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**The Unsolved Legacy of Forced Labour during World War II in Asia**

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*To the brave survivors of World War II that continue to fight for historical justice,  
accountability, peace and reconciliation*

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## Abstract

Five decades after the end of WWII, a wave of WWII reparations lawsuits swept across Asia, targeting the Japanese government and over one hundred Japanese companies that toiled brutal forced labour during the war. For years, plaintiffs and their legal representatives travelled across Korea, Japan, China and the United States to fight for redress in court. But with more survivors passing away during court proceedings, historical justice became exceedingly urgent. In 2014, the Beijing No.1 Intermediate People's Court agreed to hear lawsuits by Chinese forced labourers, with dozens of pending cases awaiting trial. And on October 30, 2018, the South Korean Supreme Court ordered Nippon Steel Corporation to pay four Korean forced labourers ₩100 million won (USD\$84,000), escalating tensions and hostilities between victim countries and Japan. But despite progress towards redress in courts, the author finds that while retributive justice is necessary to advance the WWII forced labour redress movement, it is not sufficient to obtain acceptable reparations in the case of Japan. Notwithstanding court decisions ruling in favour of the plaintiffs in South Korea and Japan, the Shinzō Abe administration and the longstanding historical resentment between Japan and victim countries have created a strong barrier impeding postwar redress and accountability. In light of these rapid developments, this article highlights the voices of fourteen individuals, including one Korean forced labour survivor, bereaved family members, their legal representatives and academics. The lessons learned, recommendations and reforms within Japan's economic, social and political sphere are applicable to furthering historical justice and accountability and move towards memorializing this chapter of history.

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## Chapter 1: Introduction

### Research Problem and Context

Globally, the Asia-Pacific theatre of World War II is a largely understudied part of the war, and selective memory politics eroded the recollection of atrocities in the Asian front, making it continuously difficult to present an accurate depiction of the experiences of WWII victims. After the war, the number of deaths remains uncertain, but it is estimated that there were approximately 70 million deaths.<sup>1</sup> Casualties in the Asia-Pacific front equated to approximately 36 million, or around 50 percent of the total casualties in WWII.<sup>2</sup> According to academics and historians, Japan's use of foreign slave and forced labour during the war equaled or exceeded Nazi Germany, which brutally exploited at least 10 million slave and forced labourers.<sup>3</sup> In the Asia-Pacific front, men, women and children in neighbouring Asian countries were forcibly kidnapped or coerced to perform harsh labour in Japanese mines, factories and seaports to boost the Japanese economy, at the expense of their human dignity. While Japan's forced and slave labour program was implemented and approved by the Japanese government, Japanese multi-national corporations (MNC), including Mitsubishi Materials, Mitsubishi Heavy Industries, Nippon Steel Corporation and Nishimatsu Construction, initially proposed the idea to the government, and were "fully aware" of and actively encouraged the Japanese army to seize foreign individuals for their own use.<sup>4</sup> These forced labourers worked in severely inhumane conditions and were not compensated for their labour. If they survived Japan's forced labour program, after the war, survivors contracted severe health issues and emotional trauma, impairing them from engaging in day-to-day life post-war. But similar to other wartime victims, such as "comfort women," redress lacked priority, and any form of accountability was placed on the back burner.

Although Japan marked the 74<sup>th</sup> anniversary of the end of World War II on August 15, 2019, forced labourers had no opportunity to voice their grievances until the 1990s. With the emergence of the Cold War, and a series of political, social and economic factors arising across victim countries and Japan, for decades, the demands of forced labour victims were ruthlessly overlooked. In December 1995, 50 years after Japan's surrender, Korean forced labourers (KFL) sued Mitsubishi Materials and the Japanese government in the Hiroshima District Court. This was the first time where KFL were able to voice their historical suffering and bring their grievances to court. Since then, dozens of court proceedings for KFL and Chinese forced labourers (CFL) have occurred across Japan, South Korea, the United States and soon in Beijing. This wave of class action and civilian compensation lawsuits aimed to achieve acceptable redress, including compensation for damages and unpaid wages and a sincere and remorseful apology from the defendants. Yet, to this day, forced and slave labourers from the Asia-Pacific war are still battling in courts for Japanese corporations and the Japanese government to acknowledge their wartime atrocities.

With dozens of court decisions rendered within the last two decades, the Shinzō Abe administration has held a strict stance on the issue – refusing to provide redress for survivors and their heirs. In light of Japan's position on WWII accountability, recent court judgements in South

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<sup>1</sup> Van Waterford, *Prisoners of the Japanese in World War II*, (North Carolina: McFarland & Company, Inc., Publishers, 1994), 2.

<sup>2</sup> Waterford, *Prisoners of the Japanese*, 3.

<sup>3</sup> John Haberstroh, "In Re World War II Era Japanese Forced Labor Litigation and Obstacles to International Human Rights Claims in U.S. Courts," *Asian Law Journal* 10, no. 253 (2003), 254.

<sup>4</sup> Haberstroh. "In Re World War II," 254.

Korean courts have ruled in favour of the plaintiffs, igniting unprecedented and unparallel tensions between both countries, including a tense trade war and nationwide boycotts across the South Korea. In China, the controversial out-of-court settlements between the three major conglomerates, Mitsubishi Materials, Kajima Corporation and Nishimatsu Construction Corporation, have been rejected and heavily critiqued by the Chinese plaintiffs, their legal representatives, scholars and academics.<sup>5</sup>

In light of recent developments associated with the forced labour redress movement, this study examines the origins of the movement and the effectiveness of retributive justice in the case of Chinese and Korean forced labour. Furthermore, this study analyzes the debate on an individual's right to claim considering the 1951 San Francisco Peace Treaty, the 1965 Treaty on Basic Relations between Japan and the Republic of South Korea and the 1978 Treaty of Peace and Friendship between Japan and China. This study argues that in the case of Japan, retributive justice is fundamentally necessary to achieve acceptable redress for wartime forced labourers. However, after a sincere admission of guilt by defendants, there must be a host of educational and policy reforms within the Japanese National Diet and Japanese corporations to move past these wartime wounds and memorialize this chapter of history. This study is a developing proposition, and field and desk research has been collected since December 2019.

## **Research Objectives and Questions**

Decades after the war, forced and slave labour class action lawsuits probed Germany, Japan and responsible corporations to provide acceptable redress for WWII forced and slave labour victims. In response to increasing pressure and demands from survivors and their legal representatives, in 2000, the German government and the German economy created the Foundation Remembrance, Responsibility and Future to provide redress for forced and slave labourers that were toiled in Nazi Germany. However, forced labourers in the Asia-Pacific front still continue to face strict opposition for redress from both the Japanese government and Corporate Japan.<sup>6</sup> In light of this disparity, this study aims to further analyze the effectiveness of current class action lawsuits for Korean and Chinese forced labourers. As many survivors continue to pass away, this study aims to share the testimonies of CFL<sup>7</sup>, KFL, bereaved family members and legal representatives. The lessons learned, recommendations and reforms within Japan's economic, social and political sphere are applicable to furthering historical justice and accountability in Japan and worldwide.

From the 1990s, the wave of class action compensation lawsuits instilled resilience and optimism for historical justice and accountability.<sup>8</sup> However, this year marks the third decade since the beginning of the forced labour redress movement, and dozens of cases are still awaiting trial. This study will seek to answer the following question: Are current class action compensation lawsuits and settlements effective in obtaining historical justice and accountability for CFL, KFL and bereaved family members? This study aims to deepen the understanding of the court processes

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<sup>5</sup> During the war, Mitsubishi, Mitsui and Sumitomo were the big three conglomerates (zaibatsu). Originally a shipping business, Mitsubishi diversified into coalmining, shipbuilding, marine insurance and other fields. After the war, Mitsubishi was dissolved into smaller, publicly traded companies. Mitsubishi Materials, formerly known as Mitsubishi Mining, is therefore the defendant in cases brought by forced laborers who worked in mines, while Mitsubishi Heavy Industries is the defendant in cases brought by forced laborers who worked in shipbuilding, aviation and heavy machinery.

<sup>6</sup> The Japanese judicial system is a critical variable. While Japanese Supreme Court has ruled in favour of defendants, Japanese courts have cited the statute of limitations and both the 1965 and the 1978 Peace Treaty on every occasion.

<sup>7</sup> This thesis generalizes Chinese forced labourers as victims who were from originally China and does not combine Taiwanese forced labourers (TFL) with CFL.

<sup>8</sup> Please refer to Appendix 2 to view a chart of all CFL and KFL legal cases.



in Japan, South Korea, the United States and Beijing, the attitudes of survivors and legal representatives, and the progress these lawsuits have made in terms of historical justice and legal and moral accountability.

This study will also investigate the following sub-questions:

1. What influenced the WWII forced labour redress movement in Asia?
2. Did legal barriers, including bilateral peace treaties, hinder courts to rule in favour of the plaintiffs?
3. How supportive has civil society been in Japan, Korea and China?
4. Was the California Code of Civil Procedure section 354.6 an effective method to meet the demands of the plaintiffs? Is the U.S. legal system a better alternative in comparison to the Japanese and South Korean judicial system?
5. Litigation occurred in the U.S., Japan, South Korea, and soon in Beijing. Although court judgements are beginning to rule in favour of victims, the Japanese government and corporations have continued to refute accountability. Do survivors and bereaved family members feel analogous to “political pinballs”?
6. What constitutes a “sincere and remorseful” apology? Is there a collective opinion between survivors in China and Korea?
7. Is Germany’s Foundation Remembrance, Responsibility and Future a good role model for Japan?

## **Key Terms and Theoretical Frameworks**

Professor Elazar Barkan and Professor Stephanie Wolfe elaborate on two schools of thought within the field of transitional justice: historical justice and reparative justice. While reparations branch off of historical justice, reparations, such as apologies and monetary compensation, are important to obtain historical justice because they are “an admission of wrongdoing, recognition of its effects, and in some cases, an acceptance of responsibility for those effects and an obligation to its victims.”<sup>9</sup> In the case of Japan, according to Barkan, “the combination of repressing and evading the topic of the war has led to general ignorance among the public about Japanese history... [however,] current prominence, testifies to the transformation of morality, to the growing legitimacy of demanding international repentance and to the potential force that amending historical injustices has on mediating conflicts.”<sup>10</sup> Additionally, while WWII ended in 1945, current polls and surveys observed that in comparison to notorious North Korean leader, Kim Jong Un, Abe is more unpopular to the South Korean public because of his reluctance to acknowledge Japan’s wartime record.<sup>11</sup> The public’s attitude towards Japan illustrates a need for historical justice and official recognition and responsibility of the wartime atrocities that occurred during WWII in Asia. Addressing historical injustices and wartime atrocities can help “reconstruct the representation of the past in the light of the present,” and it is imperative that human rights violators, including Japanese corporations, be a part of illuminating historical justice for victims and survivors of the war.

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<sup>9</sup> Elazar Barkan, *The Guilt of Nations*, (New York, NY: Norton, 2000), 60.

<sup>10</sup> Barkan, *The Guilt of Nations*, 60.

<sup>11</sup> Simon Denyer, “New South Korean court ruling angers Japan, deepening crisis between America’s closest Pacific allies,” *Washington Post*, November 29, 2018, [washingtonpost.com/world/s-korea-court-orders-japans-mitsubishi-to-pay-compensation-for-wartime-forced-labor/2018/11/28/4f0a6616-f37e-11e8-9240-e8028a62c722\\_story.html](https://www.washingtonpost.com/world/s-korea-court-orders-japans-mitsubishi-to-pay-compensation-for-wartime-forced-labor/2018/11/28/4f0a6616-f37e-11e8-9240-e8028a62c722_story.html).

After governments and perpetrators come to terms with the past, Wolfe argued that the emergence of redress and reparations will appear. “Redress and reparations movements” (RRMs), a term coined by Wolfe, describes a collectivity formed by those that have experienced injustice, which mobilizes in order to obtain redress.<sup>12</sup> Although Japan has not taken responsibility for wartime atrocities, civil society in Japan, South Korea and Beijing have been active in helping victims achieve reparations and redress. In the case of WWII forced labour in Asia, the wave of civilian compensation lawsuits<sup>13</sup> in the 1990s showcase “an increasing number of groups and nations that recognize the malleable nature of history and, on the basis of perceived historical rights, negotiate their own political space.”<sup>14</sup> Once the state acknowledges wartime atrocities, Wolfe’s framework indicates that acceptable redress and reparations will occur. While Wolfe acknowledges RRMs are increasingly prevalent around the world, “there remains a significant discrepancy in their success. In states that have more than one group previously victimized in the same atrocity, and a corresponding number of RRMs, the form and degree of redress and reparations received by each group vary greatly.”<sup>15</sup> With several wartime victims’ groups, such as “comfort women,” slave and forced labourers, victims of human experimentation and so forth, the issue of “acceptable” reparations for all victims is uncertain in her RRM framework.

To clarify terminology, according to JCC and the Nuremberg Trials, slave labourers, were those who performed work intended to induce death.<sup>16</sup> Forced labourers, referred to as a much larger group of “foreign workers,” performed hard work for a economic purpose, that was not expressly intended as a means of physical destruction.<sup>17</sup> In this study, the term “forced labour” refers to labourers who were captured, kidnapped or coerced to work for Japanese corporations in brutal, inhumane environments, but their labour was not intended to induce death. While these labourers were not intended to die, archives and victim testimonies indicated that forced labourers endured extremely inhumane and harsh treatment, such as malnutrition<sup>18</sup>, confinement, racial persecution, management surveillance, police brutality and a lack of sustenance, while also contracting a host of diseases and illnesses, which created fatal working and living conditions that could easily lead to death.<sup>19</sup>

## Roadmap

This study is divided into five sections. Chapter Two will provide background and historical context on WWII in Asia in relation to forced labour. Chapter Three will present a review of academic and grey literature on post-WWII censorship and revisionism in Japan, the influence of the Nuremberg and Tokyo trials on corporate accountability and current debates on legal accountability and out-of-court settlements. Chapter Four describes the methodology utilized to undertake this field research. Chapter Five presents key findings associated with the origins of the forced labour redress movement in Asia. Chapter Six concludes by highlighting lessons learned, the ideal solution for survivors and bereaved family members, and recommendations including

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<sup>12</sup> Stephanie Wolfe, *The Politics of Reparations and Apologies*, (Vol. 7. Transitional Justice. New York, NY: Springer, 2014), 6.

<sup>13</sup> Please refer to Appendix 2.

<sup>14</sup> Wolfe, *The Politics of Reparations and Apologies*, 6.

<sup>15</sup> *Ibid.*

<sup>16</sup> Constantin Goschler, *Compensation in Practice*, (New York, NY: Berghahn Books, 2017), 2.

<sup>17</sup> Goschler, *Compensation in Practice*, 2.

<sup>18</sup> In an interview with Kang Jian, she stated that all the CFL she represented said they faced excruciating malnutrition during their time as a forced labourer.

<sup>19</sup> William Underwood stated that Corporate Japan, led by the construction and mining industry organizations, first approached the Japanese government on the idea of utilizing forced and slave labourers.

education reforms, policy recommendations for the Japanese National Diet, and internal reforms for Japanese corporations.

## Chapter 2: Background and Historical Context

During WWII, domestic labourers in Japan produced military equipment, constructed airfields, mined natural resources and filled in other military tasks. Since the war caused economic disruption to the entire workforce, it was relatively easy for Japan to recruit workers, however, with increasing demand for production, the Japanese Imperial Army's work force was insufficient. To resolve this issue, Japan expanded across Asia, toiling millions of foreign labourers to support the Japanese economy.<sup>20</sup> In order to "recruit" enough labourers, increasing means of coercion and kidnapping were used in the process, and eventually Japan began to toil forced labourers for its military and economic growth.<sup>21</sup>

In 1946, the Japanese Foreign Ministry published a report, which indicated that there was a total of 40,000 CFL as part of Japan's forced labour program.<sup>22</sup> However, historians estimate that there were upward of 400,000 CFL that were toiled to perform harsh labour.<sup>23</sup> As for KFL, the number of KFL is normally cited around 700,000 to 720,000.<sup>24</sup> However, academic scholarship continues to argue that "this figure is almost certainly too low,"<sup>25</sup> and some claim that more than 1.5 million Koreans were forcibly toiled during the war.<sup>26,27</sup> Nevertheless, when discussing the aftermath of mass atrocities, such disagreements surrounding the total number of victims or casualties is the norm. However, it is important to note that these numbers prove to be politically motivated, as they vary depending on the source.<sup>28</sup> And since Japan destroyed government documents exhibiting the elaborate use of forced and slave labour during WWII, evidence highlighting the number of CFL and KFL remains insufficient.<sup>29</sup>

To further understand Japan's forced labour program, it is important to recognize that these wounds of resentment are over a century old. The longstanding relationship between Japan-Korea and Japan-China provides a deeper insight on the historical tensions that have influenced current geopolitical, economic and social affairs between these three countries. Understanding the historical relations between these countries will shed light on the obstacles that continue to impede on the forced labour redress movement.

### Resentment Since 1593: Japanese Imperialism in Korea

When Japan invaded Korea in 1592, this was the beginning of Korean resentment – and tensions have been uneasy since.<sup>30,31</sup> This resentment was heightened when Japan colonized Korea

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<sup>20</sup> Paul Kratoska, *Asian Labor in the Wartime Japanese Empire: Unknown Histories*, (New York, NY: Routledge, 2005), 90.

<sup>21</sup> Kratoska, *Asian Labor in the Wartime Japanese Empire: Unknown Histories*, 91.

<sup>22</sup> Japanese Foreign Ministry, *Investigative Report on Working Conditions of Chinese Labourers*, 1946.

<sup>23</sup> Kratoska, *Asian Labor in the Wartime Japanese Empire: Unknown Histories*, 98.

<sup>24</sup> Steven S. Nam, "From Individual to Collective Restitution: Recasting Corporate Accountability for Korean Forced Labor in the Second World War," *University of California, Davis* 22, no. 1 (2015), 2.

<sup>25</sup> Kratoska, *Asian Labor in the Wartime Japanese Empire: Unknown Histories*, 98.

<sup>26</sup> *Ibid.*

<sup>27</sup> According to the Commission on Verification and Support for the Victims of Forced Mobilization under Japanese Colonialism in Korea, between 2005 and 2012, around 220,000 people were recognized as forced mobilization survivors, and only a small minority of them were able to file lawsuits.

<sup>28</sup> For example, the Japanese Foreign Ministry report was created by the Japanese government in hopes to prevent China from claiming legal redress. While the Japanese Foreign Report legitimized Japan's forced labour program, it downplayed the number of CFL used from 1939-1945.

<sup>29</sup> Waterford, *Prisoners of the Japanese*, 3.

<sup>30</sup> Nakajima Gakusho, "The East Asian War and trade between Kyushu and Southeast Asia in the late sixteenth century: Centered on Kato Kiyomasa's trade with Luzon," *Chinese Studies in History* 52, no. 1 (2019), 23.

<sup>31</sup> From 1592-1599, Japan invaded the Korean Peninsula and China with the intent of conquering both countries.

in 1910, which led to the brutal treatment and forced mobilization of Korean men, women and children. Before the war, Japanese expansion into other Asian countries was a major platform of Japan's Meiji Restoration, and after WWII, postliberation accounts illustrated Korea's hatred and resentment towards Japan. Japan's annexation of Korea – which continues to be deemed “illegal colonization” by Korean people.<sup>32</sup>

During Japanese imperialism (*kōminka*), there were numerous forced and forged colonial treaties, direct assassination of Korean political leaders, militarized sexual slavery, severe theft and looting in villages and towns, as well as systematic human experimentation and mass enslavement of various parts of the Korean population.<sup>33</sup> Some historians argued that the colonial rule of the Korean Peninsula can be compared to the horrific atrocities that occurred in WWII from 1939 to 1945.<sup>34</sup> The era of colonization engulfed Korean people and culture by forcibly integrating Korea with Japanese imperialist values. Although there continue to be claims that Japanese colonization legitimized Korea as a state, many forget that in 1907, Koreans went to the Hague to protest the annexation.<sup>35</sup> As stated by Professor Mark Caprio, “Koreans place this thirty-six year struggle in the context of a much larger narrative that portrays Korean history as a series of struggles by a united Korean people to protect their peninsula from foreign invaders.”<sup>36</sup> And until recently, most research from the Korean perspective has trumpeted Korea's determined resistance to Japan's harsh colonial administration.<sup>37</sup> Professor Alexis Dudden acknowledged that “most noticeable, far more crucial to this dynamic [between Japan and Korea] now are stolen lives, not stolen property.”<sup>38</sup> As a result of the brutal annexation of Korea, when Koreans question the legality of the Japanese colonization, they call into question the legality of Japanese imperialism.<sup>39</sup>

In April 1938, a Total Mobilization Law was proclaimed, making national conscription mandatory.<sup>40</sup> For Japanese colonies, including Korea, labour legislation provided a basis for mobilization, allocating 1.1 million workers, including 85,000 Koreans.<sup>41</sup> Historians stated that the Total Mobilization Law was the beginning of the systematic forced recruitment of Korean labour.<sup>42</sup> In an interview with attorney Mr. Michael Choi, a renowned international human rights lawyer and the Chairman of The National Federation for Victims of Forced Mobilization in Japan (대일항쟁기강제동원피해자연합회), “all thirty-five years, the tension, the hatred, the anger towards the Japanese was enormous. The colonization of Korea was fundamentally different because we were forced to support their ultimate objectives – and that was to conquer the entire world. we provided all their resources – not just their minerals and charcoal, but also the laborers, we worked so hard for them with no pay... That is criminal conduct.”<sup>43</sup>

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<sup>32</sup> Alexis Dudden, *Troubled Apologies Among Japan, Korea, and the United States*, (New York: Columbia University Press, 2014), 73.

<sup>33</sup> *Ibid.*

<sup>34</sup> Dudden, *Troubled Apologies*, 73.

<sup>35</sup> *Ibid.*

<sup>36</sup> Caprio, *Japanese Assimilation Policies in Colonial Korea, 1910-1945*, 171.

<sup>37</sup> *Ibid.* 18.

<sup>38</sup> Dudden, *Troubled Apologies*, 73.

<sup>39</sup> *Ibid.*, 74.

<sup>40</sup> Kratoska, *Asian Labor in the Wartime Japanese Empire: Unknown Histories*, 93.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

<sup>43</sup> Juana Lee interview with Michael Choi, The National Federation for Victims of Forced Mobilization in Japan (대일항쟁기강제동원피해자연합회), Seoul, South Korea, June 29, 2019.

After WWII, a report regarding Japanese possessions in Korea, indicated that Japan controlled approximately 85 percent of all assets in Korea during their colonial rule.<sup>44</sup> More significantly, the Japanese government and the nation's major corporations owned approximately 83 percent of this total.<sup>45</sup> With a monopoly of power over most Korean resources, infrastructure and people, Japanese corporations, with approval from the Japanese government, used their authority to toil Korean men, women and children to perform excruciating physical labour, while simultaneously living in extremely poor and inhumane environments with no pay. With Japanese corporations gaining significant power, Koreans were toiled to advance the economic interests of over 200 Japanese corporations that are still operating today. When discussing his experience as a 94-year old Korean forced labour survivor, Mr. Shin Young-Hyum stated that:

The work that I had to do was mining work. We were digging, and there was always some sort of chemical gas [in the mine], but we were given no mask or anything. I felt like I was dying... even when I returned to the dorm, I felt like I would die. When I was in the mine, it was dark, dusty and I was so hungry, I felt like I was dying. I decided to run away. But if I got caught running away, I would be beaten or even die. But either way, I felt like I would die.<sup>46</sup>

Alongside Mr. Shin's testimony, Ms. Kim Soon-Sin, the representative of 1004 forced labour victims and the daughter and granddaughter of KFL who were kidnapped and toiled to work in coal mines during WWII, elaborated on her family's experience and her role as a representative.<sup>47</sup> During her time as a representative, Ms. Kim heard about horrific war stories:

One of the examples was back in those days in Korea, there is a little hay blanket where you can lay your crops to dry. When the Japanese police appear, the parents don't want their children to be taken away, so they will roll their children up and hang them on the wall. But when the police come, they'll just bayonet anything. Imagine how the parents feel knowing that their kids are in there. Another story is that the toilet system during those days was very natural, so behind the toilet there was always a collection of human feces. Parents would put their kids inside the feces, so they won't be taken. Another story is that they will take the children to a hill or cave, and they leave them in there and cover them with leaves. The mother will come occasionally and put the rice ball on top of the cave. But if there are police patrolling, the kids won't eat anything.<sup>48</sup>

While everyone's experience was different, the Busan-based National Memorial Museum of Forced Mobilization under Japanese Occupation Director Yoon Tae-seok stated that "one third of the Korean population was taken. It wasn't just forced labour – it was victims under the Japanese occupation, including "comfort women" and persons who supported office jobs. Because the numbers are so great, almost every other household has a victim. A lot of them, we don't even

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<sup>44</sup> Kratoska, *Asian Labor in the Wartime Japanese Empire: Unknown Histories*, 93.

<sup>45</sup> *Ibid.*

<sup>46</sup> Juana Lee interview with Shin Young-Hyum, Busan, South Korea, June 20, 2019.

<sup>47</sup> Juana Lee interview with Kim Soon Sin, The National Federation for Victims of Forced Mobilization in Japan (대일항쟁기강제동원피해자연합회), Busan, South Korea, June 20, 2019.

<sup>48</sup> Juana Lee interview with Kim Soon Sin.

know they passed away and we don't know where their bodies are or how they died. There are wounds everywhere.”<sup>49</sup><sup>50</sup>

On June 22, 1965, Japan and Korea signed the Treaty on Basic Relations between Japan and the Republic of Korea. Two decades after liberation, in 1965, this treaty marked the official start of Japan-Korea contemporary diplomatic relations, which re-established ties between both nation-states and invalidated the unequal relationship created through Japan's annexation of Korea.<sup>51</sup> This treaty also provided foreign capital to Korea, while simultaneously providing Japan with a lucrative export for its goods.<sup>52</sup> However, under the Syngman Rhee regime in the 1950s, the environment during negotiations was hostile due to anti-Japanese sentiment. Yet, pro-Japanese Park Chung-hee, who gained power in 1960, and served as the second lieutenant in the Japanese army during WWII, achieved an agreement with Japan despite the national anti-Japanese resentment. The treaty's basic provisions indicated: the abrogation of all bilateral agreements concluded during the colonial era; diplomatic recognition of Korea, and a \$845 million package of government and commercial loans (\$200 million and \$300 million), grants-in-aid (\$30 million), and property claims (\$45 million).<sup>53</sup><sup>54</sup>

At the time, the treaty provided economic and political benefits to both countries, but the economic benefits transcended only towards both governments and quasi-governmental agencies. While many argue that the 1965 treaty waived the right to claim for victims, Choi stated that “the 1965 treaty would not apply to Korean victims. In order for defendants to waive their right to claim, the Korean government must 1) notify the victims sufficiently and 2) settle with the claimants. The Korean government satisfied neither prerequisites. They didn't notify the Korean victims and they didn't settle with the victims – they just settled with the Korean government and signed the treaty without the victim's knowledge.”<sup>55</sup> Under the Park Chung-hee administration, and during the post-WWII period, the Korean government prioritized economic and political development over justice and accountability for wartime victims.

Park Chung-hee's administration also sparked division between Korean “collaborators” and victims, escalating tensions between the population.<sup>56</sup> From 1949 to 1960, the South Korean government began investigations into Korean collaborators, but the work was never completed. These investigations aimed to examine the “collaborator” to see if they advocated for Korean absorption by the Japanese, or Korea's inclusion under more equal terms in a greater pan-Asian community.<sup>57</sup> Those that were guilty of being “collaborators” were criticized for delegitimizing Korea's right of existence.<sup>58</sup> Caprio stated that “in the Japanese mind, as with other colonizer administrations, the responsibility for assimilation depended on the rise of the colonized to the colonizers' standards, rather than a broadening of the colonizers' identity to accept the colonized

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<sup>49</sup> Juana Lee interview with Yoon Tae-seok, The National Memorial Museum of Forced Mobilization under Japanese Occupation, Busan, South Korea, June 20, 2019.

<sup>50</sup> Mr. Yoon was referring to forced labour all encompassing, including militarized sexual slavery and Korean mobilization during Japanese occupation.

<sup>51</sup> Victor Cha, “Bridging the Gap: The Strategic Context of the 1965 Korea – Japan Normalization Treaty,” *Korean Studies* 20 (1996), 124.

<sup>52</sup> Cha, “Bridging the Gap,” 124.

<sup>53</sup> *Ibid.*

<sup>54</sup> Please refer to Appendix 2.

<sup>55</sup> Juana Lee interview with Michael Choi.

<sup>56</sup> Caprio, *Japanese Assimilation Policies in Colonial Korea, 1910-1945*, 171.

<sup>57</sup> *Ibid.*, 184.

<sup>58</sup> *Ibid.*

as fellow subjects.”<sup>59</sup> Because treatment during colonial times was excruciatingly brutal, it was assumed that Koreans were patriotic and loyal, fighting for their country’s right of existence. However, only recently, the activities of Korean collaborators were publicized. In the 1990s, private and government groups initiated new efforts to identify collaborators. The notion of Korean “collaborators” was an important aspect of Japanese colonialism, and it allowed for greater Japanese imperialism before and during the war.

In the case of Korea, because of Japanese colonization, scholars argued that there continues to be a lack of physical evidence and documentation that showcase who the victims were, where they were toiled, what company was in charge, what tasks they had to complete, as well as their overall health conditions.<sup>60</sup>

### **Sino-Japanese War: Chinese Forced Labour**

Throughout history, “millions of Asians were either killed or injured during Japan’s 13-year rampage through much of Southeast Asia in the 1930s and 1940s. Nowhere was the death and destruction greater than in China.”<sup>61</sup> Across China, Japan imposed inhumane programs at the expense of Chinese people, including forced and slave labour, militarized sexual slavery and biological and chemical human experimentation. Although WWII officially began in 1939, eight years earlier on September 18, 1931, Japan invaded Manchuria and established dominance to control the South Manchuria Railway company.<sup>62</sup> This sparked the beginning of Japanese aggression in China – making the Sino-Japanese War much longer than the European theatre of WWII. On July 7, 1937, the Sino-Japanese War began when the action at the Marco Polo Bridge was the first step in Japan’s plan to launch a total war with China.<sup>63</sup> Then, on December 13, 1937, the Nanjing Massacre (“The Rape of Nanking”) began, illustrating the mass murder and rape committed by Imperial Japanese troops.<sup>64</sup> According to Chinese and Japanese academics, “all scholars who have examined the evidence acknowledge that Japanese did commit atrocities in Nanjing and that tens of thousands of people were killed.”<sup>65</sup> These conflicts produced mass casualties, and until the end of WWII, upwards of 20 million of the population were killed and raped by the Japanese Imperial Army.<sup>66</sup>

In terms of forced labour, during the war, CFL were systematically kidnapped, captured and detained to perform excruciating forced physical labour in slave-like conditions.<sup>67</sup> According to academics and historians, this practice was known as “labourer hunting,” where some individuals would be “abducted at bayonet point by Japanese Army soldiers.”<sup>68</sup> This practice began in 1939, when Corporate Japan approached the Japanese government with the idea of importing Chinese labourers.<sup>69</sup> As seen in Appendix 3 (Figure 1), there was approximately 135

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<sup>59</sup> Caprio, *Japanese Assimilation Policies in Colonial Korea, 1910-1945*, 193.

<sup>60</sup> Underwood, “Chinese Forced Labor,” 1.

<sup>61</sup> Sheldon Harris, “Japanese biological warfare experiments and other atrocities in Manchuria, 1932-1945, and the subsequent United States cover up: a preliminary assessment,” *Crime, Law and Social Change* 15 (1991), 171.

<sup>62</sup> Harris, “Japanese biological warfare experiments and other atrocities in Manchuria,” 170.

<sup>63</sup> Ezra F. Vogel, *China and Japan: Facing History*, (Cambridge, MA: Harvard University Press, 2019), 253.

<sup>64</sup> Vogel, *China and Japan: Facing History*, 256

<sup>65</sup> *Ibid.*, 260.

<sup>66</sup> Jeremy Bender, “This Chart Shows the Astounding Devastation of World War II,” *Business Insider*, May 29, 2014.

<sup>67</sup> William Underwood, “Chinese Forced Labor, the Japanese Government and the Prospects for Redress.” *The Asia-Pacific Journal* 3, no. 7 (2005), 1.

<sup>68</sup> Underwood, “Chinese Forced Labor,” 1.

<sup>69</sup> William Underwood, “The Reparations Movement for Chinese Forced Labor in Wartime Japan,” *Kyushu University* (2007), 2.



corporate work sites, including coal mines, factories, sea ports and warehouses that used CFL. These work sites were owned and operated by thirty-five Japanese corporations and it is estimated that KFL were also used in some of these sites.<sup>70</sup> Out of thirty-five corporations, twenty-two Japanese corporations that profited from the use of forced labour are still in business today, including Mitsubishi Materials, Mitsui Mining Corporation, Kajima Mining, Sumitomo Corporation and Nippon Steel Corporation.<sup>71</sup>

As opposed to the KFL case, a lack of information and evidence proving CFL was never an issue.<sup>72</sup> Archival evidence from the wartime era illustrated the mass use of CFL in corporate work sites. Alongside reports describing the inhumane treatment of CFL, log sheets (Figure 2) were created by corporations to keep track of the CFL. While key evidence was burned and discarded after the war, there was still a paper trail that proved the systematic “labourer hunting” used by the Japanese Imperial Army.

In 1946, Japan was required to publish a 646-page report called the “Investigative Report on Working Conditions of Chinese Labourers,” attempting to highlight CFL in “the best possible way”.<sup>73</sup> Attorney Kang Jian clarified that this report was created by the Japanese government because the country was worried that, as a winning country, China would testify against them.<sup>74</sup> Considering the Japanese Foreign Ministry published the report, the figures should be assumed to be severely downplayed. Evidently, archival evidence indicated that approximately 40,000<sup>75</sup> CFL were toiled in Japanese military engineering, military and aircraft construction and mining projects.<sup>76</sup> Although the statistics and data provided within the report cannot be fully verified, the numbers are still important to cite. For example, the report stated that at least 6,830 out of 38,935 CFL died before Japan surrendered, accounting for a 17.5 percent mortality rate.<sup>77</sup> To add, at least 20,992 CFL developed infectious diseases (53.92 percent), with 37,375 CFL developing “general diseases” and 65,732 people had a combination of diseases and injuries (168.83 percent).<sup>78</sup> Despite this data, Kang expressed that:

We think that the figures have been touched up because almost every labourer told us that if they did not feel well, or they got sick, their ration would be cut in half. For example, they were given one bun a day, but if they were sick and could not perform labour work, they would give them half a bun. In order to get enough food, if they can move, they will go to work so they can get the full ration. That is to say that maybe they got sick and didn't report it. Even if you report your sickness, there are no doctors there. If you survive, you survive. If you don't, then you die.

Mr. Cui Guangting, a WWII forced labourer who passed away on May 8, 2013, wrote a testimony about his experience during the war.<sup>79</sup> In his testimony, Mr. Cui described his experience as a forced labourer under Mitsubishi Materials. He was captured by Japanese soldiers and thrown into

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<sup>70</sup> Underwood, “The Reparations Movement for Chinese Forced Labor in Wartime Japan,” 2.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*, 2.

<sup>73</sup> *Ibid.*, 3.

<sup>74</sup> Juana Lee interview with Kang Jian. Beijing Fang Yuan Law Office. Beijing, China. June 15, 2019.

<sup>75</sup> This figure is 10 times more than the reported number by the Japanese Foreign Ministry.

<sup>76</sup> Kratoska, *Asian Labor in the Wartime Japanese Empire: Unknown Histories*, 78.

<sup>77</sup> Japanese Foreign Ministry, *Investigative report*.

<sup>78</sup> *Ibid.*, 159.

<sup>79</sup> Juana Lee interview with Ms. Cui, Beijing Fang Yuan Law Office, Beijing, China, June 15, 2019.

the prison of the Japanese Gendarme troops in Jin County, Hebei Province.<sup>80</sup> In one section of his testimony he stated that:

A few people tried to escape, they were shot by the soldiers, so they didn't make it out. I heard that three were shot dead, and one was injured. This time we were given one steamed corn bread (about 100g) made of moldy corn flour – twice a day. There was nothing else. There was a big water jar in the yard, we used it to take water out when we were thirsty. Many people got diarrhea, it was said to be malaria, they died in just a few days. The soldiers just wrapped the corpses with a blanket and threw them out... there were people dying every single day in the yard. The soldiers would beat us with sticks when they were in a bad mood.<sup>81</sup>

While this report legitimized Japan's illegal forced labour program, it was not an internationally circulated or translated document, and the real experiences of CFL, such as Mr. Cui Guangting were not considered. In 1993, a Japanese public broadcaster, NHK, retrieved the long-suppressed Foreign Ministry Report, but the Japanese government stated that it was destroyed decades ago.<sup>82</sup>

Even with surmounting evidence proving Japan's use of illegal forced labour, all 35 Japanese companies that used CFL became "double winners" because they received generous payouts for the "costs incurred" through their use of CFL – who were never paid.<sup>83</sup> Professor Yukiko Koga argued that "they document how in 1946 the Japanese corporations that enslaved the Chinese received large sums of compensation from the Japanese government for the "losses" incurred through the wartime use and postwar loss of Chinese labour."<sup>84</sup> According to public disclosure, this so-called "inverted compensation" was provided to 135 corporate offices, amounting to approximately ¥57 million Japanese yen (~USD\$518,529).<sup>85</sup> While this figure is not particularly high, ¥57 million is symbolic of the Japanese government's close ties with Japanese corporations that toiled slave and forced labour. On the contrary, surviving CFL, KFL and PoWs (Prisoners of War) were "liberated" and shipped out of the country without a penny.

Despite the millions of Chinese victims that suffered during and after WWII, on September 29, 1972, China and Japan signed the Joint Communiqué of the Government of Japan and the Government of the People's Republic of China. Because China was omitted from signing the San Francisco Peace Treaty (1951)<sup>86</sup>, this treaty announced the termination of "the abnormal state of affairs," including China and Japan's declared commitment to peaceful coexistence as embodied in the United Nations Charter.<sup>87</sup> To add, Japan expressed "regret" for "serious damage" inflicted on the Chinese population, and the People's Republic of China renounced its demands for war reparations.<sup>88</sup> On August 12, 1978, the "Treaty of Peace and Friendship between Japan and the People's Republic of China" reiterated the principles within the Joint Communiqué, and on May

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<sup>80</sup> Juana Lee interview with Ms. Cui.

<sup>81</sup> Mr. Cui Guangting's testimony provided by his daughter Ms. Cui.

<sup>82</sup> Underwood, "The Reparations Movement for Chinese Forced Labor in Wartime Japan," 3.

<sup>83</sup> *Ibid.*

<sup>84</sup> Yukiko Koga, "Between the Law: The Unmaking of Empire and Law's Imperial Amnesia," *Law & Social Inquiry* 41, no. 2 (2016), 407.

<sup>85</sup> Koga, "Between the Law," 406.

<sup>86</sup> The Treaty of San Francisco (1952) re-established peaceful relations between Japan and the Allied Powers after WWII. It was officially signed by 49 nations on September 8, 1951 in San Francisco, California.

<sup>87</sup> John Dower, "The San Francisco System: Past, Present, Future in U.S. – Japan – China Relations," *The Asia-Pacific Journal* 12, no. 2 (2014), 38.

<sup>88</sup> Dower, "The San Francisco System," 38.

7, 2008, the “Joint Statement between the Government of Japan and the Government of the People’s Republic of China on Comprehensive Promotion of a ‘Mutually Beneficial Relationship Based on Common Strategic Interests” emphasized that Japan and China were “partners who cooperate together and are not threats to each other.”<sup>89</sup> Yet, although China “renounced its demands for war reparations,” an individual’s right to claim continues to be disputed because the treaty only renounces the Government of the People’s Republic of China’s right to claim, not the Chinese people.

### **The Aftermath of WWII: Chinese Civil War (1946-1949), the Cold War (1947-1991) and the Korean War (1950-1953)**

Evidence on the Korea and China front proved that Japan’s forced labour program led to mass deaths and survivors had longstanding physical injuries, emotional trauma, and psychological unrest. However, due to the wars that took place after WWII, redress and reparations for victims, bereaved families and survivors lacked precedence. In China, less than a year after the end of WWII in 1946, the Chinese civil war began between the ruling Nationalists (*Guomindang*) led by Chiang Kai-shek and the Communists led by Mao Zedong.<sup>90</sup> During the civil war, the United States backed Chiang Kai-shek, while the CCP was “supported” by the Soviet Union. According to historians, “Mao’s China, the story of the CCP’s struggle against Chiang Kai-shek and his U.S. ally became a far more important narrative than the story of war with Japan.”<sup>91</sup> Evidently, parallel processes took place alongside the Chinese civil war. Namely, the Cold War between the Soviet Union, and the U.S. and its allies after WWII. During this process, U.S. occupying forces decided to downplay the legacy of WWII and rehabilitated Japan as a key U.S. ally. U.S. influence was clear in the International Military Tribunal for the Far East (Tokyo Trials), where “victors’ justice” was evident and a total lack of accountability and responsibility was held against then-Japanese Emperor Hirohito, biological and chemical warfare scientists and doctors, government officials and Japanese Imperial officers that committed war crimes and crimes against humanity during WWII. U.S. influence is an important factor that completely altered justice and severely delayed movement towards justice, corporate accountability and legal responsibility for wartime victims and survivors. As stated by historian Amy King, “the Cold War order brought China and Japan into the “subsystems” of the two superpowers, precluding any postwar reckoning or reconciliation, and creating a new set of Cold War politics that took precedence over the legacy of WWII.”<sup>92</sup> Agreeing with King, Kang acknowledged that political barriers after the war limited victims’ access to justice, stating that “although the U.S. attacked Japan with two nuclear bombs, which sped up Japan’s surrender, after the war, they also maintained their own political interests. The U.S. wanted Japan as an ally, and this was achievable, but it was also at the expense of all the other Asian countries.”<sup>93</sup>

Simultaneously, at the beginning of the Cold War, the Korean War occurred from 1950 to 1953 – taking the lives of up to 5 million casualties. During that time, international order was

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<sup>89</sup> Dower, “The San Francisco System,” 38.

<sup>90</sup> Amy King, *China-Japan after World War II*, (Cambridge, United Kingdom: Cambridge University Press, 2016), 3.

<sup>91</sup> Parks Coble, “China’s “New Remembering” of the Anti-Japanese War of Resistance, 1937-1945,” *The China Quarterly* 190 (2007), 395.; Caroline Rose, *Sino-Japanese Relations: Facing the Past, Looking to the Future?*, (London, England: Routledge, 2004), 39.

<sup>92</sup> King, *China-Japan after World War II*, 3.

<sup>93</sup> Juana Lee interview with Kang Jian.

largely forged within the framework of the Korean War, especially because the Korean War transformed China's economy and its regional security environment.<sup>94</sup> China's decision to intervene in the Korean War, and side with North Korea, costed an estimated US\$10 billion, and significantly hindered China's economic and security conditions and growth.<sup>95</sup> On the side of South Korea, considerations about Japan played a part in the ultimate decision for the U.S. to engage on behalf of South Korea.<sup>96</sup> As stated by Young C. Kim, "the recognition that the security of Japan required a non-hostile Korea led directly to President Truman's decision to intervene... the essential point is that the American response to the North Korean attack stemmed from considerations of U.S. policies towards Japan."<sup>97</sup> As per the U.S.'s political agenda, the Korean War reshaped America's perception of the Communist threat in Asia and strengthened the U.S.' decision to transform its security relationship with Japan.<sup>98</sup> These three post-WWII wars further complicated relations between Korea, Japan and China, and hindered any opportunity for WWII forced labour survivors to seek reparations or redress.

## Summary

The complicated historical relationship between victim countries and Japan goes beyond the atrocities that occurred in WWII. Yet with dozens of conflicts and wars taking priority over WWII redress and reparations, forced labour victims had no opportunity to seek legal or moral accountability. Finally after the Cold War, Japan's relationship with China and Korea began to evolve, and survivors had a greater chance to obtain redress with support from their own governments.<sup>99</sup> By the end of the Cold War, decades of resentment between these Asian powers progressed into a powerful wave of WWII reparations lawsuits.

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<sup>94</sup> King, *China-Japan after World War II*, 65.

<sup>95</sup> *Ibid.*

<sup>96</sup> Young C. Kim, *Major Powers and Korea*, (Silver Spring, Maryland: Research Institute on Korean Affairs, 1973), 98.

<sup>97</sup> Kim, *Major Powers and Korea*, 98.

<sup>98</sup> King, *China-Japan after World War II*, 68.

<sup>99</sup> Ming Wan, *Sino-Japanese Relations: Interaction, Logic and Transformation*, (Washington: Woodrow Wilson Center Press, 2006), 99.

### Chapter 3: Literature Review

This literature review will be divided into three sections. The first section will review the Japanese government's post-WWII denialist attitude towards WWII history. The second section will discuss the growth of international corporate accountability norms after the Cold War and the influence of the Nuremberg legacy on corporate accountability. The third section will discuss literature on the debate between moral and legal accountability.

#### Denial Politics and Censorship in Post-WWII Japan

According to Zerubavel, the most common way of gaining control over the historical narrative and discourse is by controlling the “agenda.”<sup>100</sup> Although Germany prioritized a more open-minded approach to redress after the Cold war, the Japanese government continued to adopt a “revisionist” and “denialist” perspective on the atrocities that occurred in WWII.<sup>101</sup> Due to Japanese government's lack of accountability for wartime atrocities, denialist and revisionist politics became widespread, and generations of Japanese citizens were provided inadequate and false historical narratives in the public and private sphere.

To control the narrative, since the end of WWII, the Japanese government has censored relevant information associated with Asia-Pacific War by limiting public access to WWII history and information, including censoring all public textbooks in Japanese public schools.<sup>102</sup> Since the 1980s, history textbooks in Japan were dominated by right-wing politics, with politicians and educators strongly opposing topics on “Japan's war of aggression” or even the Nanjing Massacre.<sup>103</sup> In response to this, in March 2015, *Perspectives on History*, the newsmagazine of the American Historical Association, published a letter from twenty American scholars opposing the Japanese government's efforts to “suppress statements in history textbooks both in Japan and elsewhere.”<sup>104</sup> In May 2015, more than 180 Japanese studies academics signed another coalition letter condemning Japan's censorship, stating that they are “with the many courageous historians in Japan seeking an accurate and just history of World War II in Asia.”<sup>105</sup> Even before 2015, historians, scholars and academics condemned the Japanese government for failing to acknowledge the truth about WWII in Asia.<sup>106</sup> Yet regardless of international pressure pushing Japan to eradicate censorship associated with WWII history, right-wing opponents claimed that wartime victims such as “comfort women” were prostitutes, and that there was no need to compensate the victims or survivors.<sup>107</sup>

In August 2015, a key advisory panel consisting of Taizo Nishimuro, the former President and CEO of Japan Post Holdings Co., Shinichi Kitaoka, the President of the International University of Japan, and Professor Shin Kawashima and Professor Yoshiko Kojo at The University

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<sup>100</sup> Eviatar Zerubavel, *The Elephant in the Room: Silence and Denial in Everyday Life*, (New York, NY: Oxford University Press, 2006), 15.

<sup>101</sup> Patrick Hein, “Patterns of War Reconciliation in Japan and Germany: A Comparison,” *East Asia* 27 (2010), 146.

<sup>102</sup> Zerubavel, *The Elephant in the Room*, 15.

<sup>103</sup> *Ibid.*

<sup>104</sup> Alex Dudden, “Letters to the Editor: Standing with Historians of Japan,” *Perspectives on History*, March 1, 2015, [historians.org/publications-and-directories/perspectives-on-history/march-2015/letter-to-the-editor-standing-with-historians-of-japan](http://historians.org/publications-and-directories/perspectives-on-history/march-2015/letter-to-the-editor-standing-with-historians-of-japan).

<sup>105</sup> “Open Letter in Support of Historians in Japan,” *Association for Asian Studies*, March 2015, [networks.h-net.org/system/files/contributed-files/japan-scholars-statement-2015.5.4-eng\\_0.pdf](http://networks.h-net.org/system/files/contributed-files/japan-scholars-statement-2015.5.4-eng_0.pdf).

<sup>106</sup> Elizabeth Redden, “The Right to Write History,” *Insider Higher Education*, December 7, 2015, [insidehighered.com/news/2015/12/07/disputes-over-textbooks-characterization-japans-wartime-actions-continue](http://insidehighered.com/news/2015/12/07/disputes-over-textbooks-characterization-japans-wartime-actions-continue).

<sup>107</sup> Gabriel Jonsson, “Can the Japan-Korea Dispute on “Comfort Women” be Resolved?,” *Korea Observer* 46 (2015), 13.

of Tokyo, were commissioned to publish a report on Japan's modern history and post-WWII reconciliation around the world.<sup>108</sup> Since this report was published through the collaborative work of Japanese scholars, academics, businesspeople and historians, this report can be used to illustrate the perspective of influential Japanese academics and scholars on the Asia-Pacific war. While the advisory panel strongly criticized Japan's wartime aggression against other Asian countries, the panel did not discuss Japan's revisionist views regarding the Asia-Pacific theatre of War, and glossed over wartime responsibility by citing the 1965 Peace Treaty between Korea and Japan, the San Francisco Treaty and the 1972 Joint Communiqué between Japan and China.<sup>109</sup> Instead of pushing for redress, the advisory board largely sided with Abe and Japanese Supreme Court decisions, delegitimizing Japan's forced labour program. In the report, it stated that "the Communist Party introduced history education which was harsh on Japan, or so-called anti-Japanese education... which still continues now."<sup>110</sup> The term "anti-Japanese" education reiterates the fact that discussing Japan's role in WWII is "anti-Japanese" and goes against the country's nationalist culture. Instead of critiquing Japan's role in censorship, revisionism and denialism, academics and scholars applauded Japan's role in mending economic, political and social ties with victim countries, continuing to perpetuate the narrative that the country has resolved all wartime matters. In contrast with the letters and articles written by international historians and scholars, the key advisory panel validated Japan's skewed historical education. Despite competing literature between international and domestic scholars on Japanese censorship, it is equally as important to note that there are also many domestic historians in Japan attempting to educate Japan on the reality of WWII, however, it is difficult for historical truth to penetrate through Japan's decades-long censorship.

### **The Rise of International Corporate Accountability Norms and the Legacy of Tokyo and Nuremberg**

In 1932, Japan ratified the International Labour Organization (ILO) Forced Labour Convention (1930).<sup>111</sup> All member states who ratified the Convention undertook the responsibility to "suppress the use of forced or compulsory labour in all its forms within the shortest period of time."<sup>112</sup> But with Japan's WWII forced labour program, Japan ignored the provisions outlined in the Convention. Despite this, since 1932, more ILO Conventions and soft law mechanisms were created to strengthen accountability and mitigate forced labour. Beginning in 1991, MNC increased by five-fold, and globalization and new-post-Cold War political freedoms created a wave of non-governmental organizations with the capacity to draw attention to corporate abuses.<sup>113</sup> With pressure from civil society, Jochnick and Rabaeus observed that "companies facing the greatest exposure took the initiative of voluntarily committing to respect human rights and adopting

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<sup>108</sup> The Advisory Panel on the History of the 20<sup>th</sup> Century and on Japan's Role and World Order in the 21<sup>st</sup> Century, "Report of the Advisory Panel on the History of the 20<sup>th</sup> Century and on Japan's Role and the World Order in the 21<sup>st</sup> Century," August 6, 2015, [kantei.go.jp/jp/singi/21c\\_koso/pdf/report\\_en.pdf](http://kantei.go.jp/jp/singi/21c_koso/pdf/report_en.pdf), 1.

<sup>109</sup> The Advisory Panel on the History of the 20<sup>th</sup> Century and on Japan's Role and World Order in the 21<sup>st</sup> Century, "Report of the Advisory Panel on the History of the 20<sup>th</sup> Century and on Japan's Role and the World Order in the 21<sup>st</sup> Century," 3-8.

<sup>110</sup> *Ibid.*, 22.

<sup>111</sup> International Labour Organization, *Forced Labour Convention, 1930 (No.29)*, June 28, 1930, [ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C029](http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029).

<sup>112</sup> International Labour Organization, *Forced Labour Convention 1930 (No. 29)*.

<sup>113</sup> Chris Jochnick and Nina Rabaeus, "Business and Human Rights Revitalized: A New UN Framework Meets Texaco in the Amazon," *Suffolk Transnational Law Review* 33, no. 3 (2010), 414.

corporate codes of conduct for their operations,”<sup>114</sup> which led to broader, industry-wide standard-setting initiatives.

In 2000, the UN Global Compact was established to align business operations with the Global Compact’s Ten principles on human rights, labour, environment and anti-corruption. Then, in 2011, the Organization for Economic Co-operation and Development (OECD) developed the OECD Declaration on International Investment and Multinational Enterprises. That same year, the United Nations Guiding Principles on Business and Human Rights (Guiding Principles) were endorsed by the Human Rights Council, implementing the UN “Protect, Respect and Remedy” framework on the issue of human rights and transnational corporations.<sup>115</sup> Although there are still major short-comings to human rights commitments by MNC, especially because these commitments and recommendations are strictly voluntary, there is increasing international pressure for corporations to adopt human rights in their Code of Conduct, including providing grievance mechanisms and acceptable remedy for victims of human rights abuses, such as forced labourers. Still business and human rights is a new approach, which is why corporations are put under increasing pressure by civil society. Nevertheless, it is important to note that correlation does not mean causation, and increasingly stringent business and human rights norms should not be seen as the sole reason why Japanese corporations are developing settlements with CFL.

Regardless of an increase in corporate accountability norms and soft law mechanisms to mitigate human rights violations perpetrated by MNC, legal scholars argued that the topic of corporate accountability under international law has become tainted by the legacy of the Nuremberg and Tokyo Trials. Specifically, the damning “oversight” of legal accountability on German and Japanese created a low threshold that international law holds MNC and transnational corporations to today. International legal scholar Jonathan Kolieb stated that “still, seventy years after the fact, the Nuremberg-era’s legacy towards holding corporations legally accountable for participation in grave violations of international law remains at the center of the contemporary debate yet mired in confusion.”<sup>116</sup> Kolieb argued that the treatment of corporations during the Nuremberg-era influenced disagreements and different interpretations on corporate liability under international law, citing two common perceptions: a narrow judicial lens and a broader legal lens.<sup>117</sup>

With MNC gaining significant economic and political influence in today’s social, economic and political spheres, the Nuremberg legacy has made international law ill-equipped to place constraints on corporate power.<sup>118</sup> Scholars employing a broader legal lens have argued that the integrity of international criminal law should recognize corporate liability for gross human rights violations because genocide, war-crimes and crimes against humanity all contemplate collective action.<sup>119</sup> Three legal scholars with a broader legal lens, Martti Koskenniemi, André Nollkaemper and Harmen Van Der Wilt, stated that the criminality of German corporations was recognized during the Nuremberg proceedings, but individual responsibility does not address the

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<sup>114</sup> Jochnick and Rabaeus, “Business and Human Rights Revitalized,” 414.

<sup>115</sup> United Nations, *Guiding Principles on Business and Human Rights*, New York, NY, 2011.

<sup>116</sup> Jonathan Kolieb, “Through the Looking-Glass: Nuremberg’s Confusing Legacy on Corporate Accountability Under International Law,” *American University International Law Review* 32 (2017), 571.

<sup>117</sup> Kolieb, “Through the Looking-Glass,” 573.

<sup>118</sup> *Ibid.*, 574.

<sup>119</sup> Gerry Simpson, “Men and abstract entities: individual responsibility and collective guilt in international criminal law,” *Cambridge University Press* (2008), 69.

larger entities that organized, orchestrated and exacerbated massive human rights abuses.<sup>120</sup> As opposed to Koskenniemi, Nollkaemper and Van Der Wilt, those that view Nuremberg through a much more narrow, positivist and judicial lens concluded that corporations cannot be liable, as a rule for international crimes.<sup>121</sup> A judgement in the Nuremberg Trials stated that “crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced,”<sup>122</sup> which properly represents the perspective of many legal scholars.

Regardless, corporate accountability norms and standards have become increasingly important in the last few decades. With an increase in standards, such as the Guiding Principles, MNC are beginning to take more responsibility for their role in human rights abuses. However, the judgements that were made during the Nuremberg-era continue to sway interpretation vis-à-vis corporate accountability for major human rights abuses, influencing corporate accountability and constraints on corporate powers in international criminal law today.

### **Moral Out-of-Court Settlements versus Legal Accountability**

There is a constant debate between moral and legal accountability on this internationally disputed topic. Specifically, a deliberation on the value of an out-of-court settlement versus a legal admission of guilt in court. In the case of WWII forced labour, this debate has created a divide between plaintiffs and their legal representatives, particularly those who reject and those who approve of out-of-court settlements. According to Professor Owen Fiss, “settlements are an expedient by which judges clear their dockets, and defendants their consciences; it allows the stronger, more sophisticated, and generally better resourced party to avoid liability.”<sup>123</sup> In line with Fiss, Professor Timothy Webster indicated that settlements can also extinguish individuals claims and establish a mechanisms for handling future claims, where the corporations may obtain “legal peace.”<sup>124</sup> He argued that “an unequivocal acknowledgment of liability may advance social values like transparency, democratic deliberation, and attention to historical facts. Liability narratives reshape public memory, reallocating a wartime burden that fell mostly on the wartime Japanese government, but not the corporate sector.”<sup>125</sup> Echoing Fiss and Webster, when discussing the Nishimatsu Construction Corporation settlement, Kang stated that “this settlement model was to help the Japanese side evade legal liabilities regarding their serious violations of human rights and international laws.”<sup>126</sup> She added that “Nishimatsu’s purpose was to buy out its legal liability for severe human rights violations with a small sum of money.”<sup>127</sup>

However, some legal scholars disagree with this sentiment, stating that out-of-court settlements can constitute a “public good” and yield historical justice for past events. According to Professor David Luban, “a properly crafted settlement can yield legal justice, an accurate account of past events, or the elaboration of public law norms, including human rights. Settlements address larger social issues and public goals, such as healing, remembrance or atonement.”<sup>128</sup> In

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<sup>120</sup> Kolieb, “Through the Looking-Glass,” 586.

<sup>121</sup> *Ibid.*, 587.

<sup>122</sup> *Nuremberg Trial*, 6 F.R.D. 69m 110 (IMT 1946).

<sup>123</sup> Owen M. Fiss, Comment, *Against Settlement*, Yale Law Journal 93, (1984).

<sup>124</sup> Timothy Webster, “The Price of Settlement: World War II Reparations in China, Japan and Korea,” *New York University Journal of International Law & Politics* 51 (2019), 314.

<sup>125</sup> Webster, “The Price of Settlement: World War II Reparations in China, Japan and Korea,” 375.

<sup>126</sup> *Ibid.*

<sup>127</sup> Jian, “Rejected by All Plaintiffs,” 8.

<sup>128</sup> David Luban, “Settlements and the Erosion of the Public Realm,” *Georgetown Law Journal* 83, no. 1 (1994), 2620.



line with Luban, when discussing the Nishimatsu settlement, Ivy Lee argued that “the Nishimatsu settlements, in general, and the latest one in particular, seemingly satisfies the three non-negotiable demands of the Chinese forced labor redress movement: 1) acknowledging atrocities to extend an apology for crimes committed; 2) erecting a memorial to memorialize the victims and to educate the public; and 3) compensating the victims.”<sup>129</sup> Moreover, Xuan, an activist that works with victims of Japan’s biochemical warfare in China, questioned the strategy of not settling, stating:

What could the Chinese gain if they don’t accept the settlements?... Do we want them (CFL) to go to their graves with a grudging hatred in their hearts?... Where is the hope? Japanese attorneys who support litigation and Japanese peace supporters over the decades not only spent enormous sums of money, but are growing old and dying off...”<sup>130</sup>

According to Dr. William Underwood, a former faculty member of Kurume Institute of Technology and a *Japan Focus* coordinator, “future Japanese measures concerning Chinese forced labor, at the state or corporate level, will almost surely be couched in moral and humanitarian – not legal – terms.”<sup>131</sup> However, Webster indicated the potential pitfalls of settlements, where he believes that there is no universally ideal settlement scheme, but rather, each agreement must attend to the contingencies of the dispute, where each party, including their legal representatives, must be willing to enter negotiations to communicate their demands.<sup>132</sup> In the case of WWII forced labour, Webster indicated that an apology, acknowledgement of legal liability, memorialization and monetary compensation must be satisfied in a settlement for the victims.

Evidently, there remains disagreements regarding the value of out-of-court settlements and legal accountability. To legal scholars such as Fiss, Webster and Kang, the plaintiffs do not deserve an inadequate settlement that does not establish sincere remorse and clear legal accountability. However, to Luban, Underwood, and Lee so long as settlements meet the plaintiffs’ demands, it should be accepted.<sup>133</sup> As illustrated by Kang and Lee, there are differing stances on adequate settlements regarding moral and legal accountability, although everyone is united in the same quest for justice.

## Summary

This literature review discussed the different perspectives of international historians and scholars on Japanese censorship in history textbooks and compared the perspectives of international historians to prominent Japanese scholars, academics and businesspeople, who were commissioned to publish Japan’s 2015 report on Japan’s role in WWII, peace and reconciliation. This review also discussed the growth of international corporate accountability norms after the Cold War, and the influence of the legacy of the Nuremberg and Tokyo Trials on corporate accountability. The third section discussed the major disagreements between legal scholars on the value of out-of-court settlements and legal accountability.

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<sup>129</sup> Lee, “Toward Reconciliation: The Nishimatsu Settlements for Chinese Forced Labor in World War II,” 3.

<sup>130</sup> *Ibid.*, 6.

<sup>131</sup> Jian, “Rejected by All Plaintiffs,” 3.

<sup>132</sup> Webster, “The Price of Settlement: World War II Reparations in China, Japan and Korea,” 375.

<sup>133</sup> The idea of “sincerity” was not evaluated by these legal scholars when discussing the adequacy of out-of-court settlements.

## Chapter 4: Methodology

### Research Approach and Design

The proposed research was carried out primarily through in-depth semi-structured qualitative interviews and desk research. The research participants consisted of WWII forced labour survivors, bereaved family members, civil society actors, South Korean and Chinese attorneys and academics in Beijing and South Korea. In addition, primary documents, such as archives, legal documents and joint statements opposing Japan's response regarding compensation for victims of forced labour, were reviewed.

### Background of Research Participants

The findings and conclusions of the study are based largely on the responses of fourteen individuals who are associated with the WWII forced labour redress movement. Many of the participants devoted decades of their life to the WWII forced labour issue. The study aimed to capture a range of perspectives from grassroots civil society members and survivor representatives, to attorneys and academics. One participant is a Korean forced labour survivor from a coal mine; three participants are bereaved family members; two participants are attorneys that spearheaded class action litigation in their respective countries; five participants are academics; and three participants are civil society members.

### Recruitment of Research Participants

ALPHA Education assisted this study by connecting the interviewer with most interviewees in Beijing and South Korea. This study also utilized the snowball sampling technique, revealing further participants who were recruited by referral.<sup>134</sup> This study also attempted to include a more diverse range of participants, including the Japanese corporations involved in these lawsuits, however they declined to be interviewed. In an email exchange with Mitsubishi Materials, the company's Human Resources Department responded by stating "everything we want to convey is contained in our press releases. We cannot answer contents other than press releases."<sup>135</sup> Nippon Steel Corporation and Mitsubishi Heavy Industries did not reply.

### Data Collection Methods

The fieldwork was conducted over four weeks from June to July 2019 in Beijing and South Korea. The interviews were held in the preference of the interviewee, including museum headquarters, universities, law offices and restaurants. Eleven interviews were carried out in person, and three interviews took place over the phone. The duration of the interviews ranged from thirty minutes to four hours with breaks. Some interviews lasted for many hours due to the presence of an interpreter. Semi-structured interviews were designed to allow participants to share their perspectives regarding the forced labour redress movement in their respective countries, the challenges of retributive justice and any barriers associated with this movement. This opportunity also provided participants with a chance to share their "ideal situation" along with recommendations and potential reforms for Japanese corporations and the Japanese National Diet. In addition, this study sought to understand the interconnectedness between civil society, attorneys and survivors in Beijing and South Korea.

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<sup>134</sup> Kenneth D. Bailey, *Methods of Social Research*, (United Kingdom: Free Press, 1994), 96.

<sup>135</sup> Juana Lee email exchange with Mitsubishi Materials Corporation, New York, NY, March 11, 2019.

## Data Analysis

To develop the study, interviews were coded thematically to analyze the most frequently mentioned themes. A triangulation method was used to develop a broader understanding of the WWII forced labour phenomenon and to ensure the accuracy of information by converging data from interviews, secondary reading and desk research.<sup>136</sup> Alongside legal documents and archives, desk research on grey literature, including reports by think tanks, stock market indexes, the United Nations, and the National Diet Library, were reviewed. The information gathered from interviews, in conjunction with existing academic literature and grey literature, was synthesized and critically analyzed by applying existing frameworks on historical and reparative justice.

## Challenges and Limitations

This study had some limitations. The primary limitation was the interviewer's inability to interview more forced labour survivors in this study. Their voices, opinions and testimonies are critical in any WWII forced labour study in order to understand their personal grievances and perspectives. However, it is important to note that survivors and bereaved family members are reaching their senior years, and many already passed away during court proceedings, indicating the urgency of this matter. In any future study, it is imperative to include the voices of the plaintiffs and the firsthand accounts of the victims of Japan's WWII forced labour program. Nevertheless, efforts were made to include the perspectives and voices of CFL and KFL, including publishing the written testimony of Mr. Shin Young Hyum, a 94-year old Korean forced labourer, as well as the court testimony of Mr. Cui Guangting, the father of Ms. Cui who was also interviewed.<sup>137</sup> Many of the participants who were closely connected with other survivors and bereaved family members also shared stories and testimonies that are included in this study. To add, despite the use of direct quotes from relevant government officials in reliable news articles, this study lacked firsthand correspondence with Japanese, South Korean and Chinese government representatives, providing a slim possibility for potential inaccuracies or misunderstandings. Moreover, due to timely and financial constraints, this study was unable to cover litigation or forced labour issues associated with PoWs, which is also a critical aspect of WWII forced and slave labour in the Asia Pacific theatre of war.

This study was conducted in English, Korean (Hangul) and Mandarin. Because most interviews were conducted in person, in most instances, a Mandarin or Korean interpreter was present. The interpersonal connection between the interviewer and interviewee was disrupted due to a language barrier, but the interpreter provided a means of proper communication between both parties. This was the most effective method, and it was imperative that the interviewee was comfortable with the situation.

This study adopted a multidisciplinary and human rights lens, rather than a legal analysis of the forced labour situation in South Korea and Beijing. The study attempted to analyze the effectiveness of class action litigation against the Japanese government and Japanese corporations, and how the unprecedented geopolitical tensions between the countries are influencing historical justice. The scope of this study was limited to Beijing and South Korea; however, it is important to note that the social, cultural, economic and political contexts differ in other victim countries.

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<sup>136</sup> Nancy Carter et al., "The use of Triangulation in Qualitative Research," *Oncology Nursing Forum* 41, no. 5 (2014), 545.

<sup>137</sup> Please see Appendix 4 and 5.

## Chapter 5: The Origins of World War II Forced Labour Compensation Lawsuits

In the 1990s, a wave of WWII forced labour compensation lawsuits emerged across victim countries, with thousands of survivors and bereaved family members seeking unpaid wages, compensation for damages, legal recognition of the forced labour program instigated by the Japanese Imperial Army, and most importantly, a sincere apology by the Japanese government and hundreds of Japanese corporations that toiled forced and slave labour.<sup>138</sup> But after the end of WWII, for over five decades, a nexus of political and economic factors severely prevented wartime victims from seeking damages domestically and internationally. In an interview with Flora Chong, the Vice Chair of ALPHA Education, she stated that “there are so many factors that worked together, the western allies support, the internal situation in Japan and the economic conditions in victimized countries, which are intertwined in a very complex way, making the situation of Japan’s denial possible.”<sup>139</sup> However, with increasing civil society mobilization, international awareness surrounding Japan’s forced labour program, budding corporate accountability norms and collective memorialization, more entities began supporting the forced labour redress movement, pushing for accountability and historical justice, and honing the effectiveness of WWII forced labour compensation lawsuits.

### Political and Economic Barriers to Justice

Within the victimized countries, political agendas systematically voided victims’ ability to seek compensation or a sincere apology from Japan. In South Korea, the authoritarian military regime of Park Chung-hee lasted from 1963 to 1979, and in between his term he never drifted away from his loyalty and admiration for Japan, which is echoed in the 1965 Peace Treaty between Japan and Korea.<sup>140</sup> Even after his assassination, his successors were also military dictators, providing victims with severely limited possibilities for redress or reparations.<sup>141</sup>

Similarly, in China, benevolent amnesia swept across the country before 1982 under Kuomintang. Under the Communist Party, a similarly lenient approach was applied, where the Sino-Japanese war was ultimately forgotten for the benefit of Sino-Japanese relations after WWII. In 1954, Chinese Premier Zhou Enlai told visiting Japanese Diet members, “the history of the past sixty years of Sino-Japanese relations was not good. However, it is a thing of the past, and we must turn it into a thing of the past. This is because friendship exists between the peoples of China and Japan. Compared to the history of a few thousand years, the history of sixty years is not worth bringing up.”<sup>142</sup> Yang stated that with the 1972 normalization of relations, it was “harmful to the Sino-Japanese friendship” to discuss wartime atrocities.<sup>143</sup> Professor James Reilly deemed the time from 1972 to 1982 the “decade-long honeymoon period in China-Japan relations.”<sup>144</sup> With an illusion of good Sino-Japanese relations, the young Chinese population had no knowledge of the

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<sup>138</sup> Please refer to Appendix 2.

<sup>139</sup> Juana Lee interview with Flora Chong, ALPHA Education, Toronto, Ontario, May 24, 2019.

<sup>140</sup> Yoon Tae-Ryong, “Learning to Cooperate not to Cooperate: Bargaining for the 1965 Korea-Japan Normalization,” *Asian Perspective* 32, no. 2 (2008), 60.

<sup>141</sup> Ryong, “Learning to Cooperate not to Cooperate,” 60.

<sup>142</sup> Chiang Kai-Shek, “Statements and Speeches by Generalissimo Chiang Kai-shek,” In *the Making of the “Rape of Nanking:” History and Memory in Japan, China, and the United States*, Takashi Yoshida, 3-10, (Oxford: Oxford University Press, 2006).

<sup>143</sup> Daqing Ying, “Mirror for the future or the history card? Understanding the ‘history problem’,” In *the Chinese-Japanese Relations in the Twenty First Century*, edited by Marie Söderberg, 69-86, (London: Routledge, 2002).

<sup>144</sup> James Reilly, “Remember History, Not Hatred: Collective Remembrance of China’s War of Resistance to Japan,” *Modern Asian Studies* 45, no. 2, (2011), 469.

atrocities that occurred in WWII in Asia, and anyone that conducted research or discussed about wartime atrocities, such as the Nanjing Massacre, were criticized for “stirring up national hatred.”<sup>145</sup>

Ms. Cui stated that: “I would be lying if I said we never attempted to bring this issue to light. Of course we thought about it, and maybe we should make it public and make more people know about my father’s experience. But to be honest, we didn’t know how. Back then, in 1949, or when the war just ended, the People’s Republic of China was just established and people never thought about this.”<sup>146</sup> Alongside varying political agendas, all victimized countries required economic support after the war. With Japan’s newfound allies, victim countries such as Indonesia and Korea, looked towards Japan for economic support, rather than a solution for survivors and bereaved family members.<sup>147</sup>

Although survivors and their bereaved family members never forgot about the pain, humiliation, resentment and malnutrition they suffered during the war, there were no avenues for justice in Japan, as well as within their own countries. According to Ms. Cui:

From the beginning, we knew it was illegal – not only in China, Japan or anywhere in the world, forced labour is illegal. You can’t just abduct a person and take them somewhere else and force them to work – especially if it is hard labour – it is illegal from the start. But due to the conditions back then, the war situation, we couldn’t do anything about that, and my father could not do anything about it.<sup>148</sup>

Although Ms. Cui and her father Mr. Cui Guangting knew that there were more forced labourers in China, there were no opportunities for justice after the war. Due to the conditions of their war-torn countries, the main priority of victims in both China and Korea shifted to basic survival. In an interview with Ms. Kim Soon Sin, “everyone’s living condition was so poor, this wasn’t their priority to [claim reparations]. If there was a powerful person or leader among these people, then maybe lawsuits would happen much earlier.”<sup>149</sup> With a nexus of political and economic barriers in Japan, China and Korea, the legacy of forced and slave labour remained untouched until the 1990s.

### **Differing Political Agendas and Changing Judicial Attitudes Towards Victims**

In South Korea, it was not until the 15<sup>th</sup> South Korean President Kim Dae Jung took office from February 25, 1998 to February 24, 2003, where survivors sought to claim damages. Choi stated that “this was the first-time victims had a real opportunity to bring their claims forward... From 1945, when Japan surrendered, to the year 2000, fifty-five years later, they had no opportunities all this time to be able to bring legal action in court because of the regime and their ties with Japan.”<sup>150</sup> With a different leadership, the South Korean Supreme Court’s attitude towards wartime victims shifted and future rulings illustrated the increasingly sympathetic nature of the court.

In China, despite revisionist politics, survivors and bereaved family members kept their memories alive by sharing stories about their wartime experiences, which severely disrupted

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<sup>145</sup> Reilly, “Remember History, Not Hatred,” 469.

<sup>146</sup> Juana Lee interview with Ms. Cui.

<sup>147</sup> Juana Lee interview with Yoon Tae-seok.

<sup>148</sup> Juana Lee interview with Ms. Cui.

<sup>149</sup> Juana Lee interview with Kim Soon Sin.

<sup>150</sup> Juana Lee interview with Michael Choi.

China's public narrative of WWII. During 1972 talks with then-Japanese Prime Minister Tanaka Kakuei, Zhou Enlai stated that "we need to explain [diplomatic normalization with Japan] to our people. If we don't educate the people, we cannot persuade the masses that had suffered under Japan's "Three All" policies during the war."<sup>151</sup><sup>152</sup> To add, notwithstanding the political tensions between China, the U.S., the Soviet Union and Japan, information about Chinese wartime suffering soon began appearing across the country. In the beginning of the 1980s, new museums, textbooks, public memorials, state-sponsored movies, television dramas and public commemoration events began, changing the pre-existing amnesia associated with the Sino-Japanese war.<sup>153</sup> In turn, this shift in China's political agenda gave victims the ability to sue the Japanese government and Japanese corporations for their brutal forced labour program during the war. In early 2006, the Chinese government announced that CFL would be allowed to sue Japanese corporations in Chinese courts, which was an unprecedented step towards redress and reparations.<sup>154</sup>

## Civil Society

Although victims across Asia had limited opportunities to seek acceptable redress after the war, civil society played a tremendous role in advocating for the survivors and their family members. Domestic civil society organizations in Japan, China and Korea, such as the Tokyo-based Network for Redress of World War II victims, the Society to Support the Demands of Chinese War Victims, and the Korean Association Against Japanese Forced Mobilization, orchestrated a united voice for Korean and Chinese survivors and bereaved family members. Although the influence of civil society varied in each country, civil society, alongside lawyers, historians and academics, continued to spotlight the unresolved legacies of forced labour that occurred during WWII in Asia. In an interview with Underwood, he pointed out that "there are very strong civil society links – more so between South Korea and Japan than China and Japan – but they were really instrumental."<sup>155</sup>

Within South Korea, since the end of the war, dozens of domestic organizations, have worked together to collect victim testimonies, support bereaved families and provide pro-bono legal aid to survivors, including Ms. Soon Sin Kim. As a representative for over one thousand forced labour victims, she stated that:

The challenges – there are so many. Number one is economical because I am volunteering, and it is difficult. But if I had to pick one reward, since I am the representative, I meet other people and when I meet these people, they give me such warm regards and they appreciate what I do. My wish is that because this is not just for myself, it is for individual people who are involved, my wish is that we will get compensation, and everyone will have some happy medium and we will be happy.<sup>156</sup>

In response to Ms. Kim Soon Sin's work, in an interview with Mr. Jong-Bok Kim he stated, "I really appreciate Ms. Kim and how much effort, money, and time she puts into this, and all the

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<sup>151</sup> Minutes of the Tanaka-Zhou talk are online at: [ioc.u-tokyo.ac.jp/](http://ioc.u-tokyo.ac.jp/) (Accessed November 15, 2019).

<sup>152</sup> The "Three Alls Policy" (三光政策) was a Japanese policy adopted in China during WWII. This policy enshrined the three "alls" being "kill all, burn all, loot all."

<sup>153</sup> Reilly, "Remember History, Not Hatred," 471.

<sup>154</sup> Underwood, Jian and Arimitsu, "Assessing the Nishimatsu Corporate Approach to Redressing Chinese Forced Labor in Wartime Japan," 3.

<sup>155</sup> Juana Lee interview with William Underwood, February 3, 2019.

<sup>156</sup> Juana Lee interview with Kim Soon Sin.

things, I really appreciate it. Not everybody knows how hard she works.”<sup>157</sup> Individuals working within these civil society organizations and survivor groups, such as Ms. Kim, have played a large role in prioritizing forced labour survivors by providing them with a network of likeminded individuals, as well as a platform to speak about their grievances.

In Beijing, Kang stated that “it is actually civil society and NGOs that promoted this progress in Korea – these historians and legal experts participated actively in this matter. In Korea, it took 13 years to get the first Supreme Court ruling – but we also talked with Korean lawyers and we learned a lot from them too.”<sup>158</sup> Yet contrary to Korea, China’s civil society remains less influential. Despite this, dedicated lawyers and social justice activists, such as attorney Kang, have dedicated the last two decades to help wartime victims. Ms. Cui also added:

I think the reason why the forced labour issue received so much attention nowadays is because of these good-hearted people helping us. They are lawyers, social justice activists and people with education and expertise, and they relentlessly helped us with their power. As you may know, the labourers were abducted and taken to Japan and a majority of them were farmers or peasants, and they lived in a relevantly low social status, which is why they were abducted and taken to Japan. When some of them came back to China, they still worked in their hometown and home village, so they may want to make their stories heard, but they just don’t know how. Luckily, and fortunately, there are lawyers like Ms. Kang and other lawyers and activists help us ordinary citizens. These experts have more influence on the public and that’s why these cases received so much attention.<sup>159</sup>

Although Ms. Cui was unable to recall other Chinese civil society organizations participating in the forced labour redress movement in China, she stated that professors as well as legal scholars in Shanghai and Beijing have supported the movement by bringing awareness to this issue. Still, it is important to note that the influence of Chinese civil society severely lags behind Korea’s civil society movement. According to Underwood, “in China, the biggest obstacle to obtain redress has been the Chinese communist party. China was not able to shut the CFL movement politically and the differences between the creative, proactive actions that the South Koreans are taking is that the Chinese were not able to do any of those.”<sup>160</sup>

Alongside civil society mobilization in China and Korea, Japanese social justice activists and lawyers played an insurmountable role in advocating for justice for WWII victims. In an interview with Underwood, “Japanese civil society groups need to be given a lot of credit, without them nothing would have happened either. These groups are relatively progressive within Japanese society... There were student protesters in the 1960s, and they became activists in the 1990 to promote these causes... without the counterpart of progressive Japanese people, who were prepared to cooperate with them, I don’t think this would have gotten much off the ground very much at all.”<sup>161</sup> In the late 1980s, Japanese social activists attempted to bring awareness to these issues domestically and Japanese lawyers began co-counselling with Chinese and Korean lawyers, which marked an important step towards justice.

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<sup>157</sup> Juana Lee interview with Kim Jong Bok, The National Federation for Victims of Forced Mobilization in Japan (대일항쟁기강제동원피해자연합회), Busan, South Korea, June 20, 2019.

<sup>158</sup> Juana Lee interview with Kang Jian.

<sup>159</sup> Juana Lee interview with Ms. Cui.

<sup>160</sup> Juana Lee interview with William Underwood.

<sup>161</sup> *Ibid.*

In general, in all three countries, the younger generation has taken it upon themselves to advocate for wartime victims. Mirianne Hirsh calls this “post-memory,” where individuals who did not experience a war become the most powerful advocates of “remembering” the war.<sup>162</sup> In an interview with Chong, “ALPHA Education’s work, although it is not easy, has a specific meaning to the younger generations... Hopefully in the future, with more young people involved, we can entice more people to support this issue. The force needs to be from the young people... we started this cause, but the flourishing must be from the younger generation.”<sup>163</sup>

But despite civil society’s crucial role in uniting survivors and requesting acceptable reparations from perpetrating parties, there continues to be reoccurring obstacles that limit the success of the forced labour redress movement. In South Korea, since the beginning of the redress movement, opinion in public spheres have diverged to be either conservative or progressive towards historical justice. This means that the influence of civil society organizations on current forced labour matters has not been effective in garnering full support from the public. In an interview with Professor Jang-Hie Lee, the President of the History NGO Forum for Peace in East Asia, “civil society in Korea is strong, but public opinion is not organized. Civil society remains to be the minority opinion – but it is strongly organized in Korea, which is in line with the government.”<sup>164</sup> To add, civil society has limited influence on current lawsuits. Ms. Kim stated that “if any powerful civil organizations were to help us, it would be a lot easier and the process [to obtain reparations] would be a lot faster because it was just a few people getting together – and they don’t have much power, so that is another frustration.”<sup>165</sup> Since the work of domestic NGOs tends to stray away from lawsuits in Korea, the organizations participate in other matters related to WWII history, such as the creation of a peace statute for “comfort women” and forced labourers, limiting the impact of NGOs on legal accountability.

Nonetheless, despite political, economic, legal social barriers, civil society has played an immense role in creating a united voice for the silenced. With growing awareness on Japan’s forced labour program, more possibilities became available to support the survivors in their quest for legal accountability, moral responsibility and acceptable compensation for unpaid wages and damages.

### **Japanese and International Legal Support**

Since the beginning of the forced labour redress movement, Japanese lawyers, including Onodera Toshitaka, Matsuoka Hajime, Toakahashi Toru and Morita Taizo, worked together with Kang to obtain justice for Chinese WWII victims. In 1995, Kang was approached by a Japanese lawyer who personally asked Kang to join her legal counsel to help Chinese comfort women victims sue the Japanese government. At the time, KFL already filed a lawsuit against the Japanese government, but CFL had no domestic or foreign legal counsel. Since 1995, the Japanese attorney’s willingness and determination to represent Chinese WWII victims motivated Kang to dedicate the last two decades to this issue. In an interview with Kang:

For foreign lawyers and attorneys to do an investigation, it was not very common, and they would’ve faced a lot of hurdles, so the Japanese lawyer asked me whether I could assist her in the investigation... If you want to sue a foreign government, that is not possible from our point of view. We cannot sue the Chinese government – that is impossible to do. But

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<sup>162</sup> Marianne Hirsch, “Past Lives: Postmemories in Exile,” *Poetics Today* 17, no. 4 (1996), 659.

<sup>163</sup> Juana Lee interview with Flora Chong.

<sup>164</sup> Juana Lee interview with Jang Hie Lee, Hankuk University of Foreign Studies, Seoul, South Korea, June 26, 2019.

<sup>165</sup> Juana Lee interview with Kim Soon Sin.



the Japanese lawyer came to China and they really wanted to do this, so I thought I should help her, and since she was doing this pro-bono, I thought I should do it pro-bono too... I didn't think that these lawsuits would take so long – maybe just one or two years – but I didn't think it would take decades. I never participated in this type of investigation before and I never thought I would have to go to the hard countryside [of China and Japan.] This is how I worked with the Japanese lawyers. We investigated in China together, and then we investigated the documents, materials and got some evidence, and we accompanied plaintiffs to go to Japan and to officially file the lawsuit.<sup>166</sup>

In December 1995, the Japanese lawyer came to China again – and she brought six other Japanese lawyers to make the entire legal team for the Chinese WWII victim lawsuits against the Japanese government. From there, Kang was the only Chinese lawyer to represent Chinese WWII victims, and she was a necessary actor to spearhead these lawsuits. But, without the dedication of progressive Japanese lawyers, it would be difficult for any of these claims to gain traction.

In the KFL case, Korean, Japanese-Korean and American lawyers cooperated together for KFL class action lawsuits. For over two decades, Choi worked with Mr. Robert Swift, an international human rights lawyer, who gave rise to new class action lawsuits, including a historic 1996 filing on behalf of Holocaust victims, resulting in Swiss, German and Austrian companies settling for USD\$7.5 billion.<sup>167</sup> As the lead lawyer of the current WWII KFL litigation, Swift and Choi are applying their knowledge from the 1996 filing to litigation in Korean courts against sixty-nine Japanese corporations on behalf of 1,004 Korean forced labourers, which was symbolically chosen to mean “angel,” *cheonsa* (천사), in Korean.<sup>168</sup> In an interview with Choi, he stated that “we started a coalition – Japanese, Korean, and Korean-Japanese lawyers, myself, and Bob Swift. We had over thirty people all joining our team. We created a coalition and started litigating the matter – we spent six or seven years finding different ways to penetrate and pierce the stone wall of the Japanese government.”<sup>169</sup> With dedication from lawyers in Japan, Korea and abroad, this significantly helped push the forced labour redress movement in Asia.

In an interview with Kang, she stated that “[the Japanese lawyers] took these cases to restore Japan’s reputation and they did not want Chinese people to think of Japanese people as this enemy. They don’t want Chinese people to hate them – and they wanted to restore Japan’s reputation in China, so that’s why they got involved. But in general, this is a human rights infringement case and we all want to protect human rights.”<sup>170</sup> In China and Korea, the work of Japanese attorneys were crucial to ensure mobilization across Asia and beyond.

### **Collective Memorialization and Research**

Ashplant et al. stated that “the politics of war memory and commemoration is precisely the struggle of different groups to give public articulation to, and hence gain recognition for, certain memories and the narratives within which they are structured.”<sup>171</sup> In correlation with the emerging forced labour compensation lawsuits, collective remembrance within victim countries started to

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<sup>166</sup> Juana Lee interview with Kang Jian.

<sup>167</sup> *This lawsuit was one of several factors that led to Germany’s Foundation Remembrance, Responsibility and Future.*

<sup>168</sup> Juana Lee interview with Michael Choi.

<sup>169</sup> *Ibid.*

<sup>170</sup> Juana Lee interview with Kang Jian.

<sup>171</sup> T.G. Ashplant, Graham Dawson and Michael Roper, *The Politics of War Memory and Commemoration*, (London: Routledge, 2000), 20.

appear. In the 1980s, there was a stark increase in government and private funding towards memorials, historical museums and research in China and Korea to boost memorialization associated with the Asia-Pacific war.

At the start of China's newfound education campaign on WWII history, in 1984, the Memorial Hall for the Victims of the Nanjing Massacre was established. Then, in 1987, with full support from the Chinese Communist Party and national leaders, the Chinese People's Anti-Japanese War Memorial Hall was established in Beijing. On the 50<sup>th</sup> anniversary of the invasion war in China, the museum was open to the public. Five years later, in 1992, the September 18 History Museum in Shenyang was established as well. Although the realities of WWII were finally brought to light within these massive historical installments, they were not designed to promote anti-Japanese sentiments. Instead, Reilly stated that "it was a way to enhance popular support for the Party and its goals of economic development, national unity and state strengthening."<sup>172</sup> Despite China's political agenda associated with the erection of these memorials, they provided new insight on the Sino-Japanese war as well as newfound research and archival evidence that legitimized the claims of CFL.

In South Korea, more government and private funding was allocated to create memorials across the country. In 1994, the War Memorial of Korea opened on the former site of Korea's army headquarters to memorialize the country's military history. The museum was built to commemorate actors and victims in several wars, including WWII and the Korean War. In 2015, the National Memorial Museum of Forced Mobilization under Japanese Occupation was opened to the public. This museum was strategically placed in Busan to remember the Busan harbor as the starting point of forced mobilization during Japanese occupation. With funding from the Korean government, the museum was established with a purpose to provide a venue for national education regarding human rights, world peace and historical justice. In an interview with Museum Director Dr. Yoon Tae-seok, "the museum should have opened a long, long time ago. However, political parties are involved, so it depends on who is in power. You also have to understand the international relationship between Japan and Korea. The decision [to build this museum] was not easy, and the second issue was where the museum would be built, and there was a lot of discussion on that."<sup>173</sup> This museum has been a foundation for research, historical dialogue and country-wide education, especially in terms of KFL and "comfort women." Yoon added that:

The [forced labour] lawsuits and the direction of the museum are different. The museum collects items and research, which has made the museum a hub for education. Whenever there are lawsuits happening, or news about lawsuits, our museum is here to provide historical background or information. As a museum, we collect data. Although we are not directly involved with these lawsuits, if there are decisions from these lawsuits, we will store the results to build our collection on forced labour.<sup>174</sup>

Although museums are not directly associated with these lawsuits, they work as an information hub to provide relevant information necessary for ongoing litigation.<sup>175</sup> The museum currently

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<sup>172</sup> Reilly, "Remember History, Not Hatred," 471.

<sup>173</sup> Juana Lee interview with Yoon Tae-seok.

<sup>174</sup> *Ibid.*

<sup>175</sup> Yoon stated that the museum's education focus is two-part. There is education happening within the museum and they also facilitate education within the community. Their target audience is from as young as elementary school students, to senior citizens. The museum facilitates craft programs for children, and workshops and seminars for adults. Facilitators from the

houses the statute representing KFL during WWII,<sup>176</sup> alongside archival evidence, wartime documents, victim testimonies, videos and photos.

Moreover, this museum has created an opportunity for civil society organizations to create educational programs and facilitate more meaningful dialogue with survivors and bereaved family members. Yoon stated that:

We work with about forty organizations that are involved with survivors. There are also a lot of educational organizations that focus on youth, and we are working with them as well. We also work closely with NGOs, especially with our education center or research center... and we definitely need these NGOs. Although we may not have rosy relationships with all of them, because of that, we are pressured from the public to put our act together, which I think is positive reinforcement.<sup>177</sup>

As a data collection, fact-finding and research center, to an educational institution that facilitates historical awareness across the country, this museum houses the testimonies and experiences of KFL that were toiled in inhumane forced labour before and during WWII.

Other museums in South Korea, such as the War & Women's Human Rights Museum, was completed in 2012 to exhibit and showcase the traumatic experiences of "comfort women" through powerful audio and written testimonies, diaries, maps, videos and photos. The Korean Council for the Women Drafted for Military Sexual Slavery by Japan raised funds from private individuals and organizations to create this Seoul-based museum, to illustrate the truth about the inhumane treatment of "comfort women" during the War and advance historical and human rights education. These museums, memorials and educational centers became the forefront for archival documentation and research to provide the greater public with a critical historical understanding of the atrocities that occurred during the war.

### **Business and Human Rights Norms and Soft Law Mechanisms**

As previously mentioned, since the 1970s, business and human rights became a new phenomenon. These new norms began with the ILO as well as the UN Commission on Transnational Corporations and the UN Sub-Commission on the Promotion and Protection of Human Rights, which established a Working Group on TNCs.<sup>178</sup> In 2011, the Human Rights Council unanimously endorsed John Ruggie's "Protect, Respect and Remedy" framework outlined in the Guiding Principles.<sup>179</sup> While these standards did not create new international law obligations, they became global reference points on business and human rights. In an interview with Underwood, "I've always found it strange that no one else picked this up. Japanese corporations, in a sense, have gotten a free ride for the past 74 years. there are now global standards and corporate social responsibility and that sort of thing now."<sup>180</sup> But despite these new business and human rights norms, they have not been effective in enforcing global standards on Japanese

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museum also go to primary and local schools across South Korea, as well as youth detention centers, to run these historical education workshops to teach the public about the importance of historical awareness and memorialization.

<sup>176</sup> Yosuke Onichi, "South Korean city removes statue symbolizing forced wartime labor," *Nikkei Asian Review*, June 1, 2018, [asia.nikkei.com/Politics/International-relations/South-Korean-city-removes-statue-symbolizing-forced-wartime-labor](http://asia.nikkei.com/Politics/International-relations/South-Korean-city-removes-statue-symbolizing-forced-wartime-labor).

<sup>177</sup> Juana Lee interview with Yoon Tae-seok.

<sup>178</sup> John Gerard Ruggie, "Business and Human Rights: The Evolving International Agenda," *The American Journal of International Law* 101, no. 4 (2007), 819.

<sup>179</sup> United Nations, Guiding Principles on Business and Human Rights.

<sup>180</sup> Juana Lee interview with William Underwood.

corporations, and victimized countries are also lagging behind. Professor Seunghyun Sally Nam, who was previously a Secretary at the Ministry of Foreign Affairs and Trade Republic of Korea, argued that the Guiding Principles had little impact on the forced labour issue in Korea.<sup>181</sup> She stated that within the last decade, business and human rights are just being accepted in Korea, although the country published a Human Rights National Action Plan (NAP) containing a chapter on business and human rights on August 9, 2018.<sup>182</sup> With the politicization of WWII compensation lawsuits, Nam stated the voluntary nature of the Guiding Principles has made these norms relatively ineffective in retroactively handling atrocities in the past.<sup>183</sup> Prior to 2018, the Korean government enforced human rights management for state owned enterprises, and now these standards are slowly expanding to private corporations in Korea. The 3<sup>rd</sup> NAP for the promotion and protection of human rights included a chapter deemed “a society where everyone works for human rights-friendly corporate operations,” which aims to establish and implement human rights standards in private corporations. With the integration of human rights norms throughout corporations operating on Korean soil, Nam argued that “this can influence WWII lawsuits and provide legitimacy and help enforce the Guiding Principles.”<sup>184</sup>

Steven Nam, the current Managing Editor of the Stanford Journal of Blockchain Law & Policy and previously a Distinguished Practitioner at Stanford’s Center for East Asian Studies, stated that:

With the rise in corporate accountability and soft law treaties and agreements, I think companies came to realize that often time it is better to settle and offer redress and just move on...Just for the company image and their operations, I think that this is changing the corporate accountability landscape, and it is definitely influential for companies. Still, national governments have politics and international relations, which must be a consideration, but maybe settlements will come sooner or more reasonably with these norms in place – so I do think they played a role.<sup>185</sup>

But despite emerging business and human rights norms potentially influencing the origins of WWII lawsuits, Japan has yet to implement the “Protect, Respect and Remedy” framework to hold Japanese businesses to “remedy” the WWII issue. Nam argued that “as competitions grew more heated between the governments, this issue has become “political weapon and crusade.”<sup>186</sup> He added that, “corporate accountability concepts and so forth could also be relied on by the national government to conserve their own purposes and can be politicized.”<sup>187</sup> In line this Nam, Kang argued that even if these norms played a role in the forced labour redress movement, settlements between corporations, survivors and bereaved family members have not been acceptable because

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<sup>181</sup> Juana Lee interview with Seunghyun Sally Nam, Seoul, South Korea, June 27, 2019.

<sup>182</sup> Republic of Korea, “The 3<sup>rd</sup> National Action Plan (NAP) for the Promotion and Protection of Human Rights,” August 9, 2018, [mk0globalnapshvllfq4.kinstacdn.com/wp-content/uploads/2017/11/3rd-hr-nap-of-republic-of-korea-2018-2022-chapter-8-bhr-only-by-khis-2018-11-24.pdf](https://mk0globalnapshvllfq4.kinstacdn.com/wp-content/uploads/2017/11/3rd-hr-nap-of-republic-of-korea-2018-2022-chapter-8-bhr-only-by-khis-2018-11-24.pdf).

<sup>183</sup> Juana Lee interview with Seunghyun Sally Nam.

<sup>184</sup> *Ibid.*

<sup>185</sup> Juana Lee interview with Steven Nam, April 1, 2019.

<sup>186</sup> Juana Lee interview with Steven Nam.

<sup>187</sup> *Ibid.*

they are not sincere – as seen in the Nishimatsu-Shinanogawa settlement, which was rejected by all the plaintiffs.<sup>188189</sup>

As discussed by scholars, academics and historians, it is unlikely that emerging business and human rights norms effectively influenced the forced labour redress movement. With the politicization of the WWII problem affecting geopolitics between effected Asian countries, it is difficult for “toothless” voluntary principles to push governments to willingly admit wrongdoing during the war. However, with growing influence and prevalence of business and human rights norms, and with more corporations and governments implementing the Guiding Principles, among other soft law mechanisms, academics are optimistic that these norms will potentially influence the outcome of current lawsuits to provide acceptable remedy for victims of forced labour during WWII.

### **Summary**

Due to the conflicting political agendas in China and Korea, survivors and their bereaved family members were unable to claim redress from the Japanese government and corporations. But within the last three decades, the intersection of differing political agendas, more sympathetic judicial attitudes, the intersection of civil society and increasing historical awareness and memorialization, has provided survivors with more opportunities to claim reparations. In the 1990s, the wave of class action compensation lawsuits represented a new chapter for historical justice, accountability and responsibility – but have these lawsuits met the demands of the plaintiffs?

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<sup>188</sup> Juana Lee interview with William Underwood.

<sup>189</sup> Kang Jian, “Rejected by All Plaintiffs: Failure of the Nishimatsu-Shinanogawa “Settlement” with Chinese Forced Labourers in Wartime Japan,” *The Asia-Pacific Journal* 8, no. 5 (2010), 4.

## Chapter 6: The Effectiveness of Retributive Justice

Five decades after the end of the war, survivors and bereaved family members were given an opportunity to obtain accountability and historical justice in courts. Since then, dozens of external settlements and differing court decisions have been rendered in favor, or against, redress for Chinese and Korean WWII forced labour victims. This chapter will discuss how these lawsuits are breaking down barriers for legal justice, the court processes in China and Korea, Japan's role in mitigating justice, the unprecedented impact of these court decisions on geopolitics and the gaps in retributive justice. This chapter will draw from testimonies of survivors, family members, attorneys and academics, illustrating the hardships and importance of pursuing legal accountability. Please refer to Appendix 2 to review CFL and KFL cases that are relevant to this section of the study.

### Breaking Down Legal Barriers

Before the lawsuits, legal barriers, including jurisdiction, statute of limitations, peace treaties, admissibility and double jeopardy, played a large role in limiting all wartime victims to seek compensation in courtrooms. Professor Tu Yuxin from Fudan University stated that “I see a lot of barriers preventing victims and descendants of victims from getting justice. There are two major issues that I can see: jurisdiction and admissibility.”<sup>190</sup> To add, Tu questioned the identification of victims asking “do you think names appeared on the [log sheet] of Japanese companies during WWII are sufficient indications that they can be qualified as victims? Secondly, what if the victims died due to age? What is the solution for that?”<sup>191</sup> In relation to Tu, many other scholars in China and Korea hold a more conservative view on legal accountability.

But since the 1990s, lawsuits filed in Tokyo, Sapporo, Fukuoka, Niigata, Hiroshima, Gunma, Yamagata, Miyazaki, Nagano, Kanazawa, Seoul, Busan, Daegu, Gwangju, California, and Beijing have challenged these legal questions. Moreover, court cases associated with other wartime survivors, including Chinese “comfort women” and Unit 731 victims defied these barriers. According to Choi, “if the victims never had any opportunities to bring their claims to court, then we should not limit these victims to come forward for a judicial review.”<sup>192</sup> Choi analyzed the legal statements stating statute of limitation, double jeopardy limits admissibility of these claims by arguing that:

Double jeopardy cannot apply because these people have not been compensated by anyone. Our victims, rightfully so, said... ‘we didn’t even know the nature of the negotiations and nobody told us that the claims were resolved and dismissed. You can’t claim that.’ Even the courts agreed with them stating double jeopardy cannot apply – Korea failed the basic notifications and settlements [before signing the 1965 treaty] and since the statute of limitations is based on the court’s ability to adjudicate, it cannot apply in this case.<sup>193</sup>

To add, Kang stated that “when the victims shared their experiences, I can still recall their faces and their expressions when they talked about this. We couldn’t eat anything after one interview with the victims, and we lost all our appetite. Nobody can make up an experience like this, if they didn’t experience it firsthand. There are so many examples. The Japanese people just don’t believe

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<sup>190</sup> Juana Lee interview with Tu Yuxin, July 5, 2019.

<sup>191</sup> Juana Lee interview with Tu Yuxin.

<sup>192</sup> Juana Lee interview with Michael Choi.

<sup>193</sup> *Ibid.*

such things would happen.”<sup>194</sup> While a victim’s “status” and the accuracy of archival evidence, such as corporate log sheets, can be debated, the Tokyo High Court has admitted that Japan’s forced labour program was illegal.<sup>195</sup> Additionally, in July 1999, the California Code of Civil Procedure section 354.9 allowed any WWII slave labour victim or heir can bring an action to recover compensation for labour performed from any entity or successor until 2010, providing a new avenue for WWII forced labourers to achieve legal accountability.<sup>196</sup>

With the emergence of these lawsuits, legal barriers for WWII victims began to dissolve. However, courts across Japan were not ruling in favor of the victims. Despite decisions dismissing their cases, the demands from survivors and bereaved family members remained the same. According to Cui, “I think a fair and sufficient settlement should include three things. First, we need a sincere apology – a very sincere apology made in public. Secondly, the Japanese government and corporations need to acknowledge their mistakes and acknowledge all the brutal treatment and atrocities they imposed on forced labourers and WWII victims. They need to learn from their mistakes and contemplate their behaviour. Thirdly, they need to pay for damages.”<sup>197</sup> While rulings by courts in Japan, South Korea and Beijing, provided sufficient legal leverage for survivors and bereaved family members to obtain appropriate and acceptable reparations and redress, the issue is whether the courts’ decisions were effective enough to influence on the Japanese government and corporations to meet their demands.

In contrast to Japan, in August 2000, the Remembrance Fund was created to provide compensation for forced labourers from former Eastern bloc countries as well as Jewish slave labourers.<sup>198</sup> According to Goschler, “gaining compensation for “forgotten victims” of Nazism was one of the moral and political goals that the Social Democrats and the Greens shared” in the start of the 21<sup>st</sup> century.<sup>199</sup> Although Germany set aside redress for slave and forced labour during the Cold War, the new German government finally brought the issue of compensation back into the political arena.<sup>200</sup> After immense bargaining, the various parties agreed on a total endowment of DM\$10 billion (~USD\$5 billion) that was provided by both the German economy and the German government.<sup>201</sup> In addition, the Foundation was set up, and at the request of German industries, half the endowment was used to support humanitarian and future-orientated activities after the completion of the compensation program. Despite Germany’s movement towards acceptable redress for forced and slave labourers, victims in the Asia-Pacific front continue to face extreme political hurdles to achieve similar compensation. The German case can be seen as a benchmark that meets all the demands presented by the plaintiffs.

### **Court Processes for Chinese Forced Labourers**

This section will draw on Kang’s experience litigating against corporations, such as Kajima, Rinko, Nishimatsu and Mitsubishi Materials, and the outcome of these lawsuits. Since 2003, Kang participated in eleven labour cases, and within these eleven cases, she was a facilitator

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<sup>194</sup> Juana Lee interview with Kang Jian.

<sup>195</sup> The Law Library of Congress, Global Legal Research Center, Japan: WWII POW and Forced Labor Compensation Cases, September 2008, [loc.gov/law/help/pow-compensation/Japan-pow-compensation.pdf](http://loc.gov/law/help/pow-compensation/Japan-pow-compensation.pdf), 1.

<sup>196</sup> California Code of Civil Procedure '354.6(b).

<sup>197</sup> Juana Lee interview with Ms. Cui.

<sup>198</sup> Goschler, *Compensation in Practice*, 3.

<sup>199</sup> *Ibid.*, 2.

<sup>200</sup> *Ibid.*, 3.

<sup>201</sup> *Ibid.*

for five cases, facilitating 119 plaintiffs all together. But even before the lawsuits began, the survivors were approaching their senior years, and most of them resided in the countryside with little to no education. The Japanese lawyers were worried that the plaintiffs would be unable to properly deliver their testimony in court, making Kang the first ever foreign facilitator in Japanese history.

In 2000, Kang and her legal team filed a suit in Tokyo against Kajima Corporations, who forcibly toiled 986 Chinese people in the Hanaoka mine site. According to Kang, “in the courtroom, the victims relived that horrible experience and they gave a vivid explanation of their entire journey. They were very emotional in the courtroom – some of the victims were crying, and some of them even fainted because of this emotional exhaustion.”<sup>202</sup> But during the survivors’ emotional testimonies, Kang, as the facilitator, was unable to speak, and she was only allowed to provide written documents to the Japanese lawyers to read aloud. In 2001, plaintiffs and defendants reached a settlement, where Kajima agreement to establish a ¥500 million yen (~USD\$4,568,088) fund. During the Kajima case, the judgement revoked the statute of limitations for the first time in history. Following these district court judgements, two Japanese High Courts did the same – reflecting the differing interpretation of the pre-WWII sovereignty doctrine between the Japanese government and courts.<sup>203</sup>

### **Diverging Historical Narratives**

During her time as a facilitator, she realized there were several stark differences between Chinese victims and Japanese defendants. Specifically, during her first case in the Tokyo High Court, Kang would use the term “invasion war,” but Japanese attorneys would alternate between the terms “Sino-Japan war” and the “China-Japan war.” She also added that although Japan surrendered in WWII, during the hearings, the Japanese defense attorneys never used the term “surrender,” and would refer to the term “ended.” To illustrate the diverging historical understanding of WWII between the plaintiffs and defendants, Kang described a situation where:

I talked about the brutal acts committed by the Japanese soldiers – they burned, killed, robbed, raped, everything. I was really emotional during that time – I said “these atrocities will never be forgotten by any Chinese person – so we will remember this for the rest of our lives, and we will educate our offspring, our grandchildren, and the grandchildren of our grandchildren.” But I didn’t realize that the Japanese defense attorney would react so strongly about my expression and my detailed illustration of the war.<sup>204</sup>

Her expression in court led the Japanese defense attorney to exclude her from the case, which the judge agreed to. During that case, in order to continue as a facilitator, she was required to file a petition and gather an adequate number of signatures from the plaintiffs to let her back on the case. In light of this example, the stark difference in terminology is important to note because it symbolizes the different narratives that are instilled in China and Japan. With Japan’s skewed historical knowledge of the war, and China’s ultra-memorialization after 1982, there were conflicts in understanding the facts and testimonies that were presented in court. Due to diverging historical narratives in Japan and victim countries, lawsuits filed in Japan were difficult for survivors and their legal representatives.

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<sup>202</sup> Juana Lee interview with Kang Jian.

<sup>203</sup> The Law Library of Congress, Global Legal Research Center, Japan: WWII POW and Forced Labor Compensation Cases, 1.

<sup>204</sup> Juana Lee interview with Kang Jian.



In January 15, 2003, a case filed in the Kyoto District Court against Nippon Yakin Kogyo Corporation and the Japanese government rejected the claim of state immunity.<sup>205</sup> Although the Kyoto District Court dismissed the case, cases decided by the Tokyo High Court and Fukuoka High Court and Niigata District Court also rejected the argument of state immunity.<sup>206</sup>

### **The Niigata District Court Decision**

In March 26, 2003, Kang, alongside her legal counsel, represented ten survivors and two family members in Niigata.<sup>207</sup> This was the first time where a Japanese court ordered both the defendants to pay compensation to CFL.<sup>208</sup> The plaintiffs demanded ¥275 million yen (~USD\$2,512,448), and the Niigata District Court awarded them a total of ¥88 million yen (~USD\$803,983) each.<sup>209</sup> During the court proceedings, Kang stated that:

We brought the judge to the port where the victims were taken to work. They had to work in the winter of 1944, and they had to work with only one layer of thin clothes. The judge had court records about weather conditions during that period of time, and according to those records the weather was approximately -30°C. Still, the victims had to go the port and onload and offload goods that the Japanese soldiers stole from China, including some grains. One day, it was snowing – the snow was thick, almost one metre high, and they were working in such a condition without a winter jacket. They were so cold. Some of the labourers took paper bags to wear around the waist to keep warm, but not everyone had this paper bag and a lot of them got frost bite. Later, the Japanese supervisors gave them potato sacks to keep them warm. The judge couldn't picture how a person could use a potato sack as a winter jacket. So, the judge asked the victim to demonstrate how. The judge gave him a modern-day potato sack bag. Obviously, it is different than the ones used back then. The victim started crying but, showed the judge how to wear it like a winter jacket. The whole situation was emotional and in this particular case, the first ruling came out and they wrote in favour of the victim.<sup>210</sup>

The judge acknowledged that Japan's wartime forced labour program was illegal, but the entire proceeding revictimized the plaintiffs. In July 2004, the Hiroshima High Court overturned a lower court decision and ordered Nishimatsu Construction Corporation to pay compensation to CFL, Nishimatsu appealed the decision to the Japanese Supreme Court, which ruled in 2007 that the 1972 Peace Treaty extinguished the right of Chinese citizens to file war-related lawsuits.<sup>211</sup> In the Nishimatsu case, Kang stated that the Japanese Supreme Court wanted to exclude any claims from legal jurisdiction, stating that the defendants did not have legal responsibility, but should take moral responsibilities, such as develop an external settlement, outside the courtroom.<sup>212</sup> Because

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<sup>205</sup> The Law Library of Congress, Global Legal Research Center, "Japan: WWII POW and Forced Labor Compensation Cases," (September 2008), 5.

<sup>206</sup> The Law Library of Congress, "Japan: WWII POW and Forced Labor Compensation Cases," 5.

<sup>207</sup> The twelve plaintiffs have since passed away.

<sup>208</sup> "Ruling on WWII Japan Slave Labor," CBC News, March 26, 2004, [cbsnews.com/news/ruling-on-wwii-japan-slave-labor/](http://cbsnews.com/news/ruling-on-wwii-japan-slave-labor/).

<sup>209</sup> "Ruling on WWII Japan Slave Labor," CBC News, March 26, 2004.

<sup>210</sup> Juana Lee interview Kang Jian.

<sup>211</sup> William Underwood, Kang Jian and Arimitsu Ken, "Assessing the Nishimatsu Corporate Approach to Redressing Chinese Forced Labor in Wartime Japan," *The Asia-Pacific Journal* 16, no. 7 (2009), 1.

<sup>212</sup> Read more about the case here: [apjif.org/-Kang-Jian/3399/article.html](http://apjif.org/-Kang-Jian/3399/article.html)

of this, the judge suggested that Nishimatsu should resolve this dispute with a settlement. In April 2004, there was also a settlement with Nippon Yakin in the Oeyama nickel mine case.<sup>213</sup>

After the Tokyo and Niigata judgements, lawsuits were filed around in the world – including the U.S. and Beijing. In the U.S., CFL and their representatives took advantage of the U.S. legal system and courts. For example, in November 2003, six plaintiffs filed a suit in California against Mitsubishi Materials and Mitsui, where the Alliance for Preserving the Truth of the Sino-Japanese War paid the airfare for survivors and bereaved family members to travel from China to the U.S.<sup>214</sup> However, from 1999 to 2010, court cases related to WWII Japanese forced labour were dismissed due to the 1951 San Francisco Peace Treaty and “the court also concluded that section 354.6 is unconstitutional because it infringes on the federal government’s exclusive power over foreign affairs.”<sup>215</sup> Even though China was not a signatory to the 1951 Treaty, CFL cases were dismissed. Without the support of the U.S. legal system, forced labourers were required to return home with no compensation or a sincere apology. As observed by Kang, these victims resembled “political pinballs who continue to be pushed from one jurisdiction to the next.”<sup>216</sup>

In February 2014, Kang, who represented all 37 plaintiffs, filed a case with the Beijing No. 1 Intermediate Court. Later that month, the Beijing court accepted the lawsuit, which demanded compensation from Mitsubishi Materials. This was the first time in history that CFL and bereaved family members filed a class-action lawsuit in a Chinese court. Kang stated that “Mitsubishi didn’t want to talk to us at all. And on March 16, the court took the case, in April of the same year, Mitsubishi finally started to talk to us.”<sup>217</sup> This set precedent for domestic courts demanding compensation from Japanese corporations, and eventually led to the 2016 Mitsubishi Fund for Historical Human Rights and Peace. Despite these settlements, on January 2019, the Osaka District Court dismissed CFL case that sued Kajima for toiling forced labourers in an Akita Prefecture mine.

### **Out-of-Court Settlements and “Strategic” Remorse**

Several Japanese court decisions recommended the Japanese government and corporations to pay compensation to the plaintiffs and admit moral responsibility. Since these recommendations are not legally binding, they were often ignored by the defendants. However, in some cases, they led to out-of-court settlements between the plaintiffs and the defendants.<sup>218</sup> Although the Japanese government denied responsibility “in light of international law,” according to research conducted by MSCI, “as China’s influence relative to that of Japan has grown, Chinese nationals and the Chinese government have become more aggressive about pursuing claims against the government of Japan and Japanese companies for abuses that took place during World War II.”<sup>219</sup> With increasing domestic lawsuits and pressure from external actors, settlements and funds, including

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<sup>213</sup> Juana Lee interview with Kang Jian.

<sup>214</sup> Vanessa Hua, “Forced labor/men who worked in Japanese mines during World War II sue for wages and damages,” SFGate, May 6, 2003, [sfgate.com/business/article/Forced-labor-Men-who-worked-in-Japanese-mines-2618260.php](https://www.sfgate.com/business/article/Forced-labor-Men-who-worked-in-Japanese-mines-2618260.php).

<sup>215</sup> United States District Court Northern District of California, Master File No MDL-1347, In RE: World War II Era Japanese Forced Labor Litigation, September 17, 2001, [gwu.edu/~memory/data/judicial/POWs\\_and\\_Forced\\_Labor\\_US/ClassAction/Sept172001KoreaChina.pdf](https://www.gwu.edu/~memory/data/judicial/POWs_and_Forced_Labor_US/ClassAction/Sept172001KoreaChina.pdf).

<sup>216</sup> Juana Lee interview with Kang Jian.

<sup>217</sup> *Ibid.*

<sup>218</sup> In all cases, it is important to note that the Abe administration denied responsibility “in light of international law.” Abe is referring to the 1965 Peace Treaty and the 1972 Joint Communiqué.

<sup>219</sup> MSCI, “Publicly Traded Companies that Benefitted from Forced or Slave Labor, 1929-1945,” MSCI ESG Research Report to CalPERS, December 2018, [calpers.ca.gov/docs/forms-publications/forced-slave-labor-2019.pdf](https://www.calpers.ca.gov/docs/forms-publications/forced-slave-labor-2019.pdf), 3.

the Kajima-Hanaoka fund, Nishimatsu settlement (with the proposed name “Peace and Friendship Fund”) and the Mitsubishi Fund, were erected. However, these controversial settlements have been critiqued by Chinese plaintiffs, their legal representatives and human rights advocates. The first external settlement was the controversial 2000 Kajima-Hanaoka settlement, where victims and representatives, including Kang, deemed the settlement insincere and devious. However, others including Ivy Lee stated that Kang and other representatives “pitted victims who accepted the Kajima money against victims who did not.”<sup>220</sup> Differing attitudes towards out-of-court settlements led Kang to oppose the Japanese lawyers in her counsel.

In an interview, Kang discussed her perspective on out-of-court settlements, stating:

I think it is okay to have a settlement. But at the time, Nishimatsu played a trick. Nishimatsu had two work sites at the time – Yasuno and Shinanogawa – and we thought we could combine the victims together to reach a settlement together. But Nishimatsu decided to base it on the Hanaoka settlement. The Hanaoka settlement was wrong because Kajima did not acknowledge the illegality of the forced labour program, and treated victims like relief or charity. That’s why Nishimatsu cannot base the settlement on the Hanoka settlement. It is actually okay if they do not take legal responsibility, but they should acknowledge the fact that there was a forced labour program, especially since the court decisions acknowledged this too... You can avoid legal responsibility – but you must pay respect to the victims.<sup>221</sup>

In Kang’s eyes, the main issue was that the settlement lacked remorse or sincerity. Because of this, in April of that year, the Nishimatsu-Shinanogawa plaintiffs rejected the settlement in a public press conference.<sup>222</sup> Kang stated that “to show support and respect for these plaintiffs, some concerned Chinese individuals and civil society groups came forward to offer financial assistance. Such an act is a realization of the universal desire to uphold human rights, to offer mutual respect and support in a united struggle against injustice.”<sup>223</sup>

The same issues were also echoed in the Mitsubishi Fund. In 2016, Mitsubishi Materials stated that they felt “keen remorse” and would pay ¥100,000 yuan (~USD\$14,451) per person as compensation for the company’s use of forced and slave labour.<sup>224</sup> On top of this, Mitsubishi said that the fund will pay ¥100 million yen (~USD\$913,617) to 3,765 individuals, which was based on the number of CFL listed in the 1946 Japanese Foreign Affairs report. Mitsubishi also stated that they will pay ¥100 million yen to build a memorial stone and ¥200 million yen (~USD\$1,827,235) to look for missing family members.<sup>225</sup> According to experts, however, “the Japanese government’s commitment to improving relations with China appears to be a factor in how quickly the company has moved to pay compensation, considering the company has refused to pay compensation or provide an apology for Korean victims.<sup>226</sup>” To add, Underwood argued that “Mitsubishi is working very closely with the Japanese government in the area of strategic

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<sup>220</sup> Lee, “Toward Reconciliation: The Nishimatsu Settlements for Chinese Forced Labor in World War II,” 1.

<sup>221</sup> Juana Lee interview Kang Jian.

<sup>222</sup> *Ibid.*

<sup>223</sup> Jian, “Rejected by All Plaintiffs: Failure of the Nishimatsu-Shinanogawa “Settlement” with Chinese Forced Labourers in Wartime Japan,” 13.

<sup>224</sup> “Mitsubishi to establish fund to compensate Chinese victims of forced labor within the year,” Hankyoreh, November 6, 2018, [english.hani.co.kr/arti/english\\_edition/e\\_international/869081.html](http://english.hani.co.kr/arti/english_edition/e_international/869081.html).

<sup>225</sup> “Mitsubishi to establish fund to compensate Chinese victims of forced labor within the year.”

<sup>226</sup> *Ibid.*

apology or strategic remorse.”<sup>227</sup> In line with Underwood, Choi stated that “China is in a much better position, in terms of military strength and economy, which is why Mitsubishi is willing to settle – as a gesture.”<sup>228</sup>

But when speaking to one of the plaintiffs, Ms. Cui, she stated that:

The Mitsubishi fund is not fair because the only reason we wanted to take Mitsubishi to court was because the other settlements never used the term “compensation.” They never used the term “payment for damages.” They just used the terms “atonement” or “relief” money. This is wrong because they are denying their mistakes and denying the facts. That is why I don’t think this is fair. The money should just be compensation and pay for our damages. They are using a fund to manage this, and that isn’t right. It doesn’t seem fair to me.<sup>229</sup>

In line with Ms. Cui, Kang argued that the Nishimatsu settlement and the Mitsubishi fund both conveyed a “humanitarian aid and charitable hue.”<sup>230</sup>

However, others believe that the settlement is a progress. According to Nam, “I think this is a move in the right direction. But I think it is important that there continues to be dialogue... I think that if companies take an approach where they are willing to apologize and stay apologetic – it is more symbolic moving forward between all the actors involved. This is for long term healing and a case of history, rather than a longstanding wound.”<sup>231</sup>

### **Court Processes for Korean Forced Labourers**

In South Korea, litigation in Japanese courts began in 1990s due to the work of Korean-Japanese, Korean and American lawyers. Despite decades of progress to obtain acceptable redress and reparations for KFL, there continues to be a lack of accountability on the side of the defendants. As one of the key players in this process, this section will draw on Choi’s experience litigating in U.S., South Korean and Japanese courts.

In July 1999, the California Code of Civil Procedure section 354.9 provided a new avenue for KFL to achieve redress. However, on September 17, 2000, the U.S. District Court for the Northern District of California dismissed several cases based on the statute of limitations and forum non-convenience.<sup>232</sup> Choi and his partners issued a writ of certiorari to request the Supreme Court to review the case. Yet, on September 21, 2000 Judge Borne Walker rejected the Korean plaintiffs motion “on the ground that the Aremoval jurisdiction exists because these actions raise substantial questions of federal law by implicating the federal common law of foreign relations” and dismissed the claims due to the 1951 San Francisco treaty.<sup>233</sup> This pushed Choi and his legal counsel to go to retrieve from the U.S. and build a class-action suit in Japan. Choi stated “we went to Japan and the Japanese Supreme Court, and appealed, appealed and appealed. The highest court in Japan stated that the Japanese companies who benefited from their labour should compensate

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<sup>227</sup> Juana Lee interview with William Underwood.

<sup>228</sup> Juana Lee interview with Michael Choi.

<sup>229</sup> Juana Lee interview with Ms. Cui.

<sup>230</sup> Juana Lee interview with Kang Jian.

<sup>231</sup> Juana Lee interview with Steven Nam.

<sup>232</sup> United States District Court Northern District of California, Master File No MDL-1347, In RE: World War II Era Japanese Forced Labor Litigation, September 17, 2001.

<sup>233</sup> David D. Caron and Adam Schneider, “U.S. Litigation Concerning Japanese Forced Labor in World War II,” *American Society of International Law* 5, no. 18 (2000), 1.

Korean victims irrespective of the 1965 treaty or the statute of limitations – nevertheless, this decision had no teeth.”<sup>234</sup>

In 2007, Choi, alongside U.S. and Korean politicians, including Michael Honda, began working on a potential settlement with then-Japanese Prime Minister Hatoyama Yukio. While discussing this issue, Hatoyama stated that the Japanese government wanted to compensate American PoWs as well as KFL.<sup>235</sup> This breaking news led Choi, Swift, Honda and other Japanese lawyers to host a press conference on March 1, 2007. He stated that “we thought that by the year 2010, the matter was going to be settled. We were working towards a final settlement.”<sup>236</sup> But unexpectedly, six months later, Hatoyama stepped down as Prime Minister. After this, Choi stated that “suddenly, the whole idea of a settlement faded away. That was a sad moment. But a few days later, we shook up and did it again – working towards case preparation and we met with all the leaders again.”<sup>237</sup>

After decades of advocacy, on August 30, 2011, the South Korean Constitutional Court decision recognized the individual rights of “comfort women” to claim compensation, but this case did not cover the 1965 agreement and stated that it was the government’s failure to pursue these matters adequately with Japan.<sup>238</sup> Echoing this decision, on May 24, 2012, the landmark decision by Supreme Court of Korea recognized the individual rights of KFL to claim compensation from Japan, therefore rejecting the Busan High Court decision case against Mitsubishi Heavy Industries.<sup>239</sup> Following this decision, on July 10, 2013, the Gwangju High Court upheld the August 2017 decision by Gwangju District Court and ordered Nippon Steel to pay ₩100 million won (~USD\$86,688) each to the four plaintiffs.<sup>240</sup> These were all ground-breaking, landmark decisions that signified South Korea’s interpretation of the 1965 Peace Treaty, and the court’s sympathetic position on redress and accountability. Despite these progressive judgements, these court decisions triggered and exacerbated tense relations between Japan and Korea.<sup>241</sup>

On October 30, 2018, the South Korean Supreme Court concluded a long-running lawsuit filed by four victims in 2005 and ruled that Nippon Steel must pay ₩100 million won to each of the four plaintiffs.<sup>242</sup> Then, on November 29, 2018, the Supreme Court upheld a lower-court

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<sup>234</sup> Juana Lee interview with Michael Choi.

<sup>235</sup> *Ibid.*

<sup>236</sup> *Ibid.*

<sup>237</sup> *Ibid.*

<sup>238</sup> “Confirmation of the Unconstitutionality of Omission of Action on Article 3 of the Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Co-operation between Japan and the Republic of Korea (No. 788 of 2006 헌마)” (August 30, 2011): court.og.kor/home/storybook/storybook.jsp?eventNo=2006 헌마 [in Korean], and “Confirmation of the Unconstitutionality of Omission of Action on Article 3 of the Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Co-operation between Japan and the Republic of Korea (No. 648 of 2008 헌마)” (August 30, 2011): court.og.kor/home/storybook/storybook.jsp?eventNo=2006 헌마 [in Korean].

<sup>239</sup> “Supreme Court of Korea: Ruling of the First Petty Bench on Case No. 22549 of 2009 다 on Claim for Compensation” (May 24, 2012) [in Korean], and “Supreme Court of Korea: Ruling of the First Petty Bench on Case No. 68620 of 2009 다 on Claim for Compensation” (May 24, 2012) [in Korean].

<sup>240</sup> “Seoul High Court: Ruling of the 19th Civil Bench on Case No. 44947 of 2012 다 on Claim for Compensation” (July 10, 2013) [in Korean].

<sup>241</sup> Hideki Okuzono, “South Korean Judiciary Shakes Japan-South Korea Relations,” International Circumstances in the Asia-Pacific Series, Japan Digital Library (March 2016), [jia.or.jp/en/digital\\_library/korean\\_peninsula.php](http://jia.or.jp/en/digital_library/korean_peninsula.php), 1.

<sup>242</sup> Choe Sang-Hun and Rick Gladstone, “How a World War II-Era Reparations Case is Roiling Asia,” The New York Times, October 30, 2018, <https://www.nytimes.com/2018/10/30/world/asia/south-korea-japan-compensation-world-war-two.html>.

judgement<sup>243</sup> and ruled that Mitsubishi Heavy Industries must compensate five female KFL victims ₩100 million won to ₩150 million won (~USD\$86,286- \$86,688).<sup>244</sup><sup>245</sup> In a separate ruling, the court also ordered Mitsubishi to pay ₩80 million won (~USD\$69,029) to six KFL. In response to this string of rulings in favour of the plaintiffs, Abe stated that these judgements are “impossible in light of international law.”<sup>246</sup> According to Japanese Foreign Minister Taro Kono, “today’s ruling by the South Korean Supreme Court has one-sidedly and fundamentally damaged the legal foundation of Japan-South Korea relations.”<sup>247</sup> Legal representatives of the victims set December 24, 2018 as the deadline for Nippon Steel to respond. However, Nippon Steel and Mitsubishi called the court decisions “deeply regrettable,” but continued to side with the Japanese government’s interpretation of the 1965 Peace Treaty.

Since then, the lack of action from the companies has created political, economic and social consequences for both countries. After these Supreme Court judgements, Abe requested to take this case to the International Court of Justice (ICJ), but this required consent from both states.<sup>248</sup> Kang expressed that “I strongly agree with the Korean Supreme Court ruling, and I think we should borrow this model and taking legal responsibility marks the full closure of this matter. Even if legal responsibility cannot be attained, at least moral responsibility should be sought after – and maybe we can quote the Korean Supreme Court to urge Japanese corporations to take more responsibility.”<sup>249</sup> With the recent string of Supreme Court judgements, there are dozens of cases involving over 70 Japanese companies, including Toshiba, Panasonic and Nissan, pending in lower courts. Kang adds that, “I really support the Korean Supreme Court ruling. I think in terms of human rights protection, this ruling should be a future reference. Every person working in the legal sector should fight to protect human rights, that is the basic principle.”<sup>250</sup>

At the moment, Choi is negotiating a “Two Plus Two” settlement with ten Korean quasi-government beneficiaries,<sup>251</sup> 69 Japanese corporations, including Mitsubishi Heavy Industries and Nippon Steel, the Korean government and the Japanese government. During preliminary negotiations, these entities were expected to allocate USD\$2 billion dollars each – totalling USD\$8 billion dollars for a fund for forced and slave labour victims. However, Choi stated that “somehow in transitions, the number has shrunk to USD\$4 billion. So, the four players – it’s a billion dollars each – and none of the numbers are sufficient to distribute to these victims. Our litigation actually received more or less USD\$100,000 dollars per person.”<sup>252</sup> He added that “even though Japanese corporations were willing, the Japanese government extricated themselves. They want corporations to follow the nation’s position. And since the Japanese government is backing out,

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<sup>243</sup> Choe Sang-Hun, “South Korean Court Tells Japanese Company to Pay for Forced Labor,” *The New York Times*, July 30, 2013, <https://www.nytimes.com/2013/07/31/world/asia/south-korean-court-tells-japanese-company-to-pay-for-forced-labor.html>.

<sup>244</sup> Choe Sang-Hun, “South Korean Court Orders Mitsubishi of Japan to Pay for Forced Wartime Labor,” *The New York Times*, November 29, 2018, [nytimes.com/2018/11/29/world/asia/south-korea-wartime-compensation-japan.html](https://www.nytimes.com/2018/11/29/world/asia/south-korea-wartime-compensation-japan.html).

<sup>245</sup> Please refer to Appendix 2.

<sup>246</sup> Tong-Hyung, “Court orders Japan company to pay 4 Koreans for forced labor.”

<sup>247</sup> *Ibid.*

<sup>248</sup> Interviewees suggested that South Korea would never accept to take a case to the ICJ because this would fundamentally question and delegitimize the South Korean Supreme Court rulings that occurred from 2012 onward.

<sup>249</sup> Juana Lee interview with Kang Jian.

<sup>250</sup> *Ibid.*

<sup>251</sup> Several Korean quasi-governmental agencies and corporations benefited as a result of the 1965 Peace Treaty between Japan and Korea. These agencies include approximately ten agencies, including POSCO Korea.

<sup>252</sup> “South Korean court upholds ruling against Mitsubishi Heavy over forced wartime labor in Japan,” *The Japan Times*, December 5, 2018, [japantimes.co.jp/news/2018/12/05/national/crime-legal/south-korean-court-upholds-ruling-japan-firm-forced-labor/#.XexTT-hKhPZ](https://www.japantimes.co.jp/news/2018/12/05/national/crime-legal/south-korean-court-upholds-ruling-japan-firm-forced-labor/#.XexTT-hKhPZ).

the whole negotiation is falling apart – once again.”<sup>253</sup> Despite these hurdles, legal representatives are hopeful that a settlement will come about in 2020.

### **The Impact of Court Decisions for WWII Forced Labourers**

Since the beginning of these lawsuits, there has been increasing research and fact-finding associated with WWII forced labour. In 2018, MSCI published a newly updated “forced labour report and portfolio audit” on publicly traded companies that benefitted from forced or slave labour from 1929-1945.<sup>254</sup> This report was prepared to fulfill a contract with the California Public Employees’ Retirement System (CalPERS) due to the 1999 California law. Since 2001, CalPERS was required “to monitor investments in businesses that owe compensation to victims of slave labour.”<sup>255</sup> The 2018 report named Kajima, Mitsubishi, Mitsubishi Materials, Nachi-Fujikoshi, Mitsubishi Heavy Industries, Showa Denko, Sumitomo Heavy Industries and Nippon Steel and Sumitomo Metal as a few Japanese corporations that toiled slave and forced labour during the war. Due to ongoing lawsuits, these corporations, alongside hundreds of other companies, have taken a reputational hit – impacting sales, investors and shareholders. Besides reputational damage, these lawsuits and court judgements have spilled over to create serious geopolitical and economic disputes between Japan, South Korea and China.

At the beginning of 2019, the 2018 South Korean Supreme Court rulings against Nippon Steel and Mitsubishi Heavy Industries fueled a gruelling trade war between Japan and Korea. In line with the rulings, this trade war began on December 31, 2019, when the Daegu District Court approved a request by plaintiffs to seize local assets of Nippon Steel because the company did not respond to the court decision. This seizure included the 81,075 shares held by Nippon Steel in PNR, its Korea-based joint venture with POSCO.<sup>256</sup> But to Choi, “seizing assets won’t do anything. You can seize smaller, independent assets, but that doesn’t give the full impact. You need a meaningful, substantial amount, to really give a message to the defendant. If you have a hundred-million-dollar decision, then you can seize anything. We try to accomplish this, and we have the law on our side.”<sup>257</sup> Nevertheless, some scholars, such as Nam argue that seizing assets is the beginning of domestic pressure to push Japan to admit responsibility for their war crimes during WWII.<sup>258</sup>

Nevertheless, the Daegu District Court’s decision to seize assets was only the beginning of Japan and South Korea’s escalating tensions. In July 2019, it was expected that Japan and Korea would repair escalating tensions during Japan’s G20 summit, however, that was not the case.<sup>259</sup> That same month, Japan announced that it would place controls on exports of fluorinated polyamides, photoresists and hydrogen fluoride to South Korea. These chemical materials are essential to making computer chips, and these restrictions will have a severe impact on South

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<sup>253</sup> Juana Lee interview with Michael Choi.

<sup>254</sup> MSCI published the first version of the report in September 2001.

<sup>255</sup> MSCI, “Publicly Traded Companies that Benefitted from Forced or Slave Labor, 1929-1945,” 1.

<sup>256</sup> “South Korea court approves seizure of some of Nippon Steel’s assets: Yonhap,” Reuters, January 8, 2019, [reuters.com/article/us-japan-forcedlabour-southkorea/south-korea-court-approves-seizure-of-some-of-nippon-steels-assets-yonhap-idUSKCNIP21BB](https://www.reuters.com/article/us-japan-forcedlabour-southkorea/south-korea-court-approves-seizure-of-some-of-nippon-steels-assets-yonhap-idUSKCNIP21BB).

<sup>257</sup> Juana Lee interview with Michael Choi.

<sup>258</sup> Juana Lee interview with Steven Nam.

<sup>259</sup> Thisanka Siripala, “Japan’s G20 Summit Fails at Repairing Japan-Korea relations,” The Diplomat, July 9, 2019, [thediplomat.com/2019/07/japans-g20-summit-fails-at-repairing-japan-korea-relations/](https://thediplomat.com/2019/07/japans-g20-summit-fails-at-repairing-japan-korea-relations/).

Korea's global semiconductor industry.<sup>260</sup> After this announcement, South Korean President Moon Jae-in stated "as a victim of great suffering from Japanese imperialism in the past, we, for our part, cannot help but take Japan's ongoing economic retaliation very seriously."<sup>261</sup> Following these tense developments, in August 2019, Seoul announced that it would not renew its intelligence sharing pact with Japan, which could make it more difficult to manage a security crisis in the region.<sup>262</sup> That same month, Japan removed South Korea off its white list of trusted trade destinations, ruining important security cooperation between the two countries. Likewise, South Korea made subtle changes in its view of Japan in its latest white paper.<sup>263</sup>

On a domestic level, tensions are equally as high. On September 6, 2019, mayors and officials in Seoul and Busan adopted laws to boycott up to 284 Japanese corporations and firms that used forced labour during Japan's occupation of the Korean peninsula.<sup>264</sup> While this bill has been proposed in other city councils, they have been rejected.<sup>265</sup> Still, this has fueled a "nation-wide boycott" led by South Korean youth.<sup>266</sup> For example, there have been major boycotts on household Japanese companies, such as Uniqlo,<sup>267</sup> Asahi, Kirin, Sapporo, Toyota and Honda.<sup>268</sup> These boycotts have made it socially unacceptable to purchase Japanese products and widespread boycotts have heavily decreased Japanese sales and profits. Evidently, Toyota sales in South Korea declined approximately 59 percent in August, and Honda sales fell 81 percent.<sup>269</sup><sup>270</sup> South Koreans have also intensified a campaign to ban the Japanese "rising sun" flag from being displayed during the Japan 2020 Summer Olympic Games.<sup>271</sup> As just some examples of the impact of the forced labour issue on Korea, the ongoing dispute between WWII victims and redress has led to unprecedented economic and political turmoil. Recently, on December 1, 2019, Japanese and South Korean lawmakers cancelled their annual meeting because South Korea's National Assembly Speaker Moon Hee Sang stated that Japan's emperor should apologize to "comfort women."<sup>272</sup>

In China, these lawsuits influenced domestic and international politics. Although there is ongoing pressure from activists and legal representatives to obtain a sincere apology from the

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<sup>260</sup> According to Massachusetts Institute of Technology (MIT), South Korea is Japan's third-largest trading partner, buying about \$54 billion worth of Japanese goods.

<sup>261</sup> Siripala, "Japan's G20 Summit Fails at Repairing Japan-Korea relations."

<sup>262</sup> Michael R. Gordon, Andrew Jeong and Alastair Gale, "South Korea Ends Pact to Share Military Information with Japan," The Wall Street Journal, August 22, 2019, [wsj.com/articles/south-korea-pulls-out-of-information-sharing-pact-with-japan-11566467522?mod=searchresults&page=1&pos=3](https://www.wsj.com/articles/south-korea-pulls-out-of-information-sharing-pact-with-japan-11566467522?mod=searchresults&page=1&pos=3).

<sup>263</sup> Yoshihiro Makino, "South Korea's defense white paper takes swipe at Japan," The Asahi Shimbun, January 16, 2019, [asahi.com/ajw/articles/AJ201901160051.html](https://www.asahi.com/ajw/articles/AJ201901160051.html).

<sup>264</sup> Walter Sim, "Seoul, Busan pass laws to boycott Japan 'war crime firms'," The Straits Times, September 7, 2019, [straitstimes.com/asia/east-asia/seoul-busan-pass-laws-to-boycott-japan-war-crime-firms](https://www.straitstimes.com/asia/east-asia/seoul-busan-pass-laws-to-boycott-japan-war-crime-firms).

<sup>265</sup> Sim, "Seoul, Busan pass laws to boycott Japan 'war crime firms'."

<sup>266</sup> Sotaro Suzuki, "Boycott Japan: How young South Koreans keep the anger alive," Nikkei Asian Review, October 28, 2019, [asia.nikkei.com/Spotlight/Comment/Boycott-Japan-How-young-South-Koreans-keep-the-anger-alive](https://asia.nikkei.com/Spotlight/Comment/Boycott-Japan-How-young-South-Koreans-keep-the-anger-alive).

<sup>267</sup> A spokeswoman for Uniqlo owner Fast Retailing stated that "we can confirm that there has been an impact on the sales in Korea."

<sup>268</sup> Justin McCurry, "South Korean boycott of Japanese goods hits beer and carmakers," The Guardian, September 4, 2019, [theguardian.com/world/2019/sep/04/south-korea-boycott-japanese-goods-beer-car-sales](https://www.theguardian.com/world/2019/sep/04/south-korea-boycott-japanese-goods-beer-car-sales).

<sup>269</sup> McCurry, "South Korean boycott of Japanese goods hits beer and carmakers."

<sup>270</sup> "Japanese car sale in S.Korea posts double-digit fall in 2019 on boycott campaign," Xinhua News, January 6, 2020, [xinhuanet.com/english/2020-01/06/c\\_138682605.htm](http://xinhuanet.com/english/2020-01/06/c_138682605.htm).

<sup>271</sup> Justin McCurry, "South Korea compares Japan's 'rising sun' flag to swastika as Olympic row deepens," The Guardian, October 29, 2019, [theguardian.com/world/2019/oct/29/south-korea-compares-japans-rising-sun-flag-to-swastika-as-olympic-row-deepens](https://www.theguardian.com/world/2019/oct/29/south-korea-compares-japans-rising-sun-flag-to-swastika-as-olympic-row-deepens).

<sup>272</sup> Ryotaro Nakamaru, "Japan, S. Korea strike fragile truce as wartime issues remain," Kyodo News, November 23, 2019, [english.kyodonews.net/news/2019/11/a138673c2f02-focus-japan-s-korea-strike-fragile-truce-as-wartime-issues-remain.html](https://english.kyodonews.net/news/2019/11/a138673c2f02-focus-japan-s-korea-strike-fragile-truce-as-wartime-issues-remain.html).



Japanese government and corporations, in comparison to South Korea, China has less political, economic and social upheaval. With the current settlements between Japanese corporations and Chinese plaintiffs, some argue that the forced labour issue is over. Choi stated that “Korea is a powerful country, but it is no match with China. This is why it is settled [in China]. Its all politics.”<sup>273</sup> However, according to Underwood, “the Chinese case is far from resolved. Mitsubishi was a very egregious offender and a denier in the Japanese court system. And now they are slowly getting around to compensation. What about the other 31 companies? They aren’t doing anything.”<sup>274</sup> To add, with the lack of influence of civil society in China, it is increasingly difficult for legal representatives and victims to garner country-wide support for this cause.

Evidently, ongoing political, economic and social disputes have applied significant pressure on the Japanese government and corporations to admit legal wrongdoing for its wartime atrocities, and landmark decisions in Japan, Korea and China, have also provide groundwork for other wartime survivors and bereaved families in other victim countries.

### **Gaps in Retributive Justice**

According to MSCI, “although Japanese courts have found reorganized companies to be responsible for the actions of their predecessors, present-day companies have told MSCI ESG Research that they are not liable for predecessor companies’ actions.”<sup>275</sup> Even with landmark rulings across both victim countries and Japan, the demands for redress continues to be ignored. Specifically, a sincere apology and memorialization from the Japanese government and corporations have been unilaterally avoided by the defendants. While Japanese court rulings provided recommendations for redress, they are often toothless judgements, and decisions in China and Korea have no influence in Japanese jurisdiction. In particular, with Abe’s strict stance on Japan’s wartime responsibility, any sincere redress seems hard to achieve and survivors and their representatives see that it is increasingly difficult to obtain these demands through the court system. To add, legal representatives agreed that plaintiffs continue to be “political pinballs,” who travel across Korea, Japan or China, without being rewarded any tangible reparations. As stated by Kang:

Sometimes they have this hope, and then their hope and efforts just end in vein. For example, when the Beijing court first took on the case in 2014, some of my plaintiffs were crying, and they were so happy, they shed tears of hope. But until now, almost five years has passed, but it has not opened trial yet. They are suffering, and for us attorneys, we are also suffering during this entire process. We are always there for them, and we accompany them through this entire journey. We witness their entire emotional rollercoaster. They were so happy and full of hope, and now they are disappointed.<sup>276</sup>

However, Kang argues that “the court system is the only means to pressure Japan, whether it is the government or corporations. I am not saying legal responsibility, but responsibility as a whole. Since [Japan] will not take the next step, we need to apply pressure, not only us, but other parties should participate. For example, international society, activists and people from all walks of life.”<sup>277</sup> She added that, “I thought I would be able to see justice in my lifetime. But now, I’m just

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<sup>273</sup> Juana Lee interview with Michael Choi.

<sup>274</sup> Juana Lee interview with Underwood.

<sup>275</sup> MSCI, “Publicly Traded Companies that Benefitted from Forced or Slave Labor, 1929-1945,” 3.

<sup>276</sup> Juana Lee interview with Kang Jian.

<sup>277</sup> *Ibid.*

thinking if I can even see the litigation process in my lifetime. But we can't give up – we must keep fighting.”<sup>278</sup>

Tu expressed that “at the heart of these legal issues, there is fundamental historical injustice. With historical injustice evolving through time, it has been over seven decades. In fact, the lives of victims and dear relatives have been physically and psychologically affected and this issue has a very profound impact on the feeling of the nation – and the Korean and Chinese people.”<sup>279</sup> With ongoing class action lawsuits beginning in the late 1990s, these significant landmark rulings showcase the need for historical justice and accountability. Although it has been decades since the end of the war, survivors and their legal representatives are still optimistic that Japan will provide a sincere apology and pay acceptable compensation. When discussing retributive justice, Nam stated that “courts are just one piece of the puzzle – because they do not have the power to force anything. Aside from legal accountability, there still needs to be a push for a collective, grand settlement, like the German settlement.”<sup>280</sup>

On January 7, 2020, survivors and their legal representatives proposed that Seoul and Tokyo should set up a joint consultative body to resolve the issue of wartime forced labour, making it the first time the survivors proposed a solution since the October 2018 landmark decision by the South Korea Supreme Court.<sup>281</sup> According to their legal representatives, “a year and two months have passed since the Supreme Court’s ruling in the case, but the issue remains unresolved.”<sup>282</sup> Shiro Kawakami, a legal representative to the victims, added that “several proposals have been made, including the proposal by the South Korean National Assembly Speaker Moon Hee-sang, but all of them have been focused on who has to pay. But the important thing is the issue of human rights for the individual victims.”<sup>283</sup> Evidently, with the large influence of these judgements on the economic, political and state of Japan, retributive justice is immeasurably necessary, however, as seen in the recent proposal by legal representatives, it is not a sufficient means to meet all the demands of the survivors. In order to obtain a sincere apology and acceptable reparations, there must be compromise and dialogue, as well as long term reforms within Japan’s political, educational and social sectors.

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<sup>278</sup> Juana Lee interview with Kang Jian.

<sup>279</sup> Juana Lee interview with Tu Yuxin.

<sup>280</sup> Juana Lee interview with Steven Nam.

<sup>281</sup> “Forced labor victims propose forming S. Korea-Japan consultative body to solve historical dispute,” Hankyoreh, January 7, 2020, [english.hani.co.kr/arti/english\\_edition/e\\_international/923519.html](http://english.hani.co.kr/arti/english_edition/e_international/923519.html).

<sup>282</sup> “Forced labor victims propose forming S. Korea-Japan consultative body to solve historical dispute.”

<sup>283</sup> *Ibid.*

## Chapter 7: Concluding Remarks, The Ideal Situation and Potential Long-term Reforms

According to Mr. Shin, “everyone’s opinion [on an ideal situation] is different,”<sup>284</sup> but for himself, he stated that a sincere apology and compensation for unpaid wages is the most important. As expressed by other survivors and bereaved family members, the ideal situation revolves around a sincere, remorseful apology, the repayment of wages, payment for damages, and memorialization. Choi stated that “to the people of Korea – the women, men, wives, “comfort women,” that’s when the Korean people have a major scar in their heart – unless someone really understands that, and is deeply apologetic and recognizes their guilt and admit their wrongdoings, then the true normalization will never come.”<sup>285</sup> Ms. Kim also added that to bereaved family members, “money is secondary. They are not recognizing this forceful act. They say that we volunteered to work for them, and that they are not paying any wages for work or compensation for their labour. That is what frustrates me. A sincere apology is recognizing that this was a forceful act and it was wrong. That involves providing proper compensation for wages.”<sup>286</sup> And ultimately, alongside others, Mr. Kim expressed that “my hope is that in the 21<sup>st</sup> century, with so much development worldwide around what happened in the past, I hope there is a peaceful resolution between Japan and Korea, so we can finally move on.”<sup>287</sup>

In light of this collective, ideal situation among survivors, family members and legal representatives, this chapter will discuss potential political, social and economic reforms that could potentially move Japan, Korea and China towards true normalization.<sup>288</sup> Specifically, this chapter will focus on Germany’s Foundation Remembrance, Responsibility and Future fund; the need for widespread historical education and research in Japan; and a shift in Japan’s National Diet administration or policy implementations to combat WWII denial or revisionism. This chapter will also incorporate the author’s concluding remarks.

### The Foundation Remembrance, Responsibility and Future

As seen in Japan and Germany’s postwar reparations, the Japanese government’s attitude towards justice differs significantly from Germany. Illustrated by the ongoing Nippon Steel case, “Japan, at the state and corporate level, has taken the completely opposite approach of Germany.”<sup>289</sup> According to Underwood, “even to be charitable, it is not hard to describe the past 60 years in Japan as an unbroken history of insincerity in telling the truth and in coming to terms with the past, particularly on the issue of forced labour.”<sup>290</sup> While civilian compensation lawsuits for forced labour only began in the early 1990s, in contrast to Japan, the German government has taken more steps to push for legal and moral responsibility with the implementation of the Foundation “Remembrance, Responsibility and Future” fund, making this one of the final steps towards true normalization.

For the last 73 years, Nam stated that Japanese corporations enjoyed silence from Japan’s mainstream media over the original forced labor lawsuits, which in turn, prevented greater public

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<sup>284</sup> Juana Lee interview with Shin Young-Hyum.

<sup>285</sup> Juana Lee interview with Michael Choi.

<sup>286</sup> Juana Lee interview with Kim Soon-Sin.

<sup>287</sup> Juana Lee interview with Kim Jong-Bok.

<sup>288</sup> These recommendations are based on the interviews conducted by the author as well as desk research. There may be concurring perspectives by other WWII survivors, heirs, academics and attorneys, who were not represented in this study.

<sup>289</sup> Underwood, “Chinese Forced Labor,” 2.

<sup>290</sup> *Ibid.*

awareness and sympathy.<sup>291</sup> However, he suggested that “in, contrast, the post-2012 redress paradigm... the culpable Japanese corporations, at least through a twist of legal circumstance, have been consolidated into a position in which they could emulate their German counterparts and offer a united statement of apology and reconciliation in addition to reparations through a mutually acceptable resolution.”<sup>292</sup> While Japan has the ability to follow in Germany’s footsteps, this has not happened.

In 2005, Kang and other Japanese lawyers wrote a proposal to the Japanese government suggesting the possibility of a similar fund for WWII forced labourers in Asia, equivalent to that of Germany. Between 2005 to 2011, this proposal was sent five to six times, but during that period, Kang received no reply. Kang stated that they also sent along a petition signed by over 100 CFL, but they never received a response. She added that “if you look at the money, yes, it seems that Japanese corporations tend to pay more. But this German fund is actually sincere – and you can see the attitudes of German people, the corporations, and they sincerely apologized for their wrongdoings – which is very different from the attitudes of the Japanese parties.”<sup>293</sup> Additionally, she expressed that:

I think this is an ideal situation. The fund was established by the German government as well as German corporations like Siemens, who were involved with forced labour issues back then. I think this fund is different in nature from the settlements between forced labourers and Japanese corporations. After the war, Germany apologized on multiple occasions. This fund was pushed by a few litigations to compensate WWII forced labourers.<sup>294</sup>

Survivors, including Shin, agreed that Japan should follow in the steps of Germany.<sup>295</sup> He stated that, “compensation is very, very important, and compared to Germany and other countries, they were sincerely compensated.”<sup>296</sup> In line with Kang and Shin, Nam also established that the German administration “went above and beyond what people expected.”<sup>297</sup> Echoing others, Choi stated that, “the Japanese never really apologized with all their heart – like the Germans did to the Jews. They didn’t do that. We are demanding the official, genuine apology from Japan’s emperor, from their King and from their leadership.”<sup>298</sup> However, Lee emphasized that the solution is much more complicated because alongside the erection of a foundation, the Japanese government must provide a public legal apology without a “lip service approach, or else [the foundation] will be meaningless.”<sup>299</sup>

In July 2019, as a response to increasing economic and social tensions between Japan and Korea, Choi sent current Prime Minister of South Korea Lee Nak-yeon a letter regarding a potential solution that reflected the German experience. The letter reads:

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<sup>291</sup> Nam, “From Individual to Collective Restitution: Recasting Corporate Accountability for Korean Forced Labor in the Second World War,” 13.

<sup>292</sup> Nam, “From Individual to Collective Restitution,” 13.

<sup>293</sup> Juana Lee interview with Kang Jian.

<sup>294</sup> *Ibid.*

<sup>295</sup> Juana Lee interview with Shin Young-Hyum.

<sup>296</sup> *Ibid.*

<sup>297</sup> Juana Lee interview with Steven Nam.

<sup>298</sup> Juana Lee interview with Michael Choi.

<sup>299</sup> Juana Lee interview with Lee Jang Hie.

There is a way for us to solve the current diplomatic problems with Japan. Because this problem largely resulted from the Japanese response to the Supreme Court verdict on forced labour, we need to consider how Germany came to an agreement when faced with a similar situation regarding compensation for forced labour workers. Germany established an agreement with the forced labour workers on December 30, 1999. At first, Germany resisted in a similar manner to Japan. However, when lawyers such as Robert Swift and other forced labour workers expressed their opinions through media, Germany immediately came to an agreement.<sup>300</sup>

As a component for true normalization between the victim countries and Japan, survivors and their representatives believe that Japan can use the German experience as a role model for redress and reparations. According to Professor Seung-Ju Bang from Hanyang University, “although many victims passed away, it is symbolic redress – even if they were unable to receive compensation in their lifetime.”<sup>301</sup> A sincere apology and the erection of a foundation to survivors and bereaved family members is likely to finally close the seven-decade wound that has formed since the beginning of the war. Reiterating the survivors and bereaved family members Kang has represented, she expressed that “all the survivors don’t actually care about the money. They just want a sincere apology. They told me on multiple occasions that the Japanese did not treat them as humans. They stressed this so many times, so they just want a sincere apology. And I believe their request is justified.”<sup>302</sup>

Echoing the collective voice of interviewees, Japan can use Germany’s Foundation Remembrance, Responsibility and Future as a benchmark for redress and reparations. Alongside the creation of a foundation between the Japanese government and corporations, a sincere apology to all effected parties, including survivors and the descendants of CFL and KFL, will finally close this chapter of history.

## **Education Reforms**

Numerous interviewees conveyed a key issue within Japanese culture, which is Japan’s censorship and skewed historical education. Kang stated that:

I think nowadays the Japanese public does not have much knowledge on WWII. They think such crimes were solved long before, and they don’t recognize the history of “comfort women” or forced labour. For the Japanese public, they sometimes believe they are the victims of the war. They think of themselves as the victims of the war, but they don’t know they also committed atrocities in other Asian countries.<sup>303</sup>

In 1994, the Japanese lawyers that worked with Kang pursued WWII litigation cases due to a trip they took to see the Chinese legal system. During that trip, the Japanese lawyers visited the Nanjing Massacre Memorial Museum. Kang stated that, “at the memorial, they were shocked because throughout their entire educational system, they were never thought this. The oldest lawyer, who is now 70 years old, was told that Japan was the victim.”<sup>304</sup> This example illustrates the power and influence of education and memorialization. In order to move towards true normalization, Chong

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<sup>300</sup> This letter was sent personally from Michael Choi to Prime Minister Lee Nak-yeon. This letter has been translated from Hangul to English.

<sup>301</sup> Juana Lee interview with Seung Ju Bang, Hanyang University, Seoul, South Korea, June 24, 2019.

<sup>302</sup> Juana Lee interview with Kang Jian.

<sup>303</sup> *Ibid.*

<sup>304</sup> *Ibid.*

argued that “I think education is the only hope. When more and more people know about this, it is impossible for the Japanese government, or even the Japanese people, to turn away their face.”<sup>305</sup>

Educational reform can take place in the classrooms, but also through other means. According to Carol Gluck, there are four “terrains” of public memory: official commemoration, such as public monuments and school textbooks; vernacular memory at a societal level, such as movies, literature and political activism; individual or personal memories; and “meta-memory,” such as public debates about memory.<sup>306</sup> In order to establish nationwide awareness to reach true normalization between Japan and the victim countries, Japan should aim to establish and erect changes within its society to garner awareness on accurate WWII history.

- According to Choi, “the Japanese have overlooked [history,] – they do not recognize it, and particularly the new generation is not understanding the background. That’s why we need to teach them.”<sup>307</sup> To add, Kang expressed that “a few Japanese senators and high political officers have denied their wrongdoings. And in history textbooks in Japanese schools, they “whitewashed” this period of history, which is totally different than Germany.”<sup>308</sup> As a first step, Japan can remove censorships on historical textbooks and implement historical education across public schools and universities. This will contribute to eliminating the “political implications” of discussing Japan’s role in WWII and allow “meta-memory,” which will move towards wartime responsibility and recognition. To add, Japanese schools can allow visiting scholars and representatives to teach the Japanese youth on the importance of historical education, peace and reconciliation. As stated by Choi, “at some point, Michael Honda, some Japanese lawyers and I wanted to go around to different schools in Japan to talk about our background, and why Koreans are still so resentful. If [Japanese youth] really truly understand, they will want to really try and embrace our bitterness and try and understand. Perhaps we could, within our lifetime, do this and go through true normalization.”<sup>309</sup> Evidently, these visits have been impactful for Japanese youth through public discussions between students and “comfort women” grandmas in Japanese universities.
- Secondly, Japan can erect public memorials for WWII victims and seriously address the revisionist nature of the Yūshūkan War Museum and the attached Yasukuni Shrine.<sup>310</sup> Although Japan released “A New Compilation of Materials on the Yasukuni Shrine Problems (2007),”<sup>311</sup> in order to sustainably evoke public memory associated with the war, wartime amnesia must be addressed and a patriotic war memories should not be at the center of peace and reconciliation.
- Thirdly, Japan can erect a historical museum that depicts the true nature of the war. In an interview with Yoon, he expressed that the Japanese people are keenly interested in real WWII narratives, and he has received many interview requests from Japanese media to

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<sup>305</sup> Juana Lee interview with Flora Chong.

<sup>306</sup> Carol Gluck, “Operations of Memory: ‘Comfort Women’ and the World” in *Ruptured Histories: War, Memory and the Post-Cold War in Asia*, ed. Rana Mitter and Shiela Miyoshi Jager (Cambridge: Harvard University Press, 2007), 47.

<sup>307</sup> Juana Lee interview with Michael Choi.

<sup>308</sup> Juana Lee interview with Kang Jian.

<sup>309</sup> Juana Lee interview with Michael Choi.

<sup>310</sup> The Yasukuni Shrine was established in 1869 under the name of the Tokyo Shōkonsha, to memorialize and house the souls (kami) of the men who died fighting on behalf of the emperor in a civil war with forces of the Tokugawa Shogunate.

<sup>311</sup> The National Diet Library released a document called “A New Compilation of Materials on the Yasukuni Shrine Problems,” which contained 808 items, including nearly 180 documents the Shinto Shrine has disclosed for the first time. Read more: [japantimes.co.jp/news/2007/03/29/national/paper-yasukuni-state-in-69-okd-war-criminal-inclusion/#.Xev\\_MehKHPY](http://japantimes.co.jp/news/2007/03/29/national/paper-yasukuni-state-in-69-okd-war-criminal-inclusion/#.Xev_MehKHPY)

discuss the nature of the National Memorial Museum of Forced Mobilization under Japanese Occupation.<sup>312</sup> He stated that “[the museum] has a lot of Japanese citizens coming here, and the numbers have increased overtime. Individually, Japanese people care about this issue. But on a government level, they are prohibiting this history towards peace and reconciliation.”<sup>313</sup> Although revisionism and denialism is widespread within the Japanese National Diet, Japanese people want to know the truth about WWII – and the role their country played in the war. The demands of true historical education can be met by the Japanese government by erecting a historical museum that depicts accurate WWII history.

- Lastly, with the implementation of a historical museum, Japan can increase resources to help with research and archival collection. Yoon stated that, “even to this day, we are collecting documents and primary resources [associated with WWII forced labour], but it is challenging because Japan is holding a lot of these documents.”<sup>314</sup> In order to work towards true normalization, increasing efforts between Japan, Korea and China can assist in fact finding to produce an accurate historical narrative for the use of forced and slave labour during WWII. Japan can provide the international community with primary resources that have been hidden for over seven decades.

In light of these recommendations, it is important to note that the U.S. has a role to play in realizing these reforms in Japan. After the war, Japan and the U.S. became allies, and Kang stated that “in Germany’s case, the country’s entire mechanism was broken – the whole country was divided into two parts. In the Japanese case, they were able to maintain the emperor system, and so in this regard, the U.S. exerted some influence on this.”<sup>315</sup> Kang added that “if the U.S. does not change its ideology, Japan will never change. If the international community can work together to push forward progress, one day it will happen. It may be in the far future, but maybe someday they will change their ideology.”<sup>316</sup> In agreement with Kang, Chong stated that education is important, but there must be pressure from inside and outside Japan, which continues to be shielded by the U.S.<sup>317</sup> To meet Gluck’s four “terrains” of public memory and move towards normalization between Japan and the victim countries, the U.S. should assist Japan in these domestic reforms by exerting international pressure.

### **Reforms Within Japanese Corporations**

With ongoing Supreme Court decisions ruling in favour of the plaintiffs, Japanese corporations are facing widespread boycotts, reputational damage and profit loss. While Japanese corporations continuously consult with the Japanese government on next steps, these transnational corporations can adopt more progressive steps to mitigate international condemnation by survivors, bereaved family members and international consumers. To move towards normalization, Japanese corporations can adopt internal and external reforms to finally address the forced labour dispute and begin to build international relationships within China, Korea and abroad. Japanese corporations should:

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<sup>312</sup> Juana Lee interview with Yoon Tae-seok.

<sup>313</sup> *Ibid.*

<sup>314</sup> *Ibid.*

<sup>315</sup> Juana Lee interview with Kang Jian.

<sup>316</sup> *Ibid.*

<sup>317</sup> Juana Lee interview with Flora Chong.

- Support the “Two Plus Two” settlement by providing a total of USD\$2 billion from all Japanese corporations, including but not limited to Mitsubishi Materials, Mitsubishi Heavy Industries, Nippon Steel and Nishimatsu, as compensation.
- Each corporation should acknowledge their role in WWII forced labour. For example, Siemens dedicated a page on their corporate website illustrating their role in WWII forced and slave labour.<sup>318</sup>
- Adopt a “human rights policy” to illustrate internal growth and improvement towards respecting and protecting human rights within each company’s supply chain and internal operations.
- Implement the Guiding Principles and relevant international human rights norms and standards into corporate operations.
- Continue dialogue with the Japanese government and acknowledge that the most sustainable way to move towards true normalization is through the public and sincere admission of WWII wrongdoing for mobilizing the forced labour program.

### **Reforms Within the Japanese National Diet: Policy Recommendations**

On November 21, 2019, Abe became the country’s longest-serving political leader serving 2,887 days in office. But in fact, Abe is one of the largest barriers towards true normalization between Japan and the victim countries. Nam expressed that in this situation with wartime forced labour, the outcomes are so dependent on who is in power.<sup>319</sup> But since Abe has been in power, Choi argued that “the current regime under the Abe leadership has a different agenda that has taken a strong stance on WWII forced labour. If Abe continues to play these political games, history will not forgive him.”<sup>320</sup> Shin recalled a press conference where, “a reporter asked me what I would say if Abe was in front of me, and I started yelling and screaming “Abe – you are a beast.”<sup>321</sup> He also added that “I believe state responsibility is the same corporate responsibility. This is why I am telling everyone that Abe, the Japanese government, is bad and are not taking their responsibilities seriously.”<sup>322</sup>

Although Abe does not plan to seek a fourth term, and is expected to end his term in September 2021, before then, he should seek to restore his international legacy and sincerely take wartime accountability for Japan’s role in forced and slave labour during WWII. Evidently, with court rulings in Japan, Korea and China revoking his claim that bilateral peace treaties and the 1951 San Francisco treaty rescind Japan’s responsibility for the forced labour program, Abe can:

- Implement the educational reforms stated above.
- Support the “Two Plus Two” settlement by providing a total of USD\$2 billion from the Japanese government.
- Continue the work of former Prime Minister Hatoyama and create dialogue with survivors, bereaved family members and their legal representatives to create a similar Foundation Remembrance, Responsibility, and Future as Germany.

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<sup>318</sup> Siemens, “1933-1945: National Socialism and the War Economy,” [new.siemens.com/global/en/company/about/history/company/1933-1945.html](http://new.siemens.com/global/en/company/about/history/company/1933-1945.html).

<sup>319</sup> Juana Lee interview with Steven Nam.

<sup>320</sup> Juana Lee interview with Michael Choi.

<sup>321</sup> Juana Lee interview with Shin Young-Hyum.

<sup>322</sup> *Ibid.*



- Sincerely apologize for Japan’s wrongdoings during WWII, and its denialistic attitude after the war.
- Publicly commit to begin processes towards national laws memorializing WWII atrocities, including but not limited to: Korea’s colonization (August 29), the Nanjing Massacre (December 13), the Palawan Massacre (December 14), the Sook Ching Massacre (February 18) and the Manila Massacre (February 3).
- Draft bills that recognize the atrocities that occurred on before and during WWII.
- Set up a new advisory committee to discuss and deliberate these bills.
- Introduce and pass the laws to the National Diet starting in January 2020.

These reforms will fundamentally shift the narrative surrounding Japan’s wartime responsibility and the country’s role in WWII and bills will start the process towards international memorialization and reconciliation. Using Canada as an example, on November 28, 2007, the Canadian House of Commons unanimously passed the motion to urge the Japanese government to take full responsibility for the involvement of the Japanese Imperial Forces in the system of forced “comfort women.”<sup>323</sup> In 2016, ALPHA Education launched a campaign to pass Bill 79, a Nanjing Massacre Commemorative Day in Ontario Provincial Legislation.<sup>324</sup> In 2017, Motion 66, the Nanjing Massacre Commemorative Day, unanimously passed in Ontario provincial legislation.<sup>325</sup> These policy reforms in Canada shifted the public debate on Japan’s role during WWII, and furthered the public memory of the war domestically and abroad.

If Abe does not implement policy reforms before the end of his term, the year 2021 could be the time when progressive reforms can take place with a new leader. Nevertheless, it is still crucial to address Japan’s conservatism, revisionism and denialism, which continues to be widespread within Japan’s National Diet.

## Concluding Remarks

The longstanding historical tensions between Japan and victim countries have transcended into today’s current forced labour redress movement. For over five decades after the end of WWII, wartime forced labourers had little opportunity to obtain redress for the harsh labour they endured in inhumane conditions. But for the last three decades, survivors, bereaved family members and legal representatives have been fighting in courts for acceptable reparations. This redress movement has challenged legal barriers – creating unprecedented nationwide boycotts and a trade war between South Korea and Japan to pressure the defendants to admit legal and moral responsibility for their WWII forced labour program.

This study documented the origins of these forced labour lawsuits, and ways in which civil society in Japan, South Korea and Beijing played a role in this redress movement. This study also highlighted the crucial and essential role of Japanese, Korean, Japanese-Korean and Chinese attorneys in representing survivors and bereaved families in U.S., Japanese, South Korean and Chinese courts. This research also discussed the potential role of corporate accountability norms and soft law mechanisms, including the Guiding Principles, in achieving out-of-court settlements.

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<sup>323</sup> “Comfort Women” Motion 291, Canadian House of Commons, [archive.alpha-canada.org/Motion291/m291.htm](https://archive.alpha-canada.org/Motion291/m291.htm).

<sup>324</sup> Bill 79, Nanjing Massacre Commemorative Day Act, 2016, [ola.org/en/legislative-business/bills/parliament-41/session-2/bill-79](https://ola.org/en/legislative-business/bills/parliament-41/session-2/bill-79).

<sup>325</sup> Soo Wong, “World should reflect on Nanjing Massacre,” Global Times, December 13, 2017, [globaltimes.cn/content/1080131.shtml](https://globaltimes.cn/content/1080131.shtml).

Additionally, this study highlighted the increase in collective memorialization and diverging historical narratives between Japan and victim countries. This sparked increasing research and awareness surrounding Japan's role in WWII, and the atrocities that were perpetuated as a result of the Japanese Imperial Army. With a nexus of several factors working together to advance this redress movement, this study emphasized the highly politicized nature of this topic, and the potential pitfalls of retributive justice mechanisms.

This study also outlined the different court processes in Beijing, South Korea and Japan, and the varying outcomes of these proceedings, including the controversial Nishimatsu-Shinanogawa and Yasuno settlement and the Mitsubishi Fund for Historical Human Rights and Peace. The participants outlined the hardships associated with the decades-long litigation processes and the importance of legal and moral accountability. This research outlined the unprecedented impact of court decisions, including major sales and reputational hits on Japanese corporations and a trade war between Japan and Korea, which was led by the seizure of Nippon Steel's assets, a bill that boycotts up to 284 Japanese corporations and firms in Busan and Seoul and nation-wide boycotts on major household Japanese brands, including Uniqlo, Toyota, Honda, Sapporo, Asahi and Kirin. In China, this study illustrated that the forced labour redress movement was less impactful on domestic and international politics. However, academics, including William Underwood, reiterated that the Chinese case is far from resolved, despite the few out-of-court settlements.<sup>326</sup>

By highlighting the attitudes and perspectives of survivors and bereaved family members, and their demands for a proper settlement, this study discussed potential gaps in retributive justice, including toothless recommendations from Japanese and U.S. courts, making survivors "political pinballs" by pushing them from one jurisdiction to the next. Ultimately, this research found that retributive justice mechanisms are essential to obtain redress for the victims. However, following a sincere apology and compensation, there must be adequate dialogue between Japan, Korea and China to implement long term political and social reforms within Japan to create sustainable change and reach true normalization. Evidently, retributive justice is necessary to pressure Japan to admit wartime responsibility, however, policy and educational reforms can contribute to historical justice within Japanese society.

Although these reforms will take a long period of time to enforce, in the meantime, Kang stated that, "perhaps it is a good idea to focus on each issue case by case and exert pressure to corporations and then the government and gradually change the ideology of Japanese society."<sup>327</sup> Throughout the reform process, it is also vital to remember the importance of historical justice. Lee asserted that, "of course there are lots of suggestions in Korea, China and Japan on what the final solution is. But I think we should consider the position of victims and the position of historical justice. I think the most important aspect is historical justice. The most important aspect is that we don't forget the truth. Because for the next future generations, we should never make the same mistake."<sup>328</sup> Inline with Lee, Ms. Cui acknowledged that:

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<sup>326</sup> Juana Lee interview with Underwood.

<sup>327</sup> Juana Lee interview with Kang Jian.

<sup>328</sup> Juana Lee interview with Lee Jang Hie.

If we talk about my father's experience, we cannot avoid the war. The invasion war by Japan. The war had a significant influence on our family, its not just my family, but in China, other Chinese people were suffering because of the war. That is why my father told us that we should never forget about history, and we should always remember history. But more importantly, we should try to not start wars. We should not fight each other.<sup>329</sup>

Although the perception of historical justice is divided among victim states and Japan, state and corporate responsibility can influence Japan's future generations and push Japan to further prioritize international peace, human rights and international cooperation. But until Japan publicly acknowledges the country's wartime wrongdoings, historical justice will never come. Chong stated that:

In the history of WWII in Asia, recognition is extremely important, because without recognizing what happened, it is hard for us to move forward. It applies not only to forced labour, but to any form of human atrocity. If we do not recognize history, this is a second type of oppression to the victims – a second type of violence. In order for us to move forward, I think it is very important for us to recognize what really happened... Without recognition of the past, this conflict will continue, and there will never be real reconciliation between the perpetrators and the victims.<sup>330</sup>

This ideal situation may not be reached in the near future, but it is the hope of all survivors, bereaved family members, legal representatives and civil society members that sincere moral and legal accountability by the Japanese government and Japanese corporations will occur in their lifetime, and they can finally heal from this deep wound in history.

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<sup>329</sup> Juana Lee interview with Ms. Cui.

<sup>330</sup> Juana Lee interview with Flora Chong.

## Appendix 1: List of Interviewees

This list contains a list of all the in-depth interviews conducted during four weeks of research in Beijing and South Korea. Three of the interviews were conducted over the phone. Participants with no location stated took place over the phone. There was one email correspondence with Mitsubishi Materials Corporation.

Juana Lee email exchange with Mitsubishi Materials Corporation, March 11, 2019.

Juana Lee interview with Seung-Ju Bang. Hanyang University. Seoul, South Korea. June 24, 2019.

Juana Lee interview with Flora Chong. ALPHA Education. Toronto, Ontario. May 24, 2019.

Juana Lee interview with Jang Hie Lee. Hankuk University of Foreign Studies. Seoul, South Korea. June 26, 2019.

Juana Lee interview with Kang Jian. Beijing Fang Yuan Law Office. Beijing, China. June 15, 2019.

Juana Lee interview with Kim Jong Bok. The National Federation for Victims of Forced Mobilization in Japan (대일항쟁기강제동원피해자연합회). Busan, South Korea. June 20, 2019.

Juana Lee interview with Kim Soon Sin. The National Federation for Victims of Forced Mobilization in Japan (대일항쟁기강제동원피해자연합회). Busan, South Korea. June 20, 2019.

Juana Lee interview with Michael Choi. The National Federation for Victims of Forced Mobilization in Japan (대일항쟁기강제동원피해자연합회). Seoul, South Korea. June 29, 2019.

Juana Lee interview with Ms. Cui. Beijing Fang Yuan Law Office. Beijing, China. June 15, 2019.

Juana Lee interview with Seunghyun Sally Nam. Korea University. Seoul, South Korea. June 27, 2019.

Juana Lee interview with Yoon Tae-seok. The National Memorial Museum of Forced Mobilization under Japanese Occupation. Busan, South Korea. June 20, 2019.

Juana Lee interview with Shin Young-Hyum. Busan, South Korea. June 21, 2019.

Juana Lee interview with Steven Nam. April 1, 2019.

Juana Lee interview with Tu Yuxin. July 5, 2019.

Juana Lee interview with Zhang Xinjun. Tsinghua University. June 5, 2019.

Juana Lee interview with William Underwood. February 3, 2019.

Juana Lee interview with Yoon Tae-seok. National Memorial Museum of Forced Mobilization under Japanese Occupation. Busan, South Korea. June 20, 2019.

## Appendix 2: List of CFL and KFL cases

Appendix 2 is **not** an exhaustive list of CFL and KFL legal cases. Appendix 2 highlights specific cases and decisions that were mentioned in this study. A more comprehensive list of WWII reparations legal cases can be seen online at *Nihon Sengo Hoshō Saiban Soran* (Overview of Japan's Postwar Compensation Trials).<sup>331</sup>

Major cases involved Kajima Construction, Mitsui Mining, Nishimatsu Construction, Nachi-Fujikoshi, Tobishima Construction, Nippon Steel Corporation, Mitsubishi Materials and Mitsubishi Heavy Industries. Kajima, Mitsui, and Nishimatsu were each sued three times. Nippon Steel was sued more than three times, and Nachi-Fujikoshi and Tobishima Construction were each sued twice. In Japan, victims brought a total of eight lawsuits against Mitsubishi: three against Mitsubishi Heavy Industries, and five against Mitsubishi Materials. There are still dozens of pending CFL and KFL cases in South Korea, Beijing and Japan including over 70 Japanese corporations.

### Chinese Forced Labour Cases

Below is a list of Chinese WWII lawsuits cited by Kang Jian, including “comfort women” and CFL cases.<sup>332</sup> All CFL cases were litigated in Japan and the United States. The list discusses filing plaintiffs, filing date, filing court, defendants and decision date.

中国战争受害者在日本法院提诉一览表

2011. 07. 05 整理

序号	原告	被告	日本法院	提诉时间
1	中国“慰安妇” 第一批 刘面换等 4 人	日本国	东京地裁 高裁、最高	95.8.7 提诉 01.5.30 一审判决败诉 04.12.15 二审败诉, 上诉最高裁, 07.4.27 驳回上诉 已结
2	第二批 郭喜翠等 2 人	日本国	东京地裁 高裁、最高	96.2.23 提诉, 2002.3. 一审判决败诉, 05.3.18 二审判决 败诉, 上诉最高裁, 07.4.27 驳回上诉, 已结
3	※ 第三批 万爱花等 10 人	日本国	东京地裁 高裁、最高	98.10.30 提诉, 一审 05.12 最高判决败诉(终审) 2005.11.18 已结 2003.4.24 二审败诉, 2005.3.31 二审
4	第四批 陈亚福等 8 人	日本国	东京地裁 高裁、最高	01.7.16 提诉, 06.8.30 一审判决, 09.3.26 二审判决, 败诉, 上诉最高裁, 2010.3.2 终审败诉
5	南京大屠杀、七三一、 无区别轰炸幸存者 李秀英、高熊飞、王 亦兵等 6 人	日本国	东京地裁 高裁、最高	95.8.7 提诉, 99.9.27 一审判决败诉 05.4.19 二审判决败诉, 上诉最高裁, 07.5.9 驳回上诉 已结
6	刘连仁劳工案	日本国	东京地裁 高裁、最高	96.3.25 提诉, 01.7.16 判决胜诉, 日本国上诉, 05.6.23 二审败诉, 上诉至最高裁, 07.4.27 驳回上诉, 已结
7	平顶山大屠杀 莫德胜等 3 人	日本国	东京地裁 高裁、最高	96.8.14 提诉, 02 判决败诉, 05.5.16 二审败诉, 06.5.16 最高裁终审判决败诉 已结
8	中国劳工 李万忠等 42 人	日本国、间组、三菱、飞岛、 宇部兴产、同和矿业、日铁、 古河机械、铁道建设	东京地裁 高裁、最高	97.9.18 提诉, 03.3.11 一审判决, 06.6.16 二审败诉, 上诉至最高裁, 07.6 驳回上诉, 已结
9	中国劳工 苍欣书等 7 人	日本国、大成建设、鹿岛、 熊谷组、飞岛建设	长野地裁 东京高裁	97.12.22 提诉, 06.3.10 一审败诉, 上诉至东京高裁 09.9.17 二审判决败诉, 上诉至最高 2011.2.24 驳回上 诉, 已结
10	中国劳工 张宝恒等 15 人	日本国、三井矿山	福冈地裁、 高裁、最高	00.5.10 提诉, 02.4.26 判决胜诉, 04.5.24 二审败诉, 已上 诉至最高裁, 07.4.27 驳回上诉 已结
11	中国劳工 刘宗根等 6 人	日本国、日本冶金	京都、大阪 最高	98.8.14 年提诉, 2003.1.15 判决, 已上诉, 06.9.27 二审判 决败诉, 上诉至最高裁, 07.6 驳回上诉 已结
12	中国劳工 姚义等 42 人	日本国、熊谷组、住友、新 日铁、三井矿山、地崎工业、 北海道炭汽船、三菱	札幌地裁、 高裁、最高	99.9.1 提诉, 04.3.23 一审判决败诉, 07.6.28 二审判 决败诉, 上诉至最高裁 08.7.8 驳回上诉 已结
13	中国劳工 张文彬等 11 人	日本国、临港集团	新潟地裁、 东京高裁 最高	99.8.31 提诉, 04.3.26 判决胜诉, 07.3.14 二审败诉, 上 诉至最高裁 08.7.4 驳回上诉 已结
14	遗留毒气弹受害者 李国强等 8 人	日本国	东京高裁 最高	97.10.16 提诉, 03.5.15 一审败诉, 07.3.13 二审败诉, 上诉至最高裁, 09.5.26 驳回上诉, 已结

<sup>331</sup> Please see: [loc.gov/law/help/pow-compensation/Japan-pow-compensation.pdf](http://loc.gov/law/help/pow-compensation/Japan-pow-compensation.pdf)

<sup>332</sup> These lawsuits have been tracked until July 05, 2011.

<sup>333</sup> Please refer to the Δ symbol for CFL cases.

中国战争受害者在日本法院提诉一览表

15	遗留毒气弹受害者 孙景霞等 13 人	日本国	东京高裁 最高	96.12.9 提诉 03.9.29 一审胜诉, 07.7.18 二审判决败诉 上诉至最高裁, 09.5.26 驳回上诉, 已结
16	※ 鹿岛花冈劳工 耿諄等 11 人	鹿岛建设	东京地裁、高裁	95.6.28 提诉, 97.12.10 一审判决败诉, 97.12.12 上诉, 2000.11 和解 已结
17	中国劳工 张福珍等 22 人	日本国、间组、鹿岛 建设	前桥地裁, 东京 高裁、最高	02.5.27 提诉、07.8.29 一审判决败诉, 10.2.9 东京高裁 二审判决败诉, 上诉至最高裁, 11.3.1 最高裁驳回, 已结
18	中国劳工 唐坤元等 45 人	日本国、三井、 <u>三菱</u>	福冈地裁 高裁、最高	03.2.28 提诉, 06.3.29 一审判决败诉, 09.3.9 二审判决 败诉, 上诉至最高裁, 09.12.24 驳回上诉, 已结
19	细菌战受害者※ 王选等 80 人	日本国	东京地裁高裁、 最高	97.8.11 提诉、02.8.27 一审判决败诉, 05.7.20 二审败诉, 上诉至最高裁, 07.5.9 驳回上诉 已结
20	中国劳工 檀荫春等 6 人	日本国、酒田港运送	山形地裁 仙台高裁	04.12.17 提诉, 08.1.12 一审判决败诉, 上诉至仙台高裁, 09.11.20 二审判决败诉, 上诉至最高裁, 11.2.18 最高裁 驳回, 已结
21	※ 中国劳工 马得志等 6 人	日本国、七尾海陆运 送	金沢地裁、高裁	05.7.19 提诉 08.10.31 一审判决败诉, 上诉至金沢高裁, 10.7.15 最高判决败诉 已结
22	中国劳工 刘少明等 8 人	日本国、 <u>三菱</u>	宫崎地裁、福冈 高裁、最高	04.8 提诉, 07.3.26 一审判决败诉, 09.3.27 二审判决败 诉, 2010.5.25 最高驳回上诉, 已结
23	※ 中国劳工 张士杰等 5 人	日本国、三菱	长崎地裁、 最高	03.11.28 提诉, 07.3.27 一审判决, 一审判决败诉, 09.03.09 福冈高裁二审败诉, 上诉最高裁, 已结 ?
24	※ 中国劳工 邵义诚等 <u>5 名</u>	西松建设	广岛地裁高裁、 最高	98.1.16 提诉 02.7.9 一审败, 04.8 二审胜, 最高裁, 07.4.27 败诉 已结
25	※ 重庆大轰炸	日本国	东京地裁	06.3.30 提诉
26	8·4 毒气弹	日本国	东京地裁	07.1.25 提诉
27	李秀英名誉权	松村俊夫、相泽宏明、 株式会社展転社	东京地裁、高 裁、最高	99.提诉、2002.5.10 判决胜诉、2005.1.20 终审胜诉 已结
28	夏淑琴名誉权	东中野修道、展转社	东京地裁、高 裁、最高裁	2005 起诉, 07.11.2 一审判决夏胜诉, 08.5.21 二审胜 诉, 09.2 终审胜诉, 已结

注: 1、除“※”外的上述案件是由以尾山宏、小野寺利孝为代表的 300 余名日本律师组成律师团  
2、标注的原为起诉时的人数

15件 另 2 案 78 名 227 名 + 5 名 = 232 名 / 78 名  
另 5 11 件中 2 洞查. 其他其中 5 个 78 名 辩护人  
119 位  
原案如 3 件. 14 位 78 名  
2

Other CFL cases<sup>334</sup>

Case	Decided	Location	# of Plaintiffs	Decision/Disposition
<i>Plaintiffs et al. v. Nishimatsu Construction Company</i>  Hiroshima District Court  Issued: January 1998	July 2002	Hiroshima, Japan	5	<ul style="list-style-type: none"> <li>Recognize a violation of Nishimatsu Construction Company's duty of consideration for safety, but dismissed the action owing to expiry of the application of the statute of limitation</li> </ul>
<i>Plaintiffs et al. v. Mitsui Mining Co.</i>  Fukuoka District Court	April 2002	Fukuoka, Japan	15	<ul style="list-style-type: none"> <li>Ordered damages to be paid by Mitsui Mining Co.</li> <li>Ruling was later reversed by a high court judge</li> </ul>
<i>Han Yinglin et al. v. Nishimatsu Construction. Et al., [Tokyo District Court]</i>	March 11, 2003	Tokyo, Japan	5	<ul style="list-style-type: none"> <li>Dismissed the claim of the plaintiffs on the ground of statutory time limitations</li> <li>Plaintiffs appealed</li> </ul>
<i>Chinese Victims v. Mitsubishi Materials et al., unpublished opinion, Nagasaki Chiho Saibansho [Nagasaki Dist. Ct.] Nov. 28, 2003</i>	November 28, 2003	Nagasaki, Japan	N/A	Unpublished Opinion
<i>Sixty-five Chinese Plaintiffs v. Mitsubishi</i>	March 23, 2004	Sapporo, Japan	65	Unpublished Opinion

<sup>334</sup> The cases listed below were not mentioned in Kang Jian's database.



<i>Materials et al., unpublished opinion, Sapporo Chiho Saibansho [Sapporo Dist. Ct.] Mar. 23, 2004</i>				
<i>Plaintiffs et al. v. Nishimatsu Construction Co.</i>  Hiroshima High Court	July 2004	Hiroshima, Japan	5	<ul style="list-style-type: none"> <li>• Overturned Hiroshima District Court ruling and ordered Nishimatsu Construction Co. to pay compensation</li> <li>• Nishimatsu Construction Company appeals the high court judgement</li> </ul>
<i>Zhang Wenbin. v. Rinko Corporation &amp; Japan, Niigata Chiho Saibansho [Niigata Dist. Ct.] March 26, 2004.</i>	March 26, 2004	Niigata, Japan	11 (10 CFL, and two heirs of one additional labourer)	<ul style="list-style-type: none"> <li>• Found the Japanese government and Rinko Corporation liable for damages</li> </ul>
<i>Forty-five Chinese Plaintiffs v. Mitsubishi Materials et al., unpublished opinion, Fukuoka Chiho Saibansho [Fukuoka Dist. Ct.] Mar. 29, 2006</i>	March 29, 2006	Fukuoka, Japan	45	Unpublished opinion
<i>Thirteen Chinese</i>	March 26, 2007	Miyazaki, Japan	13	Unpublished opinion

<p><i>Plaintiffs v. Mitsubishi Materials, unpublished opinion, Miyazaki Chiho Saibansho [Miyazaki Dist. Ct.] Mar. 26, 2007.</i></p>				
<p><a href="#"><u>Nishimatsu Construction Co. v. Song Jixiao et al. 61 Minshu 1188, 1969 Hanrei Jiho 31</u></a></p> <p>Case number: 2004 (Ju) 1658</p> <p>Court of the Second Instance: Hiroshima High Court, Judgment of July 9, 2004</p>	<p>April 27, 2007</p>	<p>Tokyo, Japan</p>	<p>5</p>	<ul style="list-style-type: none"> <li>• Judgment of the Second Petty Bench, quashed and decided by the Supreme Court</li> <li>• The appeals to the court of second instance filed by the appellees of final appeal are dismissed.</li> <li>• The appellees of final appeal shall bear the cost of appeals to the court of second instance and the cost of final appeal.</li> </ul>
<p>Beijing No. 1 Intermediate People’s Court</p> <p><i>Plaintiffs et al. v. Mitsubishi Materials v. Nippon Coke &amp; Engineering</i></p> <p><i>*Nippon Coke &amp; Engineering was formerly Mitsui Mining</i></p>	<p>March 18, 2014</p>	<p>Beijing, China</p>	<p>37</p>	<ul style="list-style-type: none"> <li>• Agreed to hear a lawsuit by CFL demanding compensation from Mitsubishi Materials and Nippon Coke &amp; Engineering for WWII forced labour</li> </ul>

<a href="#">Third Intermediate People's Court</a>  Against Kajima Corporation	December 8, 2016	Beijing, China	TBD	Unpublished opinion
<i>Plaintiffs et al. v. Kajima Corporation</i>  Osaka District Court  Filed: 2015	January 29, 2019	Osaka, Japan	19	<ul style="list-style-type: none"> <li>Dismissed</li> </ul>

### Korean Forced Labour Cases

Below is not a conclusive list of KFL legal cases. KFL cases were litigated in Japan and South Korea. Since there were several dozen case decisions as well as current pending litigation, this list outlines important lawsuits that are imperative to this study.

Case	Decided	Location	# of Plaintiffs	Decision/Disposition
<i>Kim Kyeong-seok v. Japan Steel (NKK), Tokyo Chiho Saibansho [Tokyo Dist. Ct.] May 26, 1997 Hanrei Jiho 41, aff'd Tokyo Koto Saibansho [Tokyo High Ct.] April 6, 1999.</i>	May 26, 1997, April 6, 1999	Tokyo, Japan	1	<ul style="list-style-type: none"> <li>Dismissed case on statute of limitations</li> <li>Tokyo High Court Judge Kito Sueo announced a settlement agreement (April 6, 1999)</li> </ul>
<i>Kim Sun-gil v. Mitsubishi Heavy Indus., Nagasaki Chiho Saibansho [Nagasaki Dist. Ct.] Dec. 2, 1997, 1641</i>	December 2, 1997	Nagasaki, Japan	1	Unpublished opinion

<i>HANREI JIHO</i> 124 (filed on July 31, 1992)				
<i>Pak Chang-hwan v. Mitsubishi Heavy Indus., Hiroshima Chiho Saibansho [Hiroshima Dist. Ct.] Mar. 25, 1999, 1903 HANREI JIHO 23</i>	March 25, 1999	Hiroshima, Japan	1	Unpublished opinion
<i>Plaintiffs et al. v. Mitsubishi Heavy Industries &amp; Japan</i>  Filed: December 11, 1995  Hiroshima District Court	March 25, 1999	Hiroshima, Japan	52	<ul style="list-style-type: none"> <li>• By May 1998, 46 more plaintiffs had joined Pak Chang Hwan and five other Korean victims, increasing the entire case's claim to roughly ¥530 million (US\$4.3 million).</li> <li>• The Hiroshima District Court dismissed the lawsuit due to the statute of limitations</li> <li>• The court acknowledged that forced transport and forced labor had been carried out as an act of state authority, but also noted that they had occurred while the prior Meiji Constitution was in effect, absolving the current Japanese government from</li> </ul>

				any responsibility to compensate
<p><a href="#"><u>Jeong v. Onoda Cement Co., Ltd.</u></a></p> <p>United States District Court</p> <p>Case No.: CV 99-11952-GHK (MANx)</p> <p>Filed: October 4, 1999</p> <p><i>**Onoda Cement Company Ltd is now Taiheiyo Cement Corporation and its U.S. subsidiaries (Taiheiyo Cement U.S.A., Inc., Glacier Northwest, Inc. and the California Portland Cement Company)</i></p>	August 30, 2001	California	1	<ul style="list-style-type: none"> <li>• On September 14, 2001, Los Angeles County Superior Court Judge Peter Lichtman issued his decision, denying the defendant’s motion for judgment.</li> <li>• Judge Lichtman argued against the defendants’ claims regarding the 1951 Treaty by citing that Jeong was not a U.S. citizen at the time of the Treaty; thus, Jeong cannot have waived his claims by virtue of his U.S. citizenship. Moreover, the system of reparation payments under the 1951 Treaty applied to allied POWs only. Finally, due to the fact that the 1951 Treaty states that disputed issues by and between Japan and its former occupied-territories ‘shall be the subject of special arrangements,’ Judge Lichtman stated that the Treaty did not bar Jeong from making</li> </ul>

				his claims since Korea was occupied.
<a href="#"><u>Taiheiyo Cement Corporation et al., Petitioners, v. The Superior Court of Los Angeles County, Respondent; Jae Wong Jeong, Real Party in Interest</u></a>  Court of Appeal, Second District  No. B155736	March 30, 2004	California	1	<ul style="list-style-type: none"> <li>The petition for writ of mandate is denied, the order to show cause is discharged, and the stay of trial court proceedings previously issued is dissolved. Jeong is awarded his costs.</li> </ul>
<i>Seven Korean Victims v. Mitsubishi Heavy Indus., Nagoya Chiho Saibansho</i>  [Nagoya D. Ct.] Feb. 24, 2005, 1210 HANREI TAIMUZU 186	February 24, 2005	Seoul, South Korea	7	<ul style="list-style-type: none"> <li>Dismissed case on grounds of <i>red judicata</i> pursuant to the final decision by the Japanese court and the expiration of the statute of limitations</li> <li>Case brought to Supreme Court</li> </ul>
<a href="#"><u>Busan High Court Decision 2007Na4288</u></a>	Decided February 3, 2009	Busan, South Korea	5	<ul style="list-style-type: none"> <li>The plaintiffs' appeal is dismissed in entirety</li> <li>The plaintiffs' appeal is dismissed in entirety. The costs of appeal shall be assessed against the plaintiffs.</li> </ul>

<p>Seoul High Court, 2008 Na 49129</p> <p>Case Number: 2012 Na 44947</p> <p>Issued: April 3, 2008</p>	<p>July 16, 2009</p>	<p>Seoul, South Korea</p>	<p>4</p>	<ul style="list-style-type: none"> <li>• Vacate the lower court decision regarding compensation for damages.</li> <li>• Defendant shall pay each plaintiff 100 million won plus 20% annual interest from June 19 of 2013 until the amount is paid in full.</li> <li>• All plaintiffs' claims except compensation for damages shall be dismissed.</li> <li>• Defendant shall pay the total cost of litigation.</li> <li>• The order for compensation for damages (Order 1) can be executed provisionally</li> </ul>
<p><i>Plaintiffs 1 as successor to deceased Nonparty 1 et al. v. Mitsubishi Heavy Industries</i></p> <p><a href="#">Supreme Court Decision 2009Da22549</a></p>	<p>May 24, 2012 [Damages, etc.]</p>	<p>Seoul, South Korea</p>	<p>5</p>	<ul style="list-style-type: none"> <li>• Reversed Busan High Court Decision 2007Na4288</li> <li>• Case remanded to the court below for further proceedings</li> </ul>
<p>2012 Na 4497, Issued July 20, 2013 (Busan High Court)</p>	<p>July 20, 2013</p>	<p>Busan, South Korea</p>	<p>5 (23 co-successors to deceased plaintiffs)</p>	<ul style="list-style-type: none"> <li>• The decision of the trial court concerning damages is vacated. Defendant</li> <li>• shall pay each Plaintiff the specific amount</li> </ul>

				<p>sought in the annexed document and/or the amount as quoted in the list, plus 5% annual interest</p> <ul style="list-style-type: none"> <li>• from May 21, 2013 to July 30, 2013 and 20% annual interest from July 31, 2013 until the amount is paid in full.</li> <li>• All Plaintiffs' claims except for damages shall be dismissed.</li> <li>• Plaintiffs et al. shall bear one-third of the total cost of litigation and</li> <li>• Defendant shall pay the rest.</li> <li>• The order regarding damages (Order 1) can be executed provisionally.</li> </ul>
<a href="#"><u>Yeo Woon Taek v. New Nippon Steel Corporation</u></a>	October 30, 2018	Seoul, South Korea	4	<ul style="list-style-type: none"> <li>• Upheld decision of lower court, ordering New Nippon Steel Corporation to provide KFL ₩100 million (~USD\$84,000) in compensation to each of the plaintiffs</li> <li>• The Supreme Court held that the Claims Agreement was not a result of negotiation about compensation for Japanese</li> </ul>



				<p>colonization, but rather was a political agreement the purpose of which was to resolve the financial and civil debt/credit relationship between Korea and Japan.</p> <ul style="list-style-type: none"> <li>• On the final appeal, the Supreme Court concluded that plaintiffs' claims were directly related to the illegality of Japan's colonial rule over the Korean Peninsula and that the rights of the victims of forced labor to make a compensation claim did not fall within the scope of the Claims Agreement.</li> </ul>
<p><i>Plaintiffs et al. v. Mitsubishi Heavy Industries</i></p> <p>South Korean High Court</p>	<p>November 29, 2018</p>	<p>Seoul, South Korea</p>	<p>28</p>	<ul style="list-style-type: none"> <li>• Upheld Busan High Court appeals decision (2013)</li> <li>• Mitsubishi Heavy Industries must compensate plaintiffs</li> </ul>
<p><i>Plaintiffs et al. v. Nippon Steel Corporation</i></p> <p>Daegu District Court</p>	<p>January 8, 2019</p>	<p>Daegu, South Korea</p>	<p>N/A</p>	<ul style="list-style-type: none"> <li>• Approved the seizure of South Korean assets of Nippon Steel Corporation</li> <li>• The decision to order the seizure goes into effect as soon as documents</li> </ul>

				<p>have been delivered to PNR. Once this happens, Nippon Steel will lose the right to sell, transfer, or otherwise dispose of 81,075 PNR shares as requested by the survivors' legal representatives</p>
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**List of Corporations Discussed in this Study<sup>335</sup>:**

- Mitsubishi Materials Corporation
- Mitsubishi Heavy Industries Ltd.
- Mitsubishi Corporation
- Kajima Corporation
- Nachi-Fujikoshi Corporation
- Nippon Steel and Sumitomo Metal Corporation
- Showa Denko K.K.
- Sumitomo Heavy Industries, Ltd.
- Taiheiyo Cement Corporation (formerly Onoda Cement Company)
- NKK Corporation
- Rinko Corporation
- Sumitomo Corporation
- Meiji Mining Company
- Nippon Yakin Kogyo Co., Ltd.
- Nachi-Fujikoshi
- Tobishima Construction
- Toshiba
- Panasonic
- Nissan

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<sup>335</sup> This is not an exhaustive list. There were 135 WWII forced labour work sites used during WWII, with more than 35 Japanese corporations using CFL and over 234 Japanese corporations and firms using KFL. This section lists the Japanese corporations that were mentioned throughout the study.

### Appendix 3: Archival evidence

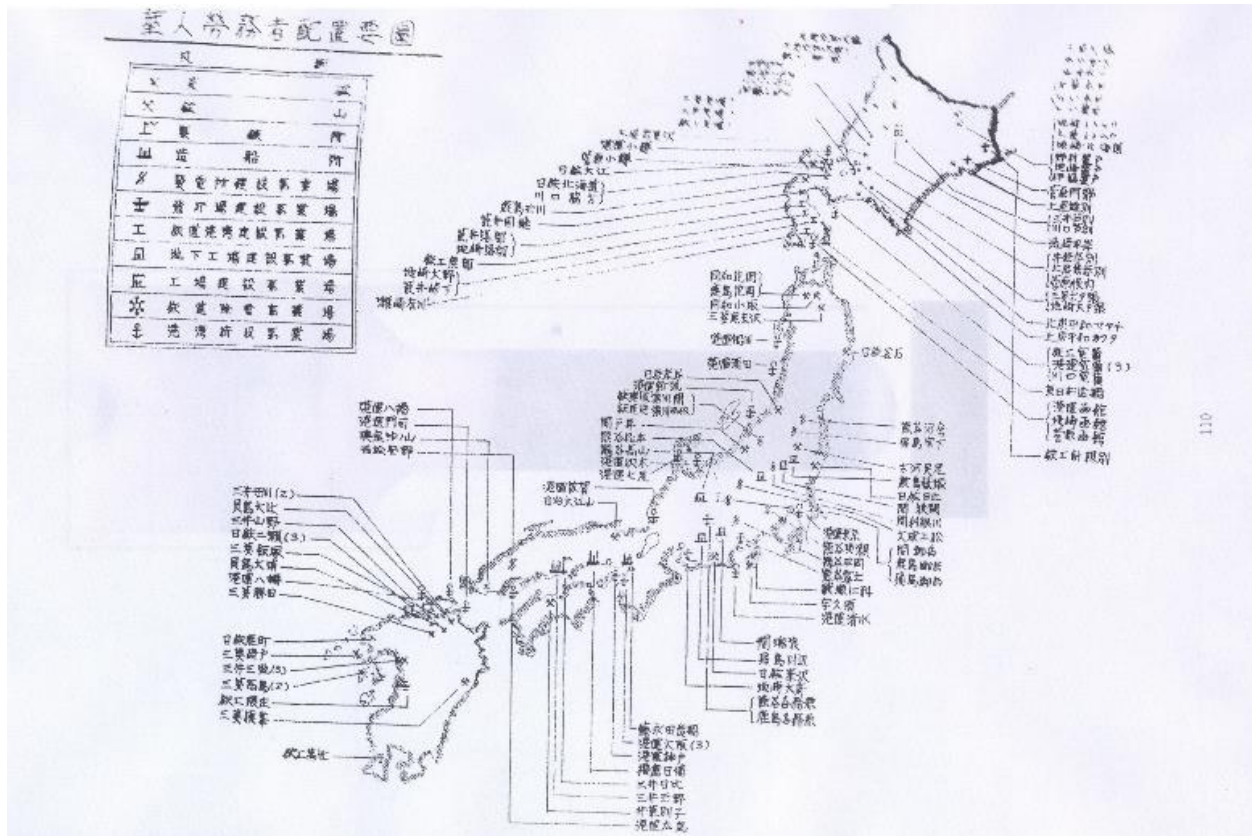


Figure 1 - A map of Japan illustrating all the sites that used Chinese forced labours (Chinese Forced Labour Report by the Japanese Foreign Ministry Report (1946))

The log sheet is a large grid with multiple columns and rows. The columns contain names of individuals, their tasks, and other relevant information. The entries are written in Chinese characters. The grid is organized into several sections, with some columns appearing to be headers for different categories of labor or tasks. The handwriting is dense and fills most of the grid cells.

Figure 2 - A copy of a log sheet from a Japanese corporation with the names, tasks and information of CFL (Chinese Forced Labour Report by the Japanese Foreign Ministry Report (1946))

年次	種別	業種	所在地	死亡者数	中国に帰還した者数	備考
昭和16年	労働者	製糖	南洋	12	10	...
昭和17年	労働者	製糖	南洋	15	12	...
昭和18年	労働者	製糖	南洋	18	15	...
昭和19年	労働者	製糖	南洋	20	18	...
昭和20年	労働者	製糖	南洋	25	22	...
昭和21年	労働者	製糖	南洋	30	28	...
昭和22年	労働者	製糖	南洋	35	32	...
昭和23年	労働者	製糖	南洋	40	38	...
昭和24年	労働者	製糖	南洋	45	42	...
昭和25年	労働者	製糖	南洋	50	48	...
昭和26年	労働者	製糖	南洋	55	52	...
昭和27年	労働者	製糖	南洋	60	58	...
昭和28年	労働者	製糖	南洋	65	62	...
昭和29年	労働者	製糖	南洋	70	68	...
昭和30年	労働者	製糖	南洋	75	72	...
昭和31年	労働者	製糖	南洋	80	78	...
昭和32年	労働者	製糖	南洋	85	82	...
昭和33年	労働者	製糖	南洋	90	88	...
昭和34年	労働者	製糖	南洋	95	92	...
昭和35年	労働者	製糖	南洋	100	98	...

種別	業種	所在地	死亡者数	中国に帰還した者数	備考
労働者	製糖	南洋	12	10	...
労働者	製糖	南洋	15	12	...
労働者	製糖	南洋	18	15	...
労働者	製糖	南洋	20	18	...
労働者	製糖	南洋	25	22	...
労働者	製糖	南洋	30	28	...
労働者	製糖	南洋	35	32	...
労働者	製糖	南洋	40	38	...
労働者	製糖	南洋	45	42	...
労働者	製糖	南洋	50	48	...
労働者	製糖	南洋	55	52	...
労働者	製糖	南洋	60	58	...
労働者	製糖	南洋	65	62	...
労働者	製糖	南洋	70	68	...
労働者	製糖	南洋	75	72	...
労働者	製糖	南洋	80	78	...
労働者	製糖	南洋	85	82	...
労働者	製糖	南洋	90	88	...
労働者	製糖	南洋	95	92	...
労働者	製糖	南洋	100	98	...

参考資料  
 事業場別移入・死亡・送還及残留数並び特記事項  
 ○ 南洋の諸島に在る華人労働者就労に居るがル  
 事業場トルカ示ス  
 ○ 人数ノ上ニ(中)トアルハ夫々其中、満洲ヨリ送還セラ  
 レタルモノナルヲ示シ記號キモノハ北北ノ送還ナリ  
 ○ 事業場間ノ転入ハ華人労働者ノ異動移動關係ヲ示ス

Figure 3 and 4 - A log sheet listing the Japanese corporation, site location, industry, number of CFL deaths and number of CFL returned to China (Chinese Forced Labour Report by the Japanese Foreign Ministry Report (1946))

## Appendix 4: Mr. Shin Young Hyum Written Testimony (in Hangul)

Mr. Shin Young Hyum, a 94-year-old KFL, was forcibly taken to perform harsh labour in a Japanese coal mine during WWII. During my interview with Mr. Shin, he provided me with a written testimony about Korea's historical background, his own experience and several of his own demands.

1. 우리 민족은 선한 민족으로 역사상 900여 년이나 침략을 받았으나 흔번도 신제 공작을 하지 않았고 위대한 민족 정기와 슬기로운 민족으로서 모든 세계 자위권정화를 차용하고 사랑하면서 국제 사회와 동반하고자 하는데 일본은 만인투적 전범국으로 과거 침략을 위한 반성과 사죄와 보상은 고사하고 여전히 역사를 왜곡하고 대한민국 독도로 자기를 당이라고 성때를 소면서 침략죄 고성을 느려내면서 이제는 온것 수작을 느가면서 독도를 폭한으로 없는다. 또 기만적 행위 드라고 하나. 이 모든 것을 하나 님은 다보고 계심 하나. 일본이 지은 죄 악과 고통 스러 움에서 해여 나가 기 위해는 과거를 청산하고 일본 왕과 아베 총리와 노 보강과 그기 호응 하는 자들이 한 국민이 입은 죄 해 783 만 명에게 적어 또 일 백조는 세노 아야 하고 그리 하고 일 본도 107 개 기업이 일 백조를 벌게 제되고 그 한 자도 그리 하고 외도 하나 님께 기 도 들 어 드리고 있고 해서 이 일 이 듯 이 해 결 정 하 는 생 애 서 조 정 을 만 기 되고 일 본이 자 를 살 수 있 게 되 는 다.
2. 미 카 드 정 국 의 우 의 조 선 위 해 자 들 의 개 량 이 확 조 관 련 하 는 것 을 우 라 하 고 일 백 조 가 공 인 사 자 의 쓰 기 미 카 드 정 국 의 개 량 이 보 조 조 선 의 피 해 자 의 개 량 이 조 지 안 고 일 본 이 업 자 들 께 다 주 었 는 다.
3. 독 일 인 의 마 음 을 도 라 보 지 고 독 일 인 이 그 리 에 위 해 액 1 억 이 상 에 3 억 까 지 주 었 는 데 1 억 이 지 금 만 이 되 고 그 때 3 억 이 3 억 만 원 이 되 었 는 다 일 본도 독 일 인 의 양 심 을 조 정 하 는 다 시 호 < 미 국 은 70 개 회 사 일 본 은 30 개 회 사 중 국 은 37 개 회 사 중 107 개 회 사 는 조 선 의 피 해 자 들 인 다 107 개 회 사 중 10 개 회 사 만 해 로 한 국 위 해 자 들 의 개 량 이 조 고 도 수 는 다.
4. 일 본은 과 거 를 감 추 고 반 인 투 적 침 략 행 위 를 저 지 는 전 쟁 범죄 자 들 이 기 에 일 본 인 의 관 양 을 재 조 명 하 고 라 하 나. 특 히 태 정 양 전 쟁 희 생 자 들 의 문 제 를 왜 곡 하 고 대 안 정 권 개 인 의 보 상 에 대 한 보 상 이 이 루 어 저 지 안 는 데 만 국 제 적 흐 름 을 막 론 하 여 끝 내 지 는 행 위 까 지 는 다. 양 심 을 조 정 하 는 다 그 리 아 고 태 정 양 전 쟁 희 생 자 들 의 개 량 이 조 고 도 수 는 다 고 보 상 하 고 하 는 것 이 일 본 이 사 는 것 인 줄 아 고 빠 르 는 간 에 이 해 하 는 것 이 다.

또한 글로벌 시대를 맞아 지구촌의 진정한 평화를 정착하기 위해 서로의 과거사에 대한 고통을 받아하는 감상도 중요하다. 이 부분이 대한민국의 대한 행동 지침의 5 역사중에서 대표적으로 1592년 임진왜란과 정유재란과정에서 나를 생기는 세계 역사상 전무후무한 행동 귀무림 귀무림의 기막힌 역사를 말한다. 또한 19세기 말부터 20세기 초까지 이러한 사건에 대한 대한제국 시절 일본의 폭력 배틀이 무참한 살해를 당한 조선의 국모 명성왕후 시해사건과 한일 해병과 육치를 당한 슬픈 역사를 뒤돌아보는 등, 우리 조선을 포위한 아시아 모든 나라들에게 피로 물든인 태평양 전쟁과정에서 현대사를 통하여 씨름을 없는 민행을 전지한 일본의 비인도적인 처사를 낱눈이 알하는 내용이다.

6. 비평, ① 정신대 ② 우커시마호폭탄 ③ 강제징용 ④ 핵도병 ⑤ 노인들 만주로 보내는 계획 ⑥ 권은중은 태평양바다를 건너 어서 죽이는 일 ⑦ 유아청은 노예를 <sup>유기물고말살</sup> 히토는 비밀이 소화가 무조건 항복으로 조선전국에 지시하여 비밀문서를 불태우는중에 해주에서 비처 못잡을것때문에 발견해서 한국이 알게 되었고 그러 평양 모리검자가 강신들의 하사성이 초능신이라고하고 나를 살여주면 세계속에다니면의 하사님이 초능신이심을 전라게라고 하였음 그러나 평양시민들이 분하고 민통한 마음에서 봉우이론 대적시 죽임.

7. 태평양 전쟁과 집에서 나를 생기는 뼈마른 역사를 해설하고 가해적인 일본은 진실의 반성과 그의 상응하는 사과와 보상과 배상을 하라.

8/1592년 신조 25년 < 임진왜란 > 7년간 전쟁 시작으로 왜가 조선으로

문화를 알기로 파카리하고

1536 ~ 1598. 8.16, 15세기 후반 왜국 말위상 르포르미데로서

< 불교 >은 국내란 오랜전쟁으로 국내가 쇠기러우니 그늘을 외국으로

돌려서 한양을 습하는 전략을 펴자

그때 무카이노사(小西行長) 1592년 유키나가이끄는 군대 1만 8000명

① 카토기요마사(加藤清茂)이 이끄는군 2만 2천명 ② 구로라 나가마사

가이끄는군대 1만 1천명 ④ 모사카(尾花高直) < 藤堂高虎의 9,000 처

全兵力 20여만명으로 조선을 공격했다 < 鄭樛 장군

이 흥주 안남에서 왜군과 싸우다 패하고,

부산시 서울까지 200리만에 60여만에 평양을 침략했다. 이때

p/ 이순신 장군 활약 해상전장 압록강이 전략적 관문 이순신 장군이 막아낸

광명으로 부산부터 차라리 명령안리커무로 후유 미순신 특목되니 원모양은

화내면이 조의를 버리실라 했음 대신 원군이 후임으로 임명됨 7월

칠원량 해전에서 왜군의 가슴으로 원군과 전략적 수 이역기 흥령 좌수

최초의 수군이 전멸되었다 이때 각지 이순신 장군이 수군 통제사에

임명되며 남은 배 12척 전함으로 전선우습하고 정비하여 명량대첩

에서 일본군을 133척을 파자사워서 대승을 거두었다. 이순신 장군 목과

세와 < 23전에서 23승을 하였다 > 이순신 장군이 특목되니 화내면이 조선을 버렸

다 했음.

10/ 그리고 전국에서 의병들이 이어나 소국각지에 왜병과 싸우고 원대 받든 승려

들까지 전국 각지에서 가병하여 왜군을 물리쳤다.

11/ 이때 선조를 사신을 명나라에 보내 구원병을 청함 송응환 장군과 이어홍

2. 함께 병행하는 데도 안 된다.  
 그때 명준과 조반준이 <sup>일본으로</sup> 귀국해서 싸우고 있을 때 일본 측 고사키와 강화  
 조약 회담을 제의함으로써 이덕형과 일본의 야나가와 초인전소 사이  
 강화 회담을 하였으나 양국의 요구조건이 맞지 않아서 회담이 결렬된  
 가토기요마사등이 1897년 전조조약이 체결된 14만 병력을 이끌고  
 고립정책을  
 왜곡은 전주를 점령한후 북진하려 했으나 직산싸움에서 일본이 패전하  
 주로 북진하지 못하고 1898년 8월 드문드미히미토씨가 1년 전장은 끝내  
 그로인해서 국호는 황제라고 백성들은 또한 예배하고 나라는 삼국 하는  
 타격을 입었다. 이때 일본은 드문드미히미토이며 노쿠가와 에이스  
 人徳 비(德康)의 幕府 政 권이 들어왔다 일본은 전조조약에 앞 다투어  
 조선으로 와서 금주할차 인쇄술을 가져가고 드자기와 기술과를 습취하여  
 많은 서적과 풍류문과 드문드미히미토시 회화 무장들이 조선에 침략하여  
 승전공을 증명하기 위하여 머라든 무장라고 키와코를 베어 소굴에  
 걸어서 일본으로 가져감 2주는 2만 600명 운대상이용노릇을 일  
 드문드미는 천병을 맞아 62세로 죽었다.

3. 명성왕후 시해이권을 <sup>1897년</sup> 조반준 대원군의 해탈책이 조선이 말하는 건가  
 대원군이 기독교인(천주교) 8,000명을 살해했다. 그때 그교인들이 <sup>일본으로</sup> 망하여  
 세계각국에서 조선으로 와서 <sup>일본이</sup> 한국을 대 위협하게 되지 않았을  
 대원군의 그책 잡으로 조반준은, 해탈정책을 하지 않고 세계 문명을 받아  
 드미히미 일본이 회담을 제각국에서 막았을 것임.  
 4. 기득 및 사안분명 밝과 드러서면 신유기도 우리들이 많고 해서 일본  
 몇년후 오오사키사. 한남국이 남북을 합하면 일본 대항과  
 뽕로 잡지 않을. 제각국부터 의주와 함정들은 상호 인성 불을 두면  
 신의주까지 3주만 같은 한남국을 다차 인이다. 소년과 국제가 접해와라 풍성  
 대라는 인과 남북이 잘나온 것이 누가 그랬는지 일본이다. 백경도에 왔을  
 일본영토 미미쓰가르 불치는 반주만 키와코 무장이라 경도에 왔다  
 너무나 기가막을 정도로 1897년 한남국 사감을 각국에서 드문드미히  
 코 기득 키와코 신유에 주었다 산모 간난 야노 키와코 를 베어  
통에 내 공 소 굴 에 걸 어 서 일본 으로 가 져 감 1899 년 일본 은 역사 적 으로  
지 장 가 리 었다 이 의 담 은 풍 신 유 로 <살인 유 마> 를 인 격 화 하 는 데 였다

5. 명성왕후 시해사건 1895년 8월 20일 악령 10월 8일  
 일본공사 미우라 고르가 지휘하는 일본 불량파들이 조선의 황족들  
시해 한 것 은 폐 역 무 한 행 위 가 아 닐 수 없 다.  
 증상대로 1894년 가을경  
 명성왕후는 인경호 편명록 조영하등 6명. 의정승과 민지일족을 자살  
 강간 김유준 시고양변 홍명익 서재필 등 개 화 와 제 거 하 는 작 업 을 하 면 다  
 증상대로이 일본공사 소카모토 후노스게 와 협 상 하 여 일본 인 들 의 도 움  
 을 받아서 명성왕후를 죽이기로 했다. 그때 유권 증상 미우라 고르가  
 1895년 9월 1일에 공자로 부임하여 특수 임무를 띠고 홍명익 등 을 살 해 는 계 획 을



15. 고종 26년 1891년 시해권위 대한제국이라 선포함 <러시아공사관으로 보낸 책> <일인들은 시해권에 왕후를 능욕했다실> 비탄  
1896년 2월 11일 러시아는 고종황제는 친일파의 궁궐을 버스나  
러공사관으로 피신했다

16. 일본인은 청일전쟁에서 이기고 중국으로 부터 라오둥 반도를 호환 받음  
러시아는 프랑스와 독일과 함께 라오둥을 반환 받음  
고종은 국호를 광武로 하고 1897년 10월 12일에 호상제 즉위식을 거행함  
고종황제는 大韓이라고 발표했다 대한제국 성립되었다.

1868년 명치유신이 일본번영과 天皇 국가를 위하여 무력으로 조선을  
정복해야 한다는 정론(正論)인(正韓論) 정책 청일전쟁을 통하여 조선을 군사적  
지배권을 확립하였다 1905년 11월 17일 서울에 온 이토 히로부미는  
고종황제에게 일왕이 김이동양평화 위하여 대사를 특파하노니 대사의 기책을  
받으라 조처하소서 라는 내용 황제 친서를 보내며 억압하였다 분을 감수  
없는 이토의 특사 내용 황제에게 특사 명을 받드라 공포 분위기속에  
불법적으로 한일협약 체결한 것은 김이부덕으로 1905년 11월 17일

17. 1907년 5월 고종은 비탈란트 헤이 에서 열리는 민족평화대회의  
이준 열사와 말즈방 을 밀사로 파견 물사조약이 주한 이리고 주장하기  
의에서, 2대에 일본의 방해로 강제된 일을 당하고 이준 열사는 주  
베를린에서 항자를 회중에게 피호했다 대한민국은 독립국이라 하고 외침과  
명지대정삼부교수는 물사조약 은 무효라고 기아했다.

18. 안중근 의사 일본이 동양 평화라는 거짓을 추진함 1909년 10월  
26일 중국 하얼빈역에서 세발의 총성으로 이준을 정조격하여 사살  
(伊藤博文은 러시아, 김철의 예비심문과 형재판과 정에서  
안중근 의사는 항국의 의병 함로 중상 중상 이라고 밝히고 이토가 대한국권  
침탈화 원흉이며 동양 평화의 모략자를 대한민국 의모고사대



20 제5조 조약으로 이완용 내각 총리 재직 : '54년 11월 22일 이완용 내각 총리 재직 시 일변에 원상 복구되고 유인  
제5조 조약 조약 조약으로 이완용 내각 총리 재직 시 일변에 원상 복구되고 유인  
그로써는 태공이라고 정정인으로 격하하고 일본에 청황 폐하로  
황제를 소관하. 천조의 손재손에 불가했다

명치황 11세 일변에 불명함 1920년 이완용 내각 총리 재직 시 일변에 원상 복구되고 유인  
조선이 일변에 불명함 1920년 4월 11일 1944 한글 출판 1943. 일변에 교육 22%  
내신 일체 - 1940년 5월 창시 재명 7.6% 박애 장학 장학  
이완용 <sup>내각 총리</sup> 고종황제 독살 영대 1920. 10. 13일 이완용 이고 총황제 독살

3. 1 독립운동 1919. 3. 1. 3. 1 운동은 세계 대전 끝내고 파리 강화 조약  
이 대통령 무으로 원인이 14가지로 각 민족의 운명은 스스로 결정  
하리라. 3월 18일 역사적이며 독립선언서 랑 독립한후 일본 경찰 등고  
하고 스스로 체결되었후 그후는 전국 각지에서 독립 만세가 천지를  
진동시켰다 구교를 필하는 천안 명원서당 3000명과 독립만세  
대거시는 200만 2천명 중국 만주 3월 13일 3만 명 全國서  
202만 3089명 화서는 1542회 사망자 7509명 부상자 15961명  
조선이 자폭국임을 선포 기미인 독립운동선언서. (3 운동)

이세아를 남북화축으로 볼 수 있다. 태평양전쟁을 일본이  
태평양전쟁 관련국 피해 규모 < 일본 공군 히로아미 비극은 2008년 11월 11일 독립후  
< 장미가장 4기 11월 11일 부상자 15961명 >  
1. 미국 106,207명 전사자 248316명 부상자 15961명  
2. 중국 380만 전사 1500만 민간인  
3. 소비에트 연방 12031명 전사 117명 부상자 24,425명 부상자...  
4. 오스트레일리아 17,501명  
5. 영국 86,838명 전사자 130,400명 민간인

일/강제노역 동원된 하급화순인 징용 위반부

참 1938. 4. 1. 동원인법 공포 5월 5일부터 - 1939. 국가총동원법

규 1942 근로분국대 창설 강제동원 44 만여명 징용령법. 1943년

2대동원령 189만명, 위안부 징용 학리법, 근로법 등등 전인

2대 처우를 일본군대성노예로 증발수 ①조선인 ②중국인 ③일본인 ④대만인

⑤미얀마 ⑥싱가포르 ⑦몰도바 ⑧캄보디아 ⑨필리핀 ⑩대서양 ⑪파푸뉴기니

⑫자이판 ⑬핀란드 등 침략의 발원이 갖는대로 모든곳으로 끌려가

2대참상을 이루었으나 할수없다. 1942. 3. 일본군이 자바로 쳐들어오면서

※ 죽음을 원해도 근로강제. 3주부 강행

일/ 1895년 청일전쟁후 1932년 중화 상해등 (上海事變)

1차로 한국 여성 20명 일본여병 (수입한국여성) 24명 38만여명

남경대학 대학살 일본군이 중국에서 극악무로한 학살과 민간인

강간사건 - 이반감자 악독일본군의 극악무로한 방편하기위해서

20/ 위안부를 설치. 이때부터 일본군의 성간강장소로 변하여

화위에 강간을 하였다. 집안은 1년씩여노를한뒤에 2달까지작은이만부 18 30만 40명까지 연간을 적게아 2달

후손이받은 성병감사를 심사하여 성병이왔는 여성은 가양장부를게하고

젊은 여성은 삼아서 죽을끝에서 위안부. 죽을마이고

현역인등은 죽을마이고. 여성들도 먹이고 새상이 다분노할행동

질송모자 못한행동 짐승로 악기노래위해서 1년동안편교의하는때

하루에 2천여명을 죽인후입해사하면 그여성들 죽고 산것도다행이

2위고살은받고 죽고 크리마이고

위문귀국이 주어진 신명현 당시 38선이 언택스 호동면 에 살았음

25 / 1947년경 봄 논에서 일하고 있는데 면에서 영장이 나왔다가 자라해서  
영장으로 보려고 그날로 출발 여비로 가려 모르고 그곳이 일분 하관 이고  
판공에가 제일로 장소는 바다 밑에 있는 게 아닐

생각에 명대로 출퇴 못하고 죽겠나 싶어서 3일하루 밤에 드방 기기로  
드방을 하는데 잠깐이라도 일어나고 싶어서, 만일 잡혀서 명까지 죽어 버리실지도 모르  
그때 그곳은 응봉현 (구미도) 전투 회령항만 드는 하서 일하다가  
해방을 맞이 했음. 1945년 8월 15일에 소리가 귀국인을

테 테비 일로 모이라 하고 무조건 항복 하였음.

사45, 815, 해방을 맞아. 하관이 가까운 무로 자꾸 만났읍니다.

그때 하관에 나가면 형방이 되었다고 한국으로 나오게 하고 전국  
에서 하관으로 물이된 사람들이 너무 많고 배는 적고 하여 패션  
고기 배에도 못대 가지라고 떠나 가다가 바람 초발 후는  
파선되고 이주민이 걸림마 데 비치면 파선되고 그것으로  
고기 배 패션할 배 거판까지 실고 밤에 풍가다가 심에가  
배는 파선하고 한 주민을 실어고 갔었는데 것모아 가지 가는 곳 다 배  
맞고 사람은 다 죽었음 그 후라 새 일 없었음 그들은  
죽기로 이기로 구호로 애타

그 문제 소화가 항복을 해줘야 할 때 일에서 안하는 사람을 다 죽였음 팔지도 못함  
부적수 인가 申인분으로 드방한 것은 바다 밑에서 물  
위에서 되었을 것이다.



28/ 시흥군이 화해로써 농사보조금 2억 지냈는데 미정기, "U" "T" T  
 가치있음 배양되고는 6000억 농사 각종 사업마다 1억 3천만  
 등은 더이더우려할 때(사공들) 2000억으로 공중에 만든이로써 지출지만  
 돈을 이런 것 다 재하고 2년이나 걸린 것 비로공공에는 노무와 정통  
 지출 예산가로 지출 예산을 돈조금으로 예산하고 농민은 돈은  
 우리 땅으로 60% 가치이고 나머지는 물벼룩이로 남가외가고  
 농민들은 中년 이하 거둬하는 공제액 갖아먹이고 귀족일  
 부름.

29/ 일본 땅은 1년에 1천 리씩 테평양 바라고 미국 땅이 가고 있음에  
 1970년 식고를 수확함  
 일본은 3은 신사 참배 세계 제 1위이고 아베 퇴출이고 간방은  
 고 2등은 아소정 ~ 우리 장점 100조 주면 동서 화하고 지리도  
 107개 기업이 100조 받고 미국도 상인이 일본을 하고 우리 일본  
 회사와 함께 배양 1조 8000억 주려는 공약서를 미국과 한국 회사들이  
 주라고 일본은 7개 회사하고 그 돈을 일본 기업이 들이 주었고 2 일본 기업이 70개  
 우리 회사와 하는 돈은 2억 2천만 원이 한 회사만 있고 100개 회사 기업  
 우리 장점 100조 주면 만년외국도 끝까지 받습니다. <특히 일본 회사로  
 위에 기록 13개 주에는 1억 보상은 100억 되고 우리인 3억은 우리  
 300억이 되었으나 미국에 있는 8기업 7개 한국에 있는 기업 3개  
 1과 우리가 세계적으로 일본인들에게 금후보라화라고 하나씩씩 주  
 라고 있음에 <한(404장)사후 보라화: 끝까지 모든 1/1씩 차가  
 1000억 1000억

## Appendix 5: Mr. Cui Guangting's Testimony in Court (Translated)

*Translator's note: The original Chinese text was written in both first-person and third-person. For the purpose of consistency, I will adopt a first-person narrative in the English translation.*

Cui Guangting was born on February 14, 1924 in Su Villiage, Jin County, Hebei Province, he passed away on May 8, 2013.

In 1944, I was working as a liaison person at the Southern Heibei Bureau of the Anti-Japanese government. In May 1944, I was captured by Japanese soldiers and thrown into the prison of the Japanese Gendarme troop in Jin County, Heibei Province.

There were already more than 10 people in the cell when I was sent in, including a woman, who was allegedly a head of women affairs. There were 3 cells like ours in that prison, detaining around 40 people in total. The Japanese Gendarme soldiers acted as prison guards.

After about 10 days, the Japanese soldiers used one rope to tie one arm of every prisoner with each other, forming a chain. Being watched, we walked for about one hour and then were forced into a boxcar at the train station of Jin County. Inside the boxcar, 3 Japanese soldiers were watching us, and they all carried guns. We took the train all the way to the south camp in Shijiazhuang. It was already dark when we arrived. The south camp had a big yard, it was enclosed by walls. We were forced to keep our heads down when walking, so didn't know exactly what kind of walls they were or whether they were wired. There were several rows of houses in the yard, but we didn't count exactly how many. The one we were kept in was a bungalow build from bricks. The floor was covered by a large straw-made carpet, there were iron bars on the windows. We were watched by gun-carrying Japanese soldiers, they stood outside the bungalow. There were about 40 of us when we arrived at the camp, then we were all separated. About 30 of us, me included, were locked into a 30 square meter or so bungalow, we were removed of the ropes once we were inside. We weren't allowed outside the bungalow, except for urination or defecation, and we needed to ask for permission first. We were kept inside the bungalow for more than 10 days. During these days, fewer than 20 of us, me included, were forced to do labor work in the yard once. We were divided by several groups of 4 people. And again, they tied one arm of each of us together. The soldiers were watching us all the time. We were fed with a small bowl of thick sorghum rice porridge twice a day, no water at all, and everyone was starving.

After being detained for another 10 days or so, we were again tied to form a chain and forced to walk for over an hour to Shijiazhuang train station, 5 or 6 gun-carrying soldiers were watching us the whole time. We took the train there to Tanggu, passing through Tangshan.

We got out of the train at Tanggu station, walked for a while then arrived at a big yard enclosed by iron wire very close to the seaside. There were about 3 rows of big houses in the yard, they looked like warehouses. The one we lived in had a huge bunk made of wood plank. The bunk was about 50cm above the wet floor. Hundreds of people could sleep in there. There were a few Chinese people watching at the door, and gun-carrying Japanese soldiers patrolling in the yard. A few people tried to escape, they were shot by the soldiers, so they didn't make it out. I heard that 3 were shot dead, and 1 was injured.



This time we were given 1 steamed corn bread (about 100g) made of moldy corn flour twice a day. There was nothing else, the bread was flavorless. There was a big water jar in the yard, we used a ladle to take water out when we were thirsty. Many people got diarrhea, it was said to be malaria, they died in just a few days. The soldiers just wrapped the corpses with a blanket and threw them out. The man slept next to me on the bunk was in his thirties. He was doing ok when we arrived, I knew that he was a businessman from conversations. One night, I felt that he had a fever, because his body was hot, then he cooled down in the morning. I put my finger under his nostril and found that he was dead. There were people dying every single day in the yard. The soldiers would beat us with sticks when they were in bad mood.

I didn't remember exactly how long we were kept in Tanggu. I only remembered that one day, during daytime, the Japanese soldiers again tied us and formed a human chain. There were 2 to 3 hundred of us. We were escorted by gun-carrying soldiers to a board a ship, then cut loose. Once the ship started, the soldiers left. A few Japanese in civilian clothes were on board with us, they didn't carry guns. All of us abducted Chinese were put on the bottom level of the ship, there was no quilt or blanket. We just slept on the floor. Many people got seasick, they just vomited on the floor. There was no air passing through, the cabin smelt awful. We were on the cruise for 6 or 7 days, then arrived at Moji. After got off, we were taken to a big room by a few Japanese. We were stripped out of our clothes and pushed into a big water tank to bathe and be sanitized. Our clothes were taken away to get sanitized as well. After the bath, we put our clothes back on. We were put into 3 or 4 buses at the Moji Port. The drivers were in yellow uniform, they seemed to be policemen. After about 2 hour drive, we arrived at a base camp.

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