

Chapter 2: The Fiction Equating Comfort Women with Sex Slaves Spreads throughout the World

C. Perspective on lawsuit for the removal of comfort-woman statue in Glendale, CA

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The first comfort-woman statue in America

On July 30, 2013, a statue of a comfort woman was installed in Central Park in Glendale City, California, U.S. The statue is of a young girl wearing clothing characteristic to the Korean Peninsula. Next to the girl stands an empty chair and on the pedestal right beneath the chair are inscribed words to the following effect: over a long period of time from 1932 to 1945, more than two hundred thousand women from Korea and other areas were forcibly abducted by the Japanese Army and made to suffer unspeakable hardship as sex slaves. The statue was built in sincere hopes that such a brutal act shall never be repeated again.

Although the inscribed words state that the statue was made in order to defend basic rights of women, its true purpose is to disgrace Japan.

Up until then, comfort-woman monuments in the form of inscriptions were made in several American cities. However, this is the first time that a statue of a girl, which is identical to the one installed right across the street from the Japanese Embassy in Seoul, South Korea, was built in the United States.

The plan to install the comfort-woman statue was proposed to the Glendale City Council by a Korean group called the Korean American Forum of California (KAFC).

After the majority of the Council agreed to the plan, the statue was installed.

Let me explain the process in more detail. The plan to install the comfort-woman statue was moved to the City Council on July 9 and on the same day, a public hearing was held at City Hall. It was a good opportunity for those concerned to freely express themselves. As such, there were many people who wanted to speak and, accordingly, only two minutes were allowed for each speaker. City Hall has a capacity of nearly 100 seats for the public and it was filled with eager audience, 80% of which were Japanese-Americans. There was a much smaller than expected Korean audience. Twenty-nine Japanese spoke against the plan, while seven Korean-Americans spoke for it. The Council decided contrary to expectation—four out of the five Councilmen were in favor of the plan and one against. The only person that opposed the plan was the mayor himself, but he had no veto power, according to the city's administrative system.

Reasons for opposition varied among the Japanese: in America, a diverse country composed of various cultures, it is not wise to disrupt social harmony by harshly criticizing particular races; the assertions made by Korean-Americans regarding the comfort women is not consistent with historical fact; it is not proper for a city to state its view related to an international issue such as this; one should refrain from dishonoring Japan, and so on.

The reason for demanding the removal of the comfort-woman statue

We are entirely convinced that this comfort-woman statue should be removed. The reason is as follows:

It is clear that this statue is a product of a fabricated view of history. Once this kind of statue with its attendant false message is installed, similar statues will be installed in other cities across America as well, spreading the false perception that the Japanese people are an extremely savage-natured race. Such a fallacy will quickly spread throughout the world and will remain in the minds of people for centuries to come. Then our future generations will be doomed to bear the shame that they are the offspring of a brutal and savage race. This kind of future should never occur. Our generation will be the one responsible for stopping groundless dishonor from being inflicted on future generations.

This is our conviction and firm belief.

Reporters from Japanese newspapers and magazines, together with members of Japanese local municipal assemblies, came to Glendale, met people from Glendale City Hall, heard their views and asked for the removal of the statue. But their collective efforts bore no fruit.

Therefore, as a next step, we came up with an idea to file a lawsuit.

Examination of counts for the lawsuit

In filing a lawsuit, we must present specific points. The first thing that came to mind was to demonstrate slander against the Japanese people. However, our lawyer told us that this does not constitute a case if the plaintiff is the Japanese people at large. That is, we must be more specific about our claims. So we thought of other possible points such as Japanese children being bullied at school because of the statue or owing to worsening anti-Japanese sentiment caused by the statue, some local Japanese residents were forced to move away. Still, we anticipated difficulties in actually finding victims of such harassment.

At last, we came up with two counts: 1) it is an arrogation on the part of Glendale City to permit the installment of a controversial statue at a public park and 2) the words inscribed on the pedestal of the statue did not go through the usual administrative procedures and, thus, the statue was built without proper approval by the City Council.

First, it is an arrogation because matters of diplomacy are to be dealt with by the Federal Government and, accordingly, it is stipulated that municipalities such as states and cities cannot be involved in diplomatic affairs. The issue of the comfort-women, being a diplomatic matter between Japan and the ROK (South Korea), Glendale City's involvement in this issue goes against the United States Constitution.

Second, though the words inscribed on the statue appear to directly condemn the Japanese government, the draft of these words were not submitted to the Glendale Council meeting in which the installment of the comfort-woman statue was approved. Furthermore, the words were not made public before the statue was actually installed. Therefore, there was a defect in the city's procedure in approving the installment of the statue.

Filing a lawsuit in U.S. District Court

At the end of 2013, we had lawyers from Mayer Brown, a well-known American law firm, file the necessary papers for a lawsuit. Since this case involves matters concerning the jurisdiction of the Federal Government, our lawyers advised us to file in U.S. District Court. It was on February 20, 2014 that our lawsuit was actually filed in U.S. District Court.

Prior to filing the lawsuit, we incorporated in the state of California a non-profit organization called the Global Alliance for Historical Truth U.S. (GAHT-US). Immediately after, we announced our lawsuit on our Internet homepage and also held a press conference.

Reaction in Japan to our filing of a lawsuit was incredible. This fact made us realize how deeply indignant Japanese people were at the insulting, anti-Japanese movement Korean-Americans staged in America and at the recent installment of the comfort-woman statue as well. We received contributions from a large number of Japanese people. A total of over ¥40 million was deposited into our bank account within a month after the announcement of our lawsuit.

Slandorous article in *Forbes* magazine

Facing our lawsuit, the City of Glendale decided to oppose it. They asked Sidley Austin, another major law firm, to defend them. The firm argued that our lawsuit was against free speech and decided to take up the city's defense, pro bono (free of charge). Pro bono is often used when major law firms engage certain lawsuits, without charge, that serves the public interest. Firms also use the opportunity for on-the-job training for younger staff.

Remarkably, soon after our lawsuit was filed, the April 13 edition of *Forbes*, an American financial magazine, published an article that insultingly insinuated that Mayer Brown is “probably doing this as a favor to a large client” or trying to make business in Japan, written by a person named Emonn Fingleton, “an expert on Japanese economics.” The article had a serious impact on Mayer Brown's management—on April 17, the chief executive came to Los Angeles and entreated us to drop the firm from the case. We understood that behind this nasty plot was the Global Alliance for Preserving the History of WW II in Asia, which has a huge influence over Silicon Valley. The best way to counter this kind of obstruction is to appeal to the Ninth Circuit Court, here in

California. In Circuit Court, three judges review the case and reach a verdict after consultation. We expected even-handed justice could be made at such a court. At court, we planned to assert that the city's act is an arrogation and demand that the city remove the comfort-woman statue in question.

At that time, it was not yet decided which lawyers would be in charge of our lawsuit and it took some time to settle this matter. In any event, on September 30, we submitted a complaint. Two weeks later, we resubmitted a revised complaint.

Uncooperative Japanese Consulate

In October, we successfully formed a powerful team of three lawyers and one university professor (specializing in Constitutional matters), with the support from a famous law firm, Blecher Collins Pepperman & Joye. With the permission for the third revision by the court, we submitted a revised complaint, for the third time.

In our petition, we emphatically argued that the judgment made by U.S. District Court Judge Percy Anderson regarding the qualification of the plaintiff was wrong, in the light of judicial precedents.

Against our point of argument, the City of Glendale claimed that the plaintiff did not qualify and that it was not a violation of the authority of the Federal Government for a local municipality to make a statement which has no binding, legal power regarding an issue of a diplomatic nature. Their statement was submitted on May 13. On our part, we submitted a rebuttal, maintaining that the response made by the city had little factual basis.

During the exchanging of responses, we faced a serious problem—we failed to obtain cooperation of the Japanese Consulate, when we asked them to present material which stated the Japanese Government's view about the comfort-woman statue. Japan's Cabinet Office and Foreign Ministry appeared to side with us, but when it came to submitting evidence at our request, they were not at all cooperative or responsive. The Japanese Government today remains reluctant to make its position clear.

At long last, the notice of a hearing by the Ninth Circuit Court arrived. It was on June 7, 2015, more than a year after we had submitted all the necessary papers.

Filing a lawsuit in California State Court

We decided to file a lawsuit in state court because Judge Anderson had stated in the verdict that the claim against a procedural failure of the City Council, approval of the statue's inscription before approval of the statue, should be filed in state court.

After consulting with our lawyers, we decided that we would prepare for a new lawsuit, in addition to the procedural failure on the part of the City Council, and include arrogation on the part of the city and the city's responsibility in unfair treatment of a specific group of people (Japanese and Japanese-Americans).

We also included Los Angeles residents among the plaintiff. By doing so, we could maintain that since there are Californians among the plaintiff, this lawsuit is different from the one we filed in U.S. District Court. We filed this lawsuit in Superior Court of California, Los Angeles County, on September 3, 2014.

Against the petition we thus submitted, the City of Glendale brought up the Anti-SLAPP statute. The California Anti-SLAPP statute is meant to prevent frivolous lawsuits from impairing normal corporate activities. SLAPP stands for "strategic lawsuit against public participation". The Anti-SLAPP statute was created in order to prevent individuals from easily suing organizations for slander and causing tremendous monetary damage to defendants. However, the Anti-SLAPP statute is not supposed to be applied in which a lawsuit is filed on behalf of the public good.

Nevertheless, the City of Glendale did use the anti-SLAPP statute against us.

Biased Judge Linfield

Court was held under Los Angeles County Superior Court Judge Michael Linfield on February 23, 2015. This judge had a habit of sending a tentative ruling to both the plaintiff and the defendant, immediately before the start of the trial. The tentative ruling began with the following statement:

There can be no legitimate dispute that the Japanese government engaged in a horrendous crimes against the Comfort Women prior to and during World War II. The United States House of Representatives—and even the Japanese government itself—has recognized these abuses.

This statement is totally unacceptable. First, the point of the lawsuit was that the City of Glendale meddled with a diplomatic issue which is the exclusive purview of the Federal Government, thereby violating the United States Constitution. Therefore, the allegations against the Japanese Government concerning the comfort-women are not at issue. It is totally reprehensible that such a view appears in a tentative ruling. Second, one can clearly see that Judge Linfield sees this trial in terms “good and evil”, and that those trying to help “evil” are in fact “evil” themselves.

In court, our lawyers did their best, rebutting Judge Linfield. However, Judge Linfield ruled that the case was a rare exception and ruled the tentative ruling as final. Judge Linfield adopted the Anti-SLAPP motion presented by the City.

Clearly, there was a big problem in court—a biased judge. His biased attitude was already evident in the preliminary verdict made prior to the trial itself. During the trial, Judge Linfield often disclosed his bias, saying that he would not care to deal with such an uncivilized bunch. Moreover, Judge Linfield committed trespass. A judge is to make a ruling based solely on the information provided by the plaintiff and the defendant. Judge Linfield broke this rule. He visited the park where the comfort-woman statue in question stands, in person, and took photographs of the statue, which he presented in court during the trial. He reportedly acted in accordance with the request of a Korean-American group.

We lost the Anti-SLAPP lawsuit

Once an Anti-SLAPP motion is adopted, the loser is liable for legal fees. Accordingly, a hearing on August 25 determined how much we owed as the loser and it was ruled that the plaintiff will pay over \$150,000 in attorney’s fees plus interest, for the period beginning August 25 until the day of complete payment. We paid a total of \$150,992.34 on September 16.

We decided to appeal to a higher court. This time, our petition of appeal included a count of protest against a biased judge and a rebuttal against the Anti-SLAPP motion presented by the City of Glendale. We submitted the petition of appeal to the California Court of Appeals on October 26, 2015.

Unlike the first trial, in the Court of Appeals, three judges sit on the bench, so one can expect a fairer judgment to be made. If the Court of Appeals demands that the first trial

be re-tried, we will surely ask for another judge, for we have a right to refuse Judge Linfield in a new trial. Then, if the Anti-SLAPP motion is overturned, the legal fee we paid after we lost the lawsuit will be returned to us.

Struggle in court continues

More important is, of course, to win in the main lawsuit. For that goal, we continue with our utmost efforts. On January 25, 2016, the City of Glendale submitted an objection to the petition of appeal we submitted in October 2015. Against their objection, we will submit a rebuttal by April 14. We hope the second trial will open in the latter half of 2016 or early in 2017.

In American society, where information regarding the comfort-women is biased in Korea's favor, we have painfully learned that it is very difficult to demand the removal of the comfort-woman statue, even through due process. So, in order to support the ongoing legal struggle, we will continue publishing English-language books which explain the fact that the comfort-women were not "sex slaves" and distributing Japanese-language literature in English to members of the U.S. Congress and scholars in America.