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# Toward Reconciliation: The Nishimatsu Settlements for Chinese Forced Labor in World War II 和解に向けて--第二次世界大戦中国人強制労働をめぐる西松調停 •Chinese original available

**Ivy Lee**

## Toward Reconciliation: The Nishimatsu Settlements for Chinese Forced Labor in World War Two

**Ivy Lee with an Introduction by William Underwood**

*This is Part Two of a two-part series. Part One is available here.*

*A Chinese version of this article is also available here.*

**Introduction**

*As a recently retired sociology professor in the United States, Ivy Lee became actively involved with global efforts to redress Japanese war crimes a few years before Kajima Co.'s controversial settlement in 2000 with Chinese forced laborers from the notorious Hanaoka worksite. Kajima's approach to resolving the Hanaoka injustice raised serious doubts about its corporate sincerity, but the professional honesty and good faith of Japanese lawyers who provided pro bono representation for the Chinese victims were also called into question by some critics in ways that suggested the need for careful investigation.*

*Lee's article below is motivated by a desire to advance the best interests of the aging survivors of forced labor in wartime Japan and their heirs, and to avoid an unnecessary repeat of such Hanaoka-type acrimony that also pitted victims who accepted the Kajima money against victims who did not. She seeks to clarify the content of the pair of compensation pacts Nishimatsu Construction Co. concluded in 2009 and 2010, and in the process appraises the Nishimatsu deals far more positively than Chinese attorney Kang Jian, whose sharp critique of the settlements Lee systematically deconstructs.*

*This article also provides insight into the multibillion-dollar fund set up in Germany in 2000 to compensate Nazi-era forced laborers, concluding that the path chosen by Nishimatsu generally resembles the German precedent. Michael Bazyler, an authority on the Holocaust restitution lawsuits of the 1990s and Germany's forced labor fund, similarly compared the Japanese and German cases in a 2009 article for The Asia-Pacific Journal. Bazyler also contributed to the article below.*

*Lee suggests the efforts of Japanese lawyers who have long pursued reparations on behalf of Chinese, and the challenges confronting them within Japan, need to be fully appreciated. In fact, the progressive leaders of the Japanese lawyers group that has litigated nearly all the Chinese legal claims since 1995 typically came of age during Japan's student movements of the 1960s. A number of key players have passed from the scene already, and younger Japanese attorneys engaged in the forced labor redress struggle will be hard pressed to match their seniors' dedication and ability. Lee calls for greater awareness of the gap between the ideal settlement that would be attainable in a perfect world and what can be realistically achieved in Japan today in the wake of the Japan Supreme Court decision holding that Japan is not legally liable for compensation to wartime forced laborers.*

*Over the longer term, the broad sweep of global political, economic and social conditions may make the righting of historical wrongs, in some manner, nearly unavoidable. On August 6, the U.S. government for the first time sent official representatives to the annual commemoration of the atomic bombing of Hiroshima. This was closely tied to the Obama administration's proclaimed objective of nuclear non-proliferation and eventual nuclear disarmament, and to the extent those goals remain important, could become a step toward a forthright American apology at some future A-bomb memorial service.*

*Likewise amid the steady integration of the economies of Northeast Asia and shifting power dynamics across the region, Japan may find its economic and political plans more and more dependent on forthrightly addressing the legacy of World War Two. The sooner comprehensive action is taken on ripe issues such as Chinese forced labor redress, the greater is the likelihood that authentic reconciliation will result. -William Underwood*

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During the Asia-Pacific War, roughly 40,000 Chinese were abducted to perform hard labor at 135 sites in Japan under a 1942 Decree issued by the wartime Japanese Cabinet. The postwar Japanese government has remained obdurately mute regarding its responsibility for Chinese forced labor to date. Of the 35 Japanese companies that used Chinese forced labor, about two dozen are still in operation. These companies also uniformly sought to evade their responsibility for over five decades until 2000 when Kajima Corp., at the exhortation of a Japanese judge, secured a settlement with the Chinese forced laborers at its Hanaoka site.

Almost a decade elapsed before another Japanese company, Nishimatsu Construction Co., Ltd., voluntarily agreed to compensate Chinese forced laborers at its two wartime worksites in Japan: Yasuno and Shinanogawa. The 2009 Yasuno agreement set up a compensation trust fund of 250 million yen (at 93 yen = 1 USD, approximately $2.69 million) for 360 Chinese forced laborers; the 2010 Shinanogawa settlement contributed 128 million yen (approximately $1.38 million) to another trust fund for 183 Chinese forced laborers. The forward momentum generated by the two recent Nishimatsu agreements would seem sufficient to propel the issue of Chinese forced labor toward a comprehensive resolution. Yet criticisms abound of these settlements both within and outside of China. The redress movement is splintered at this point into two camps, creating a deeply divisive atmosphere within the Chinese forced labor community. This paper examines the opposing responses to the recent 2010 Shinanogawa settlement and evaluates their contrasting approaches to settlements as an instrument for redressing historical

injustice. It suggests that a comprehensive resolution of the forced labor issue may best be obtained in the political arena and that the redress movement may well be advised to target the Japanese government as it bears prime responsibility for the use of Chinese forced labor.

**Confusion and Conflict in the Chinese Forced Labor Community**

On April 26, 2010, Nishimatsu reached a settlement with the Chinese forced laborers (CFLs) who were abducted to perform hard labor under inhumane conditions at the Shinanogawa site from June of 1944 to January of 1945. As with the Nishimatsu Yasuno agreement in October 2009, the Shinanogawa settlement did not put to rest criticisms by redress activists in Canada, the U.S., and China (hereafter referred to as "activists"), nor did it bring about the closure Japanese attorneys and supporters of the CFLs (hereafter referred to as "supporters") had hoped for. Instead, new charges are now being leveled directly at Nishimatsu and indirectly at the supporters.

At first glance, the Shinanogawa settlement is even more controversial than the Yasuno agreement. Kang Jian, the only Chinese lawyer in the team of Japanese attorneys who first filed suit against Nishimatsu in Japan in 1997, charged the company with going around the five original plaintiffs when negotiation was at an impasse to persuade other CFLs and their descendants, who were not involved in the protracted litigation, to settle instead. She argued that CFLs are once again being abducted as they were during the Asia-Pacific War.[1] On April 27, 2010, the day after the settlement, Kang held a press conference in Beijing in which some survivors accused Nishimatsu of an abduction-style settlement that was rejected by all the original plaintiffs.[2] A number of websites in China featured similar headlines.[3]

**Relatives of wartime Chinese workers walk toward the Tokyo Summary Court, where the second Nishimatsu settlement was finalized on April 26, 2010. In a message aimed mainly at Japanese lawmakers, their banner urges a comprehensive solution to the Chinese forced labor redress issue. (Xinhua / Ji Chunpeng photo)**

Han Yinlin, aged 93, the only surviving CFL of the five original plaintiffs, told his two sons that the Shinanogawa settlement was something with which "to coax children only."[4] As he was too frail to travel, his sons hurried to Beijing to express their opposition to the settlement in the April 27 press conference. Descendants and relatives of other CFLs also attended. Holding photographs of the deceased loved ones, they insisted that money could not salve the wounds of yesteryear's atrocities. They echoed what attorney Kang and other critics have said of the settlement, namely, that it contains an apology without substance and compensation colored by charity. For a small sum, Nishimatsu has bought off some CFLs' right to claim, Kang declared [5]; by not settling on these terms, however, other CFLs retain their right to sue, she insisted.[6] To buttress Kang's words and the original plaintiffs' determination, activists announced at the same time that a fund has been set up to support the original and other plaintiffs who refused to settle and help maintain their dignity in their continuing fight to claim compensation against Nishimatsu.[7]

On the same day as the Beijing press conference, Fukushima Mizuho, Chair of the Social Democratic Party of Japan and then Minister for Consumer and Food Safety, received the descendants and representatives of the CFLs who accepted the settlement in the Senate Hall in Tokyo. She congratulated them on triumphing after years of legal struggle, vowing she would do all she could to push for more settlements of the Chinese forced labor cases.[8] Back in China, Lu Tangsuo, a CFL who rejected Kajima Corp.'s Hanaoka settlement in 2000, observed that most of the Shinanogawa survivors chose settlement primarily because Nishimatsu voluntarily proposed to issue an unambiguous apology on paper. "That's what Chinese demand and live for!" Lu said.[9] Yet even those who accepted the current settlement could hardly resign themselves to the fact that signing on a piece of paper meant completely absolving Nishimatsu of its legal responsibility for their enslavement.[10]

The same controversy plagues Nishimatsu's 2009 settlement with CFLs from its Yasuno worksite. Tempers flared at a December 2009 gathering in which disbursement of individual money orders in the amount of 45,366 RMB (at 6.8 RMB = 1 USD, equivalent to $6,671) with a copy of the Yasuno settlement was made to the first group of actual survivors and widows of the deceased. Li Liangjie, a CFL abducted to perform hard labor for Mitsui, loudly accused those who settled as "traitors" who accepted because of the money.[11] Shao Yicheng, the lead plaintiff of the Yasuno litigation, angrily retorted, "(Since) you are a hero, why don't you go and do something (for the Chinese forced labor redress issue)?"[12]

The roots of this conflict can be traced back to the very first settlement in 2000 between Kajima and the CFLs at its notorious Hanaoka worksite. The lead plaintiff, Geng Chun, signed off initially on the settlement agreement but later reversed his stance to become a staunch opponent. Activists also organized a fund in 2004 to dispense to CFLs who refused to settle monetary support equivalent to what they would have received from Kajima.[13]

Thus the CFL community, once united in its quest for justice, is now splintered into two groups: those who accepted or approved of and those who rejected or disapproved of the settlements, with little chance of reconciling their positions in the foreseeable future. Yet the Nishimatsu settlements in general, and the latest one in particular, seemingly satisfy the three non-negotiable demands of the Chinese forced labor redress movement: 1) Acknowledging atrocities to extend an apology for crimes committed; 2) Erecting a memorial to memorialize the victims and to educate the public; and 3) Compensating the victims.[14] What then causes these bitter recriminations among the former Chinese forced laborers?

**The Long and Tortuous Road to Reparations**

When litigation was first initiated in the 1990s against the Japanese state and corporations that used Chinese forced labor, the focus was on the victims and their vindication in Japanese courtrooms. As the prospect of a final court victory receded over the years, and when out-of-court settlement remains seemingly the only option, the unity between the activists and the supporters fractured. While CFLs are at loggerheads, their harsh words merely reflect the divisions within and outside of China and among Chinese activists and supporters. As laborers who survived under unspeakable Japanese atrocities, dispersed to toil again in postwar China, CFLs probably know little of legal subtleties and ramifications, mostly viewing the settlement terms through the lens of those who are more knowledgeable in the law, more persuasive, or better able to exert more pressure on them.

Supporters consisting of Japanese and Chinese residing in Japan were the first to organize trips to China in the mid-1980s and early 1990s to locate CFL survivors. They approached Japanese attorneys who worked *pro bono* to file various forced labor lawsuits in Japanese courts. After years of legal battle, the Japan Supreme Court finally ruled on April 27, 2007, that the right of individual Chinese victims to file legal

claims in Japan was extinguished under the 1972 Sino-Japanese Joint Communique. Accordingly, the supporters concluded that non-litigation settlements may be the most realistic and attainable alternative at this point.[15] In standing behind the settlements, these supporters hope to see the few remaining elderly victims derive some solace from settling within their lifetime. Realizing time is not on the CFLs' side, supporters would accept settlement terms that may be less than perfect, then try to negotiate for better terms in a future settlement.

Japanese attorney Uchida Masatoshi, a member of the legal team responsible for both the 2009 Yasuno and the 2000 Hanaoka negotiations, said as much when he pointed out that without the first Hanaoka settlement, there would not be the "more perfect" Yasuno settlement.[16] Statements from various CFLs illustrate that supporters correctly assess the sentiments of most survivors in this respect. For example, Shao Yicheng, the lead plaintiff of the Yasuno case, said, "My heart is at ease now that I can live until I am compensated."[17] On the day her husband flew to Japan as a representative of CFLs who accepted the Shinanogawa settlement, Yang Xi'en's daughter-in-law told reporters, eyes brimming with tears, "Now my father-in-law and fellow Chinese forced laborers can rest in peace ... "[18]

**The first disbursement of compensation from Nishimatsu to workers from the Yasuno site took place in December 2009. Shao Yicheng, lead plaintiff in the Yasuno litigation in Japan, is shown holding his money order at left. (ND Daily photo)**

A second group of later arrivals to the CFL redress fight, mostly ethnic Chinese activists in the U.S. and Canada, as well as attorney Kang and others in China, have also worked ceaselessly on different unresolved legacies of the Japanese invasion since the mid-1990s. They are not against settlements *per se* but would rather fight on until they secure one in which the defendant company acknowledges legal responsibility and pays out an adequate amount of compensation which would not compromise the dignity of CFLs who settle. As a model for Chinese forced labor settlements, they look to Germany's solution embodied in the Remembrance, Responsibility and the Future Foundation. They also point to the US$20,000 the American government, in its landmark 1988 legislation, awarded each Japanese American internee for internment during WWII. This camp has subtly hinted that the CFLs might have been misled by their Japanese attorneys, tapping into a pervasive mistrust, understandable in light of the Sino-Japanese war. Kang wrote in 2009:

The case of Chinese laborers enslaved at the Yasuno worksite was represented exclusively by lawyers and a support group in Japan, with no participation from Chinese lawyers. While we should trust the integrity and sincerity of these Japanese lawyers and supporters in helping the Chinese victims, can we expect the victims to fully and accurately understand the terms of the settlement and their implications, given the fact they were represented by lawyers who were foreigners to them? I have some reservations about this.[19]

With their latest call for overseas ethnic Chinese to unite behind them in supporting all CFLs who have not settled and to oppose deals similar to the Nishimatsu agreements, activists in Canada and the U.S. seem prepared to carry on the fight for their version of settlement for as long as necessary.[20] They scored public relations victories in Japan and internationally in describing how insulting to Chinese dignity these "so-called" settlements are. As newspapers and websites in China carry their eye-catching headlines, they are impacting public opinion there as well. Supporters of the Nishimatsu approach, on the other hand, are more reticent, refraining from open criticism of the other side, working step by step to achieve their goal and hoping their strategy will finally be vindicated by the results. They rely on their personal ties to the CFLs and the latter's trust and appreciation of their support and efforts developed over the long years of litigation. Wang Xuan, a supporter who works primarily with victims of Japan's biochemical warfare in China, questioned the strategy of not settling: "What could the Chinese gain if they don't accept the settlements? ... Do we want them (CFLs) to go to their graves with a grudging hatred in their hearts? ... Where is the hope? Japanese attorneys who support litigation and Japanese peace supporters over the decades not only spend enormous sums of money, but are growing old and dying off ..."[21]

Calls within China to respect the wishes of the CFLs, as to whether they desire to settle or not, went unheeded.[22] In fact, the actual wishes of the survivors before the sound and fury began may never be known. To the quest for justice from the Japanese state and corporations is now added an ideological dimension of conflict, a dimension that is no longer about the CFLs but, sadly, is fought through them.

**Quibbling over Words**

Activists' objections to the Shinanogawa settlement are a repeat of those against the earlier Yasuno agreement. To frame the provisions which follow, the preamble to the settlement quotes a passage from the 2007 Japan Supreme Court decision where the Court concludes that the individual right to claim was waived by China in the 1972 Sino-Japanese Joint Communique. However, due to the immense suffering of the CFLs, and the reimbursements Nishimatsu received from the government after the war, the Court goes on to urge all (both) sides to work toward providing relief to the plaintiffs.[23] Activists claim that "the liability for damages caused by such severe violation of human rights is distorted by Nishimatsu into an act of providing 'charitable relief.'"[24]

Expecting challenges to be made, as in the first Nishimatsu settlement debate, regarding the use of the word "relief (救済)", an allusion that is unavoidable when quoting from the Japan Supreme Court ruling, the translator of the Chinese version of the settlement offers explanatory notes to clarify its meaning. The notes point out that "Chinese may have the impression that (the word) relief means 'charity' and 'benefaction' but (the phrase) 'provide relief to victims' in the settlement provision does not have either meaning."[25] Rather, in legal language, when used in reference to an individual's rights, it means to restore his/her rights and when used in relation to victims, it signifies compensation to the victims for injuries/damages sustained. The notes conclude: "'Provide relief to victims' in the settlement's provision has the latter meaning."[26]

The notes' explanation is not unique. Any search of online Chinese or English legal dictionaries will yield the same definition for relief as given above. More interestingly, as "relief" also appeared in some Japanese newspapers' discussion of the controversy surrounding the 2000 Hanaoka settlement, an article, in a 2002 published collection of works in Chinese entitled, *Abduction, Litigation, and Settlement*, delves into its meaning and usage at some length. The author, Lin Xin, of the Law Research Center, College of China Sociological Studies, affirms that "relief" in the context of settlements has no connotation of charity; he further distinguishes "charitable relief" which is voluntary from "legal relief" which is mandatory.[27]

Another settlement term attorney Kang considers problematic is "compensation (償い金)", which she claims is not used in Japanese legal

documents. As used in everyday language, it embraces a range of interpretations including repayment for what is owed. However, it does not, according to Kang, denote compensation for crimes committed.[28] The notes to the Chinese version of the settlement contradict Kang's contention. Not only does the term signify compensation, but its meaning is so broad as to encompass in its fold, shades of "repayment, compensation, money for atonement and so on."[29]

Kang further links the use of this term "compensation" to the Asian Women Fund (AWF), 1995-2007, set up for compensating the so-called Comfort Women, and to Japanese officialdom in its frequent communications regarding the AWF. The eventual failure of the AWF coupled with the Japanese officials' willingness to use this word, she reasons, is an indication that the word simply means "help" or "support" and not actual compensation.[30] Such reasoning constitutes an argument by association, and although illogical, has strong emotional appeal with an implicit suggestion that the Nishimatsu approach cannot produce meaningful reconciliation.

More importantly, Kang's allegation trivializes the debate surrounding the AWF. Rather than dwelling on the details of the AWF controversy here, suffice it to say that while the Japanese government was the only culprit in setting up a system of sexual slavery during the war, the money for compensation came from citizen donations with the government contributing funds to cover administrative costs only. In other words, the AWF failed because most Comfort Women refused to accept money from the Fund when the Japanese government refused at the time and still refuses to acknowledge its responsibility.

**Evasion of Legal Responsibility and Waiver of Right to Claim in Settlements**

Activists also castigate Nishimatsu for its denial of legal responsibility in both the Yasuno and Shinanogawa settlements. They either overlook or regard as irrelevant that on April 27, 2007, Japan's Supreme Court ruled the 1972 Sino-Japanese Joint Communique effectively extinguished Chinese victims' right to claim. The Chinese Foreign Ministry responded to the ruling two days later. On April 29, it declared that although under the Communique, China had renounced war reparations in the interest of "friendly relations between the two peoples," it was strongly opposed to "the unbridled interpretation on this clause by the Supreme Court of Japan regardless of China's repeated solemn representations."[31] The Ministry concluded that the Japan Supreme Court's interpretation of the 1972 Communique was "illegal and null."[32]

Nonetheless, Japanese courts are not bound by the Chinese government's interpretation. Instead, in Japan under Japanese law as announced by Japan's Supreme Court, neither Nishimatsu nor other companies have any legal responsibility toward the CFLs.

The concept of legal responsibility bears further examination since CFLs who accepted the settlements take issue likewise with Nishimatsu's refusal to admit legal responsibility. To CFLs who are not schooled in legal intricacies, the company's refusal is probably equated with a repudiation of their having wronged the victims. Such sentiments are reinforced by activists' assertions that Nishimatsu has "whitewashed" its "extreme violation of human rights ... into a moral obligation."[33]

Legal liability, however, is ascribed not only to heinous crimes; it also follows from various minor and inadvertent legal violations. A driver inadvertently running into another car and causing damage is legally liable for the damage but may not be morally culpable. Further, the cultivation of a sense of moral obligation to humanity is essential when the goal is to prevent a recurrence of genocides and atrocities and to ensure future peace. In fact, it may be preferable to have an individual or entity refrain from committing an offense out of a sense of moral obligation than to have the individual or entity be punished (held legally responsible) after the fact. The activists are not doing the redress or peace movement a service in downgrading moral obligation in comparison to legal responsibility.

**Out of a total of 183 forced laborers at the Shinanogawa worksite, 60 survivors or their descendants had been located by last May 6, when they attended a meeting in China explaining the details of the settlement. (hbgrb.net photo)**

As noted above, legal responsibility has become immaterial to the discussion of Chinese forced labor settlements in Japan ever since the 2007 Japan Supreme Court ruling. But the concept assumes a central role in settlement disputes since criticisms of various other aspects of the settlements are ultimately linked to it. For example, the first provision of the Hanaoka settlement reaffirms a 1990 Joint Statement issued by the CFLs and Kajima Corp. in which the latter admits to responsibility for abducting CFLs to work under tremendous hardships at the Hanaoka site *based on* a 1942 Decree from the wartime Japanese Cabinet. A similar statement also appears in both Nishimatsu settlements. Activists stoutly denounce this description as a "dilution of historical facts" aimed at escaping legal responsibility.[34]

However, the wartime Cabinet did issue a Decree for forced labor. More importantly, without the Decree, the companies that used forced labor could never have proceeded to abduct, with the central involvement of the Japanese Army, peasants from China's countryside. The fact that industries and companies facing a labor shortage might have first approached the state for such an order[35] is inconsequential. If responsibility were to be assigned to the root cause of Chinese forced labor, the Japanese government should shoulder the bulk of the blame since it started a war which led to the labor shortage in the first place. Debating whether use of the phrase "based on" dilutes one's responsibility leads nowhere; there is enough blame to go around for both the government and industries concerned.

Further, although activists embrace working toward a negotiated settlement, they decry provisions in the Kajima and both Nishimatsu agreements that deny the victims the right to make further claims within and outside of Japan. Companies, however, do not settle out of a sense of guilt or altruism so much as to put an end to lawsuits and legal hassles. Kajima entered into a settlement at the urging of the Tokyo High Court which stated: "This Court ... took account of the serious sufferings experienced by the appellants ... and considered it appropriate to aim at an overall solution on the basis of the Statement (the 1990 Joint Statement between CFLs and Kajima Corp.). Thus, on September 10, 1999, the Court recommended a compromise *ex officio*."[36] Nishimatsu approached the CFLs' attorneys when its channeling of illegal funds to politicians through dummy organizations came to light in March of 2009, hoping that a resolution with the CFLs would restore its tarnished reputation.[37] It would be foolhardy for any corporation regardless of its motivation to leave the door ajar for future claims after settling.

Activists not only seem to have missed the central point of the defendant's having a settlement, but also fail to comprehend that the denial of the right to claim and the denial of legal liability are two sides of the same coin. After all, a settlement is a negotiated compromise to resolve all issues usually involving "waiver of any right to reopen or appeal the matter from both sides, ... mutual release of any further claim by each party, a statement that neither side is admitting fault ..."[38] Therefore, had Kajima and Nishimatsu explicitly acknowledged legal responsibility

and not required a waiver of right to claim, it would defeat their purpose in having a settlement. And with respect to the Nishimatsu agreements, whether such provisions are included in the settlements is irrelevant as Japan's Supreme Court already ruled the CFLs' right to claim to be non-existent.

Thus, despite Nishimatsu's expression in the settlements of an "apology for crimes committed," a literal translation of the Japanese/Chinese characters (謝罪), activists bemoan its lack of sincerity when comparing these settlements to the German Remembrance, Responsibility and Future Fund, where the latter "squarely faced history and explicitly assumed responsibility, comforting the hearts of victims."[39] Had the activists delved into the motivation for and the history of the German negotiations, they would have found striking similarities between the German and Japanese responses to forced labor claims.

**The German Model for Reconciliation**

The issue of legal responsibility that roils the Chinese activists and the CFL community was seldom raised in the lead-up to the negotiations for the Remembrance, Responsibility and Future (RR&F) Fund. Instead, survivors of the slave labor as well as those of the Holocaust were more consumed with the question of moral accountability. Many objected to translating a quest for justice into a tangible process of claims and compensations for they feared moral issues were being obscured. Opponents of compensation held a huge demonstration outside the Knesset when legislators gathered to discuss the issue of claims in 1952.[40] Eventually, however, most slave labor survivors, accepted compensations as a symbolic form of justice.

German Chancellor Konrad Adenauer's memorable 1951 speech refers to Germany's moral and restitutive responsibility only: "Unspeakable crimes were perpetrated in the name of the German people which impose upon them the obligation to make moral and material amends ..."[41] When the agreement was reached on the capped amount for the RR&F Fund on December 17, 1999, German President Johannes Rau read from a statement which again contains no admission of legal responsibility: "... both government and business accept the shared responsibility and moral duty arising from the injustices of the past."[42] It is therefore "worth emphasizing," wrote Michael Bazyler, a leading authority on Nazi-era settlements, "that Germany never admitted any legal liability and, upon settlement, insisted that its only liability is moral and not legal."[43]

Activists repeatedly question why Japanese corporations have not followed the path laid down by the German industries in establishing the RR&F Fund together with the German government. Yet the German corporations too had the same overriding concern with legal immunity as Kajima and Nishimatsu.[44] Nazi Germany's slave and forced labor workers were obtained by the German police and army under the then-existing racist laws. Much of that workforce was employed by the Third Reich's public sector including schools and hospitals. After the war when reparations were being contemplated for various Nazi-era crimes, German companies insisted any payments for slave and forced laborers should come from the state since they had to use them in support of Nazi Germany's wartime economy.[45] As compensation for these were eventually excluded from any postwar reparations Germany made, the German firms too wanted to put a decisive end to the flurry of legal claims that came after the first slave labor lawsuit against Ford and its German subsidiary was filed in March of 1998 in Newark, New Jersey. They feared the damage that was being done to their reputation in the U.S. where they had considerable business dealings.

The German industries then called on the newly-elected Chancellor Gerhard Schroeder to assist them with their legal troubles. To its credit, the German government stepped up to shoulder its share of the responsibility. However, even then, its motivation was "to counter lawsuits, particularly class action lawsuits, and to remove the basis of the campaign being led against German industry and our country."[46] In agreeing to compensation, German corporations wanted in return "legal peace", a term which entails an end to all existing and future claims in U.S. courts. Accordingly, early in 1999, Schroeder sought to resolve the issue on a state-to-state basis with the U.S. Together, American and German negotiators devised a solution that would address the issues of moral and historical responsibility while ensuring a lasting and all-embracing "legal peace" for German companies in the U.S.[47]

The solution was the creation of a national foundation, the sole forum outside of the courts, for resolving all claims, including slave and forced labor, arising out of the Nazi-era. The Berlin Accords, a set of agreements ratifying the compromises arrived at in the negotiations, consisted of a Joint Statement of Principles signed by the U.S., Germany and other governments who had an interest and participated in the talks, as well as an Executive Agreement between U.S. and Germany promising "legal peace." Pursuant to these Agreements, the German Bundestag enacted legislation to establish the RR&F Foundation endowed with 10 billion DM, half funded by the industries and half by the government.[48] In 2001 when the Bundestag ascertained "legal peace" was sufficiently achieved, funds were released to be distributed to the victims.[49]

Thus it can be seen that in practical terms, the situation of the German companies does not greatly differ from that of Kajima and Nishimatsu. Their concern with legal peace is equivalent to the waivers of right to claim Kajima and Nishimatsu stipulated in the settlements; the insistence that their responsibility extends to the moral and historical but not the legal realm is identical. Since CFLs know little of the German solution other than from the activists' high praise, their belief that Kajima and Nishimatsu should not be allowed to evade their legal responsibility persists even among many of those who accepted the settlements.

Further, it should be noted that German companies' initial insistence that it was the state which bears prime responsibility for the use of slave and forced labor is no different from the Japanese companies'. Their motivation for coming to the bargaining table is also the same. German companies may have had a more sincere desire to do the right thing but this, being an intangible factor, is difficult to ascertain and substantiate.

A significant difference does exist, however, between the German government's ready acceptance of responsibility and the Japanese government's steady denial. With the involvement of the German government, the solution arrived at is on a state-to-state basis, able to guarantee an enduring legal peace. Yet even the German government admitted no legal responsibility, and though ready to compensate, refused to consider a comprehensive out-of-court settlement as a solution, as it implied the slave and forced labor survivors might have a legal basis for pursuing their claims. As to keeping its end of the bargain within a framework of separation of powers, the U.S. Department of Justice had to file numerous Statements of Interest to press for dismissal of all claims against German companies in U.S. courts. Eventually almost 70 such lawsuits were dismissed.[50] In 2003 the U.S. Supreme Court upheld President Clinton's power to enter into the Executive Agreement of the Berlin Accords, a decision which had the same effect as the Japan Supreme Court's dismissal of the CFLs' right to claim. The door to filing claims in U.S. courts was effectively closed from then on.

Without the government's participation in Japan, the Japanese companies have been left to their own devices to resolve the legacy of forced labor claims on a piecemeal and individual basis. A questionable stipulation found in all three of the Japanese corporate settlements might have been included for the very purpose of ensuring legal peace. This provision asks those who accepted the settlement either to prevent other CFLs from suing Kajima, or to resolve the matter among themselves so Nishimatsu would not bear the burden of claims again.[51] Whatever the rationale for its inclusion, the provision may not be enforceable when challenged in court as its execution involves stripping other

CFLs who had not participated in the settlement of their right to sue. Viewed in the context of the German negotiations, the provision may be seen as the two companies' solution to the quest for legal peace. In the eyes of the activists, however, the provision enables Nishimatsu to lure and buy off "accessories" with a paltry sum.[52] Unfortunately, with this accusation the integrity of the Japanese attorneys who negotiated for, and CFLs who accepted, the settlements is also called into question.

**Setting a Price for True Remorse**

Supporters and activists alike realize that no amount of money could ever compensate the CFLs for their horrendous suffering, and loss of health or life. Their efforts are directed at obtaining validation for the enslavement CFLs endured and delayed justice for the crimes committed against them. But money does matter as a signal that they have achieved their goal. So the CFL redress movement is not about - yet at the same time is also about - the money CFLs should receive in restitution.

Under the RR&F Fund the slave laborers of Germany, i.e., those who were taken from concentration camps to be worked to death, were paid $7,500, and the forced laborers were paid $2,500, unless they endured extreme hardships (as the CFLs in Japan routinely did), in which case they were entitled to the same amount as the slave laborers.[53] Few slave and forced labor survivors and descendants were satisfied with their compensation, but most accepted it eventually as symbolic and the best they could do under the circumstances.[54] In 1999 German President Rau correctly assessed their sentiments in these words, "What they want is for their suffering to be recognized as suffering and for the injustice done to them to be named injustice ... we will not forget their suffering."[55]

**Last May 8 the first meeting of the Administrative Committee of the Shinanogawa Peace Fund was held by the China Human Rights Development Foundation, the Beijing organization entrusted with making disbursements. (humanrights.com.cn photo)**

Beginning in June of this year, the CFLs or their descendants in the Shinanogawa settlement will be receiving approximately 50,000 RMB (at 6.8 RMB=1 USD, roughly equivalent to $7,352) in compensation [56]; the CFLs or their descendants in the Yasuno settlement started receiving 45,366 RMB (at 6.8 RMB= 1 USD, roughly equivalent to $6,671) in December of 2009.[57] President Rau's words mentioned above express CFLs' sentiments as well. Perhaps Liu Huanxin, almost 70 years old, whose father was abducted, best captured the complex and conflicting attitudes CFLs have toward compensation. Liu could not hold back his tears when he returned home on April 27, 2010, after learning of the settlement, saying "Half a decade - the day we waited for finally arrived ... this settlement gives us comfort and yet it's hard to accept because what we want is dignity, not money; the tragic experience of abduction can never be wiped out by money."[58]

The Nishimatsu CFLs are, or will be, receiving compensation comparable to Germany's slave and forced laborers. Activists object to national dignity being compromised at this amount while more reasonable voices in China urge that CFLs not be burdened with a fight for national dignity when they had fought so hard simply to survive under unspeakable Japanese atrocities during the war.[59] Attorney Kang considers Nishimatsu's compensation too trifling a sum to indicate true remorse or a genuine desire for reconciliation.[60] Apparently, in compensation amount, activists desist from using the German model for comparison. Instead, they turn to $20,000, the sum the U.S. government paid to each ethnic Japanese person it interned during the Second World War.[61]

Admittedly, Nishimatsu's compensation, like the compensation the German fund paid out, is too little and comes too late, but it does have a symbolic value beyond its monetary one. The money CFLs received from funds ethnic Chinese activists set up to support them after they rejected either the Kajima or the Nishimatsu settlements (See Endnotes 7 and 13) simply did not deliver the same emotional payload. Consequently most of the located Shinanogawa victims accepted the compensation from Nishimatsu in spite of the press conference attorney Kang held to mobilize public opinion in China against the settlement. The activists could afford to wait for compensation amounts that would "demonstrate" true remorse. Surviving CFLs in their late 80s and 90s cannot, a consideration the Japanese attorneys and their supporters are keenly aware of when they urge settlement as an option.

**Progress Made from the Hanaoka to the Shinanogawa Settlements**

The splintering of the forced labor redress movement created so much confusion that it has tended to obscure the most significant achievement the movement produced to date. Through initiating legal proceedings in the 1990s, supporters and Japanese attorneys have successfully used the legal system in Japan to establish on record the historical facts of and the moral responsibility for Chinese forced labor on the part of both the Japanese government and companies during the Asia-Pacific War.

Rather than recognizing this achievement and focusing on the future, activists rehash instead the legal minutia of past agreements. They either deny or downplay supporters' claim that improvements have been made in the terms of the agreements from Hanaoka to Yasuno and Shinanogawa; they question the possibility of progress when all three settlements are built on the twin "false" premises of victims' waiver of right to claim and the companies' non-admission of legal liability. To evaluate these assertions and counter-assertions, an analysis will be made of the extent to which these settlements meet the three non-negotiable demands of the Chinese forced labor redress movement: 1) Acknowledging atrocities to extend an apology for crimes committed; 2) Erecting a memorial to memorialize the victims and to educate the public; and 3) Compensating the victims.

*Apology (for crimes committed)*: The Hanaoka settlement does not contain an expression of apology in the agreement itself. Instead its first provision reaffirms the Joint Statement Kajima and the CFLs issued in 1990, in which Kajima acknowledges historical responsibility and extends its apology. Both Nishimatsu settlements explicitly acknowledge historical responsibility and proffer a sincere apology in the documents themselves.

The first Hanaoka provision ends with a jarring and abrupt sentence to the effect that the CFLs note Kajima admits no legal liability.[62] In contrast, both Nishimatsu settlements do not claim the company has no legal liability, probably because it is unnecessary after the 2007 Supreme Court ruling.

*Erecting a Memorial and Educating the Public.* In addition to the apology, the Shinanogawa agreement provides for a "Shinanogawa Peace

Fund" to be set up for compensating the CFLs, memorial services for the deceased, research to locate the rest of the 183 Shinanogawa CFLs and other matters.[63] Sufficient funds to build a memorial exist if the victims so desire, although the settlement itself does not explicitly mention a memorial. Erecting a memorial is explicitly included in Yasuno, the first Nishimatsu settlement.[64] On the other hand, the "Hanaoka Peace and Goodwill Foundation" Kajima established only provided for "memorial services for the victims, the self-help efforts and care of the victims and their families, and education of their children."[65] No stipulation exists to provide for erecting a Hanaoka memorial.

*Compensation*: The money the victims received from the "Hanaoka Peace and Goodwill Foundation" is for their "care" and other matters as quoted above; it is not for compensation, or at least not explicitly named as such.[66] In the Nishimatsu settlements, the amount the victims have received or will receive is called "compensation," although, as previously discussed, activists claim otherwise in their semantic critique of the Shinanogawa agreement. Further, in the Yasuno settlement funds to be used for compensation are specifically referred to as "reconciliation money".[67]

By September of 2001, the Hanaoka Peace and Goodwill Foundation had disbursed funds to 21 Chinese forced laborers, each of whom received 250,000 yen.[68] The exchange rate as of September 15, 2001, was 117.35 yen = 1 USD; the amount worked out to slightly more than $2,000 per victim. As noted above, Nishimatsu began its first disbursement of the Yasuno Friendship Fund at US$6,671 per victim in December of 2009 while the Shinanogawa victims are expected to receive US$7,352 starting mid-2010.

The above analysis shows that, in addition to the overall success in establishing historical and moral responsibility, Japanese attorneys and supporters secured progressively better settlement terms from the Hanaoka to the Shinanogawa agreements. Activists' demand for an admission of legal liability and retention of CFLs' right to claim goes beyond what could be accommodated within the framework of a negotiated settlement. It bears repeating that German companies never admitted legal liability and the activists' model for reconciliation, the RR&F Foundation, was founded partly on President Clinton's promise of "legal peace."

Japanese attorneys worked *pro bono* and long and hard on behalf of the victims. The separate teams of attorneys for Yasuno and Shinanogawa, in response to the critique that the Hanaoka settlement compromises the right to sue of CFLs who refuse to settle, negotiated a "confirmation statement" in which Nishimatsu explicitly affirms this right is not extinguished. The Shinanogawa team of Japanese attorneys negotiated for more concessions in a settlement that is only six months apart from the earlier Yasuno settlement. Not only is the compensation amount increased for a shorter duration of enslavement in Japan, but the compensation fund is, for the first time, deposited with a Chinese organization which is responsible for its administration, thus demonstrating the Japanese attorneys' responsiveness to the wishes of the activists and Chinese public.[69] There is, of course, always room for improvement. In future negotiations, the Japanese attorneys could aim to remove the provision which foists on the victims and the organization holding the compensation fund the responsibility to relieve the settling Japanese company of further claims.

Activists make little allowance for pressures that might be exerted by other Japanese companies and historical revisionists on Nishimatsu for its readiness to settle, nor do they show any understanding of factors that limit the concessions the company could make in the final agreement. They might have won a short-term, public-relations victory by proclaiming the Shinanogawa settlement to be one "without the original plaintiffs." They might even have set themselves up to be the sole arbiter of Nishimatsu's sincerity and depth of remorse. Yet whether Nishimatsu is sincere and adequately remorseful are intangibles, subject to interpretation and therefore irrelevant. What is relevant, however, is the example Nishimatsu sets in its willingness to reconcile even though the Japan Supreme Court had extinguished the CFLs' legal right to claim in 2007. Hopefully other companies will follow this example in the near future.

**The Way Forward**

The main obstacle to achieving a comprehensive redress of the Chinese forced labor issue is the Japanese government's unyielding intransigence in denying responsibility. If all the Japanese companies that used Chinese forced labor were to enter into individual compensation agreements, the resolution of the issue is still incomplete without holding the Japanese government responsible. On the other hand, if the Japanese government were to accept responsibility, show repentance and provide the necessary restitution, other Japanese companies would surely follow suit. Therefore, having effectively utilized the Japanese legal system to establish historical and moral responsibility, the CFL redress movement may well be advised to move onto the political arena, training its sights on the Japanese government.

In the last decade China's phenomenal economic growth has been likened by some to a rising tide that lifts all boats of the other nations in Asia, including Japan. China became the largest trading partner of Japan in 2009, putting it ahead of the U.S., its share being a record 20.5 percent of Japan's total trade.[70] If the Chinese government were to become more vocal in its support of the CFLs[71] and/or Japanese companies were to exert pressure on its own government in the interest of retaining the goodwill of Chinese consumers and their already established market positions in China, then the Japanese government might be brought around to the bargaining table. A comprehensive resolution of the Chinese forced labor issue is therefore not necessarily out of reach. Indeed, voices urging the Japanese government to take action can be heard from Japan to China.[72] With time and the gathering momentum of the Nishimatsu settlements, these voices will hopefully grow too loud and insistent to be ignored.

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*Editor's Note: This article does not necessarily represent the views of the current leadership of the Global Alliance for Preserving the History of WW II in Asia.*

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*Michael Bazyler, Professor of Law at Chapman University, contributed to this article. A leading authority on the use of American and European*

*courts to redress genocide and other historical wrongs, Bazyler wrote the book,* Holocaust Justice: The Battle for Restitution in America's Courts *(New York University Press, 2003), which was cited by the U.S. Supreme Court and reviewed, among others, in the Harvard Law Review, and Financial Times (London). Bazyler is currently serving on the legal team that filed the first case in the U.S. for the return of religious/cultural objects arising out of the Armenian genocide. His website is http://www.michaelbazyler.com.*

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ENDNOTES

[1] http://www.chinadaily.com.cn/hqcj/zxqxb/2010-04-29/content_236115.html, accessed 4/29/2010

[2] http://bjyouth.ynet.com/article.jsp?oid=65155321, accessed 4/29/2010

[3] http://www.chinadaily.com.cn/hqcj/zxqxb/2010-04-29/content_236115.html;

http://bj.yzdsb.com.cn/system/2010/04/27/010462988.shtml

http://intl.ce.cn/zgysj/201004/29/t20100429_21341426.shtml, accessed 4/29/2010

[4] http://www.chinadaily.com.cn/hqcj/zxqxb/2010-04-29/content_236115.html

[5] http://bjyouth.ynet.com/article.jsp?oid=65155321

[6] *Ibid.*

[7] http://newnews.ca/?action-viewnews-itemid-51076,

http://www.anpopo.com/show-35637-1.html, accessed 4/30/2010

On April 26, 2010, in a press release sent to the Chinese media in Canada, Canada ALPHA announced that together with Wai Ming Charitable Foundation Fund, Ltd. of Hong Kong, they will solicit money from overseas ethnic Chinese to found a fund in support of Chinese forced laborers to continue their struggle for obtaining historical justice. In addition, Canada ALPHA and Wai Ming will each contribute 350,000 RMB (at 6.8 RMB = 1 USD, equivalent to $51,470 each) toward the founding of this fund. The five original plaintiffs and two other CFLs who have indicated they will reject the settlement, will receive 50,000 RMB, the same amount as those who settled, from this fund.

[8] http://news.163.com/10/0428/10/65BOH53I000146BD.html, accessed 4/30/2010

[9] *Ibid.*

[10] *Ibid.*

[11] http://gcontent.nddaily.com/3/40/340a39045c40d50d/Blog/6d7/ca5653.html, accessed 5/1/2010

[12] *Ibid.*

[13] The Global Alliance for Preserving the History of WW II in Asia announced that the organization, together with concerned individuals in China, founded a Subsidy to Victims Rejecting Kajima's Hanaoka Settlement Fund in December of 2004. Money had already been raised from GA affiliates, with British Columbia chapter of Association for Learning and Preserving the History of WW II in Asia, British Columbia (BC ALPHA), and Toronto ALPHA contributing 25,000 RMB each, a member of another San Francisco GA affiliate contributing 100,000 RMB and various individuals in China contributing a total of 6,200 RMB. The Fund would solicit donations from all overseas ethnic Chinese toward the goal of a fund total of 225,000 RMB. It started its first distribution toward the end of 2004 of 25,000 RMB (at 8.28 RMB = 1 USD on December 15, 2004, equivalent to $3,048) to each Hanaoka victim who rejected the settlement.

[14] http://news.sohu.com/20091103/n267921800.shtml, accessed 5/1/2010. The three non-negotiable demands are described by Prof. Liu Bao Chen, a researcher at the Forced Labor Research Center, Hebei University, who was first approached by Chinese residing in Japan to locate the Hanaoka survivors and who participated throughout the whole course of the Yasuno litigation and negotiations.

[15] http://big5.china.com.cn/international/txt/2009-11/03/content_18819279_2.htm, accessed 5/27/2010

[16] http://gcontent.nddaily.com/3/40/340a39045c40d50d/Blog/6d7/ca5653.html

[17] http://news.sohu.com/20091103/n267921800.shtml,

[18] http://www.longevitys.com/n489992c26.aspx, accessed 4/28/2010

[19] Kang Jian, Arimitsu Ken and William Underwood, "Assessing the Nishimatsu Corporate Approach to Redressing Chinese Forced Labor in Wartime Japan," *The Asia-Pacific Journal*, 47-1-09, November 23, 2009;

[20] http://www.anpopo.com/show-35637-1.html, http://newnews.ca/?action-viewnews-itemid-51076

[21] http://www.ccvic.com/guoji/redianpinglun/20100427/144264.shtml, accessed 4/29/2010

[22] http://www.chinaqll.com/Html/gyjm/14_187.htm, accessed 4/20/2010

[23] http://www.china918.cn/news/suopei/xisonghj/2010/0510/497.html, accessed 5/14/2010

[24] http://www.stopracism.ca/content/nishimatsu-construction-co-ltd-slave-labour-settlement, accessed 4/30/2010

[25] http://www.china918.cn/news/suopei/xisonghj/2010/0510/497.html

[26] *Ibid.*

[27] Lin Yin, "The Legal Meaning of the Hanaoka Compensation Case Settlement and Related Questions," in *Abduction, Litigation, and Settlement*, edited by Luo Wei-Long (Academy Press, China, 2002) 164-165

[28] http://www.china918.cn/news/suopei/xisonghj/2010/0513/498.html, accessed 5/15/2010

[29] http://www.china918.cn/news/suopei/xisonghj/2010/0510/497.html

[30] http://www.china918.cn/news/suopei/xisonghj/2010/0513/498.html

[31] http://www.fmprc.gov.cn/eng/xwfw/s2510/2535/t315036.htm, accessed 5/26/2010. Liu Jianchao's statement clearly implies China has not given up the individual citizens' right to claim although it has renounced war reparations between the two states in the Joint Communique.

[32] *Ibid.*

[33] Kang Jian et al, (November 23, 2009)

[34] *Ibid.*

[35] *Ibid.*

[36] http://www.iwanami.co.jp/jpworld/text/hanaoka02.html, accessed 5/25/2010

[37] http://www.66law.cn/archive/news/2010-05-10/38678_1.aspx, accessed 5/24/2010

[38] http://dictionary.law.com/Default.aspx?selected=750, accessed 5/2/2010

[39] Kang Jian et al, (November 23, 2009)

[40] Gideon Taylor, "Where Morality Meets Money," in *Holocaust Restitution* edited by Michael Bazyler and Roger Alford (New York: New York University Press, 2006) 163-169

[41] http://www.claimscon.org/?url=history, accessed 5/27/2010

[42] Gideon Taylor (2006), 163-169

[43] Michael Bazyler, "Japan Should Follow the International Trend and Face Its History of World War II Forced Labor" *The Asia-Pacific Journal*, Vol. 5-3-09, January 29, 2009. http://www.japanfocus.org/-Michael-Bazyler/3030

[44] Michael Bazyler, Holocaust Justice: The Battle for Restitution in American's Courts (NY: New York University Press, 2003), 83

[45] *Ibid.,* 61

[46] Roger Cohen, "German Companies Set Up Fund for Slave Laborers under Nazis." New York Times, February 17, 1999, A1. Quoted in Bazyler (2003) 83

[47] Michael Bazyler (November 23, 2003), 83-88

[48] *Ibid.,* 79-83

[49] *Ibid.,* 89-92

[50] Roger Witten, "How Swiss Banks and German Companies Came to Terms with the Wrenching Legacies of the Holocaust and World War II," Holocaust Restitution edited by Michael Bazyler and Roger Alford (NY":New York University Press, 2006) 88

[51] http://www.china918.cn/news/suopei/xisonghj/2010/0510/497.html

[52] http://www.china918.cn/news/suopei/xisonghj/2010/0513/498.html

[53] Michael Bazyler (2003), 81

[54] *Ibid*., 101-105

[55] Gideon Taylor (2006), 166

[56] http://news.xinhuanet.com/world/2010-04/26/c_1257467.htm, accessed 5/24/2010

[57] http://gcontent.nddaily.com/3/40/340a39045c40d50d/Blog/6d7/ca5653.html

[58] http://www.longevitys.com/n489992c26.aspx

[59] http://www.chinaqll.com/Html/qyjm/14_187.htm

[60] http://www.china918.cn/news/suopei/xisonghj/2010/0513/498.html

[61] *Ibid.*

[62] http://www.jca.apc.org/hanaokajiken/eng%20provisions.htm, accessed 5/1/2010

[63] http://www.china918.cn/news/suopei/xisonghj/2010/0510/497.html

[64] http://www.china918.cn/news/suopei/2009/1023/322.html, accessed 5/1/2010

[65] http://www.jca.apc.org/hanaokajiken/eng%20provisions.htm

[66] *Ibid.*

[67] http://www.china918.cn/news/suopei/2009/1023/322.html

[68] Miki Y. Ishikida, Toward Peace: War Responsibility, Postwar Compensation, and Peace Movements and Education in Japan (NE: Center for US-Japan Comparative Social Studies, 2005) 43

[69] http://www.hr-china.org/human/2010-05/10/content_3504418.htm, accessed 5/24/2010

[70] http://www.jetro.go.jp/en/news/releases/20100217809-news, accessed 5/30/2010

[71] http://www.fmprc.gov.cn/eng/xwfw/s2510/2535/t315036.htm

On occasions when queried about the Chinese forced labor issue, the Chinese Foreign Ministry has spoken out and asked Japan to face squarely its unresolved war legacy. For example, when responding to the Japan Supreme Court's 2007 ruling, the Ministry spokesperson said on April 29, 2007, "The conscription of the forced and enslaved labour is a grave crime committed by Japanese militarism against the Chinese people. It is also an existing major human rights issue yet to be properly addressed. China has requested Japan to properly handle relevant issues in an attitude responsible for history."

http://www.fmprc.gov.cn/eng/xwfw/s2510/2535/t628660.htm

The same words were repeated again on November 23, 2009, when the spokesperson was asked about another verdict on Chinese forced labor at Sakata port, Yamagata prefecture.

http://www.fmprc.gov.cn/eng/xwfw/s2510/2511/t335373.htm

The Ministry has also remarked on Japan's other unresolved war legacies. Regarding the issue of Comfort Women, for example, the Ministry spokesperson said on June 30, 2007, "The position of China on the "comfort women" issue is consistent and clear-cut. The conscription of "comfort women" is one of the grave crimes committed by the Japanese militarism against the people of the invaded countries including China during the Second World War. We request the Japanese government to listen to the just appeal of the international community, properly and earnestly handle the issue left over from history in an attitude responsible for history."

[72] http://www.japanfocus.org/-Arimitsu-Ken/3256

Ken Arimitsu wrote in the companion piece in Kang Jian et al., (November 23, 2009), that "Clarifying Japan's national responsibility and securing the necessary redress funding will be a sure step towards an age of trust and peace-building."

http://news.163.com/10/0428/10/65BOH53I000146BD.html

Recognizing that the path to litigation is closed, Deng Jianguo, the head of the Attorneys Association for Forced Labor Issues is quoted as having remarked "We feel it is time for the Japanese Government to speak up," noting the only way to resolve the problem now is through politics.