

[Note]

# Wartime treatment of the 'comfort women' and today's prostitution-or-slavery debate

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## I. INTRODUCTION

On the international stage, 1989 saw the fall of the Berlin Wall and with it the end of the Cold War, a long trial of strength between the United States and the Soviet Union which had started at the end of WWII. No more considered by the US as the essential partner to containing communism in Asia, Japan was to renegotiate its local relations, severed during the Cold War, but it was also to face individuals' memories about atrocities committed by the imperial army, notably in China and Korea.

On the other hand, in that same year, Japan saw the death of emperor Hirohito, liberating a huge number of personal remembrances about the Showa period (1926-1989). There were also controversies about Japanese war crimes—during the Second Sino-Japanese War and the Pacific War—and the emperor's responsibility (Seraphim 2006: 261-170).

Inhumane treatment of POW's, forced labour, human experimentations are but a part of that horrible past for Japan to come to terms with. But amongst the war victims' voices, the *comfort women's* plight, along with their demand for an apology and reparations, have been met with both a surprisingly strong rejection from conservative groups in Japan, and a strong support from the international community.

My aim in this essay is not to concentrate on individual testimonial narratives, often made of deceptions, coercions, beatings, and rapes. Neither is my intent to find justifications for wartime Japan's acts of violence. Rather I will try to assess whether they suffered war crimes i.e. violations of the laws or customs of war, and show how the clash of history, victims' memories, countries' narratives, and transnational agendas have polarised this issue into a prostitution-or-slavery debate.

First, an historical background will be given, followed by an evaluation of their cases as war crimes from an international law perspective. I will then assess further the situation by analysing the 'apology and compensation' issue, in terms of the present Japanese law; of the involvement of Japanese conservative politicians and Korean nationalists; but also in terms of the process of symbolisation to which the *comfort women* have been subjected. I will conclude by summing up who they were, and who they have become today, but also why it may be essential for Japan's own sake to acknowledge the war victims' suffering in a formal framework of remembrance.

## II. HISTORICAL CONTEXT AND WAR CRIME ASSESSMENT

Comparing the various usages of the expression *comfort women* in the literature, I have decided to

employ it to refer to all girls and women who had to prostitute themselves to the Japanese military, during the Fifteen Year War (1931-1945). Their number is estimated from 20,000 to 400,000 according to different researchers, but it seems reasonable to think that they were between 50,000 and 100,000 (e.g. Margolin 2007: 354); predominantly Korean, but also Chinese, Philippine, Indonesian, Dutch, and Japanese including Taiwanese. In order to better understand how diverse their experiences were, their timeline and locations must be described against the background of the Japanese militaristic expansion in Asia. On the other hand, the expressions *ianjo* or *comfort station* will designate the facilities where these 'services' took place. I will follow the classification given by Soh (2008: 117-142).

### 1. Comfort station evolution within Japanese wartime history

In the late-Meiji period, in reaction to aggressive Western imperialism, modernised Japan imitated its counterparts in adopting a security-through-expansion strategy.

Tensions in Korea and Manchuria triggered wars with Ming China (First Sino-Japanese War, 1894-1895), and Tsarist Russia (Russo-Japanese War, 1904-1905) leaving Japan with a sphere of influence running from Southern Manchuria to Korea, which was soon annexed to the empire (1910), including Taiwan. In 1931, under the pretext of the *Manchurian Incident*, the Kwantung Army invaded Chinese Manchuria, and the Japanese government created the puppet state of Manchukuo.

In order to prevent venereal disease among troops stationed in these regions, regulated prostitution was introduced, starting off a huge exploitation of lower-class women, in particular from Korea, but also from Japan. During this phase of the colonisation, the comfort stations were mainly *houses of entertainment* set up in towns, run by civilians—mostly Japanese and Korean—for commercial profit, and offering sexual services and entertainment requested for by the military authorities. Another common type of *ianjo* was the *maiden's auxiliaries*, prostitutes embedded in units, and who were transported along with provisions when the troops advanced. Even though traffickers were mostly civilian, these stations were non-profit facilities controlled exclusively by the military.

The army's move to the south provoked the Second Sino-Japanese War which began with the *Marco Polo Bridge Incident* in 1937.

This all-out war against China called for a sharp increase in regular troops (over one million), and in comfort stations which were particularly needed when it appeared that mass rapes, as in Nanking, were outraging the international community, and disturbing order in occupied China (Yoshimi 2000: 49-51). *Houses of prostitution* became common and geographically ubiquitous, run by civilians but strictly supervised by the military. The majority of the Korean survivors appear to have been kept at these houses. Likewise *quasi-brothels* became typical throughout China. They were facilities installed in rapid succession in remote regions close to the front lines and visited exclusively by soldiers with the permission of their superiors.

Imperialist antagonism and reports of atrocities in China—in particular after the *Nanking Massacre* on December 13, 1937—began to fuel tensions between the U.S. and Japan. Finally, in reaction to the invasion of French Indochina (1940), Washington started embargoes on scrap iron and petrol, goods that were indispensable to the Japanese military, leading Tokyo to launch a war against the U.S. (attack on Pearl Harbor, December 7, 1941). Within a short period of time, Japan invaded coastal Chinese cities such as Shanghai, and the South-East Asian countries of Brunei, Malaysia, Singapore, and the Dutch East Indies

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(today's Indonesia) in 1942.

Another 400,000 troops were dispatched south to participate in these invasions. It is during this phase, and until the surrender of Japan, that a new type of comfort station developed, i.e. the *criminal ianjo*. They were improvised by soldiers on battlefronts in occupied South-East Asia. Local women were captured and brought back to camps, raped and forced into sexual slavery, behaviour which bears no resemblance to commercial sex. Neither health nor hygienic regulations were imposed.

It appears that the comfort women's conditions, and Japanese troops' sexual behaviour towards them, depended upon the region, and the phase of the war they were in. The last type of *ianjo* ought to be classified in the war crime category, but in the other cases, further assessment is needed, which is a complex endeavour since many official documents were destroyed before the arrival of the American occupation forces, but also because many protagonists have died since, and significant data is lacking.

## 2. Recruitment and confinement issues

Military involvement can hardly be denied, in particular when it comes to paramilitary (*maiden's auxiliaries* or *quasi-brothels*) and criminal stations. The military's direct role in recruitment in other cases remains controversial. But, from a small sample of 172 Korean survivor testimonies, for example, it can be deduced that about 20% of Japanese soldiers and/or civilians working for the military were implicated (Soh 2008: 139). However, the professional prostitutes (*karayuki-san*), the young women 'freely' entering the system to settle their families' debts, and the girls sold by their fathers out of poverty should also be taken into account. Consequently it would be a mistake to consider *all* comfort women as having been systematically recruited by deception or abducted, and solely by the Japanese military. In the sample above, 45% of the brokers were Korean.

On the other hand, it can be inferred that, in the concessionary type of stations (*houses of entertainment, and prostitution*), they could free themselves by paying off their debts, or by personal intervention of officers. In contrast, special favors gained from officers were almost the sole way to leave the paramilitary type. Escape or liberation by the Allied forces was the only option for women trapped in *criminal ianjo* (Soh 2008: 133).

## 3. International law issue

Yoshimi (2000: 153-162) has documented the fact that the Japanese government was aware of the problematic nature of their policies in the matter of prostitution. The Japanese were indeed in violation of international legislation, notably the *Convention on Laws and Customs of Land Warfare* (1907), and the *International Convention for the Suppression of Traffic in Women and Children* (1921), ratified by Japan respectively in 1912 and 1925. Secondly, the concept of *Crimes against humanity* first used in 1915 and applied at the Nuremberg trials (1945-46), outlaws "murders, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war [...]." It could have been applied at the International Military Tribunal for the Far-East (1946-48), but nobody was tried for it. In any case, loopholes in international laws, like their non-applicability in colonial territories (Korea and Taiwan), allowed Japan to argue that these activities were not statutory offences.

However, in the case of the comfort stations in Semarang on the island of Java (Indonesia), where many

young Dutch women had been forced to prostitute themselves to Japanese officers, thirteen defendants were prosecuted in 1948 as Class B and Class C war criminals by the Ad Hoc Military Court, in Batavia. Eleven were found guilty of notably 1) rounding up women and girls for the purpose of forced prostitution, 2) forcing girls and women to engage in prostitution, and 3) rape (Yoshimi 2000:163-176). But, by signing the San Francisco Peace Treaty (1951), Japan accepted "the judgments of the International Military Tribunal for the Far-East and of **other Allied War Crimes Courts** (emphasis added) both within and outside Japan" (PTSF 2009, article 11), admitting ipso facto that by rounding up girls and women, forcing them into prostitution, and raping them, war crimes had been committed.

### III. THE 'APOLOGIES AND COMPENSATIONS' CONUNDRUM

At the Tokyo Trial (1946-48), prosecutors were unable to discern the criminal nature of forced prostitution. Even the US occupation forces were resorting to Japanese comfort women services at the time (Tanaka 2002: 84-87, 133-166). Besides, Washington decided to reverse the policies that were intended to render Japan harmless, and instead, to make it a strong ally in order to contain the advance of communism in Asia. Since reconstruction required political, economic, and military leadership, the people who had just been purged or imprisoned for their collaboration in the war were able to go back to their posts. These were decisions that would further encourage Japanese 'amnesia' (e.g. Lind 2008: 31-32).

The comfort women were to wait over forty years for the fall of the Berlin Wall and the Soviet Union's collapse, the death of Hirohito, and the widespread democratisation trends in South Korea, before they were internationally recognised as war victims to whom Japanese government should apologise and give compensation.

#### 1. Post-Cold War legal actions

The first legal case was a class action lawsuit filed, in December 1991, against the Japanese government in the Tokyo District Court by former comfort women of Korean nationality, including Kim Hak-sun, who had made, one month earlier, the very first public statement about their ordeals. According to her testimony, she had been abducted from her home in Pyongyang in 1941, at the age of 16, and forced by the Japanese imperial army to work as a prostitute in northern China. Their appeal was rejected (July 2003). And so were nine of the following ten lawsuits—until 2001—filed by other Korean, Filipino, Taiwanese, Chinese, and Dutch nationals (JD 2009; see also in Table 2).

In their conclusions, the judges dismissed the plaintiffs' claims arguing that direct compensation could not be offered since all the issues had been settled by post-war treaties signed between the states (see Table 1). Moreover, international law does not provide individuals with the right to seek compensation from national governments. Finally, since the facts had occurred more than 40 years ago, they were exceeding the statute of limitations of 20 years (JD 2009).

#### 2. National narratives at stake in Japan and in South Korea

(a) Political actors were not impervious to the situation. When Japanese military collaboration began to be documented by Yoshimi in 1991, various politicians, from progressive and, later, conservative parties, started apologising for Japan's brutal regime during the war, in particular toward comfort women (Table

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2). The apologies of PM Kiichi Miyazawa (1992) and notably PM Tomiichi Murayama (1995) were amongst the first ones in a list of over thirty issued afterwards (AC 2009). Notwithstanding, the war victims and related associations are still waiting for a formal written apology from the Japanese government itself.

It might, however, be difficult for Japan to accede completely to their demand. Indeed, granting them their request would be an open door to many hazardous consequences. First, admitting responsibility in this case, and paying compensation, could open the floodgates to a multitude of claims from other victims (POWs, forced labourers, etc.) Besides the obvious economic cost, the cost in term of 'memory' could also be tremendous. There is a risk of ruining Japan's own war narrative in which the country is not an aggressor nation but a victim of the conflict, like other Asian nations, especially since it suffered atomic bombings (Dower 1996: 123-124; Buruma 1994: 106-107). Secondly, the Japanese army's acts of brutality would be confirmed, reinforcing distrust toward the current Japanese 'military', i.e. the Self-Defense Forces—which some officers would like to see freer from present constraints (e.g. Tamogami 2008). Even the responsibility of Hirohito for the war would resurface.

(b) In contrast, because they were unsatisfied with their own government's ambiguous stance, some Japanese officials and citizens raised the Asian Women's Fund (1995-2007) through donations from the general public. 364 former comfort women from the Philippines, Taiwan, South Korea, the Netherlands, and Indonesia each received 2 million yen ( £14500), medical and welfare support. This was accompanied with a letter of apology from the PM in power at the time of the payment. Many survivors did not find that action "official" enough, and considered it more as an attempt to silence them (Onuma 2007: 105-108; AWF 2009: 31-34).

The most aggressive reaction against the fund came from the *Korean Council for Women Drafted for Military Sexual Slavery by Japan*, a grass root activist organisation that oversees over thirty women's groups associated with Christian churches. That opposition can be understood in the light of the fact that Asian women's movements have been supported by postcolonial and postwar ethnic nationalisms sharing a strong anti-Japanese sentiment. Historically speaking, because of South Korea's failure to put on trial the Korean leaders who had collaborated with imperial Japan, "governments have needed all Koreans to connect with the idea of the illegality of Japan actions because it helps organize them as Koreans today" (Dudden 2008: 76). The raising of the comfort women issue during the 90s was therefore to provide nationalists with a means to declare the Japanese colonisation 'illegal'. Of course the comfort woman had to be defined as a "victim of deceptive recruitment by the state agents", and nothing else (Onuma 2007: 53-66; Soh 2008: 45-46). In fact, one wonders whether nationalists are really eager to settle the problem. A successful redress could jeopardise their own national narrative.

### 3. Globalisation of the comfort woman issue

(a) At the same time, and with the end of the Cold War, feminist and human rights have become more global, merging into new views that consider sexual violence against women as a violation of human rights, and rape by the military in wartime as a war crime. This was seen particularly after the Bosnian and Kosovo Wars (1992-1999) with the Serbian forces "rape centers". Rapes were being used as genocidal acts, and as weapons of ethnic cleansing (YW 2009). It is in this context that the comfort women issue,

first appraised as a local contention between Japan and notably Korea, became a global theme on sexual violence against women in armed conflicts. Because legal redresses were failing, and in order to cast these reflections into shape, a major conference entitled *the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery*, was organised by Japanese, South Korean, and Filipino women's NGO's, and held in December 2000 in Tokyo. It was concluded that Japan's prewar system of licensed prostitution was a system of sexual slavery, the military comfort system being an extension of it, both violating the antislavery conventions and international treaties in force at that time. Conscripted licensed prostitutes also amounted to crimes against humanity. Testimonies which do not conform to that narrative are altered or ignored (Soh 2008: 41-42, 181-190).

(b) Today, Japan faces more and more criticism internationally, partly fueled by the new feminist stance, in particular since the adoption in July 2007 of resolution 121 by the U.S. House of Representatives. It stipulates that Japan should "formally acknowledge, apologise and accept historical responsibility in a clear and unequivocal manner" (R121 2009). Since then other resolutions and motions have passed at several parliaments around the world (see Table 2; AJWRC 2008).

Although these repeated demands for a sincere apology are morally understandable, Lind (2008) warned that they can trigger justifications and denials from conservatives. Well-known examples are the indignation prompted by PM Tomiichi Murayama's apology in 1995, and the statement of PM Taro Aso, then Foreign Minister, in reply to the US resolution 121. According to him, it was not based on facts and "extremely regrettable". Therefore, and paradoxically, deniers and revisionist ("wartime prostitutes, not sexual slaves") may end being empowered by such international pressure, all the more if it is based on a partial representation (i.e. the *sexual slave* paradigm). On the other hand, Japan should understand that signs of sincere contrition and remembrance would reassure Asian neighbour nations (Lind 2008: 159-178, 181).

#### IV. CONCLUSIONS

Finally, who were the "comfort women"? They were girls and young women of various nationalities—notably Korean, Chinese, Filipino, Taiwanese, Indonesian, Dutch, and Japanese—victims of the Fifteen Year War vicissitudes, some suffered from crimes committed by the Japanese military, while others from common-law crimes. They were 'forced labourers', forced out of poverty or abducted, also deceived by their own people. They could be 'just' licensed prostitutes in military brothels in Manchuria, or sexual slaves in a camp in Indonesia, beaten, raped, bombed by the Allied forces, or murdered by the army during the debacle. They were victims of racism, of the troops' brutal sexual behaviour, and of patriarchal societies like Japan and Korea. But they also could bring affection and compassion to lost soldiers, or have romantic relationships, or want Japan to win. After the defeat, the survivors could be psychologically tormented, diseased, or crippled. They were often despised by their own society, or had to hide from their relatives. Some had to 'serve' the Occupation troops. But they also resumed their lives with a singular courage.

Those are some of the multifaceted realities that the term "comfort women" is supposed to cover. Moreover, new meanings have been added to that term. Who are they today?

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They are courageous old ladies, often living in poverty, who came out of oblivion after over forty years of silence, to find themselves in a juridical no-man's land, owing to the blindness of the Tokyo Trials, and the Cold War. They are victims of war crimes, but the law is suspended because of legal loopholes, of statute of limitation, and because testimonial narratives are often the only evidence they can 'exhibit'.

Meanwhile, they have become symbols: a *standard of battle* for the transnational feminists fighting against violence toward women, in armed conflicts and in peacetime; a *key* for nationalism in Korea in a quest for its place in a globalising world; a *threat* for the war memories of Japan; and *military sexual slaves* for the international community. In a word, their testimonies have been politicised. The solution is therefore to be sought through diplomatic channels.

Today, the balls from several world parliaments are in Japan's court. I believe that a "politics of memory" should be started for all the victims of war crimes, included those of a sexual nature. Japanese leaders in person should listen to the messages from those witnesses, and make sure that their *voices* are relayed into school and college textbooks. They also should create a commemorative monument where state leaders, survivors, or relatives in mourning could meditate and pray together.

Those gestures would improve Japan's international image, and its geopolitical relations with neighbouring countries. It would also be the first step in Japan's self-criticism, much needed for example to win a seat as a permanent member at the UN Security Council, or to solve the North Korean abduction issue.

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## Appendixes

### Chronological Tables related to the ianfu issue

Table 1. *From the Manchurian incident to the end of the Pacific War*

Year	Event
1932	Construction of comfort stations (CS) in Shanghai by the Japanese navy after the First Shanghai Incident (January 28 – March 3)
1937	Rapid increase in the number of CS after the beginning of the Second Sino-Japanese War
1938 (June)	Okabe Naozaburo, a high ranking staff officer of the dispatched army in Shanghai, sent an order related to the installation of CS
1941 (December)	Construction of CS in South-East Asia along with the expansion of the occupied regions after the Pacific War started
1945 (August)	End of the Fifteen Year War (Second Sino-Japanese War and Pacific War)
1951 (September)	San Francisco Peace Treaty (Article 14 is about the right to claim reparations from Japan)
1952 (April)	Sino-Japanese Peace Treaty (Article 3 is about the right to claim reparations from Japan)
1965 (June)	Japan - Korea Treaty on Basic Relations between (Article 2 is about the right to claim reparations from Japan)
1972 (September)	Joint Communiqué of the Government of Japan and the Government of the People's Republic of China (Article 5 is about the right to claim reparations from Japan)
1989	Fall of the Berlin Wall; End of the Cold War; Death of Hirohito

(Sources: Ōnuma 2007: 243)

Table 2. *From the end of the Cold War to 2008*

Year	Event
1990	<b>Korean Council for Women Drafted for Military Sexual Slavery</b> filed suit in the Tokyo District Court. Rejected.
1991 (December)	<i>The Case of Korean victims of the Asia-Pacific War with Kim Hak-sun. Final rejection in July 2003.</i>
1991	<b>Yoshiaki Yoshimi</b> documented the involvement of the military.
1992 (January)	PM Kiichi Miyazawa presented formal apologies for the victims of South Korea.
1992 (January) (starting year)	<b>Wednesday Demonstration</b> , every Wednesday in front of the Japanese Embassy in Seoul for the restoration of dignity and human rights of "comfort women".
1993 (April)	<i>Class action filed by 18 Filipinas with the Tokyo District Court. Final rejection in December 2003.</i>
1993 (August)	<b>Yohei Kono</b> , Chief Cabinet Secretary of the Japanese government, issued a statement acknowledging military involvement and coercive nature of these activities, accompanied with apologies.
1994 (November)	First report issued by an international organisation ( <b>International Commission of Jurists</b> , non-governmental and consultative at the UN) recommended that the Japanese government pay compensations to surviving comfort women.
1995 (July)	Public apology of PM Tomiichi Murayama
1995 - 2007	<b>Asia Women's Fund</b> : to provide each surviving comfort woman with material compensation and with a signed apology from the prime minister.

Year	Event
1995 (August) & 1996 (February)	<i>Chinese "Comfort Women" (1<sup>st</sup> and 2<sup>nd</sup> group) filed a suit with the Tokyo District Court. Final rejection in April 2007.</i>
1996 (January)	Publication of the <b>Coomaraswamy Report</b> (UN special rapporteur on violence against women), characterising the issue as "military sexual slavery".
1998 (June)	Release of the report "Contemporary Forms of Slavery", by <b>Gay J. McDougall</b> (UN Human Rights commission), updating the previous report, characterising comfort women stations as "rape centers" and "rape camps". Individual CW has the right to receive compensation.
1999 (July)	<i>Taiwanese Comfort Woman filed a suit with the Tokyo District Court. Final rejection February 2005.</i>
2000 (December)	<b>Women's International War Crimes Tribunal:</b> found Japan's military responsible for the crimes of rape and sexual slavery as crimes against humanity; and emperor Hirohito guilty (2001)
2001 (July)	<i>Hainan Island "comfort women" filed a suit with the Tokyo District Court. Appeal to Tokyo High Court (as May 2007).</i>
2007 (March)	Prime minister Shinzo Abe controversy. He said "The fact is, there is no evidence to prove there was coercion."
2007 (July)	Adoption of <b>U.S. House of Representatives</b> Resolution 121 stipulating that "Japan should formally acknowledge, apologize, and accept historical responsibility in a clear and unequivocal manner, refute any claims that the issue of comfort women never occurred, and educate current and future generations."
2007 (November)	Adoption of <b>Dutch lower house</b> motion stipulating that Japan must "financially compensate the women forced into sex slavery during WWII".
2007 (November)	Adoption of <b>Canadian lower house</b> motion stipulating that Japan must "take full responsibility for the involvement of the Japanese Imperial Forces in the system of forced prostitution, including through a formal and sincere apology expressed in the Diet to all of those who were victims; and to continue to address with those affected in a spirit of reconciliation."
2007 (December)	Adoption of <b>European Parliament</b> resolution stipulating that "Japanese government [must] formally acknowledge its historical responsibility over the Comfort Women issue, as well as apologize and compensate victims."
2008 (November)	<b>British Parliament</b> recommended in "Global Security: Japan and Korea" that "Japan should acknowledge the pain caused by the Comfort Women issue so that both nations can further cooperate in resolving the North Korean nuclear stand-off."

(Sources: Ōnuma 2007: 243- 248; Wikipedia)