纪后半页的历史学，可以说被长期排斥在“历史”外部的人们的声音所引起的“历史再发掘作业”所震撼。通过这些声音，无疑地揭穿了考古学构造中所隐藏的历史。男女平等主义和post-colonialism从中听取这些被排斥的声音中，解释清楚被考古学所构造所隐藏的历史，从而在负有个别的历史责任角度出发，开辟了历史伦理学的新天地。

现在在日本发生的战争责任论争，正是被以前的“战争的历史”排除在外的人们，即被日军在战场强奸的牺牲者、作为军事性奴隶的“慰安妇”制度的被害者的出现和证言。告发而引起的抗议论争，和以前的战争责任论争（这种战争是否正确，是否错误的论争）有本质的不同。其不同是，在以前的“战争的历史”中一直是置之不问的“战争”构造的侧面，无论怎样的战争正当化论也掩盖不住战争的犯罪的侧面的论争。

论争的一方当事者是，被军队认为是自愿的被以前的“战争的历史”观剥夺人类尊严的人们。她们通过证言活动的斗争，这正是讨回人类尊严的斗争，通过斗争揭穿以前的“战争的历史”、“战争的意识形态”的犯罪性。站在支援她们立场的男女平等主义者，既要为她们讨回每个人的人类尊严而斗争，同时也要倾听由“历史的黑暗”中走出来的女性的声音，不得不认识到对那些声音得应答一定与斗争相联系。这就是男女平等主义者历史伦理学所被要求的理由所在。

另一方面，感觉到历史伦理学斗争的威胁的以前的“历史”论者们，从“历史”中去掉伦理的性格，作为“权力者们的权力游戏”再构成历史的故事，策划了把战争责任论争回归到原来的计划，那就是，现正振虎威的日本版“历史修正主义”。“历史修正主义者”们的特征是，回避由被害者和牺牲者们追究历史的责任；为了保护自己的同一性，否认所发生的犯罪事实、或者制造减轻故意的故事；是东拼西凑的理论武器，由被害者和牺牲者们的声音而再度相对化的历史事实，将使之仍回到不可知论的泥潭中去。

日本版“历史修正主义”有多种多样，特别是影响力很强的现举三例并逐一评论。

1. 原理主义的历史修正主义　自由主义史观和“新的历史教科书制作会”的立场。持有由大日本帝国所引起的侵略战争，说成是对欧美殖民主义的对抗自卫战争，或解放亚洲的战争的主张，“没有南京大屠杀”，“随军‘慰安妇’是妓女，没有强制带走”等等，否定日本军的战争犯罪，取而代之的是捏造由谎言和诽谤中伤所组成的故事，是最没有伦理的“记忆暗杀者”集团。

2. 国民主义的历史修正主义　“败战后论”的加藤典洋和他的老师鹤见俊辅及其派系等等的立场。成为“为了女性的亚洲国民基金”的理论的土壤。承认大日本帝国的战争是“不正的战争”，但是，在大日本帝国崩坏以后，日本的人格分裂成二个，以谢罪为主体的“国民”还没有构成。彻底地无视了历史证人的证言，只讲述“日本的历史主体形成”的故事，切下抛掉了想要站在被害者立场的抽象的良心派左翼。安于自己中心主义，故意打扮成坏蛋的样子，主张反伦理主义，是没有主见的知识分子集团。

3. 市场主义的历史修正主义　“国家主义和性差论”的上野千鹤子的立场。认为“阐述历史是斗争的市场”，否定在历史中导入伦理的判断和责任的立场，对被害者、牺牲者的证言坚持冷静批判的观点。认为男女平等主义也是一种意识形态，为使资本主义进入意识形态市场，强调重视力量的作用。对“正义”和“人权”等等伦理的概念持怀疑的观点，用冷嘲热讽的视线看着主张“伦理的责任”“法的审判”女性运动。

象这样，想就与表现为多形多样的历史修正主义进行实践的理论的对抗介绍一些。

The Pitfalls of Japanese-Style History Revisionism: From the Standpoint of Feminist Historical Ethics

Aiko Ogoshi

Association for Research on the Impacts of War and Military Bases on Women担Human Rights.

We might say that the discipline of history in the second half of the twentieth century has been shaken by an ‘historical re-excavation’ that began when the voices of those that had for ages been excluded from the practice of history came to be heard. Through such voices, the archeological structure of history has forcibly been made clear. In that Feminist and Post-colonialist approaches hear these once excluded voices and elucidate this once concealed structure, they have come to take on historical responsibility, and in this sense, have opened the way for the discipline of historical ethics.

The debate which currently rages in Japan in regard to the question of war responsibility is one of a completely different character than those which have exited before (e.g. those which simply debate whether the war was right or wrong). This is because the current debate is based upon the appearance, testimony, and indictment made by many who had previously been excluded from ‘War History’, that is, the ‘Comfort Women’, those who were sacrificed and raped by the Japanese military at the battlefront, the victims of that military's system of sexual slavery. As a result of the appearance of this new aspect war , one that had heretofore been disregarded in the construction of ‘War History’, an aspect of wartime crime that can not be `explained away by any kind of just war theory has been brought into the open.

On one side of this debate are the women who have deprived of their human dignity by the ‘War History’ that has until this day listened only to the side of the

military. The battle which these women now wage through the testimony they give is none other than an attempt to win back that dignity, and by doing so to expose the criminal of such 'War History' and 'War Ideology'. The feminists who support these women must recognize that the battle to restore these women's human dignity goes hand with turning a hearing ear to these voices that have risen from the darkness of history, and responding to them. This is the demand made by feminist historical ethics.

On the other side of the debate stand those who theorize history as it has always been done, and they come to feel threatened by this kind of historical ethics. By stripping history of its ethical character and re-constituting it as a 'power game of those in authority', they have attempted to restore this debate on war responsibility to its previous form. This is the Japanese version of 'Revisionist History' which today so ferociously rages. The special characteristic of those who engage in such revisionist history is that they attempt to evade the indictments concerning war responsibility made by the victims, and in order to protect their own identity either deny the criminal deeds which have come to light or else create a tale that makes light of their meaning. By means of the patchwork logic they employ, these revisionists relativize the historical facts brought to light by the voices of these victims and attempt to throw them back into the mire of the unknowable.

like to single out and critique three types that have had a particularly strong influence.

1. Fundamentalist History Revisionism

This is the standpoint of those who claim a free view of history, as well as of the 'Association to Rewrite History Textbooks.' They claim that the war of aggression waged by Imperial Japan was a defensive one waged in order to oppose Western colonialism, one waged to liberate Asia. They claimed the Nanking Masscre never happened, and that the 'comfort women' were prostitutes who were never forcibly brought to the battlefront. This group of assassins of memory thus denies the war crimes of the Japanese military through the tales of lies and slander which they weave, making them the most unethical of all involved.

2.Neo-nationalist Historical Revisionism

This is the standpoint of those like Kato Norihiro, author of 'A Theory on the Aftermath of Japan's Defeat in world war 2', and his mentor Tsurumi Shunsuke, who supply the theoretical basis to the Asian Women's Fund. They recognize that the war waged by Imperial Japan was an unjust one, and yet they claim that after the defeat Japan took on a double personality such that its people today do not as a nation constitute a subject that is able to apologize. They thoroughly ignore the evidence of historical witnesses, speaking only of the 'formation of a Japanese historical subject,' disregarding those who attempt to see things from the viewpoint of the war victims as left-wing idealistic 'do-gooders'. This group is thus made up of intellectuals with no definite view of their own, advocating irrationalism in order to feel secure in their own self-centered views.

3.Market Historical Revisionism.

The standpoint of the Ueno Shizuko of Nationalism and Gender, wherein history is understood as the 'marketplace of confrontation of discourse.' This approach denies any attempt to introduce ethical judgements and discussions of responsibility into history, maintaining a cool, critical position towards the evidence given by victims. Feminism is seen as just another ideology, valued for its role as an agent participating in the capitalistic marketplace of ideas. Doubts are cast upon ethical concepts such as 'justice' and 'rights', and a cynical eye is cast upon women's movements which make claims for ethical responsibility and legal judgments.

I would here like to introduce the practical and theoretical struggle now taking place in opposition to these various forms of historical revisionism.

Report of The Activities of the Association for Research on the Impacts of War and Military Bases on Women's Human Rights in its fourth year.

Kiyoko Shimizu (Association Representative)

At the end of twentieth century, a century of war and violence, I welcome from the bottom of my heart the opening, here at Shanghai University in China, of a symposium that aims to make a clear indictments of the legacy of sexual discrimination, sexual violence, colonialism and imperialism that this century has bequeathed to us, a legacy quite unmatched in history. The main topic of this symposium will be the 'Comfort Women' system of sexual slavery undertaken by the Japanese military. This was a criminal system rooted in sexual discrimination and sexual violence, colonialism and imperialism, a system created by the modern Japanese nation with the Emperor as its core.

We, as members of this Nation of Japan which inflicted so much violence, founded, on May 25, 1997, the Association for Research on the Impacts of War and Military Bases on Women's Human Rights. Ours is an interdisciplinary movement that demands the Japanese government take clear legal responsibility for the war crimes committed under this 'comfort women' system, and that it also make a clear investigation into the actual facts of this criminal system and the ideology that has worked to conceal it. We have since gained the approval of a great number of people, and at present our membership stands at over 200.

Until now we have held three major conferences as well as countless other smaller symposia and research groups, have published two journals with the third one presently in print, and shall hold our fourth annual conference in June of this year. The theme of this conference will be 'The Emperor System, Feminism, and War Responsibility.' As an association we also support the Women's International War Crimes Tribunal' which is scheduled for December 8-10 in Tokyo of this year.

In this presentation I would first like to discuss the circumstances surrounding the founding of our association before making a concrete report of our activities. In closing I would also like to talk about the plains we have for this year, as well as our aims for the future.

被大审院判决有罪的征集“慰安妇”案例

日本战争责任资料中心 西野留美子

首先

在征集“慰安妇”的事情上，非军方人员强征中国妇女的案例很多。1933年及1937年，在大审院（即今最高法院）的判决中，被判为国外诱拐罪、国外移送罪。这表示由欺诈和欺瞒引起的强征被认为是犯罪的。实际上，在征集“慰安妇”时，民间商人在基层操作的案例相当多。在日本，有人认为征集时未发生强制征集，这里介绍的大审院的判决中以欺骗手段征集被视为强制征集，说明在当时是一种犯罪行为。

1. 诱拐移送至国外同诱拐至国外未遂案

（昭和10年6月6日第二刑事部判决，驳回） ＊控诉判决

●事实

［被告植松弘树］

1933年（昭和8年）3月25日，与井出ふじ共谋来到静冈县田方郡中乡村中岛一家叫作“梅名屋”的小饭馆，在明知对方仍是未成年者的情况下，长泽津之欺骗招待芹泽春（当时19岁）到在满州为日军开设的咖啡馆作吧女，以“到满州的话债务很快就能还清，干一年能挣大把钞票回来，回来的时候能乘飞机”等等甜言蜜语诱惑对方，使她到满州去。

由于未成年者去满州需要其具有养护权的父亲的答应，在春的姐姐那儿伪造了“小烟作太郎与春以梅名屋为见证结为夫妇一起生活”，将春的户籍注销，从“梅名屋”带走了。就这样将春诱拐到三岛町的料理店“福力”，3月26日，又将其带到了沼津市第泽茂雄的家里，交给了他。被告植松与井出ふじ共同以将春移送到帝国以外的满州为目的诱拐了春。

［被告长泽茂雄］

同年3月26日，在沼津市自己的家中从井出ふじ手中接到芹泽春，长泽又将春交给了井口三郎，诱拐到满州热河省凌源。即诱拐移送到帝国以外。

［井口三郎］

将春带到了满州，由于长泽津之在凌源开的小饭馆女招待人手不足，同年5月初回国后，托木村常吉张罗。木村答应后与尾林共谋到了静冈县田方郡的小饭馆“才源”。在明知女招待青木爱（16岁）未成年的情况下，隐瞒要将其移送到满州的目的，对爱的父亲撒谎说将其换到了沼津的川仙店，得到了其父的首肯。然后，利用爱的无知欺骗她去“比神户稍远一点的大连”。又到沼津市的叫“鱼长”的小饭馆，隐瞒了到满州而欺骗那里的女招待桑岛キヨシ（当时27岁）说将其换到了御殿场的“ときわ”去，得到了应允。

井口从木村那里领来爱和キヨシ之时，了解了带出来的原委。另外，明知爱为未成年者及未得到具有养护权的人的允许的情况下，将其带到了满州。此事因被警察所知，未遂。

●主文

本件上告均被驳回。

●判决要旨

以移送国外为目的诱惑未成年者，在自己的支配下将其转移，虽未诱惑对其具有监督权的人，对未成年人的诱拐至国外罪成立。

被告长泽茂雄、井口三郎…徒刑2年　　缓刑3年。

被告植松弘树　　…徒刑1年6个月　　缓刑3年。

2. 诱拐移送至国外被告事件

（昭和12年3月5日　第四刑事部判决　驳回）＊一审：长崎地方法院；二审：长崎上诉法院。

●事件概要

被告村上富雄，自1930年（昭和5年）11月左右，开始在上海从事专对帝国军人的丑陋行当。1932年（昭和7年）1月由于上海事件爆发，驻扎之海军人数增加，考虑将其营业作为海军指定慰安所扩大经营。在和数人商议之后，决定“在雇用妇女时隐瞒从事丑陋行业，将吧女名义上改作女服务员雇用”。

隐瞒了将被移送到上海的慰安所的实情，将菊子等15名妇女从长崎船运至上海。

●主文

本件上诉均被驳回

●判决要旨

＊以将移送至上海为目的诱拐移送他人，诱拐至国外罪（刑法226条第一项）和移送至国外罪（同第二项）成立。无论上海是否驻扎帝国军队，犯罪成立。

＊诱拐罪的共谋和共犯

＊未参与实行而参与议谋的人被判作共犯

为什么要召开裁决原日军性奴隶制的女性国际战犯法庭

日本 VAWW-NET JAPAN 代表　松井耶依

20世纪是一个因战争和暴力而给许多人带来病苦的世纪，尤其是女性成了战时性暴力的牺牲品。在太平洋战争中日军施行的性奴隶制加害了20万人，这是对女性的大规模的战争犯罪。

但是，遭受性暴力的女性因羞于启齿，战后回国以后避而不谈这一遭遇，过着贫穷和孤独的生活。进入九十年代后，随着亚洲的民主化过程，女性运动进入了高潮，韩国、菲律宾、中国的台湾、北朝鲜、中国、印尼、马来西亚、荷兰等国被害女性相继披露了自己的姓名，掀开了历史的新篇章。被害女性要求加害国日本查明真相，向被害者道歉并赔偿，处罚加害者等等，这些要求得到了国际社会的支持。

打破长时间沉默的原慰安妇们的勇气，给正处于武力纠纷中而多发强奸等性暴力事件的原南联盟、乌干达、阿尔及利亚等国的女性以榜样的力量。发生在过去的日军性奴隶制度和正在发生的武力纷争之下的性暴力事件作为超越时间和

地区的女性人权问题而受到国际性的注目。95年的北京世界妇女代表大会上被采用的行动纲领中，明确指出："有组织性的强奸、性奴隶制度以及其他在武力纷争中对女性的暴力是战争犯罪、是对人道的犯罪，国家、国际社会应查明真相，对被害者予以充分的赔偿，对战犯提起诉讼。

在1996年对联合国人权委员会提出的库马拉斯瓦米女性暴力的调查报告中，建议对日本政府追究其在慰安妇问题上的法律责任；1998年格马克多格子特别报告人向联合国人权委员会提出的关于有组织的强奸及性奴隶制度的报告中，将"慰安妇"算作"强奸所"，建议着手准备旨在追究加害者的刑事责任而非仅仅要求法律性赔偿的工作。

从亚洲各国原慰安妇开始报出姓名到今天，十年的时间过去了，对她们的要求日本政府置若罔闻，在1993年河野官房长官的谈话中虽然承认了国家对慰安妇制度的道义责任，却以依据旧金山条约及两国间的赔偿协定已全面解决完了为借口予以否认，而打算在95年创设"国民基金"，以向民间募捐的方式解决向被害者的补偿问题。韩国及台湾等地的被害者认为，这是企图逃避国家赔偿责任而拒绝接受。赔偿将由各国政府支付。而经济状况不好的菲律宾的大部分受害者同意接受"国民基金"，从而造成了分裂和对立。

迄今为止，以日本政府为被告向日本法庭提起赔偿诉讼的案件共8件。原告分别为韩国、日本、菲律宾、中国、台湾的受害人。但是已作出判决的4件中的3件日本政府全面否认责任，以原告的败诉而告结束。虽然目前仍在进行补偿立法化运动，但因日本政界保守势力占多数，前景不太看好。

一方面，对战争犯罪、重大人权侵害事件要求对被害者赔偿损失，对加害者追究刑事责任等在联合国等地已成为国际性潮流，与德国对纳粹战犯的起诉至今仍在继续形成对照的日本，没对一个战犯进行处罚。不仅如此，A级战犯成为总理，包括A级战犯在内的战死者被供奉在靖国神社受着政府官员的参拜，家属享受着巨额抚恤金。在战后的日本，惩罚战犯成了禁忌。日本支援慰安妇的运动也害怕对责任者进行处罚，没有支援94年韩国发起的在东京地方检查院的诉讼。

另外，特别是二战结束50周年的95年以来，被称作自由主义历史观的势力在扩大，在全国范围内组织了欲将战争和对殖民地的支配合法化，诽谤慰安妇并非被强征而是为了挣钱的娼妇，删除教科书中有关慰安妇的记录等等运动。

在这期间，逐步老龄化而走向死亡的原慰安妇们，给我们留下了这样的遗言："金钱补偿不能夺回正义和尊严。希望惩罚责任者。"

加害国日本的女性如何才能回答这一呼唤？日本的法庭以时效过期，当时国家无答责，依国际法个人无权请求赔偿等等理由否认国家的责任。98年设立的国际刑事法庭也无权管辖过去的战争犯罪。这样，国内、国际两方面都无法期待对日军的性奴隶制度给与法律的裁决。

以97年在东京召开的"战争及对女性的暴力"国际会议为契机而组成的VAWW-NET JAPAN，参考过越南战争中的美国战争犯罪进行裁决的拉赛尔法庭的作法，于98年提议在20世纪最后一个月在东京宣布由民间妇女组成的"女性国际战犯法庭"的开庭。

该"法庭"的目的，就是第一，公开明确被称为慰安妇制度的日军性奴隶制度是对女性的战争犯罪，让日本政府对其负法律责任；第二，为切断对战时及武力纷争下的性暴力不予处罚的循环，防止其再次发生，确立妇女人权作贡献。

"女性国际战犯法庭"组成了由加害国日本、赞成提案的6个被害国以及研究武力纷争下对女性暴力问题的人权活动家组成的国际咨询委员会三者参加的国际组织委员会，99年2月成立以来，已在东京、汉城举行了国际准备会，在海牙、华盛顿、纽约等地组织了国际咨询委员会。"法庭"决定于2000年12月8日在东京开庭，12月11日举行现代武力纷争下对女性暴力的国际听证慰会。

在国际上的准备情况如下：

1）"女性国际战犯法庭"宪章由VAWW-NET JAPAN在99年11月作成了日本方案，12月依此修正而作成了韩国方案，并征求了法律顾问的意见。各国进一步讨论日韩两国方案，争取在上海召开的国际预备会上通过最终方案。

宪章的主要内容是："法庭"采取与刑事法庭相近的形式，责问国家与各个两方面的责任，不仅要明确战前及战争中对殖民地的统治及战争犯罪的责任，还要明确不履行补偿和处罚义务的战后责任，等等。

2）各国任命自己的检查官在8月份左右作成本国的起诉书，以此为基础首席检查官（复数）在10月份左右作成总的起诉书，在法庭上宣读。证据由各国提供。

3)法官由法律顾问和国际咨询委员会从国际知名人士、国际法专家中选出17人，委托书已经发出并开始进行商谈，还未最终确定。

4) 公开征求国际共通之宣传招贴画

在日本的准备状况：

——组成起草起诉书的检查图（3月3日）

由11位法学家和10位历史学家组成，天皇小组也已组成

——调查研究小组挖掘有关日军责任的材料

——对旧军人进行有意识的调查

——召开三次以"法庭"为中心的国际研讨会

——将"法庭"作为草根运动广泛宣传，以向一万人每人募捐二千万日元为目标，在99年秋开始"万人运动"

——在各国开展有关战犯审判及国际法知识的公开连续讲座

——录相小组记录被害者的证词。到目前为止制作了祈悼、追悼大会、记录中国山西、海南、缅甸原慰安妇情况的录相

——出版了马克多格尔报告的日语版、出版了6卷"女性国际战犯法庭"刊物、资料集等等。

今后的课题如下：

1) 宪章定本

2) 分国别的起诉书及总起诉书的作成

3) 委托法官

4) 国际宣传活动

5) 准备国际听证会

6) 募捐活动

Women's International War Crimes Tribunal On Japan's Military Sexual Slavery (December 8-10 20000)

—— An NGO attempt to restore justice for victimized prevent future wartime violence against women—

Yayori Matsui （松井耶依）
Chairperson of VAWW-NET Japan

1)Responding to the cries of "omfort Women", victims of Japan's Military Sexual Slavery

The 20th century now coming to its close was a century of war and violence. The Second World War brought to humankind an unprecedented scale of destruction and genocide in which vast number of women were made victims of sexual violence. But the lessons of this experience have not yet been learned. We are now witnessing inter-state wars and internal armed conflicts breaking out one after another around the world.

Japan's military sexual slavery (the so-called "Comfort Women" System) before and during the Second World War was one of the most horrendous forms of wartime sexual violence against women known to this century. Those Japanese women who believe we cannot create a 21st century free of violence against women without responding to the cries for justice and dignity of "Comfort Women "proposed to hold the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery in Tokyo in December 2000, the last month of this century. Our main purpose was to clarify that the "Comfort Women" system constituted war crimes against humanity and to pressure the Japanese government to take legal responsibility. We also hope that one day our effort will help to end the cycle of impunity of wartime sexual violence against women.

2)Breaking their silence: "Comfort Women " open a new page of history

It was in the early 1990s that Korean"Comfort Women", victims of Japan's Military Sexual Slavery broke their silence and came forward after nearly half a century, followed by survivors from other areas of Asia including China, Taiwan, North Korea, the Philippines, Indonesia, Malaysia and also of the Netherlands. We, women of the offending country, were deeply moved by their courage and considered it our moral responsibility to respond to the appeal from survivors. We began to form groups which support groups"Comfort Women"all over the country. It cannot be overemphasized that those victimized women who spoke up about

their painful exposing as sex slaves for the Japanese military played an important historical role in experience the horror of war time sexual violence and in so doing, encouraging women of the world who are currently suffering from sexual violence in armed conflicts (including the former Yugoslavia, Rwanda, Algeria and other countries) to come forward. Thus, the issue of violence against women in war and armed conflicts surfaced as an agenda of global women's and human rights movements.

3)International support for demands from victimized women

Much of the international community has supported the demands of"Comfort Women "for a formal apology, compensation and the prosecution of. At the Fourth UN World Women's Conference in Beijing, the Platform for Action was adopted which clearly stated that systematic rape, sexual slavery and other forms of violence against women in armed conflicts are war crimes and crimes against humanity; and that governments and international organizations should investigate, and prosecute alleged war criminals to the end of offering full redress to victimized women.

In 1996, Ms Radhika Coomaraswamy, the UN special on Violence Against Women recommended the Japanese government take legal responsibility for Japan's "Comfort Women "system during World War II. In 1998, Ms Gay McDougall, the UN Special Reporter on Systematic Rape and Sexual Slavery submitted her final report to the Sub-commission on Prevention of Discrimination and Protection of Minorities of Commission on Human Rights which found the Japanese government legally liable for "rape centers" (as she named so-called "comfort stations") and made the recommendation of setting up mechanisms to ensure criminal prosecution as well as to provide legal compensation to victims.

Nearly ten years have passed since the issue of "Comfort Women" surfaced, and in spite of repeated calls for justice within the international community, the demands of "Comfort Women " have hardly met by the Japanese government. Though a statement made in 1993 by the Prime Minister's Office officially acknowledged Japan's moral responsibility for military sexual slavery, the Japanese government continues to deny legal responsibility, claiming that all war compensation issue were settled by the San Francisco Peace Treaty and in bilateral agreements between Japan and victimized countries.

4)Compensation has been the main focus of the movement to support"Comfort Women" .

Eight lawsuits have been filed by"Comfort Women" in Japanese courts (three from Korea, including one Korean in Japanese, two from China, one from the Philippines, one from Taiwan and one from Netherlands), demanding that the Japanese government pay state reparation. In three out of the four cases which have reached judgment, the courts have dismissed claims of the plaintiff, citing primarily the following three reasons:

1.Internmental law during the period in which the crimes were committed did

not recognize an individual victim's right to claim compensation against the state

2.The case was filed after more than twenty years after World War II, allowing the case to be dismissed on the grounds of statutory limitations

3.According to Japanese law, the State had not held liable for compensation until the end of World War II.

These parallel the official position of the Japanese government; and as they were upheld in court, there seems to be little hope for survivors to be compensated in this venue. Furthermore, the prosecution of war criminals could be seen as a social taboo in Japan.

Another attempt to get compensation is the campaign by Japanese lawyers and NGOs for war compensation legislature. In reality, however, there is little hope for such a bill to be passed in the Diet, because the majority of members belong to the conservative parties which are against the very idea of war compensation.

5)The prosecution of war criminals is a social taboo

In 1994, twenty-seven Korean "Comfort Women" brought a letter of complaint to the Tokyo Prosecutor's Office. Based on the principals of a universal human conscience and a sense of justice, they demanded the Japanese government investigate their allegations, seek out perpetrators and bring them to justice. However, the Prosecutor's Office refused to even accept the letter. In fact, it is not only the Japanese government, but also some of those involved in the "Comfort Women" movement who oppose criminal prosecution, on the ground that such action might antagonize the Japanese public and jeopardize the safety of the survivors in Japan at the hands of right-wing extremists. Thus, the "Comfort Women" advocacy movement has focused primarily on the issue of compensation, with little action in the area of prosecution.

6)Japan's failure to fulfill their legal obligation to punish of war criminals

When Japan surrendered to the Allies in 1945, it accepted the Postdam Declaration, which demanded that all individual war criminals should be prosecuted and brought to justice. Thus the Allies lead by the US established the International Military Tribunal for the Far East (the Tokyo Trial) where twenty-eight Japanese war criminals were prosecuted and found guilty. Seven were given the death penalty. However, after the Tokyo Trial, the prosecution of war criminal became a target of attack from the right wings, and not a single Japanese war criminal has since been prosecuted in a Japanese court. Furthermore, the growing right wing revisionists' campaign has condemned the Tokyo Trial as mere revenge by the Allies, a demonstration of power by the victors of World War II against the defeated. The breadth of such right - wing sentiment is evident in the popularity of the 1998 film "Pride", which touts Tojo, the wartime Prime Minister and militarist leader, as a hero, and which is deeply critical of the Tokyo Trial.

7)Prosecution of war criminals has continued to the present historical moment in Western countries

In sharp contrast to impunity of war criminals in Japan, the German government, before and after the Nuremberg Trial, has continued to prosecute Nazi criminals.

It is reported that both West and East Germany have investigated more than

100000 war criminals and more than 6000 cases have been sentenced guilty and executed or jailed.

In France, Maurice Papon, 87year-old former French official of the Vicky government was sentenced to ten years' imprisonment in February 1998 for the deportation of French Jews to Nazi concentration camps. It is important to note that the French court punished not only German nationals, but a French national as well for crimes against humanity more than a half century after World War II.

In England, a former Gestapo member was sentenced to life imprisonment in April 1999 for war crimes committed in Nazi-occupied Belarus.

The US government has a war crimes unit which keeps a list of German and Japanese war criminals whom it gives sanction such as deportation or refusal of entry. It is clear from the above that the Japanese government is still required to meet its obligation to prosecute suspected war criminals, including those responsible for military sexual slavery.

8)The UN and international community move on the issue of impunity and prosecution of human rights violators

According to a report submitted to a UN Sub-Commission of the Human Rights Commission by Mr. Thee van Bovine, Special Reporteur on the Right to Compensation for Victims of Gross Violations of Human Rights, victims of slavery have the right to demand direct reparation and compensation from the offending state, not only for the crime of slavery, but also for the failure of a state to meet its obligation to punish perpetrators after war. That is to say, the Japanese government has the obligation of compensation not only for the crime of Military Sexual Slavery committed before and during World War II, but also for the impunity of perpetrators during the post-war era.

The Principles to Combat Impunity submitted by Mr. Louis Joinet, the Special Reporteur on Impunity, suggested the victims of serious crimes under international law have three rights which must not be ignored: the right to know the truth, the right to justice and the right to reparation. The international community has realized it is vitally important to end impunity in order to prevent war crimes, including sexual slavery.

9)Historical progress in overcoming impunity of wartime sexual violence

In recent years female scholars of international law and history have revealed several reasons why such a large-scale war crime as the systematic sexual slavery committed by Japanese Imperial Army evaded prosecution at the Tokyo Trial. Firstly, post-war military trials were conducted by the Allies (composed primarily of former or concurrent colonial powers), whose Orientalist and colonialist ideologies superseded the meaningful consideration of crimes against Asians, and in particular Asian women. The Dutch military tribunal in Indonesia was the only post-war military trial which prosecuted members of the Japanese military for sexual slavery, at which only offenses against Dutch women -despite the countless offenses against their Indonesian sisters were brought to court. Secondly, all judges and prosecutors of military trial were men who, in this era before feminism had made

significant, widespread social impact, minimized the seriousness of war crimes against women. Thirdly, wartime rape was not classified in international law as a violation of a victim's human rights, but as an issue of dishonor to a victim's community or family.

However, in the early 1990s, at the very time so many "omfort Women" came forward, thousands of women were suffering from mass-rape and other forms of sexual violence in former Yugoslavia, Rwanda and other areas. The growing global women's movement launched a worldwide campaign for women's human rights and in particular in cases of violence against women, at the 1993 UN World Human Rights conference in Vienna. As a result, sexual violence was prosecuted as a crime against humanity for the first time at the International War Crimes Tribunal for the former Yugoslavia and Rwanda. The global women's campaign also had a significant impact in the adoption of the Statute of the International Criminal Court at the Rome Conference of July 1998. This statute clearly defined rape, sexual slavery and enforced prostitution as war crimes against women and crimes against humanity.

10)The necessity of holding the Women's Tribunal 2000 through women's initiative

Unfortunately, the International Criminal Court, even in the event that the Statute is ultimately ratified, will have no jurisdiction over crimes committed before its establishment. As mentioned before, Japanese courts can hardly be expected to prosecute perpetrators. In such a situation, what should and can be done to address the issue of prosecution for the sake of victimized women who are one by one, dying without seeing justice done?

This serious and urgent question was answered by VAWW-NET Japan (Violence Against Women in War Network, Japan) an organization formed in 1998 as an outcome of the International Conference on Violence Against Women in War and Armed Conflict Situation in Tokyo, in 1997. VAWW-NET Japan proposed to hold a Women's International War Crimes Tribunal at the Asian Women's Solidarity Conference in Seoul, 1998, an idea which was supported by delegates from Korea and other victimized countries. Our Tribunal will be an international, non-governmental, women's effort to end the impunity of those responsible for Japan's Military Sexual Slavery.

Though we are not invested with the legal power to punish those found responsible, we hope to very clearly establish that the system of Military Sexual Slavery conducted by the Japanese Imperial Army during World War II constitutes a war crime against women and a crime against humanity, to define appropriate punishment, and to document the complete proceedings, including the evidence submitted at the Tribunal, for a more complete history. It is important to recognize the "Comfort Women" system as explicitly criminal, because the growing right wing force in Japan is campaigning vigorously to convince the younger generation of Japan that World War II Military Sexual Slavery was not a war crime, but rather "legitimate" prostitution.

11)Drafting the Charter of the Tribunal —Who will be tried?

We are now drafting the Charter of the Tribunal in such a way that our rules and procedures parallel those of a legal court. The Tribunal prosecutors will have jurisdiction over issues relating to Japan's military sexual slavery and other forms of wartime sexual violence. The Tribunal will have jurisdiction over both individuals and states, and shall identify those responsible for crimes with an emphasis on perpetrators in the high military and government position with command responsibility including the Emperor. It shall clarify not only crimes committed before and during W.W.II, but also negligence to prosecute war criminals and to compensate victims during the post - war era.

The Tribunal shall reveal the failure and negligence of not only the Japanese government to fulfill its responsibility to investigate the system of Japan's Military Sexual Slavery throughout the post war period, but also that of other governments, including the US government, which refrained from prosecuting the Emperor to protect its own interests in the post-war military occupation of Japan. The responsibilities of the governments of those nations whose nations were victimized by the Sexual Slavery during the war will also be addressed, as many countries have not applied significant pressure to the Japanese government out of their interest in receiving economic aid from Japan, and because of the lack of a democratic venue in which victims can raise their voices.

In addition to victims who will testify at the Tribunal, internationally well known eminent persons and experts on international law will be invited to the Tribunal as judges, prosecutors and expert witnesses. It was agreed that each nation will nominate a prosecutor to have jurisdiction over cases from that nation and who will prepare an indictment by the summer of 2000. The chief prosecutors will write a general indictment, drawing from the indictments submitted by the prosecutors of participating nations. The panel of judges consisted of world known eminent persons legal experts, will be requested to review documents and indictments before the Trial in order that they might reach a judgment during the three days of the Trial.

12)Expected results of the Tribunal

The objectives of the Tribunal are as follows: first, to restore justice and dignity to victims and to pressure the Japanese government to take responsibility for crimes committed during World War II and the postwar era; second, to promote women's human rights, including in the realm of international law, and to prevent sexual war crimes against women in future; third, to cultivate the ground for a shared future in Asia based on reconciliation.

It should be mentioned the preparatory process for the Tribunal has already had remarkable educational effects for the public (and in particular, for women)on issues of human rights, violence against women's, war crimes, international law, the role of documentation, the problematic perspectives of dominant histories, etc. Thus, women are becoming more confident that they can rewrite history and effect a more just society.

13)International solidarity in the preparatory process for the Tribunal

Form the time the proposal for the Tribunal surfaced in Seoul in April of 1998, the preparatory process has been an international effort centered in the participating nations. The first international preparatory conference and that of research and investigation were held in Tokyo in December 1998. The second conference was held in Seoul in February 1999, where the International Organizing Committee for the Tribunal (WTIOC) was formed.

The WTIOC consists of three groups: (1)the organizations of victimized countries (China, Taiwan; the Philippines, Indonesia, and South and North Korea), represented by Yun Chung-ok; (2)the organization of the offending country, Japan (VAWW-NET Japan), represented by Yayori Matsui; (3)the International Advisory Committee, represented by India Lourdes Savor.

The IAC members are as follows: Ariane Brunet (Canada), Charlotte Bunch (USA), Florence Butegwa (Uganda), ustina Dolgopol (Australia), Alda Facio (Costa Rica), Eugenia Piza Lopez (Argentina/UK), Marieme Helie Lucas (Algeria/France), Lepa Mladjenovic (Serbia) and Vahida Nainar (India).

The Tribunal has two legal advisors: Thee van Boven (of the Netherlands) and Rhonga Copelon (USA).

The first IAC meeting was held in May in the Hague during the Hague Appeal for Peace 1999, and was attended by its seven members and Rhonda Copelon. The second meeting was in Washington in November 1999, where it was agreed to hold an international public hearing on violence against women following the Tribunal.

The international Seminar was held in Seoul in June 1999and the International Symposium will be held in Shanghai in March 2000, where the prosecutors will meet and discuss the Tribunal.

14)VAWW-NET Japan's campaign

VAWW-NET Japan, an organization composed of volunteers with a sense of obligation to victims of our nation's military sexual slavery system, is working hard to prepare for the Tribunal. Our research team is currently searching for military documents concerning military sexual slavery, surveying the consciousness of this issue among former members of the imperial army through interviews and questionnaires, and making fact finding missions in various countries. Our video team has produced several documentaries: about a Korea "Comfort Women" who passed away in 1997, Chinese "Comfort Women "in Xianxhi province and Hainan Island, and "Comfort Stations" in Burma. Films about a Malaysian "Comfort Women" and about the mass rape that took place in Philippine village are now being made. VAWW-NET Japan has launched the "Ten - thousand Supporters' Campaign" with the goal of raising 20 million yen (about US $200000) by asking10000 people to give ¥2000 (US $20) for the Tribunal 2000 along with a message card to be displayed at the Tribunal hall. The five founding principles of VAWW-NET and the Tribunal are to make the Tribunal a women's initiative, in international solidarity, in partnership with specialists, as a grass-roots movement, and from the perspective of women's human rights. We at VAWW-NET have been working diligently to create a Tribunal that will reflect these principles.

15)Growing challenges and the need of for international support

We hope to make the Tribunal meaningful and effective event that will help to create a 21st century of peace and a future where women's human rights are respected. For that purpose, we have to solve a number of difficult questions and challenges. On what authority is the Tribunal founded? What justice should be restored? What methodologies will be most useful and effective at the Tribunal? How can we do our best to effect due process without presence of the accused? How will the Tribunal reflect the recent progress of international law? Can we uncover more military or historical documents to prove the criminal responsibility of the Japanese state and of individuals? How should we address the issue of the Emperor's responsibility for military sexual slavery? It is vitally important to get support from the international community, in particular from experts in international law history, human rights, and gender issues. I want to conclude my presentation by asking for your cooperation in the preparatory process and your participation in the Tribunal, which will be held in Tokyo from December 8 to 10 of this year.

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二战受害人在美国对日本赔偿诉讼的法律问题

美国律师 杨立

二战结束至今已有五十几年了。事隔久远，中国及其他亚洲的受害人是否有机会在美国对日本政府或日本企业提起诉讼、请求赔偿？将会遇到哪些法律问题？

由于绝大多数健在的中国及亚洲的受害人均非美国公民或永久居民，因此，在美国诉讼首先遇到的是美国法院的司法管辖权问题。根据美国联邦法律"公民权与劳资纠纷法"及"外籍居民侵权诉讼法"，凡在二战中曾有被虐待的事实，而报告居住在美国或有公司行号在美国作业者，均可在美国提起相关的赔偿诉讼。

诉讼时效是另一个主要的法律问题。目前在美国各州中，加州是唯一把奴工及有关的诉讼期限延长至二零一零年十二月的一州。美国国会的一项法案有可能将有关联邦法中的诉讼时效无限期的推迟。

关于实体法，日本政府、军队、公司、银行在二战中所犯罪行违反的是国际法、国际公约、美国联邦法及联邦普通法。

二战后日本政府同美国签定的有关条约并没有真正解决此类诉讼赔偿问题。日本政府同中国政府签定的一九七二年的联合公报中，中国政府放弃的只是政府的战争赔偿，而民间赔偿的诉讼则不在此例。

关于解决日本对中国受害者战争赔偿问题

侵华日军细菌战中国受害者诉讼原告团团长 王选

关于日本对二战侵华战争中国受害者的民间战争赔偿，从受害者的角度，明确以下三点：

1. 中国受害者的权力属于受害者个人；

2. 中国受害者从未以任何形式放弃要求日本承担战争责任，对其受害进行赔偿的权利。而且在可能的条件产生时起，即为争取这一权利而努力至今；

3. 中国受害幸存者要求日本在其有生之年进行赔偿。还其尊严，还其权利。

以上三点应该是考虑如何解决日本对中国受害者战争赔偿问题的前提。

日本15年侵华战争给中国造成的灾难，几乎牵连每一个中国家庭。中日两国之间不可能回避这一现实，绕过对中国受害者的战争赔偿问题发展正常的和平友好的双边关系。全面解决这一问题对日本来说是争取和广大中国人民取得和解的机会（《中日战争赔偿问题》殷燕军，1996年，御茶的水书房）。日本应该积极、主动地和中国政府、民间以及有关方面进行对话，谋求对这一问题的及时、全面的解决。

问题，包括对亚洲和其它国家地区的受害者，将使日本摆脱战争阴影，有利于日本民族的精神健康，也将使日本解脱历史包袱，有利于日本国家在国际社会

中的地位。

日本对中国受害者的民间赔偿是一项规模巨大的社会工作。需要有宏观的整体规划和微观的具体操作。目前中国社会各界从上到下为这一问题的解决所作的工作和所需是不相称的。种瓜得瓜，种豆得豆，中国人的事情要靠中国人自己做。

最后在此代表侵华日军细菌战中国受害者对日本各界人士、辩护团对我们在日本东京地方法院进行的受害者赔偿诉讼及细菌战受害调查表示高度的赞扬。我们不会忘记日本人民所作的努力。我们的诉讼是为无声的细菌战受害者的呐喊，是一项人类和平事业。

对日本军"慰安妇"问题的查明真相工作和意见

2000年"女性国际战犯法庭"韩国委员会真相纠明委员长 姜贞淑

1. 在韩国查明真相工作。

参考别添内容

2. 对查明真相工作的意见。

1) 交流文献和证言的资料

在韩国研究随军慰安妇问题的难点是除了被害者的证言以外很少有文献方面的资料。现在用的资料大部分是由日军或者跟他们有关的人来作的，而且那些资料是在日本学界或者有关集团的帮助下发现的。虽然那些资料是由日军来作的，但作为能说明当时情况的资料跟被害者的证言非常有用。因为被害者的证言当中有的地方是不太确定的，诸如地点和时期。为了解决这样的问题希望在各个国家发现的资料来合作。我想，尤其是在中国有丰富的有关随军"慰安妇"被害者和随军"慰安妇"（包括朝鲜人）的证言及日军俘虏的资料，日本帝国时代的日本领事馆跟有关军队的资料。希望2000年法庭准备过程当中还有以后也有密切的资料方面的交流。

2) 地图的制作

我想地图在2000年法庭上视觉方面的效果一定很大。希望做好参考已得到的成果并且能反映2000年法庭参加国家的具体情况的地图。这地图是现在发现的文献和被害者的证言，军人、军属等有关人的证言的基础上①地域②时期③有关部队④民族⑤规模⑥参考资料、记录等详细地做出来比较好。还要做各个国家和东亚的地图。

3) 按各个主题研究

研究的内容包括①日军慰安妇制度的实体和在随军慰安所里的被害事实②各国家妇女的动员方式③随军慰安妇被害者的回乡④随军慰安妇被害者的精神方面、身体方面的后遗症的问题⑤在各国怎样看随军慰安妇等等大体上差不多，但是根据各个国家的情况有差异。

The Issue of Japan's Military "Comfort Women" and State Responsibility

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The "Comfort Women" of Japanese military ("jugun ianfu") refer to those women who were forced to have sexual intercourse with the personnel of Japanese army and navy in "comfort stations", established by Japanese army and navy at the front and within their occupied areas, since the Shanghai Incident in 1932 until Japan finally surrendered in 1945. They were fundamentally military's sex slaves. Furthermore, Japan started to establish those places in Taiwan and Okinawa, where a great number of Japanese soldiers were sent towards the end of WWII because those areas were expected to be battlegrounds as the United States forces gradually advanced towards Japan.

Though it is difficult to estimate the total number of "Comfort Women", I have estimated it at between 50,000 and 200,000. The largest ethnic groups victimised Korean and Chinese, and others included Filipinos, Indonesians, Malaysians, Burmese, Thai, Vietnamese, those of the Pacific areas and so on. Among white people, only Dutch women in the former Dutch East Indies have been documented to be made "Comfort Women". The ratio of Japanese women may be estimated to be about ten percent of the whole group.

Japan is responsible for establishing and operating the "comfort women" system, and thus infringing human rights of many women. The most important point it should take responsibility for is that the system was actual sexual slavery and it showed total disregard for the women and their own will. Japan also should take responsibility for the ways of recruiting them. The ways include: 1) not only taking them by explicit violence but also; 2) binding them economically through debt bondage (trafficking); 3) deception and abduction; and 4) the "implicit" threat under the constant colonial and occupational control. As acknowledge by the Japanese government, the licensed prostitution system had been established in Japan, as well as Korea and Taiwan during the Japanese occupation. In fact, it was a de facto sexual slavery system, consisting of slave trade (through debt bondage) and restriction of women's freedom. We should understand that, based on this system, the more overt sexual slavery system —"Comfort Women" system — was established with the Japanese military taking the lead. Furthermore, Japan should take responsibility not only for the cases of the Japanese military or government themselves directly involved, but also for the cases of civilian collaborators and proprietors. For it was the very Japanese military and State of Japan, who established and operated such a system, and got the largest benefit.

Why did the Japanese military think the comfort stations system (military sexual slavery system) necessary at the front and in the occupied areas? This was directly for the following four reasons: 1) they had to deal with that there were many rapes by Japanese soldiers; 2) venereal diseases were spread among the troops at the front and in occupied areas; 3) they thought it necessary to provide soldiers with "sexual comfort" to prevent them from deserting away from the war no one knew when it would end, and to keep their morale high; 4) and they intended to prevented a leakage of military secrets or spying (there was a possibility of this at private-run brothels). Among these reasons, the third one, regarding the morale was the main motivation.

However, though comfort stations were provided, the number of rapes at the front and in Japanese occupied areas did not decrease, and venereal diseases continued to spread. And the number of comfort stations continued to increase. In this situation, who fell victims as "Comfort Women" to the sexual violence of the Japanese military were mainly the women in colonies (Korea and Taiwan) and in the front and their occupied areas (China, Southeast Asia and the Pacific regions). Also in Okinawa in 1944 and 1945, local women there were made victims of sexual violence as well as Korean women. These facts clearly indicate the characteristics of the war executed by the Imperial State of Japan in 1930's and 1940's (e.g. ethnocentrism; an ideological quality that allows to accept that anything can be done to the people of colonies and occupied areas, including violence and aggression, exercised especially against the women.

论继续开展国际远东军事法庭的审判工作
即甄别日军漏网战犯的研究

美国纽约《华夏之声》双月刊主编 方志远

有鉴于1972年中日恢复邦交后，日本方面一再践踏《中日联合声明》的第六条、第七条；《中日和平友好条约》的第一条、第二条。日美签定新的《安全防卫协议》，日本宣称中国的台湾是日本的防卫线。参与美国研制TMD。设立《日美联合协调所》实际上就是日美联合司令部。此外，日本右翼势力在日本政府的纵容下，相当嚣张地在大阪市集会推翻日军南京大屠杀的野蛮暴行。与此同时，日本最高法院公然支持南京屠杀手桥本光治的诬赖，判决东史郎对侵华罪行的悔恨为败诉等等反华表现。

一、慰安妇问题，是侵华日军残害亚洲妇女一项罪大恶极的兽类暴行。具有日军身份的各地慰安所的组织者，应该作为战犯处理；

二、根据中日两国之间，尚未谈判签定战后《中日和平条约》的现实情况，应该及时继续开展国际远东军事法庭的审判工作；

三、要组织甄别日本军政机关至今不悔罪的漏网战犯的研究工作；

四、首批宣布在南太平洋群岛进行组织慰安所的中曾根康弘，南京大屠杀的屠手桥本光治为漏网战犯。

美国国会对日本战争暴行的处置

Sheldon Harris

My talk will begin with a background discussion of the history of recent class action lawsuits in the United States, and how they work in American Courts. The most recent successful cases dealt with tobacco companies and their liability for health problems experienced by tens of thousands of Americans. The other major class action lawsuits revolve around European Holocaust victims living in the U. S. German, Swiss, and Austrian companies and banks have agreed to pay surviving victims of slave labor under the Nazis around five billion U. S. dollars.

I then will turn to current litigation in California and in other States entered into by former POWs, civilian internees, Chinese, Vietnamese and other Asian nationalities currently living in the U.S. who were used as slave labor by Japanese Companies during World War II. Many of these companies do business in the U. S. and could be liable for considerable sums of money in back pay and interest compounded over the years if they are held responsible.

The final part of my talk will be a summary of current legislation that deals with the compensation issue and Senator Feinstein's Bill, which would require the U. S. Government to open its archives to researchers seeking information on Japanese war time atrocities. I plan to bring along copies of these bills (in English), and they can be translated into Chinese for those interesting in reading in detail what is proposed.

我的发言将从美国近期主要案例的背景及它们在美国法庭的诉讼开始。近来最成功的是解决有关烟草公司和他们对成千上万美国公众的健康负有责任的案例。其它主要的案例是围绕生活在美国的欧洲大屠杀受害者。德国、瑞士、奥地利的公司和银行已经同意支付给原纳粹劳工 50 亿美元的赔偿。

然后，我会论述目前在加利福尼亚和美国其它洲涉及现在生活在美国，在“二战”期间被日本公司用作劳工的前战俘、城市被拘留者、中国人、越南人和其它亚洲国家的公民的起诉案件。在这些公司中，许多与美国进行贸易，如果他们承担这一责任将要支付相当可观的赔款及多年以来的利息。

我发言的最后一部分将概述当前有关赔偿的立法工作和参议员范思廷的议案。这一议案要求政府向调查者开放有关日本战争暴行的档案。我计划携带这些议案的英文材料，如果有兴趣了解其详细内容的可将之翻译成中文。

从军慰安妇问题综述

吉林省社会科学院　杨昭全

本文综述中、韩、菲、芬（兰）等国政府和联合国（包括其他国际组织）、日本政府关于慰安妇问题之立场、政策以及上述诸国幸存受害者及遗属之控诉索赔、上述诸国学术界关于慰安妇问题之研究状况。最后，为进一步促进我国慰安妇问题之展开，笔者郑重呼吁 10 项内容：1、成立慰安妇救援机构，设立申诉电话，接受与调查原慰安妇（及遗属）之申诉；在全国范围展开慰安妇问题之调查活动；2、开放与整理、出版有关慰安妇之档案；3、国家大力资助上海师大慰安妇研究中心；4、成立全国性的中国慰安妇问题研究会；5、教科书增添慰安妇内容；6、在上海建立慰安妇纪念碑；7、号召实业界捐助；8、人民日报、中央电视台及省报、省电视台经常刊登有关慰安妇文章和播放慰安妇纪录片；9、加强与各国慰安妇研究机构、学者之联系和合作；10、我国政府进一步加强对日本政府关于慰安妇问题之交涉，促使民间索赔早日实现。

The Issue On Comfort Women In Japanese Army

Yang ZhaoQuan

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In this article, the author summarized the positions and policies of the comfort women issue of the governments of China, South and North Korea, Philippine, Finland, the United Nations (including other international organizations) and the Japanese government. The author also summarized the surviving victims claiming indemnification, the research situation of the comfort women issue in the academic circles of the above countries.

Finally, in order to further promote the development of China's comfort women issue, the author sincerely appeals for the following ten items: First, to establish a comfort women rescue organization, to set appeal telephones and accept and investigate appeals of previous comfort women (and her family members); to carry out nation-wide investigation activities on the comfort women issue; second, to open to the public, arrange and publish archives about comfort women; third, the nation to give full support to the Comfort Women Research center of Shanghai Normal University; fourth, to establish national research society on China's comfort women issue; fifth, contents of comfort women to be added into textbooks; sixth, to build a comfort women monument in Shanghai; seventh, to appeal for donation from industrial and commercial circles; eighth, China Daily, CCTV and provincial newspapers and TV stations to frequently publish articles of comfort women and broadcast documentaries about comfort women; ninth, to strengthen

relationship and cooperation with Comfort women research institution and scholars of all nations. Tenth, the Chinese government further to strengthen negotiation on the comfort women issue with the Japanese government to promote the realization of non-government war reparations at a early date.

从国际法看侵华战争的民间赔偿问题

华东政法学院副教授 管建强

一、侵略战争的性质与战争受害赔偿的范围

一国违反国际法对他国进行侵略、违反战争法对平民所施行的反人道暴行，必须承当国家责任，这早已为国际法和国际法惯例所确认。现代国际法对承当国家责任的主要形式有惩罚战争犯罪、限制主权、战争赔偿和道歉等。

战争赔偿的范围本身就包括两部分，一部分是国家主权、军人、国有财产、历史文化等所遭受的损害赔偿，另一部分是受害国国民在战争期间因遭到敌国军队、军人不分皂白地屠杀平民、强暴妇女及施放细菌性武器等所受到的人身上伤害和财产损失。

《中日联合声明》并没有放弃中国人民以个人名义行使向日本政府要求赔偿的权力。

二、解决民间战争赔偿的法律途径

笔者以为，首先，按照大陆法系民法的一般原理，原告起诉被告的诉讼管辖由被告所在地法院管辖，因而中国的民间个人向日本的司法机关提起诉讼，日本国司法机关理应受理。

国家的国家赔偿法或行政诉讼法从本质上说是没有理由剥夺因其国家的公权力的行使而直接或间接造成外国国民损害而引起的起诉权。

三、关于日本国《国家赔偿法》的溯及力与政府继承

笔者认为，从国际习惯法来说新政府对旧政府遗留的合理的债务应当承担。现行的日本国政府对旧政府的不法行为所造成的损害赔偿责任有继承的义务。日本国没有理由以《国家赔偿法》在时间上的效力来排除受害人基于政府债务的继承而提出的诉讼请求权。

四、关于通过外交途径解决的问题

此外，关于民间的个人战争赔偿问题也涉及到国家的外交保护。中国政府正在严肃认真地关注着这一事态的发展，在受害人用尽当地司法救济后（被驳回起诉的受害人已上诉）的必要时，中国政府完全有权力行使国家的外交保护权。

从中日两国发展的关系上来说，日本政府和有关方面只有向中国政府和人民作公开、真诚的谢罪，公平、合理地向战争受害的个人进行索赔才能使中日两国的关系走向健康、正常、友好的发展方向。

从《图书整理报告》看侵华日军在南京的图书疯狂掠夺
--- 兼对相关的若干文献资料的概要介绍

上海复旦大学历史系教授 赵建民

本文系笔者在已刊论文《略论“南京大屠杀”中的图书劫掠》（台北，《近代中国》第122期，1997年12月）的基础上，专门就劫掠后的图书整理工作，作一粗略的判析。“军特务部占领地区图书文献接受委员会”曾二度动员大量人力、配备班子进行了整理，将60余万册图书按预先设定的细目分类、整理、排架，并编辑出版了各类图书资料目录，还提供给日本国内的研究机关使用。足见，其疯狂掠夺图书的险恶意图。

同时，本文还概要地介绍了笔者在访日期间所收集到的四个相关的图书文献资料。即：《从中华民国掠夺的图书文物总目录》、《关于公共搜集物及藏书疏散的现在位置和状态的文件》、《掠夺财产关系件名一览》、《静庵汉籍解题长编》等。这有助于深入探研侵华日军在中国掠夺图书的来龙去脉以及若干个案研究；建议学界同仁相互协作，推动该课题研究的纵深发展。

TO SEE JAPANESE AGGRESSIVE ARMY' FRENZIED DLUNDERING BOOKS AND REFERENCE MATERIALS OF NANKING FROM“OOKS AND REFERENCE MATERIALSSORTING OUT REPORT” —AND BRIEF INTRODUCTION OF RELATED DOCUMENTS

Zhao JianMing

FuDan University

The author of this article made cursory analyses of post-plundering books and reference materials sorting out work on the basic of already published paper “BRIEFLY STATING THE BOOKS AND REFERENCE MATERIALS PLUNDERING IN ‘NANKING MASSACRE’ “(TAIBEI, “MODERN CHINA”, ISSUE 122, DEC.1997) ”BOOKS AND DOCUMENTS RECEIVING COMMITTEE OF JAPANESE MILITARY ESPIONAGE AGENCY IN OCCUPIED AREA “twice organized a large number of staffs and arranged groups to classify, sort out and put in order about six hundred thousand volumes of books according to the previously set detailed catalogues. They edited and published catalogues of all kinds of books and reference materials and provided them for Japanese domestic research institution, which fully displayed their evil purposes of plundering books and

reference materials in a frenzied manner.

At the same time, author of this article briefly introduced four related books, documents and reference materials collected during the period of the author's visiting Japan. They are "General Catalogues of books heritage plundered from the Republic of China." which will be helpful to further research the cause and effects of Japanese aggressive army's plundering books and reference materials in China and a certain number of cases. I suggest colleagues of the academic circle work in cooperation to promote the development of this subject in depth.

日军清乡在江南的暴行

中国第二历史档案馆研究员 胡菊蓉

1940年11月，日本天皇御前会议决定：要在中国的华中、华北占领区彻底"整顿治安"、彻底"开发并获得国防资源"。1941年1月，侵华日军中国派遣军总司令部立即制定了《长期作战政治指导方针概要》，第一次明确地提出要以长江下游地区为起点，逐次进行清乡的方案。紧接着汪伪国民政府军事顾问晴气庆、胤中佐、侵华日军第十三军司令官泽田茂中将等制定了清乡实施计划。日伪清乡是日本军国主义强化"政令不出南京城"的汪伪政权，扩大日汪占领区，加紧对沦陷区进行经济掠夺，达到"以华制华"、"以战养战"的战略目标，为日本进一步扩大侵略战争做准备。1941年3月，在日汪的紧锣密鼓策划下，由汪精卫兼任清乡委员会委员长出笼，同时在苏州成立清乡委员会办事处。同年7月1日至翌年夏，日伪对江苏省南部（包括苏常太、澄锡虞）地区进行为时两期清乡的罪恶活动。在日汪的第一期清乡中侵华日军动用两个师团的兵力进行狂风暴雨式的军事清乡，使用灭绝人性的三光政策，给苏南人民带来无穷的灾难，使有的村庄成为寡妇村，有的村庄则夷为平地。

Japanese Army's Brutality In Jiangnan Area Under the Policy Of Village—Clearing

Hu JuRong

In November 1940, a decision was made in Japan's Royal meeting under Mikado "to rectify the public order" thoroughly, and "to exploit the occupied area to acquire resources for national defense"in middle and northeast China. In January 1941, the dispatching army command of the invading Japanese army immediately worked out summary of political Guiding Principles for long-term wars, in which the village-clearing plan was clearly put forward for the first time and the actions should begin at the lower reaches of Yangtze River. Then , 晴气庆胤中佐, the military consultant of Wang JingWei Puppet People's Government and 宫泽田茂中将 , the 13th corps commander of the invading Japanese army etc. Made the enforcement plan of Village Clearing Policy. The Japan and Wang's Govern

ment was aiming at strengthening the Wang's Puppet Government with their decrees ineffective outside Nanking, enlarging the Japan and Wang's occupied area, so that they could "control China with the Chinese", and "supply the war through wars" . Furthermore, they could make preparation for extending their invading wars. In March 1941, the Japan and Wang' s Government intensely plotted that Wang JingWei concurrently took up the post of chairman of Village-Clearing committee, and the Village-Clearing committee office was set up meanwhile in Suzhou. Then, from July 1st till the summer of the next year, the Japan and Wang's Government Village-Cleared the south of JiangSu province (including SuZhou , ChangZhou , WuXi etc.) violently twice . For the first time, the invading Japanese army employed two requirement to give a stormy Village-Clearing. They took the inhuman policy of "three clearing" , which brought great calamity to the people of south Jiangsu province. Some villages became the villages of widows, and some villages were destroyed to debris.

从中日两国近代化的文化和体制的比较中看慰安妇问题

中国人民抗日战争纪念馆编辑部 胡浩

二战中的慰安妇的召募和实施在日本是集体行为，上下一致，是公开的集团犯罪，日本妇女虽是受害者，但至少说最初是自愿行为，上当受骗另当别论。这种集团行为在东方其他国家中是无论如何不会出现的，即使政府和军方赞同，民间决不会接受，这须从社会文化和体制的深层次中探索，本人试图对比近代中日两国在此方面的不同，说明其必然性。

一、中日两国不同的社会协作关系

日本是非亲族协作关系，是讲忠和义理的社会；中国是亲族协作关系，是孝的社会。这种不同的关系，反映在社会生活中表现为，日本人以集体为中心，中国人以亲族式的血缘和派系为中心；反映到家庭生活上，日本人把家庭利益置于民族和国家利益之后，中国人则以家庭为日常生活的中心。这就决定了日本人具有自我牺牲的集体主义精神。妇女亦然，这就使应征慰安妇成为可能，中国则不行。

二、中日两国人民对"忠"和"孝"的不同理解

由于上述不同的社会协作关系，在君主（国家）、党派（派系）、亲族三者利益出现矛盾时，双方的选择顺序不同。日本人的选择顺序是君主、党派、亲族，中国正相反，日本人把大"家"利益看得比小"家"利益为高，中国人则更重视小"家"的利益，日本妇女及整个日本国民认为妇女牺牲自我去慰安前线将士是自己的职责，中国妇女不会牺牲家庭去做任何一件事。因此，日本召集慰安妇是得到整个社会的支持或谅解的。

三、中日两国不同的文化结构和妇女的不同贞操观

儒家学说在中国一直占主导地位，对性和妇女的压制和迫害被视为当然，中国妇女把贞操看作比生命还重要，从娼是万不得已的，妓女被视为社会的最下层。朱子学说在日本通过德川时代的兰学和其后的维新派冲得几乎荡然无存了，而在

中国，五四运动和新文化运动对妇女的世界观和一般民间都没有多大影响。日本的公娼和艺妓业一直很发达，剥夺了妇女去当慰安妇所存的羞涩的外衣，妇女对贞操的淡漠及对建立一个强大国家的渴望使她们自愿和男人一样抱着为天皇和“神国”的自我牺牲精神走上前线，并视为荣耀。

四、中日两国是不同的“统一国家”和制体

在中国，清朝的所谓“统一的封建国家”并不是可以成为近代国家前提的那种统一国家，即使到二战前也没有形成，国民政府是个松散的政府，国内经济、政治、交通均不发达。日本在战前已经是一个比较发达的资本主义国家，军人专权和不发达的民主体制促成了慰安妇的诞生，少数人的反抗无济于事，而中国传统的伦理道德是不允许这样做的。

综上所说，日本慰安妇的起源有其深刻的文化上的和体制上的背景，这些背景在中国和其他东方是不存在的。

A View On the Matter of Comfort Women From the Comparison of Culture & Social System between China &Japan in Modern Times (before World War II)

Hu Hao

from Editorial Department of People's Anti-Japanese Wars Museum of China

The recruiting and practicing of comfort women in Japan was collective behavior during would War II, Which is identical, and is open joint offence, although Japanese women were victims, at least it is true that they were voluntary at the beginning, and their being tricked should be discussed separately. This kind of collective behavior absolutely cannot happen in other countries in the east, because the people definitely won't agree even if the government and the military approve it. It is necessary that we probe deeply into the social culture and system, so the author tries to compare the two aspects between the two countries in order to show the certainty.

1.The different social cooperation relationship between China and Japan

In Japan, with its non-kinship cooperation relationship, it is a society concerning only loyalty and morality; while in China, with the kinship cooperation relationship, it is a society concerning obedience. Such different relationship, in social activities, reflect that the Japanese regard the collective as the center, while the Chinese regard consanguinity and factions of the same clan as the center. On the other hand, in family activities, the different relationships reflect that the Japanese put the interests of their family behind those of their nationality and country, while the Chinese consider the family as the center in their daily life. All these determine that the Japanese employ a spirit of self- sacrifice and collectivism, including women, which makes it possible for women to enlist as comfort women, however, it will not do in China.

2.The different comprehension to 'Loyalty' and 'obedience' between China and Japan.

Because of the different social cooperation relationship, when these is contradiction among the interests of the monarch (representing the country), party (faction) and kinship, the two people have a different order of choice. The Japanese are likely to follow monarch-friendship-kinship, while the Chinese is on the contrary. The Japanese consider the interests of the big 'family' higher than those of the small 'family', while the Chinese pay more attention to the interests of their small 'families'. Japanese women and the whole nation regard it women's duty to self-sacrifice and go to comfort officers and soldiers on the frontline, however, the Chinese women will sacrifice their families for nothing. Therefore, Japan's action of recruiting comfort women was actually supported and understood by the whole country.

3.The different culture and different outlook and chastity between China and Japan.

The Confucian Doctrines are dominant in China throughout the history. Because of the suppression and prosecution to sex matters and women, Chinese women consider their chastity more important than their lives. It was regarded a last resort for women being engaged in the profession of prostitutes, which stayed at the bottom of social stratum. In Japan, the doctrines of Confucian idealist philosophy had all gone after the introducing of Ranke's theory and the following reformation movement, while in China, women's world outlook and general people's thought were not much influenced by the May 4th Movement (1919) and the New Culture Movement. In Japan, prostitutes and geishas were very popular all the time which peered off the cover of shame to be comfort women. Women's apathy to chastity and the anxiety to found a big and powerful country made them volunteer to the front with the spirit of self- sacrifice for the sake of the Mikado and the 'divine nation', and they considered it an honor.

4.China and Japan are Two 'Unitary Nations' with Different Forms and Different Social Systems.

In China, the so-called' unitary feudalism nation' was not the kind characterized in modern times, even before World War II. the People's Government was a loose government with backward economy , politics and communication system. While in Japan, it had already been a pretty flourishing capitalism country before the wars. The military dictatorship and the backward democratic system impelled the establishment of comfort women, and the disapproval of the military was of no effect. Such a condition was not permitted by the moral principles in China.

In conclusion , Japanese comfort women originated with much background of culture and social system, which didn't exist in China and any other countries in the east.

侵华日军在南京地区实施“慰安妇”制度始末

南京师范大学“侵华日军南京大屠杀史研究中心”教授　经盛鸿

本论文是对侵华日军在中国占领区实施“慰安妇”制度的一项个案研究。

本论文利用目前保存在南京地区各档案馆与图书馆中的日本侵华期间（1937-1945）的有关日伪档案与报刊资料，以及有关的回忆录史料、社会调查史料与中外学者的有关研究资料，对侵华日军自1937年12月攻占南京，直到1945年8月日本投降，这八年期间，在南京地区实施的慰安妇制度，进行了系统的研究与论述。论文首先分析了侵华日军在南京地区实施慰安妇制度的由来，重点论述了日军在南京地区建立慰安所的三条主要途径，一是由日军军部自上而下建立，由军部经所辖各部队配备；二是由日军各部队遵照日军部指令，自行设立；三是在建立南京伪政权后，由汉奸流氓公开建立多家慰安所。这些各种类型的慰安所遍设于南京市区与郊区各地，在日本侵华八年期间始终存在。论文最后简要叙述了日本各方对南京地区各慰安所的管理条理与操作方式，尤对侵华日军实施的慰安妇制度对南京地区广大妇女的蹂躏、侮辱与摧残进行了沉痛的揭露与悲愤的控诉。论文指出：南京地区是第二次世界大战中日军实施慰安妇制度最完善、最典型的地区，也是中国妇女受侮辱、遭残害最深的地区。南京慰安妇的血泪染红了秦淮河，流满了扬子江，永远在对日本军主义进行着强烈的控诉！

The Whole Story of the System of Comfort Women's Carrying-off by the Invading Japanese Army in Nanking

Jing Shenghong

Professor and vice dean from Research Centre of the History of Nanking Slaughter by Japanese Army in Nanking

This thesis is a single-cased research on the system of comfort women's carrying-off by the invading Japanese army in their occupied area in China.

The thesis has a systematic research and exposition on the system of comfort women carried off the Japanese army in Nanking area from December of 1937 when the Japanese captured Nanking till August of 1945 when the Japanese surrender. It mainly consulted files and materials from newspapers and journals concerning, Japanese army and the puppet government during the period of Japanese invading to China (1937-1945), which is now conserved In archives and libraries in Nanking area. It also consulted some relevant historical materials from memories and social investigations, and some relevant research materials from scholars at home and abroad. The thesis, at first analyzes the causes that the invading Japanese army carried off the system of comfort women. Moreover it focuses on the exposition of the three means by which the Japanese set up comfort places. The first is that comfort places were set up from the top gradually by the Military Ministry, and was disposed to the subordinate troops; the second is that the subordinate troops set up by themselves in accordance with the directions from the Military Ministry; the third is that handguns (traitors to China) and hoodlums set up many comfort places openly after the establishment of Nanking Puppet government. These comfort places of all kinds spreaded the city proper and suburb area of Nanking, and existed through the eight years when the Japanese invaded China In the end, the thesis relates the management principles and operation means of the comfort places in Nanking area. It, in particular, exposes grievously and accuses indignantly of the, invading Japanese Soldiers' ravaging, ,insulting and ruining to numerous women under the system of comfort women. In points out; Nanking area is the most perfect and typical area among where the system of comfort women was carried out during World War II; it is also the area where Chinese women were worst insulted and ruined. The blood of comfort women of Nanking reddened Qin and Huai River, and their tears filled Yangtze River, which has been accusing Japanese militarism violently all the time.

南京日军慰安所的实施

南京市档案馆　陈娟

1937年12月13日，侵华日军占领南京，即进行了烧杀淫掠，制造了举世震惊的“南京大屠杀事件”。而日军慰安妇制度在这里的实施是其所犯罪行之一。本文从三方面作了阐述：

一、慰安妇制度与慰安妇

从概念上阐述了慰安妇制度与慰安妇的区别和联系，从慰安妇的血泪史，进一步揭示了实施慰安妇制度的实质，它是侵华日军更集中、更隐蔽、更毒辣地对妇女性暴力的卑鄙行径，也是世界文明史上最丑恶之一页。

二、大肆奸淫与慰安妇制度的实施

论述了日军大肆奸淫的严重情况，日军慰安妇制度就是在这种情况下和过程中实施的 。但日军到处奸淫妇女的事件仍在继续发生。

三、南京慰安所的类型和分布

南京慰安所从设置的渠道上来分有三种类型，它们的分布有名称、地址，一部分有遗址（拍摄照片）有见证人。

综上所述：日军慰安妇制度的实施，是日本军国主义侵略政策的产物，其目的是发动侵略战争，最终征服中国以至全世界。

The Enforcement of Comfort Station for Japanese Army

Chen Juan

Nanking Archives

In 13th, Dec 1937, Japanese army captured Nanking. They soon raped the whole city that's the well-known Nanking Slaughter; the enforcement of the system of Comfort Woman for Japanese Army is one of their crimes. I'd like to expound it from 3 sides:

1. the system of comfort women & comfort women

Explain the difference and relation between the two concepts: system of comfort women &comfort women, try to reveal the substance of the enforcement of the system of comfort women through the blooding history of the comfort women. It's the most covert, most diabolic sexual violent crime toward women, and it's one of the most ugly pages of the human civilization history.

2.Wantonly rape and the enforcement of the system of comfort women

Records the miserable rape and secure by Japanese army, the system of comfort women was just enforced under this circumstance. But the rape crime by Japanese army never stopped. It happened here and there continuously.

3.The type and location of comfort station in Nanking

There were 3 kinds of comfort station in Nanking. They can be sirens by name and location, and part of them can by testified by photos or witness.

The enforcement of the system of comfort women of Japanese Army was the result of the aggressive policy of Japanese Imperism, aiming at conquering China and the whole world.

写“慰安妇”的屈辱

云南作家 彭荆风

我的长篇小说《孤城日落》出版后，不少读者在为1944年收复腾冲之战的惨烈而震惊的同时，更是磋叹书中台湾慰安妇花莲命运的凄惨；但也有人问我，这部以战争为大背景的作品，主要人物怎么不是两军作战的将军、士兵？

作为一个已写过多部战争文学的军队作家，若从那个角度去描写并不太难，我所掌握的素材也足够发挥，从我已写到的一些战争场景来看，已在一定程度上表现了中国军队的英勇奋战，但要让众多的人记住中国被侵略被凌辱的过往，我还是选取了能令人更为之动心的屈辱历史作为主线。

二战后，西方作家曾从不同角度不断描述德国奥斯威辛集中营屠杀犹太人的法西斯罪行，那些写得既真实又形象的作品，使善良的德国人也为之心悸而同声

遣责，所以任何为纳粹分子说话的人，在德国都会遭到抵制或制裁；而日本一些军国主义分子至今仍很嚣张，还年年参拜供有东条等战犯的靖国神社，正是由于他们对当年的侵略暴行毫无悔意，对强征慰安妇这一罪恶行径更是不愿道歉、赔偿，直至1992年后，这被日本政府遮盖了近50年的罪恶历史才被逐渐曝光，一些还残存于世的慰安妇才有勇气来控诉自己的不幸遭遇。

我五十年代、八十年代先后去往腾冲时，了解到腾冲曾经是侵入滇西的日军“慰安所”最多的中心据点，日军侵略军除了从日本、朝鲜、台湾带来大批慰安妇外，还命令汉奸县长钟镜秋强征当地的汉族、傣族妇女充当慰安妇。出于作家的敏感，我深感到它最集中体现了日本侵略者人性的丧失和兽性的膨胀，必须予以揭露、描述。

虽然1988年5月我开始写作这一作品时，慰安妇一案还被当局所精心隐瞒，但我相信文学典型的力量，终久会让人关注这一历史。

中国大陆被迫当慰安妇的妇女多达20万人，对这事更是不能等闲视之。

Write the Humiliation of “Comfort Women”

Peng JingFeng Writer

When they read my novel “Sunset of a lonely city”, many readers signed for the tragic life of a Taiwan women-Hua Lian as well as astonished the heroic battle of Tengchong and some asked me why the main characters were not generals or soldiers from the both sides in such a novel which took the war as its background.

I am a writer with military background. It is not difficult for me to write a novel from the angle of war, and I have written. But I chose the humiliate history of those comfort women which were more moved as the main line so that there would be more people remember the humiliate past.

After the Second World War, many western writers described the Auswichen concentration and the Jewish slaughter constantly, their vivid describe made those kind-hearted people including German feel flutter with fear and condemn Nazi with the same voice. In Germany, anyone who is for Nazi will be boycotted or punished. But some Japanese imperists are still arrogant nowadays, they worship the Yasukuni Shrine where war criminal Tojo and his followers worshiped annually. Just because they never feel regret for their aggressive violence committed during the war and refuse to apologize, compensate to the criminal system of comfort woman, this period of criminal history hadn't been revealed until 1992 when some brave former comfort women appeared to denounce their anguished past.

I've been Tengchong in 50's and 80's,and got to know it was the base with the most comfort stations for Japanese troops in west Yun Nan. Not only did they bring many women from Japan and Taiwan, they also demanded the puppet county magistrate Zhong JingQiu force the local Chinese and Dai women to be comfort women. As a writer, I felt this system showed that Japanese invaders had lost their humanities and exposed their bestial character, and must be ferreted out.

When I began to write this novel in May 1988, the system of comfort women was still covered by Japanese government. But I believe the power of literacy model would make people pay attention to this period of his history.

There are about 200,000 victims of this system, it can't be treated lightly.

日本军国主义与慰安妇制度

南京政治学院上海分院14队　孟庆龙

在侵华战争和太平洋战争期间，日本侵略军随军设置慰安妇，除了从日本国内招募慰安妇外，还曾大规模强征占领区妇女充当慰安妇，这是对包括中国人民在内的亚洲各国人民犯下的严重罪行。慰安妇制度是日本国家及其军队为顺利实施并完成侵略战争而推行的一种制度，它野蛮地践踏了人权，完全违反了人类两性伦理，违反了战争常规。慰安妇制度与日本军国主义有着密不可分的关系。日本长期在国内推行军国主义教育，深受其毒害的日军广大官兵在残酷、持久的战争中丧失了理性，对占领区人民作出了各种令人发指的残暴行为。在对待慰安妇问题，特别是对待中国慰安妇上，日军的野蛮、残忍和暴虐得到了充分的体现。由于日本军国主义者长期在性问题上的宽容，日本军人对占领区妇女的奸淫行为不断发生，导致花柳病等性病蔓延，进一步影响到其战斗力。为此，日本高层策划、实施了慰安妇制度。日军直接参与了慰安妇的征集，慰安所的建立与管理，从而使慰安妇制度得以全面推行，也使淫虐妇女由士兵的违纪行为制度化、合法化。总之，日本军国主义是慰安妇制度得以实施的根源。

Japanese Jingoism And Its"Comfort Women" System

Meng QingLong

During the period of Japanese aggressive war on China and the Pacific War, "Comfort Women" of Japanese military were not only from Japan, a large number of women of occupied areas were also forced to become "Comfort Women". Japanese committed violent crime to people of all nationalities in Asia, including China. The "Comfort Women" System was a system pursued by the Japanese nation and its military in order to launch a war and complete it smoothly, which barbarously trampled human rights, completely violated human being's moral principles and the convention of war. The "Comfort Women" System here intimate relationship with Japanese jingoism, Japanese officers and soldiers, who were poisoned with jingoism education that had been practiced in Japan for a long time, were utterly devoid of conscience and acted in a brutal manner to people of occupied areas during the savage, protracted war. Japanese army's cruelty was fully displayed in the issue of treating "Comfort Women", especially Chinese the "Comfort Women".

Owing to Japanese jingoists' long-term leniency in dealing with the sexissue. Japanese soldiers raped women of the occupied areas in a frequent manner, which led to the spread of venereal disease and the weakening of its fighting capacity. Therefore, Japanese leaders planed and implemented the "Comfort Women" System. Japanese military participated in the activities of collection of the "Comfort Women", establishment of comfort stations and management, which made the "Comfort Women" System practiced a comprehensive way and its soldiers' illegal behaviors legalized and systematized.

All in all, Japanese jingoism was the root which made the "Comfort Women" System practiced.

论南京大屠杀暴行中的性暴力问题

江苏社会科学院研究员　孙宅巍

近年来，随着国内外社会对"慰安妇"问题的重视，南京大屠杀暴行中的性暴力问题，也愈益引起人们和学术界的关注。

南京大屠杀中性暴力问题的提出，其逻辑的根据在于"南京大屠杀"是一个特定的综合暴行概念。它所包含的具体内容，远远超过了"屠杀"所能包容的范围。本文以新闻记者的报导、远东国际军事法庭和中国审判战犯军事法庭的判决，以及国内外学术研究的成果三个方面阐明，随着时间的推移，人们逐渐认同：南京大屠杀这一概念，除了屠杀之外，还包含着强奸、纵火、抢劫等多方面的暴行。

性暴力在南京大屠杀中占有何种地位？本文认为：性暴力是南京大屠杀暴力中的一项重要内容；性暴力以及与性暴力有关的死亡人数，是南京大屠杀遇难同胞数字中的一个令人瞩目的部分；同时，性暴力还是日军暴行中最无可争辩的部分。南京大屠杀暴行中的性暴力事件，具有十分明显的特点。一是普遍性，日军的性暴力行为，不分时间、地点和对象，面广量大，不受任何约束；二是野蛮性，完全不顾人类的伦理道德，逼令父奸女、子奸母、公奸媳，对妇女实施残暴的恶性轮奸和奸杀；三是官办性，日军部队及南京的伪政权，明目张胆地强拉妇女为慰安妇，成立"慰安所"，使日军的性暴力罪行"合法"化。

Sex Violence in Nanking Slaughter

Sun Zhaiwei

Institute of Social Science of Jiangsu Province

In recent years, with the matter of "comfort women" being taken more and more seriously home and abroad, the matter of sex violence in Nanking Slaughter, correspondingly is more and more concerned by the people and academic circle.

The raising of the matter of sex violence in Nanking Slaughter is logically and China Military Court for Trying War Criminals, and the achievement of academic researches home and abroad, illustrates that with time passing by, it comes to be generally acknowledged that the concept of Nanking Slaughter embraces raping, setting off fire, plundering .ect. Besides the brutality of Slaughter. grounded on that Nanking Slaughter is a specific, comprehensive concept of brutality, which is

far beyond what slaughter implies. The thesis, consulting report from newsmen, judgement of International Military Court of Far East

What's the status of sex violence among the brutalities in Nanking Slaughter? The thesis holds that sex violence is one significant content among the brutalities of Nanking Slaughter, that the number of death from and concerning sex violence is a striking portion among the murdered compatriots patriots in irrefutable component among Japanese Soldiers' brutalities. The cases of sex violence among the brutalities in Nanking Slaughter have some very evident characteristics. The first one is generality. The Japanese Soldiers' sex brutality could happen to anyone at any place and any time, with a wide scope and a great number and with no disciplines. The second is barbarism. The soldiers, regardless of moral principles completely, forced farther raping his daughter, son raping his mother, father raping his daughter-in-law, and raped women in turn or raped-and-killed savagely. The third one is officially ownership. The Japanese army together with Nanking puppet government brazenly forced women to be "Comfort Women" and set up "comfort places" in order to realize the Japanese Soldier's brutalities.

关于中国部分"慰安妇"受害事实调查及相关法律问题

北京中元律师事务所主任 康健

五十年前，日本军国主义发动的侵略战争给东南亚人民特别是中国人民带来了巨大的灾难。虽然战后部分日本战犯受到审判，但由于当时复杂的多种情况，"慰安妇"事件直到七十年代才公诸于世，1995年，我开始参与调查中国原"慰安妇"案件。

在有关部门的支持下，我所数位律师先后奔赴山西、海南两省的十几个县、市地区，对二十余名幸存的受害妇女进行调查。这些妇女被抓时多系未婚少女，有些甚至是幼女。她们或是被抓或是被骗而去，她们被日军长期关押于"慰安所"中，终日饱受摧残，多数人由此而身患重病，有的甚至精神失常。日军还残忍地杀害了因遭强暴而怀孕的妇女。当这些女子不能再满足日军的兽欲时，日军或将其推出门外、或要求其家人出钱"赎回"。其家人为了筹钱"赎"人和为其治病而负债累累。受害的女子也因这段不幸遭遇困扰至今。据资料记载，日军于30年代便开始在中国被占领地设立"慰安所"，以服务于日本军国主义者发动的侵略战争。

自受害妇女以原告身份在日本法院起诉后，日本无视事实，无视法律，公然推卸其本应承担的法律责任。

1、日本国否认原告的主体资格。事实上在二战结束后国际上已确认了个人具备国际法主体资格的原则，中国政府在1972年"联合声明"中作出了放弃索赔的法律行为仅是代表国家这一主体处置自己权益的意思表示，并未代表中国公民放弃索赔权。

2、日本国以原告主张已过诉讼时效为理由推卸责任。但联合国对于追究战争犯罪不受时效限制已有明确规定，且要求所有成员国必须遵守执行。

3、日本国多次以"国家无答责"为由推卸责任。而"国家无答责"的认识与本案背景存在根本区别，两者的事实基础毫无关联。日本国目前的做法显然违反了法律准则（含公法、私法）。

The Investigation About "Comfort Women" & Related Laws

Kang Jian

Fifty years ago, the war brought out by Japanese. Imperism provoked great sufferings to Asian, especially China. Although part of the war criminals were punished, the "Comfort Woman System" hadn't been revealed until 1970's. I participated in the investigation in 1995.

I went to more than a dozen counties and cities in Shanxi and Hainan Province with some lawyers and talked with more than 20 victims there. Most of them were still very young then, and some of them were even children. They were sent to the comfort station by force or trick, forced to stay there all the time, had to be on serving all the day. Many of them fell ill because of the suffering and some got mental disease from this. The pregnant woman had been killed ruthlessly. When they couldn't "be used" anymore, Japanese pushed them out or ordered their parents to redeem them back home. Many families turned to be heavily in debt because of the redeem money and medicine. Those former "Comfort Women" has been in anguish till now for the unforgettable experience. It's said that Japanese Army began to set up comfort station since 1930's in order to serve the aggression.

But when victim woman prosecuted them, the Japanese government defied the truth and the law, shirked their responsibility brazenly.

1.Japanese government denied the subject qualification of the prosecutor. As a matter of fact, the international society assured the principle that individual is qualified as the subject of the international law just after the Second World War. Chinese government gave up the right to demand compensation for losses only meant they handled the right as the representative of the subject of the state instead of as the representative of the people.

2.Japanese government shirked their responsibility by the pretext that the plaintiff's claims out of the litigation prescription. But the United Nation has stipulated that the war criminal cannot be limited by the prescription and ask all the number states obey it.

3.But the understanding of it is totally different with the background of this case, there is no relation between the tow matter. What Japanese government doing now is against the law (including public and private law).

日本侵略军在华性暴行及原因初探

中国第二历史档案馆利用部 马振犊

有关第二次世界大战中日本侵略军对被害国妇女施行性暴力的罪行研究，过去曾被疏忽，其原因是，一方面，在受害者一方，由于亚洲民族传统的性保守观念的影响，一般大多数妇女不愿再揭开自身历史的疮疤，只能默默地独自忍受一生的痛苦；另一方面，作为加害者，不论是当年施虐的日本兵或者是法理上应当承担侵略战争责任的战后历届日本政府，都不想彻底解决战后遗留问题，对包括性暴力在内的一切战争犯罪问题都采取了回避、抵赖的态度，其目的只有一个，就是要以抵赖来求“自慰”，自欺欺人，好让日本再作他们心中的“世界大国”。所以，有关历史上日本侵略军性暴行的研究就同其它日本战争犯罪研究一样，已经超越了历史的范围而具有了现实政治斗争的意义。本文的主要内容有以下几点：1、日本军队在被害国对民众的性暴力是及其普遍和十分严重的，其普遍性、暴虐性及危害性甚至超过了德国法西斯军队的性暴行，在人类历史上是空前残酷的。2、日军的性暴行是有着其深刻的民族历史与社会背景的，是与日本民族的“男尊女卑”等习俗和性观念密切相关的，是日本民族劣质方面的集中表现；3、日军的性暴力是有组织的有计划的集团犯罪，是作为他们惩罚、奴役被害国人民的手段之一，对此日军指挥者及其政府应负主要责任；4、日军的性犯罪是抵赖不掉的，如果至今仍不肯认罪反省赔偿，其结果当更加丑化自己，使其在世界上丢脸，这样离开“世界大国”的目标将越来越远。

Sex Violence Of Japanese Invading Army In China And The Causes

Ma ZhenDu

Research on the issue of Japanese military's sex violence women of aggressed countries during World Wars Ⅱ was once neglected. The reasons are as follows: on one hand, its victims, most Asian women affected by traditional concept of sex conservation, would not like to touch their sore spot and endure the pain all life long. On the other hand, as aggressors, both Japanese soldiers who did violence and all the previous Japanese governments of the post war that should bear the responsibility don't want solve the question left over by the war completely. The only purpose for them to take an attitude to evade the crucial question and even deny war crimes including sex violence is to console themselves by denying, to deceive themselves as well as others so that Japan will be"World Power" in their eyes again. Therefore, research on sex violence of Japanese invading army in history, just like other research on Japanese war crimes, has transcended the scope of history and had realistic political significance.

The main contents of this article are as follows: First, sex violence of Japanese army on people of aggressed countries is wide spread and grave its university brutality and harmfulness even surpassed that of German fascist. It is unprecedentedly brutal in human beings history. Second, sex violence of Japanese military had a profound national historical and social background, it closely relates to Japanese custom of "Man is senior to Women" and the concept of sex, and it also express in a focalized way the inferior quality of the Japanese nation. Third, the sex violence was a well organized and plotted group crime, which was one of the means taken by them to punish and enslave the aggressed countries, so the commanders of Japanese army and its government should bear main responsibility. Fourth, it is unrealistic for Japan to deny sex crimes. If they still refuse to admit guilt to self-question and reparation, they will certainly smear their image and be disgraced in world arena, then the purpose of becoming a"World Power" will be more difficultly achieved.

日本侵华罪行及中国战争损失调查刍议

复旦大学教授 石源华

一、应在全国进行日本侵华罪行及战争损失情况的普查，尤其要弄清最基本的史实，如战争的总体损失数字、一些重大惨案的死伤数字等。此事应在战时和战后立即进行，然而，由于我国的户籍制度不健全及战乱等原因，战后国民党政府失去了最有利的调查时机。建国后，由于各种原因，虽然也进行 了若干方面的调查，但却未能进行有组织的全国普查，目前我国公布的战争损失数字已几经改动，最著名的南京大屠杀受害者30万以上，但勒石纪念者只有3000余名，其他方面很多基本的情况也是若明若暗，此种情况再不改变，由于年代的久远将永远失去机会。中华民族遭受日本侵略长达15年之久，却迄今未把中国的损失情况彻底弄清，是我们这一代人的失责，是会对不起民族、对不起后人的。反之，日本对于原子弹受害者、东京大轰炸受害者的调查，是不惜代价的，非常之详尽和正确。

二、中国人应该向犹太人学习，以法律为准绳和武器，对于德国法西斯战争罪犯及其罪行，穷追不舍，哪怕是跑到南美，躲到天涯海角，隐名埋姓数十年，也要缉拿归案，送上审判台，这是对历史负责，对民族负责，对国际社会负责，也是对未来负责。

三、此种工作仅仅由民间零星地进行，是难以奏效的。应由国家有组织有领导地进行，才能取得科学的、正确的、经得起历史检验得成果。为了节省人力和财力，此种普查可以和地方志工作相结合。据我所知，经过若干年的努力，各地的方志工作已经结束或接近尾声，编纂机构正面临调整，如能将该项工作列为其工作，在各级政府的支持和领导下，在全国范围内进行该项工作，则将能取得事半功倍的效果。

四、应加强对于该项工作的研究，学习国外处理类似问题的经验，进行科学

的设计和组织，并组织历史工作者、文物工作者、民政工作者和各方面的人士共同努力，完成这一工作。中央应设立领导和指导机构，统一规范地进行调查统计，取得经得起历史检验的结论，并将最终成果列入国家的基本统计数字。

五、进行该项工作的意义是显而易见：首先，可以弄清基本事实和确定正确的数字，为编纂中华民族这段悲惨的历史奠定最坚实的基础；第二，可以作为民族传统和爱国主义教育的重要形式；第三，可以作为批判日本军国主义残余势力死灰复燃的有力武器；第四，可以将此作为中国政府重视和解决人权问题的一个重要方面；第五，将有利于民间索赔工作的开展；最后，也是非常重要的，该项工作还能推进中日两国“以史为鉴”，构筑21世纪睦邻友好关系的基本框架。

慰安妇问题与日本人的战争责任认识

步　平

进入九十年代以来，对日本在第二次世界大战期间的战争犯罪责任问题的追究开始引起了人们的关注，不仅是在被日本侵略过的亚洲的被害国，即使是在日本，这种追究也相当活跃。而日本在战争中强征日本以及亚洲许多国家的妇女作为“慰安妇”的行为是追究的主要问题之一。作为被害国的国民，战后一直没有放弃对在战后审判中没有得到真正解决的问题继续追究，但是必须看到，九十年代以来对日本历史上的侵略罪行的追究，并不仅仅是战后谴责罪行的继续，在新的历史条件下，这一追究具有特殊的意义。只有了解这一追究的重要意义，才能够高瞻远瞩地处理好历史遗留的问题，才能真正建立起21世纪的世界和亚洲的和平局面。

一、慰安妇问题战后在日本的提出

在战后对日本侵略罪行的审判中，慰安妇问题已经作为日本的侵略罪行受到审判，但是只限于在个别的审判中，在东京审判中根本没有触及这一问题，慰安妇问题成了战后遗留问题之一。七十年代，由于50万日本男性把钱花在韩国的所谓“妓生观光”上，激起了韩国人民的愤怒，一度被湮没的慰安妇问题浮出了水面。1990年5月韩国总统卢泰愚访日时，韩国妇女团体发表了要求日本解决战争中妇女挺身队的声明，日本学者也开始组织起来，进行调查，搜集材料，在日本的很多地方发现了大量的有关的文献。此问题也引起了国际社会的关注。由于上述原因，日本政府改变了原来的态度，承认了慰安妇问题与政府与军队的关系。1992年1月17日，访韩的日本首相宫泽喜一曾经向卢泰愚总统表示了道歉。但关于向慰安妇的赔偿，日本仍坚持向被害者个人予以赔偿的原则。

二、慰安妇在日本提出的诉讼以及提住的背景

九十年代开始以韩国慰安妇为首，陆续有一些战争被害国的慰安妇在向日本政府提住赔偿的要求，在得不到答复的情况下，她们陆续进行了诉讼，原因有两个。但面临的困难很多，有两方面的问题，一是关于诉讼援用的法律问题，包括外国人如何援用日本国内法律要求赔偿和如何针对战前日本的“国家无责任回答的问题”，另一个问题是所谓的“时效”问题，因为民法对于不法行为的请求权的时效是3年，20年后则失去了任何请求的权力。

三、慰安妇问题与日本的战争责任认识

对日本在日本慰安妇问题上战争责任的追究一开始即遭到了日本右倾势力的全力抵抗、在日本遭到了重重困难，特别是近年来日本的右倾势力围绕慰安妇问题掀起了一次次逆流。其中，自民党160名国会议员组成的“光明的日本”议员联盟会长奥野诚亮宣传“所谓的慰安妇实际是为了商业目的，也不存在强制的问题”。这些右倾势力否认慰安妇问题是为了从根本上否认日本应当承担的战争责任。

四、关于慰安妇问题的思考

首先，研究慰安妇问题的意义已经不仅仅是关注战争中受到残害的妇女们生活和命运的具体遗留问题，而是关系到如何认识战争的侵略性质，如何追究日本的战争责任和战后责任，如何把握日本今后发展方向的重大现实问题；第二、关于慰安妇问题的研究，需要更加注重实证性，遵循“实事求是”的基本原则；三、关于慰安妇的诉讼问题，需要对有关的赔偿法律问题进行研究，对国际法进行研究；四、由于国际社会对慰安妇问题也给予了相当的关注，这就需要了解和研究国外市民阶层和市民团体在社会管理方面的积极作用。

“慰安妇”问题与日本战后处理问题

南开大学教授　殷燕军

慰安妇问题是日本侵略战争中众多战争犯犯罪之一，也是战后处理问题中最敏感、最重要的缩影。本文着重论述日本战后补偿状况，分析日本政府对战后补偿问题的政策及法律依据，并日本目前的国内政治形式论述。从中思考实现中日之间和解与互信的基本途径。

一、日本战后处理的状况

1、以旧金山条约为基础的战后赔偿方式

2、中日战争赔偿问题解决的基本过程

3、战后补偿与日本国内政治、战后补偿的双重标准

4、日德战争赔偿比较

二、民间战争损害补偿问题的发生与慰安妇问题

1、中国民间对日战后补偿诉讼案的提出　花岗事件的诉讼

2、慰安妇问题的揭露与日本政府的对应

3、慰安妇问题的法律依据

三、中国战后补偿民间诉讼案在日本

1、中国（包括港台）20余起诉讼案的大体情况

2、日本政府的态度及法律依据

3、日本法院的态度和目前为止判例情况

4、相关案件诉讼前景的瞻望

四、结论

1、赔偿、补偿与战争责任

2、处理慰安妇问题等战争遗留问题的重大意义

3、为了中日之间互信与真正和解

近卫笃麿侵略思想及其活动论略

华东师范大学历史系教授 谢俊美

在日本华族中，近卫家族属于最高贵的“五摄家”之首，自平安时代以来，就和皇室有着很深的姻亲关系。明治维新后，近卫笃麿凭着这一特殊身份，跻身政坛，参与国政，出任宫内省贵族子弟学习院的院长，为天皇和日本资产阶级培养不少军、政人才，从而被视为元老、重臣。

近卫主张强化天皇的专制统治，建立以天皇为权力中心的政治体制，以顺应日本对外侵略扩张的需要。在侵华的问题上，他为日本政府积极出谋划策，提出了一系列侵略“理论”。甲午战争后，近卫提出日本应以“镇护极东”为己任，对中国实行“指导”，将中国、朝鲜置与日本控制之下。1898年前后，他与犬养毅组织东亚同文会，从政府那里获取外交机密费，打着文化交流旗号，从事搜集中国情报的活动。义和团运动发生后，近卫提出“联邦保全论”，利用刘坤一、张之洞、李鸿章等人发起“东南互保”，力主分裂中国，将刘、张、李等人管辖的疆土变为一国，直接置与日本保护之下。义和团运动之后，近卫抛出“黄种人同盟论”，将白种人视为东亚最大危险。认为中日同文同种同洲，应联合起来，实行黄白竞争，把白种人赶出亚洲。实际上就是由日本人取代欧美列强奴役统治亚洲。近卫在日俄战争前，还提出“扶掖朝鲜论”。这一理论完全是为着“确保日本国家的利益”，阻止俄国势力进入朝鲜。日俄战争结束后五年，日本就吞并了朝鲜。所谓“扶掖”不过是“吞并”的代名词。

1904年，近卫去世。其一生对外侵略思想和活动，概言之，就是处处以维护扩张日本国家利益为前提，以黄白人种竞争为说教，以同文同种同洲为诱饵，以所谓“保全中国”“扶掖朝鲜”“对支那予以指导予提携”为口号，利用中、朝两国严重的内忧外患，培植亲日势力，进而将中国置于日本的卵翼之下，成为日本的附庸，将朝鲜变为日本的一部分。他的侵略思想是明治维新时天皇“五条誓文”中“开拓万里波涛”对外侵略扩张的具体化，是日本由资本主义迈向帝国主义阶段对外思想的重要标志。他死后，他的这一侵略思想由其儿子近卫文麿继承，并发展为“亚洲解放论”和“大东亚共存共荣论”。

侵华日军滇西慰安所与慰安妇揭秘

云南保山地区方志办 陈祖梁

本文系笔者近年对侵华日军在滇西地区建立慰安所与慰安妇制度的实地调查报告。全文约1万余字，分为三个部分：一、日军性暴行，简要揭露日军在滇西的性暴力犯罪及其变态淫虐狂的罪行，并由性暴力负犯罪演变为慰安妇制度的情况；二、滇西慰安所曝光，重点报告日军在滇西众多慰安所的建立时间、分布地点、人员组织、管理制度、活动情况及其变迁始末；三、慰安妇的遭遇，根据

调查，报告滇西数百名慰安妇的来源、调配分布、慰安妇的遭遇及其各不相同的悲惨结局等情况，指出中国、朝鲜、日本、缅甸、台湾等不同国家和地区来源的慰安妇，其待遇和遭遇的不同，其中，以中国慰安妇的遭遇为最悲惨。

文章主要以调查取证的方式，从宏观和微观（即一般与典型）两个角度，首次全面系统地揭露了侵华日军在滇西建立慰安所与慰安妇制度的情况，述而不作，寓观点于记述之中，不作空泛的议论。

“慰安妇”一词应当更正

山西省原外办主任 何清

应旅日华侨中日交流促进会和日本追念亚太地区战争牺牲者铭心会、绑架中国劳工反思会等组织的邀请，陪同性暴力受害者万爱花和“三光”政策受害者段志民，我先后四次赴日本东京、名古层、广岛、二重县、四日市、高知县、冈山、神户、京都、大阪等地参加了东京国际公听会和各地民众证言会。万爱花老人用他们亲身遭受的血泪史实，愤怒地控诉了当年侵华日军的滔天罪行。他们在讲台上那撕心裂肺的痛哭声，震撼了每一个在场的旅日华侨、中国留学生、日本民众、中外记者和律师的心灵。

万爱花对“慰安妇”这个称呼极为反感，她多次在日本讲台上提出，我是中共党员，我是中国良家妇女，我不是“慰安妇”！回国后，每次听到街房邻居说她是日本鬼子的“慰安妇”，她都把悲伤和屈辱的泪水咽下肚里。老人对我说：“老何，我当年受到鬼子兵的残暴欺凌，怎么现在把我说成‘慰安妇’，那我不就成了鬼子兵的‘慰劳品’吗？”我面对老人的提问，心理也十分难受，只能从正面向她解释说：“这是当时日本鬼子兵的专用名词，不是中国人的叫法。”92年以来，我每年都陪同旅日华侨和日本朋友去盂县调查和看望一些受害妇女，她们和她们的亲属对“慰安妇”这种称呼也提出同样的疑问，都有同样的反感心理，甚至有的受害妇女不愿说出当年受害的事实，特别是有丈夫和子女的受害者，一怕给子女丢脸，二怕村里人说三道四，被人歧视。

近年来，国内外报刊杂志的记者和著书立说的作家，在文字和口头说法上，都沿用“慰安妇”这种称呼。事实上，“慰安妇”的称呼象“紧箍咒”束缚着这些受害妇女的思想，继续伤害着她们的心。我在日本各地证言会上曾多次提出对“慰安妇”一词的理解和看法，也和不少中外记者、律师讨论过这个问题，多数人认为“慰安妇”这一称呼的涵义不妥。有的在“慰安妇”一词上加引号，看上去似乎有一些涵义上的区别；但在口头叫法上显示的涵义是一样的。问题的实质还不在于此，我认为，“慰安妇”这种称呼不仅仅是掩饰了日本侵略军的残暴罪恶。日本右翼分子、政府内阁官房长官尾山静六，借用“慰安妇”一词公开发表谬论，说什么“慰安妇”的社会背景是当初战争时有所谓的“公娼制度”，成为公娼的女性大都出身贫寒。她们为了赚取更多的钱，进入军队当军妓；如果她们在战地“服务”，还可以获得额外的战地补贴费；她们之中的一些是应征而来的。按照尾山静六的逻辑，“慰安妇”就是军妓，军妓是为了赚钱。他这样讲的目的正是为了混淆视听、否定日本军国主义侵略中国和亚太地区国家的历史事实，推卸日军所犯的罪行。这是受害者绝对不能接受的。

有的说，“慰安妇”的称呼不妥，可以叫“性奴隶”、“罹难妇”。这两个词听起来虽然没有“慰安妇”那么词刺耳，但它的涵义也不完全、不深刻。我认为叫“性暴力受害者”比较妥当。因为受害者受到的不是一般的性压迫，而是在日军枪子和洋刀的暴力强制下，受到鬼子兵残无人道、灭绝人性的欺污和蹂躏。万爱花和中国千千万万受害者妇女当年所遭受的残暴性虐待，是一般人难以想象、难以理解的真确史实。

1996年联合国人权委员会把“慰安妇”一词改为“性暴力被害者”；日本各地许多声援受害妇女组织也把“慰安妇”一词改为性暴力被害者。万爱花和孟县站出来的15名受害妇女委托日本律师团98年向东京地方法院呈送的诉讼状，就是用的性暴力被害者。

现在我所以提出这个问题和到会的各位专家、教授、学者商讨，目的在于，恰当的使用这一专用名词，既不伤害受害者的自尊心，又有利于声援受害者。

妥否，请大家讨论。

日本对中国的战后赔款问题

吉林省博物馆副馆长　赵聆实

20世纪上半叶，日本不断扩大侵略战争，给亚州各国人民特别是给中国人民带来了巨大的痛苦和悲哀，但令人遗憾的是，日本战败降后的50多年来，并没有认真地反省侵略历史及认真地对待战后赔款问题，在以美苏为两极的冷战结构下，日本躲进美国的核保护伞，逃脱了必须承当的战争赔款和受害赔款。进入90年代以来，随着冷战结构的崩溃及受害赔款呼声的高涨，深受日本军国主义之害的亚洲相关国家和地区（现在已发展到世界相关国家和地区）的人民，纷纷提起诉讼，要求日本政府和企业道歉、赔款，并已形成了全球性的运动。

本文以战后50多年来相关历史为背景，从中日两国官方、民间及有关团体和人士对战后赔款的认识及中国民间对日索赔现状及发展几个方面，对日本战后赔款问题做了初步探讨。

指出，日本应认真对待战争犯罪及战后赔款的问题，为了日本的明天和世界的未来，放弃“赔款已经解决”的错误立场，认真解决包括战争受害赔款问题在内的所有战争遗留问题，这是建设、发展21世纪中日友好关系的关键。

强调“受害者赔偿绝对不是一个单纯的经济问题，在更大程度上，它是与清算战争罪责密切相关的政治问题。”对日索赔既有国际法作依据，也有国际惯例可依据；既顺乎中日两国人民的心愿，也有利于控制日本军国主义抬头；既有利于我国人民居安思危、不忘国耻，也有利于中日两国人民的长期友好，维护世界和平。

南京下关区侵华日军慰安所的调查报告

南京师范大学历史系　张连红　李广廉

二战期间，南京是侵华日军性暴行及推行慰安妇制度十分突出的地区。自1999年7月份以来，南京师范大学南京大屠杀研究中心围绕侵华日军性暴行的主题在市区进行了广泛的调查，在调查的过程中，借鉴社会学理论与方法，强调口述史料的真实性与调查报告的可信度，本文仅就南京下关区日军慰安所的调查情况作一报告。报告的内容分三个部分：第一个部分为调查的基本资料：1. 下关区的背景资料；2. 调查对象的资料：姓名、年龄、性别、文化层次、职业；3. 调查方法。第二个部分为调查的主要内容与结果：1. 下关区日军慰安所的分布；2. 下关区慰安所的规章制度，以华月楼为例；3. 慰安妇的人员构成与生活情况。第三个部分是讨论：1. 慰安所与日军驻防地点之间的关系；2. 慰安所的老板、日军与慰安妇三者间的关系。

“慰安妇”在崇明情况初访

上海市金融高等专科学校统计师　程绍鳍

崇明是上海的出海口，地理位置十分重要。1938年3月18日，日军从新开河也就是崇明县的中部沿江海处的海桥港登陆。登陆时，有两艘兵舰运载士兵和武器，五架飞机进行掩护。当时崇明有庙、城、堡、浜四个重镇，日军根据地形，在各镇分别驻扎了一定的兵力。一个月后，日本帝国主义又从上海与宁波两地调集约300人到崇明。1943年后，当时所谓的新亚军调走，但仍有一定的兵力驻扎在崇明，且从上海再调来汪伪政府的保安团。1942年，太平洋战争爆发后，原驻扎在崇明的日军开赴缅滇和新加坡战场，之后也曾调来军队，但战斗力不及以前的军队。这支军队由台湾人、朝鲜人、做生意的日本人和中国东北三省的一些人组成。直到1945年，日本投降后，日本才撤离崇明。

日本帝国主义在占领崇明的庙镇期间，为了发泄兽行，于是就设立起了万恶的慰安所。对当地的女同胞犯下了滔天的罪行。庙镇的慰安所又叫“惠安所”。

位置大致在西南街上，是平房，有院落，有汉奸黄稚卿组成的伪“维持会”主持。慰安所内，有“慰安妇”约有20人，被迫为日军服务。

笔者根据线索，寻找到了几位曾遭受摧残的幸存者并对她们进行了采访。她们悲惨的过去和随之带来的痛苦的现在，.让人听了为之心碎。陆某某（1999年，82岁），庙镇乡丁棚村人。“慰安妇”的悲惨生涯使老人一生不能生育，只得领养一子。郭某某（1998年，86岁），也是众多不幸女子中的一位。老人愤愤道出，她们被迫去“慰安”日军，遭到非人的折磨，但每天的饮食却很差，只能吃稀饭和蔬菜。同她们有者同样不幸经历的还有阿巧、杨桂良、蔡兴梅、“讨饭珍郎”。

“慰安妇”的生涯把她们推进了万丈深渊，使她们的身心一直生活在痛苦的煎熬中。

中国慰安妇问题档案开发与研究的一点体会

中国社科院近代史研究所编审　庄建平

在1937年至1945年的八年期间，日本政府对中国实行军事侵略和经济统制地区中的中国女性的性暴力，以及强化慰安所等诸多方面，是日本法西斯在中国所犯严重罪行之一。但是，在过去和现在的日本当权者中的许多人，还有抱着日本法西斯亡灵的右翼势力，不服输，不认罪，竭力否认有这样的严重罪行。当此罪行事实在中国、韩国以及东南亚诸国被披露出来以后，日本右翼势力又制造谰言谎说，为罪行翻案。在东京高等法院有关中国受害妇女诉讼案屡次败诉，这就是最好的明证。

长期以来，尤其是九十年代开始，中国学界对中国慰安妇档案开放和研究中，取得了重大成绩。其中苏智良著《慰安妇研究》最具典型意义。此书运用中国和日本两国档案以及广泛的真实地调查资料，驳斥了日本右翼势力散布的“强奸是战争的附属品，故而‘慰安所’是不可少”，以及“慰安所是属于公娼制的范围以内”等等谬论，向世界民众披露了侵华日军实施慰安妇制度的野蛮残暴的污秽丑史。苏智良著《慰安妇研究》，不仅是中国的第一部慰安妇问题研究的力作，从某种角度来说，此书是为维护中华民族尊严、为正义、为公理而斗争的一部力作。

固然近十年来，中国史学界、法学界、档案界以及民间社团和个人，为了搜集中国慰安妇问题资料，做了大量的工作，但是这些重要的档案资料，或保留在藏档单位，或保留在调查者手中，应该提供出来，共同研究。“慰安妇研究中心”应该起到协调和组织的作用。我们应该清楚地看到，近二十年来，日本右翼势力在日本政府的唆使和怂恿之下，反华事件愈演愈烈。鉴于此，我们与日本右翼势力的斗争将会长期持续下去。此外，侵华日军强化“慰安妇”制度，蹂躏中国数十万女性，这是铁铸的事实，所以我们与日本右翼势力之争，不是学术之争，而是为维护正义与公理之争。

侵华日军性暴力的几个特点
——以山东地区为例

山东师范大学研究员　赵延庆

一、日军性暴行的普遍性

所有日本侵略军部队都无例外地存在性犯罪。山东各县日军兽蹄所及之处都有性暴行。从时间上说上起中日甲午战争，中经“五·三惨案”，特别是全面侵华的八年间自始至终充斥着性犯罪。从奸淫对象的年龄来看，小自年仅数岁的幼女，老至七、八十岁的婆婆也不能幸免，从奸淫对象的身份看，既有女俘虏，更有广大的普通城乡妇女，甚至连其豢养的走狗—伪军伪职人员的亲属亦不放过。

山东乃至全国被害妇女的绝对数字难以确切的统计，仅据抗战胜利的部分县的不完全统计，山东省被害妇女平均每县约在2000人左右，全省107县当在20万人上下。

二、日军性犯罪的残忍性。

强奸多同时、事前、事后伴随以下情况中的一种或几种：杀害其身边的年幼子女、父母或丈夫，对孕、产妇剖腹或挑婴，更普遍的是奸后割乳、剁足（欣赏缠足妇女的小脚）、或锐器插阴等加以杀害。

三、日军性犯罪中的兽性心理及表现。

兽奸、乱伦、变态、对男性的性侮辱等等。

四、慰安妇制度与强奸并存，以强奸为主。

五、日军的性暴行不是个别的偶发行为，而是公然违背国际法的自上而下的战争犯罪。

试论侵华日军建立“慰安妇”制度的原因及在南京实施这一制度的基本过程

中共上海建设党校　刘惠恕

本文探讨了侵华日军在南京大屠杀期间建立“慰安妇”制度的具体原因，指出：侵华日军在南京犯下了强奸妇女8万名的野蛮暴行之后，它所造成的危害不是单方面的，它对日军继续发动侵华战争也同样造成了三点不利影响，即：

1、日军的强奸妇女暴行被在南京的国际中立人士迅速传向了全世界，而使日本在国际上极度孤立，使日本军队在世界上声誉扫地；

2、导致性病在日军中蔓延；

3、因性病蔓延而导致侵华日军战斗力的严重下降。

为了克服上述不利因素对侵华日军的影响，是最终促使侵占南京的日军建立起“慰安妇”制度的根本原因。

本文兼带论述了侵华日军在南京实施“慰安妇”制度的基本过程。指出：日军决定在南京设立“慰安妇”制度的起始时间为1937年12月28日，至1938年1月18日南京城汉奸在日军强迫下，设立中国人开办的慰安所时，驻南京日军实质上已完成了在南京城内设置慰安所的工作。

Reasons of the Comfort Women System's Setting-up by the Invading Japanese Army and the Basic Course of the System's Carrying-out in Nanking

Liu HuiShu

Shanghai Construction Party School of CPC

The thesis probes into the specific reasons of the Comfort Women System's setting-up by the Japanese army during the period of Nanking slaughter. It points out: After the invading Japanese army committee the savage brutality of violating about 8000 women in Nanking, the resulted reason was not one-handed, it also brought about, unfavouradleness in three aspects from the Japanese army to continue their invading wars.

1. The Japanese army's brutality of violating women quickly spread through the world by the neutral international figures in Nanking, which caused Japan excessively isolated and the Japanese army falling into discredit in the world;

2. It led to venereal diseases spreading among the Japanese soldiers.

3. The combat effectiveness of the Japanese army took a serious decline because of the spreading of venereal diseases.

The effort to overcome the ill effect from the above-mentioned factors was the root cause that resulted in the setting-up of the Comfort Women System.

The thesis concurrently discussed the basic course of the Comfort Women System's carrying-out in Nanking by the invading Japanese army. It pointed out: The time when the Japanese army decided to set up the Comfort Women System in Nanking was on December 28 of 1937. Before Nanking (traitors to China) were forced by the Japanese to open comfort places by Chinese in Nanking on January 18 of 1938, the Japanese army settled in Nanking in fact had finished setting up comfort places there.

日本侵华海军与上海慰安所

解放军南京政治学院上海分院　华强

日本侵华海军与上海慰安所关系十分密切，日本军方特别是日本海军是慰安妇这一人类历史上最丑恶制度的始作俑者和操纵者。1937年，日本海军第三舰队在上海登陆，日本海军陆战队数万人云集上海，侵华日军开始在上海建立慰安所。据统计，日军设立的慰安所计有77家，其中属于海军的慰安所有十几家。由于大量日军档案资料在日本战败后被毁，日军在上海设立的慰安所，其确切数目已经难以统计，但总数绝不止77家，海军陆战队慰安所绝不止十几家，慰安妇人数更

绝对不是日军方面所说的131人。当年出版的上海《申报》白纸黑字，记录了日军的暴行，证实日军在上海使用的慰安妇数目是惊人的。关于慰安妇的来源，多数是日军抢掠的，少数是诱骗的，《申报》在这方面也有大量报道。此外，上海租界巡捕房留下的档案也证实了这一事实。

侵华日军特别是海军还充当了上海慰安所的组织者和管理者。日本军方与部分日侨达成了关于设立慰安所的秘密协议，这些民间设立的慰安所从房屋、慰安妇到卫生完全由军方一手操办，可见这些所谓民办的慰安所从一开始设立便处于军方的严格控制之下。

1940年2月，经身份不明的日军嘉野指导官和秋山指导官核准，虹口和闸北成立了“上海市虹口闸北区慰安组合会”，这是由日本军方操纵的具体管理慰安所的组织。该组织成立一年半以后，日本海军武官府上海复兴部报请日本同仁会华中支部长世井中将和日本上海特务机关长批准，于1941年9月15日发布48号文，宣布成立“上海虹口平康福利会”，这是日本军方公开成立的第二个管理慰安所的组织。这个组织自1941年成立，至1945年日本战败方作鸟兽散。“平康福利会”成立以后，吴一新、张长生分别以特别会长和顾问的名义发布了多次《通告》，有的《通告》署名为“海军许可上海虹口平康福利会”，特别显示了该组织的军方背景。“上海虹口平康福利会”成立以后，曾报伪上海特别市政府市长批准，并获得同意。

The Invading Japanese Navy and Comfort Place in Shanghai

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The invading Japanese navy had a rather close relationship with the Comfort Places in Shanghai. The Japanese military, especially the navy was the originator and controller of the Comfort Women System, which is the most disgusting and vile system through human history. In 1937, the third naval force of Japan landed on Shanghai, and with the marine corps composed with millions of soldiers gathering at Shanghai, the invading Japanese army started setting up the Comfort Places. According to the statistics, there were about 77 Comfort Places set up by the Japanese army, among which more than ten were for the naval force. Because quite a lot of files and material of Japanese army had been destroyed after Japan was defeated, the exact number of the Comfort Places set up in Shanghai by the Japanese army is difficult to figure out, but the total of Comfort Places were absolutely not limited to 77, and the number for the marine corps was not limited to ten or so, and the Comfort women's number was absolutely more than 131 told by the Japanese military organization. Japanese soldiers' brutality was recorded in Shanghai's newspaper Shen in black and white which was published in that year, which confirmed an astounding number of Comfort Women were there for the Japanese soldiers in Shanghai. Besides, the fact was also confirmed by the files left in the public security office of Shanghai concession.

The invading Japanese army, especially the navy also acted as organizers

and supervisors of the Comfort Places in Shanghai. The Japan's military together with some Japanese in China reached a secret agreement on setting up the Comfort Places that the military was in charge of the affairs of Comfort Places all by itself including houses, Comfort women and hygiene etc.

In February of 1940 , with the permission of two unidentified instructors, 嘉野 and 秋山 , Hongkou and Zhabei comfort organizing Association of Shanghai was established in Hongkou and Zhabei district, which was the organization in charge of Comfort Places practically controlled by the Japan's military. One and a half years later, after Shanghai Fuxing Department of the Japanese naval attache's office applied and obtained permission from 世井中将, head of Japanese Natives Union Middle China Branch, and head of Shanghai Special Agent of Japan, the department released Document 48, and announced the establishment of Hongkou PingKang Welfare Association, which was the second organization in charge of Comfort Places set up by the Japanese military openly. The organization was established in 1941 and was dissolved in 1945 when Japan was defeated. After PingKang Walfare Association' s establishment, Wu Yi Xin and Zhang Chang Sheng, in the name of special president and consultant respectively , issued notices on many occasion , some notices were signed" Navy's permission, HongKou PingKang Welfare Association of Shanghai", which showed the military background of the organization. HongKou PingKang Welfare Association of Shanghai's establishment was once applied to the Puppet Shanghai Special Government and obtained permission.

侵华日军山西盂县性暴力问题之我见

山西阳泉中华文化经济交流协会　英豪

一、山西作为革命老区，在抗战期间饱受日寇铁蹄的践踏。阳泉位于太行山中部西侧，是山西的东大门，又是交通枢纽，地势险要，崖峻谷奇，扼谷锁道，坚如磐石，素有“晋冀咽喉之称”，历来为兵家必争之地，阳泉北部的盂县，上接五台，左临定襄，右依河北，地理属阳泉的“重中之重”。1938 年 1 月 9 日，日的侵华日军性暴力事件，就发生在这个期间。

二、据我一年来实地调查所获，目前有资料可查的山西盂县当年性暴力受害者有：

万爱花	尹玉林	尚春燕	张五召
张先兔	杨喜荷	赵润梅	李喜梅
杨时珍	王改荷	高银娥	赵存妮
尹林香	南二朴	周改香	周变香
王变莲	陈林桃	李秀梅	郭喜翠
周喜香	刘面换	侯巧莲	侯冬娥

本文记实性地批露了上述受害者重的有代表性的 13 个人的口述笔录整理材料，并附有她们的近期照片，部分录音材料和录相材料。

三、根据我的调查分析结果，日军在山西盂县的行为属于性暴力行为，而并非所谓的文明字眼——“慰安妇”，她们每一个人的受害经历都残不忍闻，与目前学术界所称的“慰安妇”有质的区别，主要表现为以下四点：

（1） 强迫性
（2） 无组织性
（3） 无固定场所
（4） 直接性

四、当我为此文接触山西盂县这些幸存受害者时，无不声泪俱下，然而她们所共同吼出的最强音便是——谢罪、赔偿。既然，日本天皇和日本政府，能够向韩国“慰安妇”赔偿和谢罪；既然，日本政府能向菲律宾“慰安妇”进行道歉和赔偿；为什么我们山西盂县的性暴力受害者，却听不到谢罪的声音和必要的经济赔偿呢？

“慰安妇”索赔的法律问题剖析

复旦大学法律系副教授　龚柏华

昔日“慰安妇”索赔诉讼涉及复杂的法律问题。本文就下列问题展开探讨：

一、日本政府是否对“慰安妇”计划负有责任　根据国际法主体一致性理论，新政府对旧政府的债务包括违背国际法造成的外国人的损害应承担责任，即政府债务继承。如果能够证明前日本军国政府对“慰安妇”计划负有责任，则现日本政府应继承这一债务。

二、时隔半个世纪起诉的时效问题　昔日“慰安妇”在事隔 50 年提出诉讼涉及是否超过诉讼时效问题。被告方面认为，索赔请求已超过日本民法规定的 20 年“除斥期限”，即经过 20 年后权利消失。原告认为，诉讼时效对有关战争中遭强奸受害人的赔偿诉讼不适用。

三、“慰安妇”计划是否违反当时的国际法　被告方认为，审理“慰安妇”的诉讼不能以事后的国际法为标准，因为法律不能追溯适用。关于国际法追溯适用的问题，早在纽伦堡国际法庭审判中已解决了这一问题。但是为了在日本法庭上更有说服力，原告方还需要证明“慰安妇”计划事违背了当时的国际法。

四、“慰安妇”个人是否有权根据国际法控告日本政府　被告方认为，根据国际法个人不是国际法的主体，因为国际法是调整国家与国家之间的关系，因而，个人不能依据国际法直接告另外一个国家。

五、国际法上有无独立于国家索赔的个人的索赔权　被告认为，即使日本政府负有法律责任，那么这种诉讼也只能由相关国家提出。国际法上是否分政府索赔权与民间个人索赔权，是一个待证明的问题。有些学者提出，战争赔偿可以分为国家战争赔偿和战争受害者赔偿两个部分。

六、日本政府应承担什么责任　根据国际法，一国就其违犯国际法的行为应承担一定的责任。这种责任的形式可以是精神的如政府正式道歉；也可以是物质的如金钱赔偿，违犯国际法义务最通常的救济方式是给予充分赔偿。

An Analysis of Legal Matters on Comfort Women's Demanding Compensations

Gong BaiHua

In the past comfort women's demanding compensations had to follow complicated legal matters. This thesis tries to probe into the following matters:

1.Is the present Japanese government responsible for the plan of comfort women or not?

According to the Theory of Subject Identity in International Laws, the new government should bear the liabilities of debts of the former government, including the damage to foreigners resulted from its violating international laws, which is called government inheritance of debts. If it could be testified that the former Japanese Militarism government was responsible for the plan of comfort women, the present government ought to inherit the debts.

2.The matter of effectiveness on accusations after half a century.

Comfort women's accusations related to after 50 years if the accusations had gone beyond the effectiveness of accusations in the past. The defendant side holds that the demanding compensations had gone beyond the 20 years of 'time limits of accusations' according to the Civil Laws of Japan. However, the prosecutors hold that the accusation effectiveness is invalid to compensation accusations by the violated victims in wars.

3.Did the plan of comfort women violate the International Laws of the time?

The defendant holds that the lawsuit on comfort women should not take the later International Laws as the criterion because laws have no retroactive effect. With regard to the matter of retroactive appliance in International Laws, it has been settled early in trials of International Court in New Lambyrg. Despite of these, the prosecutors are supposed to testify that the plan of comfort women violated the International Laws in order to take more persuasive force.

4.Do the individuals of comfort women have right to accuse the Japanese government according to the International Laws?

This relates to the qualifications of the accusation subjects. The defendant holds that according to the International Laws, the individuals are not the subjects in International Laws for the International Laws are employed to reconcile between countries. Therefore, the individuals can not accuse a country directly according to the International Laws.

5.Is there individual compensation demanding right independent of national compensation among the articles of the International Laws?

The defendant holds that even if the Japanese government bears legal liabilities, the accusations can only be raised by the relevant nations. I t is a undertestified question if there is division between national compensation demanding right and individual compensation demanding right. Some scholars put forwarded that the compensation should be composed of national compensation on wars and victims compensation on wars.

6.What's the responsibility that the Japanese government should bear?

A country should bear certain responsibility for violating the International Laws. It, in form, can be compensated spiritually, such as the formal apology by the government; it can also be done substantially, such as payment of money. The usual way of making-up for violating the International Laws is to compensate to the victims sufficiently.

"慰安妇"研究二题

上海师范大学教授 邵雍

"慰安妇"制度是在日本帝国主义长期对外侵略战争中逐渐形成和发展起来的。其前身可追溯到一八九五年日军侵犯台湾时对占领区妇女的"借用"制，以及一九三七年七七事变后在殖民地朝鲜实行妇女"征用"制。在华北日军也公开搞过"借用"制和"征用"制。在那些被蹂躏的妇女中有不少是明确作为"慰劳队"的。慰安妇的搜集是在汉奸特别是青帮汉奸的大力帮助下进行的。从一九三七年到一九三九年，南京、芜湖、上海、天津等地青帮汉奸为虎作伥，在为日军搜集慰安妇方面起极为恶劣的作用。抗日战争胜利后一些慰安妇又成了帮会任意处置的对象。在日本侵略者和帮会汉奸看来，作为慰安妇的妇女的人权、人格是根本不存在的。

I RESEARCH SUBJECTS ON "COMFORT WOMEN"

SHAO YONG

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The"Comfort Women"system was formed and gradually developed during the Japanese imperialism's long-term aggressive wars. Its predecessor can be dated back to the "borrow women" system that Japanese army made in the occupation district when they invaded China's Taiwan in 1895, and carried out the "take over for use"system in its colony North Korea after 7.7 incident in 1937. In north China, Japanese army had also practiced the aforementioned systems. Many of those women that had been outraged with the help of traitors, and especially owing to the important role played by the Green Gang traitors, the work of collection of" comfort women" was carried out. From 1937 to 1939, in Nanking , Wuhan, Shanghai, Tianjin and other places, the Green Gang traitors helped Japanese do evils, playing an evil role in collecting women for the aggressors.

After the victory of the Anti-Japanese War, some "Comfort Women" became the objects that were dealt with arbitrarily by secret societies. In the view of Japanese aggressors and traitors of secret societies, the human rights and personality of "comfort Women" did not exist at all.

中国慰安妇调查方法初探

中国人民抗日战争纪念馆研究员 张量

有学者研究认为，在二战中日军强征慰安妇的人数有20万之巨。半个多世纪过去了，幸存的慰安妇已为数不多，且年岁已高，为了揭露日军罪行，追究日本的战争责任，我们必须抓紧时间进行慰安妇的抢救性调查，留下要求日本对我国谢罪和民间赔偿的依据。就如何组织调查笔者从以下三个方面进行论述。

一、全面开展慰安妇的调查。只靠少数人远远不够，要广泛调动全社会的力量。例如，与各级妇联组织携手调查，各级妇联组织的妇女工作者对基层较为熟悉。各地方志编辑委员会、文物、博物馆部门的文史工作者等都是我们合作的对象。另外，发动文科院校历史系学生特别是女同学，利用寒暑假到全国各地调查，在报纸杂志上发启示等。

二、怎样对慰安妇幸存者进行采访。最好是女同志做这项工作较为合适，便于提出问题，思想容易沟通，感情交流也快。加上动之以情，晓之以理的思想工作，会较好地完成采访划。另外，在做好文字记录的同时，还要注意录音录相设备的运用，最后搞出有声音、有形象的真实可信的材料，最好是在公证一下，以便来日好使用这些资料研究或诉讼等。

三、对慰安所的调查，要注意那许多掩人耳目、动听悦耳的名称，其实质都是慰安所。在日军盘踞时间较长的地方都可能有慰安所遗迹。

文章最后还就调查经费问题提出了一些想法。全文4000余字。

论从军慰安妇曝光的历史意义

上海师范大学副教授 孙国群

从军慰安妇是日本蓄意掩埋了近半个世纪的历史陈案，它的曝光有着深远的历史意义。

第一，是亚洲女性觉醒的标志。几千年来中国、朝鲜等亚洲国家的女性，在封建贞节礼法的毒害下，视男性的暴力侵犯为耻辱，因此，几十万女性在二战中遭受日军的性奴役，战后幸存者都埋名隐姓，独吞苦果。到20世纪90年代，在外力的推动和感召下，以韩国为首的慰安妇终于挣脱了封建精神枷锁，为维护人权和尊严，把日本政府推上了审判台，目前已形成了国际化运动。这是历史的进步。

第二，为人类，为完善战争犯罪法作出了贡献。从军慰安妇是日本政府和军队有目的、有组织地强迫日本占领下的亚洲各国几十万女性充当性奴隶，纵容、组织数百万日本帝国军人集体强奸、轮奸，对女性实施残酷肉体虐待。这是一种违反人权法和人道法的罪行。它的曝光使全世界都认识到这种战时恶性强奸罪必须受到国际战犯法庭的制裁。

第三，促进了世界的良心和犯罪意识的复苏。与从军慰安妇有关的参与者和几百万受到"慰安"的复员军人返回日本，从军慰安妇应是日本国内众所周知的事实。但是，直到受害妇女出来追究罪责时，才有人出来作证，才意识到犯罪。联合国人权委员会也开始调查。

第四，是日本政府是否能和军国主义决裂，是否能脱胎换骨的检验。面对从军慰安妇这一反人道罪，日本政府是接受慰安妇们的要求，接受联合国人权委员的劝告，真心诚意地谢罪、赔偿，尽力治愈它留下的创伤呢？还是屡屡否认狡辩，不承认犯罪事实与继续犯罪呢？从军慰安妇成为日本是否有国际化意识的试金石。

宝山慰安所揭秘

傅家驹

1937年9月7日，日军占领宝山后，驻扎了不少军队，并随即在宝山设立了两个慰安所。

首先设立的慰安所是在西门外水关庙边离泥山上，占用的是宝山居民王子才的房子，后来此慰安所因中国人民及当时地方自治会的抗议，而搬迁到西门街上，占用的是周毛生、周阿小的房屋。该慰安所约有"慰安妇"20人左右，来自日本、朝鲜、台湾。

另一慰安所设在南门外龙王庙附近。规模较小，有"慰安妇"10余人。上述两个慰安所直到日本投降时才告关闭。

还有一慰安所，"慰安妇"为一寡妇陈阿毛娘子。她被日本人强占后，她家就成了一所"不挂牌、不收费"的慰安所。

Expose the Comfort Station in Baoshan

Fu JiaJu

In 7th. Sept. 1937, to Japanese troops conquered Baoshan, and set up comfort station there soon.

The first one located on the Hill of LiNi, out side of the West Gate. They took over the house of WangZicai as the station. Then it moved to the XiGuan Street after protested by Chinese. They used the houses of Zhou Maoshen and Zhou a xiao. There were about 20 comfort women, they were from Japan, Korea and TaiWan.

Another one was located nearly the LongWang Temple out side of the South Gate. It was not so large as the above one. There were about 10 comfort women. Both of them kept opening until the surrender of Japan.

There was a special comfort station also, the only comfort women there was awidow of Chen A mao. Her home turned to be a no chargement comfort station after she was raped by Japanese soldier.

吴淞慰安所初探

傅家驹

一二八事变日军占领吴淞时慰安所开始在镇上出现，但那时都是随军慰安所，不太为外界所知，影响不大。

八一三战事后，日军陆续在吴淞镇办起五家“慰安所”。其中规模较大、开设较早的是位于淞兴路同江路的“朝日花坛”，由日人井上长寿经营。其次为淞兴路232号手源弄口的慰安所“花月”。先由日人花村镰吉经营，后由朝鲜人金万福（又名金本一成）经营。第三是位于锦泰路62号的楼房，慰安所名不详。第四为三益路77号的楼房，名“名古屋”。第五个位于逸仙路长江路口张华浜处。这些慰安所中人数从5人到20人不等，为日本、朝鲜、台湾人。

此外，还有名目繁多的供日军玩乐的“食堂”。招待全是中国女子，如大陆食堂（营市路）、统一食堂（同江路）、旭食堂（淞兴路）、吴淞食堂（淞兴路商会路口）等。

日本兵也进入吴淞的中国妓院作乐。这样的妓院有淞兴路19号、23号、40号，和平路103号，锦泰路万安桥堍、桂花弄等若干家。

还有一种特殊情况，日舰停泊江心，中国妓女乘小舢板到舰上陪日军过夜，次日晨返回。

Expose the Comfort Station in Wusong

Fu JiaJu

The comfort station appeared at the town with the“一二·八”Event –when Japanese troops occupied WuSong. But common people didn't know it well.

After the“八·一三” Event, Japanese Army set up five comfort stations at WuSong Town. The earliest and largest one among them was located on the cross of SongXing Road and Ttongjing Road, named“ASAHI KATTAN”, managed by a Japanese 栈 hojiu Inoue. The second was at No.232.SongXing Road, named—Hanatsugi, first managed by a Japanese Kamayoshi Hanamura, and then a Korean: Kim WanFo. (Japanese name: Kazunari Kanemoto); third one was located at No.62. Jimtai Road, the name had been forgotten; fourth one was located at No.77 Sanyi Road, named‘NAGOYA’; Fifth one was located at the cross of Yat SUN Road and Chang Jing Road, a place which was called Zhang jiabang. There were about 5-20“Comfort Women”in each station, they were Japanese, Korea, and Taiwaness.

Besides, there were many places named“Shokudo”for Japanese soldier to get fun. All the receetionists were Chinese girls. For example: continent, Shokudo (YingShi Road), Tongyi Shokodo (Tongjiang Road), ASAHI Shokudo (Song Xing Road), WuSong Shokudo (SongXing Road) etc.

Japanese soldiers also went whoring at WuSong Town. There brothels were No.19, No.23, No.40 at SongXing Road. No.103 HePing Road, JinTai Road, Guihua lane .etc .

When Japanese naval Ships berthed the river, they also ordered Chinese prostitutes to their ships and left next morning.

陈亚扁口述实录

华东师大出版社副编审 陈丽菲

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我叫卓亚扁，民国十二年生，今年73岁，住祖关镇祖孝村。我家除了父母外，还有一个哥哥一个姐姐，我最小。1942年，我17岁。日本人进了我们海南，又让汉奸在祖关建兵营。小黎寨有不少女子，被汉奸强迫抓入兵营，挑水煮饭，干各种杂活。我和另一个同村的姑娘被抓去当童工，我就住在汉奸团长的家里干活。可是半年不到，不知怎么来了日本兵，把我抓上车运到三亚，关在一座两层楼的楼上，楼上房间大约10个平方米左右，窗都用木板钉死，白天都看不到阳光，门是被反锁的，只有到了吃饭和洗澡的时间才开，由人送饭送水进来，大小便也在这间屋里，有人提出去。有时天天晚上，有时隔天，总有两个左右的日本人进来强暴我，那时我还没来月经，日本人从来没给我吃过避孕药物，他们也不用避孕套，我也根本不懂，只是害怕，一天哭到晚。晚上日本人强暴我，我又痛又害怕，要是不让强暴他们就会捏住我的脖子，打我的脸，叫我不准动。我的眼睛就是那两三个月里哭坏的，直到如今都红、痛，看不清楚。

我被抓走后，我妈妈就找汉奸团长要人，又哭又闹，好几次都说若再不放我回来就要死给他看。汉奸团长最后没办法，只好去求日本人把我放回来。我那时下身又红又肿，大小便都不能，可是还是不得休息，依旧到汉奸团长哪里去干活，缝麻袋，洗衣，做饭，算是轻活，一直做了三年。这前前后后的时间里，我都没有得到任何报酬。

在被抓去干活，做“慰安妇”之前，我已有了一个恋人，他叫卓开春。当我被日本人从三亚放回来后，他很同情和理解我，并去参加游击队打日本人，为我报仇。五年后回来，手上受了伤，和我结婚。结婚后我们感情虽然好，可是因为这一段经历给我的身体造成了创伤，怀孕了六次，都流产，每次同房都痛得很。到第七次，丈夫把我早早送进医院打针、吃药，千方百计才保住，在1964年，生下了唯一的一个女儿。我现在常常做恶梦，气喘，想呕吐，而且总是吃什么、吃多少都不饱，胃里总感到饿。整个村里，就我一个人做过“慰安妇”。大家都议论我，看不起我，骂我是和日本人睡觉的女人。在文革的时候，更是把我抓出来，绑

住我，打我，我没办法说清楚。自丈夫前些年去世以后，
我就更苦了。别人都是儿女成群，有儿子奉养，可我就一女儿。我应该有许多孩子的，可是都没有了；我老了，却没有儿子依靠，我就苦啊！我现在身体不好，一直在打针吃药，生活来源就靠“五保户”的救济金。我现在很同意你们来问我这段经历，我把一切都告诉你们，希望你们能够帮助我，我想上诉，告日本政府，要他们赔偿，不但是经济上的，还要精神上的，赔礼道歉，承认他们是害过人、犯过罪的。我希望早一天把这官司打赢，让我的晚年过得安定。说我们当年是自愿去做“慰安妇”，有钱拿回来，这根本不是事实，这样的人我讲都不要跟他们讲，他们根本不了解事实，不理解我的过去。

解决慰安妇问题事关人类的尊严

林晓光

半个多世纪以前，日本军国主义发动了对外侵略战争，侵略者的铁蹄蹂躏了包括中国在内的亚太地区许多国家和地区，给这些国家和地区的人民带来了深重的灾难。日军所到之处烧杀抢掠，犯下了种种惨绝人寰的罪行，在占领区设立慰安所，强行征召慰安妇，就是其中最骇人听闻．最令人发指的罪行之一。然而更令人气愤的是，半个多世纪过去了，日本至今尚未对其在侵略战争期间所犯下的罪行进行彻底全面地谢罪和赔偿。从这个意义上看，日本的战后处理还远远没有完成。

随着国际社会日益走向政治民主化，随着全球范围内人道主义的高扬，人们越来越注意对于反人道罪行的揭露和惩罚，越来越多的当年的受害者勇敢地站出来，以亲身经历痛斥日军当年的暴行，要求日本政府谢罪并给予赔偿。许多富有正义感和责任感的日本人也要求政府基于国际法准则和人道主义，用实际行动反省过去的罪行，赔偿亚太各国人民因当年日军侵略暴行所受到的损害。令人遗憾的是，迄今为止所有就民间赔偿问题向日本提起的诉讼均告败诉。

现实告诉我们，对日提起民间索赔，仍将是一个任重而道远的事情，仍是一件需要各国人民坚持不懈．持之以恒的工作。而对日军当年所犯罪行的调查．取证．分析．研究，就是完成对日民间索赔所必不可少的基础性工作。在这一方面，作为受害者的中国人，更有义务和责任作出更多更大的贡献。

这不仅具有牢记民族苦难，以史鉴今的意义，同时也是伸张公理和正义，恢复人类尊严的事业。

从国际法看日本国侵华战争的民间赔偿问题

●管建强

1999 年 9 月 22 日，日本东京地方法院对三起侵华战争的受害人提起的索赔诉讼作出了驳回诉讼请求的判决。这是日本司法部门首次对侵华战争的受害人提起的索赔诉讼作出的驳回诉讼请求的判决，故而引起了世人的关注。笔者认为，对于驳回诉讼请求的判决"理由"，有必要从法律的角度进行剖析。

一、侵略战争的性质与战争受害赔偿的范围

在该判决的要旨书（以下简称要旨书）中，尽管对日本在侵华战争期间给中国人民造成极度的损害这一历史事实及原告受到的悲惨遭遇予以承认，却认为战争导致的个人损害应通过国家间的和平条约及其他外交手段来解决，甚至说和平条约缔结后被害人提起诉讼会扰乱基于和平条约确立的友好关系。为了避免两国回到战争状态，否定个人的诉讼权利是合乎理性的（要旨书第 38 页）。以上，由东京地方裁判所民事第 24 部的裁判长官伊藤刚、裁判官本多知成和林润所作的判决书、判决书要旨的一些理由，从表面上来看似乎不无一定道理，但是从法律的角度仔细分析，其理由是明显站不住脚的，驳回中国受害人的个人的诉讼请求是滥用法律、显失公允的。

1945 年，日本政府签署了波茨坦公告，宣布无条件投降。根据波茨坦公告的精神，战后远东最高统帅部设立了远东军事法庭，对日本战犯进行了正义的审判，认定日本政府发动的这场战争构成反和平罪（侵略罪）、战争罪和反人道罪。法庭对参与规划或实行完成上述罪行的领导者、组织者、教唆者与共谋者作出了严厉的惩罚。日本发动的这场反人道的侵略战争行为的性质早已有定论，即使在上述的驳回中国受害人起诉的判决要旨书中也承认"……日本国对中国人民的这场战争是毫无辩解理由的，只能是基于帝国主义、殖民主义为意图的侵略行为而已"（要旨书第 23 页）。

一国违反国际法对他国进行侵略，违反战争法对平民所施行的反人道暴行，必须承担国家责任，这早已为国际法和国际法惯例所确认。现代国际法对承担国家责任的主要形式有：惩罚战争罪犯、限制主权、战争赔偿和道歉等。

1972 年 9 月 29 日，中日两国政府在发表的共同声明中规定："日本方面痛感日本国过去由于战争给中国人民造成的重大损害的责任，表示深刻的反省；中华人民共和国政府宣布，为了中日两国人民的友好，放弃对日本国的战争赔偿请求。"

国际法规定，发动侵略战争的国家应承担国家责任，对于战争罪犯除了按国际法严惩之外，发动侵略战争的国家还应对受害国和受害国民进行正式的道歉和战争赔偿。战争赔偿的范围本身就包括两部分，一部分是国家主权、军人、国有财产、历史文化等所遭受的损害赔偿；另一部分是受害国国民在战争期间因遭到敌国军队、军人不分皂白地屠杀平民、强暴妇女及施放细菌性武器等所受到的人身伤害和财产损失。战争赔偿的范围划分为政府和民间的两个部分早有国际先例，如二战后的《日苏共同宣言》关于赔偿条款的内容是采纳前苏联方面提出的草案写入的，宣言中对民间赔偿问题明确表示了放弃。

对于中日联合声明中关于中国政府放弃战争赔偿的问题所作的解释，现行中国国家领导人有了进一步

深化的阐述。1992年9月，原国务院副总理吴学谦公开表示：民间赔偿和政府赔偿不是一回事，遭受战争创伤的中国人民通过正常渠道，提出他们的要求是完全正当的。1995年3月，国务院副总理钱其琛在全国人大会议上，再一次表明了中国政府的严正立场："《中日联合声明》并没有放弃中国人民以个人名义行使向日本政府要求赔偿的权利。"[①]因此，所谓放弃战争赔偿是指中国政府放弃战争赔偿，并不包括民间个人受害者对日本侵华暴行所造成损害的求偿权。总之，中国政府方面已明确地解释了放弃战争赔偿的范围不包括民间受害者个人的损害赔偿部分。

二、解决民间战争赔偿的法律途径

一般而言，国际法的主体主要是国家和国际组织。当国家作为向他国索偿的主体时，索偿的范围通常包括两部分，即国家的损害部分和民间的损害部分。也有学者将前者称为"战争赔偿"，后者称为"受害赔偿"[②]。当求偿国声明放弃战争赔偿的范围不包括民间的赔偿部分时，被求偿国是无权剥夺民间受害人请求赔偿的诉讼请求权的。在中日联合声明中，中方承诺的仅仅是"中国政府放弃战争赔偿"，从这个定义来看，它显然不包括民间的损害赔偿。

然而，国家的索偿途径与民间的索偿途径是不同的。被国际法公认的国际法主体国家向他国求偿可以通过外交和司法途径，如求偿国可以与被求偿国进行国家间的外交谈判，可以有第三国的斡旋、调停、国际调查等，必要时求偿国可以对被求偿国采取有限度的强制措施。当然也可以通过法律的方法来解决问题，如国际仲裁和司法判决。

而民间个人为求得因战争而导致的损害赔偿所采用的索偿途径之所以不同于国家为求得战争赔偿所采用的索偿途径，这主要是因为民间个人一般而言不具有国际法上的主体资格。民间受害个人的求偿是个人向被请求国的法院提起诉讼，依照的是被请求国的国内法即国家赔偿法进行的。

也有学者认为：民间受害人向被请求国法院提出司法救济，所适用的法律通常视该国的冲突规范的规定，即使是适用日本国的国内法，通常是指该国的民事法律规范而不是国家赔偿法。笔者以为，首先，按照大陆法系民法的一般原理，原告起诉被告的诉讼管辖由被告所在地法院管辖，因而中国的民间个人向日本的司法机关提起诉讼，日本国司法机关理应受理；其次，至于中国的民间个人起诉所依据的法律应该是日本民事法规或是国家赔偿法甚至是其他有关法规，应视具体情况。如果有具体、明确的被告，且被告的侵权行为不是出自公权力，在这种情况下，原告只能基于管辖国的民事法规来追求被告的民事赔偿责任。如，1999年9月10日，东京地方法院对"花冈事件"的中国幸存者和死难家属的起诉做出了劝告双方和解的判决。日本鹿岛建设（原鹿岛组）和原告表示接受和解的宣告。这是一起适用日本民事法规的判例。

可是民间个人的起诉对象不是自然人、企业法人，而是政府和国家的侵权行为，且该受理国已经对公权力导致的侵权行为的诉讼从民事诉讼中分离出来，建立了国家赔偿的法律制度的情况下，原告应以管辖国的国家赔偿法为依据，通过行政诉讼的途径解决为妥。当然，在依据日本国国家赔偿法、具体适用其行政诉讼程序的过程中，也应遵循其民事法规的基本原理。

国家的国家赔偿法或行政诉讼法从本质上说是没有理由剥夺因其国家的公权力的行使而直接或间接造成外国国民损害而引起的诉讼请求权。被请求国对外国受害国民根据其国家赔偿提起的诉讼，按国际惯例应以国民待遇原则处理。

日本国于1947年颁布实施的《国家赔偿法》第1条规定，"因公权力的行使而由公务员的加害行为所造成的损害，受害人有求偿权。"其国家赔偿法第6条又规定了相互保证义务，"受害人是外国人的情况下，在相互保证的限度内适用本法，"即日本国遵循了其本国与外国在互惠对等原则的条件下适用本法。而我国的《国家赔偿法》第33条规定，"外国人、外国企业和组织在中华人民共和国领域内要求中华人民共和国国家赔偿的，适用本法。"因此，中日两国的受害民间个人均有权利向对方的国家提起以国家赔偿法为依据的诉讼。

根据国际惯例和日本的国内法，中国的战争受害者个人是享有权利向日本国法院提起诉讼请求的。由于中国的战争受害者个人向日本国法院提起诉讼请求是依据日本国内法，所以根本不须以取得国际法意义上的主体资格为前提的。而东京地方法院强调个人没有国际法主体资格，因而就没有诉讼请求权的做法是

① 参见张世欣编著《浙江省崇山村侵华日军细菌战争罪行史实》，浙江教育出版社1999年版，第73页。

② 参见丁伟：《日本侵华战争的民间受害者对日索偿问题研究》，《法学》1999年第10期。

故意混淆了两类不同性质的诉讼。东京地方法院的判决书回避了外国受害者个人依日本国国内法获得司法救济的问题，非法剥夺了中国的战争受害者的起诉权利。

也许持谨慎态度的学者会提出这样的问题，日本的《国家赔偿法》中所指的公务员，从狭义的角度来看是不应包括日本军人的，尤其是日本军人在战争期间的个人的违反人道的罪行应由其个人承担，因此不能适用日本的《国家赔偿法》。笔者以为，二战时期日本军队侵略中国和东南亚国家，滥杀当地无辜民众的行为是服从于日本国最高行政机关的决策和指导的。他们的不法行为是在国家的公权力的行使的过程中发生的。日本国最高行政机关对于日本军人的违反战争法的残暴行为有直接或间接的故意，因此日本国家应承担国家责任。

三、关于日本国《国家赔偿法》的溯及力与政府继承

日本的《国家赔偿法》是战后于1947年10月27日公布并施行的。也许有人会提出这样的异议，从时间的效力上来说，对《国家赔偿法》实施前国公权力的行使而导致的侵权行为，《国家赔偿法》没有朔及力。故而受害人以该法律为依据提起的诉讼是没有胜诉权的。

笔者认为，从国际习惯法来说，新政府对旧政府遗留的合理的债务应当承担。现行的日本国政府是二战结束后新建立的政府，对旧政府的不法行为所造成的损害赔偿责任有继承的义务。即使旧日本政府有"国家赔偿法"的话，由于旧日本政府早已消亡，在新政府建立的今天，受害人也无法依据已废除的旧政府的"国家赔偿法"来作为起诉的法律依据。所以说，日本国没有理由以《国家赔偿法》在时间上的效力来排除受害人基于政府债务的继承而提出的诉讼请求权。

1999年9月22日，在东京地方裁判所驳回起诉的判决要旨书中，法官还作了这样的说明："从传统古典的国际法来看，海牙陆战规则对于个人的损害赔偿以及个人直接向违反海牙陆战规则的行为者所属的交战当事国请求赔偿权是不具有的。然而在80至90年代之际，国际法学者们曾对该规则起草的详细过程进行过研究，并作出了重新的认识，认为可以解释该规则赋予个人有直接向交战当事国起诉的权利。但是这种认识在实践中也只是起到法理解释的作用而已，在欧美国家中，根据海牙陆战规则（条约）第3条而承认个人的起诉权的实例基本上是没有的。尽管最近（1992）德国的波恩地方法院对于海牙陆战规则（条约）的起诉权解释为包括了个人的直接起诉权，但是具体的这类案件的审理还是适用了德国的国内法，而没有适用海牙陆战规则"（要旨书第33页）。日本法官们的本意是通过以上的说明和举例，强调在实践中同类情况下的德国也没有采纳国际法而是适用了国内法，因而个人不能作为国际法的主体。

不管个人是否可以作为国际法的主体，就该判决的要旨书所举例的德国受理同类案件是适用了德国的国内法这一点而言，至少可以说明以下的问题。战争中的受害者个人向德国地方法院起诉要求战争赔偿，其依据的德国国内的实体法不可能是希特勒统治时期的法律、法规，而必然是二战结束、德国新政府建立后所颁布和实施的法律。德国和日本同属于一个法系，即大陆法系。德国以新政府的法律溯及旧政府的不法侵权行为的责任是因为根据国际法新政府有责任继承旧政府所遗留的侵权债务。

二战后的《日本国宪法》第98条第2款规定："日本国缔结的条约以及被确立的国际法规则必须诚实地遵守。"它清楚地表明了国际习惯具有国内法上的效力。如果在日本的国内法律与国际法、国家习惯法发生冲突时，日本国有不得违背"诚实地履行国际法、国际习惯法的义务。"德国根据国际法的国家责任和政府继承的原则承担了赔偿战争中受害者个人的损失，因而与德国同属一个法系的日本国也无任何理由可以公然违反国际法的通常惯例、拒绝被害国受害者个人的损害赔偿请求权。

四、关于通过外交途径解决的问题

该判决要旨书指出："关于本案件中日本国、日本军、日本军人对中国国民进行的战争行为、军事行动以及由此而产生的个别事情中偶发的各种残虐行为、卑劣行为所导致的损害赔偿等问题，基本来说应当属于由战后国家间根据和平条约的缔结而处理的外交问题、政治问题而已。（要旨书第36页）""……1972年9月29日，日中两国政府发表的共同声明中［日本方面痛感日本国过去由于战争给中国人民造成的重大损害的责任，表示深刻的反省］，［中华人民共和国政府声明为了中日两国人民的友好，放弃对日本国的战争赔偿请求。］而原告方面认为上述的放弃并非指中国国民作为个人对日本国请求赔偿的权利。本裁判所认为尽管有此观点，但是该问题的解决完全应当通过国家间的外交途径，个人对我国直接的损害赔偿请求权是没有

的(要旨书第37页)。"笔者认为东京地方裁判所剥夺受害者个人的诉讼请求权是违反国际法和国家惯例的。退而言之,即使依据《中日联合声明》通过外交途径来解决,日本国的违约责任也是显而易见的。根据《中日联合声明》的规定,"日本方面痛感日本国过去由于战争给中国人民造成的重大损害的责任,表示深刻的反省。""反省"虽是过程,但必然有其结果,中日联合声明中所指的"反省"当然包含其过程和结果。日本政府有义务就战后或中日两国政府发表联合声明以来长达20多年时间中的反省、认识的结果向中国政府和中国人民进行报告,并公告于世。如果认识到这场战争是日本军国主义者发动的侵略战争,日本政府就应公开地向中国政府和人民谢罪。即使该判决书也不得不表明:"……由于我国的侵略行为造成了大多数中国人民的莫大的战争灾害,对此,我国完全应该向中国人民作出真诚的谢罪(要旨书第24页)。"事实上仍持有日本军国主义情绪的日本政府至今没有向中国政府和人民谢罪。《维也纳条约法公约》第60条第1款规定:"双边条约当事国一方有重大违约情事时,他方有权援引违约理由终止该条约,或全部或局部停止其施行。"既然日本政府违反约定不履行"反省"义务,则中国政府方面也有权拒绝履行"放弃战争赔偿的请求"的承诺。

判决要旨书还特意地暗示了中国政府放弃战争赔偿是日中两国人民友好关系的基础。笔者认为这是本末倒置,完全是一厢情愿的胡言。日本政府向中国政府和人民正式的公开谢罪是中日两国人民友好关系健康发展的前提和基础,因为中国政府和人民不仅是战争的受害者,同时也是战胜日本军国主义侵略者的正义一方。按照国际法和国际公认的惯例,只有战败的侵略国家向受害国或战胜国承担战争赔偿、道歉的义务,却从来没有反其道而要求受害国或战胜国承担国家责任为前提的。因此,通过外交途径解决战争赔偿的问题,首先是中国政府可以、也有权利责成日本国政府正式向中国政府和人民谢罪。

此外,关于民间的个人战争赔偿问题也涉及到国家的外交保护。现代国际法上的外交保护是指,私人因国际不当行为遭受损害,其所属国可以向实施不当行为的国际法主体追究国家责任,使个人遭受的损失得以补偿。行使其外交保护的条件是被保护者必须具有保护国的国籍,同时已在所在国"用尽当地司法救济"。日前,中国外交部发言人章启月在回答记者关于日本东京地方法院对中国战争受害者赔偿问题判决的提问时指出:"中国希望日本有关方面,特别是日本政府能够正确认识侵华战争后果,在涉及中国人民身心健康及切身利益的问题上,能够采取认真负责的态度,敦促日本有关方面严肃对待中国公民所提出的要求。"勿用置疑,中国政府正在严肃认真地关注着这一事态的发展,在受害人用尽当地司法救济后(被驳回起诉的受害人已上诉)的必要时,中国政府完全有权利行使国家的外交保护权。

中国政府为保护本国公民而行使外交保护权,不仅能体现中国政府正在认真行使、履行保护公民人权职责,同时随着外交保护权的启动,随着为中国人民合法利益而追寻公平、正义的过程的展开,它将进一步增强中华民族的凝聚力、激发人民群众的爱国热情。从这一意义上来说,行使外交保护权对中国政府和中国人民也是极其有益的。

从中日两国发展的关系上来说,日本政府和有关方面只有向中国政府和人民作公开、真诚的谢罪,公平、合理地向战争受害者个人进行赔偿才能使中日两国的关系走向健康、正常、友好的发展方向。

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