



Iowa Research Online

The University of Iowa's Institutional Repository

Honors Theses at the University of Iowa

Spring 2018

Defining the “Comfort Women” Phenomenon: Prostitution to Sexual Enslavement

Mickayla Molnar
University of Iowa

Follow this and additional works at: https://ir.uiowa.edu/honors_theses

 Part of the [Asian Studies Commons](#)

This honors thesis is available at Iowa Research Online: https://ir.uiowa.edu/honors_theses/133

DEFINING THE “COMFORT WOMEN” PHENOMENON: PROSTITUTION TO SEXUAL
ENSLAVEMENT

by

Mickayla Molnar

A thesis submitted in partial fulfillment of the requirements
for graduation with Honors in the International Studies

Amy Weismann
Thesis Mentor

Spring 2018

All requirements for graduation with Honors in the
International Studies have been completed.

Emily Wentzell
International Studies Honors Advisor

Defining the “Comfort Women” Phenomenon:
Prostitution to Sexual Enslavement

Mickayla Ruth Molnar

University of Iowa

May 2018

Abstract

Prior to and during World War II, the Imperial Japanese government authorized and executed the systematic sexual labor of over 200,000 women and girls from Korea, the Philippines, Taiwan, Indonesia, Burma, the Netherlands, Australia, and Japan. The *jugun ianfu*, more widely known by the wartime euphemism “comfort women,” have longtime been a topic of international discussion. The comfort women and sympathizers continue to seek international recognition and redress for the crimes of wartime sexual labor against Japan. However, the comfort women issue, an issue that has continued for roughly seventy-three years, has yet to be solved due to the lack of historical documentation, constant denial of events, and strained political relationships. In addition to the many legal, moral, and societal reasons, the definition of the comfort women phenomenon is being brought to question. Would a conclusive definition of the comfort women phenomenon lead to faster reconciliation?

This research paper provides an in-depth exploration on how the comfort women phenomenon should be presently defined. Is the phenomenon a case of prostitution, or is it a case of sexual enslavement, and why are these two descriptions so hotly debated? Based on the international academic and judicial communities, and testimonies from former comfort women, the comfort women phenomenon will be considered prostitution as sexual enslavement.

Keywords: *comfort women; jugun ianfu; military; system; prostitution; sexual enslavement; rape; sexual violence; international law; human rights; World War II; Japan; South Korea; China; East Asia; South Asia; Southeast Asia*

Table of Contents

Abstract	1
Table of Contents	2
Introduction	3
Introduction to the Phenomenon.....	3
Defining the “Comfort Women” Phenomenon.....	5
The “Comfort Women” Phenomenon	5
“Comfort Women”	5
The “Comfort Women” System.....	6
Recruitment	6
Life in the “Comfort Stations”	8
Types of Facilities	10
Rationale.....	10
Disputes and Discrepancies	11
Reasons for Disputes	11
Disputed Questions.....	11
The Disputes and My Research	13
“Sex Slave” or “Prostitute”	13
Definitions	14
Perspective of “Prostitution”	15
Scholarly Approach.....	16
Testimonial Approach	17
Analysis.....	18
Perspective of “Sexual Enslavement”	19
Scholarly Approach.....	19
Testimonial Approach.....	19
Analysis.....	21
International Definitions.....	22
Definition of the “Comfort Women” Phenomenon	26
Conclusion	27
Bibliography	29

Introduction

I. Introduction to the Phenomenon

The *jugun ianfu* phenomenon, more widely known by the euphemism “comfort women,” was the systematic sexual labor of an estimated 200,000 women and girls from multiple countries, authorized and executed by the empire of Japan, during the World War II era.¹ Based on various testimonies, these women and girls were often coerced, deceived, or even kidnapped into the system. These testimonies bring light to the cruel “slave-like” working conditions of the sexual labor of wartime Japan. Following the end of WWII, comfort women and the comfort women system remained relatively unknown to the international community. The phenomenon was first exposed during the trials of accused sexual internment of Dutch women in 1948.² Although it had been exposed, the existence of the comfort women was left in the dark until the 1980s when it was first discussed in public.^{3,4}

With democratization in the ROK and a movement for women’s rights in the 1980s, past events of WWII were brought to light. In 1991, forty-six years after the end of WWII, Kim Hak-sun was the first to publicly come forward as a former comfort woman. Using her testimony, she shared her experience with the world. With her historic confession, survivors from North Korea, Taiwan, China, the Philippines, Indonesia, and Burma made confessions of their own.⁵ Following the surge of testimonies, the followers of the Korean women’s rights movement and additional sympathizers rallied support for the cause.⁶ Seeking justice, the eyes turned to Japan. Here, the long debate between the Republic of Korea and Japan on the comfort women issue began.

With a surge of confessions bombarding the government of Japan, it had no choice but to comment. The Japanese government denied all claims, as noted by Roy L. Brooks. However, in addition to the confessions, lawsuits followed - the first lawsuit filed against Japan was in 1991. The Japanese government continued to deny all claims until documental evidence surfaced in 1993.⁷ The evidence resulted in the acknowledgement of the comfort system by the Japanese government.^{8,9}

There are various factors that contribute to the ongoing issue. First, there is an extreme lack of historical documentation. At one point in time, there were presumably various documents available that exposed the comfort women system and directly tied it back to the government of

¹ Soh, Chunghee Sarah. *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan*. Chicago: University of Chicago Press, 2008. xii.

² Edited by Roy, L. Brooks. *When Sorry Isn't Enough: The Controversy over Apologies and Reparations for Human Injustice*. Edited by Roy L. Brooks. New York: New York University Press, 1999. 87.

³ Soh, Chunghee Sarah. "Human Rights and the "Comfort Women"." *Peace Review* 12, no. 1 (2000): 124.

⁴ The comfort women were first discussed in public at an international conference on sex tourism. A professor, Professor Yun Chong-ok, presented a paper on the Korean Comfort Women. Many of the conference participants had never encountered the comfort women issue before, and many demanded investigations take place. This would ultimately lead to the comfort women issue being taken to the United Nations Human Rights Commission in 1992.

⁵ Edited by Hyun, Dae-song. *The Historical Perceptions of Korea and Japan: Its Origins and Points of the Issues Concerning Dokdo-Takeshima, Yasukuni Shrine, Comfort Women, and Textbooks*. Edited by Tae-song Hyön. Gyoha-eup Kyeonggi-do, Korea: Nanam, 2008. 217.

⁶ Soh, “Human Rights and the “Comfort Women”. 124.

⁷ Yoshimi, Yoshiaki. *Comfort Women: Sexual Slavery in the Japanese Military During World War II*. Edited by Suzanne Brien. New York: Columbia University Press, 2000. 35.

⁸ Ibid.

⁹ Following the speech of Kim Hak-sun, Yoshiaki Yoshimi discovered documents in the Self-Defense Agency’s National Institute for Defense Studies Library in Japan. In addition to publishing his findings, he participated in a survey of documents that resulted in the discovery and publication of sixty-two documents. These additional documents were published in 1993, on January 11. By January 17, six days later, Prime Minister Miyazawa Kiichi recognized and apologized for the first time for the comfort women system.

Japan.¹⁰ However, there are only a handful that remain. Events from WWII and the following Korean War, left many documents lost to flames. Despite this, scholars and historians hope more documental evidence will be found. As it has only been about seventy-five years since the end of WWII, it is quite possible that there are existing documents that are being withheld or have not been subject to declassification. Regardless, the lack of historical documentation has proven to be a fundamental issue for establishing factual evidence on the events of WWII.

Second, there have been many attempts for Japan to officially apologize for the events of WWII. Japan formally apologized for the first time on January 17, 1993.¹¹ Even though the government, headed by Prime Minister Miyazawa Kiichi, formally apologized, the apology was kept short with only, “[T]he government of Japan would like to take this opportunity once again to extend its sincere apologies and regrets.”¹² The Japanese government had apologized – though keeping it short and sweet – and it recognized the involvement of the Japanese military involvement in the establishment and management of the comfort system and the recruitment of the comfort women. However, the apology did not engage with the question of whether the comfort women and comfort system potentially violated international law.¹³ Additionally, the Japanese government did not allow for individual compensation to be granted. The lack of compensation continued to be an issue prompting the Japanese government to create the Asian Women’s Fund in July 1995.¹⁴ The creation, however, backfired as “many redress movement leaders in Japan and elsewhere [believed] the Asian Women’s Fund is viewed as an expedient evasion of legal responsibility by the Japanese government.”¹⁵

Despite the first and following attempts, no apology has been considered genuine enough for it to be accepted by the citizens of the Republic of Korea (ROK), the frontrunner in comfort women advocacy. The latest apology, dubbed the “final agreement,” was agreed upon by Japan and the ROK in 2015.¹⁶ The terms included an apology by Prime Minister Abe Shinzo, and a promise of one billion yen to be paid to the foundation that supports the survivors. In return, the issue would be put to rest by the ROK and a statue outside of the Japanese embassy in Seoul would be taken down. In other words, abiding by the agreement, the ROK would cease further action. However, the terms of the agreement were not met by both sides. The citizens did not put it to rest and the statue remained. Additionally, Abe Shinzo said the agreement does not constitute acknowledgement of the events.¹⁷ The continuous “denial” by the current Prime Minister and other members of the Japanese government have further strained the agreement, leaving the issue still unresolved.

Third, and the final and most current issue, many statues have been erected all over the world to commemorate the comfort women. The statues, as like mentioned above, have caused strain in the relationship between the ROK and Japan. However, as of late 2017, a statue was erected in the United States, located in San Francisco. In response, Osaka (大阪), the Japanese sister city, cut ties to San Francisco - they had been sister cities since 1957.¹⁸ The comfort

¹⁰ When referring to the “empire,” I am referring to the “Empire of Japan.”

¹¹ Ibid.

¹² Ibid., 37.

¹³ Ibid.

¹⁴ Soh, “Human Rights and the “Comfort Women”. 124.

¹⁵ Ibid.

¹⁶ “Tentative Two-Step: South Korea and Japan.” *The Economist* 415, no. 8934 (2015): 35.

¹⁷ When referencing the names of Chinese, Korean, or Japanese persons, the name will follow the traditional format of family name, then given name. The same format will continue all throughout.

¹⁸ Taylor, Adam. “Osaka Mayor to End Sister-City Status with San Francisco over ‘Comfort Women’ Statue.” 2017.

women issue has primarily remained between the ROK and Japan, but other nations may become involved as more statues are erected throughout the world.

The lack of historical evidence through documentation and constant denial of events by the Japanese government are the two main reasons the comfort women and the comfort system continues to be an international issue today.

II. Defining the Comfort Women Phenomenon

The case of the comfort women, more specifically the seeking of recognition and redress, has been an issue that has continued for roughly eighty-five years, well into the twenty-first century. But how is the comfort women issue different? How has the issue of comfort women recognition and redress not been put to rest? Lack of historical documentation, ingenuine apologies, a continuous denial of existence, and reactions to comfort women statues are the leading reasons the issue has yet to be resolved.¹⁹

The comfort women phenomenon may be an issue from the past, but the individuals seeking justice and recognition have no plans to rest. As mentioned in the previous paragraphs, there are many legal, moral, and societal reasons the issue continues to pose a problem for the modern world. One topic I feel is worthy of in-depth exploration is the disagreement between the international academic and judicial communities on how to define the phenomenon. Is it a case of prostitution, or is it a case of sexual enslavement, and why are these two descriptions so hotly debated?

My research focuses on the discussion of defining the comfort women phenomenon as either prostitution or sexual enslavement. Through careful analysis of the system of WWII and the testimonies of survivors, disputes and discrepancies come to light. Stemming from these discrepancies, I reached the conclusion that an argument could be made for labeling the comfort women issue as both prostitution and sexual enslavement. Upon reaching that conclusion, I then analyze the phenomenon through a human rights lens. Using definitions from international legal case study related to the phenomenon, I proceed with my final conclusion: the comfort women phenomenon is and should undoubtedly be considered prostitution *as* sexual enslavement.

“Comfort Women” Phenomenon

I. “Comfort Women”

The *jugun ianfu*, more commonly referred to as the wartime euphemism “military comfort women,” was the systematic sexual servitude of women and girls from various countries, authorized and executed by the empire of Japan.^{20, 21} The term “comfort women,” though a euphemism, is an accurate representation of the type of service the women and girls committed, as they were traditionally meant to be an outlet for soldiers to vent their frustrations

¹⁹ I do not believe these are the only reasons for the comfort women phenomenon to be unresolved. This statement is based on my collective data.

²⁰ Kim-Gibson, Dai Sil. *Silence Broken: Korean Comfort Women*. Korean Comfort Women. First edition: Parkersburg, Iowa: Mid-Prairie Books, 1999. 1.

²¹ The term “comfort women” comes from the direct translation of *jugun ianfu* (従軍慰安婦). If one examines the three kanji, the first kanji means “amusement, seduce, comfort”; the second means “cheap, quiet, peaceful”; and the third means “woman, wife, bride.” If put together, it could literally mean “a cheap woman for comfort.”

and seek “comfort.”²² For that reason, I will continue to use the euphemism throughout my research.

Although exact numbers are unclear, an estimated 200,000 women and girls from Korea, the Philippines, Taiwan, Indonesia, Burma, the Netherlands, Australia, and Japan were considered victims of the system. The age of the females ranged from thirteen to the mid-twenties. Of the estimated 200,000 women and girls recruited as comfort women, approximately eighty percent are believed to have been of Korean ethnicity.²³ The sexual servitude of *jugun ianfu* took place primarily between the 1930s and 1945, but a system can be seen created as early as the late 1920s.²⁴

II. The “Comfort Women” System

The comfort women system was, like the name suggests, a system. An official order to establish “army comfort houses” was given by Generals Okabe Naosaburo and Okamura Yauji in 1932.²⁵ Based on available historical documentation, this coincides with the order, as the first comfort station was believed to be established in Shanghai in 1932.²⁶

Following a confrontation with China in 1931, Japan had an excuse to quickly invade and gain control of Manchuria.^{27, 28} The troops of the Japanese navy in Shanghai constructed the first comfort stations. Like Carmen Argibay points out, a system of licensed prostitution existed at this time, so “it is possible that those first comfort stations employed licensed prostitutes.”²⁹ At this point in time, Japanese soldiers referred to them as “whore houses or brothels.”³⁰ However, after the Rape of Nanking in 1937, the Japanese military began to regulate this system, and turned the former “whore houses and brothels” into comfort stations where they would be used for sexual servitude.

As the empire of Japan gained more control of territories – working its way through China and into South-East Asia – wherever the Japanese military went, comfort stations followed. By the end of World War II in 1945, comfort stations had been established in almost all occupied territories of the empire of Japan.^{31, 32}

a. Recruitment

To maintain a positive morale amongst the soldiers, the empire of Japan established and arranged a system for “comfort.” Now that a system had been formally organized, women and

²² Watanabe, Kazuko. “Trafficking in Women's Bodies, Then and Now: The Issue of Military “Comfort Women.”” *Peace and Change* 20 (1995): 21.

²³ Boling, David. “Mass Rape, Enforced Prostitution, and the Japanese Imperial Army: Japan Eschews International Legal Responsibility?” *The Columbia Journal of Transnational Law* 32, no. 3 (1995): 7-8.

²⁴ *Ibid.*, 7.

²⁵ Stetz, Margaret D. and Bonnie B.C. Oh. *Legacies of the Comfort Women of World War II*. Edited by Margaret D. Stetz and Bonnie B. C. Oh. Armonk, N.Y.: M.E. Sharpe, 2001. 8.

²⁶ Yoshimi, 43.

²⁷ Spence, Jonathan D. *The Search for Modern China*. Third ed. New York: WW Norton and Company, 2013. A66.

²⁸ The Manchurian Incident, or Mukden Incident, was a confrontation between Chinese and Japanese troops on the tracks of the South Manchuria Railway in 1931. This staged event is significant as it was used as an excuse for Japan to invade Manchuria.

²⁹ Argibay, Carmen M. “Sexual Slavery and the “Comfort Women” of World War II.” *Berkeley journal of international law* 21, no. 2 (2003): 376.

³⁰ *Ibid.*

³¹ Soh, Chunghee Sarah. “From Imperial Gifts to Sex Slaves: Theorizing Symbolic Representations of the “Comfort Women.”” *Social Science Japan Journal* 3, no. 1 (2000): 64.

³² The empire of Japan, at the height of its power, included the following occupied territories: South Sakhalin, Mainland China, Korea, Taiwan, Hong Kong, Vietnam, Cambodia, Laos, Thailand, Malaysia, Philippines, Indonesia, Singapore, Myanmar, East Timor, New Guinea, Guam, South Pacific Mandate, Nauru, Wake Island, Attu and Kiska Islands, and Kiribati. At the height of expansion, the empire of Japan had a population of over 25 million.

girls were needed to provide said comfort. Recruiting is traditionally defined as "enlisting people for a certain cause."³³ When referring to recruitment, in most cases, the people seeking to enlist in a certain cause do so by their own willingness. However, in the case of the comfort system, the empire of Japan used various methods of recruitment. Some of which did not allow a choice to be made by the recruit.

The recruitment of comfort women was carried out by numerous parties. The system may have become organized and regulated by the empire of Japan, as aforementioned, but other parties, such as business owners and civilians, would eventually take on a significant portion of the role as recruiters. Chunghee Sarah Soh, calls these persons "entrepreneurs," as they lured most of the females into the system, assumingly for some type of personal gain.³⁴

As war began to rage on between China and the empire of Japan, soon to be followed by war with the Allied powers, military supplies and troops were needed. This period is referred to as "war mobilization."³⁵ In response, Japan conscripted Japanese citizens, mainly males, for the war effort.^{36, 37} To increase labor production, males from occupied territories were also conscripted; a large percentage most notably being conscripted from Korea. The men were recruited into the military, or were sent to work in factories or mines in Manchuria, northern Korea, and Japan.³⁸ To put into perspective the amount of people that were mobilized for the war effort, Michael Robinson, citing fellow scholar Bruce Cumings, argues "four million people were living and working outside of Korea by 1944" - that was about twelve percent of the population at the time.³⁹

Like the men, females were also conscripted during war mobilization through the establishment of the Women's Voluntary Service Corps.⁴⁰ Rural women were forced to take on more responsibility for the farm, following the conscription of the men, and urban women took on roles as factory workers or medical personnel. Like the name suggests, the Service Corps was "voluntary" at one point. Often, the work of the Service Corps offered a chance at earning a wage, that at the time, seemed significant. However, using the Service Corps as a ploy for work, women and girls were later procured for the intent of becoming military comfort women.⁴¹ There are countless cases of deception that arose during this process of procurement. Believing they were to become a boot factory worker or a nurse, many women and girls were deceived, and were really sent to a military comfort station.⁴²

Thus, these women and girls were most often deceived, coerced, abducted, or even sold into the system. The following are summaries of the testimonies of five former comfort women and their recruitment into the system:

³³ Haboush, Amanda. "Recruitment." 2010. 1225.

³⁴ Soh, *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan*, 4.

³⁵ Robinson, Michael Edson. *Korea's Twentieth-Century Odyssey: A Short History*. Honolulu, Hawaii: University of Hawaii Press, 2007. 92-99.

³⁶ By *conscripted*, I mean "mobilized" or "assembled" for the war effort. I do not intend to imply the *mobilization* was mandatory.

³⁷ The Japanese government passed the National General Mobilization Law in 1932, but it was not heavily implemented until the later years of the war.

³⁸ Kim, Seung-kyung, and Kyounghee Kim. "Mapping a Hundred Years of Activism: Women's Movements in Korea." Chap. 11 In *Women's Movements in Asia: Feminisms and Transnational Activism*, edited by Mina Roces and Louise Edwards, 189-206. London: Routledge, 2010. 193-194.

³⁹ Robinson, 97-98.

⁴⁰ *Ibid.*

⁴¹ Edited by Sangmie Choi, Schellstede, and Yu Photographs by Soon Mi. *Comfort Women Speak: Testimony by Sex Slaves of the Japanese Military*. Edited by Sangmie Choi Schellstede and Soon Mi Yu. New York: Holmes & Meier, 2000. 114.

⁴² *Ibid.*, 81-85.

Hwang Keum-ju grew up in a poor family and was sent to live with another family when she was eleven years old. When she was eighteen years old, her foster family was sent a draft notice by the Japanese. In lieu of the other daughters of the family, Hwang volunteered. She and the other drafted girls were told they would be sent to work in a factory, however, like many others, they were deceived and were drafted to become comfort woman.⁴³

Kim Soon-duk was born and raised in Kyungsang Province, Korea. When she was sixteen years old, she was told by Japanese officials that all girls fifteen and older should go to Japan to work at military supply factories. Kim's mother urged her not to go, but the Japanese officials threatened to take her mother instead. Instead of her mother being taken away, Kim "went to Japan."⁴⁴

Kim Sang-hi was born in Kyungsang Province, Korea. In 1937, when she was fourteen years old, Kim and her friend were walking back from a photo studio when they were kidnapped by a Japanese officer. Along with over one hundred other girls, she was shipped to China.⁴⁵

Kim Bun-sun grew up in a village outside of Daegu, Korea with her parents and siblings. When she was fifteen years old, she was kidnapped from a field by a Japanese policeman.⁴⁶ Along with many other Korean girls, she was shipped off to Taiwan.⁴⁷

By the age of seven, Kim Sun-ok had been sold four times. After returning to Pyongyang in 1941, her parents sold her for the fifth time. This time she was sold to a comfort station in Manchuria where she would remain for four years.⁴⁸

Based on my evaluated testimonies, over fifty percent of women articulate other methods used by the empire of Japan to recruit women and girls for the comfort system.^{49, 50}

b. Life in the "Comfort Stations"

The women and girls that were "drafted" for the comfort system lived and worked in circumstances that can be defined as grueling. It is difficult to assume that all women and girls experienced the same circumstances, but with review of available testimony, it is safe to say that the majority of women in my research pool lived a rough life in the comfort women system.

One of the characteristics of life in the brothels was the demanding service hours. Comfort women were expected to serve anywhere from twenty to fifty men per day.⁵¹ On busy days, the number was expected to be dangerously higher. The women's schedules would begin early in the morning and sometimes continued all through the night. Just like the hierarchy put in

⁴³ Ibid., 3-9.

⁴⁴ Ibid., 37-41.

⁴⁵ Ibid., 30-35.

⁴⁶ "Daegu" can also be stylized and pronounced as "Taegu."

⁴⁷ Ibid., 21-23.

⁴⁸ Soh, *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan*, 11.

⁴⁹ Min, Pyong Gap. "Korean "Comfort Women": The Intersection of Colonial Power, Gender, and Class." *Gender and Society* 17, no. 6 (2003): 951.

⁵⁰ Pyong Gap Min reveals that an analysis of interviews with seventy-six Korean comfort women revealed that 59% articulate being recruited through deception, 33% by coercion, and 8% through the sales by parents and husbands.

⁵¹ Stetz, 12.

place in the Japanese military, there was a hierarchy when it came to using the services of a comfort woman. Low-rank soldiers would assume the morning appointments, while middle-ranked soldiers would take the afternoon. The higher-ranking officers would take the evening appointments, and the late evening to overnight would be reserved for the commanders.⁵² In addition to the grueling schedule as a comfort woman, the women were expected to do their own chores, such as laundry.⁵³

The other defining characteristic of life in the brothels was the reality that the women and girls were unable to leave. In addition to the strict surveillance imposed upon the women within the station, the comfort stations were often surrounded by guard posts, making it difficult and even dangerous for the women to escape.⁵⁴ In the majority of testimonies, women and girls were often taken from their home countries and delivered to a comfort station in a foreign one. This made it even more difficult for comfort women to escape, as they did not know the local language and often stood out as foreigners.⁵⁵ There are many cases where comfort women did try to flee, but due to their foreign surroundings and the fear of the unknown, they returned to the comfort station. This was the case of Ha Sun-nyo.

It was winter, about a year after I came to Shanghai. In the midst of the falling snow, I fled from the comfort station. Just as I reached the end of the rickshaw's route, night fell. Not knowing where someone who'd fled should go and not understanding the language, I just curled up and tried to sleep. But I kept waking up, afraid that any moment someone would find me and take me back to the comfort station. Finally, the sun rose without me getting much sleep. No matter how hard I thought, I couldn't think of a place where I could go. With no other options, I quietly crept back into the kitchen of the comfort station. When I boiled some rice and set it down on a low table, the manager came in and told me not to eat. When I sat down and ate anyway, he beat me severely, calling me the bitch who took off.⁵⁶

Like seen in Ha Sun-nyo's testimony, the women also faced vast physical torment. If they tried to escape and were caught, the women suffered from harsh beatings, if they were lucky. To put it into perspective, these beatings were so harsh that sometimes they resulted in death. Additionally, if a comfort woman contracted a venereal disease or became pregnant, often the woman would be treated like garbage or even killed.⁵⁷ Roy Brooks notes that three out of four women and girls died. The causes of death being from disease, suicide, fatal beatings, and murder.⁵⁸ If a comfort woman was lucky enough to survive the war, she was "often left barren and scarred by physical and psychological problems."⁵⁹ In addition to physical and mental trauma, Pyong Gap Min adds, "they [also] suffered from shame, social isolation, marital problems, and poverty."⁶⁰ Not only did the comfort women suffer during the war, the trauma would follow them into the post-war era.

⁵² Ibid.

⁵³ Ibid., 12-13.

⁵⁴ Yoshimi, 144-146.

⁵⁵ Ibid.

⁵⁶ Ibid., 145.

⁵⁷ Boling, 9.

⁵⁸ Brooks, 88.

⁵⁹ Ibid.

⁶⁰ Min, 948.

c. Types of Facilities

As the comfort women system developed into a wide-spread, inter-national system, there were bound to be differences between the facilities. Yoshiaki Yoshimi articulates three types of facilities. There were those that were directly operated by Japanese military authorities and some that were operated by civilians.⁶¹ Additionally, there were privately owned and operated facilities, but these were given priority for military usage.^{62,63} The differences in types of facilities also accounted for differences in treatment of the women. These differences can be seen throughout the testimonies of former comfort women.

III. Rationale

The comfort women system was a highly organized system, authorized by the empire of Japan. Elements of the system may have been evident before wartime establishment, but the decision to regulate a system for “sexual comfort” was not without motive. Truthfully, the comfort system was established and regulated for three reasons: 1) to prevent mass rape, 2) to control and prevent the spread of venereal disease, and 3) to provide access to sexual pleasure.⁶⁴ This comfort system was a means to boost the morale of Japanese troops while claiming new territory and conquering new peoples. Positive morale in turn ensured the productivity of the imperial war machine.

With the beginning of the Second Sino-Japanese War in 1937, many ugly events were sure to follow, each time further proving the imperialistic intentions of Japan. One of the most well-known events of the Second Sino-Japanese War is the Rape of Nanking.⁶⁵ Within a month’s time, beginning in December 1937, Japanese troops raided Nanking and in addition to looting and razing the city, the troops killed an estimated 50,000 persons - civilians included - and raped tens of thousands of women. Although it is difficult to determine, some scholars estimate that during the Rape of Nanking more than 300,000 persons fell victim to the crimes of the Japanese troops. That is more than the total casualties combined from the atomic bombings of Hiroshima and Nagasaki in 1945.⁶⁶ According to Jonathan Spence, a scholar on Chinese history, the Japanese troops had been fighting a tiring undeclared war, leaving them frustrated. Based on Spence’s viewpoint, the Rape of Nanking can be viewed as an event of lashing out.⁶⁷ Taking into consideration the amount of seemingly unnecessary casualties in an undeclared war, it would not be surprising if Japan did not react. Additionally, in the Japanese military, rape was considered a punishable offense, leading to imprisonment of the captured perpetrators. For the purpose of preventing another event of mass rape, which could result in prison sentences and therefore affecting the productivity of the war machine, comfort stations were established.

⁶¹ Qiu, Peipei. *Chinese Comfort Women: Testimonies from Imperial Japan's Sex Slaves*. Edited by Su Zhiliang and Chen Lifei. Vancouver: UBC Press, 2013. 9.

⁶² Ibid.

⁶³ Other scholars also recognize the difference in facilities, only they categorize them differently. For example, Chunghee Sarah Soh categorizes the facilities based on motive: 1) the *concessionary*, 2) the *paramilitary*, and 3) the *criminal*. The first seeks to make a profit, the second seeks to “control the troops through regulated access to sex,” and the third seeks to commit sex crimes against the local women.⁶³ The third type of facilities were the ones that emerged following the events of Pearl Harbor, and the ones that are most often represented in the comfort women phenomenon.⁶³ By categorizing the facilities differently, she claims it allows for a more accurate view of the comfort system to be analyzed, as many believed all facilities were really one. I believe this statement to be true. Before further researching the issue, I too believed there was only one type of facility: the *criminal*.

⁶⁴ Yoshimi, 65-74.

⁶⁵ “Nanking” can also be stylized and pronounced as “Nanjing.”

⁶⁶ Brooks, 104.

⁶⁷ Spence, 401-402.

In addition to the worries of mass rape, the spread of venereal disease was also a concern. By establishing and regulating a comfort system, the idea was that the sanctioned space for sexual services would contain and prevent the spread of venereal diseases.⁶⁸ Even in the early years of the system, the prevention of venereal diseases was important. Yoshiaki Yoshimi, a notable scholar on the comfort women issue, addresses the establishment of the first confirmed comfort station in 1933.⁶⁹ This station, the “Disease Prevention and Hygiene Facility” of Pingquan, was established with the prevention of diseases as its motive.⁷⁰ In addition to having an on-site medical physician, the soldiers were tasked with using precautions such as condoms and “Secret Star Cream” disinfecting lubricant.⁷¹ As the system grew and war mobilization against China occurred, the prevention of diseases became more crucial. To further prevent a spread, recruiters sought out candidates who were virgins.^{72, 73} With a spread of venereal diseases, it could affect the morale of the troops, and therefore the productivity of the war machine.

The prevention of mass rape and control of venereal diseases were important factors for the establishment of the comfort system. However, allowing soldiers access to sexual pleasure in a “legal” space is without a doubt the most important factor. Simply put, by allowing access to sexual pleasure in a place that was highly organized, and not to mention regulated by the empire of Japan, future cases of mass rape and the spread of venereal diseases would be prevented.⁷⁴ In other words, without the idea of regulated access in the first place, the other factors would be irrelevant.

Disputes and Discrepancies

I. Reasons for Disputes

As I was accumulating information for my research, I came across some questions and concerns about the comfort women phenomenon that have been disputed. By disputed, I simply mean “not agreed upon.” These disputes are vital to my research as they are foundational concerns to the comfort women phenomenon - the number of comfort women, recruitment, working conditions, and origins/nationalities remain in dispute by scholars and historians.⁷⁵

II. Disputed Questions

⁶⁸ Yoshimi, 68-72.

⁶⁹ Yoshimi, 45-49.

⁷⁰ Pingquan is located in the Chinese province of Hebei, near the eastern border of Liaoning.

⁷¹ Yoshimi, 45-47.

⁷² Watanabe, 21.

⁷³ Potential virgin candidates were often easily identifiable due to established gender norms, such as clothing and styling of hair.

⁷⁴ Yoshiaki, 65-75.

⁷⁵ From my research, I believe there are three reasons why scholars and historians have disagreed upon these quintessential concerns. First, the lack of historical documentation. Concerns, like the total number of comfort women, is often left to assumption based on existing materials. Secondly, as time goes on, the amount of available historical documentation may have changed. Some scholars may have made assumptions based on previous materials, but as new documentation is made available, new information can be used to make more accurate assumptions, leading to disagreement. Third and final, testimony. Where there is lacking in historical documentation, personal testimony makes up, or so it seems. Fortunately, there are many testimonies available for those who study the issue. Additionally, as more testimonies have been heard, more are made available, and have even been used to cross-check information, further validating findings. However, it is difficult to base facts on testimony alone, as it is part of a memory, and memory is not always reliable. There may be more reasons to why these scholars and historians disagree, but I believe these are the three primary reasons.

Throughout my research, I have come across four disputed questions/concerns on the comfort women issue. I have summed up each question/concern into a general topic, where I will further explain the disagreement.

The first disputed question is the number of victims from the comfort system. Those who study the phenomenon, disagree on the total number. Using statistics gathered from existing documents, such as the replacement rates of the women and the number of men per woman, historians and scholars can estimate the total number of victims. Yoshiaki Yoshimi, one of the most notable scholars on the issue, argues between 45,000 and 200,000 were mobilized for the effort, while Michael Robinson argues between 100,000 and 200,000 were involved.⁷⁶ Chunghee Sarah Soh, another notable scholar, argues that the number of women and girls that were mobilized were between 50,000 and 200,000, while Kumagai Naoko states the numbers could be between 20,000 and 200,000.^{77, 78} Many historians and scholars that I have included in my research cap the maximum number at around 200,000, but there are a few that believe the number to be greater. For example, Su Zhiliang, the director of the China Research Center of Comfort Women, believes the number to be greater than 360,000 victims. He believes that the replacement rate of women was much higher during the years of WWII, resulting in a higher total of victims.⁷⁹ However, as historical documentation does not allow for an exact number, historians and scholars can only speculate.

The second disputed question is the recruitment of the victims. In other words, the conditions on how the victims became comfort women vary. As mentioned before, the empire of Japan employed many recruitment methods for the system. Females were most often recruited using the methods of coercion or deceit, and by kidnapping. However, there were also many who simply volunteered – knowing the conditions or not knowing are included in this category – into the system. The many methods of recruitment make it difficult, when analyzing the phenomenon, to make a generalized statement by a scholar or historian. If a scholar or historian attempted to make an argument stating, “all comfort women volunteered into the system,” the various methods used, which can be found in some historical documentation and backed by testimonial experience, make it difficult not to dispute.

The third disputed question is the working conditions of the system. There are many evident testimonies that point to contradictory conditions of comfort stations. Many previous testimonies – which will be further explored later in my research - explain the horrible, slave-like conditions of the stations. Conditions such as the seemingly endless amount of “working” hours and little to no sustenance available. There are, however, other testimonies that explain that victims had volunteered and worked for a sum of money, a contradictory view. For example, a group of twenty Korean comfort women were liberated from a station in Burma by the American military in August 1944.⁸⁰ The report that was filed thereafter, “Burma Report No. 49,” claimed that the women were given a wage, an issue that had not been discussed in previous testimonies. The wage was used to purchase basic items such as food and clothing. The report also mentions a debt system. Truthfully, it was made difficult for the women to pay back their debt, but if possible, the women could leave whenever they pleased. The report further mentions the state of

⁷⁶ Robinson, 97.

⁷⁷ Soh, *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan*, xii.

⁷⁸ Kumagai, Naoko. "Ontological Security and Japan's Ideological Debate over Compensating Wartime 'Comfort Women'." *Social Science Japan Journal* 18, no. 2 (2015): 17-18.

⁷⁹ Qiu, 38.

⁸⁰ Myanmar, formerly known as Burma, is located on the southern border of China. It was an important location during WWII for the Allied powers against Japan, called the *China-Burma-India* or *India-Burma Theater*.

health of the women as “good.”⁸¹ Compared to previous testimonies, and testimonies that will be further explored later, the conditions of the comfort women in this report were exceptionally different. Although this is just a sample of comfort women that operated in Burma, from these obvious differences in testimony, it appears that some females were living and working in conditions that seem more decent, as these women were allowed freedoms such as the potential to return home and to receive a wage. This report provides an insight to the various conditions of comfort stations. If all reported conditions are taken into an account, when making an assumption or generalization about the comfort system, it is difficult for a scholar or historian to make just one, leaving room for disagreement.

The fourth disputed question is the origins of the women and girls in the system. In other words, the nationality of the victims. As I have mentioned before, the women and girls involved were of a variety of nationalities and ethnicities. The disputed question is not concerning them specifically, but their “working” location itself. Due to the numerous nationalities involved, the disputed question comes from the idea that location may have caused different effects on the victims. This concern can be seen when analyzing testimonies from victims that were from or worked in the lesser studied occupied territories, such as the Korean comfort women in the “Burma Report No.49.” In other words, did location allow for a difference in experience of the comfort system? If the testimonies from comfort women in Burma and Manchuria are compared, those in Burma seem to have a less-grueling experience. With that said, it would be difficult to make an argument that said all comfort women had similar experiences.

III. The Disputes and My Research

By having disputed questions, especially on foundational concerns of the comfort women and the comfort system, it makes my research difficult. For example, when examining the question of the total number of comfort women subjected to the comfort system, there is no indefinite proof of a total number, leaving scholars and historians to only speculate. I would then have to choose the scholar or historian whom appears to be the most correct, based on my knowledge of the topic. I am not qualified to make an indefinite decision such as this. I can only speculate whom I deem the most correct based on my current knowledge of the comfort women and the comfort system.

Despite some difficulties, the disputes and discrepancies have helped fuel my research. Each disputed concern has been used to question the comfort women phenomenon as a case of prostitution and/or sexual enslavement.⁸² To determine myself if the comfort women phenomenon should be defined as a case of prostitution or sexual enslavement or both, they need to be examined. As I examined them, as well as others, I came to realize that all disagreement stems from the definition of a comfort woman itself. Is a comfort woman a prostitute or a sex slave?

“Sex Slave” or “Prostitute”

⁸¹ "Japanese Prisoner of War Interrogation Report No. 49." edited by United States Office of War Information Psychological Warfare Team, 1944. 1-7.

⁸² Whilst collecting research materials, I became aware of these concerns: how many were there; where are they from; how did they get there; and what did they do there? After collecting each scholars/historians answer, I compared them and found the differences. This led me to believe that these concerns are vital to defining the comfort women phenomenon.

Now that I have introduced the phenomenon, and discussed popular disputed questions, I have now come to the main portion of my research: defining the comfort women phenomenon. Using arguments presented by historians and scholars from both viewpoints, prostitution and sexual enslavement, and by comparing first-hand experiences from victim testimonies, I will present my premature assumptions on the definition of the comfort women phenomenon. Then, after examining the academic standpoint, I will compare my findings with the legal standpoint, where I will analyze international human rights law. Using my findings, I will then make my conclusion on how to define the phenomenon – prostitution or sexual enslavement.

I. Definitions

Before defining the phenomenon, it is important to first examine the definitions of each set of labels, beginning with prostitute and prostitution. Historically, prostitution is an “exchange of some sexual act for money, goods, or services,” and is known as the oldest profession in the world.⁸³ The individual or individuals providing the exchange of sexual services is known as a prostitute. These terms are defined using the most basic definitions. As legal factors are considered, what constitutes a prostitute or prostitution might take on a different meaning. Since legal stances of prostitution are not universal – some believe it is a crime, others do not – other components of these definitions will not be used as of now.

Now that the terms have been defined, there are some important factors to consider about prostitution. First, although the exchange of sexual services is mostly associated with a financial gain, it is not exclusive. Second, prostitutes are not exclusive to specific socioeconomic backgrounds. Meaning that individuals pursuing prostitution can come from any background and can be financial stable or unstable. In many societies, prostitution is branded as a last resort as a means for income. Even though there is this stigma, it does not necessarily mean those taking part in the act are from a low-income background. Third, prostitutes can be of any gender. Although prostitution is often associated with females, it is not exclusive. Additionally, the term prostitute often implies the individual is a female, but is really all inclusive.⁸⁴ In cases where the gender is important for identification purposes, there are many other synonymous terms for prostitute. Some examples include neutral terms, such as sex-worker; female-dominant terms, such as call-girl, hooker, and escort; and male-dominant terms, such as rent-boy, male escort, and gigolos. Despite the many alternatives to prostitute, each term has a stigma attached to it. For example, when choosing an alternative term for a female prostitute, there is a believed socioeconomic difference between a hooker and an escort. In this example, the hooker is most commonly believed to be from a middle-to-lower class background, while the escort may come from an upper-class background.⁸⁵ When choosing an alternative term to prostitute, it is important to evaluate the social, cultural, and economic beliefs surrounding the specific term to ensure proper usage. Fourth and final, prostitutes may work individually, in a group, independently, or under a management facility.⁸⁶ This factor is particularly important when discussing prostitution in imperial Japan and colonial Korea. This will be further discussed in later discussion.

⁸³ Breen, Clairissa D. "Prostitution." 2014. 744.

⁸⁴ Ibid.

⁸⁵ This example is based on knowledge from my cultural-societal norms. The stigma may be different based on other norms.

⁸⁶ Breen, 744.

Now that I have defined prostitute and prostitution, I will move on to the next set of labels: sex slave and sexual enslavement. In this case, before I can discuss the definitions of this set, I need to examine the definition of the term slave. In most basic definitional terms, a slave is an individual who is under the control of another. Historically, slaves are considered legal property of the owner, and are expected to obey the owner.

Moving on to the discussion on sexual slavery, Maki Kimura defines sexual slavery as “a form of domination over individuals or a group of individuals, often children and women, through the control of sex or sexuality.”⁸⁷ Another scholar, Carmen Argibay, adds that “slavery is often equated with forced labor or deprivation of liberty, [while] sexual autonomy is a power attaching to the right of ownership of a person.”⁸⁸ By controlling another person’s sexuality, this would constitute sexual slavery.

Similar to prostitution, there are factors of slavery that should be taken into consideration. First, as Samuel Hoff notes, there are many factors that led to the imposing of slavery in certain historical societies: social stratification, economic factors, high population density, etc.⁸⁹ Second, in reaction to the reasons behind the establishment of slavery in society, slavery has taken on many forms throughout history. Therefore, it is incorrect to assume there is only one type of slavery. With this notion in mind, slavery continues to take on a new meaning as time progresses. In fact, when slavery is discussed in modern terms today, most often the slavery being referred to is sexual in nature, or sexual slavery. Meaning, the slavery that exists today is not the same as what the world once knew – meaning racial slavery. As a modern concept, sexual slavery is heavily tied to the human trafficking epidemic that currently exists.

Now that I have presented definitions and some important factors for each, I will continue on to discuss the two perspectives in order to define the comfort women phenomenon as a case of prostitution or sexual enslavement.

II. Perspective of “Prostitution”

Prostitution was legalized in Japan as a part of a series of reforms following the Meiji Restoration in 1868. The Meiji Restoration was an important era as it signified the end of the Tokugawa period and the beginning of a new and modern government. As the government now placed the Emperor at the center of its government, Japan officially became an empire.⁹⁰

Following the signing of the Kanghwa Treaty in 1876, the Korean peninsula was open to influences from Japan.^{91, 92, 93} Such influences led to various reforms, one of which would be a system of licensed prostitution.⁹⁴ Beginning in the southern region of the peninsula, the practice was first introduced in 1881.⁹⁵ As tensions rose in the region due to the Sino-Japanese War (1894-1895) and the Russo-Japanese War (1904-1905), pleasure quarters began to appear in

⁸⁷ Kimura, Maki. "Sexual Slavery." 783, 2009.

⁸⁸ Argibay, 375.

⁸⁹ Hoff, Samuel B. "Slavery." 2011. 1541.

⁹⁰ Anshin, Anatoliy. "Meiji Restoration." 148-50, 2012. 148.

⁹¹ Robinson, 9-15.

⁹² Economic, intellectual, political, and cultural influences from various world powers – mostly from Japan - would eventually lead to the fall of the Chosŏn dynasty in 1910.

⁹³ The Chosŏn dynasty was the ruling dynasty of Korea from 1392 to 1910. King Sunjong, the then ruler, was forced to sign a treaty of annexation on August 16, 1910. From 1910 to 1945, Korea would become a colonized entity of the empire of Japan.

⁹⁴ Soh, *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan*, 8.

⁹⁵ Ibid.

response to the growing presence of Japanese military personnel. First in Busan, pleasure quarters soon emerged in other port cities throughout the peninsula.^{96 97}

By 1916, following the annexation of Korea in 1910, the system of licensed prostitution was fully realized. Before the annexation, many working prostitutes in Korea were of Japanese descent, meaning Japanese prostitutes traveled internationally for work. However, following the annexation, the number of Korean prostitutes greatly increased by fifty percent, from about 1,100 to almost 2,000.⁹⁸

The licensed prostitution system in imperial Japan was heavily regulated, in comparison, the system in Korea was much more laid-back. In Japan, Robert Kramm states that regular health examinations were demanded and prostitution was only “legal” in designated areas, such as the famous red-light districts.⁹⁹ However, in the newly established system in Korea, prostitution was allowed outside of designated areas, allowing for, as Chunghee Sarah Soh states, prostitution to “seep into society as part of everyday life.”¹⁰⁰

a. Scholarly Approach

Knowing that there was a licensed system of prostitution in both Japan and Korea during WWII and before, how will scholars and historians choose to define the comfort women phenomenon? To examine the perspective of the comfort women phenomenon as a case of prostitution, a further examination into two sub-categories is needed: All-Inclusive and Partially-Inclusive. Within these two sub-categories, scholars and historians disagree on who should be defined as a “comfort woman.” In the All-Inclusive category, scholars and historians believe all comfort women are “prostitutes,” and in the Partially-Inclusive category, scholars and historians believe only a certain group or groups should be defined as comfort women, and thus “prostitutes.”¹⁰¹ In order to examine the comfort women phenomenon as a case of prostitution, the included and excluded individuals need to be discussed.

In the All-Inclusive category, all traditionally defined “victims” of the comfort system are to be considered “prostitutes.” Meaning, of the estimated 200,000 women and girls from Korea, the Philippines, Taiwan, Indonesia, Burma, the Netherlands, Australia, and Japan, all “comfort women” are to be defined as “prostitutes.” Henry Scott Stokes, a British scholar, can be seen taking this type of stance. Stokes explicitly states, “the comfort women were prostitutes.”¹⁰² He further states, “[all] accusations of a “comfort women” system of the Imperial Japanese Army were not on solid grounds,” – meaning all accusations of the comfort women system being a case of sexual slavery are not on solid grounds.¹⁰³ Continuing, “[s]aying comfort women were sex slaves of the Japanese Army is propaganda and it is a fabrication of historical facts.”¹⁰⁴ This showcases that Stokes believes the comfort women phenomenon should be defined as prostitution, and only prostitution.

⁹⁶ Ibid.

⁹⁷ Busan is located in the southeastern part of the peninsula (South Korea). This port city was and still is a strategic location for trade, as it is only about one-hundred twenty miles from the Japanese islands of Kyushu and Honshu, or in other words mainland Japan.

⁹⁸ Soh, *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan*, 9.

⁹⁹ Kramm, Robert. *Sanitized Sex: Regulating Prostitution, Venereal Disease, and Intimacy in Occupied Japan, 1945-1952*. Oakland, California: University of California Press, 2017. 5.

¹⁰⁰ Soh, *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan*, 9.

¹⁰¹ I came across the idea of the *All-Inclusive* and *Partially-Inclusive* categories when collecting my research. I noticed that the scholars/historians that were in favor of the phenomenon being a case of prostitution had different definitions of “comfort women.”

¹⁰² Stokes, Henry Scott. “Fabricating Historical Facts.” (2014). 11.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

In contrast to the All-Inclusive category, the Partially-Inclusive category excludes some individuals from the label of “victim.” As noted previously, although Korean comfort women made up eighty percent of the comfort system, other ethnicities and nationalities of the occupied territories of the empire of Japan were represented – including Japan. Thus, it is important to note that there were in fact Japanese comfort women who were victimized by the comfort system.¹⁰⁵ Even with this knowledge, there are scholars who believe the Japanese should not be considered as victims of the comfort system, but as “voluntary participants for commercial purposes.”¹⁰⁶ In simpler terms, there are scholars, like Pyong Gap Min, who believe the Japanese comfort women were all prostitutes, and only prostitutes. Since the empire of Japan was the one to implement and carry out the comfort system, Korean women activists and scholars therefore believe the Japanese comfort women victims should not be considered as such.¹⁰⁷ This stance shows that there is a belief that certain ethnical and national participants of the comfort system should be defined as “prostitutes,” and therefore believe the comfort women phenomenon to be a case of prostitution, respectively.

In addition to the categorical viewpoints on whom to include as prostitutes, there is an interesting perspective on the licensed system of prostitution in Japan and Korea. There are many historians and scholars who believe the legalizing of prostitution was a direct implication of the forthcoming comfort system. Meaning, the licensed system of prostitution led to the comfort women system.

According to Robert Kramm, controlling the “international sex trade” was a primary concern for the empire of Japan, prior to and during WWII. He claims that the level of “Japanese prostitution abroad could damage the reputation of the empire,” prompting the regulation of the international sex trade.¹⁰⁸ He further states the creation of a military prostitution system, or the comfort women system, was directly related to this issue of regulating the sex trade for the purpose of maintaining the empire’s reputation.¹⁰⁹ Chunghee Sarah Soh also believes the system of prostitution led to the comfort women system. By the 1920’s, it became more common for prostitutes to find work overseas. Poor economic situations resulting from the Great Depression often meant the owners of adult-related businesses, along with the workers, had to migrate elsewhere for stability. As war mobilization grew near, the 1930’s saw an increase in migration to Japanese occupied territories for adult-related labor, eventually leading to the full-scale operation of the comfort women system.¹¹⁰

This widespread belief that the legality of prostitution in colonial Japan and Korea foreshadowed the comfort system is fascinating. Even though Robert Kramm and Chunghee Sarah Soh give compelling arguments, as well as other historians, it does not mean they believe the comfort women were prostitutes and the comfort women phenomenon is to be defined as a case of prostitution.

b. Testimonial Approach

From the various testimonies I collected for my research, there were little to no testimonies from comfort women that identified themselves as prostitutes or identified others as prostitutes. The only exception is Kim Hak-sun – the first Korean woman to publicly come

¹⁰⁵ Min, 939.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Kramm, 43.

¹⁰⁹ Ibid.

¹¹⁰ Ibid., 9-10.

forward as a former comfort woman in 1991.¹¹¹ Her testimony will be discussed in the comfort women phenomenon being a case of sexual enslavement perspective.

c. Analysis

Out of all the examined scholarly viewpoints, Pyong Gap Min's stance is the most interesting. He believes the Korean victims of the comfort system were indeed victims of sexual slavery and therefore were "comfort women," but he thinks the opposite when referring to the Japanese. He indirectly mentions multiple times that there is a distinction between Korean victims and Japanese victims - making small statements here and there like, "Korean comfort women were treated more cruelly than were Japanese comfort women; the vast majority of the sexual slaves were drawn from Korea before it was a colonial colony; the more brutal treatment of Korean sexual slaves than their Japanese counterparts; etc."¹¹² The issue with his argument is that he jumps back and forth on his personal stance on whether to use "comfort women" or "prostitutes" when referring to the Japanese victims, and "comfort women" or "sexual slaves" when referring to the Korean victims. Often, both terms are used in the same sentence, but he quickly adjusts in a subsequent paragraph that contradicts the preceding statement. For example, he says, "Japanese comfort women mainly were prostitutes," meaning he believes that the Japanese participants of the comfort system were prostitutes. But he continues in the next paragraph saying, "Japanese comfort women," calling the participants victims of the comfort system.¹¹³ He does the same with referring to the Korean victims, only this time he says, "Korean comfort women," but then goes on to use, "Korean sexual slaves."¹¹⁴ Despite the contradicting stance, Pyong Gap Min sees a difference between the Korean and Japanese victims of the comfort system. The difference being the Japanese comfort women were "prostitutes" and the Koreans were "sexual slaves." Therefore, he believes the comfort women phenomenon would be a case of prostitution.

Though the perspective of the comfort women phenomenon being a case of prostitution is compelling and a necessary component to my research question, it is not my intention to focus my research on this perspective. To accurately represent this perspective, extensive further research must be collected.

Regardless of the stance of a historian or scholar, I noticed some still use the term prostitute or prostitution to describe the phenomenon. When explaining the phenomenon, some used this concept to describe the type of action the women would be subjected to. Laura Hein, even though she is against the phenomenon being a case of prostitution, she still states comfort women were "shipped to the front lines to serve as prostitutes for the soldiers."¹¹⁵ Hein's essay is on the imaginative power of the comfort women - citing many examples from the women's rights movement in the 1990's, but she undermines her entire argument by continuing to use *prostitution* as a means to describe the type of service. Another case of this concept is with the use of the phrase "forced prostitution." This phrase itself is an oxymoron. Forced suggests the act is compulsory, and the previously examined term, prostitution, suggests the act willingly will bring about some type of gain - not exclusively financial gain. By stating the comfort women phenomenon was the "systematic forced prostitution of women," is a contradiction, or in other

¹¹¹ Soh, "From Imperial Gifts to Sex Slaves: Theorizing Symbolic Representations of the "Comfort Women", 65.

¹¹² Min, 938-57.

¹¹³ Ibid., 944.

¹¹⁴ Ibid., 938-57.

¹¹⁵ Hein, Laura. "Savage Irony: The Imaginative Power of the 'Military Comfort Women' in the 1990s." *Gender & History* 11, no. 2 (1999): 336.

words, an oxymoron.¹¹⁶ In cases like these, it is better to use a different term or phrase to describe the phenomenon.

III. Perspective of “Sexual Enslavement”

Unlike the perspective of “prostitution,” the notion that the comfort women phenomenon could be perceived as a case of sexual enslavement, first came about in the 1990’s through the emergence of the global women’s rights movement, or what Chunghee Sarah Soh calls “Feminist Humanitarianism.”¹¹⁷ In other words, the perspective that the comfort women phenomenon was a case of sexual enslavement was not realized until the 1990’s.¹¹⁸

a. Scholarly Approach

Chunghee Sarah Soh, a notable scholar on the comfort system, like mentioned previously, believes the comfort women system’s predecessor was the licensed system of prostitution, citing the legalization of prostitution in undesignated areas created a sense of normalcy.¹¹⁹ Even so, she does not adhere to the perspective of the comfort women phenomenon being a case of prostitution. She examines the definitions of prostitution and sexual slavery and applies them to the testimonies of comfort women. She states, “[p]rostitution, by definition, includes payment for sexual union, while slavery carries the norm of the social outcast.”¹²⁰ In doing so, certain aspects – such as the “payment” system in the form of tickets – the “majority of the survivors reveal that they were forced into conditions of slavery.”¹²¹ Through this analysis, she clearly adheres to the perspective of the comfort women phenomenon being a case of sexual enslavement.

Roy L. Brooks, also believes the comfort women system was a case of sexual slavery. In one of his works, *When Sorry Isn’t Enough*, he explicitly states in a note, the “authors prefer the terms “women and girls forced into sexual slavery, war-rape victims, or sex slaves.”¹²² Throughout his narrative, he uses the phrase “sexual slavery” to describe the victims. For example, discussing the death of a former comfort woman, he states, “she died on December 16, 1977, from chronic problems stemming from her sexual slavery.”¹²³

When examining the perspective of the comfort women phenomenon being a case of sexual enslavement, it is important to note that the scholars and historians above do not apply international legal case study to their arguments. Meaning, these scholars and historians reach their arguments through the exclusion of international law. Since international law and its applicability will be discussed later in my research, it is only appropriate to include arguments that exclude international legal case study and definitions.

b. Testimonial Approach

¹¹⁶ Boling, 7.

¹¹⁷ Soh, “From Imperial Gifts to Sex Slaves: Theorizing Symbolic Representations of the “Comfort Women”, 72.

¹¹⁸ Ibid.

¹¹⁹ Soh, *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan*, 9.

¹²⁰ Soh, “From Imperial Gifts to Sex Slaves: Theorizing Symbolic Representations of the “Comfort Women”, 72.

¹²¹ Ibid.

¹²² Brooks, 97.

¹²³ Ibid., 119.

Hwang Keum-ju, Kim Soon-duk, Kim Sang-hi, and Kim Bun-sun – the women I had previously referenced in the process of recruitment for the comfort system – consider themselves to have been a victim of the comfort system. Each woman had a different experience, but in terms of the quality of life in the comfort system, there are many similarities.

Hwang Keum-ju and Kim Bun-sun had a similar experience in the comfort system. Their testimonies highlight the amount of physical torment the women and girls received if they rebelled or tried to flee. The following are – in the order stated – excerpts of Hwang Keum-ju and Kim Bun-sun’s testimonies:

They put 20 girls in each barrack. There was nothing in that barrack except for a small stove. We were freezing and starving; The officer told me that from then on I had to obey him, or I would be killed. [T]here were five orders to obey. If I missed any one of them, I would be less than dead; When I woke up, I found myself lying on a pool of blood; The Japanese injected us with so many drugs; We did not receive supplies. No soap, no clothes, nothing; The Japanese gave me diseases, and I bled so much that I lost my uterus; I am alive only because of penicillin.¹²⁴

The food was not enough, and we always went hungry; They gave me tickets, not currency; I was infected with venereal diseases a number of times; I cried often and ran away several times. Each time guards caught me, brought me back to the house and physically punished me. The beating was so severe that my back was permanently injured, and my face became mangled. People used to tell me I was pretty until then.¹²⁵

Kim Soon-duk and Kim Sang-hi’s testimonies were similar to Hwang Keum-ju and Kim Bun-sun’s, however, Kim Soon-duk and Kim Sang-hi’s experience in the comfort system revolved around being in the clinic. Additionally, their testimonies prove they had both contemplated committing suicide as the only way to see an end to the retched comfort system.¹²⁶ The following are – in the order stated – excerpts of Kim Soon-duk and Kim Sang-hi’s testimonies:

Rooms were divided into tiny cubicles. Each of our 50 girls was assigned to one of these cubicles; I became ill soon after I became a sex slave and started to bleed severely through my vagina; [Our] manager gave me packets of black powder to take once a day; He then told me the powder was made from the leg of a Chinese soldier’s corpse; I frequently thought of killing myself.¹²⁷

[W]e were given orders not to cry. I didn’t want to be like those girls. I wanted to die right there and then, but there was no poison to kill myself with, no ropes to hang myself from; I was a virgin until that moment. I screamed in pain; I spotted a glass bottle, opened the cap, smelled disinfectant, and drank the whole bottle; I don’t know how they revived me; I said to myself, I didn’t die? I am still here? I can’t go on; Out of my nine years as a “comfort woman,” almost a total of three years were spent at the clinics.¹²⁸

¹²⁴ Choi, 3-9.

¹²⁵ Ibid., 21-23.

¹²⁶ Kim Soon-duk and Kim Sang-hi are not the only ones who contemplated suicide. Many other testimonies show death was thought as the only true escape.

¹²⁷ Choi, 37-39.

¹²⁸ Ibid., 29-35.

The four testimonies have such striking resemblances: all four women were deprived of food, clothing, and feminine products, and all four women were physically and mentally abused. There are many more testimonies that, unfortunately, depict the same “living” conditions. I say “living” because these are conditions that no one should be living in. But that is not the focus of this research, so I will leave my opinion out.

Of the many women whom have come forward to share their experiences, Kim Hak-sun is by far the most famous. As the first Korean woman to come forward as having been a victim of the comfort system in 1991, she remains an important figure in comfort women advocacy. Kim Hak-sun’s testimony is unique to most because she had been introduced to the prostitution system. Before she was labeled as a “victim,” Kim Hak-sun was affiliated with her local *kwōnbōn*, where she trained to become a *kisaeng* in Pyongyang.^{129 130}

No longer able to make ends meet, my mother sold me to a *kisaeng* house owner in Pyongyang when I was fifteen. After living there for two years, I thought I had gotten my first job. But the place I was taken by the *kisaeng* house owner who had adopted me was a division of the Japanese Army in North China.¹³¹

These *kisaeng* sometimes provided sexual services, meaning that even despite a difference in label, she provided relatively the same services as a prostitute.

c. Analysis

Of the academic resources I have collected for my research, about eighty percent of scholars and historians adhere to the perspective of the comfort women phenomenon being a case of sexual enslavement. Often, they cite their reasonings behind the belief that all women and girls mobilized for the comfort system were recruited by coercion. This reasoning is simply not true. As mentioned previously, there were cases in which women and girls volunteered for the comfort system. To say that because the women and girls were coerced into the system, comfort women are therefore “sex slaves” is not correct. I see this style of argument in works by Margaret Stetz and Bonnie B. C. Oh. In a section on the recruitment of comfort women, they state, “they all deceived young women, made them sign up, and ordered them to show up at the police stations or government offices. If women who had signed up did not appear, local authorities would resort to slave raids.”¹³² They continue to discuss the comfort women system using the phrase “sexual slavery” to describe the type of service.¹³³ So, if the role of coercion in recruitment led the authors to side with “sexual slavery,” what does that say about the many others who volunteered? Does that make the coerced “sex slaves,” and the others are simply “prostitutes?” Regardless of the type of recruitment, there are many cases of comfort women volunteering and enduring physical and mental abuse in the system.

What is not shown in the above testimonies, is the differences in location. Each of these women were Korean, and they were put into the comfort system outside of their home country. However, the women did not all go to the same place. In fact, Hwang Keum-ju was relocated to

¹²⁹ Soh, *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan*, 8.

¹³⁰ A *kwōnbōn* was an establishment dedicated to training *kisaeng* and other “entertainers.” The *kisaeng* provided many services, one of which was sexual services. The *kisaeng* can often be compared to the *geisha* of Japan, in that their profession is quite similar.

¹³¹ Nishioka, Tsutomu. “Behind the Comfort Women Controversy: How Lies Became Truth.” (2007). 8, 10.

¹³² Stetz, 11.

¹³³ *Ibid.*, 3.

Manchuria, Kim Bun-sun was relocated to Manila, Kim Soon-duk was relocated to Shanghai, Kim Sang-hi was relocated to Singapore, and Kim Hak-sun was relocated to Tiebizhen.^{134, 135} My point is that even though the women were all sent to different places, they still had similar experiences and received similar treatment. It is difficult to make an argument for the comfort system to be a case of prostitution when women – including those trained at a *kisaeng* - all over the Japanese occupied territories were experiencing relatively the same sexual servitude.

Most testimonies come from victims that were not affiliated with prostitution, which is the reason why Kim Hak-sun's experience is important to the discussion of the comfort women phenomenon as prostitution or sexual enslavement. Her testimony brings a new component to this discussion: personal identification. Kim Hak-sun started off as a prostitute, respectively speaking, but regardless of whether she identified with the label or not, in that moment of her life, she was defined as a prostitute. However, in her testimony and legacy, she personally identifies herself as a former comfort woman and a victim.

Both perspectives as well as Kim Hak-sun's testimony further solidifies the question of whether the comfort women phenomenon is a case of prostitution or sexual enslavement. If she was considered a prostitute, but identified as a comfort woman, what does that make her? And what could be said for the phenomenon?

Following the perspectives of the scholars and historians, and the testimonies of comfort women, it leads me to make an initial assumption that the comfort women phenomenon is a case of prostitution and sexual enslavement. I will now seek a solution using the legal standpoint of international human rights law.

IV. International Definitions

The term international law relates to rules that are based on international custom, that can be seen practiced in international treaties and conventions. When referencing international law, the United Nations (UN) is usually cited, as this organization has been the basis for many international laws following WWII, and the UN's International Court of Justice continues to be the primary body of international legal making.^{136, 137}

The movement for international recognition of the comfort women phenomenon took place during the 1990's. The 1990's was an important decade to anyone who studies world history, as this decade contained the fall of Communism and the collapse of the Soviet Union. For those who study international law and human rights, the collapse of the Soviet Union was important, but two events during the 1990's had seemingly more importance as they would shape international human rights law for the future. These two events were the International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993 and the International Criminal Tribunal for Rwanda (ICTR) in 1994.

The ICTY was authorized by the United Nations Security Council on February 22, 1993, and was authorized in response to ethnic cleansing in the territory of former Yugoslavia. Of significant importance, the ICTY was the first ad hoc tribunal established since the infamous

¹³⁴ Choi, 29-35, 22-27, 37-41, 29-35.

¹³⁵ Nishioka, 38.

¹³⁶ Luhde, Thorsten. "International Law." 817.

¹³⁷ Included in the various programs of the UN, the one that would deal with the comfort women phenomenon the most is the *Office of the United Nations High Commissioner for Human Rights* (OHCHR).

Nuremberg Trials and Tokyo Trials of WWII.^{138, 139} The ICTR was authorized by the United Nations Security Council to take place from January 1 to December 31, 1994, in reaction to the Rwandan genocide.¹⁴⁰

Both the ICTY and the ICTR made several contributions to international justice. Most importantly, the outcomes of both tribunals opened doors for the comfort women phenomenon. The comfort women phenomenon, an issue that had not been resolved, let alone discussed for fifty years, finally got a chance with the decisions of the ICTY and the ICTR. Included in the prosecution of the violations of the laws of war, genocide, and crimes against humanity, for the first time, sexual violence and rape against women were included.¹⁴¹

Of the many trials included in the ad hoc Tribunals, the *Akayesu*, *Furundžija*, and *Kunarac* cases play a significant role in the newly defined crime. In the *Akayesu* case, the chamber defined rape as a “physical invasion of a sexual nature, committed on a person under circumstances which are coercive.”¹⁴² In the *Furundžija* case, citing the definition established in the *Akayesu* case, the Chamber sought to “look for principles of criminal law common to the major legal systems of the world,” and furthered the definition of the crime of rape as follows:

(i) the sexual penetration, however slight: (a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (b) of the mouth of the victim by the penis of the perpetrator; (ii) by coercion or force or threat of force against the victim or a third person.¹⁴³

The *Furundžija* case furthered the definition of rape as a crime, by replacing “circumstances which are coercive” with “coercion or force or threat of force against the victim or a third person.” The trial concluded in recognizing that sexual violence under international criminal law included “all serious abuses of a sexual nature,” and that sexual violence is both a physical and mental attack.¹⁴⁴ The definition was furthered in the *Kunarac* case, altering the *Furundžija* case’s definition by questioning the “requirement” of coercion or a threat when discussing sexual penetration. Based on the idea that rape can occur in situations that lack coercion or a threat, the chamber identified that genuine consent or voluntary participation was to be added to the definition. With this in mind, the trial concluded a new definition:

The *actus reus* of the crime of rape in international law is constituted by: the sexual penetration, however slight: (a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (b) of the mouth of the victim by the penis of the perpetrator; where such sexual penetration occurs without the consent of the victim. Consent for this purpose must be consent given voluntarily, as a result of the victim’s free will, assessed in the context of the surrounding circumstances. The *mens*

¹³⁸ Rodman, Kenneth A. "International Criminal Tribunal for Rwanda (ICTR)." 2011. 555.

¹³⁹ *Ad hoc* is a type of tribunal. In the context of the ICTY and ICTR, *ad hoc* literally means “a tribunal established for the single purpose of the ICTY and ICTR.”

¹⁴⁰ Rodman, 554.

¹⁴¹ Lauren, Paul Gordon. *The Evolution of International Human Rights: Visions Seen*. 3 ed. Philadelphia, Pennsylvania: University of Pennsylvania Press, 2011. 264.

¹⁴² Schomburg, Wolfgang, and Ines Peterson. "Genuine Consent to Sexual Violence under International Criminal Law." *American Journal of International Law* 101, no. 1 (2007): 132.

¹⁴³ Schomburg, 133.

¹⁴⁴ *Ibid*.

rea is the intention to effect this sexual penetration, and the knowledge that it occurs without the consent of the victim.¹⁴⁵

Based on the final definition, in simpler terms and what we know of as the present-day definition, rape would be defined by the lack of consent as a result of the victim's free will.

Now that sexual violence and rape had been defined as a violation of the laws of war, advocacy for the recognition of the comfort women phenomenon as a crime of war took off. One of the most important events for comfort women advocacy was the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery, held in Japan in the final months of 2000. This tribunal, unlike the proceeding ones established by the UN, was a people's tribunal - meaning the tribunal is based on the people's sovereignty, rather than a state's.¹⁴⁶ The tribunal had two objectives: 1) establish the comfort women phenomenon was indeed a war crime and a crime against humanity; and 2) end any exemption of prosecution for wartime sexual violence against women and prevent it from happening again.¹⁴⁷

Throughout the course of the Tribunal, many viewpoints were shared: victim testimonies, legal arguments, witnesses, and perpetrators. On the fifth day, the preliminary judgement was released, citing individuals and the Japanese government were guilty of crimes against humanity.¹⁴⁸ Emperor Hirohito, specifically, was found guilty due to his status as Supreme Commander of the Army and the Navy, and his actions of concealing any indication of rape and sexual slavery that took place in his empire.¹⁴⁹

Unfortunately, due to the nature of the Tribunal – a people's tribunal rather than a judicial tribunal established by a state – the Tribunal does not have legal authority. In this particular case, the Tribunal collected various amounts of crucial data, that it can then use to produce findings and recommendations to the guilty parties. Regardless of this unfortunate distinction, the Tribunal succeeded in its two objectives, and continued the conversation and advocacy for comfort women and all victims of sexual violence.

For those who seek international recognition of the comfort women phenomenon, the ICTY and ICTR, and the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery prove to be important. Throughout history of armed conflict, sexual violence and rape was considered the "norm." What used to be considered a "trophy" of war, in the right context, sexual violence and rape could now be defined as a human rights violation.

By the standards of international law, the acts committed by the empire of Japan during WWII against an estimated 200,000 women constitutes as *crimes against humanity* and *war crimes*. Although the comfort women, system, or phenomenon is not mentioned explicitly, based on the notions that the comfort women phenomenon is a case of prostitution and sexual enslavement, the comfort women phenomenon is defined as a crime against humanity and a war crime.¹⁵⁰

¹⁴⁵ Ibid., 134-135.

¹⁴⁶ Matsui, Yayori. "Women's International War Crimes Tribunal on Japan's Military Sexual Slavery: Memory, Identity, and Society." *East Asia* 19, no. 4 (2001): 133.

¹⁴⁷ Ibid., 120.

¹⁴⁸ Ibid., 125-126.

¹⁴⁹ Ibid.

¹⁵⁰ Additionally, in the proper context, the comfort women phenomenon can also be applicable to the laws of genocide. Under the Rome Statute, genocide refers to "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; (e) forcibly transferring children of the group to another group. See Rome Statute, at 3, for more.

Crimes against humanity, as defined by the Rome Statute of the International Criminal Court, are “acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”¹⁵¹ As further defined by the sub-sections of the Rome Statute, the acts that constitute crimes against humanity are the following:

a) murder; b) extermination; c) enslavement; d) deportation or forcible transfer of population; e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; f) torture; g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; h) persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; i) enforced disappearance of persons; j) the crime of apartheid; and k) other inhuman acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.¹⁵²

Of the eleven sub-sections, the comfort women phenomenon, or specifically the acts carried out by the empire of Japan during WWII, can be applied to almost all sub-sections.

In addition to crimes against humanity, the comfort system is also applicable as a war crime. As defined by the Rome Statute of the International Criminal Court, war crimes have a lengthy definition full of sub-sections. The primary definition of war crimes is “grave breaches of the Geneva Conventions of 12 August 1949.”¹⁵³, ¹⁵⁴ The crimes that constitute “grave breaches” are as follows:

(i) willful killing; (ii) torture or inhuman treatment, including biological experiments; (iii) willfully causing great suffering, or serious injury to body or health; (iv) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly; (v) compelling a prisoner of war or other protected person to serve in the forces of a hostile Power; (vi) willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial; (vii) unlawful deportation or transfer or unlawful confinement; and (viii) taking of hostages.¹⁵⁵

Under the Rome Statute, the comfort women phenomenon is applicable under some terms of the primary definition. However, after further examination of the additional sub-sections of the Statute, the comfort women phenomenon is clearly defined as a war crime in section b, sub-section xxii: “committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions.”¹⁵⁶

The difference between crimes against humanity and war crimes is the circumstance the crime is committed in. Like the name suggests, war crimes are crimes that are committed during

¹⁵¹ “Rome Statute of the International Criminal Court.” Grey House Publishing, 2011.

¹⁵² Ibid.

¹⁵³ Ibid.

¹⁵⁴ The *Geneva Conventions* consist of four conventions and two additional protocols. The Geneva conventions serve as the conducts of war in international law.

¹⁵⁵ “Rome Statute of the International Criminal Court.” Grey House Publishing, 2011.

¹⁵⁶ Ibid.

armed conflict or times of war, while crimes against humanity can occur in peacetime, relatively speaking. By establishing the comfort women phenomenon as both a war crime and a crime against humanity, it eliminates any blurred lines in terms of prosecution.

V. Definition of the “Comfort Women” Phenomenon

Following the decisions of the International Criminal Tribunals of the former Yugoslavia and Rwanda, and those of the Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery, rape and sexual violence had been clearly defined in international law. Additionally, as the International Criminal Court was established in 2002, the permanent court’s legal statute that established the procedures, jurisdiction, and mechanisms – the Rome Statute – included crimes of rape and sexual violence in the definitions of the most serious of human rights violations. Furthermore, in addition to explicitly stating “rape and sexual violence,” other similar acts were included. Such acts like “sexual slavery, enforced prostitution, and forced pregnancy” were included as acts of sexual violence, and thus these acts of sexual violence constitute serious human rights violations of war crimes and crimes against humanity. In simplest terms, prostitution – in some forms – and sexual slavery constitute war crimes and crimes against humanity.

Now, how does the comfort women phenomenon fit into this elaborate definition? As I have examined through my research, the comfort women phenomenon has been presented as a case of prostitution and sexual enslavement by the scholarly community. For the scholars and historians whom side with either perspective, they have a clear belief to why it should be viewed as such. However, after I applied legal case study and definitions to their perspectives, I have come to a better understanding of how to define the phenomenon.

First, due to the elaborate definition of rape and sexual violence determined by the ICTY and ICTR, and the subsequent definitions of what constitutes war crimes and crimes against humanity, a chain reaction of ideas began to form. This chain reaction was triggered by the fact that as the definition continued through legal case study, the definition became more and more specific. However, at the same time, it also became broad. The following is the chain reaction I created in order to better understand the legal definition of rape and sexual violence:

What constitutes rape had been decided by the cases of the ICTY and ICTR → Rape is defined as a form of sexual violence under Article 7, sub section 1(g) Rome Statute – “or any other form of sexual violence” → Sexual violence is also defined as “forced prostitution, sexual slavery, and forced pregnancy,” as well as other examples → Sexual violence constitutes war crimes and crimes against humanity in international law → Therefore, rape, forced prostitution, and sexual slavery constitute serious human rights violations under international law.

By creating this chain reaction, it would help me understand the comfort women phenomenon as a case of prostitution and sexual enslavement. This will be discussed in the following section.

Second, by including “forced prostitution and sexual slavery” in the same definition as acts that constitute war crimes and crimes against humanity, it leaves me somewhat confused. Back to my earlier discussion on the phrase of “forced prostitution,” I examined this phrase and concluded that it is an oxymoron. Being that prostitution is an act that results in a gain of some sort, and is usually committed willingly, it cannot be said that an act that is committed out of free

will is also forced. I understand that in the terms of the definition, the phrase is used to mean that the act of prostitution resulted in coercion of some sort, but when coercion is applied, does that not make it sexual slavery? My reasoning lies in the elaborate definition of rape and sexual violence that was determined in the ICTY and ICTR. The rulings defined that consent must be given voluntarily, as a result of the victim's free will, and assessed in the context of the surrounding circumstances.¹⁵⁷ In other words, uncoerced consent or genuine consent is the key in defining rape and sexual violence. Additionally, the consent must be examined in the context of the surrounding circumstances. Literally, do the surrounding circumstances provide genuine consent, or is an element of coercion applied? If there is a lack of free will to give consent, providing the context of surrounding circumstances is applied, then it is considered rape and thus, sexual violence.

Third, with the idea of genuine consent in mind, if this is applied to the scholarly community's presentation of the comfort women phenomenon being a case of prostitution, I have found many issues. When examining the perspective of the phenomenon being a case of prostitution, the major difference between it being prostitution rather than sexual enslavement is circumstances. Scholars cite the phenomenon being prostitution because testimonies have stated that some comfort stations provided the women and girls with working wages and plentiful sustenance. Additionally, some women and girls had the opportunity to leave or return home, as stated in the "Burma Report No.49." Overall, the quality of life was better than the circumstances cited in testimonies by scholars from the sexual enslavement perspective. However, regardless of a working wage, amount of sustenance, or opportunity to return home, the fact remains that the comfort women system, a system created to provide sexual comfort existed. The women and girls, regardless of the difference in treatment, were still a part of the comfort system, subjected to sexual violence by the empire of Japan. They were still subjected to sexual violence, because if the surrounding circumstances are held into account, it is impossible to give genuine consent as the result of the victim's free will. Meaning, it is impossible to call the comfort women phenomenon a case of prostitution because the victims were still subjected to a coercive circumstance – still required to have sexual intercourse with Japanese soldiers - one that did not allow for free will to be applied.

Through a historical lens, the comfort women phenomenon can be identified as both prostitution and sexual enslavement. However, when reexamined through a legal lens – by applying genuine consent - the phenomenon becomes only identifiable as sexual enslavement. Based on the results of legal case study and definitions, the comfort women phenomenon should be defined as a case of prostitution to sexual enslavement.

Conclusion

After examining the comfort women phenomenon through a historical lens, I had come to the preconceived notion that the comfort women phenomenon could be defined as a case of prostitution and sexual enslavement. However, after examining legal case study and definitions, I found that the definition of rape and sexual violence as elaborate as it is, specifically defines the comfort women phenomenon as a case of sexual enslavement in present-day international law.

In the 1990's, for the first time the comfort women were known as "military comfort women." From then on, they were to be known as such. Just like the world, definitions are

¹⁵⁷ Schomburg, 134-135.

always evolving. It is only fitting that the definition of the comfort women phenomenon evolve like its victims have so bravely done. By defining the comfort women phenomenon as a case of prostitution evolving to sexual enslavement, hopefully it will encourage a resolution seventy-three years in the making.

Bibliography

1944. Japanese Prisoner of War Interrogation Report No. 49. edited by United States Office of War Information Psychological Warfare Team.
1999. *The Jugun Ianfu System*. New York; London: New York; London: NYU Press.
2011. Rome Statute of The International Criminal Court. Grey House Publishing.
2012. International Criminal Tribunals. Sage Publications.
2015. "Tentative Two-step: South Korea and Japan." *The Economist* 415 (8934):35.
- Anshin, Anatoliy. 2012. Meiji Restoration.
- Argibay, Carmen M. 2003. "Sexual Slavery and the "Comfort Women" of World War II." *Berkeley journal of international law* 21 (2):375-389.
- Battersby, Paul Arthur. 2012. Geneva Conventions.
- Boling, David. 1995. *Mass Rape, Enforced Prostitution, and the Japanese Imperial Army: Japan Eschews International Legal Responsibility?, Occasional Papers/Reprints Series in Contemporary Asian Studies*. Baltimore: University of Maryland School of Law.
- Breen, Clairissa D. 2013. War Crimes.
- Breen, Clairissa D. 2014. Prostitution.
- Bullough, Vern L. 1987. *Women and Prostitution: A Social History*. Edited by Bonnie Bullough and Vern L. Bullough: Buffalo, N.Y.: Prometheus Books.
- Chan, Jennifer. 2004. *Gender and Human Rights Politics in Japan: Global Norms and Domestic Networks*: Stanford, California: Stanford University Press.
- Cole, Alison. 2008. "Prosecutor v. Gacumbitsi: The New Definition for Prosecuting Rape Under International Law." *International Criminal Law Review* 8 (1-2):55-85. doi: 10.1163/156753608X265231.
- Edited by Hyun, Dae-song. 2008. *The Historical Perceptions of Korea and Japan: Its Origins and Points of the Issues Concerning Dokdo-Takeshima, Yasukuni Shrine, Comfort Women, and Textbooks*. Edited by Tae-song Hyön: Gyoha-eup Kyeonggi-do, Korea: Nanam.

- Edited by Roy, L. Brooks. 1999. *When Sorry Isn't Enough: The Controversy Over Apologies and Reparations for Human Injustice*. Edited by Roy L. Brooks: New York: New York University Press.
- Edited by Sangmie Choi, Schellstede, and Yu Photographs by Soon Mi. 2000. *Comfort Women Speak: Testimony by Sex Slaves of the Japanese Military*. Edited by Sangmie Choi Schellstede and Soon Mi Yu: New York: Holmes & Meier.
- Fran, P. Hosken. 1981. "Toward a Definition of Women's Rights." *Human Rights Quarterly* 3 (2):1. doi: 10.2307/761853.
- Grant, Larry A. 2017. Pearl Harbor.
- Griffin, Gabriele. 2017. Prostitute. Oxford University Press.
- Haboush, Amanda. 2010. Recruitment.
- Hadl, Gabriele. 2011. Social Movement Media, 1980s-2000s (Japan).
- Hany, Nurpratiwi, Joebagio Hermanu, and Suryani Nunuk. 2017. "Jugun Ianfu: The Construction of Students' Awareness on Gender." *International Journal of Multicultural and Multireligious Understanding* 4 (1):8-14. doi: 10.18415/ijmmu.v4i1.64.
- Heidenreich, Donald E. 2017. World War II.
- Hein, Laura. 1999. "Savage Irony: The Imaginative Power of the 'Military Comfort Women' in the 1990s." *Gender & History* 11 (2):336-372. doi: 10.1111/1468-0424.00145.
- Heineman, Elizabeth D. 2011. *Sexual Violence in Conflict Zones from the Ancient World to the Era of Human Rights*. Edited by Elizabeth D. Heineman, *Sexual Violence in Conflict Zones*. Philadelphia: Philadelphia: University of Pennsylvania Press, Inc.
- Hiro, Dilip. 2012. Slavery.
- Hoff, Samuel B. 2011. Slavery.
- Junghee, Lee. 1996. Chosŏn Dynasty. Oxford University Press.
- Kang, Jin-Yeon. 2015. "Forging the Colonial State as an Arbiter of Internal Boundaries: Japanese Colonial Rule and the Agrarian Relational Shift in Korea." *Agricultural History* 89 (2):158-185. doi: 10.3098/ah.2015.089.2.158.
- Kim, Hee-Kang. 2012. "The Comfort Women System and Women's International Human Rights." *Korea Observer* 43 (2):175-208.

- Kim, M. S. H. 2007. "Law and Custom under the Choson Dynasty and Colonial Korea: A Comparative Perspective." *Journal of Asian Studies* 66 (4):1067-1097. doi: 10.1017/S0021911807001295.
- Kim, Seung-kyung, and Kyounghee Kim. 2010. "Mapping A Hundred Years of Activism: Women's Movements in Korea." In *Women's Movements in Asia: Feminisms and Transnational Activism*, edited by Mina Roces and Louise Edwards, 189-206. London: Routledge.
- Kim-Gibson, Dai Sil. 1999. *Silence Broken: Korean Comfort Women*. 1 ed, *Korean comfort women*: Parkersburg, Iowa: Mid-Prairie Books.
- Kimura, Maki. 2009. *Sexual Slavery*.
- Kramm, Robert. 2017. *Sanitized Sex: Regulating Prostitution, Venereal Disease, and Intimacy in Occupied Japan, 1945-1952*: Oakland, California: University of California Press.
- Kumagai, Naoko. 2015. "Ontological Security and Japan's Ideological Debate over Compensating Wartime 'Comfort Women'." *Social Science Japan Journal* 18 (2):146-161. doi: 10.1093/ssjj/jyv009.
- Kumagai, Naoko. 2016b. *The Comfort Women: Historical, Political, Legal, and Moral Perspectives*: International House of Japan.
- Lauren, Paul Gordon. 2011. *The Evolution of International Human Rights: Visions Seen*. 3 ed. Philadelphia, Pennsylvania: University of Pennsylvania Press.
- Luhde, Thorsten. 2011. *International Law*.
- Matsui, Yayori. 2001. "Women's International War Crimes Tribunal on Japan's Military Sexual Slavery: Memory, Identity, and Society." *East Asia* 19 (4):119-142. doi: 10.1007/s12140-001-0020-2.
- Min, Pyong Gap. 2003. "Korean 'Comfort Women': The Intersection of Colonial Power, Gender, and Class." *Gender and Society* 17 (6):938-957. doi: 10.1177/0891243203257584.
- Nishioka, Tsutomu. 2007. "Behind the Comfort Women Controversy: How Lies Became Truth."
- Nozaki, Yoshiko. 2008. *War Memory, Nationalism and Education in post-war Japan, 1945-2007: The Japanese History Textbook Controversy and Ienaga Saburo's Court Challenges*: London; New York: Routledge.

- Oh, Ingyu, and Douglas Ishizawa-Grbić. 2000. "Forgiving the Culprits: Japanese Historical Revisionism in a Post-Cold War Context." *International Journal of Peace Studies* 5 (2):45-59.
- Qiu, Peipei. 2013. *Chinese Comfort Women: Testimonies from Imperial Japan's Sex Slaves*. Edited by Su Zhiliang and Chen Lifei: Vancouver: UBC Press.
- Robinson, Michael Edson. 2007. *Korea's Twentieth-Century Odyssey: A Short History*. Honolulu, Hawaii: University of Hawaii Press.
- Rodman, Kenneth A. 2011a. International Criminal Tribunal for Rwanda (ICTR).
- Rodman, Kenneth A. 2011b. International Criminal Tribunal for the Former Yugoslavia (ICTY).
- Sand, Jordan. 1999. "Historians and Public Memory in Japan: The "Comfort Women" Controversy: Introduction." *History and Memory* 11 (2):115. doi: 10.1353/ham.2005.0005.
- Schomburg, Wolfgang, and Ines Peterson. 2007. "Genuine Consent to Sexual Violence under International Criminal Law." *American Journal of International Law* 101 (1):121-140.
- Seraphim, Franziska. 2006. *War Memory and Social Politics in Japan, 1945-2005*: Cambridge, Mass.: Harvard University Asia Center.
- Simpson, Gerry. 2009. "Revisiting the Tokyo War Crimes Trial." *Pacific Historical Review* 78 (4):608-613. doi: 10.1525/phr.2009.78.4.608.
- Soh, Chunghee Sarah. 2000a. "From Imperial Gifts to Sex Slaves: Theorizing Symbolic Representations of the "Comfort Women". " *Social Science Japan Journal* 3 (1):59-76. doi: 10.1093/ssjj/3.1.59.
- Soh, Chunghee Sarah. 2003. "Japan's National Asian Women's Fund for "Comfort Women". " *Pacific Affairs* 76 (2):209-233.
- Soh, Chunghee Sarah. 1996. "The Korean "Comfort Women": Movement for Redress." *Asian Survey* 36 (12):1226-1240. doi: 10.2307/2645577.
- Soh, Chunghee Sarah. 2000b. "Human Rights and the "Comfort Women". " *Peace Review* 12 (1):123-129. doi: 10.1080/104026500113917.
- Soh, Chunghee Sarah. 2008. *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan*: Chicago: University of Chicago Press.
- Spence, Jonathan D. 2013. *The Search for Modern China*. Third ed. New York: WW Norton and Company.

- Stetz, Margaret D. and Bonnie B.C. Oh. 2001. *Legacies of the Comfort Women of World War II*. Edited by Margaret D. Stetz and Bonnie B. C. Oh: Armonk, N.Y.: M.E. Sharpe.
- Stokes, Henry Scott. 2014. "Fabricating Historical Facts."
- Taylor, Adam. 2017a. Osaka mayor to end sister-city status with San Francisco over 'comfort women' statue.
- Taylor, Adam. 2017b. Why Japan is losing its battle against statues of colonial-era 'comfort women'.
- Turnbull, S. 2001. *Nanking, Rape of (1937)*. Oxford University Press.
- Watanabe, Kazuko. 1995. "Trafficking in Women's Bodies, Then and Now: The Issue of Military "Comfort Women"." *Peace and Change* 20:501-514.
- Yeong-Ae, Yamashita, and Sarah Kovner. 1998. "Nationalism in Korean Women's Studies: Addressing the Nationalist Discourses Surrounding the "Comfort Women" Issue." *U.S.-Japan Women's Journal. English Supplement* (15):52-77.
- Yoshimi, Yoshiaki. 2000. *Comfort Women: Sexual Slavery in the Japanese Military during World War II*. Edited by Suzanne Brien: New York: Columbia University Press.