

Chapter 6: It is Wrong to Condemn the Comfort Women System as a Human Rights Issue

The comfort women system did not violate the International Convention for the Suppression of the Traffic in Women and Children

When Japan offers some sort of counterargument relating to comfort women, South Korea often says that, “This is women’s human rights issue,” by which they try to shift attention away from historical facts. It is quite effective as a tactic today, in the age of radical feminism. In fact, this line is fairly well-accepted internationally. Yoshimi probably divined this trend and brought up the “new Yoshimi theory.”

So is he right? No, by all means!

As I mentioned earlier, the only choice available when there were no military brothels is either rape or prostitution and the uncontrolled spread of venereal diseases. These seem to be much more serious than a “women’s human rights issue.”

Did the comfort women system violate human rights in the first place? The comfort women system did not go against domestic or international law of those days. Seeing that it was legal, the comfort women system could not have been a violation of human rights.

If the comfort women system did violate human rights, then it would have been illegal and those engaged in it would have naturally been punished as defined by law. However, the comfort women system as practiced was not illegal and no one who engaged in it was punished. Those who engaged in illegal recruitment and transportation of comfort women in those days were, in fact, punished. Unscrupulous Korean recruiters in particular were targets of illegal recruitment and transportation crackdowns which were often reported in newspapers.

Japan signed the International Convention for the Suppression of the Traffic in Women and Children. This, as its name suggests, is an international law that prohibits trafficking of women and children and Japan had reserved its right to Article 5 of this convention, the article that sets the age of prostitutes to 21 years or older. The application of the age

restriction to Korea and Taiwan was suspended, which was met with much criticism even within Japan.

Nevertheless, the U.K., Italy, Spain, Australia and New Zealand, which had either colonies or protectorates, also reserved their rights in applying the convention to their overseas territories. That is, many of the countries with colonies and protectorates, in addition to Japan, suspended application of Article 5 to overseas territories for whatever reason.

This is why Korean comfort women were 17 years or older but under 20 and Taiwanese comfort women were 16 years or older and under 20. The minimum age provided by domestic law was 17 in Korea and 16 in Taiwan. For suspension of Article 5, the age restriction for women was based on domestic law and not on international law. Japan did not violate international law.

What we cannot protect today is the “human rights of women” of the past

When we take up “women’s human rights,” we must be aware that it is wrong to apply today’s standards to the past.

Today, sexual intercourse without consent, even between people who are married, is regarded as rape. This concept is strange, from viewpoint of the past wherein sexual intercourse without consent between married people was not considered as rape.

It is extremely difficult for people of today to think as people did in the past and this poses a problem.

Currently, prostitution today is viewed from the perspective of “women’s human rights” but this perspective was not the case at all in the days when the comfort women system existed. Above all, we should not forget that prostitution was legal in those days, though it is not today. (It is however still legal in some countries such as Germany, the Netherlands, Switzerland and Australia).

It is difficult to understand how things were when prostitution was legal based on current thinking. Thus, people are inclined to use present standards to make judgments

on what happened in the past and this leads to major misunderstanding because the historical contexts as well as the standards are different.

To view the comfort women system of the past, when prostitution was legal, with today's standards, with prostitution generally regarded as illegal, and people's view of "women's human rights" different from those of the past, is flawed. Those with a feminist view of history, in particular, repeatedly make this mistake but are not aware of it, which is a part of the problem.

Even if the comfort women system appears to be violation of human rights based on today's standards, the comfort women system then was legal and was not viewed as a human rights issue.

South Korea states that the comfort women issue is a "women's human rights issue," obscuring context and application of present standards to the past. Therefore, their claim is highly flawed.

If there was a "comfort women system" in this day and age, it could well be a "women's human rights" issue but the "comfort women system" is of the past and not a "women's human rights issue" of the present.

Naturally, "women's human rights" are important but they can only protect women of today and in the future—and not comfort women of long ago.

Coomaraswamy ignored intertemporal law

The Coomaraswamy Report, which is known for its criticism of the Japanese comfort women system, was not in keeping with the gist of the UN's initiatives for women's human rights. This was also pointed out in Japan's rebuttal to the Coomaraswamy Report. (61)

The official name of this document is the "Addendum Report of the Special Rapporteur". It is an addendum as it was not included in the main report. The main Coomaraswamy Report certainly set "women's human rights" as its agenda in a forward- looking manner.

The main Coomaraswamy Report was a status report on women who fell victim to human trafficking or were raped by their employers in Southeast Asia and the Middle East. That is, it was aimed at grasping the present situation and identifying points to be improved for protecting “women’s human rights” going forward. The Report did not criticize any specific country and it was intended to encourage countries to work together to identify problems, raise awareness and take steps for the future.

However, for some inexplicable reason, Coomaraswamy ignored her charter and attached an addendum that attacked Japan, and only Japan, for something that occurred in the past, which nothing more could be done. Rather than a “women’s human rights,” the Addendum is nothing less than Japan bashing, going against the aim of UN Commission on Human Rights.

In addition, Coomaraswamy’s fact-finding was extremely faulty. The Addendum was based on Yoshida Seiji’s “testimony,” given to *the Asahi Shimbun*, which was already proven at that time to be a hoax. There were other absurd testimonies collected for the Addendum, such as one from a North Korean woman who claimed to be a former comfort woman. She stated that a Japanese army company commander gave an order to kill a comfort woman and make other comfort women eat the flesh. Coomaraswamy herself did not go to North Korea but had an agent conduct a so-called fact-finding mission.⁽⁶²⁾ Nevertheless, based on stories by North Koreans and Yoshida’s lies, Coomaraswamy affirmed that the Japanese army made Korean women into sex slaves.

Based on this, she went on to allege that the establishment of comfort stations by the Japanese army violated the 1926 Slavery Convention and argued, disregarding the principle of intertemporal law, that Japan must accept legal responsibility. However, based on law at that time, the establishment of facilities for prostitution, such as comfort stations by the military, did not infringe on any international law.

In addition, Coomaraswamy asserted that comfort women were slaves, which is entirely false. The 1926 Slavery Convention defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” and “a ‘slave’ refers to a person in such status or condition.” With comfort women, their employers paid up-front money to employ them and did not own them by any respect or resell them.

Nonetheless, this assertion was included in the recommendations against Japan, but it was not supported by the U.S. or Canada, the country that held the chairmanship. The valuation assigned to the Addendum was “noted,” the second lowest. Coomaraswamy’s criticism of the comfort women system was inconsistent with the future-oriented objective of protecting the “human rights for women” and it deserved its valuation. *The Asahi Shimbun* and other Japanese media, which did not report any of these details but bashed Japan anyway, which demonstrates the sickness of the Japanese media.

The McDougall Report as mental gymnastics

Now that I have mentioned the “Addendum Report of the Special Rapporteur,” I feel obliged to take up the McDougall Report, horribly faulty as it is.⁽⁶³⁾

The “facts” recognized in this report include:

1. Between 1932 and the end of the Second World War, the Japanese Government and the Japanese Imperial Army forced over 200,000 women into sexual slavery in rape centres throughout Asia.
2. Comfort stations were under the management of the Japanese military.
3. The majority of comfort women were from Korea but many were also taken from China, Indonesia, the Philippines and other Asian countries under Japanese control.
4. Many of the women who were enslaved by the Japanese military were between the ages of 11 and 20.
5. Comfort women were forcibly raped multiple times on a daily basis and subjected to severe physical abuse and exposed to sexually transmitted diseases.
6. Only about 25 per cent of these women are said to have survived these daily abuses.
7. Although the Japanese Government has acknowledged “moral responsibility” for the Japanese military’s involvement in these actions, Japan consistently has denied all legal responsibility.

Of these “facts,” only number 7 is correct. Number 2 is half correct. All other points are plain wrong.

Attention should be directed to how and where Ms. Gay McDougall differs from Coomaraswamy. Coomaraswamy used the 1926 Slavery Convention as a pretext to hold

Japan legally responsible but, as described earlier, the comfort women system did not violate this international law, or any other international law.

Accordingly, McDougall used the word “rape” as she referred to comfort stations used by soldiers of the Japanese army and argued that it was a war crime, against the Hague Convention. Thinking that if the comfort women system was recognized as a “war crime”, then it would be possible to pin responsibility on the Japanese army for everything the soldiers did.

So in order to make the comfort women system look like a “war crime”, she called comfort stations “rape centers” and threw in some fairy tales.

McDougall asserted that, as was the case with the absentia sentencing of Klaus Barbie in 1954, the statute of limitations did not apply to crimes against humanity. Barbie, a Nazi SS officer who killed over 4,000 members of the French Resistance during WWII, was sentenced to life following his trial in France. Thus, she neatly overcame the principle of intertemporal law, a hurdle that even Coomaraswamy could not overcome.

For McDougall, there was another hurdle: a war trial. As Germany faced the Nuremberg trials and Japan the International Military Tribunal for the Far East, there was a stipulation: The trials were intended for just the defeated countries and not the victors.

Despite the killing of thousands of people, Barbie lived free man in the U.S. and elsewhere because the U.S. found him useful—he escaped judgment at Nuremberg. There were other similar cases, such as a concentration camp commandant, who exterminated tens of thousands of Jews, also was exempted from the Nuremberg trials and employed by a U.S. government organization given a large salary.

There is something to be said for bringing charges, regardless of the statute of limitations, against those who obviously committed heinous crimes against humanity but were exempted from war trials. But is it right to apply this thinking to the comfort women system?

Is paying about 3,600 Korean comfort women, as sex workers under contract, a crime against humanity like that committed by Barbie?

McDougall is performing extraordinary acrobatics in logical gymnastics but really her logic is dysfunctional. Naturally, the Japanese government turned down the report's recommendations and it was reasonable that they did so.

Absolutely no concessions should be made on truth

It should be noted that McDougall frequently mentions the Kono Statement and the Japanese government's subsequent apologies. In her mind, Japan, with its history of acknowledgement and contrition, is easy prey for any manner of criticism.

As the saying goes, "Give him an inch and he'll take a mile." Both Coomaraswamy and McDougall think that, if Japan gives them an inch, they will run away with a mile.

Criticizing Japan, a major power, in the UN to obtain concessions leads to medals. For some people, the UN provides an opportunity to grandstand, not to do justice; this is the path to a successful career in UN-affiliated organizations.

The Japanese place much faith in the UN, which actually should be forsaken. To give a personal example, I once lived in Switzerland for about a year and found out that in Geneva, where the UN Secretariat is located, driving etiquette and manners in public facilities were among the poorest in Switzerland. The reason for this is that there are many people involved in the UN. New York City, where the UN is headquartered, is the original "city of immorality." UN workers are simply less conspicuous in NYC. UN workers are not stewards of good conduct.

Too often, UN representatives from various countries and UN clerical staff are neither gentlemen nor ladies. It is widely known that the International Olympic Committee is tainted with bribes and the UN cannot be called squeaky clean either. Both tend to be pushovers for well-funded lobbying organizations and powerful elites that dangle rights and interests before them.

While the UN cannot be totally ignored, it does not mean that its resolutions should be respected as if they were the words of God. Keeping in mind the phrase "Give him an inch and he'll take a mile," we must keep fighting to correct falsehoods and frauds with persistence and patience and without fear or giving up. That is the only way for us.

Notes

(61) Arima Tetsuo *Ichiji Shiryō de Tadasu Gendaishi no Feiku (Going to Primary Sources to Correct Fakes in Modern History)* Chapter 9 (Fusosha Publishing, 2021)

(62) Asian Women's Fund ed., Radhika Coomaraswamy "Violence against Women -Report on the mission to the Democratic People's Republic of Korea, the Republic of Korea and Japan on the issue of military sexual slavery in wartime" (in Japanese) p. 1, <https://www.awf.or.jp/pdf/0031.pdf>

(63) Asian Women's Fund ed. "McDougall Report" "Appendix - An Analysis of the Legal Liability of the Government of Japan for 'Comfort Women Stations' Established during the Second World War" (in Japanese), <https://www.awf.or.jp/pdf/0199.pdf>