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The Minds Behind the Movement: The Role of Academics in East Asia's War Reparations Litigation

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THE MINDS BEHIND THE MOVEMENT: THE ROLE OF ACADEMICS IN EAST ASIA'S WAR REPARATIONS LITIGATION

*Timothy Webster**

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I. INTRODUCTION

Japan divides its modern history into two periods: the postwar (1945–present) and the prewar (1868–1945).¹ In the conventional account, the end of World War II (and termination of the 1952 U.S.

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1. See, e.g., *Postwar Period (1945–Present)*, UNIV. OF PITT., <https://www.japan.pitt.pitt.edu/timeline/postwar-period-1945-present> [<https://perma.cc/Q4HM-VFHW>]; *Meiji Restoration*, ENCYC. BRITANNICA, <https://www.britannica.com/event/Meiji-Restoration> [<https://perma.cc/XEP9-RVSL>] (“[T]he Meiji Restoration of 1868 came to be identified with the subsequent era of major political, economic, and social change—the Meiji period (1868–1912)—that brought about the modernization and Westernization of the country.”).

occupation of Japan)² marks Japan's entrée into world politics as a liberal democracy. But the war itself continues to generate bitter controversy in East Asia. Within Japan, conservative circles deny or downplay Japanese aggression; they describe Japan's invasion of East and Southeast Asia as wars of liberation from Western imperialism, call mass atrocities such as the Rape of Nanking a "fabrication," and accuse "comfort women" of avarice and mendacity.³ Progressive Japanese, by contrast, call attention to the various war crimes Japan committed, from the use of chemical weapons against Chinese civilians, to the enslavement of Chinese men and prisoners of war ("POWs").⁴ Regionally, Japan and South Korea are locked in a diplomatic struggle due to a series of recent verdicts where Korean courts ordered Japanese multinationals to compensate wartime forced laborers.⁵ China also uses the war to inculcate anti-Japanese sentiment in its increasingly nationalistic populace, providing a social safety valve by which Chinese citizens may blow off steam.⁶

For the entire postwar period, Japanese courts have adjudicated issues of legal liability for the war. In the 1950s, survivors of the atomic bomb sued Japan.⁷ In the 1960s, Japanese citizens sought repayment for assets seized by foreign countries.⁸ In the 1970s, war reparations litigation internationalized: Korean survivors of the atomic bombing demanded access to medical services that Japan provided to its

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2. *Occupation and Reconstruction of Japan, 1945–52*, OFF. OF THE HISTORIAN, <https://history.state.gov/milestones/1945-1952/japan-reconstruction> [<https://perma.cc/L6YQ-VW9S>].
 3. See, e.g., Kiyoteru Tsutsui, *The Trajectory of Perpetrators' Trauma: Mnemonic Politics Around the Asia-Pacific War in Japan*, 87 SOC. FORCES 1389, 1403 (2009); David E. Sanger, *New Tokyo Minister Calls 'Rape of Nanking' a Fabrication*, N.Y. TIMES (May 5, 1994), <https://www.nytimes.com/1994/05/05/world/new-tokyo-minister-calls-rape-of-nanking-a-fabrication.html> [<https://perma.cc/8QFJ-YTMZ>]; Tomomi Yamaguchi, *Japan's Right-Wing Women and the "Comfort Women" Issue*, 6 GEO. J. ASIAN AFFS. 45, 46 (2020).
 4. Tsutsui, *supra* note 3, at 1399–1404.
 5. Troy Stangarone, *South Korea and Japan Continue to Struggle to Bridge Their Differences*, THE DIPLOMAT (Nov. 11, 2020), <https://thediplomat.com/2020/11/south-korea-and-japan-continue-to-struggle-to-bridge-their-differences/> [<https://perma.cc/9DNG-ESHC>].
 6. See, e.g., Yinan He, *History, Chinese Nationalism and the Emerging Sino-Japanese Conflict*, 16 J. CONTEMP. CHINA 20, 22 (2007).
 7. *Shimoda v. State* (Tokyo Dist. Ct. 1963), translated in 8 JAPANESE ANN. INT'L L. 231.
 8. Timothy Webster, *The Long Tail of World War II*, in JUST PEACE AFTER CONFLICT (Carsten Stahn & Jens Iverson eds., 2020).

citizenry;⁹ Taiwanese veterans requested pensions and medical services that veterans with Japanese citizenship received;¹⁰ ethnic Koreans stranded on Sakhalin Island, which Japan retroceded to the Soviet Union after the war, sought repatriation to their home country.¹¹ And, in the 1990s, after the revelation of the comfort women and forced labor issues, hundreds of plaintiffs—mainly from China and South Korea—stepped forward to file their complaints.¹²

Behind the scenes, a complex array of scholars, lawyers, and activists laid the groundwork for these cases. In the 1970s and 1980s, groups with names such as the “Consideration Committee” formed to spearhead a particular lawsuit or advocate for a particular cause.¹³ These committees comprised a small number of people (at most, a dozen) to conduct research, communicate with potential plaintiffs, attract media coverage, demonstrate, and disseminate information through newsletters.¹⁴ In the 1990s, trial support groups, whose members might number in the hundreds or even thousands, sprang up to provide moral, financial and logistical backing.¹⁵

It is probably more accurate to speak of these support groups as epistemic communities, consisting of attorneys, academics and activists.¹⁶ But given the present focus on academics, this Article profiles only people with academic affiliations. Most are, or during their lifetimes were, full-time academics. The exception is Tong Zeng, who

9. Ágota Duró, *Medical Assistance for Korean Atomic Bomb Survivors in Japan: (Belated) Japanese Grassroots Collaboration to Secure the Rights of Former Colonial Victims*, 16 ASIA-PACIFIC J. 1, 12 (2018).

10. In Soo Son, *Koreans in Sakhalin*, 9 INT'L J. WORLD PEACE 7, 11 (1992).

11. *Id.* at 8.

12. Mitch Shin, *Conflict Between South Korea and Japan Surges Again with Court's 'Comfort Women' Decision*, THE DIPLOMAT (Jan. 26, 2021), <https://thediplomat.com/2021/01/conflict-between-south-korea-and-japan-surges-again-with-courts-comfort-women-decision/> [https://perma.cc/69XQ-A7ZV].

13. *See, e.g.*, Daqing Yang, *Documentary Evidence and the Studies of Japanese War Crimes: An Interim Assessment*, in RESEARCHING JAPANESE WAR CRIMES RECORDS 21, 27 (2006).

14. *See id.*

15. *Id.*

16. Britannica defines epistemic community as a “network of professionals with recognized expertise and authoritative claims to policy-relevant knowledge in a particular issue area.” Anne L. Clunan, *Epistemic Community: International Relations*, ENCYC. BRITANNICA, <https://www.britannica.com/topic/epistemic-community> [perma.cc/V8U4-LJ5U].

briefly held a lectureship at a university in Beijing in 1990.¹⁷ He remains, even now, the most influential war reparations activist in China.¹⁸ The others are not necessarily the most influential academics in East Asia's war reparations movement. Instead, I have prioritized *representativeness* by including people from five different countries. Since most war reparations actors (lawyers, academics, activists, etc.) are Japanese, half of the profiles (five of ten) are of Japanese academics.

At the same time, I wish to stress that this is a *regional* and *transnational* movement, and therefore include scholars from China, South Korea, and Taiwan. I ensure a modest degree of gender representation by including two women: Utsumi Aiko and Yun Chung-ok. Finally, and perhaps most controversially, I include one Westerner, Professor Frits Kalshoven. His selection reflects various concerns: first, war reparations is also a "Western issue;"¹⁹ second, some plaintiffs who filed in Japan were actually Western (Dutch, American, British, Australian, etc.);²⁰ third, Kalshoven was a leading scholar of international humanitarian law ("IHL"),²¹ and his theory of individual reparations for violations of IHL is a key legal plank of the war reparations movement.²²

II. JAPANESE ACADEMICS

A. Miyazaki Shigeki 宮崎繁樹 (Japan) (1925–2016)

Alongside Professor Ông Iók-tek (profiled below), Professor Miyazaki was a fountainhead of East Asia's war reparations movement.

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17. Tong was appointed a temporary lecturer at the Beijing Chemical Management Cadre College in April, 1990. According to Chinese sources, he "resigned" his position later that year to pursue war reparations activism on a full-time basis. See Zhang Lei, *Zhongguo Minjian Dui Ri Suopei Yundong Faqiren: Yao Wei Shouhaizhe Taohui Gongdao* [Initiator of Chinese Citizens' Movement for Compensation from Japan: Seeking Justice for the Victims], ZHONGGUO QINGNIAN BAO [CHINA YOUTH NEWS] (July 5, 2018), <http://news.sina.com.cn/o/2018-07-05/doc-ihvaukx6872197.shtml> [<https://perma.cc/SL92-DUNH>].
 18. *Civil Claims for Post-War Compensation Aims at Peace and Friendship*, PEOPLE'S DAILY ONLINE (Jan. 23, 2018, 1:52 PM), <http://en.people.cn/n3/2018/0123/c90000-9418738.html> [<https://perma.cc/6NQ4-MNJY>].
 19. Frits Kalshoven, *State Responsibility for Warlike Acts of the Armed Forces: From Article 3 of Hague Convention IV of 1907 to Article 91 of Additional Protocol I of 1977 and Beyond*, 40 INT'L. & COMPAR. Q. 827, 829 (1991).
 20. *Id.* at 857, n.91.
 21. Roger Bartels et al., *In Memoriam: Frits Kalshoven*, EJIL: TALK! (Sept. 11, 2017), <https://www.ejiltalk.org/in-memoriam-frits-kalshoven/> [<https://perma.cc/ZT45-SKNX>].
 22. Kalshoven, *supra* note 19, at 829.

His interests in human rights, comparative law, and international law—cultivated through hundreds of academic articles—blossomed into a legal and political campaign to compensate Taiwanese veterans.²³ Miyazaki helped engineer a lawsuit that focused attention on Japan's failure to compensate its war veterans, traditionally among Japan's most handsomely compensated pensioners.²⁴ This was not the first transnational war reparations lawsuit, but it was among the first to unite activists from both Japan and Taiwan—a key feature of the current transnational legal activism (1990–present).²⁵ Miyazaki also paved the way for Japan's Diet to pass the Taiwan Veterans Act of 1987, the rare exception to the “rule of nationality”²⁶ that has governed the provision of wartime social benefits in contemporary Japan.

In February 1975, Miyazaki co-founded the Committee to Consider the Compensation Issue for Taiwanese Veterans.²⁷ Initially, Committee members planned to lobby the Japanese Diet to pass compensatory legislation.²⁸ Once they realized that a compensation law was unlikely

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23. His early writings included commentary on international law promulgated through, *inter alia*, the Geneva Conventions. *E.g.*, Shigeki Miyazaki, *Application of the Geneva Conventions to Present Day Japan*, 9 JAPANESE ANN. INT'L L. 29 (1965).
24. *Deng Sheng v. Japan*, Tokyo Chiho Saibansho [Tokyo Dist. Ct.] Feb. 26, 1982, 463 HANREI TAIMUZU 90, *aff'd* Tokyo Koto Saibansho [Tokyo High Ct.] Aug. 26, 1985, 1065 Hanrei Jihô 41.
25. Timothy Webster, *The Price of Settlement: World War II Reparations in China, Japan and Korea*, 51 N.Y.U. J. INT'L L. & POL'Y 302, 305 (2019).
26. *Id.*
27. In Japanese, 台湾人元日本兵士の補償問題を考える会. Miyazaki was also the chief scribe of the Taiwan veterans movement. He edited all twenty-two editions of the group's newsletter, 台湾人元日本兵士の補償問題を考える [*Considering Taiwanese Veterans*], published between 1977 and 1992. He later compiled the newsletters, contemporaneous media accounts, court documents, and other relevant materials into a 1,000-page compendium, entitled 台湾・補償・痛恨：台湾人元日本兵戦死傷補償問題資料集合冊 [TAIWAN, COMPENSATION, GRIEF: A COMPENDIUM OF MATERIALS ON THE COMPENSATION ISSUE OF FORMER JAPANESE SOLDIERS FROM TAIWAN] (1993) [hereinafter COMPENDIUM]. As part of this scholarly venture, Professor Miyazaki penned a short introduction to the movement. See generally Miyazaki Shigeki (宮崎繁樹), ‘台湾人元日本兵士の補償問題を考える会’結成の経緯とその運動の展開 [*The Committee to Consider the Compensation Issue for Former Taiwanese Soldiers in the Japanese Army: The History of Its Formation and Development of the Movement*], in COMPENDIUM 64–70 [hereinafter Miyazaki Background].
28. *Questionnaire on Compensation Issues for Former Taiwanese Soldiers* [台湾人元日本兵士の補償問題を考える会'結成の経緯とその運動の展開], HOUSE OF REPRESENTATIVES, JAPAN (Feb. 27, 1978), https://www.shugii.n.go.jp/internet/itdb_shitsumona.nsf/html/shitsumona/a084015.htm [https://perma.cc/UHR8-KQ9V].

in the near term, Miyazaki and company filed a lawsuit instead.²⁹ Looking back, East Asia's transnational war reparations cause was born, as a matter of law.³⁰

After liaising with activists in Taiwan on war compensation issues, Miyazaki gained the support and legal services of attorneys from the Japan Civil Liberties Union.³¹ On August 13, 1977, Taiwanese veteran Deng Sheng filed a compensation lawsuit in the Tokyo District Court.³² Alongside thirteen other Taiwanese soldiers and civilians, Deng sued Japan to access benefits that Japan provided to its own wounded veterans.³³ When Japan denationalized its former colonial subjects in 1952, Taiwanese (and Korean) soldiers were cut off from the financial and medical benefits promised to them as soldiers.³⁴ The irony was particularly bitter for Taiwanese soldiers, who found themselves ruled by the Nationalist Party known as Kuomintang ("KMT"), against whom they had fought as "Japanese" soldiers in the war.³⁵

Miyazaki's Committee mattered for many reasons. First, the use of strategic litigation to pursue a cause resounds across many areas of Japanese public law.³⁶ For seventeen years, the Committee raised money to cover court costs; without its support, there would be no lawsuit. Second, the Committee's newsletters collected valuable information about the movement: developments in Taiwan, communications with Taiwanese civil society groups, protests and other activities in which Committee members engaged, and hearings from the trial itself.³⁷ Third, Committee members—one of whom was elected to the Japanese Diet—sought help and assistance from Japanese

29. Miyazaki Background, *supra* note 27, at 68.

30. *See Questionnaire on Compensation Issues for Former Taiwanese Soldiers*, *supra* note 28.

31. Miyazaki Background, *supra* note 27, at 68.

32. Japan surrendered on August 15, 1945. Many plaintiffs choose such dates to file their cases maximizing media coverage and public attention. Deng Sheng v. Japan, Tōkyō Chihō Saibansho [Tokyo Dist. Ct.] Feb. 26, 1982, 463 HANREI TAIMUZU 90 (Japan). *See also A Long, Long Way to Go*, TAIWAN REV. (Oct. 1, 1995), <https://taiwantoday.tw/news.php?unit=4&post=4421> [perma.cc/29V6-G6PN].

33. *A Long, Long Way to Go*, *supra* note 32.

34. *Id.*

35. *Nationalist Party*, ENCYC. BRITANNICA, <https://www.britannica.com/topic/Nationalist-Party-Chinese-political-party> [https://perma.cc/MDE9-AC45].

36. Miyazaki Background, *supra* note 27, at 68.

37. Webster, *supra* note 25, at 328.

politicians.³⁸ They were essential in passing compensatory legislation; the 1987 Taiwan Veterans Act has been credited with motivating other Asian victims of the war to inquire about war reparations, and launch lawsuits in many cases.³⁹

Miyazaki not only researched the underlying issues, he also showed the importance of civil society engagement. In the “contemporary” war reparations movement, from roughly 1990 to the present, the importance of domestic activism and transnational linkages cannot be overlooked.⁴⁰ Decades ago, Miyazaki grasped the symbolic function of litigation—its abilities to capture media attention, to frame the underlying issue, and to speak to new audiences—and the need to form civil society groups to sustain activism.

B. Tanaka Hiroshi 田中宏 (Japan) (1937–Present)

Professor Tanaka is among the most prolific and activist scholars working in the war reparations field. While training in Chinese studies as an undergraduate, Tanaka heard about Liu Lianren, a Chinese man who escaped from the Japanese mine where he had been sent to perform forced labor, and lived as a fugitive in the wilds of Hokkaido for the next twelve years.⁴¹ A Japanese hunter found Liu in 1958, and surrendered him to local police.⁴² This was the first time that Tanaka had heard about Japan’s widespread use of Chinese forced labor, a topic about which he would later extensively write. Tanaka also been intimately involved with movements involving resident Koreans in Japan: employment discrimination, pension eligibility, fingerprinting, and political rights (the right to vote and the right to hold political office).⁴³

38. Takeshi Gonda, *Postwar Compensation Problem for Taiwanese Former Japanese Soldiers: A True “Solution” to the Wishes of the Leftovers*, NIPPON.COM (Nov. 28, 2020), <https://www.nippon.com/ja/japan-topics/g00972/?pnum=2> [https://perma.cc/G6U2-8DXR].

39. Webster, *supra* note 25, at 331.

40. *Id.* at 308–09.

41. See Saikawa Osame, *The Global Alliance for Preserving the History of WW II in Asia: The 5th Biennial Conference, The Chinese Forced-Labor Lawsuit: The Case of Liu Lianren* (Nov. 15–17, 2002) (trans. Jing Zhao).

42. For the story of Liu’s background, and his epochal lawsuit against the Japanese government in the 1990s, see Timothy Webster, *Sisyphus in a Coalmine: Responses to Slave Labor in Japan and the United States*, 91 CORNELL L. REV. 733, 734, 750–51 (2006).

43. The Tokyo Bar Association awarded Tanaka its annual human rights prize in 2003, citing his work on behalf of foreigners in Japan. See 田中宏教授に「答弁人権賞」有志が祝う会25日 [Professor Tanaka Hiroshi Given ‘Human Rights Award’ by Tokyo Bar Association, Volunteers Celebrate

Tanaka—along with Professors Onuma Yasuaki and Utsumi Aiko—took an important step in organizing the war reparations movement by forming the “Committee to Consider War Responsibility towards Asia” in 1983.⁴⁴ This group aimed to popularize the notion that Japan, even decades after the end of World War II, still bore legal and moral responsibilities towards other Asian peoples. Their most pressing concern was the repatriation of ethnic Koreans whom Japan had left behind on Sakhalin Island.⁴⁵ In 1975, some 43,000 Koreans were still displaced on Sakhalin as prisoners of Cold War politics, Japan’s incomplete decolonization, and a corrupt autocracy in South Korea.⁴⁶

Tanaka’s next foray into the war reparations came in 1986, when lawyer Niimi Tadashi requested his help in locating materials on Chinese forced labor, and the Hanaoka Incident in particular.⁴⁷ During World War II, Japan mobilized nearly 40,000 men from mainland China against their will, and sent them to perform forced labor in abject conditions throughout Japan.⁴⁸ On June 30, 1945, a group of Chinese forced laborers rioted against the Kajima company, a failed insurrection

on the 25th], MINDAN NEWS (Mar. 17, 2004), https://mindan.org/news/mindan_news_view.php?cate=4&page=365&number=2679&keyfield=&keyfield1=&key= [https://perma.cc/7G4W-WAM7].

44. See 日本平和学会 [*Peace Studies Association of Japan*], 第6回日本平和学会平和賞：内海愛子、大沼保昭、田中宏 [*Sixth Peace Prize Winners: Utsumi Aiko, Onuma Yasuaki, Tanaka Hiroshi*], MINDAN NEWS (Mar. 17, 2017), psaj.org/awardi06? [https://perma.cc/5HJD-XG2C].
45. Japan took the southern half of Sakhalin Island upon defeating Russia in 1905. In 1945, Japan retroceded the island to the Soviet Union. See Soo Son, *supra* note 10, at 8.
46. See UTSUMI AIKO, ÔNUMA YASUAKI & TANAKA HIROSHI (内海愛子、大沼保昭、田中宏), 戦後責任：アジアのまなざしに於て [POSTWAR RESPONSIBILITY: RESPONDING TO ASIA’S GAZE] 142–43 (2014); see also Andrew Horvat, *Eviled Sakhalin Koreans Yearn to Go Home Again*, L.A. TIMES (Feb. 2, 1986, 12:00 AM), <https://www.latimes.com/archives/la-xpm-1986-02-02-mn-3318-story.html> [https://perma.cc/3QCB-PFQS].
47. ZHENG WANGSHENG (郑旺盛), 震撼日本列岛的中国英雄：花冈暴动与中日民间索赔第一案揭秘 [THE CHINESE HERO WHO SHOOK THE JAPANESE ARCHIPELAGO: THE HANAOKA RIOT AND THE FIRST CIVILIAN COMPENSATION CASE BETWEEN CHINA AND JAPAN REVEALED] 190 (2014).
48. Sui-Lee Wee & Li Hui, *Hundreds of Chinese Families Seek Wartime Compensation from Japan*, REUTERS (May 12, 2014), <https://www.reuters.com/article/us-china-japan-reparations-insight/hundreds-of-chinese-families-seek-wartime-compensation-from-japan-idUSBREA4B0VO20140512> [https://perma.cc/8TEX-8TJZ].

known as the “Hanaoka Incident” after the city where the mine was located.⁴⁹

Professor Tanaka scoured archives in the United States and Japan to track down information on the forced labor program, an issue that remained obscure within Japan.⁵⁰ He interviewed Japanese officials who conducted surveys of Japan's wartime forced labor program immediately after the war, and contacted Chinese forced laborers who survived the insurrection, including its leader, Geng Zhun.⁵¹ In 1988, Tanaka formed the Committee to Consider Chinese Forced Labor,⁵² one of many grassroots organizations dedicated to war reparations.⁵³ Committee members, including Tanaka, visited China several times to conduct research, to meet experts and survivors, and to represent Chinese forced laborers in a settlement agreement with Kajima. When negotiations broke down, Geng Zhun sued Kajima in 1995, the first of hundreds of Chinese forced laborers to do so.⁵⁴ Tanaka would testify on behalf of Geng during his appeal to the Tokyo High Court in 1999.⁵⁵

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49. For background on the Hanaoka Incident, as well as the settlement process between the Chinese forced laborers and Kajima Construction Company, see Webster, *supra* note 25, at 348–49.
50. ZHENG, *supra* note 47, at 191.
51. *Id.* at 192.
52. In Japanese, 中国人強制連行を考える会. See generally Hayami Ichikawa & Asahi Shimbun, *Mr. Liu Who Was Forcibly Taken During the War and Was Made a “Yukio” After the War*, RONZA (Dec. 25, 2019), <https://webronza.asahi.com/politics/articles/2019122000007.html?page=1> [<https://perma.cc/SWX2-Z5ND>].
53. ZHENG, *supra* note 47, at 192. Between 1990 and 2010, the Committee published over one hundred editions of a newsletter, *Consideration Committee News* [中国人強制連行を考える会ニュース]. See Li Enmin (李恩民), 日中間の歴史和解は可能か: 中国人強制連行の歴史和解を事例に [*Is Historical Reconciliation Possible Between Japan and China? A Case Study of Historical Reconciliation of the Forced Mobilization of the Chinese*] 1 境界研究 [BORDER STUD.] 97, 112, n.2 (2010).
54. *Geng Zhun v. Kajima Construction Co.*, Tōkyō Chihō Saibansho [Tokyo Dist. Ct.] Dec. 10, 1997, 988 HANREI TAIMUZU 250.
55. Tanaka submitted testimony on the issue of contractual relations between Chinese forced laborers and the Japanese companies that “employed” them. The trial court had dismissed Geng’s case on the rather technical defense that, because Geng never signed a contract with Kajima, he lacked a contractual relationship with the company for the purpose of establishing legal liability. *Geng*, 988 HANREI TAIMUZU at 253. Tanaka argued that the contract that Japanese companies had signed with the North China Labor Association (a government agency of the Japanese colonial state in Manchuria) sufficed to fulfill the necessary contractual relationship. See Naitō Mitsuhiro (内藤光博), 戦後補償裁判における花岡事件訴訟和解の意義 [*Significance of the Hanaoka Incident Settlement Within the Postwar*

C. *Utsumi Aiko* 内海愛子 (Japan) (1941–Present)

Professor Utsumi has devoted much of her academic career to World War II, most notably the problems faced by Korean veterans of the Japanese Imperial Army. After earning a B.A. in English literature, M.A. in philosophy, and Ph.D. in sociology from Waseda University, she taught Japanese language at Padjadjaran University in Indonesia from 1975 to 1977, one of few Japanese academics to have lived in a country Japan invaded.⁵⁶ Her experiences in Indonesia led her to research the issue of Korean prison guards in Southeast Asian POW camps.⁵⁷

Utsumi's research figured prominently in the war reparations movement, providing the factual and historical bases of many lawsuits.⁵⁸ Her first book explored Korean “BC-level” war criminals: the small and medium fish who committed war crimes but did not order or plan them.⁵⁹ After the war, the Allies' national military tribunals

Compensation Trials], 459 専修大学社会科学研究所月報 [MONTHLY REPORT OF SENSU UNIVERSITY INSTITUTE OF SOCIAL SCIENCE] 57, 63 (2001). For more on contractual relations in the context of the legal liability of Japanese corporations, see Timothy Webster, *Disaggregating Corporate Liability: Japanese Multinationals and World War II*, 56 STAN. J. INT'L L. 175, 200–02 (2020).

56. See generally *Aiko Utsumi*, KOTOBANK, <https://kotobank.jp/word/内海愛子-1058105> [<https://perma.cc/4EU2-Z326>].
57. See Utsumi Aiko (内海愛子), 戦争裁判、賠償から考えるアジア太平洋戦争：BC級戦犯を中心に [*Thinking About War Trials and Compensation in the Asia Pacific War: Focusing on BC-Level War Criminals*], 12 創発 [EMERGENCE] (2007). Utsumi describes seeing a bronze statue of an emaciated boy at a Dutch cemetery in Semarang, and realizing that the guard for the juvenile detention center was Korean. Thus Koreans—not just the Japanese—were responsible for Japanese war crimes. *Id.* at 2–3.
58. Utsumi's books focus mainly on Korean soldiers in the Japanese Imperial Army. But she has also written on Chinese forced labor, discrimination against Koreans, sexual violence, and postwar compensation more generally. See generally UTSUMI AIKO (内海愛子), (朝鮮人BC級戦犯の記録) [RECORDS OF KOREAN BC-LEVEL WAR CRIMINALS] (1982) [hereinafter RECORDS OF KOREAN BC-LEVEL WAR CRIMINALS]; UTSUMI AIKO (内海愛子), (「韓国・朝鮮人BC級『戦犯』」への支援活動により) [THE WAR OF “IMPERIAL” KOREAN SOLDIERS] (1991); UTSUMI AIKO (内海愛子), (キムはなぜ裁かれたのか：朝鮮人BC級戦犯の軌跡) [WHY WAS KIM TRIED: TRACES OF A KOREAN BC-LEVEL WAR CRIMINAL] (2008).
59. See RECORDS OF KOREAN BC-LEVEL WAR CRIMINALS, *supra* note 58. The International Military Tribunal for the Far East (“IMTFE”) tried the “big fish,” high-level military officers and government officials responsible for orchestrating and ordering war crimes. By contrast, the Allied powers held national military tribunals to preside over the small and medium fish, such as prison guards. For example, the United States conducted its national military tribunals in Yokohama, Japan; the Netherlands

convicted 148 Koreans of low-level war crimes, mostly prison guards for abusing POWs.⁶⁰ One of the men profiled in Utsumi's book, a guard named Lee Hak-rae (Yi Hak-nae), was convicted of abusing POWs in a Thai prison camp.⁶¹ As a convicted war criminal, a Japanese citizen would earn about \$41,000 a year in pensions and benefits.⁶² But Lee was not a Japanese citizen, as Japan denationalized its Korean population in 1952.⁶³ In 1991, Lee and six other convicted Korean war criminals sued Japan for compensation, including a pension.⁶⁴ Utsumi was among three experts to testify at the trial.⁶⁵

In a subsequent lawsuit brought by Korean soldiers,⁶⁶ Utsumi also testified to the Tokyo High Court.⁶⁷ Utsumi informed the appellate court of the miserable conditions that many convicted Koreans faced.⁶⁸ Those who remained in Japan lived marginal existences; homelessness and suicide were not uncommon.⁶⁹ Those who returned to Korea concealed their past, lest they be denounced as "pro-Japanese," or their

conducted its national military tribunals in Batavia (present-day Jakarta, Indonesia); and Britain conducted its national military tribunal in Singapore.

60. Aiko Utsumi et al., *Lee Hak Rae, the Korean Connection and "Japanese" War Crimes on the Burma-Thai Railway*, ASIA-PACIFIC J. JAPAN FOCUS, Herbert Bix trans., Aug. 1, 2007, at 2.
61. *Id.* at 1.
62. Ju-Min Park, *The Survivor: Last Korean War Criminal in Japan Wants Recognition*, REUTERS (Aug. 3, 2020, 9:04 PM), <https://www.reuters.com/article/us-ww2-anniversary-warcriminal/the-survivor-last-korean-war-criminal-in-japan-wants-recognition-idUSKCN25002W> [<https://perma.cc/Q8ZJ-L3Y3>].
63. Utsumi et al., *supra* note 60, at 3.
64. Gavan McCormack, *Yi-Hak-nae and the Burma-Thailand Railway*, ASIA-PACIFIC J. JAPAN FOCUS, Aug. 1, 2021, at 7.
65. See *BC Lawsuit Against the Japanese Government: Proceedings at the Prefectural Court and the Lower-Court Judgment*, KOREAN BC CLASS WAR CRIMINALS, www.ne.jp/asahi/nadja/bc/ [<https://perma.cc/BWA2-FMGZ>] (noting that Utsumi testified on June 8, 1992).
66. See *Yi Nakjin (李洛鎮) v. Japan & Japan Post*, Tôkyô Kôtô Saibansho [Tokyo H. Ct.] Oct. 29, 2009 (unpublished opinion).
67. See 未来への架け橋：在韓軍人軍属裁判を支援する会ニュースレター [*Newsletter of the Trial Support Group for Korean Soldiers & Civilians*, 51 BRIDGE TO THE FUTURE], Nov. 22, 2008, gun.jp/sub/news51/news51.htm [<https://perma.cc/2EQU-Y7L4>] (describing Utsumi's testimony to the Tokyo High Court on October 28, 2008).
68. *Id.*
69. *Id.*

children bullied as traitors to the country.⁷⁰ Finally, Utsumi called on the court to take a more active stance in the reparations process, instead of assuming the more deferential posture it has struck in most war reparations lawsuits.⁷¹

D. Yoshimi Yoshiaki 吉見義明 (Japan) (1946–Present)

Professor Yoshimi, at present an emeritus historian at Chuo University, has uncovered a wide range of historical evidence about Japanese war crimes. Most famously, he unearthed documents linking the Japanese military to the “comfort women” system, a transnational sex trafficking network that Japan operated throughout the Asia-Pacific from 1932 to 1945.⁷² These documents provided the legal basis for compensation lawsuits against the Japanese government.⁷³

One cannot understand the comfort women issue, and the war reparations movement more broadly, without appreciating the denials, obfuscations, and tergiversations of Japanese government officials. Until 1992, the Japanese government insisted that “comfort stations” (*ianjo*), where Japanese soldiers paid a low sum of money to have sex with women and girls, were “private businesses,” legally distinct from the military.⁷⁴ In 1990, when a Japanese senator from an opposition party urged the government to investigate the comfort women issue, the government refused, calling it a private matter in which the government played no role.⁷⁵ The official denial stoked resistance among Korean activists, supporters, and ultimately survivors of the comfort women system.⁷⁶ Shortly after the first survivor Kim Hak-sun sued the

70. *Id.*

71. *Id.* For more on the Japanese judiciary’s deference to the Diet, see Timothy Webster, *Japan’s Transnational War Reparations Litigation: An Empirical Analysis*, 63 HARV. INT’L L.J. (forthcoming 2022), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3823767 [<https://perma.cc/5P68-YPUX>].

72. Norimitsu Onishi, *In Japan, a Historian Stands by Proof of Wartime Sex Slavery*, N.Y. TIMES (Mar. 31, 2007), <https://www.nytimes.com/2007/03/31/world/asia/31yoshimi.html> [<https://perma.cc/74SS-9STM>].

73. Choe Sang-Hun, *South Korean Court Sides with Japan in Wartime Sexual Slavery Case*, N.Y. TIMES (Apr. 23, 2021), <https://www.nytimes.com/2021/04/21/world/asia/korea-comfort-women-japan.html> [<https://perma.cc/RD3H-WPZJ>].

74. Onishi, *supra* note 72.

75. *See generally id.*; *see also* Hiroko Tabuchi, *Historians Find New Proof on Sex Slaves*, WASH. POST (Apr. 17, 2007, 6:04 PM), <https://www.washingtonpost.com/wp-dyn/content/article/2007/04/17/AR2007041701380.html> [<https://perma.cc/4BGJ-EGT2>].

76. This included a letter from Korean women’s groups sent a letter to Japanese Prime Minister Kaifu Toshiki demanding *inter alia* apologies,

government on December 6, 1991, Chief Cabinet Secretary, Kato Koichi, told reporters, "We have had a hard time finding materials that show the involvement of government institutions. At this moment, it is extremely difficult for the government to deal with this issue."⁷⁷ One month later, the *Asahi Shimbun*, Japan's leading progressive newspaper, published the front-page story, *Documents Show Military Involvement in Comfort Stations*,⁷⁸ describing a cache of files that Yoshimi "discovered" in the Defense Agency.⁷⁹

Yoshimi's scholarship, in particular his book "Military Comfort Women," has exerted a powerful influence on contemporary understandings of the comfort women system. Many of his theses have gained broad acceptance among scholars, activists, and judges, including (a) the Japanese government was involved in orchestrating the comfort women system; (b) most comfort women were coerced into the system through deception, force, or false pretenses; (c) Japan's conduct violated international law, and thus Japan remains legally responsible; and (d) the crimes did not end with the dissolution of the comfort women system, but last for as long as Japan evades responsibility.⁸⁰

One way to measure Yoshimi's influence is to read opinions where he testified.⁸¹ In *Song Shindo v. Japan*, a resident Korean survivor of

compensation, and a full accounting of the government's involvement. Later, a woman named Kim Hak-sun would publicly admit that she had been a comfort woman, the first of hundreds of women who would then step forward to acknowledge this painful period of their lives. See Onishi, *supra* note 72; *How Did the Comfort Women Issue Come to Light?*, ASIAN WOMEN'S FUND, <https://www.awf.or.jp/e2/survey.html> [<https://perma.cc/DL9D-37JV>].

77. IKUHIKO HATA, COMFORT WOMEN AND SEX IN THE BATTLE ZONE 17 (Jason Michael Morgan trans. 2018).
78. 慰安所軍関与示す資料 [*Documents Show Military Involvement in Comfort Stations*], ASAHI SHIMBUN, Jan. 11, 1992.
79. David E. Sanger, *Japan Admits It Set Up Army Brothels*, N.Y. TIMES (July 7, 1992), <https://www.nytimes.com/1992/07/07/world/japan-admits-it-set-up-army-brothels.html> [<https://perma.cc/7ZYZ-JAS5>].
80. See Suzanne O'Brien, *Translator's Introduction to YOSHIMI YOSHIKI, COMFORT WOMEN: SEXUAL SLAVERY IN THE JAPANESE MILITARY DURING WORLD WAR II* 8 (Suzanne O'Brien 2000) [hereinafter YOSHIMI, COMFORT WOMEN]. This is one of few Japanese-language works to be fully translated and published by a reputable academic publisher in the United States, Columbia University Press.
81. Yoshimi testified in the Kim Hak-sun trial on June 9, 1997, and December 15, 1997. See *Course of the Trial of the Asia-Pacific Korean Victims Compensation Lawsuit*, zephyr.dti.ne.jp/~kj8899/saibankeika.html [<https://perma.cc/ZXD9-XM98>]. He also submitted an expert opinion (鑑定意見書) for the Song Shindo comfort woman trial. Yoshimi Yoshiaki, 在日の元

the comfort women system sued Japan for compensation and an apology.⁸² Though Judge Narita Kitaru dismissed the case, as almost all Japanese judges do, he made specific factual findings that reflect Yoshimi's view. Take this account of the origins of comfort stations:

During the so-called Shanghai Incident of 1932, because of the incidence of rape by the Japanese army, so-called military comfort stations were established for the purposes of prostitution. The stations were set up at the initiative of the Vice Chief of Staff of the Shanghai Expeditionary Force, and modeled on the Navy's comfort stations. Up until that time, the system—military comfort stations, military comfort women—did not exist. But from that time, until the end of the war, comfort stations were set up in many places, and many comfort women were dispatched there, often for long periods of time.⁸³

Yoshimi likewise posits the Japanese Navy initiated the comfort women system after fallout from the Shanghai Incident, and that the Army followed the Navy's lead.⁸⁴ Judge Narita delineated the formative role of the state in running the comfort stations:

Many comfort stations operated as private businesses. But in certain regions, there were instances where the Japanese military directly operated the stations. Even when a private business operated the station, the Japanese military directly participated in establishing and administering the comfort station: the military gave its consent to open the station, to maintain the facilities, and to establish rules (hours of operation, prices, procedures, etc.).⁸⁵

This passage directly refutes the Japanese government's long-held characterization of comfort stations as strictly private brothels.⁸⁶

日本軍「慰安婦」の回想 —宋神道さんの証言 [*Thoughts on the Resident Korean Former "Comfort Woman" of the Japanese Military: Song Shindo's Testimony*], 40中央大学論集 [CHUO U. REV.] 85, 87 (2019).

82. Song Shindo v. Japan, Tôkyô Chihô Saibansho [Tokyo Dist. Ct.] Oct. 1, 1999 (slip op.), justice.skr.jp/judgements/28-1.pdf [https://perma.cc/T29M-QBLU]. Resident Koreans are, for the most part, descendants of ethnic Koreans brought to Japan (often forcibly) during Japan's colonization of Korea (1910–1945). They are not citizens of Japan, and in some cases have become citizens of North Korea or South Korea.
83. *Song v. Japan*, slip op. at 5-6 (translation by author).
84. YOSHIMI, COMFORT WOMEN, *supra* note 80, at 43–44.
85. *Song v. Japan*, slip op. at 7–8 (translation by author).
86. Onishi, *supra* note 72.

Finally, the judgment focuses on coercion, another point of contention in the broader debate. It describes survivor Song's induction:

Plaintiff cried and resisted before being admitted to the comfort station, where she was forced to undergo a medical examination by an army medic. After being admitted, she was forced against her will to be the sexual partner of Japanese soldiers as a military comfort woman. When she grew disgusted and tried to flee, comfort station staff caught her and forcibly returned her, kicking and beating her as punishment. She was inevitably forced to partner with soldiers.⁸⁷

While we can certainly question the judge's word choice and passive voice—which I have tried to capture in my English translation—Song clearly did *not* want to be a comfort woman. The issue of coercion is a point of contention among conservative Japanese politicians. Former Prime Minister Abe Shinzo, most notably, states there is no “documentary evidence” that women were coerced into the system.⁸⁸ This passage—a judicial opinion issued by the Tokyo District Court—is one document that proves coercion.

Yoshimi also argued that the comfort women system violated international treaties and customs.⁸⁹ For example, Japan ratified the 1910 Prostitution Convention,⁹⁰ 1921 Trafficking Convention,⁹¹ and the 1930 Forced Labor Convention.⁹² However, as Yoshimi points out, Japan specifically excluded the application of the first two conventions in its colonies.⁹³ This exclusion, wrote Yoshimi, “turned Korea and Taiwan into supply depots for military comfort women.”⁹⁴ Nevertheless, Judge Narita found that Japan's conduct violated various international treaties and customs.⁹⁵

87. *Song v. Japan*, slip op. at 10 (translation by author).

88. ‘Comfort Women’ Historian Alarmed, CHINA DAILY (Mar. 3, 2007, 7:17 AM), http://www.chinadaily.com.cn/world/2007-03/12/content_824829.htm [<https://perma.cc/GZ68-H7JW>].

89. YOSHIMI, COMFORT WOMEN, *supra* note 80, at 155–63.

90. International Convention for the Suppression of the “White Slave Traffic”, May 4, 1910, 2 U.S.T. 1999, 30 U.N.T.S. 23.

91. International Convention for the Suppression of the Traffic in Women and Children, Sept. 30, 1921, 9 L.N.T.S. 415.

92. Convention Concerning Forced or Compulsory Labour, June 28, 1930, I.L.C. No. 29.

93. YOSHIMI, COMFORT WOMEN, *supra* note 80, at 157.

94. *Id.*

95. Webster, *supra* note 55, at 216–17.

E. Onuma Yasuaki 大沼保昭 (Japan) (1946–2018)

Professor Onuma Yasuaki was among Japan's most renowned scholars of international law. Just as World War II has defined modern Japan, scholarship on the war has defined Professor Onuma's scholarly trajectory. While a student at University of Tokyo in the 1960s, Onuma participated in the Vietnam Anti-War Movement, as well as Zenkyōtō Movement.⁹⁶ After graduating, Onuma published *Introduction to a Theory of War Responsibility* in 1975, which traced how the Allied Powers promulgated "crimes against peace" in the Nuremberg and Tokyo Trials by melding the concepts of command responsibility with illegality of war.⁹⁷ Onuma sought to reconstitute Japanese identity by extending discussions of war responsibility toward Asia, and away from the Allied Powers.⁹⁸

One of the first movements in which Onuma participated as a junior academic was the repatriation of Sakhalin Koreans.⁹⁹ At the time, this was one of the more glaring examples of war *irresponsibility*. While many countries contributed to the stalemate, the fact that 43,000 Koreans displaced by Japan in the early twentieth century remained so in the 1970s seemed both anachronistic and willfully cruel.¹⁰⁰ In 1974 and 1975, Sakhalin Koreans filed two cases seeking repatriation—making them among the first of Japan's transnational war reparations lawsuits.¹⁰¹

Onuma actively researched various causes related to war reparations, including Japan's immigration control laws (with which

96. Onuma Yasuaki et al. (大沼保昭), 座談会：アジア女性基金と私たち [Symposium: The Asian Women's Fund and Us] 1 DIGIT. MUSEUM: THE COMFORT WOMEN ISSUE & THE ASIAN WOMEN'S FUND (2006), awf.or.jp/pdf/k0014.pdf [https://perma.cc/H97Q-RDGU].

97. See generally ÔNUMA YASUAKI (大沼保昭), 戦争責任論序説 [INTRODUCTION TO A THEORY OF WAR RESPONSIBILITY] (1975). According to Onuma, the crimes against peace also constituted ex post facto law, violating a basic principle of contemporary law.

98. Tsuchino Mizuho (土野瑞穂), 書評：内海愛子、大沼保昭、田中宏、加藤陽子『戦後責任：アジアのまなざしに答えて』 [Book Review: Utsumi Aiko, Ônuma Yasuaki, Tanaka Hiroshi & Katô Yôko's Postwar Responsibility: Responding to Asia's Gaze], 16 立命館平和研究 [RITSUMEIKAN PEACE STUD.] 45, 45 (2015).

99. See, e.g., Onuma Yasuaki, *Interplay Between Human Rights Activities and Legal Standards of Human Rights: A Case Study on the Korean Minority in Japan*, 25 CORNELL INT'L L.J. 515 (1992).

100. Soo Son, *supra* note 10, at 10; Horvat, *supra* note 46.

101. See Song Du-hoe (宋斗会) v. Japan, Tôkyô Chihô Saibansho [Tokyo Dist. Ct.] Jan. 16, 1974 (dismissed due to lack of standing); Pak Nohak (朴鲁学) v. Japan, Tôkyô Chihô Saibansho [Tokyo D. Ct.] Dec. 1, 1975 (withdrawn on June 15, 1989 after plaintiffs died); see also Soo Son, *supra* note 10, at 10.

Resident Koreans had to comply), the legal status of resident Koreans, and the fingerprinting requirement that Japan imposed on resident Koreans.¹⁰² He also lobbied members of Japan's Diet—including Councilor Hara Bunbei and Representative Igarashi Kōzō—to take up the reparations issue.¹⁰³ In 1999, Onuma was appointed Director (*riji*) of the Asian Women's Fund ("AWF"), an initiative set up by the Japanese government to assist, compensate and apologize to the survivors of the comfort women system.¹⁰⁴ While some have criticized the AWF for its equivocality,¹⁰⁵ Onuma defended the effort as "an attempt for the Japanese nation as a whole, partly the government and partly the citizens, to take responsibility for the wrong which the Japanese nation as a whole had committed."¹⁰⁶ Though Onuma has not testified in any war reparations lawsuits, at least as far as this author can discern, he has played an active role in the movement through research, publications, and activism.

III. FOREIGN (NON-JAPANESE) ACADEMICS

A. *Frits Kalshoven (Netherlands) (1924–2017)*

Professor Kalshoven played a limited role in Asia's war reparation movement. But the argument for which he is most famous—that the individual has a right to demand compensation against the state that violates international humanitarian law¹⁰⁷—resonates in virtually every

102. *Onuma Yasuaki C.V.*, U.N. AUDIOVISUAL LIBR. INT. L., https://legal.un.org/avl/pdf/ls/Onuma_bio.pdf [<https://perma.cc/9BCW-BVJF>]. Onuma published widely on crimes against peace (1974–1978), rights of resident Koreans (1978–1983), fingerprinting (1984–1987), Sakhalin Koreans (1992), and comfort women (1998–2007).

103. *Symposium: The Asian Women's Fund and Us*, *supra* note 96, at 2.

104. *Establishment of the AW Fund, and the Basic Nature of Its Projects*, THE ASIAN WOMEN'S FUND, <https://awf.or.jp/e2/foundation.html> [<https://perma.cc/PL9B-AAR2>].

105. As U.N. Special Rapporteur Gay J. McDougall noted, the fund does not "satisfy the responsibility of the Government of Japan to provide official, legal compensation to individual women . . . since 'atonement' money . . . is not intended to acknowledge legal responsibility on the part of the Japanese Government for the crimes that occurred during the Second World War." U.N. Econ. & Soc. Council, Sub-Comm. on Prevention of Discrimination & Protection of Minorities, *Contemporary Forms of Slavery: Systematic Rape, Sexual Slavery and Slavery-Like Practices During Armed Conflict*, ¶ 64, U.N. Doc. E/CN.4/Sub.2/1998/13 (June 22, 1998).

106. Onuma Yasuaki, *Japanese War Guilt & Postwar Responsibilities of Japan*, 20 BERKELEY J. INT'L L. 600, 607 (2002).

107. See Frits Kalshoven, *State Responsibility for Warlike Acts of the Armed Forces: From Article Three of Hague Convention IV of 1907 to Article 91*

war reparations lawsuit. To be sure, his reading of the Hague Convention draws heavily on its text, drafting history, and *travaux préparatoires*;¹⁰⁸ Kalshoven himself characterized subsequent state practice of providing compensation to individual victims as “disappointing.”¹⁰⁹ Nevertheless, the question of individual subjectivity in international law, especially international humanitarian law, remains a hot topic, as manifest in recent decisions by the International Court of Justice, Supreme Court of Greece, and Italian Court of Cassation.¹¹⁰

Professor Kalshoven provided expert testimony, both in court and through written submissions, in several war reparations lawsuits. He testified before the Tokyo District Court¹¹¹ in the Dutch POW/Comfort Woman case (June 24, 2007),¹¹² and the Filipina Comfort Women case (June 28, 2007).¹¹³ In both cases, he argued that Japan’s violation of the Hague Convention empowered the individual plaintiffs to sue Japan in domestic courts. Japanese judges dismissed both cases, but tacitly acknowledged part of Kalshoven’s argument.¹¹⁴ Nonetheless, the courts

of the Additional Protocol I of 1977 and Beyond, 40 INT’L & COMP. L.Q. 827 (1990) (arguing that individuals have the right to seek compensation from the state for the latter’s war crimes).

108. *Id.* at 832–34.

109. *Id.* at 836.

110. Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening), Judgment, 2012 I.C.J. 99, 113–16 (Feb. 3).

111. See Satō Yoshitsugu (佐藤芳嗣), *フィリピン日本軍「性奴隷」裁判：非典型型「慰安婦」裁判* [Trial of Filipina Sex Slaves in the Japanese Military: An Atypical “Comfort Women” Case], in HÔTEI DE SABAKARERU NIHON NO SENSÔ SEKININ [JAPAN’S WAR RESPONSIBILITY AS ADJUDICATED IN COURT] 56, 61 (Zukeyama Shigeru ed. 2014). Lawyer Satō writes that Kalshoven testified before the Tokyo trial courts in June 1996. However, contemporary media, other scholars, and Kalshoven’s own CV list June 1997. See, e.g., Richard Lloyd Parry, *Japan’s War Victims Never Say Die in Bid for Reparation*, INDEPENDENT (June 23, 1997), <https://www.independent.co.uk/news/world/japan-s-war-victims-never-say-die-in-bid-for-reparation-1257680.html> [<https://perma.cc/MQP9-XLXY>] (noting Kalshoven’s testimony in Tokyo earlier that week); see also *Curriculum Vitae: Prof. Frits Kalshoven*, F. FOR INT’L CRIM. & HUMANITARIAN L., https://www.ficlh.org/fileadmin/ficlh/cvs/CV_Prof._Frits_Kalshoven.pdf [<https://perma.cc/88FG-XSZJ>] (listing June 1997).

112. *Lapré v. Japan*, Tôkyô Chihô Saibansho [Tokyo Dist. Ct.] Nov. 30, 1998, 1685 HANREI JIHÔ 3.

113. *Henson et al. v. Japan*, Tôkyô Chihô Saibansho [Tokyo Dist. Ct.] Oct. 9, 1998, 1683 HANREI JIHÔ 57.

114. In the Dutch case, for example, the court conceded that the individual right to seek compensation arose in the discussions of the Hague Convention, but the Member States did not intend to give individuals the right to seek compensation directly against the State. *Lapré*, slip. op. at 78.

reinforced the exclusively statist nature of international claims. As the Tokyo District Court framed the issue:

Under international law, a state that violates international legal obligations owes a responsibility to the injured state. Even in cases where the harm to the individual violates a state's obligations under international law, the damage is regarded as belonging to the state, not the individual. The harmed individual will only get an indirect remedy, when his home state exercises diplomatic protection on his behalf.¹¹⁵

Undeterred, Kalshoven wrote a supplementary opinion to correct what he saw as the trial courts' errors.¹¹⁶ Addressing the Tokyo High Court in the appeals process, Kalshoven argued that the individual can be the subject of rights under international law.¹¹⁷ More specifically, this included the right to prosecute such claims in national courts.¹¹⁸ In the end, the appellate court, and later the Supreme Court, were no more sympathetic to Kalshoven's theory than the trial court. Still, his participation called attention (particularly from Western media) to the war reparations lawsuits, and pressed the Japanese judiciary to clarify where it stood on the issue of individual subjectivity under international law.

B. *Óng Iók-Tek 王育德 (Taiwan) (1924–1985)*

Taiwan has played a minor, yet foundational, role in East Asia's war reparations movement. In the 1970s, a group of ethnic Taiwanese living in Japan, as well as Taiwanese citizens living in Taiwan, began to investigate the adequacy of Japan's war reparations to Taiwan.¹¹⁹ In 1971, Japan derecognized Taiwan, leading many Taiwanese, in Japan

115. *Lapré*, slip. op. at 34 (translated by author).

116. See Frits Kalshoven, *Supplementary Expert Opinion*, in SENGO HOSHÔ TO KOKUSAI JINDÔHÔ: KOJIN NO SEIKYÛKEN O MEGUTTE [POSTWAR REPARATIONS AND INTERNATIONAL HUMANITARIAN LAW: THE QUESTION OF INDIVIDUAL CLAIMS FOR COMPENSATION] 87, 99 (Shin Hae Bong, Takagi Yoshitaka & Nagano Kantarô eds., 2005) (calling the decision of the Tokyo District Court "incorrect").

117. *Id.* at 99.

118. Kalshoven cites the example of "international minimum standard of treatment," a topic derived from international investment law ("IIL"). IIL permits a "foreigner" to file a case in domestic courts, and if he is dissatisfied with the result, to enlist the support of his home government to invoke diplomatic protection. *Id.* at 99–100.

119. Political activism in Taiwan rose precipitously after the KMT party lost power, and reparations from Japan were one category of concern. See Nien-Chung Chang-Liao & Yu-Jie Chen, *Transitional Justice in Taiwan: Changes and Challenges*, 28 WASH. INT'L L.J. 619, 628 (2019).

and Taiwan, to question the historical, economic, and political relationships between Taipei and Tokyo.¹²⁰ In 1972, Japan unilaterally nullified the 1952 Taipei Treaty,¹²¹ the legal instrument that formally ended the war between Japan and the Republic of China on Taiwan. In the politico-legal opportunity structure thus opened, many Taiwanese stepped forward to demand Japan reinstate the Japanese nationality that they had enjoyed under Japanese colonialism, repay wartime debts such as bonds and military currency, and provide pensions to Taiwanese veterans of the Japanese Imperial Army and Navy.¹²²

At the center of these trajectories were two members of the faculty of Meiji University: Miyazaki Shigeki (profiled above) and linguistics professor Ông Iók-tek.¹²³ Born and raised in Taiwan during the Japanese colonial period (1895–1945), Ông fled Taiwan after the KMT set up a government in Taiwan.¹²⁴ Ông's brother had been killed in the notorious February 28 Incident (228 Incident), when the KMT killed an estimated 20,000 anti-government protestors and activists.¹²⁵ Henceforth, Professor Ông would never return to Taiwan.

In the mid-1970s, as a professor of Chinese linguistics and Taiwanese nationalist, Ông grew active in the Taiwan veterans cause. In December 1974, Indonesia repatriated a “Japanese” soldier it had discovered in the jungles. In fact, he was an indigenous Taiwanese man named “Shiniyuwu” in his native tongue (Ami), “Li Guanghui” in Mandarin Chinese, and “Nakamura Teruo” in Japanese.¹²⁶ Shiniyuwu was sent back to Taiwan with none of the pomp or finance that attended the contemporaneous “discovery” of other Japanese soldiers

120. Tracy Dahl & Shigehiko Togo, *Japan Debates Its Debt to Former Subjects*, WASH. POST (Apr. 26, 1982), <https://www.washingtonpost.com/archive/politics/1982/04/26/japan-debates-its-debt-to-former-subjects/aa5c438d-fd2e-4c80-a0cf-61ae52538708/> [https://perma.cc/9V9B-H3XL].

121. Treaty of Peace Between Japan and the Republic of China art. I, Japan-China, Aug. 5, 1952, 38 U.N.T.S 1858.

122. Dahl & Togo, *supra* note 120.

123. This is the Taiwanese, as opposed to the Mandarin Chinese, pronunciation of his name.

124. See Chang-Liao & Chen, *supra* note 119, at 624–25.

125. Estimates of the number of activists and intellectuals murdered range from 18,000–28,000. See Chang-Liao & Chen, *supra* note 119 at 625–26; see also Thomas J. Shattuck, *Taiwan's White Terror: Remembering the 228 Incident*, FOREIGN POL'Y RSCH. INST. (Feb. 27, 2017), <https://www.fpri.org/article/2017/02/taiwans-white-terror-remembering-228-incident/> [https://perma.cc/Y679-2CQN].

126. YOSHIKUNI IGARASHI, *The Homecoming of the “Last Japanese Soldier”: Nakamura Teruo / Shiniyuwu / Li Guanghui's Postwar*, in *Homecomings: The Belated Return of Japan's Lost Soldiers* 203, 203–18 (2016).

in formerly enemy territory. Many objected to this differential treatment, and formed a grassroots group, the “Committee to Warmly Welcome Mr. Nakamura” in January, 1975.¹²⁷ This group conducted small-scale protests in downtown Tokyo, raised funds to help Nakamura, and demanded the Japanese government provide similar benefits to Shiniyuwu/Nakamura as it did to veterans with Japanese citizenship.¹²⁸

This group served as a prototype to another grassroots committee on which Ông played a founding role. In February, 1975, the two Meiji University professors formed a new group to examine the veterans’ compensation issue more deeply. Together with eleven other Japanese academics and professionals, including friends from Ông’s youth in Taiwan,¹²⁹ the “Committee to Consider Compensating Taiwanese Veterans”¹³⁰ sought to persuade the Japanese government to pay the same benefits, pensions and medical treatment to Taiwanese veterans that it had already paid to veterans with Japanese citizenship since 1952.

The Committee that Ông and Miyazaki founded would support the Taiwan veterans’ lawsuit as it wended its way to Japan’s Supreme Court.¹³¹ When the Court dismissed the case in 1992, the Committee disbanded. Wang, of course, had died just after the Tokyo High Court also dismissed the case. Before the dismissal, the Committee raised funds to cover court costs, plaintiffs’ travel to hearings and lodging in Japan, as well as associated activities. The Committee also published a newsletter, *Considering Taiwanese Veterans*, which reported on individual hearings, developments in other countries (including Taiwan and the United States), and coverage in domestic and international media. The Consideration Committee thus also served as a “trial support group” (*shienkai*); in the contemporary war reparations

127. See Miyazaki Background, *supra* note 27, at 64.

128. *Id.*

129. Three (Japanese) members of the Consideration Committee graduated from Taipei High School, including Arima Motoharu, a politician who later shepherded the Taiwan Veterans Act through Japan’s Diet (national legislature). See Kawazaki Masumi (河崎真澄), 台湾人元日本兵への補償 [*Compensating Taiwanese Veterans of the Japanese Army*], 産経新聞 [SANKI NEWS], Aug. 20, 2019, www.sankei.com/article/20190820-FLXXXCFASVIJ5ERUTORASQAOLY [<https://perma.cc/6VAU-UHMX>].

130. See Miyazaki Background, *supra* note 27, at 65. The group is known in Japanese as the 台湾人元日本兵士の補償問題を考える会 (roughly, “Committee to Consider the Compensation Issue for Taiwanese Veterans”).

131. MIKI Y. ISHIKIDA, TOWARD PEACE: WAR RESPONSIBILITY, POSTWAR COMPENSATION, AND PEACE MOVEMENTS AND EDUCATION IN JAPAN 30–37 (2005).

movement, numerous such groups, devoted to a single case, have mushroomed throughout the Japanese archipelago.

C. *Yun Chung-ok* 尹貞玉, 윤정옥 (Korea) (1925–Present)

Yun Chung-ok, professor emerita of Ewha Womans University in Seoul, led Korea's comfort women redress movement from its inception in 1990. Born in colonial Korea to a Christian pastor, Yun grew up in a family that stressed educational achievement, even for girls, which was a notable departure from the prevailing culture at the time.¹³² During her last year of high school, Yun was fingerprinted against her will.¹³³ Rather than continue her education, she withdrew from school to avoid conscription into the women's "volunteer corps" (*cheong shindae*).¹³⁴ Yun escaped a life of difficulty that many of her classmates would endure.¹³⁵

In the 1980s, Yun began to research comfort women, conducting visits to Fukuoka, Sapporo, and Okinawa.¹³⁶ Her work came to prominence in 1988, when she presented on the linkages between Korea's "volunteer corps" and Japan's "military comfort women" (*jūgunianfu*) at the Cheju "Women and Tourism" conference, sponsored by the non-governmental organization, Korean Church Women United.¹³⁷ Yun visited former comfort stations in Thailand and Papua New Guinea in 1989, and published reports on them in January 1990.¹³⁸

On November 16, 1990, Yun—with her Ewha colleague Lee Hyo-chae—formed the Korean Council for Women Drafted by Japan for Sexual Slavery.¹³⁹ The Council joined together dozens of women's organizations, including the KCWU,¹⁴⁰ to uncover the truth about the comfort women system, and to restore the dignity of survivors. These

132. As Chunghee Sarah Soh has shown, the patriarchal and Confucian influences of traditional Korean culture devalued women, and denied them access to education. See generally Chunghee Sarah Soh, *The Korean "Comfort Women": Movement for Redress*, 36 *ASIAN SURV.* 1226, 1229–30 (1996).

133. *Id.* at 1233.

134. *Id.*

135. See *id.* at 1228.

136. Alice Yun Chai, *Asian-Pacific Feminist Coalition Politics: The "Chōngshindae/Jūgunianfu" ("Comfort Women") Movement*, 17 *KOREAN STUD.* 67, 78 (1993).

137. *Id.*

138. See *id.*

139. See Soh, *supra* note 132, at 1232–33.

140. Chai, *supra* note 136, at 79. The KCWU was the organization to which Kim Hak-sun made her August 14, 1990 "confession" that she served as a comfort woman, unleashing a wave of support around the issue in Korea and Japan.

organizations had already collaborated on conferences, demonstrations, and petitions to the Japanese government. In October 1992, groups sent an open letter to Japanese Prime Minister Miyazawa Kiichi with six demands. One measure of the movement's success would be to weigh which of these six demands has been met.

Through the Council's efforts (hotlines, counseling, information sessions), seventy-four survivors of the comfort women system registered with the Korean government.¹⁴¹ Many of these women, including Kim Hak-sun, later sued Japan and pioneered the transnational reparations movement.¹⁴² Within the Council, Yun focused on research and compensation with the Japanese government, while Lee liaised with transnational activists and international organizations.¹⁴³ Yun handled the lawsuits, while Lee lobbied the United Nations.¹⁴⁴

D. Tong Zeng (China) 童增 (1956–Present)

Tong is China's leading war reparations activist. As a graduate student at Peking University Law School in 1990, he read an article about contemporaneous European efforts to seek war reparations from Germany.¹⁴⁵ After conducting his own research, Tong propounded his own theory of war reparations, distinguishing the *individual* right to seek compensation from Japan, from the Chinese *state's* right to seek compensation—which the PRC waived in the 1972 Joint Communiqué.¹⁴⁶

141. *Id.* at 83.

142. *See generally* *Lawsuits Brought Against Japan by Former Korean "Comfort Women"*, COLUM. L. SCH.: CTR. FOR KOREAN LEGAL STUD., <https://kls.law.columbia.edu/content/lawsuits-brought-against-japan-former-korean-comfort-women> [<https://perma.cc/5GM7-9XHW>].

143. Soh, *supra* note 132, at 1234

144. *See id.*

145. Tong Zeng, *It Is of Great Urgency that China Demand Damage Compensation from Japan* (Mar. 25, 1991) (Graduate thesis, National People's Congress of China) (Zeng's research results and proposal to the National People's Congress). The thesis listed several developments, including a meeting between East German leader Erich Honecker and World Jewish Congress president Edgar Bronfman, Albania's \$2 billion demand for reparations from West Germany, and requests from Finland and Poland. None of the cases involved individual to State discussions, but rather intergovernmental efforts between West and East German leaders, and leaders from other European States.

146. *See* TONG ZENG, WANYANSHU (1991), china918.net/news/read?id=7866 [<https://perma.cc/AH45-UHTG>].

Later, as a lecturer at a university in Beijing, Tong advocated his theory in a *wanyanshu*,¹⁴⁷ a traditional form of presenting ideas to political leaders.¹⁴⁸ He initially titled his report *Victim Compensation Proposals in Europe: Lessons for China*.¹⁴⁹ He spoke with numerous newspapers and academic journals about publishing his paper, but they rejected his work as too politically sensitive.¹⁵⁰ The idea of an individual right to compensation is not radical in international law; it subtends international investment law, international human rights law, and international humanitarian law; many human rights treaties provide individual access to remedies for violations of constitutional or international law.¹⁵¹ Moreover, some scholars interpret international humanitarian law treaties as extending the right to seek compensation to individuals, though state practice of such rights is quite rare.¹⁵² Still,

147. See Alice Miller, *Dilemmas of Globalization and Governance*, in THE POLITICS OF CHINA: SIXTY YEARS OF THE PEOPLE'S REPUBLIC OF CHINA 528, 537 (Roderick MacFarquhar ed., 3d ed. 2011). Wang Anshi presented his reform recommendations in a *wanyanshu* 万言书 to Song Emperor Renzong in 1058. Qing Dynasty reformers such as Kang Youwei and Liang Qichao likewise expressed their opposition to the 1895 Treaty of Shimonoseki through a *wanyanshu*. In the 1950s, Peng Dehuai remonstrated with Mao Zedong about the excesses of the Great Leap Forward through a *wanyanshu*, though Peng did not use that term.

148. *Id.*

149. See Zhang Lei, *Zhongguo Minjian Dui ri Suopei Yundong Faqiren: Yao Wei Shouhaizhe Taohui Gongdao* [Initiator of Chinese Citizens' Movement for Compensation from Japan: Seeking Justice for the Victims], ZHONGGUO QINGNIAN BAO [CHINA YOUTH NEWS] (July 5, 2018), <http://news.sina.com.cn/o/2018-07-05/doc-ihevauxk6872197.shtml> [https://perma.cc/SL92-DUNH].

150. Liu Shangjun, *Tong Zeng: Jianchi Le 26-nian Xiangxin Zhengyi Yiding Hui Daolai* [Tong Zeng: After Persisting for 26 years, Believes Justice Will Come], ZHONGGUO QINGNIAN WANG [CHINA YOUTH NETWORK], June 6, 2016, <https://www.chinanews.com.cn/gn/2016/06-06/7895347.shtml> [https://perma.cc/5DL3-TYCH]. The author notes that a Shanghai publisher expressed interest, but later rejected Tong's treatise with three words: *bu gan fa* ("We don't dare publish it!").

151. See, e.g., G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 8 (Dec. 10, 1948) (ensuring "an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."); International Covenant on Civil and Political Rights art. 2(3), Dec. 16, 1966, 999 U.N.T.S. 171 (requiring State Parties to offer an effective remedy, by a competent national authority, for violating rights and freedoms guaranteed in the covenant).

152. The late Frits Kalshoven of Leiden University is perhaps the most notable exponent of this position. See Kalshoven, *supra* note 107, at 831. Professor Kalshoven testified on the issue of individual rights to compensation in a lawsuit brought by Filipina comfort women against Japan. See Transcript

Tong's ideas found few takers among the publishers in Beijing and Shanghai, perhaps cagey after the political crackdown following the 1989 protests in Tiananmen Square. Ultimately, Tong published "China's Demands for Japanese Reparations Cannot Be Delayed,"¹⁵³ in *Legal Daily*, the mouthpiece of the Communist Party, and later in *People's Daily*, *Worker's Daily*, and other state-run media.

But Tong was not merely a scholar. He wanted the government to respond to his proposal. In March 1991, Tong poked around the hotels where delegates of the National People's Congress ("NPC") stayed during the annual meeting: Jingxi Hotel, Guoyi Hotel, and Beijing Hotel. "At the time," Tong explained, "NPC delegates would come out for a walk around 6:30 PM, and head back to watch the news at 7:00 PM. Every day at that time, my good friend Chen Jian and I hung out near the delegates' hotel. We handed them photocopies of the article."¹⁵⁴ Tong convinced several NPC delegates to take up his proposal in April 1991, but it was too late for inclusion in that year's agenda. It appeared on the official agenda in 1992, and several times thereafter. But the results were always the same: "The issue has been studied. It is unsuitable for further action."¹⁵⁵ That sums up the PRC's attitude toward the issue.

Unable to convince the NPC, Tong focused his efforts on mobilizing public opinion. While working at a research center on aging, Tong founded an organization to press Japan for compensation.¹⁵⁶ The organization undertook many initiatives to promote reparations, including gathering signatures for a demand that Japan pay U.S. \$180 billion for the "deaths, injuries, destruction of personal property, forced labor, ravaging women, for conducting biological experiments on Chinese and stealing antiquities."¹⁵⁷ The organization also wrote petitions for individual war victims, which Tong delivered personally

of Oral Judgment Delivered by the Judges of the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery (Dec 4, 2001), <http://iccwomen.org/wigjdraft1/Archives/oldWCGJ/tokyo/summary.html> [https://perma.cc/YU6A-UAUU].

153. See Xia Haishu, *Zhongguo Minjian Dui Ri Suopei Yilu Jingji* [*Long Road for China's Civil Compensation Claims Against Japan*], HUANQIU (Dec. 28, 2004, 9:47 PM), <http://news.sina.com.cn/c/2004-12-28/21475358019.shtml> [https://perma.cc/M5B5-G4RN].

154. *Id.* (translated by author).

155. *Id.*

156. Zhang Lei, *Public Sacrifice Day: The Chinese People Send a Letter to the Japanese Government for the First Time to Apologize for the Nanjing Massacre*, CHINA YOUTH DAILY (Dec. 8, 2014, 12:00 AM), https://mp.weixin.qq.com/s/CrmpUBOERvyYM_UNtTdYlW [https://perma.cc/WDV5-7TV5].

157. See John Kohut, *The Bitter Legacy of Hatred*, WASH. POST., May 10, 1992.

to the Japanese embassy in Beijing.¹⁵⁸ He established links with reparations groups in Hong Kong, Taiwan, and South Korea.¹⁵⁹ He convened academic conferences to discuss war reparations.¹⁶⁰

Tong played an important coordinating role between individual war victims and the Japanese lawyers who represented them.¹⁶¹ Tong had established himself as a major broker in the war reparations movement; thousands of Chinese citizens had written him letters, or visited him in Beijing, to enlist his support.¹⁶² When a group of Japanese human rights lawyers, including Attorney Onodera Toshitaka, visited China in July, 1994, Tong identified a number of potential plaintiffs.¹⁶³ For the next decade, Onodera and Tong would work together to facilitate transnational litigation by Chinese forced laborers, comfort women, and other civilian casualties in Japanese courts.¹⁶⁴

E. Guan Jianqiang 管建强 (China) (1956–Present)

Guan is China's leading legal authority on World War II reparations. He has published not only several works on general international law and military law, but also three widely referenced texts specifically on war reparations litigation.¹⁶⁵ Alongside Tong Zeng, and attorney Kang Jian, Guan has consistently advocated for the rights

158. *Chinese 'Comfort Women' Demand Apology, Compensation*, KYODO NEWS, Aug. 7, 1992.

159. *300,000 Chinese Demand War Reparations*, AGENCE FRANCE PRESSE, Sept. 15, 1992.

160. *Scholars Gather to Discuss War Reparations*, KYODO NEWS, Sept. 18, 1992.

161. Robert Benjamin, *China Seeks Business, Not Reparations, as Visit by Japanese Emperor Nears*, BALT. SUN (Oct. 19, 1992, 12:00 AM), <https://www.baltimoresun.com/news/bs-xpm-1992-10-19-1992293121-story.html> [<https://perma.cc/9M8L-LUPW>] (noting Tong threatened to sue a Japanese company that used Chinese forced labor). Chinese courts only accepted wartime reparations claims in 2014. So discussions of court challenge in 1992 were premature by a couple of decades.

162. *Id.*

163. Lei, *supra* note 149.

164. *Id.*

165. See GUAN JIANQIANG (管建强), 中日战争历史遗留问题的国际法研究 [INTERNATIONAL LAW STUDIES OF LINGERING HISTORICAL ISSUES FROM THE SINO-JAPANESE WAR] (2016); GUAN JIANQIANG (管建强), 公平, 正义, 尊严: 中国民间战争受害者对日索偿法律基础 [EQUALITY, JUSTICE, DIGNITY: THE LEGAL BASIS FOR CHINESE CIVILIAN WAR CASUALTIES TO CLAIM COMPENSATION FROM JAPAN] (2006); GUAN JIANQIANG (管建强), 跨越對日民間索賠的法律障礙 [OVERCOMING LEGAL BARRIERS TO CIVILIAN COMPENSATION CLAIMS AGAINST JAPAN] (2006).

of Chinese victims to seek compensation from the Japanese State and corporations.¹⁶⁶

In addition to his scholarly work, Guan has also testified in Japan—one of few Chinese scholars to do so. In the Unit 731/chemical weapons lawsuit,¹⁶⁷ Guan submitted expert testimony (*kantei ikensho*), and testified in person before the Tokyo High Court on December 7, 2004.¹⁶⁸ He argued that the 1972 Japan-China Joint Communiqué only waived the Chinese government's right to demand compensation, but *not* the individual's right to demand compensation.¹⁶⁹ As a matter of both text (plain reading of the instrument), and procedure (China's NPC did not ratify the instrument), he argued, the individual retained the right to seek compensation.¹⁷⁰

Guan has also advocated for Chinese victims to sue Japanese corporations in China, a position that Chinese courts have (with one

166. Their work together includes, for example, demanding the return of ancient Chinese cultural artifacts seized during the war by Japan. *Chinese NGO Seeks Return of Ancient Relic from Japan*, CHINA DAILY (Aug. 11, 2014, 2:38 PM), https://www.chinadaily.com.cn/china/2014-08/11/content_18287502.htm [<https://perma.cc/J4SL-H6S4>].
167. Wang Jinti v. Japan, Tōkyō Kōtō Saibansho [Tokyo H. Ct.] July 19, 2005. The thrust of the lawsuit was that Japan, by using chemical weapons developed in their Unit 731 military facility against Chinese civilians, violated Chinese law, Japanese law, customary international law, and international treaty law. But Japanese courts have rejected such claims as barred by statute of limitations, or waived by postwar treaties (between Japan and China, Japan and South Korea, etc.).
168. Guan Jianqiang (管建强), 论中国民间对日索赔的权利 [On Chinese Civilians' Right to Claim Compensation from Japan] 政治与法律 [2 POL. & L.] 53, n.1 (2006).
169. See Guan Jianqiang (管建强), 「日中共同声明」等の対日戦争賠償請求権問題について [Concerning the War Reparations Claims Against Japan in the "Joint Communiqué" and Other Instruments], <http://www.anti731saikinsen.net/saiban/2shin/kanteiken/kan.html> [<https://perma.cc/5LAJ-S3NP>].
170. JOINT COMMUNIQUE OF THE GOV'T OF JAPAN & THE GOV'T OF CHINA, Sept. 29, 1972, <https://www.mofa.go.jp/region/asia-paci/china/joint72.html> [<https://perma.cc/5R2Q-AD5D>]; see also Lena H. Sung, *Japanese Invest in Manchuria, but Face Mistrust from Wartime Occupation*, WASH. POST. (July 8, 1992), <https://www.washingtonpost.com/archive/politics/1992/07/08/japanese-invest-in-manchuria-but-face-mistrust-from-wartime-occupation/63033d2c-4872-4826-bcd0-6b5d710584d1/> [<https://perma.cc/6U6Q-CQ89>]. Article 5 of the Joint Communiqué provides that "The Government of the People's Republic of China . . . renounces its demand for war reparation from Japan." In 1993, Chinese Foreign Minister Qian Qichen made clear that only the government—not individual Chinese citizens—waived the claim to seek compensation.

exception¹⁷¹) not accepted.¹⁷² According to Guan, resort to Chinese courts will not only help the victims, but also maintain the prestige of the Chinese government, which has played a very limited role in the war reparations debate.¹⁷³ Guan used his affiliation at East China University of Law and Political Science to set up a fund to raise money for Chinese wartime forced laborers.¹⁷⁴

IV. CONCLUSION

The rise of war reparations litigation in East Asia owes much to a group of dedicated lawyers in Japan, and their transnational networks in Taiwan, China and Korea. At the same time, academics have supported this socio-legal movement through research, advocacy, and expert testimony in court hearings. One might say that two academics based in Japan launched the war reparations movement in the 1970s, when Professors Miyazaki and Ông formed the Consideration Committee; the Committee supported and guided the Taiwanese veterans' lawsuit from 1977 to 1992.

From that time forward, other academics grew interested in war reparations based on their various life experiences: Utsumi Aiko as a social historian teaching in Indonesia, Tanaka Hiroshi as a Sinologist hearing about Chinese forced labor in the news, Onuma Yasuaki as an international lawyer questioning received wisdom from the Tokyo Tribunal, and Tong Zeng as a graduate student in international law. Once interested in a particular issue, academics often support other facets of the movement. For example, Onuma's interest in the postwar Tokyo Tribunal led him to rethink Japan's own role in the war, and more particularly about the damage done to Asian people, including Koreans on Sakhalin, and "comfort women."¹⁷⁵ Tanaka Hiroshi has been

171. A Shanghai court accepted a case against Mitsui in 2014. *See Mitsui O.S.K. Paid ¥4 Billion over Ship Seizure in China*, JAPAN TIMES (Apr. 24, 2014), <https://www.japantimes.co.jp/news/2014/04/24/national/mitsui-o-s-k-paid-¥4-billion-ship-seizure-china/> [<https://perma.cc/78H6-XPUW>].

172. Yuan Meng (袁蒙), 中国法院管辖审理对日索赔案意义重大 [*Jurisdiction of Chinese Courts Holds Great Significance for Civil Claims Against Japan*], 中国青年报 [CHINA YOUTH DAILY] (Sept. 19, 2016), <http://cjkeizai.j.people.com.cn/n1/2016/0919/c368507-28724403.html> [<https://perma.cc/L3CF-NXQ3>].

173. *See id.*

174. *Id.*

175. *See, e.g.*, Onuma Yasuaki, *Japanese War Guilt and Postwar Responsibilities of Japan*, 20 BERKELEY J. INT'L L. 600 (2002).

involved in Chinese forced labor issues,¹⁷⁶ as well as various issues relating to the resident Korean minority in Japan.¹⁷⁷ In sum, academics have laid the historical, legal, and moral bases for many of the lawsuits, and the movement more broadly.

176. *See, e.g.*, Tanaka Hiroshi, *Why Is Asia Demanding Postwar Compensation Now?*, 28 HITOTSUB. J. SOC. STUD. 1, 2 (1996).

177. *Id.* at 9–10.