

The Abuse of History: A Brief Response to J. Mark Ramseyer’s “Contracting for Sex”
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For those who read Professor Ramseyer’s article at face value, unseen are assertions that advocate a current Japanese political ideology. This worldview is racially essentialist, revanchist, and history-denying, resonant with similar movements around the world such as Trumpism, LePenism, Modi-ism, and so on.¹ In Japan, among other things the impulse seeks to challenge universalisms that have grounded Japan’s post-World War II legal, economic, and social order.² Were it to succeed, for example, its adherents’ proposal for revising Japan’s standing constitution would replace the current preamble, “We, the Japanese people,” for an entirely different one: “Japan is a nation with a long history and unique culture.”³

In the case of Ramseyer’s article, the ruse becomes apparent first with his deployment of the term “contract,” a legal, economic, and social agreement that in this article’s usage presupposes equal bodies freely negotiating. Even if there were physical evidence of these “contracts,” it would be alarming to ascribe it to occurrences of sexual exploitation and extreme violence at any time or any place. It is nothing less than shameful, however, to deploy this term to a history that the United Nations and Amnesty International have determined a “crime against humanity.⁴ Moreover, its meaning is moot during the era of Imperial Japan (1868-1945) because there were no “citizens” freely acting as such. *All* individuals—Japanese nationals and colonials alike—were “subjects” of the emperor, whose “conditions necessary for being a Japanese subject (were) determined by law,” which the Japanese emperor “sanction(ed) and order(ed).”⁵ Economic, gender, and racial factors informed these “conditions” and generated clear hierarchies of personhood. Simply put, all men were *not* created equal—let alone women in general, let alone women and minors from Japan’s colonially occupied territories.

¹ Tawara Yoshifumi, “What is the Aim of Nippon Kaigi, the Ultra-Right Organization that Supports Japan’s Abe Administration?” in *The Asia-Pacific Journal: Japan Focus*, Volume 15, Issue 21, Number 1, 1 November 2017 <https://apjjf.org/2017/21/Tawara.html>

² Keigo Komamura, “Constitution and Narrative in the Age of Crisis in Japanese Politics,” 26 Wash. L. Rev. 75 (2017).

https://digitalcommons.law.uw.edu/wlj/vol26/iss1/5/?utm_source=digitalcommons.law.uw.edu/wlj/vol26/iss1/5&utm_medium=PDF&utm_campaign=PDFCoverPages

³ Harvard University Reischauer Institute of Japanese Studies, Constitutional Research Project: <https://projects.iq.harvard.edu/crrp> See the English translation of the 2012 “Draft for the Amendment of the Constitution of Japan” archived together with numerous commentaries in English and Japanese on the open access site.

⁴ [Radhika Coomaraswamy](#) (1996) and [Gay J. McDougall](#) (1998), UN Commission on Human Rights. (UN Doc. E/CN.4/1996/53/Add.1); (UN Doc. E/CN.4/Sub.2/1998/13).

⁵ Chapter II, “Rights and Duties of Subjects,” Article XVIII and Chapter I, “The Emperor,” Article VI of the Meiji Constitution, which is available in English online through Columbia University’s “Asia For Educators” open access portal, http://afe.easia.columbia.edu/ps/japan/meiji_constitution.pdf

In this instance, the source is Ito Hirobumi’s, *Commentaries on the Constitution of the Empire of Japan* (originally translated and published by Ito Miyoji in 1889); this appears also in Arthur Tiedmann, *Modern Japan: A Brief History* New York: D. Van Norstrand Reinhold Co., 1962).

Us Versus Them

“Contracting for Sex” has clear flaws with evidence and referencing.⁶ This begs the question of the value of responding to the essay at all. Put differently, why bother when there is no “there” there? Leaving aside the matter that certain political interests in Japan are already using Ramseyer’s article to advance their views, it is critical during this global moment of disinformation and misinformation to highlight specific strategies and to hold responsible those parties that elevate fake news as fact.⁷

In this instance, the issue boils down to race-baiting. In Ramseyer’s article, this takes form through its myopic focus on Koreans, which reveals the piece not as an academic effort, but instead as a regurgitated belief presented with the veneer of scholarly credibility. This may surprise those new to the study of Imperial Japan’s state sponsored system of military sexual slavery (as the US State Department like Amnesty and the UN [labels this crime](#)).⁸ After all, Koreans comprised the largest number of its tens if not most likely hundreds of thousands of victims, making it appear natural to focus on this category of people alone. Yet Ramseyer’s article has nothing to do with the victims and their victimhood. If it did, he would have wanted also to analyze conditions for other groups of people such as Taiwanese or Okinawans, who, like Koreans, became ensnared in this system before Japanese troops launched their full-scale invasion of China (Ramseyer seems determined to make a sharp division along this chronological fault line although survivors do not).⁹ Instead, behind a veil of seemingly rational economic theory to prove a point unprovable because the evidence is absent, the article recycles base, racially charged dog whistles for those listening: “(the women) could shirk or take the money and run;” “Korea had a problem distinct from any in Japan. It had a large corps of labor recruiters, and those recruiters had a history of deceptive tactics;” “(the women) earned considerably more than they would earn in other employment.”¹⁰

Ironically, the article’s absence of analysis of the first known legal record of victims of this historical crime—and, most important, the conditions of their victimization—reveals the

⁶ Amy Stanley, Hannah Shepherd, Sayaka Chatani, David Ambaras, and Chelsea Szendi Schieder, “‘Contracting for Sex in the Pacific War’: The Case for Retraction on Grounds of Academic Misconduct,” Letter to the Editors of *IRLE*, February 16, 2021 **website when available**; also, Tessa Morris-Suzuki, Letter to the Editors of *IRLE*, February 11, 2021.

⁷ An effort supported and launched by Ramseyer himself with his January 12, 2021 opinion essay published on the unapologetically neo-nationalist website, “Japan Forward;” see, J. Mark Ramseyer, [“Recovering the Truth About the Comfort Women,”](#) japan-forward.com. Subsequently, related Japanese-language media picked up the story to promote its effort, turning the moment into the political issue it has now become [around the world](#).

⁸ Eric Randall, “Hilary Clinton and Japan are in a Tiff Over ‘Sex Slaves’ and ‘Comfort Women,’” *The Atlantic*, July 12, 2012

<https://www.theatlantic.com/international/archive/2012/07/hillary-clinton-and-japan-are-tiff-over-sex-slaves-and-comfort-women/325986/>

⁹ Survivor testimonials in the documentary, “Breaking the History of Silence,” Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery, Tokyo, Japan, 2000; available free on the open-access website of the Tokyo Women’s Active Museum on War and Peace: <https://wam-peace.org/en/>

¹⁰ I reject Ramseyer’s use of the term “prostitute” for this history and have used “women” although “minor children” may be correct, too; Ramseyer, “Contracting Sex,” 2; 6. See, Koboyashi Yoshinori’s best-selling, *Sensōron* (On War) (Tokyo: Gentosha, 1998), 280: “Because it was a war zone and dangerous, the money was great. There were lots of them who earned more than 10 times what a college graduate did in those days and 100 times more than a soldier. In 2-3 years they built houses back in their hometowns.”

strategy involved here, and, moreover, confirms that “contract” has no place in this discussion.¹¹ In his 2006 English-language publication, Etsuro Totsuka, one of Japan’s pre-eminent international law scholars, analyzed the 1932 well-documented instance of trafficking 15 Japanese women by Japanese men through Nagasaki to one of the first known so-called “comfort stations” established in Shanghai by the Imperial Navy (not the Army). In 1936, a Nagasaki court found guilty the Japanese men who had deceived the women about the terms of their employment, rendering empty Ramseyer’s contention “any notion that (the women) had been tricked by duplicitous recruiters (is implausible).”¹²

In Professor Totsuka’s peer-reviewed and published words:

The author has had the good fortune to locate the earliest District Court and Appeal Court judgements of the Japanese criminal court against ten private entrepreneurs, who deceived and trafficked 15 Japanese women from Nagasaki to a Japanese Naval “comfort station” in Shanghai, China. It was already known as early as 1997 that in 1937 the then Supreme Court had endorsed the judgments of the District Court and the Appeal Court. The lower Courts’ judgement, however, had not been found.

As it was assumed by the researchers, including myself, that the judgments must have been destroyed by the atomic bomb dropped in August 1945 by the United States onto Nagasaki City, nobody attempted to find them. They, however, had survived.

...The Court found that all defendants under a series of conspiracies deceived and trafficked 15 Japanese women in Nagasaki to a Japanese Naval “comfort station” in Shanghai, China and that they were guilty of committing crimes defined by Article 226 (1) and (2) of the Penal Code.¹³

Totsuka argues that this fresh evidence should encourage additional investigation by researchers “to discover the reasons why the law was not effectively enforced in Japanese colonies, particularly in Korea” where “the pattern of recruitment (was) strikingly similar to the many Korean cases of the abduction of women.”¹⁴

One of the primary reasons for studying any state-sponsored atrocity in the past is to learn how it happened in order to try to prevent ongoing occurrences of similar violence and not to abuse history by weaponizing it for present purposes. Academic freedom is a core tenet of constitutional democracies, yet academic lies are not. The words we use to write law and history appear intelligible to specialist and non-specialist alike. Looked at differently, were Professor Ramseyer’s article to have been published in *Nature* it would be demonstrated for the irreproducible experiment it is. The challenge remains to expand education about this crime against humanity so that undetected denialist racialist claims never again pass for scholarly inquiry.

¹¹ See among other excellent publications, Nishino Rumiko and Onozawa Akane, eds., *Nihonjin ‘Ianfu’: Aikokushin to Jinshinbaibai to* (Japanese ‘Comfort Women’: Patriotism and Human Trafficking) (Tokyo: Gendai Shokan, 2015).

¹² Ramseyer, 4

¹³ Etsuro Totsuka, “Could Systematic Sexual Violence against Women during War Time Have Been Prevented? — Lessons from the Japanese Case of ‘Comfort Women,’ 506-507

¹⁴ Totsuka, Ibid., 512; 508.