

## The Comfort Women Case Reconsidered: Making Citizens Responsible for Historical Injustices

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### The Comfort Women Case in Northeast Asia

The year 2010 marks the eighteenth anniversary of the first Wednesday Demonstration in Seoul. Over nine hundred times, former “comfort women” and other Korean citizens have assembled in front of the Japanese Embassy in Seoul to demand a sincere and official apology from the Japanese government. The door of the embassy, however, has remained firmly closed to the voices of the surviving victims and the citizen-led protests. The Korean government similarly disregards the protesters’ demands, citing the importance of maintaining a peaceful diplomatic relationship with Japan. A phrase used on the website of the Korean Council for the Women Drafted for Military Sexual Slavery by Japan (Korean Council hereafter) succinctly expresses the feelings of the survivors: “Our tears have not dried up yet.”

In this respect, the idea that responsibility for historical injustices committed by a previous generation can be inherited by the next generation seems to apply to the “comfort women” case. First of all, with the passage of time, fewer and fewer perpetrators and victims are still alive. Without the theoretical basis of responsibility being passed down to the next generation, historical injustices like those experienced by “comfort women” will be buried and forgotten with the wounds of the victims left unhealed. Second, the principle of inherited responsibility is expected to guarantee that no similar inhumane deeds will ever be committed

again. By recognizing the gravity of the injustices perpetrated in the past and the difficulty of healing the wounds, we can share the idea that we must try to do our best not to become either perpetrators or victims of the same kinds of crimes.

However, the “comfort women” issue, in the context of inherited responsibility, remains stuck in the middle of contentions that have no viable solution. The Japanese government, which in this situation is the agent responsible for the wartime atrocities, tends either to deny the rationale for any collective responsibility or to limit the extent of such responsibility in terms of compensatory measures, either financial or nonfinancial. In contrast, South Korean victims and protesters, who have demanded from Japan an official apology and the acknowledgment of historical wrongdoings, have been too unilateral or nationalistic to shape a nonethnocentric deliberation for “thick” reconciliation with Japan.

On the basis of these observations, analyzing the “comfort women” case in the context of inherited re-

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sponsibility, I will suggest the concept of civic responsibility with reciprocal nondomination as a viable solution for the “comfort women” case in Northeast Asia. First, reviewing the theories of inherited responsibility, I argue that these are not sufficiently applicable to the “comfort women” issue. Two considerations are proposed in accordance with the “agent” bearing inherited responsibility and the “scope” of its recompense. Second, I propose reciprocal nondomination as a regulative principle for making citizens responsible for historical injustices in Northeast Asia. Here, reciprocal nondomination is presented as a future-centered regulatory principle that encourages both victims and wrongdoers to take a nonethnocentric deliberative stance.

### **The Comfort Women Case in the Context of Inherited Responsibility**

The “comfort women” case has been a polemical one in the context of inherited responsibility for two reasons.

First, the agents responsible for these misdeeds have not been properly defined. On the one hand, when we consider the state as an actor involved in inherited responsibility, two limitations become apparent. One is that the concept of the state does not fully clarify the continuation of responsibility from the past to the present and into the future because there is no shared and continued identity between the state responsible for the historical injustices and the current Japanese government. The second limitation is that the issue of responsibility may be thought relevant only to a limited number of political officials or representatives, excluding public participation. On state responsibility, for example, Japan’s political leaders have reiterated that their obligations have already been wholly fulfilled by the international treaties concluded after the end of the Pacific War, such as the 1951 San Francisco Peace Treaty and the 1965 Treaty on Basic Rela-

tions between Japan and the Republic of Korea. This focus on the international treaties, however, limits the ability of ordinary Japanese citizens to participate freely in the deliberations on the “comfort women” issue. Because the Japanese government is considered the sole agent in charge of the issue and the government considers all reparations fully made, its citizens have been expected to disregard this topic and any questions still associated with it.

On the other hand, the theory of national responsibility, which considers the nation as an actor, may be more effective than that of state responsibility. First, because a nation continues regardless of the passage of time, historical responsibility should not disappear over time. Moreover, not only government officials but also ordinary citizens can be active agents in addressing historical injustices. However, because a nation is not a tangible reality but an “imagined community” that is short on legal and political substance, problems may arise, such as sharing responsibility among citizens and remedying injustices in practice. Further, appealing to the nation may accentuate national shame or sense of purity. Thus, compensating victims may become less important than recovering national pride. In South Korea, the “comfort women” issue has been depicted as a national shame, causing the victims to feel moral guilt, which in effect paradoxically reinforces the violation of their human rights. Furthermore, the nationalists who have emphasized the emotional condemnation of Japan have measurably impeded sincere or “thick” reconciliation.

The second reason why this issue cannot be dealt with by the existing arguments over inherited responsibility is that the scope of the problem remains unresolved. Simply put, the extent to which one should be held responsible for historical injustices is a matter of disagreement. As seen in Japan’s assertion that the problem of providing compensation for war crimes has already been resolved by the South Korean–Japanese Treaty in 1965, the Japanese government has tended to confine the scope of its responsibility to legal



and material matters, without morally acknowledging its crimes. As a result, the Japanese government fails to notice that the real demand of former “comfort women” is for the restoration of their dignity through a sincere admission of Japan’s wrongdoings. In contrast, South Korea has demanded Japan’s acknowledgment of the injustice, an official apology, and the revision of controversial Japanese textbooks. Even if Japan considers not only legal/material responsibility but also the restoration of the dignity, honor, and human rights of the “comfort women,” the “politics of apologies” constantly provokes Japan, and an apology becomes more difficult as the injustices in question were perpetrated a long time ago and as they were committed not by the present generation but by previous ones.

#### **The Agent Problem: State or Nation**

The Japanese government still insists that all reparations for Japanese atrocities have been made in accordance with the 1965 South Korean–Japanese Treaty and holds the view that assuming legal responsibility and providing state-to-state material compensation are sufficient for its reconciliation with South Korea. A statement made by Cabinet minister Morihiro Hosokawa during a plenary session of the upper house of the Japanese Diet in 1993 illustrates the consistent and unchanging view of the Japanese government. He stated that the problem of compensating “comfort women” had been completely and finally resolved by the 1965 “Agreement Concerning the Settlement of Problems in Regard to Property and Claims and Economic Cooperation” in the “Treaty on Basic Relations between Japan and the Republic of Korea.” Thus, any additional action involving reparations would only be a humanitarian effort motivated by compassion for “comfort women” who underwent tremendous suffering, rather than an obligation. In principle, the Japanese government has tended to regard the state as the proper agent for taking responsibility for the “comfort women” issue, whereby only the state as an officially

composed political entity can carry out domestic and foreign policies regardless of the people living in its territory.

However, state responsibility cannot be a proper framework for solving the “comfort women” problem, for two reasons. First, because of the lack of shared and continued identity between the empire of Japan and the postwar government of Japan, state responsibility cannot guarantee that the responsibility for historical injustices committed by the Japanese military through the end of World War II in 1945 would be transferred to the current generation (Miller 2007, 112). Although the state of Japan has remained despite regime changes, the rationale of state responsibility is insufficient to persuade the state’s members to be responsible citizens by taking responsibility for their predecessors’ wrongdoings. Worse still, state-centered responsibility suggests that responsibility for historical injustice does not exist if the victims and/or perpetrators have already died. For instance, political leaders in Japan frequently say that demands for a sincere official apology and compensation to survivors of the “comfort women” system will fade away as the survivors die of old age or illness (Lee Hahm 2001, 128). Yet, it is inappropriate for the descendants of colonial rulers, who enjoy the benefits their forebears brought about, to disclaim any responsibility for the harm the colonial rulers brought to the survivors, who still suffer from past injustices.

The second limitation of state responsibility is that the collective agency of taking responsibility is likely to be restricted to a relatively small number of individuals, such as diplomats and other government officials. I do not question the appropriateness of the representatives’ main role in inherited responsibility when public opinion is well formulated through a democratic deliberation process. In this case, however, Japan does not place sufficient emphasis on democratic deliberation or has not instituted any deliberative process at all. Here, the responsibility for historical injustices cannot be settled by common agreement. Namely, there is no sincere expression of respect when



there is only a decision made by political officials without a public consensus. In addition, the insistence by the Japanese government that all reparations have been fully made because of the earlier international treaties prevents a broader and deeper discussion of the issue among its citizens. If we cannot expect a change in the attitude of the Japanese government, it may be that ordinary Japanese citizens will need to change the government. Yet, those who fail to acknowledge their obligation to remedy their ancestors' misdeeds cannot be expected to pressure their government to initiate feasible solutions and reconciliation.

The limitations of the theories of state responsibility can be complemented if the nation rather than the state is considered as the proper bearer of inherited responsibility. The continuity of a nation over time is a powerful rationale demonstrating why future generations are responsible for injustices perpetrated by past generations (Miller 2007, 151-159). However, it is highly doubtful whether the "comfort women" issue could ever be successfully resolved based on the principle of national responsibility. First, solidarity spurred by national commonality may provide us with a rationale for inherited responsibility, but historical responsibility is made feasible largely by actual politics, rather than by imaginary ties. Second, appealing to the nation might give priority to the restitution of national pride over the restitution of the victims' dignity.

In short, inherited responsibility based on either the state or the nation cannot be a proper ground for solving the "comfort women" issue. For this reason, we need a new paradigm, not only for the "comfort women" issue but also for achieving thick reconciliation between Japan and South Korea.

### **The Scope Problem: Punishing or Forgetting**

With respect to reparations for historical injustices, there have been two dominant positions. The first position emphasizes that one party has to pay back what-

ever was lost or harmed, without considering the prospective provision for restoring bilateral relations in the future. No matter how straightforward this approach may appear, such a simple view of restitution has practical weaknesses. On the one hand, in some cases, it would be impossible to restore what was damaged. We can readily find a number of examples in the "comfort women" case, such as the absence of the expropriator, the victim, or the object taken (Vernon 2003, 551; Kukathas 2003, 170). Thus, we need to define the problem of historical injustices by using a more sophisticated logic through which one can use a compensatory system even in the absence of perpetrators, victims, and objects taken. On the other hand, unilateral retribution without restoring relations may result not in reconciliation between the involved parties but in deadlock (He 2009, 25-45). The "comfort women" issue exemplifies this problem. Thus, the need for a deliberative stance aimed at forward-looking reconciliation in which both parties can overcome the feeling of victimhood and emphasis on nationalism is clear.

The second approach to address reparations for historical injustices is focused on the establishment or reestablishment of current and future bilateral relations without resolving the historical injustices themselves. This tactic of forgetting historical wrongdoings can in reality be used as a method to deny all responsibility for historical wrongdoings (Kukathas 2003, 172; Miller 2007, 139; Waldron 1992, 13, 24-27). Denying one's historical responsibility will, of course, result in new conflicts between the two parties. For instance, in July 1995, the Japanese government decided to establish a foundation named the "Asian Women's Fund" to support former "comfort women" (Han 1995). Yet, the fund was focused only on the restoration of bilateral relations in the future, and actually aggravated anti-Japanese sentiment, because neighboring countries did not regard the creation of the fund as a sincere attempt at genuine reconciliation (Schmidt 2000, 68, 173). Another problem inherent in the restoration



of bilateral relations without taking past wrongdoings into consideration is that such an approach cannot suggest any principle by which atrocities can be avoided in the future. It is usually agreed that the present, in which we live, is precious and that we still face a wide range of injustices, inequalities, and unfairness to which we must respond. However, a past injustice is hardly, if ever, rectified because it is too easily forgotten or unrecognized.

A new principle is needed to resolve the “comfort women” problem, through which nonethnocentric deliberation will take place; the victims’ moral status will be restored although nothing can replace what they lost; one’s responsibility for historical wrongdoings will not be neglected; and the repetition of similar injustices will be prevented.

### **Civic Responsibility with Reciprocal Nondomination**

South Korean nongovernmental organizations (NGOs) have played a pivotal role in drawing national and international attention to the “comfort women.” At the citizens’ level, an increasing number of people in South Korea have been paying attention to and getting involved in the issue through channels such as the Wednesday Demonstrations, donations, and volunteer activities. At the national level, as early as 1993, the South Korean National Assembly enacted a law on providing support to the women who had been affected. At the international level, the UN Commission on Human Rights published Radhika Coomaraswamy’s report on “Violence against Women, Its Causes and Consequences” in 1996, 1998, 2001, and 2003. The International Court of Justice published its final report in 1994 under the title of “Comfort Women: An Unfinished Ordeal,” while the International Labour Organization (ILO) asserted that the “comfort women” system violated international laws. The attention paid to the issue in international society can also be seen in

related parliamentary resolutions passed in a number of countries, including the United States, the Netherlands, Canada, and the European Union. To facilitate NGOs’ efforts and move beyond the limitations of the existing solutions for the “comfort women” issue, I suggest what I call “civic responsibility with reciprocal nondomination.”

### **Civic Responsibility as a Framework**

Inherited responsibility requires a framework of civic responsibility. Through such a framework, citizens may take responsibility collectively without suppressing their individual autonomy and dignity. At this juncture, civic responsibility is embodied at three levels: reciprocal recognition at the individual level, civic contestability at the state level, and civic decency at the international level.

First, a responsible citizen must recognize another community member’s need, even if the two individuals have conflicting interests. This anthropocentric recognition of the other is possible if a reciprocal understanding at the individual level is based not on self-interest or altruistic devotion but on self-love, which can be extended to humanitarian considerations. In this sense, apart from acceptance, indifference, and approval, which are mainly employed by approaches focusing on self-interest and individual choice, civic responsibility can be implemented in specific conditions rooted in reciprocal recognition. To put it concretely, acceptance does not approve of differences, indifference does not approve of individual preferences, and approval does not approve of a will to coexist. However, tolerance in civic responsibility accommodates differences with a clear preference and necessitates a will to coexist despite differences. According to the individual level of civic responsibility, taking responsibility for the “comfort women” issue is never reduced to individual choice. In addition, citizens of the victimized country may also try to prevent any violence against local women that may be similar



to the “comfort women” system.

Second, at the state level, we need to establish an institution that can maintain reciprocity at the individual level and guarantee civic contestability to check the institution. For this, the republican conception of liberty as non-domination can provide us with an institution aimed at preserving reciprocity among citizens, and every citizen should have the capacity to check and monitor the institution’s arbitrary use of political power. Civic responsibility based on liberty as non-domination can encourage citizens to check and monitor deliberations on the “comfort women” issue. As previously noted, the “comfort women” debate in South Korea frequently becomes a manifestation of extreme nationalism, which compounds the suffering the women who were affected. If this debate had focused on the restoration of liberty as nondomination rather than on the healing of national pride, inherited responsibility would not have guided all of the movements and discourse on the topic, which have mainly been based on virulent nationalism.

Third, civic decency is required to apply civic responsibility at the international level. Taking civic responsibility can be acknowledged by citizens as a way to act with dignity, but this can occur only if it is articulated through democratic deliberation as an ethical responsibility. By the same token, taking inherited responsibility can be accepted by citizens as an extension of civic decency to other people beyond national boundaries only if it is conceptualized through democratic deliberation as a way of consolidating democratic legitimacy. Inherited responsibility is itself a subject of public deliberation, and so it should be conceived as neither a *prima facie* nor a natural right granted by superhuman power. Therefore, civic decency as a representation of citizens in a healthy democracy is imperative for empowering citizens to juxtapose their compatriots’ civic responsibility with ethical responsibility for other peoples, particularly in terms of liberty as non-domination. In this way, anyone who wishes to identify himself or herself with the achievements of

fellow citizens or to find his or her dignity in them will voluntarily take the inherited responsibility for the misdeeds of previous generations.

With civic responsibility, the “comfort women” issue can be viewed as a healthy question of inherited responsibility. This health derives from a situation in which not only political elites but also citizens would actively participate in the deliberation and reach a consensus on how to resolve the issue satisfactorily. Those who can imagine the grave results that might occur if the issue is not resolved in an ethical way will, one hopes, be able to persuade others to prevent the reoccurrence of similar injustices.

### Reciprocal Nondomination as a Regulative Principle

We need to consider one more point: how can an effective discursive stance be created and properly operated? I suggest “reciprocal nondomination” as a regulative principle that can guarantee equal power to both parties with the aim of facilitating discussions between them.

Reciprocal nondomination, as a regulatory principle in democratic deliberation, would serve three roles (Kwak 2009). First, reciprocal nondomination functions as a concept to establish a discursive stance between countries in conflict over historical injustice. When a deliberative stance is guided, the focus is the conditions under which more open and democratic debate can be guaranteed. Reciprocal nondomination may become a coherent ground that protects an individual from being subjected to the arbitrary will of others, legitimizes legal and institutional interference, and at the same time, draws limits on such interference. For instance, if a victim were forced to forgive a historical injustice due to the pressure by the perpetrator, we could view the situation as a problem of inequality between the powerful and the weak through the principle of reciprocal nondomination.

Second, reciprocal nondomination not only creates a deliberative stance but also forces the partici-



participants to follow the decisions that are the outcome of discussions. It is true that if we can simply reject decisions resulting from deliberation on the grounds that the involved parties inevitably have dissimilar and contrary opinions, the deliberative stance itself becomes meaningless and useless. However, if the result of the deliberation can also be regulated by that principle, the participants can have reciprocal nondomination as a minimal condition as well as an investigative standard during the deliberation. For instance, if the Japanese government refuses the result that it must acknowledge its historical injustices and apologize to former “comfort women,” the other participants in the deliberation process can recognize that the Japanese decision is violating the agreed-upon reciprocal nondomination.

Finally, reciprocal nondomination should contain the process of internalizing liberty as nondomination as a normative principle. The minimal standard to reach an agreement through deliberation is reciprocity, which entails the identification of one’s status with the counterpart’s status. However, reciprocity cannot be achieved automatically; it is shaped through the daily experience of liberty as nondomination. In the “comfort women” issue, the internalization of liberty as nondomination can bring about reciprocity between the victims and the perpetrators. If the Japanese government took the view that its citizens might also become victims of similar injustices, it would be far easier for the government to reach an agreement that would be satisfactory not only to the present victimized party but also to the Japanese people themselves.

### Concluding Remarks: Policy Implications

With the exponential increase of exchanges in population and materials, the post-Cold War period demands the formation of a regional community that transcends the boundary of homogeneous nation-states. Similar efforts to realize a European Union-like

regional community are being pursued in East Asia. Yet, the case of Northeast Asian countries shows the opposite side of the coin. Although there have been communications among political leaders to envision a regional community, the realization of such a community has become a rhetorical or diplomatic game played between the regional powers.

The stagnation of historical reconciliation in Northeast Asia is one of the reasons why all of the diplomatic and scholarly endeavors do not seem sufficient to meet the demands of reconstructing a regional identity. The opposing opinions and memories on the matter of past wrongdoings reproduce and aggravate the national adversity and conflict between Northeast Asian countries, and nationalism acts as a big obstacle in the process of creating peaceful coexistence in the region. Certainly, there have been various endeavors to set up dialogue on historical issues as well as textbooks and to share different experiences, perceptions, and knowledge. However, these attempts have been less fruitful for promoting a culture of peace and more provocative of cynical pessimism.

In this context, I suggest the concept of civic responsibility with reciprocal nondomination as a viable approach for solving past as well as present problems and constructing a shared understanding in the region. Here, let me lay out briefly what policy implications may be practically reasonable.

*Official Apology:* The Japanese government should provide an official apology for historical injustices, including the “comfort women” case. For the victims in the region, an official apology for historical injustices is frequently regarded as nothing but lip-service. On the contrary, the Japanese suffer from the demands for official apologies, questioning why they must continue to apologize for historical injustices that took place a long time ago. Nevertheless, an official apology is imperative in terms of civic responsibility with reciprocal nondomination, since such an apology can open a public discourse on wrongdoings by the previous gen-



eration and help citizens take historical injustices more seriously. In this context, I suggest that Naoto Kan, Japan's prime minister, reinvigorate former prime minister Yukio Hatoyama's view that historical reconciliation is a strong prerequisite for peaceful coexistence in Northeast Asia. Even if we acknowledge that responsible citizens can call upon their governments to apologize to victims and compensate them, it is equally important to realize that political leadership has a crucial role in persuading fellow citizens to participate actively in assuming inherited responsibility.

*Forward-Looking Reciprocity:* Current civic endeavors for historical reconciliation in Northeast Asia are not very forward-looking. Here, "forward-looking" signifies a future-oriented standpoint that aims simultaneously to provide restitution to past victims and to prevent inhuman actions in the future. As the "comfort women" case shows, the unilateral advocacy of restitution or retribution often comes with stubborn denial of responsibility for past wrongdoings. If this is true, any demand for an official apology as well as restitution will be helpless in the face of flimsy realism aimed at justifying war crimes during the war. At this juncture, what we need is a regulative principle that can be equally applicable to the victim countries that committed historical injustices similar to that of the "comfort women" case, such as South Korea during the Vietnam War. There is a desperate need for a forward-looking reciprocity through which the Northeast Asian countries can not only provide restitution to past victims but also prevent future inhumane actions.

*Multilateral and Nonethnocentric Deliberation:* The nationalist advocacies of retribution in South Korea and China have much in common with their Japanese counterparts in their efforts to find their philosophical and sociopolitical grounds in the law of the jungle. Even scholarly deliberations for historical reconciliation among Northeast Asian countries have gradually gravitated toward the virulent antagonism spurred by

strong nationalism. Any future multilateral and non-ethnocentric deliberations for historical reconciliation must be equipped with a safety device that secures a more open and democratic debate about irreconcilable understandings. In addition, we need the political persuasion of civic responsibility that encourages citizens to participate voluntarily in a deliberative way to resolve historical injustices. I believe that reciprocal nondomination can be a regulatory principle that is conducive to regulate differences in opinions and power status between the victimized and the perpetrating parties. Multilateral and nonethnocentric deliberation coordinated by reciprocal nondomination could become a future-oriented and conflict-regulating mechanism through which present conflicts with respect to historical injustices could be resolved and citizens not directly related to such conflicts could join the deliberation process willingly to prevent history from repeating itself.■

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