

The War Compensation Issue of Japan: Its Development and Assignments

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1. The Hidden Issue: War Compensation

The war compensation issue, having been suppressed during the postwar history of Japan has finally surfaced; it is an important issue that Japan cannot avoid facing.

Japan's social climate has shifted favourably recently. It is now better able to deal with and atone for Japan's past unjustness rather than trying to hide or ignore it. This is a must for Japan when it wants to build a trusting and peaceful relationship with other Asian countries.

On August 29, 1990, the Koreans stranded in Sakhalin at the end of WWII filed a suit at the Tokyo District Court. This action touched off a series of law suits. Japanese lawyers now represent plaintiffs in more than 20 such cases today.

On January 31, 1991, a suit was filed at Osaka District Court by Mr. Tsuen Shang Ken, a Korean who resides in Japan and was injured during the war as a Japanese soldier. The unfair use of Support Law was reviewed with an aspect of national compensation.

In a Diet session held in June 1990, a member of the Japanese Government Committee denied the government's participation in military brothel system. Under this system, a number of young women, primarily from the then-Japanese colony of Korea, were forced to provide sex to the Japanese soldiers. They are known as "comfort women". In August 1991, Korean women, angry with the denial,

took action by revealing their identities. Kim Hak Soon halmoni (meaning "old woman" or "grandmother" in Korean) was one of them. This created a sensation and "comfort women" became the core of the war compensation issue.

On August 3 and 4, 1991, the Asia Pacific Region War Compensation Forum was held in Tokyo. Participants were groups and individuals from 10 different countries including Japan. A common foundation among different war compensation issues was created in this meeting, and individual issues discussed became major parts of the war compensation issue. All participants declared that the Japanese had an insufficient compensation counterplan for the war victims. The following were the problems discussed in the Forum.

Sakhalin	North and South Koreans who were stranded in Sakhalin
Korea	1) A-bomb victims of indentured workers to Hiroshima Mitubishi Heavy Industries, 2) Association of Families of Absentees Who Were Taken to Sakhalin, and 3) Korean Association of the War Bereaved and Victims in the Pacific War
Taiwan	Former Japanese soldiers and army civilians in Formosa
Hong Kong	Hong Kong Reparation Association (Military Currency)
China	Families of the deceased who were transported and enslaved against their will
Phillipines	Victims of the massacre during Japanese occupation
Indonesia	Heiho (assistant soldiers of the Japanese Army) Association
Malaysia	Taimen Railway (Thailand to Burma) forced labourers

Palao Indentured workers

Japan B and C class Korean war criminals residing in Japan

Now two years have passed since the Forum. How have their movements been coming along? Has any progress been made to settle the issues?

2. Chain Reaction: Trials and Civil Movements

The need for a war victim to recover his or her human dignity is as essential as it is to recover the dignity of other plaintiffs. At the same time, recovery of human dignity does not come only from the court trial; the court trial should be associated with civil movement and social consciousness. More importantly, citizens (of Japan) and victims need to work together to raise public awareness, change mass media, and put pressure on the Japanese assembly.

Since the 1970s, some citizens' groups have been supporting Korean A-bomb victims in Hiroshima, Nagasaki, Osaka and Tokyo. Apart from this, another active and supportive citizens' group has won an apology from the Kashima Construction Company who apologized to the Chinese whom they abducted and enslaved in Hanaoka Mine. Some citizens groups are now tackling Unit 731, the infamous unit which experimented on human beings during WWII.

Although China was the country most severely damaged by the Japanese military, the victims have never been able to file a suit because of China's social structure. Koreans remain the leaders of these issues, voicing strongly their demands to recover damages for what they have suffered. On November 12, 1991, a suit was filed by Korean residents of both Japan and Korea, who were wrongly forced to take responsibility for war crimes committed by the Japanese.

They were classified as B and C class war criminals in place of the Japanese. On December 6, 1991, members of the Korean Association of the Pacific War Victims and Bereaved Families filed a suit against the Japanese Government seeking compensation. The plaintiffs are three former "comfort women" including Kim Hak Soon, soldiers and military employees, and their families. Both cases had a big impact on Japanese society. The latter is remarkable because it revealed the existence of the "comfort women", sex slavery by the Japanese Government, to the world. Then-Prime Minister Miyazawa's visit to Korea in January 1992 and discovery of documents by Professor Yoshiaki Yoshimi of the Imperial Army's involvement in forced prostitution led to a government apology (Washington Post).

In 1992, many more cases were filed by Koreans. One such action is that of pensions for the disabled. Plaintiffs Mr. Shek Cheng Chi and Mr. Chen Shek Yu, Yokohama residents, took action and filed a case at the Tokyo District Court. Because their application for the pension for disabled was dismissed despite the effort they made using all the administrative procedures of Japanese domestic law, now they are seeking an annulment of the dismissal. In principle, the arguments and logic used in this case were the same as Mr. Tsuen Shang Ken's case filed at Osaka District Court on January 31, 1991 (see above) and Mr. Lee Chang Sok's case filed at Kyoto District Court. Mr. Lee, a Korean former Japanese soldier who was held in a concentration camp in Siberia, is seeking national compensation.

These cases share one thing in common: the elimination of and/or discrimination against those who do not have Japanese nationality. The article

on nationality is in the regulations relating to Social Fund for the Peace Prayer Project (1988) as it was in Support Law for War Victims in the 50s. I believe this article is unconstitutional and violates International Covenant on Civil and Political Rights.

Japanese Government has supported Japanese veterans and approved compensation for civilian workers extremely generously. More than 10 Support Laws were put forward including regulations on pension and to support bereaved and war injured. Two trillion yen is budgeted each year, and 34 trillion yen has already paid. This is typical: this country's administration is concerned only for Japanese nationals.

However, Japan ratified item 26 of International Covenant on Civil and Political Rights which concerns the principle of equality regardless of a person's nationality. The United Nations Human Rights Committee ruled against the French Government when it did not provide pensions for Senegalese soldiers because of their nationality. This interpretation of item 26 has framed the interpretation of this same item by the Japanese courts. Japanese courts no longer can press such excuses as "limit of endurance" or "Diet's discretionary action". The Support Law for War Victims needs to be enforced equally, to include those who do not have Japanese nationality. Also, the principle of national compensation must fully be understood by the Japanese people.

The Pusan Military Comfort Women Volunteer Corps officially demanded an apology and filed a suit at the Shimonoseki Branch of the Yamaguchi District Court; Ukishima-maru victims seek national compensation and filed a suit at Kyoto District Court; and families of massacre victims in Kamishisuka, Sakhalin,

claimed compensation and filed a suit. The Japanese Government is the defendant in all these cases. However, the Japanese Government is not the only institution to be blamed. Business corporations should also bear the responsibility as partners to the government's transgressions. In Germany, a number of business corporations have taken responsibility. I.G. Farben, Krupp, Benz, and Volkswagen are among such corporations.

The war responsibilities of corporations such as Kashima Construction and Hiroshima Mitubishi Heavy Industry have been questioned for a long time. Cases against Nihonkoku (NKK), Mitubishi Heavy Industries, and Fujikoshi have been filed, respectively, at the Tokyo, Nagasaki, and Toyama District Courts. Plaintiffs in each case claim unpaid salary and compensation for forced labor and ill treatment. The corporations' arguments are the statute of limitations, the Korean Japan Treaty and certain measures related to the domestic law. The identity of the company has become a critical point because companies have responded that because the companies changed their structure, they are no longer the same companies as during WWII. What is curious about the reasoning of this response is that the corporations do not use them against Japanese plaintiffs. German business corporations reacted in the same way when they were first accused of liability. They responded that under the strict system to mobilize the nation, it was not possible to disobey; therefore, the corporations did not bear any responsibility. Nevertheless, as was the case in Germany, Japanese business corporations did ask the government to provide Korean and Chinese labourers. Therefore, their reasoning is spurious.

Up until the end of 1992, Koreans were only ones who had filed suits.

3. Ripple Effect

War compensation trials steadily progressed and moved onto next stage when Philippino former "comfort women" filed a suit at the Tokyo District Court seeking compensation on April 2, 1993. The system of sex slavery in Philippines was different from the sex slavery in Korea. It was a part of oppression against a people living in a hostile and occupied zone. Korean women were forced to provide sex in order to prevent venereal diseases and rape, and for espionage. The Japanese Army systematically mobilized young Korean virgins for these purposes. In the Philippines, women were raped for a certain period, and sex slavery was often accompanied by the massacre of the local men. It was not a typical "comfort women" case.

The compensation claimed by Phillipino former "comfort women" revealed different aspects of the case. Women were sexually enslaved in far wider areas than was previously thought. By focusing on "comfort women" issue, one can see the whole picture of the Japanese oppression of Asia.

On April 5, immediately after Philippino former "comfort women" filed a suit, Korean former "comfort women" residing in Japan also filed a suit. Meanwhile, Pe Pongi halmoni of Okinawa had died. Many Japanese were shocked by the fact that former "comfort women" lived in their neighborhood and often had contact with them in everyday life.

Former "comfort women" are living in Japan, in neighboring countries, and all over Asia. Japan's ethics are in question. Some Japanese blame those of us who work on these cases, for exposing the issue of "comfort women". But they

arrogantly ignore the victims' desperate hope to liberate themselves from their nightmare. The women have been forced to live with agonizing memories more than 40 years, and have been deprived of their right to live ordinary lives. At long last, they have broken their silence and taken action to recover their honor. We, not the women, have to overcome the prejudice we have created in our society which has suppressed them and prevented them from speaking the truth. A society that condemns women who were sexually victimized is wrong and must change. Justice has to be brought to bear for the unjustifiable acts committed by the Japanese Army. Compensation for former "comfort women" is important, primarily because it will restore human dignity to the victims and bring justice. Furthermore, it will give the Japanese people an opportunity to review their society and the history that nurtured it.

We filed the Hong Kong military currency case on August 13, 1993. This case adds a new aspect to the issue by challenging yet another severe war crime which up to now has been untouched: the plunder of assets. This is also the first law suit by the Chinese nationals who reside on the continent.

War compensation trials cannot go unrelated to the democratization movement in the Asian region. The issue has expanded from Koreans, including Koreans who reside in Japan and in Sakhalin, to Philipinos and to the Chinese in Hong Kong. Each region had its own military junta. Some states ignored the human rights of its people. At the beginning, democratization in the each area progressed slowly. Then, human rights organizations became active and made contact with Japanese citizens who were concerned with the matter. Those who were forced to live at the bottom of society, the ones who were the least likely to be

political, filed the suits. We anticipate that more claims will be initiated from all over Asia. As the country most brutally victimized, China's movements warrant close attention. Meanwhile, some ten thousand ex-POWs who were imprisoned in Japan from Britain and the Netherlands are seeking compensation for the ill treatment they had to endure while in captivity.

4. International Development

The "comfort women" issue shocked both the Japanese and the international community. Military "comfort women" should not only be viewed as Japan's oppression of Asia but also as a violation of sexual freedom and the sexual enslavement of women. Triggered by the Association to Counterplan Volunteer Issue, a motivated Korean women's organization, represented by Jun Chen Oque and Lee Xiao Zai, many citizens' groups were formed to tackle the issue. A task force was formed in the Philippines, and investigation structures were formed in Taiwan and North Korea by both the citizens and their governments.

These organizations have located the former "comfort women" who survive: there are 140 in South Korea, 131 in North Korea, 55 in Taiwan, 80 in Phillipines, 8 in Indonesia, 2 in Malaysia, and some in China as well as in the Netherlands. It was not only Asian women. As it became known that European women had also suffered, the issue reached all over the world.

Since the issue attracted international attention, it was discussed in a sectional meeting in the United Nations Human Rights Committee. Then, a regular reporter was appointed to ensure that the information on the issue would flow continuously. An international hearing held in December last year in Tokyo gave

an opportunity to the members of the UN Committee on Human Rights to hear directly from the victims. The discussions going on in Japan and the reactions from the participants did not always agree, but the meeting was remarkable because, in this first international meeting, our allegation based on the International Human Rights Law was fully supported.

The sectional meeting was held and our allegation was discussed again in April 1993; then, the issue was regarded as an important one in the World Human Rights Conference held in Vienna in last June. Reports presented by the reporters and the UN's Human Rights Subcommittee's deliberation will again emphasize the importance of the issue and lead international public opinion.

5. Logical Development

International Humanitarian Law is the grounds for war compensation claims. It is an international law to be applied during wartime while the International Human Rights Pact is applied during peacetime. Koreans stranded in Sakhalin brought attention to the law. The suit carries the phrase, "the crime against humanity". In the case of Korean Association of the War Bereaved and Victims of the Pacific War, this was also the central argument at the trial. The Hague Convention (1907) which regulates treatment of civilians in occupied areas, came to the fore in the Philippino former "comfort women" trial. The convention forbids human trafficking, slavery and forced transportation. Crimes against humanity and the convention were the grounds in the case of Korean former "comfort women" residing in Japan.

Japanese scholars have slowly given their support to the idea of individual

claims for compensation for violations of International Humanitarian Law. This has been accepted by the international community. Historically, individual compensation has always been regarded as important because a state may commit international illegal acts. Compensation to the Jews by Germany and to citizens of Japanese descents by the Canadian and American Governments are examples of this. Most reparation claims to the Japanese Government were made invalid by the San Francisco Treaty. The reason for invalidation was to maintain Japan's economic status. Otherwise, Japan would not have been able to continue to exist. This was taken up in Article 14 of the treaty. National reparation was also invalidated for the USSR and China though they did not take a part in this peace treaty. Reaction to the negation of reparation made it clear that nations cannot deprive individual rights to claim compensation. Once it comes into effect, treaties are invalid. In other words, Japan-Korea Treaty only settled nations' rights and its diplomatic rights concerning individuals. This was recognized by the Japanese Government and became a fixed tenet. The right to claim compensation based on the International Humanitarian Law is in effect today. International awareness of human rights contributed to the loss of the government's sole authority on the compensation issue.

6. Japanese Government Change

Because of domestic and international changes in attitude, the Japanese Government has shown some change, though reluctantly.

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the government issued the second report recognizing the forced transportation as well as forced prostitution after having studied the results of the hearing. Experts were consulted on how to deal with the mistake that the army made, and it was concluded that the "issue needed to be examined seriously." Some details in the report are not acceptable but it gives some hope to the future progress of the compensation issue.

Chief Cabinet Secretary Yohei Kono recognized the "flattery and oppression" system of luring "comfort women" in his speech. These illegal actions were committed by the army, and the state confessed and admitted the fact that it had violated International Humanitarian Law by persecuting Korean women. According to the code of procedure, this process is seen as "admission" of the cause of the claim based on the international illegal action. With this admission, Japan inevitably bears the legal duty to apologize and to compensate the victims it oppressed. Japan's admission of the fact of forced transportation is extremely important in order to receive compensation. The Japanese Government must have known how important it would be to admit that fact. It had refused to hold the hearing session with the victims, refused to recognize the use of force. Further, it tried to limit their action to mere "participation."

Slowly but steadily, because of public opinion, the Japanese Government has been changing its attitude. However, it is still far from fundamental and voluntary cooperation. Slow progress is attributed to defensive and bureaucratic resistance to change, even partial changes, which go against Japan's postwar politics, diplomatic achievements and principles. Such fundamental principles, which the authorities have built up to justify the past,

are now being examined. When Mr. Kaifu was Prime Minister, reevaluation started with his apologetic attitude. It was inevitable that the war compensation issue would be brought up.

The Japanese Government has indicated its desire to solve such issues as "comfort women", Koreans stranded in Sakhalin, and Taiwan's military post deposit by the end of this year (1993). Such surface solutions will not put a complete end to these problems.

The new administration is bound to bear the responsibility to realize overall compensation because of the steps taken by the previous administrations. A formal apology resolution in the Diet should be made. A Special Committee to Investigate War Compensation Issue should be set up. Then, finally, Japan can move ahead to the next assignments.

7. Future Steps

The following steps are recommended:

1. We have to understand that we have only started to disclose the truth about military "comfort women". We still have a long way to go before we can grasp the whole picture. Hearings for the victims need to be held too, in North Korea, Phillipines, Taiwan, China, Hong Kong, Indonesia, Malaysia, and the Netherlands. Likewise, former Japanese soldiers, military employees, doctors and nurses should give testimony and be questioned. Victims hearings should never be simply technical fact-gathering sessions. Hearings should try to help the healing process by offering apologies and attempting to retrieve their honor. The Japanese Government needs to communicate its sincerity as soon as

possible, to as many people as possible and as directly as possible.

Only a little information on the matter was found at the Defence Agency; other documents that belong to the Ministry of Justice and Police Department are still kept in secret. Materials held by the US Military and Allied Forces need to be examined as well.

In order to disclose the truth, the Diet should hold a public hearing and open the testimony by the victims and concerned parties to the public. Historical facts should be shared by both the state and its people. Open hearings in the parliamentary bodies of government played an important role in Germany and in the USA to help these nations recognize their wartime responsibilities more clearly. The possibility of setting up an investigative committee that consists of both the government and the citizens should be studied and taken into consideration.

2. It was not only "comfort women" who had suffered terribly. Those who were forced to be slave-soldiers and military employees equally suffered. A number of young men in the then-Japanese colonies were mistreated, tortured, and killed. Japanese Army stripped the assets of Asians, the Chinese in particular, and raped, abused, and slaughtered them. I would like to emphasize that the settlement of the "comfort women" issue does not mean the settlement of all other issues.

3. The crimes that our country and society committed in wartime need to be recognized and illuminated. By doing so, we can clarify what the war crimes are and pursue these criminally responsible. Only then, with complete war compensation, can we recover the previous condition for people and things. To

recover the honor of those who were disgraced, dishonored, and ill-treated. For no reason, a sincere apology from the Diet is crucial. Victims' needs always be given the first priority when postwar responsibilities are being determined. Acknowledgement of postwar responsibilities enables us to build a society where justice has a place and where such mistakes will not be repeated.

4. To remember the atrocities of the war, precise history needs to be passed on to the next generation. The preservation of historical remains such as tunnels and the military brothels constructed by forced labourers and the construction of memorial halls both in Japan and overseas is necessary. Furthermore, accurate history text books and frank history curriculum in schools is also a must.

The Japanese Government is planning to construct a Peace Memorial Museum in Kudan, near Yasukuni Shrine. It will commemorate exclusively three million Japanese war victims. The Japanese Government is pushing the plan forward despite its more than 10 billion yen price tag. The insensitivity of the government borders on ignorance and goes against the times.

With the movements we have witnessed in 1993 together with cooperation from the government, it is not impossible to realize a more rational postwar settlement. If Japan is serious about its relationship with Asian countries and continues its substantial internationalization, it has to face those responsibilities. We, the Japanese, need to maintain a strong network among the various citizens groups to exchange information with our counterparts in different parts of Asia. By exchanging information and building trusting relationships with victims' organizations and movement groups in Asian countries, Japan

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Only a limited number of other documents are still kept in Japan to be examined

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2. It was not only those who were forced to work but a large number of young people were killed. Japan should also pay for the and raped, abused and settlement of other issues.

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able to win international support to pursue the changes in the Japanese Government and society.

International meetings such as Asia Pacific War Compensation International Forum held in August 1991 are significant in that respect. Memorial Meeting for War Victims of the Asian-Pacific Region was held in August 14 and 15, 1993 to help change Japanese Government and society.

Japan's government and society are now in transition. Citizens' individual efforts are strongly needed to make our country recognize the compensation issue as a top priority. For I believe such citizen's movement will benefit the similar cases in different parts of the world, I urge you, the members of international community, to cooperate with us by putting pressure on the Japanese Government to take appropriate action.