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The Japanese Military 'Comfort Women' Issue and the 1965 System: *Comfort Women of the Empire* and Two-fold Historical Revisionism[1]

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Abstract

Since its publication in 2013, Park Yuha's book *Comfort Women of the Empire* (*Cheguk ŭi wianbu*) has become a major point of contention for those concerned with the "comfort women" issue. However, while this book has been frequently cited amidst the recent maelstrom of Japan–Korea relations, the actual content of the book has received insufficient scrutiny. The aim of this article is to concretely examine the content and problematic aspects of Park's book, building on research that has been carried out since the 1990s into the 'comfort women' issue and the question of post-war reparations.

Based on the assumption that the Japanese government does not have any legal responsibilities, Park's book claims that: 1) the "comfort women" victims do not have any right to claim compensation for damages from the Japanese government; 2) even if they did have such a right, the government of the Republic of Korea gave up all rights of claim at the Japan–Korea negotiations that concluded with the Treaty of 1965; and 3) the "economic cooperation" funds that the ROK received as a result of this Treaty were in fact a form of post-war reparations related to the Sino–Japanese War. However, Park has been unable to provide satisfactory grounds for these claims, due to the fact that her book *Comfort Women of the Empire* does not have an accurate understanding of the preceding research it uses. I argue that Park's work contains serious methodological flaws, including a failure

to define core concepts, such as reparations; the existence of mutually contradictory passages; the arbitrary selection of evidence to support her arguments; and the misuse of previous research. As a result, the book has critical flaws from the standpoint of its fundamental stated aim of promoting historical reconciliation.

Keywords: Comfort women; Japanese colonialism; Korea–Japan relations; historical revisionism; postcolonial justice

Introduction

On August 30th, 2011, the Constitutional Court of the Republic of Korea issued a significant ruling on the right of "comfort women" victims to claim damages. There had been a dispute between the governments of Korea and Japan in July 2006 over whether 64 victims of the Imperial Japanese Army's "comfort women" system had the right to bring a claim for damages against the Japanese government. An appeal to the Constitutional Court was then lodged, claiming that the failure of the Korean government to take action to resolve the interpretive dispute had infringed the basic rights of the victims and was therefore unconstitutional. The court subsequently ruled in favour of the victims' claims and concluded that the lack of effort by the ROK minister of foreign affairs and trade to resolve the dispute over interpretation with the Japanese government was unconstitutional.[2] This decision led the ROK government to initiate negotiations with the Japanese government in order to find a diplomatic solution to the "comfort women" issue and was well received by the Korean public, winning first place in a public survey of constitutional court judgements held to mark the 30th anniversary of the court's establishment.[3]

However, in the Korean edition of her book *Comfort Women of the Empire*, published in 2013, Professor Park Yuha made the following stringent criticism of this legal decision.

> Since the majority of comfort women were certainly forced into severe circumstances where their human rights were suppressed, it is only right for them to receive an apology and compensation from people of later generations. However, the decision made by the Constitutional Court of Korea does not seem to have recognized a number of facts: firstly, it was the Korean government, not the Japanese government that deprived individual victims of their chance to receive compensation, and secondly, the Japanese government indeed issued compensation in the 1990s, which a significant number of comfort women accepted.[4]

Professor Park, a scholar of modern Japanese literature, makes a particularly noteworthy claim in her book: that it was the Korean government that renounced

the individual right of claim of the so-called "comfort women" at the Japan–Republic of Korea normalisation talks in the 1960s.

The main body of this paper will be dedicated to an examination of the validity of the claims made by Park Yuha. However, before that it is necessary to examine the actual claims made by Park in her book and the various responses to the book in Japan and Korea. Park's book is certainly one of the most talked about books to have been published in recent times on the subject of the 'comfort women' and it would be no exaggeration to say that the response to the book from within Japanese intellectual circles was something of a phenomenon.

Park Yuha is a professor in International Studies at Sejong University in South Korea. She was born in Seoul in 1957 and after graduating with a degree in literature from Keio University in Tokyo she completed her doctoral degree, also in literary studies, at Waseda University. She has published a number of award-winning books in Japanese, including *Beyond Anti-Japanese Nationalism* (反日ナショナリズムを超えて *Han'nichi nashonarizumu o koete*) which received the Japan–Korea Cultural Exchange Fund Prize (*Irhan munhwa kyoryu kigŭm sang*) and *For Reconciliation: textbooks, comfort women, Yasukuni, Tokto* (和解のために —教科書・慰安婦・靖国・独島 *Wakai no tame ni—kyōkasho, ianfu, Yasukuni, Dokuto*), which won the Osaragi Jiro Prize for Commentary.[5]

After publishing a series of works on historical issues between Japan and Korea, Park then began a full-scale examination of the 'comfort women' issue in her *Comfort Women of the Empire*. The book was published first in South Korea in 2013 and then in a Japanese edition the following year. Although the overall structure and fundamental purpose of the Japanese edition remained unchanged, it did contain some substantial revisions and modifications from the original Korean text and in fact it would be correct to say that it was actually a new edition of the book.

Comfort Women of the Empire interprets the conflict over the historical views between Japan and Korea as a divide between discourses surrounding "comfort women": that is, between those who view them as "sex-slaves" and those view them as "prostitutes." The author attempts to reconcile this conflict by proposing her own perspective, considering them as "comfort women of the empire." According *Comfort Women of the Empire*, Korean "comfort women" were distinguished from "women from the areas under occupation or in the combat zones, such as China and Indonesia" and they were engaged in "supporting the war effort of the Japanese military."[6] They were "patriotic" supporters who helped Japan's war effort and developed a "sense of comradeship." Park continues that "love and peace could even exist," albeit partially, within the military brothels and this was because "Korean comfort women and Japanese army basically shared common goals." Hence the title of the book, *Comfort Women of the Empire*, can be

interpreted as meaning "Comfort women of the Japanese Empire" or "Comfort women as subjects of the empire." In this article I will refer to Park's claims about Japan's "comfort women" as her "comfort women of empire theory."

On June 16, 2014, nine former "comfort women" under the Imperial Japanese Army, who were now based at a nursing home in South Korea called the House of Sharing, brought a case against Park due to the claims made in the book.[7] They filed a criminal suit for defamation of character as well as a civil suit requesting compensation for damages they suffered, as well as a publication ban and a restraining order. The group of victims took legal action against a key claim of the "comfort women of the empire theory" which described comfort women as "comrades" to Japanese soldiers and "supporters" of the war effort.

On February 17, 2015, Seoul Eastern District Court acceded to the demands of the plaintiffs and issued a provisional injunction on publication, unless revisions were made on 34 sections of concern. This led to the publication of the second edition of the book in South Korea in June 2015, with 34 sections removed.[8] Also, on November 18, 2015, the Seoul Eastern District Public Prosecutors' Office, Criminal Division, First Section issued an indictment without detention to Park Yu-ha for defamation of character. On January 13, 2016, Seoul Eastern District Court ordered Park to pay compensation of 10 million won to each plaintiff.[9]

The lawsuit attracted public attention to Park's publication both in Japan and Korea, which also triggered a heated controversy over the book's content. On November 26, 2015 54 intellectuals, including Nobel Prize-winning Japanese novelist Oe Kenzaburo, published a statement protesting the charges against Park Yuha.[10] Many Japanese intellectuals also praised Park's book. This was particularly true of self-described liberals, who were enthusiastic in their opinions of *Comfort Women of the Empire*. The writer Takahashi Kenichiro (高橋源一郎), for example, acclaimed the book saying, "From now on, [Park's book] will be the unshakeable axis in all depictions of the 'comfort women', whether they agree with her or not."[11] Meanwhile, the political scientist Sukita Atsushi (杉田敦) praised the book in the *Asahi Shimbun* saying, "[her] effort to deal with a complex issue with the utmost impartiality is remarkable."[12] We can tell that Sukita's assessment of the book was conscious of the judgement made by the South Korean court from his comparison of Park Yuha with Hannah Arendt, noting that Arendt was "isolated from Jewish society" because "she raised the issue of a section of Jews who cooperated with the Nazis."[13]

Park's book also won a number of celebrated academic prizes in Japan. In October 2015 the book was awarded the 27th Asia-Pacific Award Special Prize, which is run by the *Mainichi Shimbun*'s Asia Research Committee. According to a member of the selection committee and scholar of international politics, Tanaka

Akihiko (田中明彦), "[In terms of its] comprehensive, empirical and rational [approach]… there is no other book that has examined this issue in such a rational way from every possible angle."[14] In December of 2015 the book also won a prize in the cultural contribution section of the Ishibashi Tanzan Memorial Journalism Award, awarded by Waseda University. Kamada Satoshi (鎌田慧), who was a member of the selection committee for the prize, commented that the book was a "historic work" which "had gone deeply into the issue of what happened to human psychology within the framework of 'imperialism' rather than focusing on relations between 'comfort women' and the army." He also noted that the selection committee had decided unanimously to award the prize to Park.[15] As I will explain later, when you consider the fact that both the conservative press and Japanese intellectuals have heaped praise on the book, we can see this as an indication that the whole of Japan's intellectual circles have given the book a positive reception.

In South Korea responses were divided between those who were for and those against Park's book. On the one hand, in December 2015 191 Korean scholars signed a statement opposing the indictment against Park Yuha.[16] Meanwhile, a group of scholars and activists connected with the "comfort women" issue released a statement on December 9, 2015 under the title "Our position on the *Comfort Women of the Empire* situation."[17] In the statement they argued that while it was necessary in principle to exercise caution with the application of libel law, this case should not be approached solely from the viewpoint of "freedom of academic expression." They argued instead that it was necessary to focus on the fact that "the book had caused pain to the victims by offering a narrative that had insufficient scholarly evidence to support it."

I myself examined Park's claim in my 2016 publication, *"Reconciliation" for Forgetting:* Comfort Woman of the Empire *and the Responsibility of Japan*,[18] pointing out that Park's book does not convey a full understanding of previous studies on Japan's "comfort women" system and that it uses the victims' testimony in an arbitrary manner to fit her own claims.

This paper particularly focuses on the compensation issue surrounding the "comfort women" of the Imperial Japanese Army. It will also discuss the lack of historical understanding demonstrated by Park's book, and explore why—given these deficiencies—it was welcomed with such high praise by the Japanese press. As the quotation above indicates, Park claims that "it was not the Japanese government but the Korean government that deprived individual victims of their chance to receive compensation." Such claims by Park regarding the Japan–ROK negotiation of post-war reparations are the key to understanding why this book was received with such approval in Japan.

The 1965 System

The judgment by the Constitutional Court of Korea which Park criticizes was made on August 30, 2011. As discussed above, one of the points of dispute in the appeal lodged with the Constitutional Court was whether the "comfort women" victims had the right to make a claim for compensation against the Japanese government or whether article 2 of the "Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Cooperation between Japan and the Republic of Korea" concluded by the Japanese and ROK governments in 1965 (at the same time as the Treaty on Basic Relations which normalised diplomatic relations between the two countries) had in fact negated such a right to claims for compensation. The Constitutional Court indicated in its ruling that the individual right of claim of former "comfort women" may still be valid. In response to this judgment, the then President of the Republic of Korea, Lee Myung-bak, proposed to the then Japanese Prime Minister Yoshihiko Noda at talks in December 2011 that they work to resolve the "comfort women" issue, which reintroduced the matter as an important subject for discussion. Park criticizes the decision by the Constitutional Court and claims that the Korean government had already renounced the "comfort women's" individual right to compensation claims during the Japan–ROK Talks. Moreover, Park maintains that the Japanese government issued "compensation" or "reparations" to the Korean government, based on the agreement between the two countries. If this claim is true, the commonly understood history of the Japan–South Korea relationship has to be significantly amended. What are the grounds behind such a claim? Before examining the author's understanding of "compensation" and "reparations" in *Comfort Women of the Empire*, let us revisit recent developments in "the 1965 system."

In 1965 Japan and the Republic of Korea signed the Treaty on Basic Relations along with four other related agreements. Among these, the "comfort women" issue is linked to the "Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Co-operation between Japan and the Republic of Korea" (henceforth referred to as the Agreement on the Settlement). Article II, Section 1 of the Agreement on the Settlement reads, "[t]he Contracting Parties confirm that [the] problems concerning property, rights and interests of the two Contracting Parties and their nationals (including juridical persons) and concerning claims between the Contracting Parties and their nationals, including those provided for in Article IV, paragraph (a) of the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951, are settled completely and finally." Japan and Korea have long developed their bilateral relationship based on this agreement which states the problem "is settled completely and

finally." The Japan–ROK relationship with the Agreement on the Settlement as its foundation is referred to as "the 1965 system."

"The 1965 system" has been an insurmountable obstacle for post-war compensation lawsuits since the 1990s, including those related to the "comfort women" issue. Although Japan's judicial system turned down the demands for reparation for a variety of reasons, such as the absence of state liability, the statute of limitations, and expiry of rights, the Agreement on the Settlement functioned as the ultimate justification since it declared that the issue "is settled completely and finally."

The legal question here is whether or not through inter-state treaties a state can renounce the right of claim of individuals. The position of the Japanese government was that it was not able to extinguish the individual right of claim. Thus, on August 27, 1991, at the budget committee of the House of Councillors, the director of the treaty department at the Japanese Ministry of Foreign Affairs, Yanai Shunji, stated the position that while an agreement on claims did entail the mutual relinquishment of each state's right to diplomatic protection it did no mean the extinction of the individual's right to claim under domestic law.[19]

Behind the Japanese government's adoption of this interpretation lay the claims for compensation lodged by Japanese citizens.[20] Article 19(a) of the Treaty of San Francisco, concluded on September 9, 1951, had stated that "Japan waives all claims of Japan and its nationals against the Allied Powers and their nationals arising out of the war or out of actions taken because of the existence of a state of war."[21] As a result of this Japanese citizens who had suffered damages due to Allied actions such as the atomic bombs dropped on Hiroshima and Nagasaki or the incarceration of Japanese soldiers in Siberia lodged claims for compensation against the Japanese government under article 29 of the Japanese constitution which stipulates that "The right to own or to hold property is inviolable."[22] In response to these lawsuits the Japanese government claimed that in the Treaty of San Francisco it had only relinquished the right of diplomatic protection while the individual right of claim had not been extinguished and thus, it insisted, those who had suffered damages were able to address their claims for compensation directly to the governments in question. So in fact this interpretation of the treaty was originally a position intended to evade compensation claims against the Japanese government. As a result the Japanese government had no option but to recognise that the legal rights to claim compensation of the Korean and Chinese victims had not been extinguished.[23]

During the 1990s Korean victims made claims against the Japanese government and Japanese corporations by lodging their lawsuits in the Japanese courts. These courts were unable to deny the individual right to claim itself but, as mentioned

above, in these lawsuits it was the Agreement on the Settlement that became the final line of defence put up to block the victims' compensation claims.

For this reason, victims who sought post-war compensation requested the disclosure of documents from the Japan–ROK Talks in order to uncover the actual content of the discussions. In October 2002, a hundred Korean victims of forced overseas mobilization brought a lawsuit, demanding the disclosure of the documents from the Japan–ROK Talks and the court ordered that a part of the requested documents must be disclosed (this disclosure took place in January 2005).[24] The Roh Moo-hyun administration decided to fully disclose the documents related to Japan–ROK Talks, publishing, in August 2005, the 36,000 pages of documents in the possession of the Korean government. Meanwhile, "the Citizen's Group for Full Disclosure of Japan–ROK Normalization Documents" was formed in Japan in December 2005. This group filed a lawsuit against the Ministry of Foreign Affairs of Japan, requesting the disclosure of the documents. Prompted by the decision by Tokyo District Court in October 2012 regarding the disclosure of the said documents, the Ministry of Foreign Affairs of Japan started to gradually disclose the documents on the Japan–Korea Talks and on the right of property and claims.[25] Thanks to this disclosure, research into the Japan–ROK Talks and post-war reparation lawsuits entered a new phase, where it became clear that the "comfort women" issue had hardly been discussed in the Japan–ROK Talks.

These developments in the study of Japan–ROK Talks are one of the factors behind the Korean judicial system giving a series of decisions in the 2010s suggesting the desirability of rectifying the "1965 system." The Constitutional Court of Korea, on August 30, 2011, upheld the existence of "a dispute over interpretation" between Japan and Korea regarding whether the former "comfort women's" right of legal claim had "expired or not," and decided that "the negligence on the part of defendant who failed to resolve the matter according to Article III of the Agreement is unconstitutional."[26] In response to this, South Korea proposed to Japan that they hold a conference with the aim of resolving the "comfort women" issue. Also, on May 24, 2012, the Constitutional Court of Korea found that the individual right of claim against inhumane and illegal acts by the state of Japan is not included in the issues that are defined as "settled completely and finally" (Article II, Section 1) in the Agreement on the Settlement of 1965, thus re-evaluating Japan's colonial rule as "illegal and forced occupation." These shifts in Korean judicial decisions called for a fundamental review of the "1965 system," or at least in the accepted Korean interpretation of the Japan–ROK Agreement.[27]

Nevertheless, Park Yu-ha gives a rather negative assessment of such shifts in *Comfort Women of the Empire*. Park is especially negative about the ROK Constitutional Court's decision since "the subsequent attempts to resolve the

matter diplomatically only caused Japan–Korea relations to deteriorate."[28] This attitude can also be observed in another publication of hers, *For Reconciliation: Textbooks, Comfort Women, Yasukuni Shrine and Liancourt Rock*, where she takes a dissenting view against the desirability of renegotiating the Japan–ROK Agreement, stating "it would not only be a one-sided argument to demand a renegotiation of the Agreement or a reparation on the grounds of the insincerity of Japan–ROK Agreements, but also be a sign of irresponsibility to oneself."[29]

The "1965 system" did silence many of the victims of Japan's colonial occupation and war of aggression through the "agreements" between the Japanese and Korean governments. If, as Nakazawa claims, Park's work conveys "a sharp observation that grasps the issues from a wider scope, taking colonialism and imperialism into account," then the author would be in favour of the renegotiation of the 1965 system. Instead, Park only argues against the Constitutional Court's decision and claims it was the Korean government that willingly renounced the right of claim of former "comfort women" at the Japan–ROK Talks. Park's work, therefore, can be understood as a counter-reaction against new developments in the "1965 system." Let us begin by examining Park's criticism of the judgment by the Constitutional Court of Korea.

The Problematic Understanding of Post-War Reparation in *Comfort Women of the Empire*

Misinterpretation of the Constitutional Suits and Aitani's Paper

In Chapter 4 of *Comfort Women of the Empire*, "Reading the decision of the Constitutional Court of Korea," the author entirely dismisses the decision of the Constitutional Court (henceforth referred to as "the decision"). Park's argument is summarized in the section from the book quoted below.

> The basis for this lawsuit [the constitutional appeal made by former 'comfort women'], as suggested at the beginning, lay in Japan's violation of 'the International Convention for the Suppression of the Traffic in Women and Children'. […] However, it was individual entrepreneurs that were responsible for the human trafficking. If Japan as a state had any responsibility at all, it is in the fact that Japan practically […] tolerated the trafficking […] while publicly prohibiting it. Also, it was the Korean government that nullified 'the right' [the right of claim for compensation against Japan], as I will discuss later.
>
> In fact, on nullification, the Ministry of Foreign Affairs and Trade of Korea strongly asserted that it was not a responsibility of the state to ensure that compensation was issued by Japan; therefore, the government was not in breach of the Constitution.[30]

Park maintains that the trafficking was practised by "individual entrepreneurs" or "brokers," and that Japan does not assume its legal liability, based on which she criticizes "the decision" as above. Park writes: "Japan is only liable for creating the demand for (and occasionally tolerating) trafficking, which means that the compensation request assuming the state's legal liability is all but impossible."[31]

As we have seen, Park's criticism of "the decision" is characterized by her denial of Japan's liability, even at the level of basic facts, for Japan's "comfort women" system. This claim, I argue, is based on an erroneous interpretation of the constitutional appeal in discussion.

To begin with, the constitutional appeal did not aim at assessing Japan's liability for the "comfort women" system, but at deliberating "the negligence" of the Korean government in not undertaking measures toward resolution as prescribed in Article III of the Agreement on the Settlement. Park, however, denies Japan's liability altogether by blaming the brokers as the main culprits. As we have already seen, Park takes a stance that Japan is merely liable for "creating the demand" for trafficking and "tolerating" it, and that it is impossible to hold the state legally responsible for these actions. This means that the author refuses to recognize the claimants' right of claim for reparation.

This argument is Park's own, not even aligned with that of the Korean government as the claimee. Park states "at the end of a five-year-lawsuit, the court ended up siding with the claimants, agreeing with the idea that Japan is solely liable in this matter,"[32] contending as if the opinion of the Korean government was in accordance with hers, while Korea in fact did not make such a claim. The government merely stated that the diplomatic relations of the Korea did not interfere with the claimants' fundamental human rights. The quote above from Park's work gives the impression that the statement by the Ministry of Foreign Affairs and Trade supported her argument; yet the discussions in these two paragraphs are not related at all.

As "the decision" made clear, Korea took the view that the Agreement on the Settlement had not yet resolved the "inhumane and illegal acts" conducted by the state, including those by the Japanese government and that "Japan is liable for the matter" (statement by "the Joint Government-Public Commission" on August 26, 2005). Park quotes the judge's statement discussing the minority opinion on "the decision" as supporting evidence for her argument that the claimants do not have the right of claim for reparation;[33] however, the judge did not deny the claimants' right of claim but merely discussed the obligation of the Korean government.

Furthermore, Park cites Kunio Aitani's paper[34] in an attempt to refute the right of claim for reparation, saying: "even if the trafficking had been a state-led project

operated by Japan, it would have been impossible to demand compensation for damage from Japan" and "there is no evidence after all to support the reparation suit by the Korean Council."[35] This claim by Park, however, does not address the point of Aitani's paper. According to Aitani, the claimants of "comfort women" lawsuits argued for the illegality of the system on the grounds of the "International Convention for the Suppression of the Traffic in Women and Children," on the basis of which "it was incontestable that the 'comfort women' system violated international law." He continues that while the International Convention supports the illegality of the system, "it is also true that this Convention cannot provide the grounds for the right of claim for compensation."[36] It is this last part of Aitani's argument that Park quoted as a supporting her contention that "it is impossible to request compensation for damage."

Park therefore referred to Aitani's paper to support her contradictory argument, disregarding the actual conclusion of that paper. Aitani says that the grounds for the compensation demand must be sought in other laws because the International Convention only provides the evidence for the illegality of the "comfort women" system. In fact, he discusses in the paper that although international law previously did not support the individual right of claim, it is now common practice to grant international legal subjectivity to individuals, '"hanks to the recent developments in human rights treaties."[37] Japan has rejected requests for reparations that are based on the Hague Convention and the ILO Convention, arguing that individuals are not given legal subjectivity under international law. Aitani criticized this reasoning as a deviation from the recent advancement of international law.

In response to the criticisms of her misrepresentation of Aitani's paper, Park replied that she quoted Aitani because she agreed with his point that the request for reparations cannot be fulfilled because the International Convention "cannot be the grounds for the illegality of 'comfort women' system." She also says that she never intended to use his paper as supporting evidence for the absence of liability in the state.[38] This justification only reveals that Park does not fully comprehend the point of my criticism. Aitani mentioned the precedents of reparation suits based on the Hague Convention and the ILO Convention, because the International Convention can only be the grounds for the illegality, not for compensation requests. Aitani did not argue that the International Convention "cannot be the grounds for the illegality of 'comfort women' system" as Park claims.

Did the Korean Government "Renounce" the Right of Claim of "Comfort Women" Victims?

As already discussed, Park maintains that it was the Korean government that renounced the right of claim of former "comfort women." She claims that Korea abandoned their right of claim at the Japan–ROK Talks.

Is it truly the case that Korean government "deprived the individual [former 'comfort women'] victims of their chance to receive compensation?" If it is, without any doubt it is a discovery of outstanding importance in research on the Japan–ROK Talks. This is because it has not yet been revealed whether the issue of former "comfort women" was discussed in the Talks, while the definition of "property, rights and interests […] and concerning claims between the Contracting Parties and their nationals" has constituted an important topic in this area of research. The recently disclosed documents regarding the Japan–ROK Talks did reveal that a Korean committee member in the 1953 Talks mentioned "some Korean women were sent to the southern countries occupied by Japan's Navy, such as Singapore, and returned home, leaving their money and property behind" in the context of the discussion on Korean returnees' "deposits;" however, the details are yet to be known.[39]

The evidence Park relied on in her work is a paper by Kim Chang-rok, "The Korea–Japan Treaty of 1965 and the rights of Korean individuals" (henceforth referred to as "Kim's paper").[40] Kim's paper explores "how the rights of Korean individuals were handled" in the 1965 Korea–Japan Treaty and other agreements,[41] and also "what was 'agreed'"[42] between the two countries, with the documents disclosed by Korea as the main source of information.

According to Kim, none of the documents disclosed by Korea directly clarify these questions, but some of them provide "a key" to further our understanding,[43] one of which is the conversation in the preliminary discussion and the Sixth Session in 1961 over the treatment of Korean "forced labourers." Prior to the preliminary discussion, the Korean side presented "the Outline for the Claims of the Republic of Korea against Japan" in which they proposed five items as "the compensation claims for settlement." In regard to the "accrued wage of Korean forced labourers," the Japanese government proposed that it be (1) "resolved case by case," (2) after the normalization of bilateral diplomatic relations, and (3) within the limits of Japanese laws (including the National Requisition Ordinance, the Factory Act, and the Relief Act). Meanwhile, the Korean side demanded (1) the payment to be made to Korean government in its entirety, (2) before the normalization of bilateral diplomatic relations, and (3) based on "a new foundation" rather than on Japanese laws.[44]

It was this discussion that Park adopted as the basis of her argument that it was "Korean government that deprived individual [former 'comfort women'] victims of their chance to receive compensation." She claims that "if the Korean

government had accepted Japan's proposal and secured the individual right of claim for compensation, then other victims could have also benefited from 'legitimate' compensation for damage. Yet, the Korean government did not, and that is the very reason why former 'comfort women' and other victims have lost in most of the reparation lawsuits up to the present day."[45]

What made such an interpretation possible? The subject matter discussed in Kim's paper is the "accrued wage of Korean forced labourers," not the former "comfort women" issues. Above all, as Kim suggests, the intention of Japan's proposal in this negotiation was to keep the compensation "within the limits of Japanese law" and to nullify "the compensation for the mental and physical suffering of Korean forced labourers" which Japanese laws did not assume.[46] Kim analyses that "this argument was an attempt to render the compensation issues practically non-existent, given that many of the relevant documents had been lost and that Koreans would face difficulty in undertaking legal procedures in Japan to receive payment."[47]

Recent research based on the documents disclosed by Japan also found that, in regard to both victims of forced overseas mobilization and military and civilian personnel, the Japanese side rejected the reparation demand by Korea, based on the lack of "legal grounds." limiting the payment and investigation to "accrued wages" and "pensions" for military and civilian personnel.[48] Considering that former "comfort women" were not defined as military or civilian personnel according to Japanese law, they would not have been able to receive compensation, thus contradicting Park's supposition.

Rather, Kim's paper discusses an occasion where the Korean side strived to secure the right of claim regarding the issues that were not discussed in the Talks. The Korean side proposed in the Sixth Session, in relation to the Outline, that the right of claim for the issues that are not included in the five items of the Outline can be exercised after the Talks are concluded. In which case, the statute of limitation must be suspended until diplomatic relations are normalized." The reasoning behind this proposal was that "it would be problematic for the right of claim of individuals to be negated, when the issues are not given consideration at the Talks. Therefore, individual claims and legal actions must be allowed for those cases, regardless of the outcome of the Talks."[49] The Japanese side, however, firmly maintained that the right of claim issues must be fully settled within the framework of the Talks.

Despite the comment on the proposal by the Korean side to secure the right of claim for the undiscussed issues, Kim's paper was utilized by Park to reinforce her contradictory claim: that the Korean government willingly renounced the right of claim of "comfort women." Park responded to this criticism, saying:[50]

> As Kim commented, it was the 'accrued wages of Korean forced labourers' that was discussed then; and 'accrued wages' were only a concern in the discussion over comfort women at that time, as pointed out by Chong Young-hwan. Nevertheless, now that the documents that describe comfort women as 'civilian personnel' have been discovered, the Japanese government may recognize comfort women as 'civilian personnel', following my line of the argument. While there was a 'law' that granted compensation to Korean members of the Japanese Army, there was no equivalent 'legal protection' for comfort women. My argumentation was that such recognition could justify the comfort women's claim for 'reparation'.

Park seems to contend that 'comfort women' can be discussed under the issue of the "accrued wages of Korean forced labourers" because they were in fact civilian personnel; however, there are three flaws in her argument.

Firstly, I did not comment that the "'accrued wages' were only a concern in the discussion over comfort women;" rather, I argued that the accrued wages of Korean forced labourers was discussed in the Talks, while the issue of "comfort women" was not.

Secondly, the Japanese government has not yet recognized "comfort women" as civilian personnel as of today at least, nor did they in Japan–ROK Talks. There is no evidence that suggests comfort women be included as a part of the issue of "accrued wages of Korean forced labourers." Park herself must not have considered "comfort women" as civilian personnel in the first place, since she contends the "comfort women" system was state-regulated wartime prostitution operated by private brokers at request of the army. If so, the status of "comfort women" is clearly not that of civilian personnel. This counterargument only adds further confusion to her point.

Finally, it is unclear what Park means by the compensation granted to Korean military and civilian personnel in the Japanese army. It is widely known that the Pension Act and the Act on Relief of War Victims and Survivors both have the Nationality Clause and the Family Register Clause, which define as ineligible those who are originally from former Japanese colonies and lost their Japanese nationality upon effectuation of San Francisco Peace Treaty on April 28, 1952. In 2001, the Law for the Relief Payment to the Surviving Family of the War Victims in Former Colonies was enacted for the former military and civilian personnel from former Japanese colonies and their surviving families who are permanent residents in Japan. However, the payment made according to this law was not reparation but condolence money from a humanitarian point of view. Again, this does not successfully corroborate Park's claim that "it was not Japanese government but Korean government that deprived individual victims of their chance to receive compensation."

Was "Economic Cooperation" a Form of "Post-War Reparation?"

More erroneous interpretations can be found in Park's discussion of the Japan–ROK Talks and agreements. The Treaty on Basic Relations between Japan and the Republic of Korea and the related agreements do not contain any acknowledgement of guilt or words of apology on Japan's colonial rule, nor any mention of "damages" "caused by colonial occupation." Park comments on the background which gave rise to such a "limitation in Japan–ROK agreements" as follows:

> Curiously enough, the demands [by the Korean government] regarding human damage were made only for forced labour and requisition during the Sino–Japanese War starting in 1937, mainly on monetary issues, such as uncollected payment obligations due to the abrupt termination of the war. That is, the demands were made regarding the forced overseas mobilization after 1937, not for the human, psychological, and physical damages caused by 36 years of Japan's colonial occupation since 1910 (although Japan effectively 'ruled' Korea since 1905 when they commenced 'the protection'). […] [This is because] the San Francisco Peace Treaty on which the Japan–ROK Talks were based was intended literally for 'post-war process', that is, to clean up the residual problems derived from the war. […] The reparation was paid to the Korean government who distributed the grants according to individual requests.[51]

This section of Park's work shows that the author recognizes "economic cooperation" as a form of "reparation." According to the first clause of the first article of the Agreement on the Settlement, Japan would provide the Republic of Korea with Japanese goods and services worth US$300 million for free while a further US$200 million would be provided in the form of long-term low interest loans. The clause also stipulated that "The aforesaid supply and loans must serve the economic development of the Republic of Korea."[52] Whether or not this 'economic cooperation' constituted a form of 'compensation' has been one of the key points of contention in the subsequent interpretations of the Agreement on the Settlement. However, Park Yuha also claims that "despite the large amount of compensation paid by the Japanese government, the Treaty on Basic Relations does not mention 'colonial occupation,' 'apology,' or 'compensation.' While the money effectively functioned as compensation, it was practically paid under the rubric of other purposes."[53] This confirms that Park considers this "economic cooperation" as equivalent to "reparation" or "compensation."

In fact, the then-Korean government in 1965 adopted the idea that "economic cooperation" was "effectively a form of compensation."[54] According to Kim's paper quoted earlier, the interpretation by the Korean government of "economic cooperation" as "compensation" is related to their understanding of Article II of the Basic Treaty. Article II reads "[i]t is confirmed that all treaties or agreements concluded

between the Empire of Japan and the Empire of Korea on or before August 22, 1910 are already null and void," and based on which the Korean government considered the Japan–Korea Annexation Treaty also null and void (although the Japanese government had deemed it valid). This "economic cooperation," which was made with annexation nullified, can be understood as a form of reparation, according to the Korean government. Meanwhile, the Japanese government maintains that the Annexation Treaty was concluded legally; hence the "economic cooperation" cannot be seen as "reparation" by any means. Considering that Park's work likewise takes the stance that "the Japan–Korea Annexation Treaty" was legally agreed upon, it would create a conflict if the author adopts the same interpretation as that of the Korean government.

What makes it possible for Park to argue that "economic cooperation" was a form of "reparation?" For Park, there was no word of "apology" in the Basic Treaty or the Agreement on the Settlement because "the Basic Treaty was 'post-war' reparation, not part of 'post-colonial' reparation, at least in terms of human damages."[55] And by "'post-war' reparation." Park means "reparation made for the war damage" after 1937.

However, "economic cooperation" based on the Agreement on the Settlement is, in fact, not "'post-war' reparation." As has been often discussed, the Japan–ROK Talks were held outside the compensation negotiation over the war between Japan and the Allies. Indeed, the Japan–ROK Talks are highly relevant to San Francisco Peace Treaty. Article IV, paragraph (a) noted that the disposition of "the claims" between Japan and its nationals, and the authorities and the nationals of "the areas referred to in Article II" (the areas to which Japan renounced any right or title, such as Korea, Formosa, and Sakhalin) "shall be the subject of special arrangements" between Japan and such authorities. Nevertheless, this negotiation over "the claim" in Article IV, paragraph (a) was not equal to the negotiation over the damages in "the war." This is because, as Osamu Ota suggests, Article IV merely stipulates that "the claims must be dealt with by Japan and Korea outside the context of the Allies, and moreover, it did not prescribe the settlement of the damages and suffering caused by the colonial occupation and the war."[56]

On the basis of what evidence did Park state that "the reparation" demand was made "regarding the forced overseas mobilization after 1937?" Park relies almost entirely on the work by Chang Pak-chin for the discussion in the said section.[57] Chang's work is voluminous, extending across 548 pages, and explores the reason why the settlement issues had to "dissolved" through the Japan–ROK Talks, mainly critically analysing the negotiation strategy of Korea and its international relations. Park's argument relies on Chapter 6, Section One, where Korea's concept of settlement of the past prior to the Talks is scrutinized.

In this section, Chang analyses *The Protocol for the Claim against Japan* (henceforth referred to as *The Protocol*) drawn up by the Rhee Syngman administration in September 1949. *The Protocol* found the justification for the claim in that "this occupation of Korea by Japan from 1910 to August 15, 1945 was single-handedly enforced by Japan against the free will of the Korean people;" therefore, previous studies considered that *The Protocol* asked for compensation, questioning the colonial occupation as a whole (unlike the stance taken by Korea thereafter).

However, despite such explanations of the basic protocol, Chang calls attention to the fact that *The Protocol* actually limited the claims to "human and physical damages as a result of combat during the Sino–Japanese War and the Pacific War." According to Chang, the Korean government limited the claims because reparation in the Peace Treaty was expected to be dealt with as a matter of post-war process between Japan and the Allies. Chang continues that "this fact signifies that the Korean government did not intend to comprehensively question Japan's responsibility in its colonial occupation from the start of negotiations."[58]

This is the summary of the analysis on which Park's argument regarding "the forced overseas mobilization after 1937" is based. Clearly, Chang discusses the negotiation protocol of the Korean government in 1949, not the "economic cooperation" bilaterally agreed between Japan and Korea in 1965. Rather, as Chang mentions with frustration in his discussion, once the Japan–ROK Talks began, the Korean government did not fully claim even for the war damage caused since the beginning of the Sino–Japanese War. Chang surely does not contend that the "economic cooperation" in the Agreement on the Settlement was equivalent to "the reparation" for "the forced overseas mobilization after 1937."

In fact, Chang strongly criticizes the interpretation by the then-Korean government that the "economic cooperation" was "effectively a form of compensation," saying that Korea never expressed such an opinion in the negotiations. Chang contends that the discussion in the Japan–ROK negotiation itself proves the explanation provided by the Korean government was untruthful and that "the Korean side also accepted the inconsistent logic that the grant provided by Japan would settle the claim issues, when the payment was not in reality made on the basis of such claims."[59] He concludes: "there was no room for the interpretation that the [economic cooperation] grant was offered in response to Korea's claim against Japan and therefore settled the issue' and that 'the issue of the right of claim was merely 'dissolved'."[60]

In short, Park's argument—that the "economic cooperation" offered by Japan based on the Agreement on the Settlement was "the reparation" in response to "he claims" related to "the forced overseas mobilization after 1937"—is a fallacy derived from her lack of understanding of the sources. Moreover, Park arbitrarily

combined her misinterpretation with the actual points made in the source materials (the concept that the grant effectively functioned as reparation). The frequent occurrence of eccentric "new theories" in Park's work is derived from this academically unethical methodology that she employs.

Now let us turn to Park's responses to the criticism detailed above. Park disapproves of the "misunderstanding" of her work on my part. Firstly, Park denies having written that the economic cooperation based on Japan–ROK Agreements was "post-war reparation." Even so, Park's work clearly says "the Basic Treaty was 'post-war' reparation, not part of 'post-colonial' reparation, at least in terms of human damages"[61] As I have repeatedly pointed out, Park introduces such key concepts for the argument without providing basic definitions, even frequently using pretentious quotation marks, which is nothing but confusing for the reader. If "'post-war' reparation" happens to mean something other than "post-war "in a usual sense, then the distinction should be explained by her in her book. It is highly problematic to juxtapose such concepts as "'post-war' reparation," "post-war reparation," and "reparation according to the post-war process" without any explanation, and claim that they respectively signify separate notions.

Secondly, Park also claims that she never described the grants offered by the Agreement on the Settlement as "reparation for the war damages." Her book, however, reads "[i]t is because 'the claims' by Korea are limited to forced overseas mobilization after 1937. The reparation was paid to Korean government who distributed the grants according to individual requests."[62] The Korean edition also contains a comment noting that, "it was not for the human, psychological, and physical damages caused by 36 years of Japan's 'colonial occupation' since 1910 that the reparation was paid in the end, [...] but for the forced mobilization after the start of the Sino–Japanese War."[63] From these passages, it is evident that Park does call the economic cooperation based on the Japan–ROK Agreement "reparation" or "compensation."

In any case, Park fails to respond to the point of my criticism. When Chang states that the Korean government only claimed reparation for damages in forced overseas mobilization after 1937, he refers to the compensation claim protocol of the Korean government of 1949, not the economic cooperation in 1965. This is the reason why I argue Park's interpretation of the Japan–ROK Agreement is completely erroneous, an argument which Park has not responded to at all.

Two-fold Historical Revisionism

Let us summarize the discussion thus far. Starting from the premise that the former Japanese army had no legal liability, Park makes three arguments in

Comfort Women of the Empire. Firstly, she claims former "comfort women" did not have the right of claim for damages against the Japanese army in the first place. Secondly, she argues that even when they had the right of claim, their individual right of claim was renounced by the Korean government at the Japan–ROK Talks. And finally, she maintains the "economic cooperation" money which the Korean government received instead from Japan was in fact "reparation" for damage caused by the war after the start of the Sino–Japanese War. These three arguments, however, are poorly supported, and it is evident that Park used other studies which express contradictory opinions as her "evidence." Park's demonstration of the arguments is already clearly fallacious even before undertaking an examination of the validity of the arguments themselves. Why then was such a faulty piece of work welcomed with applause in the Japanese press?

For one thing, "comfort women of the empire" discourse had an affinity with the conservative historical views already prevalent in Japanese society. Katsuhiro Kuroda, who long served as the Seoul bureau chief of Sankei Shimbun, points to the fact that in Korea, "Korean 'comfort women' and Japanese army (officers) are portrayed as completely hostile and all incidents are described as 'forced.'" Kuroda continues that "it was seen as 'cooperation' from the viewpoint of the 'history of Japanese people,' and therefore, as I discussed earlier, 'gratitude and comfort' come into the discourse."[64] The image of former "comfort women" as "patriotic" comrades to the Japanese army depicted by *Comfort Women of the Empire* overlaps with the "comfort women" as envisaged by the Japanese conservatives.

Yet, this alone does not explain why Park's work was also welcomed by liberals in Japan. Another reason for the book's popularity can be found in the affirmative acknowledgment of Japan's post-war history in this work.

According to Park's reading of Japan's "post-war history," the Japanese government made reparations for the damage in the Japan–ROK Agreement, although within the framework of "post-war reparations." Japan also responded to "the issue of colonial occupation" with the Kono Statement in the 1990s, and issued an apology and compensation to "comfort women" through the Asian Women's Fund. Therefore, Park describes Japan's "post-war history" as a process through which the country sincerely faced up to its responsibility for the wars and colonial occupation of the past.

Therefore, Park appeals to Japan as follows:

> Emperors and prime ministers of Japan have made apologies for the colonial occupation, although they might have sounded ambiguous. As for the comfort women issue, Japan issued compensation as well as an apology—it can be said that among all the former colonial powers 'the apology for the colonial occupation' made by Japan was the most concrete.

> However, as I have discussed earlier, the process itself was considered to be a 'post-war process' (even an unnecessary one), which made 'apology and reparation' over the comfort women issues disconnected from the 'post-colonial occupation process'. The relevance was not established nor recognized.
>
> Also, the apology was both ambiguously and informally made, partly because there was no official platform for such an apology. Due to its unofficial nature, there was no chance for this apology for the past to be remembered by the Korean people.[65]

Thus, a revision is made to the "post-war history" of Japan by Park: post-war Japan, which actually lacked an anti-colonial stance, is rewritten as a country which took the lead internationally in postcolonial issues by issuing an "apology for colonial occupation." Park tells her Japanese readers that the ongoing "comfort women" issue is not the result of a fatal flaw in Japan's "post-war democracy," which has never managed to overcome the continuity with its former empire, and failed to embrace anti-colonialism. Rather, it is because Korea misunderstands both the progress "post-war Japan" has made in reflecting upon colonial occupation and the true intention of the Asian Women's Fund. Japan must take action for the Korean Council and the victims who concealed their memory of being "comfort women of the empire" and are obsessed with "anti-Japan nationalism" due to their traumatic past.

This is precisely the reason why Park objects to the idea of renegotiating the Japan–ROK Agreement and repeatedly questions the decision of the Constitutional Court of Korea. In response to arguments in favour of renegotiating the Japan–ROK Agreement, Park expresses opposition: "Re-negotiating the Japan–ROK Agreement as some scholars suggest would overcomplicate the matter. Such negotiations would inevitably consist of nothing but academic, legal, and political discussion, which would fundamentally change the current bilateral relationship and be likely to result in the further deterioration of that relationship. Adhering to the existing agreement has more importance than the matter of formality between the countries."[66] In the Korean edition of her book, Park argues that "[with re-negotiation] the trustworthiness of the states would collapse. As discussed before, the Annexation Treaty of 1910 promised to incorporate Korean nationals as Japanese nationals, which would then make it impossible to discuss forced mobilization of 'comfort women' as a 'legally' problematic matter."[67] The author articulates in the Korean edition her opinion against the desirability of re-negotiating the Japan–ROK Agreement, referring to the illegitimacy of the Annexation Treaty, since it would damage Japan's "trustworthiness as a state."

The weakness in Park's argument is revealed when it is juxtaposed with "the decision" of the Constitutional Court of Korea as quoted below.

> The Korean government might not have directly violated the fundamental human rights of comfort women victims under the Imperial Japanese Army. However, the current difficulties they are facing in settling their claims against Japan and in recovering their dignity and worth as human beings partly derived from the fact that the Korean government signed the Agreement, which contained a general concept of "any claims" without scrutinizing the right of claim. Considering this responsibility of the government, it is undeniable that the claimee [the Korean government] has a concrete obligation to take action to resolve the difficulties.

"The decision" by the Constitutional Court of Korea held the Korean government responsible for the current situation, and therefore, the government also has a "concrete obligation" to protect the fundamental human rights of those excluded from the Agreement. Of course, while holding the Korean government responsible, the Constitutional Court did not state that the Agreement on the Settlement renounced the right of claim of the claimants. Rather, it admitted some issues were hardly discussed in the Japan–ROK negotiations and acknowledged the existence of those who still maintain that they had the right of claim. The Constitutional Court recognized there is sufficient evidence regarding these matters, and thus, held the Korean government liable for resolving the issues arising from the Agreement. While Park maintains it would be irresponsible to criticize the Agreement which the Korean government had signed, the Constitutional Court of Korea holds the government responsible for "resolving the difficulties" that derive from problematic agreements they signed up for. Without any doubt the latter position represents a more "responsible" judgement.

Therefore, the reason why Park's *Comfort Women of the Empire* was received positively in the Japanese media is two-fold. Not only does it have a clear affinity with the historical revisionist interpretation of the "comfort women" system supported by Japanese conservatives (i.e. historical revisionism on the pre-war history of Japan), it also has much in common with the trend of historical revisionism on the post-war history of Japan, which depicts the Japan's post-war years as a period of critical introspection.

So Kyong-sik once condemned Park's previous work, *For Reconciliation*, writing that: '"author argues as if the main obstacle to reconciliation were the demands of the victims," which is "a form of violence under the name of reconciliation," "requiring the victims to compromise and surrender,"[68] He also wrote that Park's work was well received in Japan "because it aligns with the hidden desire of Japanese liberals" "who would like to retain both their pride as a rational democrat and their privilege as a national of a former colonial power."[69] The infrastructure for the distribution and consumption of Park's book is therefore also inseparable from "the hidden desire of Japanese liberals" according to So.

This book indeed satisfies "the desire" to reject criticism of colonial occupation, while retaining "pride" as a "democrat."

The recent developments in legal judgments, urging a re-consideration of the 1965 system are, as Abe Koki has suggested, in a similar vein to the judgments in Italy and Greece regarding illegal acts committed by Nazi Germany during World War II. During the 2000s domestic courts in Greece and Italy recognized the illegality of Germany's actions in relation to Nazi forced mobilization, forced labor and massacres during World War II and ordered that compensation be provided to the victims.[70] The decision of the ROK constitutional court therefore reflects the global trend towards placing greater emphasis on the rights and humanity of individuals than on the traditional interests of the sovereign nation. It is also, as Abe Koki suggests, a manifestation of "the trend to summon the past," which understands that "the twenty-first century can only be built upon reflecting on the legacies of colonialism … in order that the twenty-first century does not regress into 'another nineteenth century' but rather becomes a new century that truly deserves to follow the twentieth century."[71] While *Comfort Women of the Empire*, at first glance, seems to take the stance that Japan must pursue its responsibility for colonial occupation and associated crimes, it actually attempts to prevent any disturbance to the 1965 system and to prevent it from being affected by the global trend to re-examine the painful legacies of colonialism. Park bemoans the diplomatic relationship between Japan and Korea since the constitutional court's decision, saying that it "only caused a deterioration in Japan–Korea relations."[72] Yet, I argue that it is the author herself who has caused a deterioration of these issues, denying the right of claim of the victims by misrepresentation, producing additional confusion with logical flaws in her arguments, and making clear factual errors in her work.

Notes

1. This paper "The Japanese Military "Comfort Women" Issue and the 1965 System: *Comfort Women of the Empire* and Two-fold Historical Revisionism" has been published previously in Japanese as 歪められた植民地支配責任論ー朴裕河『帝国の慰安婦批判 (*Distorted Theory of Colonial Responsibilities: Park Yuha "Criticism of Imperial Comfort Women*), 季刊戦争責 任研究 (War Responsibility Studies Quarterly) (84), 60–70, 2015/06 and in Korean as 일본 군'위안부'문제와 1965년 체제의 재심판ー박유하제국의 위안부, 비판 (*The Issue of the 'Comfort Women' of the Japanese Military and the Re-examination of the 1965 Regime: Park Yuha's "Comfort Women's Criticism*), 역사비평 (Historical Criticism) (111), 471–495, 2015/06. The paper was translated from the Japanese by Moe Shoji of the University of Sheffield and we are grateful for her help which was facilitated by funding from the Academy of Korean Studies and grateful for our introduction to her by Dr Jamie Coates of the University of Sheffield. Further translation and editing work on this article was undertaken by Professor Vladimir Tikhonov of the University of Oslo and the Editor of the Special Section from Vol 18.2 of the European Journal of Korean Studies, which this paper once was a part of, Dr Owen Miller of SOAS, University of London.

2. "Confirmation of the unconstitutional character of omissions in Article III of the ROK–Japan Agreement on resolving problems of property and rights of claim and economic cooperation" "대한민국과 일본국 간의 재산 및 청구권에 관한 문제의 해결과 경제협력에 관한 협정 제3조 부작위 위헌확인", Constitutional Court Hearing 2006hŏnma788, 30/8/2011 전원재판부 2006헌마788, 2011. 8. 30, Kukka pŏmnyŏng chŏngbo sent'ŏ. 국가법령정보센터. http://www.law.go.kr/%ED%97%8C%EC%9E%AC%EA%B2%B0%EC%A0%95%EB%A1%80/(2006%ED%97%8C%EB%A7%88788) (last accessed 17/2/2019).
3. "Hŏnjae kyŏljŏng 1 wi nŭn 'wianbu son noŭn chŏngbu nŭn wihŏn' kyŏljŏng" "헌재 결정 1위는 '위안부 손 놓은 정부는 위헌' 결정", *Hankyoreh Newspaper* 26/8/2018 http://www.hani.co.kr/arti/society/society_general/859225.html#csidx69906651b331b5f9a023f89e82393e9 (last accessed 17/2/2019).
4. Park Yuha. 帝国の慰安婦 植民地支配と記憶の闘い (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Japanese version). 朝日新聞出版 (Tokyo: Asahi Shimbun Publications Inc, 2014), 193.
5. Park Yuha (安宇植訳 translated by An Ushiku)『反日ナショナリズムを超えて 韓国人の反日感情を読み解く』"*han'nichi nashonarizumu o koete kangokujin no han'nichi kanjō o yomitoku*" (Beyond Anti-Japanese Nationalism: Understanding Korean anti-Japanese sentiments) 河出書房新社 Kawade shobō shinsha, 2005年, Park Yuha (佐藤久訳 translated by Saito Hisashi)『和解のために 教科書・慰安婦・靖国・独島』"*wakai no tame ni kyōkasho ianfu yasukuni dokushima*" (For reconciliation: textbooks, comfort women, Yasukuni and Lioncourt Rock) 平凡社 Heibonsha 2006年.
6. The quotations from *Comfort Women of the Empire* are mainly taken from the Japanese edition of the book and the page number is indicated in the body of text. The quotations from the Korean edition of the book are noted as (Korean, p.**) to distinguish them from the Japanese edition.
7. The House of Sharing is a residential welfare center for the former 'comfort women' that was established in 1992.
8. The second edition included 'Appendix 1: The reason why the comfort women issue needs reconsidering' (A provocation delivered at the symposium, 'The Third Perspective on the Comfort Women Issue', on April 29, 2014), and 'Appendix 2: Statement in support of Japanese historians' (in English, Japanese and Korean).
9. https://www.lawtimes.co.kr/Case-Curation/view?serial=98017.
10. Statement against the Indictment of Professor Park Yuha, 26th November, 2015, http://www.ptkks.net/en/ (last accessed 17/2/2019).
11. Takahashi Kenichiro 高橋源一郎「論壇時評 記憶の主人になるために」*Rondan jihyō kioku no shujin ni naru tame ni'*, *Asahi Shimbun*, 27/11/2014.
12. Sugita Atsushi 杉田敦「根源は家父長制・国民国家体制」, *Asahi Shimbun*, 7/12/2014.
13. Ibid.
14. Yamada Takao 山田孝男「風知草 受賞のことば」'*Kazeshirigusa jushō no kotoba*', *Mainichi Shimbun*, 16/11/2015. The selection committee for this prize consisted of: Kitamura Masato (北村正任, chairman of the Asia Research Committee), Tanaka Akihiko (田中明彦, president of the Japan International Cooperation Agency), Watanabe Toshio (渡辺利夫, president of Takushoku (拓殖) University), Shiraishi Takashi (白石隆, president of the National Graduate Institute for Policy Studies), Ito Yoshiaki (伊藤芳明, editor in chief of the *Mainichi Shimbun*). The prize also received support from Japan's Ministry of Foreign Affairs, the Ministry of Education, Culture, Sports and Science and from the Ministry of Economy, Trade and Industry.
15. 「第15回『石橋湛山記念早稲田ジャーナリズム大賞』贈呈式 総長式辞・講評および受賞者あいさつ」*Dai 15-kai "ishibashi tanzan kinen Waseda jānarizumu taishō" zōtei-shiki sōchō shikiji kōhyō oyobi jushō-sha aisatsu*'. https://www.waseda.jp/top/news/35621 (last accessed 17/2/2019).

16. “Park Yuha “Cheguk ŭi wianbu” kŏmch’al kiso, kwahada” “박유하 <제국의 위안부> 검찰 기소, 과하다”, *Pressian* 프레시안, 2/12/2015. http://www.pressian.com/news/article.html?no=131532 (last accessed 17/2/2019).
17. “Ilbon’gun ‘wianbu’ p’ihaeja tŭrŭi ap’um e kip’i konggamhago, ‘wianbu’ munje ŭi chŏngŭiroun haegyŏl ŭl wihae hwaldong hanŭn yŏn’guja wa hwaldongga ildong “”Cheguk ŭi Wianbu” sat’ae e taehan ipchang” “일본군‘위안부’ 피해자들의 아픔에 깊이 공감하고, ‘위안부’ 문제의 정의로운 해결을 위해 활동하는 연구자와 활동가 일동 “『제국의 위안부』 사태에 대한 입장”, Tong asia ŭi yŏngwon p’yŏnghwa rŭl wihayŏ 동아시아의 영원평화를 위하여, 9/12/2015. http://east-asian-peace.hatenablog.com/entry/2015/12/15/185908 (last accessed 17/2/2019).
18. Published in Japan by Seori Shobo. The book was translated into Korean by Lim Kyoung-hwa and published by Purun Yoksa in 2016 under the title *Nugu rŭl wihan hwahaein’ga: cheguk ŭi wianbu ŭi panyŏksasŏng* (*Reconciliation for Whom?* Comfort Women of the Empire *as Invented History*).
19. *Record of the 121st National Diet House of Councillors Budgeting Committee Meeting*, Vol. 3, 27/8/1991, pp 9–10.『第121回国会　衆議院予算委員会会議録』第三号 *Dai 121-kai kokkai Shūgiin yosan iinkai kaigi-roku” dai san-gō* (the 121st National diet budget committee proceedings, 3rd volume).
20. On the Japanese government’s changing interpretation of the individual right of claim, please refer to: Yamate Haruyuki 山手治之「日本の戦後処理条約における賠償・請求権放棄条項（1）」(*Nihon no sengo shori jōyaku ni okeru baishō seikyū-ken hōki jōkō*), 35, 2001; Yamate Haruyuki, 山手治之「日本の戦後処理条約における賠償・請求権放棄条項（2）」 *Nihon no sengo shori jōyaku ni okeru baishō seikyū-ken hōki jōkō*, 43, 2004.
21. The original English text of the Article can be found here: https://en.wikisource.org/wiki/Treaty_of_San_Francisco#Article_19.
22. The English text of the Japanese constitution can be found here: https://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html.
23. On changes in the Japanese government’s interpretation of the issue of individual right of claim, please refer to: Yamate Haruyuki 山手治之 “일본의 전후처리조약에 있어서의 배상・청구권방기조항(1)”,『교토가쿠엔호가쿠（京都学園法学）』, 35호, 2001년1월, and Yamate Haruyuki 山手治之 “일본의 전후처리조약에 있어서의 배상・청구권방기조항(2)”,『교토가쿠엔호가쿠（京都学園法学）』, 43호, 2004년3월을 참조.
24. On the documents released by the ROK government please refer to: Kim Chang-nok 김창록, “Han’guk esŏ ŭi Hanil kwagŏ ch’ŏngsan sosong” “한국에서의 한일과거청산소송”, *Pŏphak non’go* 법학논고 27, 2007.
25. On the documents released by the Japanese government please refer to chapter 3 in: Ando Masato, Yoshida Yutaka and Kubo Toru 安藤正人, 久保亨, 吉田裕編『歴史学が問う公文書の管理と情報公開: 特定秘密保護法下の課題』 *Rekishi-gaku ga tou kōbunsho no kanri to jōhō kōkai: Tokutei himitsu hogo-hō-ka no kadai* (2015).
26. ‘대한민국과 일본국 간의 재산 및 청구권에 관한 문제의 해결과 경제협력에 관한 협정 제3조 부작위 위헌확인’, 전원재판부 2006헌마788, 2011. 8. 30, 국가법령정보센터 http://www.law.go.kr/%ED%97%8C%EC%9E%AC%EA%B2%B0%EC%A0%95%EB%A1%80/(2006%ED%97%8C%EB%A7%88788(2019년7월25일확인).
27. Kim Chang-nok 김창록, 金昌禄「日本軍「慰安婦」問題、今何をなすべきか」 ‘What has to be done now for Japan’s “comfort women” issue’, *The Report on Japan’s War Responsibility*, Vol. 79 (March 2013).
28. Park Yuha. 帝国の慰安婦 植民地支配と記憶の闘い (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Japanese version). 朝日新聞出版 (Tokyo: Asahi Shimbun Publications Inc, 2014), 196.
29. Park Yuha,『和解のために　教科書・慰安婦・靖国・独島』 (*wakai no tame ni kyōkasho ianfu yasukuni dokushima*) *For Reconciliation: Textbooks, Comfort Women, Yasukuni Shrine and Liancourt Rock* (Tokyo: Heibon-sha, 2006), 226.

30. Park Yuha. 帝国の慰安婦 植民地支配と記憶の闘い (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Japanese version). 朝日新聞出版 (Tokyo: Asahi Shimbun Publications Inc, 2014), 180.
31. Ibid., 191.
32. Ibid., 180.
33. Ibid., 195–196.
34. Kunio Aitani 藍谷 邦雄「『慰安婦』裁判の経過と結果およびその後の動向」*Ianfu saiban no keika to kekka oyobi sonogo no dōkō* 'Commentary: The developments, results, and the climate of "comfort women" lawsuits', *The Journal of Historical Studies*, Vol. 849 (January 2009).
35. Park Yuha. 帝国の慰安婦 植民地支配と記憶の闘い (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Japanese version). 朝日新聞出版 (Tokyo: Asahi Shimbun Publications Inc, 2014), 194–195.
36. Kunio Aitani 藍谷 邦雄「『慰安婦』裁判の経過と結果およびその後の動向」*Ianfu saiban no keika to kekka oyobi sonogo no dōkō* 'Commentary: The developments, results, and the climate of "comfort women" lawsuits', *The Journal of Historical Studies*, Vol. 849 (January 2009). 36.
37. Ibid., 36. Aitani's paper also recognizes the legal principles in the recent judgment of the Korean Supreme Court, as 'it could justify the introduction of new legislation for resolving the "comfort women" issue and for correcting "the inappropriate interpretation of laws that establishing new legislation regarding damage recovery would violate the San Francisco Peace Treaty, which idea led to the formation of Asian Women's Fund" (38).
38. Park Yu-ha, 'Ilbon'gun wianbu munje wa 1965 ch'eje: Chŏng Yŏng-hwan ŭi "Chejuk ŭi Wianbu" pip'an e taphanda' '일본군 위안부 문제와 1965년체제: 정영환의 『제국의 위안부』 비판에 답한다', *Yoksa pip'yŏng* 역사비평 112, 2011, 475.
39. Fumitoshi Yoshizawa 吉澤文寿「日韓請求権協定と『慰安婦』問題」西野瑠美子他編『「慰安婦」バッシングを越えて「河野談話」と日本の責任』 *Nikkan seikyū-ken kyōtei to "ianfu" mondai' nishino rumiko ta-hen "'ianfu' basshingu o koete 'kōno danwa' to Nihon no sekinin"* 'Japan–ROK Agreement on the Settlement and "Comfort Women" Issues' in *'Comfort Women' Issues Beyond Bashing: Kono Statement and Japan's Responsibility* (Tokyo: Otsuki Shoten, 2013).
40. Kim Ch'angnok 김창록, '1965 nyŏn hanil choyak kwa han'gugin kaein ŭi kwŏlli' '1965년 한일조약과 한국인 개인의 권리', Kungmin taehakkyo ilbonhak yŏn'guso p'yŏn 국민대학교일본학연구소편, *Waegyo munsŏ konggae wa hanil hoedam ŭi chaejomyŏng 2* 외교문서공개와 한일회담의 재조명2 의제로 본 한일회담 (Sŏnin 선인, 2010).
41. Ibid., 229.
42. Ibid., 230.
43. Ibid., 258.
44. Ibid., 249.
45. Park Yuha. 帝国の慰安婦 植民地支配と記憶の闘い (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Japanese version). 朝日新聞出版 (Tokyo: Asahi Shimbun Publications Inc, 2014), 188.
46. Kim Ch'angnok 김창록, '1965 nyŏn hanil choyak kwa han'gugin kaein ŭi kwŏlli' '1965년 한일조약과 한국인 개인의 권리', Kungmin taehakkyo ilbonhak yŏn'guso p'yŏn 국민대학교일본학연구소편, *Waegyo munsŏ konggae wa hanil hoedam ŭi chaejomyŏng 2* 외교문서공개와 한일회담의 재조명2 의제로 본 한일회담 (Sŏnin 선인, 2010), 250.
47. Ibid., 250.
48. Osamu Ota, 太田修「時評 日韓会談文書公開と『過去の克服』」 *Jihyō nikkankaidan bunsho kōkai to "kako no kokufuku"* 'Disclosure of Japan–ROK Talk Documents and "Overcoming the Past"', *The Journal of Historical Studies*, Vol. 908 (August 2013). For Japan's stance on the right of claim issue, refer to Fumitoshi Yoshizawa's 'Re-evaluating Japan–ROK Negotiation on the Right of Claim—Japan's argument as a main concern', *The Journal of Historical Studies*, Vol. 920 (July 2014). 吉澤文寿「日韓会談における請求権協定の再検討 日本政府にお

ける議論を中心として」*Nikkankaidan ni okeru seikyū-ken kyōtei no saikentō nihon seifu ni okeru giron o chūshin to shite*'.

49. Kim Ch'ang-nok, '1965 nyŏn hanil choyak kwa han'gugin kaein ŭi kwŏlli', 251.
50. Pak Yuha, "Ilbon'gun wianbu munje wa 1965 nyŏn ch'eje", 475.
51. Park Yuha. 帝国の慰安婦 植民地支配と記憶の闘い (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Japanese version). 朝日新聞出版 (Tokyo: Asahi Shimbun Publications Inc, 2014), 248–249.
52. An English translation of the full text of the Agreement on the Settlement can be found here: https://en.wikisource.org/wiki/Agreement_Between_Japan_and_the_Republic_of_Korea_Concerning_the_Settlement_of_Problems_in_Regard_to_Property_and_Claims_and_Economic_Cooperation (last accessed 8/8/2019).
53. Park Yuha. 帝国の慰安婦 植民地支配と記憶の闘い (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Japanese version). 朝日新聞出版 (Tokyo: Asahi Shimbun Publications Inc, 2014), 247.
54. Chang Kich'uk, the Head of Economic Planning Board answered in the Korean Parliament session for ratification of Japan–ROK Agreements as follows (August 5, 1965). 'Korean government considers that regarding the settlement, it is beneficial for Korea to accept the single payment of the total sum, rather than scrutinizing individual cases based on the physical and anecdotal evidences. Therefore, the government considers that 300 million dollars offered in grants in the Article II of the Agreement on the Settlement is not a payment against the claims, but effectively a compensation in its nature. In that sense, this payment is more in response to the Agreement on the Settlement than economic cooperation, or rather, these 300 million dollars are a form of reparation.' (*The Minutes of the Special Committee for Ratification of the Treaty on Basic Relations between Japan and the Republic of Korea and Other Agreements in the 52nd Parliament Session*, Vol. 5, 18–19).
55. Park Yuha. 帝国の慰安婦 植民地支配と記憶の闘い (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Japanese version). 朝日新聞出版 (Tokyo: Asahi Shimbun Publications Inc, 2014), 251.
56. Osamu Ota 太田修『日韓交渉』*Nikkankōshō Japan–Republic of Korea Negotiations* (Crane Books 2003), 77.
57. Chang Pak-jin 장박진, "Singminji kwan'gye ch'ŏngsan ŭn wae iruŏjil su ŏpsŏttnŭn'ga hanil hoedam iran yŏksŏl" 식민지 관계 청산은 왜 이루어질 수 없었는가 한일회담이란 역설 (Nonhyŏng 논형, 2009).
58. Ibid., 247.
59. Ibid., 523.
60. Ibid., p. 524.
61. Park Yuha. 帝国の慰安婦 植民地支配と記憶の闘い (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Japanese version). 朝日新聞出版 (Tokyo: Asahi Shimbun Publications Inc, 2014), 251.
62. Ibid., 249.
63. Park Yuha 제국의 위안부—식민지지배와 기억의 투쟁 (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Korean version). 뿌리와이파리 (Seoul: Ppuliwaipali, 2013), 259.
64. Katsuhiro Kuroda 黒田勝弘『韓国人の歴史観』*Kangokujin no rekishi-kan The Historical View of People in Korea* (Tokyo: Bunshun Shinsho, 1998), 51.
65. Park Yuha. 帝国の慰安婦 植民地支配と記憶の闘い (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Japanese version). 朝日新聞出版 (Tokyo: Asahi Shimbun Publications Inc, 2014), 253.
66. Ibid., 252.
67. Park Yuha 제국의 위안부—식민지지배와 기억의 투쟁 (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Korean version). 뿌리와이파리 (Seoul: Ppuliwaipali, 2013), 263.

68. Sŏ Kyong-sik 서경식, 徐京植「和解という名の暴力　朴裕河『帝国の慰安婦』批判」『植民地主義の暴力　「ことばの檻」から』*'Wakai to iu na no bōryoku pakuyuha "teikoku no ianfu" hihan'"shoku-minchishugi no bōryoku 'kotoba no ori' kara* 'Violence under the Name of Reconciliation—Criticism of Park Yu-ha's *For Reconciliation', Violence of Colonialism* (Tokyo: Koubunken, 2010), 97.
69. Ibid., 93.
70. Abe Koki 阿部浩己「日韓請求権協定・仲裁への道　国際法の隘路をたどる」*Nikkan seikyū-ken kyōtei chūsai e no michi kokusai-hō no airo o tadoru* 'The Passage to Arbitration on the Japan–ROK Agreement on the Settlement', *The Report on Japan's War Responsibility*, Vol. 80 (Summer 2013), 30.
71. Ibid., 33.
72. Park Yuha. 帝国の慰安婦 植民地支配と記憶の闘い (*Comfort Women of the Empire: the Battle over Colonial Rule and Memory*) (Japanese version). 朝日新聞出版 (Tokyo: Asahi Shimbun Publications Inc, 2014), 196.