

My Critical Response to J. Mark Ramseyer's Article, "Contracting for Sex in the
Pacific War"

Pyong Gap Min

Distinguished Professor of Sociology
at Queens College and the Graduate Center of the
City University of New York & Director of the Research Center for Korean
Community

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John Mark Ramseyer, a Harvard Law School professor, will publish an article, entitled “Contracting for Sex in the Pacific War,” in *International Review of Law and Economics* in March 2021. The online version of his article has been available since December 2020. In the article, he claimed that Japanese and Korean “comfort women” (KCW) were commercial prostitutes with labor contracts, rather than sexual slaves. Not surprisingly, *Sankei Shimbun*, a nationalist and conservative Japanese daily newspaper that has strongly supported historical revisionism, has widely publicized it, as if it had provided important new findings that contradict the sexual slavery interpretation.

I am curious how such an article, which is not that different from previous work by Japanese historical revisionists, has been reviewed positively and accepted for publication in a major international journal focusing on law and economics. My critical comments are divided into two sections. In the first section, I will indicate the author’s failure to review and respond to the literature that had persuasively demonstrated that the “comfort women” system (CWS) was sexual slavery. In the second section, I will critically evaluate his arguments, citing historical documents and testimonies by 103 KCW survivors.

Failure to Review Major Studies that Have Demonstrated CWS as Sexual Slavery

It has been more than thirty years since the redress movement for the victims of Japanese military sexual slavery started in South Korea. In January 1992, Yoshiaki Yoshimi, a renowned Japanese historian, discovered a set of Japanese military government’s documents that demonstrated the Japanese military government’s establishment and management of Japanese military brothels (JMB) and the forced mobilization of Asian women to these brothels. His discovery of key historical documents forced the Japanese government to interview over 20 KCW. Based on historical and testimonial data, in 1993, the Japanese government issued the Kōno Statement, which acknowledged the forcible mobilization of Asian “comfort women.” However, the emergence of historical revisionism in Japan from 1995 on has led the Japanese government to deny CWS as a well-coordinated and institutionalized system of sexual slavery. In response, many scholars have conducted research and found other documents and evidence that support Yoshimi’s findings (Chung 2017; Hayashi 2015; Nishino, Kim and Akane 2018; Oiu et al. 2014; Yoshimi 2000). Moreover, renowned legal scholars, representing international human

rights organizations, have investigated CWS and concluded that it was indeed a perfect form of sexual slavery. Based on their investigations, international human rights organizations have sent over 25 resolutions to the Japanese government. Included in these resolutions are recommendations that the Japanese government investigate CWS, acknowledge it as sexual slavery, make a sincere apology and compensation to the victims, punish those responsible for the sexual slavery system, and take educational measures for Japan not to repeat it by including information in history textbooks and building “comfort women” memorials. The international organizations include the UN Commission on Human Rights (which has sent several resolutions), Amnesty International, the International Labor Organization, and the International Committee of Jurists (Coomaraswamy 1996; Dolgopal and Paranjape 1994; McDougall 1997).

In addition, Japanese, Korean, and other Asian women’s redress organizations organized the Women’s International War Crimes Tribunal on Japanese Military Sexual Slavery, a global citizens’ court, in Tokyo in December 2000 to locate the perpetrators of the crime of sexual slavery and file criminal charges against them. The six judges selected from internationally-known legal scholars, several prosecutors from each of the seven victim countries, and about 70 “comfort women” survivors participated in the three-day court to render legal judgments. They asked the Japanese government to send lawyers to defend its position. However, the Government of Japan did not send representatives, most likely because they knew that their position was indefensible. Christine Chinkin, one of the judges wrote:

“The judges had found Emperor Hirohito guilty of the charges on the basis of compound responsibility, which means he knew or should have known of the offenses. The evidence showed that the comfort stations had been systematically instituted and operated as a matter of military policy, and that they committed crimes against humanity under the law then applicable. The judges also indicated that they had determined Japan to be responsible under international law applicable at the time of the events for violations of its treaty obligations and principles of customary international laws relating to slavery, trafficking, forced labor, and rape, amounting to crimes against humanity. The judges also convicted nine other Japanese civilian and military leaders of having institutionalized rape and sexual slavery (Chinkin 2002, 338).

The major findings from previous studies, judgments by various human rights organizations, judgments by the Women’s International War Crimes Tribunal, and hundreds of personal testimonies make it impossible to deny that CWS was anything other than sexual slavery. However, the Japanese government led by Shinzō Abe and other conservative Liberal Democratic Party members have continued to ignore these internationally accepted facts in the same way that former President Trump has disavowed President Joe Biden’s victory in the 2020 presidential election. The redress movement, taken to remedy it, has greatly contributed to raising our consciousness of sexual violence against women during the war and occupied regions as an important women’s human rights issue.

As a professor specializing in Japanese legal studies at a major law school in the United States, Ramseyer surely must have been aware of all these studies, resolutions, testimonies, and judgments. However, like other Japanese neo-nationalist scholars, he not only ignored them but also failed to even mention them and wrote an article which interpreted CWS as a commercial prostitution system based on labor contracts. This shows callousness on his part towards the “comfort women” who were brutalized during the Asia-Pacific War and stigmatized, traumatized, and marginalized after the war ended due to living in patriarchal cultures that shame victims of sexual violence. However, more pertinent to his article and this rebuttal, it shows negligent, one-sided, and even biased scholarship. Due to the prevalence of ultra-nationalism and historical revisionism in Japan during the last three decades, there are many Japanese-language journal articles and books that have interpreted CWS as commercial prostitution. However, Ramseyer’s article may be the only study with this type of historical revisionist theme regarding this particular issue to be published in an English-language journal outside of Japan.

Critical Evaluation of Ramseyer’s Argument based on Testimonies of 103 KCW

To try to argue that Japanese and Korean “comfort women” were prostitutes with labor contracts rather than sexual slaves, Ramseyer should have written at least a long serious article. However, he devoted only 5.5 pages to the main body of his article. He made assertions without using data as evidence to prove his arguments. This is a typical revisionist scholars’ method of writing articles and books. He devoted more space to discussions of commercial prostitution houses that were established in Japan and Korea and claimed that commercial brothels became

the main sources of “comfort women” for Japanese soldiers. He seems to be more familiar with the commercial prostitution system in Japan, but he seems to have little knowledge of the military sexual slavery system.

The first major problem of Ramseyer’s article is that he failed to differentiate between Japanese and Korean “comfort women,” as if they had been mobilized via the same mechanism and treated at JMB in the same ways. According to my research, there were significant differences between Japanese and Korean “comfort women” in how they were mobilized, their ages, fees that they were paid, and treatment that they received at JMB. By lumping the two very different groups together, he greatly distorted and misrepresented KCW’s mobilization to JMB and the brutal treatment they endured at the hands of Japanese soldiers. First of all, whereas most JCW originated from commercial prostitution houses in Japan (Hayashi 2015: 110), the vast majority of KCW were mobilized through forcible methods or employment fraud, helped by Japanese policemen, soldiers, and military police officers who were stationed in Korea. Thus, his arguments emphasizing commercial prostitution in the home country as the main sources of “comfort women” may be more applicable to JCW, although most of them were also mobilized involuntarily (Hayashi 2015: 110).

Ramseyer selectively used one or two “comfort women’s” testimonies when he considered them to be useful to his arguments. But, like other historical revisionist scholars, he seems to consider victims’ testimonies not as credible evidence for the “comfort women” issue. This is problematic because victims’ testimonies are accepted as the most important type of evidence in criminal judgments. A more important issue in making judgments about a large group, like “comfort women,” is whether the sample of testimonies is large enough or not. To understand at what ages and how “comfort women” were mobilized, their testimonies are more important than historical documents. In my book (Min 2021), I cited and closely analyzed testimonies of 103 KCW, the largest sample of “comfort women’s” testimonies available in Asian countries. They are included in eight volumes of testimonies, published between 1993 and 2004 by the Korean Council for Justice and Remembrance for the Issues of Military Sexual Slavery. In this response, I would like to share with the readers some of data analyses of their testimonies and two major arguments in his article.

One hundred and six cases of mobilization (when including three women who were mobilized twice) indicate that a vast majority of them (81%) were mobilized through coercive methods (kidnapping, abduction, being physically taken, or verbal threats) (46%) or employment fraud (35%), with 15% mobilized through parents' sales of their daughters to others (mostly not directly to "comfort stations") and 4% volunteered (Min 2021: 90). Ramseyer indicated that many Koreans engaged in recruiting KCW using employment fraud. However, the Japanese colonial government's officials used Japanese teachers, Korean village heads, and other Korean recruiters in Korea. The forced mobilization of a huge number of KCW was part of the manpower exploitation of the Korean colony by Japan. Hundreds of thousands of other Korean women and men were forcibly mobilized as civilian workers and hundreds of thousands of Korean men were forced to be soldiers (Kang and Suh 1997).

The age difference between JCW and KCW is as important as the mode of mobilization. The testimonies reveal that 93% of the 103 KCW were mobilized between the ages of 11 and 20 (Min 2021:84), which was under the legal age for prostitution at that time according to Japanese law and three anti-trafficking international conventions Japan had joined (Yoshimi 200: 156). On the other hand, a vast majority of JCW were mobilized to "comfort stations" at age 21 or older (Hayashi 2015: 110). Because KCW were under the legal age for being prostitutes, almost all of them should be considered as having been forcefully mobilized, regardless of their modes of mobilization. The fact that nearly all KCW were mobilized before the legal age for commercial prostitution proves the inadequacy of Ramseyer's claim that KCW were mobilized from commercial prostitution houses, which was the case for most JCW.

The Japanese military could not forcibly mobilize unmarried Japanese virgins to serve Japanese soldiers because there would have been a strong negative reaction in Japanese society. According to a historical document cited by Yoshimi, the Home Ministry's Chief of the Police Bureau stipulated that "the travel of women intending to engage in the shameful calling should be limited to the women currently working as prostitutes, at least 21 years of age, and free from sexually transmitted and other infectious diseases" (Yoshimi 2000, 100). Yoshimi cited another meaningful sentence from the same historical document: "If the recruitment of these women and the regulation of [recruiting] agents is improper, it will not only compromise the authority of the empire and damage the honor of the Imperial Army; it will exert a baleful influence on citizens

on the home front, especially on the families of soldiers who are stationed overseas” (Yoshimi 2000: 154). This indicates the Japanese military government’s concern about losing the trust not only of the international world, but also of Japanese citizens—especially Japanese soldiers—if it had mobilized Japanese virgins to JMB. These excerpts from Yoshimi’s research also show that the Japanese military controlled the recruitment of “comfort women.” Moreover, these clarifications indicate that Ramseyer was negligent in his efforts to prove that Korean and Japanese “comfort women” were prostitutes with labor contracts, without knowing the significant differences between the two groups. How could Korean girls and young women between the ages of 11 and 20 have voluntarily participated in “comfort stations” to make money?

The second major problem with Ramseyer’s article is his claim that most JCW and KCW received large advances before their mobilization and received substantial wages during their services at JMB. Again, my analyses of the 103 testimonies reveal that only some of the 19 KCW who were sold or voluntarily participated seem to have received advance payments, with none of them having received a labor contract. Since most KCW had debts to the owners of “comfort stations,” Ramseyer seems to have claimed that they received large advances before their mobilization to “comfort stations.”

However, my close analysis of KCW’s testimonies indicate that the owners of “comfort stations” charged most KCW with un-owed debts illegally by charging them with expenses for their recruitments, transportations, and new dresses. I introduce the following two KCW’s testimonies to show their illegal practice. A Korean man in military uniform took Gun-ja Ha to a Korean couple in Seoul. The couple took her to a “comfort station” in Manchuria by train. According to Ha, when they arrived at the “comfort station,” “the female owner told me how much money she gave the two Korean men for taking me to her and also how much money they spent for train fares and the purchase of my dresses. They said that I should sell my body to pay back my debts. They told me to work for three years at the ‘comfort station’ to pay back my debt” (Ha 1995: 65). Yeon-I Park’s following testimony indicates that the owner included not only her recruitment and transportation fees, but also cosmetic expenses in her debts. Moreover, she could not disagree to the owner about her debts because she would beat her:

Although I worked very hard not to make the owner dislike me, I was paid nothing for

three years. Her calculation of my debts included all expenses for my recruitment and transportation from my home village, and all expenses for my living costs at the comfort station, including cosmetics. We should have accepted our debts the owner calculated. Otherwise, she would have beaten us.

If KCW had volunteered to participate in “comfort stations,” the owners could have charged them with the expenses for their recruitments and transportations. But it was illegal for the owners to have charged these forcibly mobilized women. The owners seem to have designed the un-owed debt system to tie the women to “comfort stations” for a long period of time. The Japanese military should have known of the owners’ illegal practice of charging un-owed debts to “comfort women.” But it may have liked it because it gave the impression that “comfort women” were charged with debts because they had been mobilized voluntarily or through the sales by their parents with major advances from the owners of “comfort stations.” This finding from KCW’s testimonies is important because no scholar seems to have indicated the problem of the un-owed debts issue. It also indirectly shows the inadequacy of Ramseyer’s claim that KCW participated in “comfort stations” with advance payments based on contracts.

My analyses of KCW’s testimonies also show the inadequacy of Ramseyer’s argument that KCW made a lot of money at “comfort stations.” At JMB, only eight of 103 KCW were found to have received 40% or more of fees paid by Japanese soldiers to the front desk only in the last stage of their sexual servitude, mainly because they had been assigned to officers’ clubs (five) or houses of prostitution (three) (Min 2021: 110). However, the Japanese military established officers’ clubs mainly to prevent high-ranking Japanese officers from using private prostitution houses (Hayashi 2015, 117). The military seems to have arranged for JCW to work at officers’ clubs. A predominant majority of “comfort women” working for officers’ clubs are likely to have been JCW (Kurahashi and Keyser 1994; Ueno 2004, 101; Yoshimi 2000, 101). Thus, more JCW were paid significant portions of fees than KCW, which is another difference between the two groups. Although few KCW received regular fees, they received tips from most Japanese officers and some Japanese regular soldiers (Min 2021: 109). However, receiving tips has nothing to do with labor contracts.

Third, to support his argument that “comfort women” were well-paid prostitutes with labor contracts, Ramseyer misrepresented Ok-ju Mun’s testimony. He characterized Mun as a

happy woman who enjoyed her life at a “comfort station” and made a lot of money (Ramseyer 2021: 6). I believe that Ramseyer exaggerated Mun’s earnings and misrepresented her experiences as a “comfort woman” by neglecting to share some of the brutality that she was subjected to. For example, she narrowly escaped getting killed by a drunken Japanese officer by taking his sword and injuring him. Moreover, she also attempted suicide by jumping from the second floor at her “comfort station,” sustaining serious shoulder injuries (Mun 1993: 160-161); these do not seem like the actions of a happy person. She did not work at an officers’ club, but she was physically close to one. The Japanese military seems to have treated high-ranking officers very well, giving them high salaries and frequent parties to make them fight loyally for the Japanese empire. In testimonies, some KCW disclose that officers’ clubs organized frequent drinking parties. Mun was also fluent in Japanese and had musical talents. Thus, she was made to work as an entertainer at parties at night (Mun 1993: 162). Drunken officers seem to have paid very generous tips to “comfort women.” But, as pointed out above, these tips had no connection with labor contracts.

Ramseyer emphasized that Ok-ju Mun had made a great amount of money at her “comfort station.” However, because of the astronomically high inflation in Burma and other war-torn Asian countries, what was over 25,000 yen at that time was valued at 1,800 yen in Japan after the war (Hayashi 2015, 57). Moreover, the Japanese government did not allow KCW to withdraw money deposited in Japanese post office accounts or banks during the war. When Mun visited Shimonoseki to testify in 1993, a Japanese group tried to assist her in getting her deposit money back (Kim 2007, 138). The group identified Mun’s Japanese post office account and found that the balance had increased to 50,108 yen in the early 1990s (Kim 2007:139). However, the post office refused to give the money to her on the grounds that she was no longer a Japanese citizen after the 1951 Treaty of San Francisco and that the 1965 Treaty on Basic Relations covered all of the damages inflicted by Japan’s colonization of Korea. Japanese post offices and banks refused to give back money to many other Korean civilian workers and soldiers mobilized by the Japanese military government. It should also be noted that Mitsubishi Heavy Industries was the defendant in a fairly recent lawsuit filed by Korean laborers seeking damages for being forced to work during the Asia-Pacific War; it seems like more than coincidence that Ramseyer is a Mitsubishi-endowed professor.

While the above-mentioned points address a number of fallacies in Ramseyer's argument that CWS was a contract-based prostitution system and not sexual slavery, I would like to mention one final problem that makes his position indefensible. In order to reject the sexual slavery thesis, it is necessary to demonstrate that ACW could leave JMB voluntarily. However, more than enough testimonial data show that "comfort women" were under tight surveillance at JMB and were not allowed to come and go as they pleased. In fact, many women who attempted to escape from "comfort stations" were injured or even killed (Min 2021: 138-140). Since many KCW died, committed suicide, or were killed at JMB while others were trapped in their areas of servitude and unable to return home to Korea after the war, only about half of them are presumed to have come back home.

Concluding Remarks

As a social science researcher and a scholar of "comfort women," I find Ramseyer's article shocking for several reasons: (1) That a law professor at an esteemed institution such as Harvard could engage in such ill-informed and irresponsible scholarship, (2) that a peer-reviewed journal would publish this type of historical revisionism and shoddy scholarship without thorough fact-checking or critical assessment, and (3) that the transparency of Ramseyer's conflict of interest as a Mitsubishi-endowed professor has not raised more red flags, especially in light of his article's content.

In 2007, the U.S. House of Representatives unanimously passed a tough resolution, which called on the Japanese government to (1) acknowledge that CWS was sexual slavery, (2) apologize for its predecessors' actions, and (3) accept responsibility in an unequivocal manner (Min 2021: 238-241). In addition, ten U.S. state and city governments passed similar resolutions calling for the Japanese government to atone for this historical atrocity (Min 2021: 242). To help spread awareness in the U.S., fifteen "comfort women" memorials have been installed in American neighborhoods (twelve of them in public places) (Min 2021: 244). American politicians, journalists, feminists, college students, and local residents have strongly supported these redress activities, mainly because they do not want to see similar brutal sexual violence incidents occur again. These redress actions in the United States prove that this is not just a historical ethno-nationalist disagreement between Japan and Korea, but rather a human rights issue condemning sexual violence against women, particularly during wartime. Given these

facts, Ramseyer's article, as well as other historical revisionist scholarship that seeks to defame people without adequate evidence, has no room in respectable peer-reviewed journals. In post-war Germany, people who denied that the Holocaust happened were prosecuted and imprisoned. In effect, Ramseyer and Japanese neo-nationalists who seek to revise history despite sufficient evidence to the contrary are denying the Japanese government's active role in a widespread and institutionalized system of sexual slavery which mobilized hundreds of thousand young girls and women to what McDougall (1997) called "rape camps." Furthermore, by defaming the victims in arguing that CWS was contract-based prostitution and not military sexual slavery, it can be argued that Ramseyer has committed libel. Scholars have the right to express opinions, but no right to defame so many victims of brutal military sexual slavery.

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