

REGIONAL FOCUS & CONTROVERSIES

Remedying “Enforced Sexual Slavery”: Validating Victims’ Reparation Claims against Japan

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It has been over two decades since the Japanese practice of enforced sexual slavery began to receive widespread attention. Yet despite numerous international efforts to urge Japan to squarely acknowledge its moral and legal responsibility, there has been no meaningful progress to resolve this matter. This work revisits the issue of enforced sexual slavery as it stands today. The Japanese practice of enforced sexual slavery was a clear violation of international law at the time. Therefore, individual victims have valid legal claims for reparation against the Japanese government. The first half of this article reconfirms the illegality of the practice of enforced sexual slavery. The remainder summarizes and vindicates the claims of the victims once again. This research suggests how to remedy the victims’ rights and discusses how to implement reparation. It also contends that Japan owes reparations and legitimate remedial measures to the victims that go beyond monetary compensation in line with the rules of contemporary international law.

Keywords

Enforced Sexual Slaves, Crimes against Humanity, Reparation for Individual Victims, The 1965 Korea-Japan Agreement, The San Francisco Peace Treaty

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1. Introduction

The practice of “enforced sex slavery (“ESS”)¹ during World War II by the Japanese military left victims of crimes against humanity who, over the last 70 years, have been denied a remedy. Germany has acknowledged its role in committing atrocities, officially apologized, made restitution to the victims, and even tried to prevent the recurrence of such tragedies. However, nothing significant has been done by Japan.²

Despite repeated international efforts, including resolutions from the US Congress,³ the new Japanese Prime Minister Shinzo Abe, the maternal grandson of Nobusuke Kishi, ‘Class A’ war criminal and a former prime minister of Japan, is again moving to withdraw a 1993 admission of the historicity of ESS.⁴ Over time, the number of registered Korean victims has decreased from 234 to 58.⁵

The conventional position and arguments of the Japanese administration, and its judiciary⁶ are confusing and contradictory, with recurring ‘even-ifs.’⁷ Ever since

¹ Former US Secretary of State Hillary Clinton reportedly stated that the ‘comfort women’ should be referred to as “enforced sex slaves.” See Staff Writer, *Clinton says ‘Comfort Women’ Is Incorrect Term*, CHOSUN DAILY, Jul. 9, 2012, available at http://english.chosun.com/site/data/html_dir/2012/07/09/2012070900793.html (last visited on Apr. 19, 2013).

² Kyoko Kishimoto, *Apologies for Atrocities: Commemorating the 50th Anniversary of World War II’s End in the United States and Japan*, 42 AM. STUDIES INT’L 40 (2004). For a concise look at Japan’s ‘struggle,’ see Shuko Ogawa, *The Difficulty of Apology: Japan’s Struggle with Memory and Guilt*, 22 HARV. INT’L REV. 42-46 (2000). For the collective sentiment of resistance among the Japanese public, see Onuma Yasuaki, *Japanese War Guilt and Postwar Responsibilities of Japan*, 20 BERKELEY J. INT’L L. 604-606 (2002).

³ In 2007, the U.S. Congress adopted a resolution acknowledging Japan’s sexual enslavement of Asian women. Recently, the New York State Senate unanimously adopted a resolution condemning Japan’s wartime mobilization of Asian sex slaves for the Imperial Army. It was the second state legislature to adopt such a resolution after the California State Assembly in 1999. See Staff Writer, *New York Senate ‘Comfort Women’ Resolution*, CHOSUN DAILY, Jan. 31, 2013, available at http://english.chosun.com/site/data/html_dir/2013/01/31/2013013101197.html (last visited on May 8, 2013).

⁴ Staff Writer, *U.S. Warns Japan Over ‘Comfort Women,’* CHOSUN DAILY, Jan. 07, 2013, available at http://english.chosun.com/site/data/html_dir/2013/01/07/2013010700460.html (last visited on May 8, 2013). See also Staff Writer, *Scrap Japan’s Admissions of Guilt, Says Ex-PM*, CHOSUN DAILY, Aug. 29, 2012, available at http://english.chosun.com/site/data/html_dir/2012/08/29/2012082900659.html (last visited on May 8, 2013).

⁵ Dong Bin Yun, *Keum-Joo Hwang, a Korean victim of the enforced sexual slavery, passed by...the numbers of the remaining victims have decreased to 58* (일본군 성노예 피해자 황금주 할머니 별세...남은 생존자는 58명), CHOSUN DAILY, Jan. 3, 2013, available at http://news.chosun.com/site/data/html_dir/2013/01/03/2013010302466.html (last visited on May 8, 2013).

⁶ For a poignant criticism of the state-centric approach of the Japanese judiciary, see M. Levin, *Japan-China Joint Communiqué of 1972-San Francisco Peace Treaty Article 14(b)-individual victims Of Japanese wartime forced labor and sexual slavery-World War II restorative justice- denial of right to compensation in domestic litigation*, 102 AM. J. INT’L L. 148 (2008).

⁷ See Views of the Government of Japan on the addendum I to the report presented by the Special Rapporteur on violence against women. U.N. Doc. E/CN.4/1996/53/Add.1.