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Redress Crossroads in Japan: Decisive Phase in Campaigns to Compensate Korean and Chinese Wartime Forced Laborers

William Underwood

On the eve of the sixty-fifth anniversary of the end of World War Two, and the first anniversary of progressive political leadership by the Democratic Party of Japan, redress campaigns for wartime forced labor are bearing promising fruit and entering a decisive phase.

Mitsubishi Heavy Industries announced on July 14 it would start talks on compensating the 300 Korean women who were deceived as teenagers into toiling without pay at a Nagoya aircraft factory. The so-called "teishintai" (volunteer corps) workers lost their lawsuit at the Japan Supreme Court in 2008, but last December the Japanese government issued seven of the women refunds of 99 yen (about one dollar) for pension deposits withheld during the war. The move enraged the Korean public and led to persistent protests at Mitsubishi offices in Tokyo and Seoul.

A petition signed by more than 130,000 South Korean citizens and 100 members of the National Assembly demanding the women receive compensation and an apology was presented to Mitsubishi by a Korean lawmaker one day before the company's annual shareholders meeting on June 24. Mitsubishi reportedly announced at the meeting that the teishintai issue "cannot be evaded from a humanitarian standpoint," in no small part because the South Korean Assembly member also threatened a global consumer boycott.

Supporters of Korean forced labor redress stand in front of a Mitsubishi car showroom in Gwangju, Korea, on July 15, cheering the news that Mitsubishi Heavy Industries intends to compensate members of the female "volunteer corps." (Chosun Ilbo photo)

Last March, the Japanese government broke with a half-century of secrecy by supplying the South Korean government with name rosters and payroll records for 175,000 Koreans coerced into working for private companies in Japan during the war. The records include details about the 278 million yen (roughly $3 million, unadjusted for interest or inflation) in wages and other benefits that labor conscripts earned but never received. The financial arrears, transferred from Japanese employers to the government soon after the war, reside in the Bank of Japan (BOJ) today.

The South Korean government waived all rights to the funds under its 1965 treaty with Japan, but Seoul officials are now using the data to verify the historical record of forced labor. A 2007 redress law authorized fixed-amount payments from South Korean coffers to former conscripts and family members, as well as individualized payments based on the BOJ financial deposits. But why does Japan continue to hold the money that Japanese companies failed to pay out to Korean workers, rather than return it with interest to the victims?

"Unless the South Korean government seeks a solution to the financial deposits issue more proactively, the Japanese government will not act" to release the funds, according to Arimitsu Ken, executive director of the Tokyo-based Network for Redress of World War II Victims. He added that while the one-hundredth anniversary of Japan's annexation of Korea in 1910 has produced effective grassroots initiatives for historical reconciliation, there has been less state-level substance.

Transnational community pressure is building for the return to Korea of thousands of cultural properties taken to Japan during the colonial era, but Arimitsu said Japanese legislation is needed due to the vast scale of the problem. At Sarufutsu village in Hokkaido last May, 75 people including Japanese and Korean college students worked to exhume Korean remains from a former military airfield. Three joint exhumations at the site since 2006 have yielded the remains of 19 civilian conscripts, apparently cremated in an open field.

The Japanese government has been reluctant to help locate and identify civilian conscript remains known to be still in Japan, and has not cooperated with citizen-led efforts to send these remains home to Korea. However, the government did act to return from Yutenji temple in Tokyo the bones of military conscripts killed in the war.

On May 19, the remains of 219 military conscripts were transferred from Yutenji to South Korea, although in 195 cases no Korean relatives could be found. Foreign Minister Okada Katsuya represented the Japanese government at the Yutenji memorial service for the first time. A total of 204 sets of remains were repatriated from Yutenji on three previous occasions since 2008, with only Japanese vice-ministers in attendance. Japan has been paying for South Korean family members to attend the memorial services in Tokyo, and making condolence payments of about $300 per fatality. But details about the circumstances of the conscripts' battlefield deaths have been withheld from the public on privacy grounds.

The final 275 sets of remains slated for return to South Korea belong mainly to women and children killed in the (most likely accidental) explosion and sinking of the Japanese transport ship, Ukishima-maru, near Kyoto one week after the war's end. There currently are no plans to return the 427 sets of Yutenji remains that originated in what later became North Korea. Around 700,000 Korean civilians were conscripted into working in Japan and about 300,000 military conscripts were mobilized overseas.

Redress for the roughly 40,000 Chinese forced laborers in wartime Japan, meanwhile, inched closer to fruition recently with a pair of landmark out-of-court settlements by Nishimatsu Construction Co.

Last October Nishimatsu set up a 250 million yen fund (about $2.5 million) to compensate the 360 Chinese forced to build a

A somber Korean man returning to Seoul's Gimpo International Airport on May 19, bringing home the remains of his father who was killed during the war while conscripted by the Japanese military. (JoongAng Ilbo photo)

hydroelectric plant at Yasuno in Hiroshima Prefecture, while a fund of 128 million yen (about $1.28 million) was set up last April to compensate the 183 Chinese who performed similarly backbreaking work at Shinanogawa in Niigata Prefecture. Both settlements included apologies and payments are going to descendants, since the great majority of victims have already died.

The agreements stemmed from the April 2007 victory for Nishimatsu at the Japan Supreme Court, which ruled that the 1972 Japan-China Joint Communique extinguished the right of Chinese individuals to file lawsuits for war-related damages. Echoing lower courts in related cases, though, Japan's top court also found that Nishimatsu and the Japanese state jointly operated an illegal forced labor enterprise at the Shinanogawa worksite – and recommended non-judicial "relief" for the Chinese victims.

In Beijing last April at the office of attorney Kang Jian, far left, plaintiffs and family members in the Chinese forced labor lawsuit against Nishimatsu discuss their rejection of the company's Shinanogawa settlement. (photo courtesy of Kang Jian)

But the day after the Nishimatsu Shinanogawa accord was finalized in April, the five plaintiffs in that unsuccessful Japanese lawsuit announced at a press conference in Beijing that they were rejecting the pact and considering legal action in China. Late in the process of hammering out the settlement, the plaintiffs' team of Japanese lawyers began negotiating with Nishimatsu on behalf of the larger group of Shinanogawa victims who had not participated in the lengthy litigation.

Kang Jian, a Chinese attorney who has played a key role in 13 war-related lawsuits across Japan, strongly backed the five plaintiffs in turning down the Nishimatsu deal. Kang charged the company with playing "word games" in refusing to admit legal liability for forced labor and failing to describe the compensation as "damages," claims widely disseminated in Chinese media reports.

Japanese attorney Takahashi Toru called it "extremely regrettable" that the Chinese plaintiffs ended up rejecting the Nishimatsu settlement. He explained that the Lawyers Group for Chinese War Victims' Compensation Claims, which since 1995 has litigated dozens of lawsuits in Japan on a pro bono basis, had always implicitly worked on behalf of the entire group of Shinanogawa victims because Japan does not permit class action suits.

"We think moral and historical responsibility is heavier than legal responsibility," Takahashi said of the divergent legal perspectives. It is doubtful the Japanese lawyers group and Kang will be able to resume their previously close cooperation. It also looks unlikely the Chinese government will allow Japanese firms to be sued in Chinese courts, as forced labor lawsuits first submitted in 2006 are still awaiting acceptance. Japanese companies doing business in China would face a public relations nightmare, probably sufficient to bring many of them to the settlement table, if litigation there is someday permitted to proceed.

In the 2010 settlement, Nishimatsu recognizes its corporate responsibility for "forced labor," apologizes with "deep reflection" and commits to per-capita payouts of just over $7,000 – a figure slightly higher than in the company's 2009 agreement with workers from the Yasuno site. More importantly, the Shinanogawa compensation program is being administered by a Chinese foundation for the first time. The five plaintiffs who refused the settlement, mainly family members of victims who died during the lawsuit, are being compensated by private Chinese donors.

Little reconciliation resulted from the 2000 settlement between Kajima Construction Co. and survivors of its notorious Hanaoka worksite where 418 out of 986 Chinese workers perished, some of them tortured to death following a full-scale riot. Kajima did not apologize or admit to any wrongdoing in the text of the agreement, while individual payments of barely $2,000 doled out from within Japan produced recrimination and mistrust. The lead plaintiff in the Hanaoka lawsuit and other victims ended up refusing Kajima's cash, but accepting money from private Chinese sources.

Takahashi said his organization plans to visit the roughly 20 other Japanese firms that used Chinese forced labor beginning this summer, searching for signs of any Nishimatsu knock-on effect. Several companies have privately expressed interest in settling claims, according to Takahashi, while others continue to insist that all WWII issues have been resolved. Not only did Japanese industry profit from having a Chinese workforce that was virtually never paid during the war, companies were also generously reimbursed by the Japanese state soon after the war for the supposed costs of the brutal labor program.

Mitsubishi Materials Co., having effectively been granted legal immunity by the 2007 Supreme Court decision, has said it will settle compensation claims from its former Chinese miners on the condition that the Japanese government settles too. This about-face is striking because Mitsubishi Materials controversially defended itself in Japanese courtrooms by insisting that Chinese plaintiffs

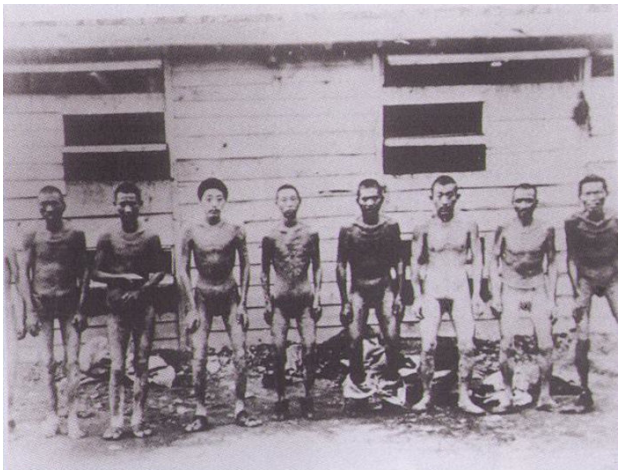
worked voluntarily and were treated well, despite a fatality rate of 31 percent at one Mitsubishi worksite, and by denying that Japan ever "invaded" China at all.

Chinese-language materials used to rally support for the strong redress claim stemming from Chinese forced labor. The man at left worked at the Nishimatsu Yasuno site, while the man at right was pressed into unpaid service for Mitsui Co. (photo courtesy of Kang Jian)

Future progress will depend partly on the Japanese government. Takahashi said his lawyers group is hopeful that the Cabinet Office will soon designate a single partner for centralized discussion of the Chinese forced labor issue; past interactions with the state have been inefficiently divided among various ministries. While Japan's dire economic straits make for a stiff redress headwind, he stressed that improved Japan-China ties remain a pillar of the Democratic Party's foreign policy and Japanese businesses rely heavily on the Chinese market.

"Without political stability in Japan, resolution of this issue will not proceed," according to Takahashi, meaning the DPJ's poor performance in recent national elections represents a setback to reconciliation efforts. Other obstacles include the Chinese victims' lack of political clout in Japan and the Japanese media's very weak coverage of the redress movement, he added.

As with redress efforts for Korean labor conscription, though, positive community-based developments are occurring in peripheral areas of the country that were formerly home to Chinese workers.



Kajima Construction Co. paid compensation to Chinese workers at its Hanaoka worksite, like these cruelly mistreated men shown following their liberation, but the settlement reached in 2000 was widely derided as insincere. (U.S. National Archives)

In the Nagasaki Peace Park on July 7, the anniversary of the Marco Polo Bridge Incident, a memorial service for the 32 Chinese forced laborers killed in the atomic bombing of that city was held at a memorial monument erected in 2008. The Hanaoka Peace Memorial Museum opened in Akita Prefecture in April, addressing perceived inadequacies in education and commemoration related to the atrocity. Also, 25 municipalities across the nation have now passed resolutions urging the central government to take new reparative action concerning the Japanese military's "comfort women" system of forcible sexual servitude.

Some 35,000 Allied prisoners of war comprised the third major group of forced laborers within Japan (while millions of Asians and Westerners worked without pay under miserable conditions elsewhere in the empire). In recent years former POWs in Australia, Canada, Great Britain, the Netherlands and New Zealand have received compensation from their own governments, which waived reparations claims against Japan under the San Francisco Peace Treaty of 1951. Surviving POWs from those countries have also made reconciliation visits to Japan at the invitation and funding of the government.

American POWs have been the exception, as the executive branch has vigorously defended Japan during judicial and legislative redress campaigns in the U.S. This summer, however, a handful of former American POWs will take part in Japan-sponsored goodwill trips for the first time. For 2010 the Japanese government has budgeted 18 million yen for such visits from the U.S. and 12 million yen for visits from Australia.

Bataan Death March survivor Lester Tenney has pushed hard for better treatment for American ex-POWs, and Japan's ambassador to the U.S. apologized in person to the Bataan veterans' group in Texas in 2009. An apology to "all POWs" was issued in the Diet by former Prime Minister Aso Taro, who after years of dodging the issue was prodded by opposition lawmakers into admitting there were Allied POWs at his family's coal mine. Asian survivors of forced labor have never received specific apologies from Japan or been included in the official reconciliation programs.

Tenney has also made public and private appeals for apology to Nippon Keidanren, citing the commitment to human rights expressed in the business organization's Charter of Corporate Behavior. He has received no reply. Of the hundreds of Japanese companies that used Asian and Western forced labor, only a tiny handful has ever acknowledged the historical reality or sought to make amends. The Japanese government has never built a single memorial for the thousands of forced laborers who died in Japan.

By contrast, on June 16 the Diet passed a remarkable law granting one-time payments of up to 1.5 million yen (approximately $15,000) to former Japanese soldiers forced by the Soviet Union to work in postwar Siberia and Mongolia. Around 75,000 of the

Australian Joe Coombs, who worked as a POW at Aso Mining in 1945, visited the Yokohama Commonwealth War Cemetery in 2009. Both the Aso Group and then-Prime Minister Aso refused to apologize to Coombs during his trip to Japan.
(Network for Redress of World War II Victims)

600,000 Japanese detainees are reportedly alive today and therefore eligible for the payments; about 60,000 died in Soviet labor camps due to the extreme cold and lack of food. The ex-soldiers had previously lost their lawsuit against the state at the Japan Supreme Court, which nonetheless ruled that their detention resulted from government policy and urged a legislative solution.

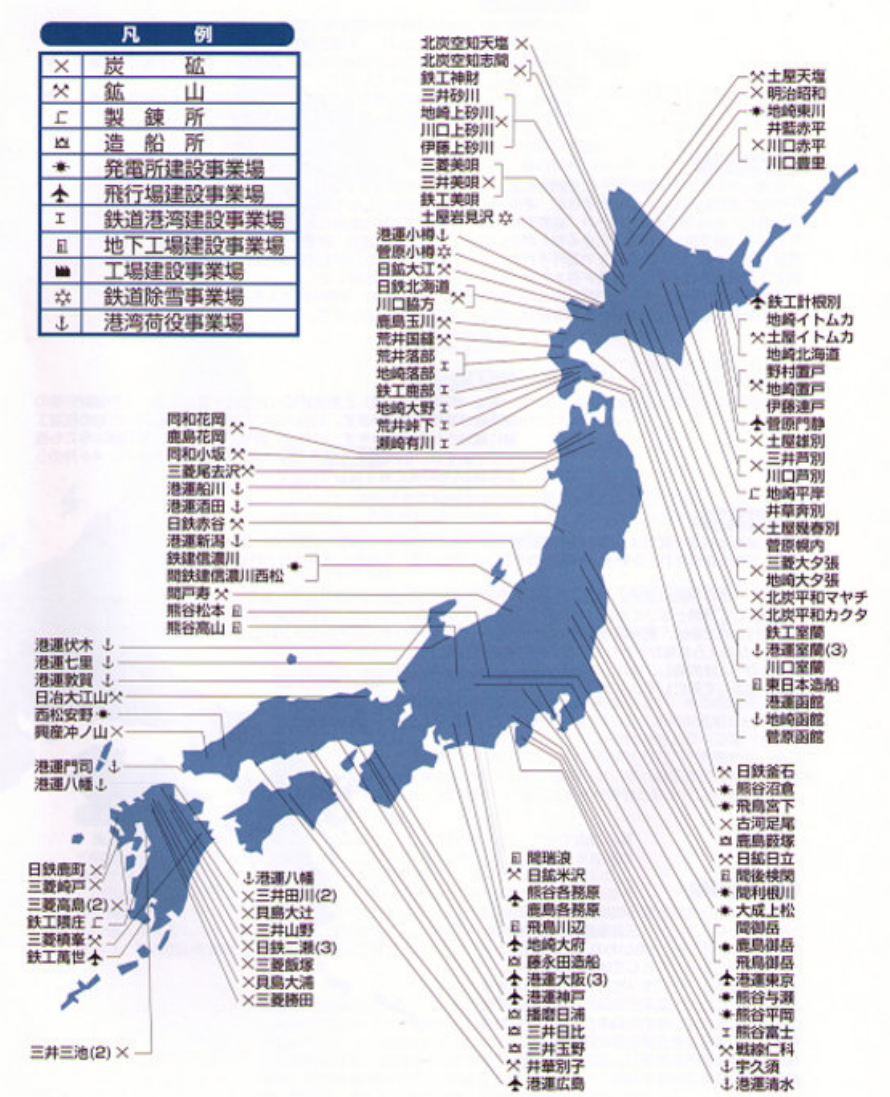
The Siberia POWs measure was a dramatic departure from Japan's insistence that postwar treaties have definitively resolved all WWII-related damage claims and historical details can no longer be verified. Capping a decades-long redress drive, the new law also requires the government to actively investigate the history of the Japanese POWs, collect remains still in Siberia and hold state memorial services.

Arimitsu of the Network for Redress of World War II Victims helped facilitate passage of the legislation and predicted it will assist redress campaigns by other Japanese war victims and, at least indirectly, the more numerous groups of foreigners harmed by Japan.

Arimitsu noted the Siberia POWs precedent of "own country compensation" is most applicable to Japanese civilian victims of American firebombing, who once numbered in the hundreds of thousands, and are now redoubling their efforts to obtain reparations from the Japanese state. Victims of the American atomic bombings residing in Japan have long received medical benefits and financial assistance from the Japanese – but not the American – government. A-bomb victims living outside Japan have only recently begun benefiting from such programs as the result of court rulings, after decades of opposition by Tokyo.

Before coming to power, the DPJ supported a version of the Siberia POWs bill that would have benefited the relatively small number of Koreans, Taiwanese and Chinese who were interned while serving as Japanese subjects in the Imperial Army. But compensation for these non-Japanese was deleted from the bill that became law in June, mainly because the Finance Ministry feared a domino effect of payouts to additional foreign claimants. Overseas activists are calling for the double standard to be corrected quickly.

Arimitsu said a follow-up bill to be introduced at an extraordinary session of the Diet this fall would provide the non-Japanese POWs with higher payments than their Japanese counterparts received, presumably due to the delay in compensating them and the additional postwar hardships that resulted from having been stripped of their Japanese citizenship by Japan. A separate bill planned for the same Diet session and supported by the DPJ while in opposition would compensate non-Japanese Class B/C war criminals, since Japanese war criminals have long received military pensions and other assistance. The bill will test the depth of the party's often-stated intention to deal squarely with history, and raise obvious questions about why Japan compensates war criminals but not their victims.



A map of the 135 Chinese worksites during WWII, based on information compiled by the Japanese government in 1946 and then suppressed until the 1990s. Koreans and Allied POWs were similarly forced to work at sites spanning the length of Japan's home islands. (Lawyers Group for Chinese War Victims' Compensation Claims)

A bigger test for Japan looms in the form of a bill now pending in the California State Legislature. The Holocaust Survivor Responsibility Act would require companies bidding on contracts for the state's planned high-speed rail network – worth an estimated $43 billion – to disclose wartime deeds such as transporting prisoners to concentration camps and describe any remedial steps taken to address the legacy.

The lawmaker who authored the bill told a British newspaper he aims to determine "whether or not companies asking for California tax dollars have taken responsibility for their actions and what the character of the companies are."

Japanese bidders for a slice of California's high-speed rail pie may be highly vulnerable, since they would have to disclose "any direct involvement in the deportation of any individuals to extermination camps, work camps, concentration camps, prisoner of war camps, or any similar camps."

Kawasaki Heavy Industries and Nippon Sharyo are world-class makers of rolling stock that already do a booming business in the U.S. and are expected to bid on the lucrative contracts. Both companies were involved in moving captive workers around Japan and used forced labor themselves. Numerous other still-extant corporations owned the "hellships" that ferried Allied POWs, most of them Americans, to worksites in Japan.

Japan Inc. dodged a bullet earlier this month when a California legislative committee revised the language of the WWII disclosure bill to focus mainly on Europe, even though reconciliation is far advanced there. European governments and corporations have taken robust historical responsibility combining comprehensive apology at the highest levels, compensation, and effectively addressing the issues in public museums, monuments and school textbooks.

Provisions allowing the state's High Speed Rail Authority to disqualify bidders based on undesirable wartime track records and to assess civil penalties for filing false disclosure reports also were stripped from the bill in committee. It now appears that intense lobbying originating in both Tokyo and Washington may succeed in killing the bill altogether, despite the broad support it has garnered so far, as American officials want Japanese firms to play a central role in building California's rail network.

Japanese Transportation Minister Maehara Seiji visited San Francisco in late June to promote the nation's bullet train technology. Maehara also has invited Governor Arnold Schwarzenegger to visit Japan in September to negotiate rail deals directly, suggesting the WWII measure would be very inconvenient for business and political interests.

A California Senate appropriations committee may well torpedo the proposed legislation when it meets in early August if it finds that a negative fiscal impact would result, even though any financial burdens related to supplying information would be borne by the foreign companies. Even if the much-watched bill dies, California's influential Asian American community and others may still try to

use the public contracts as a multibillion-dollar lever for finally holding Japanese firms accountable.

Set up in 2000 and funded in equal measure by the German federal government and industrial sector, the Foundation "Remembrance, Responsibility and the Future" paid out some $6 billion in compensation to 1.7 million Nazi-era forced laborers or their heirs, mostly non-Jews living in Eastern Europe and the former Soviet Union. The year before German President Johannes Rau observed of the victims' basic desire, "What they want is for their suffering to be recognized as suffering and for the injustice done to them to be named injustice."

Japan's government and corporations remain far from fulfilling this desire for their Chinese, Korean and Allied POW victims of forced labor. Yet movement on the issues may be on the agenda. Chief Cabinet Secretary Sengoku Yoshito told a group of foreign reporters in Tokyo in early July that Japan's legalistic, treaty-based approach to persistent redress demands has been insufficient. The top official suggested new political measures, perhaps even including individual compensation, may be necessary for improving ties with South Korea and China.

With political and economic leaders evidently reassessing the costs of endless stonewalling, and the potential benefits of smoother foreign relations and enhanced business prospects, Japan now appears to be moving toward righting historical injustices. The question is whether Japan – along with neighboring governments and the global community – will move quickly enough for the final cohort of surviving forced laborers to receive a modicum of justice.

William Underwood researches ongoing reparations movements for forced labor in wartime Japan. He is a coordinator for The Asia-Pacific Journal: Japan Focus and can be reached at kyushubill@yahoo.com.

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