

# Transmitting Knowledge and Gaining Recognition: Chinese “Comfort Women” Reparation Trials in the 1990s and 2000s

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**Abstract:** *In the wake of the explosion of the “comfort women” issue, with the help of lawyers and activists, Chinese comfort women instigated four class-action lawsuits against the Japanese government. However, how the lawyers represented the history of comfort women and what happened in the courtroom have remained obscure. Unlike the conventional verdict-centered approach to civilian trials involving comfort women, this research adopts a procedural approach by delving into the court transcripts, legal briefs, and other evidentiary materials tendered to the court. It argues that although the plaintiffs lost every case, through the court proceedings the victims and their lawyers managed to carve out an official space for knowledge transmission and recognition. These proceedings have the potential to serve as an exemplary model for future civil trials adjudicating injustices (historical or otherwise) involving sexual and gender-based violence.*

**Key words:** *Comfort women, reparation trials, litigation, procedural approach, recognition, testimony, feminism*

A panel exhibit featuring the experiences of Chinese “comfort women” (victims of Japanese wartime sexual slavery), their pursuit of justice and campaigns for redress, toured several Chinese provinces between 2009 and 2012.<sup>1</sup> The panels contributed to spreading awareness of wartime sexual violence and the life-long suffering endured by its victims. The content of these exhibitions largely consisted of

testimonies delivered by Chinese victims during a series of civil litigations instigated against the Japanese government between the 1990s and 2000s. This paper examines the long-term significance of those court cases in achieving greater recognition for the experience of victims of the comfort women system. I will argue that this significance extends well beyond the nature of the court verdicts, as exemplified by the touring exhibition of 2009-2012, and by subsequent commemorative initiatives.

The issue of reparations for wartime Japanese atrocities was first brought to the attention of a group of visiting Japanese lawyers by a Chinese journalist in 1994. Having been made aware of the issue, on their return to Japan these lawyers set about marshalling the resources needed to bring these cases to court in Japan. To eliminate any financial concerns on the part of former comfort women, the lawyers offered to represent victims *pro bono* and secured support from civil groups, who provided funding and helped publicize the victims’ travel to Japan to testify.<sup>2</sup> With the assistance of Japanese lawyers, scholars, and feminists, surviving Chinese comfort women from Shanxi and Hainan provinces filed four collective lawsuits demanding a formal apology and state reparations. They included: 1) the First Case on Chinese Comfort Women’s Claims for Reparations (*Chūgokujin ‘ianfu’ songai baishō seikyū jiken, daiichiji*; hereafter, the First Case; submitted to the Tokyo District Court in 1995, requests dismissed by the same court in 2001 and by the Tokyo High Court in 2004, appeals rejected by the Supreme Court in 2007); 2) the Second Case on Chinese Comfort Women’s

Claims for Reparations (*Chūgokujin 'ianfu' songai baishō seikyū jiken, dainiji*; hereafter, the Second Case; submitted to the Tokyo District Court in 1996, requests dismissed by the same court in 2002 and by the Tokyo High Court in 2005, appeals rejected by the Supreme Court in 2007); 3) the Case on Claims for Reparations by Victims of Sexual Violence from Shanxi Province (*Sanseishō seibōryoku higaisha songai baishō seikyū jiken*; hereafter, the Shanxi Case; submitted to the Tokyo District Court in 1998, requests and demands dismissed by the same court in 2003 and by the Tokyo High Court in 2005, appeals rejected by the Supreme Court in 2005); and 4) the Case on Claims for Reparations by Victims of Wartime Sexual Violence from Hainan Province (*Hainantō senji seibōryoku higai baishō seikyū jiken*; hereafter, the Hainan Case; submitted to the Tokyo District Court in 2001, requests and demands dismissed by the same court in 2006 and by the Tokyo High Court in 2009, appeals to the Supreme Court rejected in 2010).<sup>3</sup> The call for justice by and for Chinese victims, as manifested in the lawsuits against the Japanese government, is the focus of the present research.

Eschewing the conventional verdict-centered approach to civil trials involving comfort women, this paper adopts a procedural approach. It examines court transcripts, legal briefs, and other evidentiary documents submitted to the court, materials which have so far remained under-researched, if not wholly unexamined by scholars. This paper first reviews the existing literature on reparation trials involving Chinese victims and points out the problems inherent in hitherto prevalent approaches. What follows is an examination into the testimonies delivered before the court, and an analysis of the narratives manifested in the legal briefs produced on behalf of the victims. This paper argues that the victims and their lawyers managed to turn the courtroom into a site for knowledge transmission and legal recognition. The court hearings thus set a kind

of precedent for civil litigations elsewhere involving historical injustices against women. Moreover, the proceedings also carry implications for activists, scholars, and judicial personnel considering how to approach cases involving sexual violence in the courtroom while restoring respect and agency to victims.

Both lawyers and scholars have examined reparation cases involving Chinese former comfort women, but previous studies have tended to highlight either the jurisprudential debates or the historical facts established by the courts. Some of the legal barriers faced by comfort women plaintiffs included, *inter alia*, statutes of limitations, claims of state immunity, and prior settlement of reparation issues in the 1951 San Francisco Peace Treaty and subsequent bilateral treaties. Lawyers on behalf of the victims tried to clear these jurisprudential hurdles by invoking legal norms regarding war crimes and the gross violation of human rights established in international law, but the Japanese Appellate and Supreme Courts ultimately dismissed such demands and ruled in favor of the Japanese state. The court records offer a rich discussion of legal issues, and the verdicts present a well-organized summary of the arguments from the opposing sides. Going beyond legal matters, activist Tsubokawa Hiroko and lawyer Ōmori Noriko sought to counter the revisionist attempts to whitewash Japan's record of wartime sexual violence by disseminating the historical facts established by courts in an easily accessible pamphlet targeting the Japanese public.<sup>4</sup> Ikeda Eriko, too, in a more recent paper, briefly mentions the judicial recognition of sexual violence inflicted on women in Shanxi province, as well as the different forms of sex crimes perpetrated by the Japanese military during the war.<sup>5</sup>

Court rulings do matter, since in many cases they unequivocally pronounce right or wrong and vindicate claims to victimhood; however, an overemphasis on final judgments is

problematic, since legal systems are rife with gender bias.<sup>6</sup> As Deborah Rhode contends, many social institutions, including juridical mechanisms, are fundamentally geared towards male members of society.<sup>7</sup> When courts adhere to the articles on reparations concluded in the San-Francisco Peace Treaty and the bilateral settlements without questioning these treaties' exclusion of women's voices, this in itself speaks volumes about the prevalence of unconscious (or conscious) legal bias against women. In the context of this male-oriented legal environment, we should therefore value women's gains in securing legal acknowledgment of their initial victimization and long-term suffering, even while we also consider the significance of these judicial proceedings beyond their eventual verdicts.

This paper therefore challenges the conventional verdict-centered view of the civil litigations, instead highlighting how Chinese victims and their lawyers presented their cases in the courtroom. It primarily scrutinizes the following two constellations of documents: 1) court records, including court transcripts, legal briefs (*junbi shomen*), and other evidentiary materials submitted to the court by Japanese lawyers on behalf of Chinese plaintiffs; and 2) lawyers' own memoirs, which shed light on the historical background of the trials.

### Testimonies for Knowledge Transmission

Although all four cases put Chinese victims on the witness stand, this section primarily examines the Shanxi Case, due to the availability of court transcripts.<sup>8</sup> One may question to what extent the trial practice of the Shanxi Case represents all four cases of reparation trials initiated by Chinese comfort women victims. While I cannot guarantee that the interaction between the victims and judicial personnel during the remaining three trials followed the same pattern, due to the absence

of relevant court transcripts, it is highly likely that lawyers for these cases collaborated with one another for two reasons: 1) the legal briefs they prepared exhibited many similarities; and 2) some of the same expert witnesses such as Ishida Yoneko and former Japanese soldiers such as Kondo Hajime were called to testify before the court.<sup>9</sup>

Court transcripts show that the lawyers caused victims' voices to be heard, either by calling them to testify before the court or by presenting their testimonies in the form of videotapes or signed statements. Feminist scholars have pointed to the importance of heeding not only the content of testimony but also the silence, reluctance, body language, and other forms of expression manifested in the process of bearing witness.<sup>10</sup> This section focuses on how the suffering endured by victims was represented and articulated before the court through an examination of court transcripts, which provide rich insights into the way in which testimonies were solicited and delivered.

Scholars have pointed out the difficulty of bearing witness to traumatic experiences such as sexual violence. Legal scholar Nicola Henry, in particular, examines the constraints victims often experience in "bearing witness to wartime rape" in the setting of international war crimes tribunals.<sup>11</sup> She argues that trauma and other psychological torment resulting from rape are usually deployed by the defense counsel to attack the credibility of victim testimonies or by the prosecutors to tailor the stories told by victims for prosecutorial purposes. Henry further points out that traumatic syndromes resulting from rape are considered factors militating against their trustworthiness, whereas lack of psychological disorders in the immediate aftermath of the sexual assault itself is deployed to deny the authenticity of the victim status.<sup>12</sup> In this sense, it is often impossible for victims of sexual violence to effectively bear witness in war

crimes trials: they are often reduced to the status either of persons “without [...] agency” or of ill-intentioned liars.<sup>13</sup>

Civil settings create new possibilities, albeit not without challenges. As Nikki Godden-Rasul has pointed out in a different context, civil courts play a crucial role in measuring and comprehending the profound impact of sexual violence upon women.<sup>14</sup> Rather than criminal courts that center upon substantiating crimes and determining an individual defendant’s liability, civil trials place weight on financial and mental harm imposed upon victims and account for the diversity of afflictions resulting from sexual violence.<sup>15</sup> Judith Herman, on the other hand, contends that victims of sexual and domestic violence are generally unsatisfied with either civil or criminal legal proceedings, the adversarial format of which tends to marginalize victims and overlook their pain.<sup>16</sup> Therefore, even in civil settings, the way legal personnel interact with victims generally affects their satisfaction with the judicial process.

The reparation trials involving Chinese comfort women granted victims a chance to develop their own narratives in a public legal forum. As I discuss further below, trauma remains raw and deep-seated social mechanisms that perpetuated violence against women as well as individual women’s agony and hardship found expression in the court proceedings. Kang Jian, a Chinese lawyer who engaged in evidence collection and attended some of the court hearings, recalls that lawyers acting on behalf of the Japanese state usually summarized their jurisprudential opinion in the legal briefs, without really voicing their opinions regarding the reliability and credibility of testimonies delivered by victims before the court.<sup>17</sup> This observation is corroborated by the court transcripts of victim testimonies, where the process of cross-examination is almost entirely absent. Whatever the reason for the defending lawyers’ reluctance to cross-examine the

former Chinese comfort women, their silence in court nevertheless meant that victims’ narratives were not truncated, nor was the truthfulness of their testimonies challenged over inconsistencies and lapses in memory. Nor were aspersions cast upon the victims’ credibility, in part because their lawyers substantiated their oral testimony with corroborating evidence.

In contrast to international war crimes proceedings that focus on defendants and sex crimes *per se*,<sup>18</sup> the reparation trials gave agency to victims and stressed the far-reaching harm brought about by sexual violence. The testimony they offered invariably featured description of both sex crimes and the suffering that these women experienced. After delivering their testimony, the witnesses were requested by their lawyers to state their demands of the Japanese government, and their answers provide insight into their motivation in bearing witness.

My examination of these testimonies draws on performance scholar Elizabeth W. Son’s analysis of the Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery (Women’s Tribunal) and literary scholar Shoshana Felman’s analysis of the legal proceedings of the Eichmann Trial in 1961. Son examines the performance of testimonies and scars at the Women’s Tribunal, a people’s court organized by grassroots activists and convened in Tokyo in 2000, arguing that the Tribunal functioned as “a site of knowledge production and community formation.”<sup>19</sup> Through a detailed account of witnesses’ gestures, Son points to the tension between: 1) legal protocols of oath-taking and victim-survivors’ desire to bear witness in their own ways; 2) the prosecution counsel’s focus on criminal behavior and victim-survivors’ need to circumvent details of violation against their bodies and to exert ownership over their stories; and 3) juridical emphasis on vocal testimony and the impossibility of articulating



trauma—as well as victim-survivors’ body gestures as expressions of pain. Son contends that the proceedings of the Women’s Tribunal ushered in “[a] process-oriented conception of justice.”<sup>20</sup> Borrowing Son’s proceedings-focused analytical framework, in this section I delve into the way judicial personnel interacted with victims as well as victims’ own representations of their suffering.

My analysis of the testimony is also inspired by Felman’s analysis of the Eichmann Trial which she describes as “historiographically conservative, but jurisprudentially revolutionary.”<sup>21</sup> It was “historiographically conservative” in the sense that the trial situated itself within the historical context of discrimination against and persecution of Jews, stopping short of stressing the unprecedented scale of atrocities inflicted upon Jews during the Nazi genocide.<sup>22</sup> On the other hand, Felman also points out that by centering on the victims and their voices, the Eichmann Trial was “jurisprudentially revolutionary,” since it produced a history of the Holocaust based on victims’ testimonies before the court.<sup>23</sup> Although the Eichmann Trial was a criminal tribunal rather than a civil case, the significant common ground between the two proceedings makes the borrowing of Felman’s framework a rational choice here. Firstly, both cases “put history on trial.”<sup>24</sup> The Eichmann Trial not only adjudicated the defendant’s individual liability but also deliberated on the historical oppression of Jews.<sup>25</sup> In the different legal and social context of the Asia-Pacific region, victims and their lawyers in the reparation trials focused on the responsibility of the Japanese government for the systematic enslavement of women; as a result, the court proceedings also heard lawyers’ presentations of the pertinent historical background. Secondly, both proceedings gave victims a voice. Felman’s research highlights that unlike previous criminal proceedings that focused on convicting defendants, the Eichmann trial focused on victims, enabling them to articulate

their agonizing experiences and to form a collective “political and moral identity.”<sup>26</sup> In the same vein, the comfort women trials also foregrounded the testimonies delivered by victims and acknowledged their continued suffering. Owing to these similarities, the following analysis is indebted to Felman’s insights.

Felman points out that unlike the legal verdicts of the Eichmann Trial that “distance” history, the victims’ testimonies brought historical events into the courtroom.<sup>27</sup> Similarly, by calling victims to testify before the court, the court hearings of the comfort women trials also functioned to “transmit”—to borrow Felman’s words again—historical events into the present through the medium of narratives and the presence of witnesses.<sup>28</sup> The following examination of the testimonies is based on this idea of “transmission.”<sup>29</sup> I separate this concept of transmission into two categories: 1) the communication of knowledge through clear, verbal articulation; and 2) the attempted expression of the incomprehensible through unconscious physical exhibition and presence, as well as the less articulate use of language. The first aspect concerns the lawyers’ representation and victims’ (as well as their daughters’) testimonies with regard to the complex pain and intergenerational trauma caused by the comfort women system. The testimony offered by victims on their pre-war plight and wartime victimization was generally quite clear. However, this testimonial clarity stands in contrast to some of the less readily comprehensible aspects of the physical and narrative representations of sex crimes and the demands aimed at the Japanese government, which will be examined from the second perspective.

In the Shanxi Case, the longest victim testimony was delivered by Wan Aihua, who was forced into sexual slavery three separate times between 1942 and 1943. She also endured torture under captivity due to her

political affiliation. In her testimony, responding to Kawaguchi Kazuko, a lawyer for the plaintiffs, Wan narrated her involvement in the CCP-led resistance, her arrest and confinement by the Japanese military, her experience of sexual assault and torture, her escape and survival, and her subsequent ostracization by her family, among other aspects of her life. Wan's narrative was especially detailed, possibly for two reasons. First, she was coerced into sexual enslavement three times. Second, she had prior experience of giving testimony in public. Due to the level of detail of the court record relating to Wan's experience and the commonality manifested in the representation of testimony from other witnesses, the following analysis focuses primarily on Wan's testimony. As the victims gave testimony to their suffering in the form of answers to lawyers' questions, we should be aware that these questions to a certain extent determined which parts of the victims' stories were heard in court and which were omitted.

### **Transmission of Conscious Knowledge: Intersectionality of Pain and intergenerational Trauma**

The questions and answers exhibited in the court transcripts demonstrate the lawyers' attempt to have the "intersectionality" of victims' suffering recognized by the court. Coined by feminist scholar Kimberlé Crenshaw in her analysis of black women's plight, the term intersectionality has been employed to mean that gender discrimination, racial injustice, and class exploitation, among other forms of contextual and structural inequalities, intertwine to cause women's oppression.<sup>30</sup> Although the lawyers did not reference the term directly in their legal briefs, the way they solicited testimonies illustrates their desire to add nuance to judicial understanding of the suffering of comfort women. In the case of Wan Aihua, for example, instead of directly asking

about her victimization from sexual violence, Kawaguchi Kazuko solicited testimony concerning her life prior to the Sino-Japanese War. In her response to these questions, Wan revealed her experience of being sold as a child bride due to abject poverty and being forced into sexual intercourse with her future husband. Later in her testimony, after recalling her first escape from the cave where she was kept in captivity for interrogation and sexual abuse, Wan mentioned that she was no longer welcomed back by the family into which she was sold as a child bride.<sup>31</sup> The narrative that unfolds in Wan's story therefore points to the multivalence of her life-long hardship and sexual abuse. Prior to the War of Resistance, she was sold as an object by her parents. When she was seen as having lost her "chastity" to foreign abusers, she was devalued in terms of the patriarchal norms of Chinese society, and cast aside by her first husband.

Patriarchal culture and Japanese sex crimes, however, were not the only elements put forward as causes of comfort women's victimization. Yin Yulin, another victim of the comfort women system, testified that she had also been abused—though not sexually—by a Chinese collaborator.<sup>32</sup> Through these testimonies, Chinese complicity in the operation of the comfort women system also came to light. In fact, historians such as Ishida Yoneko have made clear in their research based on interviews with comfort women victims in Shanxi Province that the villages, as patriarchal entities, were complicit in sustaining the comfort women system. Ishida and others point out that heads of villages proffered women to Japanese occupiers in response to the latter's demands and selected as comfort women those eking out a living on the margins of society.<sup>33</sup>

In this sense, various factors intersected in subjecting comfort women to military sexual violence and social prejudice. They include: 1) Japanese sex crimes inflicted directly upon

their bodies; 2) patriarchy manifested in the decision of village heads to sacrifice some marginalized women for the preservation of the village as a whole; 3) poverty that shunted some women to the margins of local community; 4) expulsion or ostracism that resulted from the loss of so-called chastity; and 5) local collaboration that further exacerbated women's pain. Albeit in a different context, anthropologist Sarah Soh argues in the same light that imperialism, colonialism, racism, sexism, patriarchy, economic hardship, and the issue of Korean complicity all interacted and overlapped, contributing to these women's plight both prior to their sexual abuse and subsequently.<sup>34</sup> By unveiling the manifold acts of violence and discrimination against Chinese victims, lawyers sought not only to add weight to the portrayal of the hostile environment engendered by Japan's occupation and the harm incurred due to military sexual violence in patriarchal societies, but also to facilitate a comprehensive juridical understanding of victims' physical and psychological pain.

This multivalent victimization was not frozen in the timeframe of the war, but continued to haunt victims and their family members, as much of the testimony emphasized. In addition to former comfort women themselves, the lawyers also called on daughters or foster-daughters of victims, expert witnesses, and male villagers who had experienced Japan's occupation first-hand to testify to the sex crimes and their long-term impact. Daughters were typically called to give testimony on behalf of their deceased mothers; Zhang Fenxiang, a daughter of former comfort woman Hou Qiaolian, was called to bear witness to her mother's post-traumatic stress disorder (PTSD) resulting from the latter's sexual enslavement. She related the sudden flashbacks her mother experienced while watching movies featuring war and her other daily difficulties resulting from PTSD. It is noteworthy that Zhang also described scenes in which her mother beat her up for no reason and regretted her violent

behavior after regaining her composure. Engulfed by this threat of violence during childhood, Zhang herself had developed various psychological conditions as a result and relied on sedative drugs and painkillers for headaches.<sup>35</sup>

Zhang's story showcases the intergenerational suffering brought about by the comfort women system. The trauma became "contagious" as it was transmitted to immediate family members, exposing them to violence from the traumatized original victims.<sup>36</sup> Zhang's testimony highlighted the phenomenon of PTSD and its profound impact on former comfort women's immediate family members. In this sense, for comfort women victims and their families, as Kathleen Daly has pointed out in a different context, "victimization is a process."<sup>37</sup> It does not wane with the passage of time; rather, it ruthlessly defies both victims' humanity and their familial bonds over time. At the end of Zhang's testimony, she also claimed that although her mother had died, she was determined to carry on the struggle for justice on her behalf. The children of some victims thus "inherit" the justice-seeking enterprise from their mothers.<sup>38</sup> The episode suggested to the court that intergenerational suffering had transformed into intergenerational determination for the pursuit of justice.<sup>39</sup>

These testimonies on the intersectionality of pain and intergenerational suffering therefore broadened the meaning of the courtroom by turning it into a space where witnesses and lawyers collaborated to explain the extent of the suffering experienced and seek recognition for the victims. But in addition to such efforts to articulate and explain pain, the court also witnessed the presentation of somewhat muddled narratives, some of which at times contradicted the logic of the law.

## Transmission of the Unconscious and

## Incomprehensible: Verbal Articulation, Physical Exhibition, and Presence

Aside from descriptions of multilayered violence, the representation of sex crimes also deserves attention. It demonstrated to the court not only the difficulties of narrating the details of sexual violence but also the importance of respecting victims' own representation of the crimes. When asking questions related to sex crimes, instead of using explicit words such as rape or sexual slavery, Kawaguchi employed the phrase "victimization of women (*josei toshite no higai*)."<sup>40</sup> Not shying away from direct articulation of rape, Wan responded that she was abused and raped by Japanese soldiers when under captivity. Regardless of Wan's use of the term "rape," she never explained in detail how exactly she was sexually abused, in stark contrast to her detailed answers describing other forms of torture inflicted upon her by the Japanese soldiers. Kawaguchi did not ask follow up questions on Wan's sexual abuse, unlike prosecutors in criminal trials who tend to insist on soliciting a description of vaginal penetration.<sup>41</sup>

This episode clearly reflects the lawyer's understanding of many women's desire to circumvent detailed description of sex crimes and even the term rape itself. Other lawyers on behalf of plaintiffs did directly employ the word rape, but none of them pushed victims for detailed descriptions of the violation of their sexual and physical integrity. Wan also had reason to describe her torture in great detail, since she attributed her smaller stature to the bone fractures that resulted from torture. Whatever the exact reasons for the lawyers' word choices or for the victims' attempts to circumvent details of rape, the fact that the lawyers refrained from pressing for graphic descriptions of forcible penetration restored to comfort women victims a sense of control and authority over their own narratives.

Besides verbal expressions, Wan also used her body to communicate particular points. She sought to express pain and trauma through her physical gestures. The gestures she made to illustrate how she was abused were clarified by her lawyer's questions, for example, "Does this posture mean that you were suspended from the tree, rather than tied to it?" This physical gesturing demonstrated Wan's fervent desire to convey exactly how she was tortured. She tried to bring attention back to her body in her final remarks to the court when talking about Japanese atrocities in China, saying, "please take a look at my body. I do not have pubic hair [as a result of Japanese sexual torture and interrogation], and I am already dispossessed of a female body."<sup>42</sup> For Wan, it seemed, certain body features, such as pubic hair, were closely associated with the essence of feminine physical attributes, the loss and deformation of which deprived her of the very sense of being a woman.

Furthermore, the directing of attention to her body exemplified Wan's wish to emphasize the life-long consequences of the physical violence she suffered. By reenacting the scene of torture and by calling attention to her own injured body, Wan used her altered physical frame as evidence of the violence inflicted upon her and enabled the audience to experience her physical pain vicariously. Although direction of audience attention to violated bodies is not evident in the court transcripts of other victims in the Shanxi Case, the physical presence of the victims speaks to the court of the pain inflicted and the long-term consequence of the sex crimes.<sup>43</sup> This exhibition constitutes what Felman calls the "physical legal dimension" of the court, in which the injured bodies before the court carried "jurisprudential speaking power."<sup>44</sup> In this sense, the comfort women system "returned as a ghost or as an incarnated, living present" in the very bodies of the victims.<sup>45</sup> In a different but relevant context, Elizabeth Son examines victims' physical representation of their suffering



before the Women's Tribunal, arguing that oral testimony alone falls short of comprehensively representing the "physical imprint of the trauma on her body."<sup>46</sup> Borrowing Son's words and insights on the analysis of the victims and their physical presentation of wounds before the Women's Tribunal, I contend that by displaying the way she was tortured together with her shortened body stature, Wan, as well as other comfort women victims, also "assigned her body new meanings and repositioned herself as a survivor" during the reparation lawsuits.<sup>47</sup> In this sense, they transmitted their experience of pain to the court through their physical exhibition and presence.

Wan's burning desire to represent herself was also manifested in a number of verbal outbursts. On several occasions, she disrupted court proceedings and demanded an apology and fair judgment. The first such interjection came in response to Kawaguchi who inquired how Wan fled the comfort station for the second time and whether either of her families came to her rescue. She answered that she somehow escaped by herself; unlike other victims, she had no one to rely on. Then, in the following sentences, she suddenly turned to address the judges directly:

I want to reveal the sufferings inflicted upon me. I also wish to obtain an [official] acknowledgment of the crimes committed by the Japanese military. I sincerely hope that the court helps us, not just me but also other grandmothers who endured these crimes. My whole family would sincerely appreciate a ruling in our favor.<sup>48</sup>

Wan's words demonstrate her desire for the court to uphold justice both for herself and for other victims. Kawaguchi waited until Wan finished and then brought the conversation back to her inquiry into the circumstances

surrounding Wan's return to her village.

In answer to Kawaguchi's question regarding the murder of the village head at the hands of the Japanese military, Wan commented that it was beyond her comprehension that Japanese soldiers perpetrated wanton killing and torture in China. Once again, she went beyond the line of questioning:

I no longer have a human shape; therefore, I am not filing this lawsuit for myself, but for many other victims: victims of rape, deceased victims... I wanted to settle these old scores (*urami o harashitai*). Although more than five decades have passed since the incidents, I have been living with anger and resentment since then. I feel lucky that I have this chance to meet with [you] good judges. I could not be happier if these scores were to be settled. I would be really grateful if these old debts could be paid.<sup>49</sup>

We see Wan reiterate her desire to gain justice for all victims of war crimes. Also notable in this short plea is Wan's repeated use of the phrase "settling old scores (*urami o harasu*)," which demonstrates the extent to which she was burdened with the unresolved feelings of exasperation and injustice.

After Wan's speech, Kawaguchi directed her back to the testimony of the sex crimes and asked Wan about her physical condition after the withdrawal of the Japanese military. Wan first responded to Kawaguchi about her poor health and then for a third time, she made a direct request to the court. She restated her desire for justice and for a settling of old scores. In the ensuing exchange, in an attempt to present to the court the difficulty in bearing witness, Kawaguchi asked Wan about her previous experience of delivering testimony.

Instead of answering this question, however, Wan, for a *fourth* time, disrupted the legal proceedings, remarking that although some of her memory might be fuzzy, she was telling the truth out of her sense of conscience. She continued, saying she trusted that the judges would uphold justice and called for a just court ruling. In her final remarks, once again, she expressed her wish to “settle old scores” and highlighted her need and that of other victims for recognition, apology, and justice. She also stressed that there would have been no place for her to speak about her suffering or to initiate litigations, if she had not been able to meet with Japanese judges.<sup>50</sup>

The verbal reiterations and disruptions cogently transmitted to the court the victim’s motivation to bear witness through linguistic repetitions. Wan’s repeated statement that she was testifying not only for herself but also on behalf of other victims displays her sense of moral obligation to others. As some scholars have pointed out in a different context, “fulfilling a moral duty”—to reveal atrocities, to curb their recurrence, and to pay homage to the wronged—is an important factor in motivating people to bear witness to mass atrocities.<sup>51</sup> Wan’s motivation to perform this moral obligation can be corroborated by Kawaguchi’s statement tendered to the court. Kawaguchi mentioned that during a rehearsal session in preparation for the court hearing, Wan lost her temper, asking, “how many times do you have to ask the same question? Is it not true that I have already answered that question?”<sup>52</sup> Kawaguchi speculates that Wan considered herself as a representative of comfort women victims and regarded bearing testimony as her “duty (Jpn. *shimei*; Chn. *renwu*);” otherwise, she might have avoided speaking about these experiences.<sup>53</sup> On the other hand, Stepakoff *et al.* hold that people articulate traumatic experiences to obtain recognition of the crimes committed against them and the long-term pain they experience in order to ameliorate their psychological

suffering.<sup>54</sup>

Indeed, regardless of individual differences in the details of victimization and family background, many victims expressed similar desires. They mentioned their wishes to convey their suffering to the Japanese government, settle old scores, obtain official acknowledgment, secure an apology and reparations, have their reputations restored, and resolve the comfort women issue before their deaths.<sup>55</sup> In the case of Wan, apart from her strong sense of responsibility, her repeated use of the term “settling old scores” indicates her pent-up indignation towards individual perpetrators and the Japanese government. During the court proceedings, although Kawaguchi always directed the testimony back to her questions, neither the lawyers nor judges disrupted Wan’s narrative or dismissed it as irrelevant. In this sense, the lawyers turned the courtroom into a relatively safe space, where victims transmitted their knowledge and experience to the court while attempting to exert control over their stories.

Through the process of delivering testimony, lawyers and victims together transcended the meaning of the courtroom and carved out a space in which victims (and at times their close family members) could attempt to explain to the court the intersectionality of suffering and intergenerational pain brought about by the comfort women system. As a group of victims who are usually denied their voices in history and their agency in memory, what they demanded first and foremost was recognition. This was also demonstrated in the legal briefs the lawyers submitted to the court on behalf of victims.

## Legal Briefs for Recognition

Since many legal briefs submitted during the court proceedings focus on jurisprudential issues such as statutes of limitations and state

immunity, this section primarily examines the final legal briefs (*saishū junbi shomen*) tendered to the court at the last phase of each case, except for the First Case, the court records of which are unavailable. Albeit different from one another in the actual layout, these final legal briefs were usually composed of the following sections: 1) the historical background of Japan's war with China as well as the comfort women system based on academic works; 2) victims' wartime and postwar suffering collected from testimonies and supplemented by scholarly papers; and 3) jurisprudential debates. The bulk of most final legal briefs was devoted to legal claims, but much ink is also spilled on historical background and women's physical and psychological suffering.

### ***Efforts for Legal Recognition***

From the Second Case onwards, all the comfort women reparation trials involving Chinese victims stressed the importance of courts' recognition of both historical facts and victims' suffering. This specific emphasis resonates with lawyer Ōmori Noriko's comment in her memoir on the court ruling on the First Case. Although realizing how difficult it would be to win the case, the lawyers endeavored to at least have the court vindicate the testimony of the comfort women victims.<sup>56</sup> To their disappointment, however, the Tokyo District Court not only adjudicated in favor of the Japanese government but also failed to acknowledge the sexual violence inflicted upon victims.<sup>57</sup> Probably in an attempt to prevent a repetition of what they considered legal negligence, in their final legal brief for the Second Case, lawyers vehemently denounced the "abnormality (*ijōsei*)" of the judgment rendered by the Tokyo District Court in the First Case.<sup>58</sup> They pointed out that the court's failure to acknowledge the victims' pain and its relationship with Japan's war of aggression revealed its "stance of sheer collaboration (*zenmen teki na kyōryoku shisei*)" with the

Japanese government, whose legal representatives always skirted historical points raised by the claimants, instead focusing entirely on jurisprudential issues.<sup>59</sup> The lawyers for the victims therefore strongly urged the court to act in its own right, rather than out of political considerations.<sup>60</sup> They also requested that the court contextualize the sex crimes perpetrated under the auspices of the comfort women system.<sup>61</sup> Only by situating the sexual violence imposed upon victims in the larger social context of the war, they explained, would it be possible to comprehensively fathom the affected women's pain.<sup>62</sup>

However, recognizing the historical facts surrounding the war and comfort women system itself was still insufficient, the lawyers argued, since the judges also needed to acknowledge victims' suffering. In particular, the lawyers for the victims in the Hainan Case viewed acknowledgment of the facts surrounding their clients' victimhood as the fundamental responsibility of the judges and called on them to "face up to the facts (*jijitsu o chokushi-suru*)" based on the evidence submitted in court.<sup>63</sup> They further argued that one of the most important reasons why victims decided to initiate lawsuits was their desire for the court to validate their claims to victimhood.<sup>64</sup>

How did the lawyers strive to achieve this goal of legal recognition? To begin with, they attempted to arouse the empathy of the judges by appealing to their humanity and by connecting the wartime sexual slavery system to contemporary sex crimes. During the Hainan Case, the lawyers associated legal recognition of historical facts and suffering pertaining to the comfort women system with the judges' "sensitivity as human beings (*hito toshite no kansei*)."<sup>65</sup> Moreover, they sought to place the comfort women issue in the context of international and domestic violations of women's human rights. For example, the lawyers for the Second Case pointed out that

contemporary armed conflicts such as those in Rwanda and Yugoslavia also witnessed large-scale sexual violence against women. To eradicate sex crimes as such, they claimed, it was indispensable for the aggressors to offer official apologies and reparations, and to punish perpetrators.<sup>66</sup> Turning attention closer to home, the lawyers in this same legal brief reminded the court of the rape incident that occurred in Okinawa in 1995 in which a twelve-year-old schoolgirl was raped by three U.S. soldiers, and the fury this sparked among the Japanese populace.<sup>67</sup> To stimulate the judges' empathy, the lawyers asked them to imagine how they might feel should such sexual violence be perpetrated against "our own daughters (*wareware no musume*)."<sup>68</sup>

The lawyers' intention to induce empathy in the judges is evident from the account in lawyer Ōmori Noriko's memoir. Ōmori reveals that the lawyers deemed it their duty to "soften the heart (*kokoro o yawarakakushi*)" of the judges and to stimulate their imaginations.<sup>69</sup> In fact, this also explains why the lawyers went to such great lengths to bring Chinese comfort women victims to Japan to bear witness.<sup>70</sup> With written documents alone, they assumed, it might be difficult for judges to understand properly the agony that victims endured, since the plaintiffs were non-Japanese and the crimes took place decades ago.<sup>71</sup> Both the testimonies and the legal briefs were thus designed to arouse empathetic feelings among the judicial personnel (as well as all those present at the court), to gain legal recognition of what the comfort women victims endured.

### Importance of Recognition

Why did recognition matter, particularly for Chinese comfort women? Chinese victims had been excised from historical accounts and collective memory for too long, and it was thus necessary to carve out a space for recognition by producing an authentic record of both women's direct suffering under the comfort

women system and their hardship over the following decades. The "heroic narratives" formed in the aftermath of the war feature grandiose and mythic stories of suffering, sacrifice, and resistance, leaving no space for alternative wartime experiences.<sup>72</sup> Meanwhile, given the limits on articulation imposed by the post-war social and cultural milieu—what historian Carol Gluck calls the "effability factor"—many victim-survivors of sexual violence chose to remain silent about the crimes inflicted upon them.<sup>73</sup> In fact, as Ishida has pointed out, regardless of the dearth of records on the experiences of victims of sex crimes as a whole, those who were raped to death or rape-murdered fared slightly better in the official historical documents than victim-survivors.<sup>74</sup> The former very occasionally figure in the local chronicle in name whereas the latter almost always appear in abstract, vague numbers, such as "countless."<sup>75</sup> Historian Louise Edwards argues that the discrimination against victim-survivors of sexual violence has some bearing on the *lienü*, or "chaste female martyrs" phenomenon, under which women were expected to prioritize chastity over everything else, including their lives.<sup>76</sup> In her study of anti-Japanese propaganda cartoons produced during wartime China, Edwards points out that the fate that befell rape victims in wartime propaganda was almost always death, with the reproductive system portrayed as damaged and genitals depicted as penetrated by weapons after rape, so that the values of so-called chastity could be upheld and the apprehension of pregnancy resulting from rape could be erased.<sup>77</sup>

Victim-survivors of sexual violence, in this sense, were considered not only to be tarnished women due to their loss of chastity but also to bring shame to their families and villages, embodying men's failure to guarantee the safety of "their" women.<sup>78</sup> Therefore, the comfort women victims, who survived the ordeal in Japanese military comfort stations, became the target of censure, due to both their



forced sexual intercourse with Japanese soldiers and their survival. This also in part explains the reason why the comfort women system was largely disregarded in the postwar Class B/C war crimes trials carried out by Nationalist and Communist Chinese, among other authorities.<sup>79</sup> As a disgrace to their villages, their suffering was erased from local history, not to mention national historical narratives. Together with a place in history, they were denied agency in memory as well.

Although the history of Chinese comfort women has entered into the memory of the Chinese populace, it has been entangled with nationalistic rhetoric. Historian Song Shaopeng, for example, argues that the media has framed the comfort women issue within a nationalistic framework.<sup>80</sup> She notes that in the early 1990s, when the comfort women issue first surfaced, it was represented as a diplomatic dispute between Japan and its neighboring countries, South Korea in particular; as a result, the lawsuits instigated by the Chinese victims during this period did not attract much media attention. Later, with the transformation of the political landscape in East Asia, the issue came to be portrayed as a symbol of national suffering, and the Hainan Case later in the 2000s received limited coverage in the media.<sup>81</sup> She further maintains that rather than dissecting the multivalent violence inflicted upon the victims, the Chinese media has continued to appropriate their stories for the purpose of adding more weight to the collective suffering of the Chinese at the hands of the Japanese during the War of Resistance.<sup>82</sup> Resonating with Song's argument, Edward Vickers maintains that the representation of comfort women in official Chinese narratives dichotomizes Japanese perpetrators and Chinese victims, without attention to Chinese complicity in women's suffering or the larger social context of sex trafficking.<sup>83</sup>

Although the comfort women lost their

lawsuits, nevertheless, together with their lawyers, they carved out an official, legal discursive space for a comprehensive representation of their suffering.<sup>84</sup> The court verdicts on all cases involving Chinese comfort women, except for the First Case at the Tokyo District Court, recognized as facts the sex crimes and torture inflicted upon victims, as well as their subsequent life-long physical and psychological suffering (including PTSD). Although the courts ultimately denied victims' requests for an apology and reparations, this recognition itself held considerable significance. In a different context, Clare McGlynn and Nicole Westmarland point out that victim-survivors of sexual violence consider "recognition as justice."<sup>85</sup> In the case of comfort women, for those who fell victim to Japanese sexual violence and social ostracization, among other forms of multilayered violence, recognition of Japanese military sexual slavery and vindication of their claims to victimhood matter tremendously. Official acknowledgment sends out a message to victim-survivors and society as a whole that rather than shameful women to be disdained, comfort women are wronged victims who deserve respect and recognition at the very least. From a broader social perspective, as Judith Butler has argued, recognition is indispensable for all individual human beings.<sup>86</sup> She further maintains that the act of granting and seeking recognition transforms who people are, since the interaction involved in this process places them in a living relationship with one another.<sup>87</sup> The lawsuits instigated by comfort women with the help of Japanese lawyers, while failing to secure the desired verdicts due to legal technicalities (i.e. international treaties and statutes of limitations), nonetheless succeeded in so far as they secured legal recognition positioning the state as wrongdoer in relation to victims.

Beyond the courtroom, the knowledge of victims' suffering also transmitted to a larger audience. The touring exhibitions mentioned at

the outset of this paper reached approximately 180,000 visitors in total.<sup>88</sup> While it is impossible to gauge the overall impact of the exhibits on attendees, the research conducted by Chinese scholar Qu Yajun provides a glimpse into the public response in Shaanxi province.<sup>89</sup> Focusing specifically on the messages left at the exhibition site of Shaanxi Normal University, Qu points out that the responses—mostly from students—featured three themes: 1) the importance of peace, as women almost always fall victim to wartime sexual violence; 2) a profound understanding of victims' suffering, as a result of both wartime sexual enslavement and postwar social prejudice and ostracization; and 3) self-reflexivity on the rise of Chinese nationalism, upon realizing Japanese activists' and scholars' unflagging commitment to the resolution of the comfort women issue.<sup>90</sup> Turning attention to Japan, Chinese victims' testimonies and pursuit of justice in the reparation litigations also in part formed a special exhibition temporarily housed at the Women's Active Museum on War and Peace (WAM) in Tokyo between 2008 and 2009. In this sense, the transmission of knowledge regarding victims' suffering and their yearning for justice transcends the physical space of the courtroom, reaching a wider audience and exerting a long-lasting influence on the commemoration of comfort women.

## Conclusion

Through a close reading of the court records, including the court transcripts and legal briefs, both of which have been understudied thus far, this paper shows how the comfort women victims and their lawyers broadened the meaning of the reparation trials by turning the courtroom into a space for transmitting knowledge and gaining recognition. Although their efforts were frustrated in the sense that the Japanese courts never ruled in favor of the Chinese plaintiffs, the trials nevertheless bore

witness to the victims' pursuit of justice. The court transcripts demonstrate that the victims obtained the opportunity to transmit their experience to the judicial personnel and all those in the courtroom, through their formal testimony as well as through physical display, without being interrupted or denied by defense lawyers or by other judicial personnel. Moreover, though aware of the difficulties involved in winning the cases, the lawyers spared no effort in seeking the courts' recognition of the brutality of the comfort women system and the women's victimhood.<sup>91</sup> This paper therefore also demonstrates that for a better understanding of civil trials involving sexual violence and historical injustice, it is essential to go beyond an examination of final verdicts. The proceedings of the reparation trials also carry implications for other civil litigations elsewhere adjudicating sexual violence, in a world fraught with sexual and gender-based historical injustice and ongoing sexual violence in armed conflict.

These trials were nonetheless far from unproblematic. In her research on human responses to large-scale atrocities, Martha Minow surveys a range of trials, truth commissions, reparations, and apologies, and argues that none of these are sufficient to cure the wounds and to mend the wrongs suffered.<sup>92</sup> This argument rings true for these reparation trials, which only witnessed the representation of a limited number of victims with similar experiences. In fact, victims featured in all four lawsuits came from just two major provinces—Shanxi and Hainan—and were selected by lawyers on the grounds that their narratives were independently verifiable.<sup>93</sup> Those (far more numerous) who had endured in isolation or silence had no opportunity to enjoy their day in court. This selectivity has some relevance to the legal structure of the trials, since unverifiable claims do not constitute admissible evidence. As lawyer Barbara Freg has pointed out in an interview with James Dawes, trials are ultimately designed "for a

certain type of justice for certain selected victims.”<sup>94</sup> Therefore, to uphold justice for all comfort women victims, it is also vital to direct attention to those whose stories are excluded from the lawsuits. Regardless, the reparation trials still carry tremendous significance for the victims and their families, for future litigations,

and as a form of public history—as demonstrated by the use made of the testimony in subsequent public exhibitions. They exemplify a defiance of persistent taboos surrounding the verbal articulation and physical representation of sexual violence that hold lessons for future responses to such atrocities.

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## Notes

<sup>1</sup> Edward Vickers, “Commemorating ‘Comfort Women’ beyond Korea: The Chinese Case,” in *Remembering World War Two Across Asia*, ed. Mark Frost, Daniel Schumacher, and Edward Vickers (London: Routledge, 2019), 174-207. As a euphemism, the phrase “comfort women” should be enclosed in quotation marks, but for the sake of convenience, they will be omitted hereafter.

<sup>2</sup> Chūgokujin sensō higai baishō seikyū jiken bengodan, ed., *Sajō no shōheki: Chūgokujin*

*senjo baishō saiban 10-nen no kiseki* (Tokyo: Nihon Hyōronsha, 2005), 280.

<sup>3</sup> See WAM, Aruhi, *Nihongun ga yatte kita: Chūgoku senjō de no gōkan to ianjo* (Tokyo: Women's Active Museum on War and Peace, 2008 [2015]), 48.

<sup>4</sup> Tsubokawa Hiroko and Ōmori Noriko, *Shihō ga nintei shita Nihongun "ianfu": Higai, kagai jijitsu ha kesenai!* (Tokyo: Kamogawa Booklet, 2011).

<sup>5</sup> Ikeda Eriko, "Coercion, Sexual Violence, and Rape Centers in Yu County, Shanxi Province," in *Denying the Comfort Women: The Japanese State's Assault on Historical Truth*, ed. Nishino Rumiko, Kim Puja, and Onozawa Akane (London & New York: Routledge, 2018), 64-69.

<sup>6</sup> Ann J. Cahill, *Rethinking Rape* (Ithaca & London: Cornell University Press, 2001), 33-34.

<sup>7</sup> Deborah L. Rhode, *Justice and Gender: Sex Discrimination and the Law* (Cambridge, Massachusetts & London, England: Harvard University Press, 1989), 252-53. For a detailed discussion on the gendered nature of legal institutions, see Cahill, *Rethinking Rape*.

<sup>8</sup> I turned to the Women's Active Museum on War and Peace (WAM) for archival research, which only holds the court transcripts of the Shanxi Case and legal briefs of the Second, Shanxi, and Hainan Cases, in part due to the lawyers' reluctance to share certain records with the WAM and the larger public for the sake of their clients' privacy.

<sup>9</sup> Ōmori Noriko, *Rekishī no jijitsu to mukiatte: Chūgokujin "ianfu" higaisha tomoni* (Tokyo: Shinnihon Shuppansha, 2008), 38, 99-101, 115.

<sup>10</sup> See, for example, Maki Kimura, *Unfolding the "Comfort Women" Debates: Modernity, Voices, Women's Voices* (London & New York: Palgrave MacMillan, 2016), 156-61. Another significant factor is that the testimonies were given before the court through the medium of interpreters, who facilitated communication between victims who spoke in the Shanxi dialect of Chinese and the lawyers who spoke in Japanese. While I acknowledge the importance of delving into non-verbal aspects of testimonies and the possibility of certain linguistic elements being omitted in the process of translation, the unavailability of audiovisual records of court proceedings renders it impossible to conduct research on that front.

<sup>11</sup> Nicola Henry, "The Impossibility of Bearing Witness: Wartime Rape and the Promise of Justice," *Violence Against Women* 16, no. 10 (2010): 1098.

<sup>12</sup> *Ibid.*, 1098-1119.

<sup>13</sup> *Ibid.*, 1111. Indeed, testimonies can be extremely touching and empowering, as exhibited in literature and mass media. However, without an effective mechanism ensuring victims' ownership over their own narratives, testimonies tend to be truncated for prosecutorial purposes in court. After all, both sides—defense lawyers and state prosecutors—try to win the cases and tend to employ testimonies as primary sources to bear out their arguments and build their cases.

<sup>14</sup> Nikki Godden-Rasul, "Retribution, Redress and the Harms of Rape," in *Rape Justice: Beyond the Criminal Law*, ed. Anastasia Powell, Nicola Henry, Asher Flynn (London and New York: Palgrave MacMillan, 2015), 112-26.

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

<sup>16</sup> Judith Lewis Herman, "Justice from the Victim's Perspective," *Violence Against Women* 11, no. 5 (2005): 581-84.

<sup>17</sup> Kang Jian, *Suopei: Qinli Zhongguo "weianfu" ji bei qianglu furi laogong susong* (Beijing: Beijing ribao chubanshe, 2015).

<sup>18</sup> Henry, "The Impossibility of Bearing Witness."; Martha Minow, *Between Vengeance and*



*Forgiveness: Facing History after Genocide and Mass Violence* (Boston: Beacon Press, 1998).

<sup>19</sup> Elizabeth W. Son, *Embodied Reckonings: "Comfort Women," Performance, and Transpacific Redress* (Ann Arbor: University of Michigan Press, 2018), 101.

<sup>20</sup> *Ibid.*, 70.

<sup>21</sup> Shoshana Felman, "Theaters of Justice: Arendt in Jerusalem, the Eichmann Trial, and the Redefinition of Legal Meaning in the Wake of the Holocaust," *Theoretical Inquires in Law* 1, no. 2 (2000): 28.

<sup>22</sup> *Ibid.*, 1-43.

<sup>23</sup> *Ibid.*, 1-43.

<sup>24</sup> Shoshana Felman, *The Juridical Unconscious: Trials and Traumas in the Twentieth Century* (Cambridge, Massachusetts & London, England: Harvard University Press, 2002).

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*, 38.

<sup>27</sup> *Ibid.*, 153.

<sup>28</sup> *Ibid.*, 133.

<sup>29</sup> *Ibid.*, 133.

<sup>30</sup> See Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color," *Stanford Law Review* 43, no. 6 (1991): 1241-1299.

<sup>31</sup> Sokkiroku (Court Transcript, Wan Aihua; hereafter, Court Transcript of Wan), November 30, 2000, 1-13.

<sup>32</sup> Court Transcript of Yin Yulin, February 21, 2001, 4-5.

<sup>33</sup> Ishida Yoneko and Uchida Tomoyuki, ed., *Kōdo no mura no seibōryoku: Dainyan tachi no sensō wa owaranai* (Tokyo: Sōdoshā, 2004), 163.

<sup>34</sup> Sarah Soh, *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan* (Chicago: University of Chicago Press, 2009).

<sup>35</sup> Court Transcript of Zhang Fenxiang, June 2, 2004.

<sup>36</sup> Psychiatrist Judith Herman points out that "[t]rauma is contagious." Concepts such as "traumatic countertransference" and "vicarious traumatization" refer to the phenomenon of psychiatrists experiencing traumatic syndromes as a result of exposure to the traumatic narratives of their patients. The word "contagious" here is employed to explain the profound influence of trauma exerted on both comfort women victims and their close family members. For further explanation on traumatic countertransference, see Judith Herman, *Trauma and Recovery: The Aftermath of Violence—From Domestic Abuse to Political Terror* (New York: Basic Books, 1992), 140-47.

<sup>37</sup> Kathleen Daly, "Reconceptualizing Sexual Victimization and Justice," in *Justice for Victims: Perspectives on Rights, Transition and Reconciliation*, ed. Inge Vanfraechem, Antony Pemberton, and Felix Mukwiza Ndahinda (London & New York: Routledge, 2014), 378.

<sup>38</sup> See Gerry Johnstone and Joel Quirk, "Repairing Historical Wrongs," *Social & Legal Studies* 2, no. 2 (2012): 158.

<sup>39</sup> The author is inspired by Elizabeth Son's study of the Wednesday Demonstrations before the Japanese Embassy in Seoul. She argues that younger generations, children in particular, embody the "futurity" of the demonstrations, in defiance to the Japanese government's indifference to the comfort women issue. She further points out that their participation to a certain degree guarantees the continuation of the demands for redress and awareness-raising

in the future as well. Son, *Embodied Reckonings*, 27-64.

<sup>40</sup> Court Transcript of Wan, 8, 9, 12, 15, 17, 21. Very occasionally, she also used “sexual violence (*seibōryoku*)” though, see Court Transcript of Wan, 10.

<sup>41</sup> Henry, “The Impossibility of Bearing Witness,” 1106.

<sup>42</sup> Court Transcript of Wan, 37.

<sup>43</sup> The author is inspired by Son’s discussion of the Korean victim Park Yong-shim’s physical presence before the Women’s Tribunal, see Son, *Embodied Reckonings*, 93-94.

<sup>44</sup> Felman, *The Juridical Unconscious*, 163, 166.

<sup>45</sup> *Ibid.*, 153.

<sup>46</sup> Son, *Embodied Reckonings*, 92.

<sup>47</sup> *Ibid.*

<sup>48</sup> Court Transcript of Wan, 19. Wan later adopted a daughter; by “family,” she was probably referring to the bond she formed with her foster daughter.

<sup>49</sup> Court Transcript of Wan, 23.

<sup>50</sup> *Ibid.*, 36.

<sup>51</sup> Shanee G. Stepakoff *et al.*, “Why Testify? Witnesses’ Motivations for Giving Evidence in a War Crimes Tribunal in Sierra Leone,” *The International Journal of Transitional Justice* 8 (2014): 431-32.

<sup>52</sup> Kawaguchi Kazuko, Chinjutsusho, October 28, 2004, 6.

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

<sup>54</sup> Stepakoff *et al.*, “Why Testify?,” 433-34.

<sup>55</sup> Court Transcript of Yin Yulin, February 21, 2001; Court Transcript of Zhang Xiantu, February 21, 2001; Court Transcript of Wang Gaihe, February 21, 2001; Court Transcript of Gao Yin’e, May 17, 2001; Court Transcript of Zhao Runmei, September 6, 2001.

<sup>56</sup> Ōmori, *Rekishī no jijitsu to mukiatte*, 95-96.

<sup>57</sup> *Ibid.*, 96-97.

<sup>58</sup> Genkoku saishū junbi shomen (the Second Case), November 2, 2001, 18-19.

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*, 24-27.

<sup>62</sup> *Ibid.*, 28.

<sup>63</sup> Genkokura saishū junbi shomen (the Hainan Case), March 22, 2006, 4.

<sup>64</sup> *Ibid.*, 23.

<sup>65</sup> Genkokura saishū junbi shomen (the Hainan Case), March 22, 2006, 4-7.

<sup>66</sup> Genkoku saishū junbi shomen (the Second Case), November 2, 2001, 7.

<sup>67</sup> *Ibid.*, 69.

<sup>68</sup> *Ibid.*

<sup>69</sup> Ōmori, *Rekishī no jijitsu to mukiatte*, 142.

<sup>70</sup> *Ibid.*, 49.

<sup>71</sup> Ōmori, *Rekishī no jijitsu to mukiatte*.

<sup>72</sup> Carol Gluck, “Operations of Memory: ‘Comfort Women’ and the World,” in *Ruptured Memories: War, Memory, and the Post-Cold War in Asia*, ed. Sheila Miyoshi Jager and Rana Mitter (Cambridge, Massachusetts: Harvard University Press, 2007), 49-50.

<sup>73</sup> *Ibid.*, 51.

<sup>74</sup> Ishida Yoneko, "Nihongun seibōryoku ni kansuru kioku, kiroku, kijutsu: Sanseishō ni okeru senjō seibōryoku no chōsa kara," in *Kōdo no mura no seibōryoku: Dainyan tachi no sensō wa owaranai*, ed. Ishida Yoenko and Uchida Tomoyuki (Tokyo: Sōdosha, 2004), 228-31.

<sup>75</sup> Ibid., 230-31; Song Shaopeng, "Meitizhong de 'weianfu' huayu: Fuhaohua de 'weianfu' he 'weianfu' xushizhong de jiyi/wangque jizhi," *Kaifang shidai* (2016): 148.

<sup>76</sup> Louise Edwards, "Women Sex-Spies: Chastity, National Dignity, Legitimate Government and Ding Ling's 'When I Was in Xia Village'," *The China Quarterly* 212 (2012): 1059-78.

<sup>77</sup> Louise Edwards, "Drawing Sexual Violence in Wartime China: Ant-Japanese Propaganda Cartoons," *The Journal of Asian Studies* 72, no. 3 (2013): 562-586.

<sup>78</sup> Ishida, "Nihongun seibōryoku ni kansuru kioku, kiroku, kijutsu," 229; Song, "Meitizhong de 'weianfu' huayu," 149.

<sup>79</sup> For a discussion of the judicial treatment of wartime Japanese sex crimes, see Xiaoyang Hao, "What Is Criminal and What Is Not: Prosecuting Wartime Japanese Sex Crimes in the People's Republic of China," *The China Quarterly* 242 (February 2020): 529-49.

<sup>80</sup> Song, "Meitizhong de 'weianfu' huayu."

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> Vickers, "Commemorating 'Comfort Women' beyond Korea."

<sup>84</sup> No verdict ruled in favor of comfort women plaintiffs except for the one rendered by the Yamaguchi District Court. The case, which is known as the Kampu Trial (*Kampu saiban*), involves a group of former Korean comfort women, and the court held the Japanese government liable for its failure to provide redress to the satisfaction of comfort women victims in a timely manner. However, this ruling was later reversed by the Hiroshima High Court upon the appeal by the Japanese government.

<sup>85</sup> Clare McGlynn and Nicole Westmarland, "Kaleidoscopic Justice: Sexual Violence and Victim-Survivors' Perceptions of Justice," *Social & Legal Studies* 28, no. 2 (2019): 188.

<sup>86</sup> Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (London & New York: Verso, 2006), 19-49.

<sup>87</sup> Ibid.

<sup>88</sup> WAM, *Aruhi, Nihongun ga yattekiteta*, 54.

<sup>89</sup> The same set of exhibits actually toured Shanxi, Shaanxi, and Guangzhou provinces, and Beijing. I choose to focus on Shaanxi province here primarily because Qu's detailed account on the Shaanxi experience enables me to analyze the impact of the panel exhibits, and by extension, testimonies and legal recognition.

<sup>90</sup> Qu Yajun, "Josei, heiwa, minzoku jisei: Sansei Shiha Daigaku de Nihongun seibōryoku paneru-ten o kaisai shite," in *Gendai Chūgoku no jendā poritikusu: Kakusa, seibaibai, "ianfu"*, ed. Kohama Masako and Akiyama Yōko (Tokyo: Bensei Shuppan, 2016), 180-90.

<sup>91</sup> Although the Japanese government has implemented several reparation programs, including the Asian Women's Fund (1994-2007) and the ROC-Japan bilateral pact (2015), it has yet to issue an official apology to comfort women victims.

<sup>92</sup> Minow, *Between Vengeance and Forgiveness*.

<sup>93</sup> Ōmori, *Rekisho no jijitsu to mukiatte*; Chūgokujin sensō higai baishō seikyū jiken bengodan, ed., *Sajō no shōheki*, 18.

<sup>94</sup> James Dawes, *Evil Men* (Cambridge, Massachusetts & London, England: Harvard University



Press, 2013), 30.