

## Notes

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# On Ramseyer's Response to the Critics of "Contracting for Sex in the Pacific War"

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**Abstract:** A controversial paper by Ramseyer, "Contracting for Sex in the Pacific War," which argued that the victims of sexual slavery ("the comfort women") perpetrated by the Japanese military during World War II were voluntary prostitutes under contract, has raised substantial controversy around the world. This argument has provoked a public outcry, and thousands of scholars, including Nobel laureates, have criticized this paper and denounced it. Ramseyer has subsequently published a response to these critics in a non peer-reviewed, publicly accessible paper series disseminated by the John M. Olin Center for Law, Economics, and Business at Harvard University. His response does not remedy fundamental flaws and inaccuracies in his original paper. This essay discusses these flaws and inaccuracies and also points out the problematic manner in which the author mischaracterizes and omits key materials, misleading readers. The war may have ended several decades ago, but its trauma continues today, exacerbated by the troubling denials of the atrocities.

**Keywords:** comfort women, sexual slavery, human rights, war crime, game theory

## 1 Introduction

J. Mark Ramseyer, currently a faculty member at Harvard Law School, has published a controversial paper, "Contracting for Sex in the Pacific War."<sup>1,2</sup> In this paper, he argues that the victims of sexual slavery perpetrated by the Japanese military,

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<sup>1</sup> Law and development is the subject area of this journal. Law and development examines the impact of law on economic and social development. An appropriate response to serious human rights violations, such as war-time sexual slavery, would be relevant to the call for social development, so Law and Development Review would be an appropriate venue for this essay.

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euphemistically referred to as “comfort women,” were voluntary prostitutes under contract. His argument runs against the well-established historical fact that the victims were taken to the comfort stations located in the war zones across Southeast Asia and the Pacific by the Japanese military and forced into prostitution against their will.<sup>3</sup> Ramseyer’s controversial argument has provoked a public outcry around the world, and thousands of scholars, including Nobel laureates, have criticized this paper and denounced it.<sup>4</sup> I have co-authored and published a rebuttal to his original paper, pointing out fundamental flaws and inaccuracies in his paper.<sup>5</sup> Despite criticisms by a large number of mainstream historians, economists, and legal scholars,<sup>6</sup> Ramseyer has not retracted his controversial arguments but instead published a lengthy response to his critics, reiterating the points from his original

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2 J. Mark Ramseyer, *Contracting for Sex in the Pacific War*, 65 *International Review of Law and Economics* (2021), 1–8.

3 Radhika Coomaraswamy (Special Rapporteur on Violence against Women, Its Causes and Consequences), *Report on the Mission to the Democratic People’s Republic of Korea, the Republic of Korea and Japan on the Issue of Military Sexual Slavery in Wartime*, U.N. Doc. E/CN.4/1996/53/Add.1 (January 4, 1996) [hereinafter “the 1996 U.N. Report”]; Gay J. McDougall (Special Rapporteur on the Issue of Systemic Rape and Sexual Slavery Practices), *Contemporary Forms of Slavery: Systematic Rape, Sexual Slavery and Slavery-like Practices during Armed Conflict*, U.N. Doc. E/CN.4/Sub.2/1998/13 (June 22, 1998); Ustinia Dolgopool and Snehal Paranjape, International Commission of Jurists, *Comfort Women: An Unfinished Ordeal* (1994); Amnesty International, *Still Waiting After 60 Years, Justice for Survivors of Japan’s Military Sexual Slavery System*, AI Index ASA 22/012/2005 (October 2005); George Hicks, *The Comfort Women: Japan’s Brutal Regime of Enforced Prostitution in the Second World War* (New York: W.W. Norton & Company, 1995); Yoshimi Yoshiaki, *Comfort Women: Sexual Slavery in the Japanese Military During World War II* (New York: Columbia University Press, 2000); Yuki Tanaka, *Japan’s Comfort Women: Sexual Slavery and Prostitution during World War II and the US Occupation* (New York: Routledge, 2002); C. Sarah Soh, *The Comfort Women* (Chicago: The University of Chicago Press, 2008); Caroline Norma, *The Japanese Comfort Women and Sexual Slavery during the China and Pacific Wars* (Bloomsbury Academic, 2016).

4 Michael Chwe, *Letter by Concerned Economists Regarding “Contracting for Sex in the Pacific War” in the International Review of Law and Economics*, available at: <<http://chwe.net/irle/letter/>> [<https://perma.cc/FLQ2-YMEC>].

5 Yong-Shik Lee, Natsu Taylor Saito, and Jonathan Todres. *The Fallacy of Contract in Sexual Slavery: A Response to Ramseyer’s “Contracting for Sex in the Pacific War,”* 42 *Michigan Journal of International Law*, no. 2 (2021), 291–319.

6 Scholars, including Hannah Shepherd (University of Cambridge, U.K.), Sayaka Chatani (National University of Singapore, Singapore), David Ambaras (North Carolina State University, U.S.), and Chelsea Szendi Schieder (Aoyama Gakuin University, Japan), have questioned Ramseyer’s academic integrity. Yong-Shik Lee, “On ‘Comfort Women’ and Academic Freedom: A Rebuttal,” *The Diplomat*, February 23, 2001, available at: <<https://thediplomat.com/2021/02/on-comfort-women-and-academic-freedom-a-rebuttal/>> [<https://perma.cc/83X5-34P3>].

paper.<sup>7</sup> His response mentions my rebuttal but does not engage with several key points raised therein. I will counter Ramseyer's arguments reiterated in his response. I will not address his points specifically directed to the other critics.

The main arguments of his original paper and the subsequent response are the following: (i) the Japanese military never recruited "comfort women" forcibly against their will;<sup>8</sup> (ii) they provided sexual services voluntarily under contract;<sup>9</sup> (iii) private recruiters, not the Japanese military, were responsible for any deception or mistreatment;<sup>10</sup> and (iv) the critics have never examined the main point of his original paper, namely economic analysis of the contracts.<sup>11</sup> I have countered the first three arguments in my rebuttal and have also criticized his contract argument, but again, he has not made any substantive response. I will discuss why his arguments remain flawed and inaccurate despite his lengthy response. This essay also points out the problematic manner in which Ramseyer mischaracterizes and omits key materials, misleading readers who are not familiar with the issue.

## 2 Coercive Recruitment of "Comfort Women"

Ramseyer adamantly denies that the Japanese government or military ever forced the victims into prostitution. In his original article and response, respectively, he stated:

Note, however, what this problem was not. It was not that the government, either the Korean or the Japanese government, forced women into prostitution. It was not that the Japanese army worked with fraudulent recruiters. It was not even that recruiters focused on the army's comfort stations. Instead, the problem involved domestic Korean recruiters who had been tricking young women into working at brothels for decades.<sup>12</sup>

Korean women were not programmatically and forcibly conscripted by Japanese soldiers in Korea into comfort station work. There is no contemporaneous documentary evidence of forcible conscription.<sup>13</sup>

Ramseyer never mentions, in his original essay or in his response, that the Japanese government had conducted an investigation of the comfort women issue in

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<sup>7</sup> J. Mark Ramseyer, *Contracting for Sex in the Pacific War: A Response to My Critics*, The John M. Olin Center for Law, Economics, and Business, Faculty Discussion Paper Series, no. 1075 (2022), 1–65.

<sup>8</sup> Ramseyer (2022), *supra* note 7, at 1; Ramseyer (2021), *supra* note 2, at 5.

<sup>9</sup> Ramseyer (2022), *supra* note 7, at 3; Ramseyer (2021), *supra* note 2, at 6.

<sup>10</sup> Ramseyer (2021), *supra* note 2, at 5; Ramseyer (2022), *supra* note 7, at 49.

<sup>11</sup> Ramseyer (2022), *supra* note 7, at 1.

<sup>12</sup> Ramseyer (2021), *supra* note 2, at 5.

<sup>13</sup> Ramseyer (2022), *supra* note 7, at 1.

the 1990s and, based on this investigation, concluded that the Japanese military was either directly or indirectly involved in the recruitment of the comfort women and that they were forced into prostitution against their will. The Japanese government issued a statement (the “Kono Statement”)<sup>14</sup> with a conclusion from this investigation. It stated:

The then Japanese military was, directly or indirectly, involved in the establishment and management of the comfort stations and the transfer of comfort women. The recruitment of the comfort women was conducted mainly by private recruiters who acted in response to the request of the military. The Government study has revealed that in many cases they were recruited against their own will, through coaxing, coercion, etc., and that, at times, administrative/military personnel directly took part in the recruitments. They lived in misery at comfort stations under a coercive atmosphere.<sup>15</sup>

Obviously, the Japanese government would be in the best position to investigate the “comfort women” issue, and its conclusion directly refutes Ramseyer’s contention. The Kono Statement, and the preceding government investigation,<sup>16</sup> is well known among researchers on the subject, and it is inconceivable that any responsible investigator would completely omit it.

Ramseyer omits another key material, the decision of the Japanese court on the comfort women issue. In April 1998, the Shimonoseki Branch of the Yamaguchi District Court, after direct examination of the testimonies of the victims, also concluded that the victims were coerced into prostitution. The court held:

All of the “Comfort Women” Plaintiffs were brought to the comfort stations through deception and forcefully turned into “Comfort Women” by rape. The comfort stations had deep relations with the Imperial Japanese Forces. Until the end of World War II and the Sino-Japanese War in August 1945, the “Comfort Women” Plaintiffs were forced to continue to have sexual intercourse, primarily with Japanese soldiers. From the time that they went back to Korea until filing this case, they hid the fact that they were “Comfort Women” and concealed these facts even from their close family members.<sup>17</sup>

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<sup>14</sup> Ministry of Foreign Affairs of Japan, *Statement by the Chief Cabinet Secretary* (August 4, 1993), available at: <[https://www.mofa.go.jp/a\\_o/rp/page25e\\_000343.html](https://www.mofa.go.jp/a_o/rp/page25e_000343.html)> [<https://perma.cc/78V7-K4VP>], cited in Lee et al. (2021), *supra* note 5, at 293 [hereinafter “the Kono Statement”].

<sup>15</sup> *Ibid.*

<sup>16</sup> See also Ministry of Foreign Affairs of Japan, *On the Issue of “Comfort Women”* (August 4, 1993), available at: <[https://www.mofa.go.jp/a\\_o/rp/page25e\\_000344.html](https://www.mofa.go.jp/a_o/rp/page25e_000344.html)> [<https://perma.cc/QR6R-KTYT>].

<sup>17</sup> Decision of the Shimonoseki Branch of the Yamaguchi District Court, 4th year of Heisei (1992), “Wa” No. 349; 5th year of Heisei (1993), “Wa” No. 373; 6th year of Heisei (1994), “Wa” No. 51, August 27, 1998. For the English translation of the decision, see Taihei Okada, *The “Comfort Women” Case: Judgment of April 27, 1998, Shimonoseki Branch, Yamaguchi Prefectural Court, Japan*, 8 Washington International Law Journal, no. 1 (1999), 63–108, at 76.

Ramseyer has also attacked the veracity of the victims' testimonies,<sup>18</sup> but the Japanese court, after direct examination, confirmed their credibility. The court found:

... [G]iven the fact that the "Comfort Women" Plaintiffs were born to poverty-stricken families, have limited education, and are now in advanced age, it is quite understandable that the testimonies are fragmented and narrow in scope. Therefore, the lack of details does not impair the credibility of the testimonies. Furthermore, considering the fact that they had to hide the shameful experience for such a long time, and that the "Comfort Women" Plaintiffs only revealed their experiences for the first time in these proceedings, and that the present testimonies are of their personal experience, the credibility is considered to be quite high. Since there is no counter proof to any of this testimony, it is acceptable.<sup>19</sup>

The decision of the court, which ordered the government to make compensation for the victims, was subsequently reversed by the higher court,<sup>20</sup> but the reversal was on the point of compensation (i.e., whether the government of Japan had a legal obligation to provide compensation), and the higher court never challenged the factual findings by the court, including the credibility of the victims' testimonies.<sup>21</sup> Ramseyer has not even mentioned this court decision in his original paper or his response, probably for a reason that the official statement of the Japanese government and the decision of the Japanese court refute all three of his points; i.e., (i) the Japanese military never recruited "comfort women" forcibly against their will; (ii) they provided sexual services voluntarily under contract; and (iii) private recruiters, not the Japanese military, were responsible for any deception or mistreatment.

### 3 Mischaracterization of the 1996 U.N. Report and Critics

In 1996, the United Nations Commission on Human Rights issued a special report on the question of comfort women,<sup>22</sup> and it is a key base material for researchers on the subject. Ramseyer mentions this report in his response, not in his original paper, but mischaracterizes and discounts the credibility of this report as being based on a publicized story of Yoshida Seiji, a former Japanese soldier, who claimed that he and his fellow soldiers kidnapped Korean girls, raped them, and sent them off to comfort

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<sup>18</sup> Ramseyer (2022), *supra* note 7, at 1.

<sup>19</sup> Okada (1999), *supra* note 17, at 76.

<sup>20</sup> Decision on Appeal from the Yamaguchi Trial, Hiroshima High Court, 10th year of Heisei (1998), "Ne" No. 278; 11th year of Heisei (1999), "Ne" No. 257, March 29, 2001.

<sup>21</sup> *Ibid.*

<sup>22</sup> The 1996 U.N. Report, *supra* note 3.

stations.<sup>23</sup> The 1996 Report includes merely a few lines of the Yoshida's account, but it also introduces a longer account of critics of the Yoshida story, such as Ikuhiko Hata.<sup>24</sup> This important Report was not based on the Yoshida story but the testimonies of several victims, and the conclusion of the Report that the victims were coerced into prostitution against their will was consistent with the earlier conclusion of the Japanese government and the decision of the Japanese court. Ramseyer has also mischaracterized the response from his critics. He stated:

The comfort women dispute began with Yoshida's fraud. Yet this astonishing and crucial fabrication is not mentioned by any of my critics even though many of them are Japan or Korea experts and are surely aware of it.<sup>25</sup>

This is untrue. My co-authors and I have discussed, *albeit* briefly, critiques about the small part of the 1996 Report due to the story of Yoshida included therein and also indicated that the Report introduces the critiques of the Yoshida story.<sup>26</sup> Ramseyer contends that there is no documentary evidence that proves the forcible conscription of comfort women,<sup>27</sup> but in 2017, documentary evidence demonstrating the direct involvement of the Japanese military in the recruitment was reported: a 1938 Japanese police report indicates the "kidnapping" of women to be sent to "comfort stations" in Shanghai, China, with the direct involvement of the Japanese military.<sup>28</sup>

Ramseyer's assertion that "the comfort women dispute began with Yoshida's fraud" is also incorrect and misleading. Yoshida's story may have drawn public attention to the comfort women issue, but it took nine years after the publication of his story before the first testimony by a former comfort woman was offered:<sup>29</sup> in the conservative Korean society where there had rarely been an open discussion about sexual matters, it would have been extremely difficult for former comfort women to share their traumatic experience during the war due to the obvious negative implications for themselves and their families. As clarified above, neither the 1996

<sup>23</sup> Ramseyer (2022), *supra* note 7, at 1.

<sup>24</sup> The 1996 U.N. Report, *supra* note 3, at 7.

<sup>25</sup> Ramseyer (2022), *supra* note 7, at 1.

<sup>26</sup> Lee et al. (2021), *supra* note 5, at 92, n. 7.

<sup>27</sup> Ramseyer (2022), *supra* note 7, at 1.

<sup>28</sup> Government of Japan, 1 *Compilation of Historical Materials on Military Comfort Women* (March 24, 1997), at 27, *cited in* Seon Yoon Hwang, "Japanese Imperial Police Report Expresses the Recruitment of Comfort Women as Kidnapping," (in Korean) [일제 경찰 문서에 위안부 문제를 유괴로 표현], Joongang Newspaper, August 13, 2017, available at: <<https://news.joins.com/article/21839947>> [<https://perma.cc/4VTD-WQKW>].

<sup>29</sup> Choe, Sang-Hun, "Overlooked No More: Kim Hak-soon, Who Broke the Silence for 'Comfort Women'," The New York Times, Oct. 21, 2021, available at: <<https://www.nytimes.com/2021/10/21/obituaries/kim-hak-soon-overlooked.html>> [<https://perma.cc/YWF3-HP9L>].

U.N. Report nor the earlier Japanese government statement and the subsequent Japanese court decision was based on the Yoshida story. The 1998 Japanese court decision does not even mention the Yoshida story.<sup>30</sup>

## 4 Fallacy of Contract

Ramseyer also contends that “All the critics ignore my actual topic: the economic rationale to the contractual structure that brothels and prostitutes employed. In my article, I had asked two main questions: (i) why brothels and recruiters paid women large amounts of money upfront, and (ii) what contractual mechanisms determined the length of time the women worked. The critics largely ignore both questions.”<sup>31</sup> I have criticized his flawed contract analysis, which I will reiterate below, and to which he has not responded. According to Ramseyer, game theory explains the unique nature of the “industry”: the women demanded a large portion of their pay upfront, knowing that the brothel owners had an incentive to exaggerate their future earnings, and the owners demanded a contractual structure that gave women incentives to work hard, knowing they would be inclined to shirk.<sup>32</sup> I have countered this reasoning, as quoted below.

This is a flawed application of game theory that fits the realities of neither prostitution “contracts” in Japan and elsewhere that the article references, nor military sexual servitude during the war. Game theory is the study of the ways in which individual choices are made in expectation of the choices of others to produce an optimal outcome. As such, the key presumption of game theory is that the actors have choices regarding their courses of action. Thus, game theory would not be applicable, and the contract dynamics the author purports to have existed would not stand, unless the women and brothel owners had agency concerning their own actions.

Such choice did not exist for women involved in a large number of so-called prostitution “contracts” in Japan and elsewhere or for the victims of sexual slavery who were either forced into sexual servitude or induced by deception (e.g., on promises of non-sexual jobs). With respect to the prewar prostitution that the Ramseyer article describes, a number of young girls were “sold” by their families to brothels, without having a chance to review the terms of their “contracts” and understand them properly, if there was such a contract, not to mention having a chance to decide their courses of action in expectation of the actions to be taken by brothel owners. An episode of a ten-year-old “deciding” to enter prostitution, which the author cites as an example of bargaining is tragic – if such episode were to be true – and it does not support the argument that women chose to work as prostitutes. In addition to the

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<sup>30</sup> Decision of the Shimonoseki Branch of the Yamaguchi District Court (1998), *supra* note 17.

<sup>31</sup> Ramseyer (2022), *supra* note 7, at 3.

<sup>32</sup> Lee et al. (2021), *supra* note 5, at 311–312.

obvious moral issues involving a child consenting to prostitution, it is widely accepted that one may not bind minors under contract.<sup>33</sup> [footnotes omitted]

Ramseyer has never presented evidence of the contract agreed upon by the “comfort women.” His response presents a long list of items that he calls “evidence” of such contract,<sup>34</sup> but they are mostly third-party accounts or unverifiable assertions of payments supposedly made to comfort women.<sup>35</sup> Ramseyer also introduces an alleged account of a comfort woman who discusses her savings from her work from the translated excerpts taken from a dubious website whose credibility cannot be verified.<sup>36</sup> Ramseyer (or anyone else) has never presented actual copies of the contract, but even if such a document could be found, neither a piece of paper that lists payment and other terms, nor actual payment or promise thereof, constitutes a contract: a contract requires a meeting of the minds: it is required that the parties have agreed on its terms to form a contract.<sup>37</sup> In other words, if a party was coerced or deceived, the piece of a document, however it is labeled, would not in fact constitute evidence of a contract. Even if payment has been made or promised, it does not constitute a contract unless the party who receives such payment has voluntarily acceded to the relationship. It is obviously not the case where the victims were coerced or deceived into prostitution.

Thus, his two “questions” are irrelevant and do not warrant a serious academic discussion or review: as for his first question, given the clear absence of assent, the alleged upfront payment, even if it had actually been made, would not be a contractual process. As for his second question, we cannot presume the existence of a nonexistent contract to discuss any contractual mechanisms that are supposed to determine the length of time the women worked. These alleged contractual mechanisms may warrant discussion in other cases where fully consenting women with legal capacity (i.e., not minors) freely negotiated the terms, but Ramseyer attempted to apply game theory to the sexual servitude during World War II where the coerced women—whether they were coerced from the beginning or deceived first and then coerced into prostitution—did not have any real options, and this is the fundamental flaw in his approach.

For the aforementioned reasons, Ramseyer makes no academic contribution and performs no valid economic analysis of contract in his original paper, and his

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<sup>33</sup> *Ibid.*, at 312.

<sup>34</sup> Ramseyer (2022), *supra* note 7, at 54–59.

<sup>35</sup> *Ibid.*

<sup>36</sup> It is not clear who runs this website, <http://scholarsinenglish.blogspot.com/2014/10/former-korean-comfort-woman-mun-oku.html>. “Korea Institute of History” is marked as the “blogger” for the website but without any address or contact number.

<sup>37</sup> E. Allan Farnsworth, *Contracts* (4th ed., New York: Aspen Publishers, 2004), at 114.



response makes no remedy. As mentioned, he has erroneously attempted to apply game theory to the circumstances in which the women could not choose the terms at all due to coercion or deception. He fails to appreciate that Koreans were not treated equally to their Japanese counterparts: some Japanese women may have volunteered to provide sexual services to the Japanese soldiers under terms similar to those that Ramseyer describes in the initial stages of the war, where they could work without facing an immediate danger of the war, but as the war intensified in the Pacific, it was increasingly difficult to recruit volunteers to serve in the war zone where one may face immediate dangers of war: the reason that coercion or deception would have been necessary.<sup>38</sup> Most of the victims were Korean women—they were dispensable colonial subjects. Korea was under occupation by Japan since 1910, not a legitimate part of Japan as the “treaty” annexing Korea was compelled upon Koreans.<sup>39</sup>

## 5 Academic Freedom

Ramseyer cites and criticizes criminal charges made on two Korean individuals advocating the denial of the sexual slavery.<sup>40</sup> Those charges were defamation charges—as in Japan, defamation is a criminal offense in South Korea, and there are living survivors from the sexual servitude. Ramseyer cites the remarks by Joseph Yi and Joe Philips on the alleged breach of academic freedom in Korea.<sup>41</sup> I have engaged both individuals in a published debate and explained why their argument on academic freedom is misplaced.<sup>42</sup> I have argued that academic freedom does not shield anyone, including scholars, from public criticism against outrageous falsehoods and distortions.<sup>43</sup> South Korea might be more liberal in this regard than other countries: in Germany, it is a criminal offense to deny the Holocaust or to disseminate Nazi propaganda.<sup>44</sup> South Korea does not have such laws against denying the sexual slavery. It is entirely up to each society to decide how they will deal with what is considered public offense: Germany has decided to

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<sup>38</sup> Lee et al. (2021), *supra* note 5, at 315.

<sup>39</sup> Article 51 of Vienna Convention on the Law of Treaties provides that “the expression of a State’s consent to be bound by a treaty which has been procured by the coercion of its representative through acts or threats directed against him shall be without any legal effect.”

<sup>40</sup> Ramseyer (2022), *supra* note 7, at 5–8.

<sup>41</sup> *Ibid.*, at 5.

<sup>42</sup> Lee (2021), *supra* note 6.

<sup>43</sup> *Ibid.*

<sup>44</sup> German Penal Code, Section 130.

apply a criminal sanction. South Korea has decided to apply, in a small number cases, defamation charges.

Ramseyer also complains of the public resistance and criticism of his article demonstrated by thousands of scholars calling for the retraction of his article.<sup>45</sup> He and his supporters, such as Brian Leiter of Chicago Law School, criticize the public call for the retraction of his article and encourage publishing rebuttals,<sup>46</sup> but the members of the general public and scholars are entirely in their rights to respond in the manner that they have chosen. It would be unwarranted arrogance to believe that any argument, once coated in scholarship, will be or should be protected from public pressure and criticism. Surely, one should expect no less public pressure and criticism should the person publish an article denying, on dubious grounds, the perpetration of crimes by the Nazis during World War II or one depicting slavery in the United States as a voluntary act of the victims. Ramseyer may have expected weaker public awareness of the atrocities of the sexual slavery when he decided to write such a misleading article, but for those who have the knowledge and share the memories of the victims, the trauma is no less. The strong public resistance and criticism which he has experienced reflect such trauma.

Ramseyer's argument on academic freedom is misplaced: academic freedom may protect differences in opinion, but not a fraudulent manner in which the author omits or distorts material evidence just to make his point to readers who may not possess a comparable level of knowledge of the matter and consequently may be misled into accepting his arguments. This goes to the question of his academic integrity.<sup>47</sup>

Lastly on academic freedom, a real danger to it is attacks from the extreme right-wing individuals of Japanese origin against scholars who endeavor to reveal the atrocities of the "comfort women."<sup>48</sup> Scholars residing in the United States, as well as in Japan, have reported threats of violence against them.<sup>49</sup> The attackers have also deployed other forms of pressure, such as abuse of a legal process. For

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<sup>45</sup> Chwe, *supra* note 4.

<sup>46</sup> Brian Leiter, *Harvard Law professor writes article about Japanese "comfort women"* ... (February 8, 2021), available at: <<https://leiterlawschool.typepad.com/leiter/2021/02/harvard.html>>, accessed January 16, 2022; Brian Leiter, *Do academic norms and politics mix? The case of Richard W. Painter* (July 26, 2021), available at: <<https://leiterlawschool.typepad.com/leiter/2021/07/do-academics-and-politics-mix-richard-w-painter.html>>, accessed January 16, 2022.

<sup>47</sup> Other scholars have also questioned Ramseyer's academic integrity. See *supra* note 6.

<sup>48</sup> Kim Min, "Japanese Right-Wing Individuals Protecting Ramseyer—Retaliatory Attacks on Critical Scholars" (in Korean) [‘위안부 망언’ 램지어 지키기 나선日久익들 ... 비판 학자에 보복성 공격], Donga News, March 7, 2021, available at: <<https://www.donga.com/news/Inter/article/all/20210307/105762363/1>> [<https://perma.cc/K8GJ-YUUX>].

<sup>49</sup> *Ibid.*

example, another right-wing individual, an American expat in Japan, is known to have made requests to several public universities in the United States under the freedom of information act (FOIA) and demanded these universities to obtain certain information from targeted professors employed at these universities on his behalf. The public universities have instructed the targeted scholars to identify and disclose a large number of emails containing certain key words included in the information requests (such as “comfort women”). As a result, the scholars were compelled to spend a considerable amount of time meeting these requests and disclosing information under pressure. Scholars who have gone through this process have expressed significant stress. Public universities may process such requests under the requirements of the FOIA, but these requests are not a legitimate use of the legal process as it aims to exert undue pressure on and cause considerable inconvenience to the targeted scholars.

## 6 Conclusion

Ramseyer's controversial article, “Contracting for Sex in the Pacific War,” and his flawed response represent a symptom of sickness and distortion in society. The tragic incident of the “comfort women,” which represented an unprecedented campaign of sexual slavery, is a traumatic history not only to Koreans but also to all others who share the memories of the victims. Many of the victims were underaged girls.<sup>50</sup> They suffered from cruel and inhumane treatment at the comfort stations, and many were killed during the war.<sup>51</sup> The complete disregard of their suffering, factual distortions, and hurtful denial of the responsibility of those who inflicted unspeakable harm on the victims displayed in Ramseyer's writings aggravate the wounds that need to be healed. Acknowledging the harm of such denial, the Kono Statement presented a constructive way forward 30 years ago:

We shall face squarely the historical facts as described above instead of evading them, and take them to heart as lessons of history. We hereby reiterate our firm determination never to repeat the same mistake by forever engraving such issues in our memories through the study and teaching of history.<sup>52</sup>

Had the Japanese government followed through these commitments, we may not see today the vile attempt to rewrite history at the expense of the victims' dignity and their sacrifices. Instead, Japanese politics has been right-shifted since then,

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<sup>50</sup> Lee et al. (2021), *supra* note 5, at 297.

<sup>51</sup> *Ibid.*, at 295 n. 22, 305–306.

<sup>52</sup> The Kono Statement, *supra* note 14.

and now the Japanese government has taken the opposite direction, trying to evade responsibilities, although they have not formally retracted the Kono Statement. The revisionists seem to have been emboldened by the support from the right-wing factions in Japan and South Korea, as well as from those who advocate Ramseyer's position in the name of academic freedom.<sup>53</sup> Some of the right-wing Korean individuals seem to believe that attacking Japan on the comfort women issue is not conducive to a security alliance among South Korea, Japan, and the United States against North Korea and China. However, denying history can never form a solid basis to build trust between South Korea and Japan. Germany was able to regain trust from the rest of Europe by admitting the Nazi crimes, not by denying them. The "comfort women" issue is not a contest between South Korea and Japan, as some denialists make out to be—it is a universal human rights issue that concerns everyone, as evidenced by the participation of a large number of Japanese individuals and scholars in efforts to bring out the truth about the "comfort women."<sup>54</sup>

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<sup>53</sup> For example, Leiter (2021), *supra* note 46.

<sup>54</sup> In 2016, fifteen associations of history scholars and educators in Japan issued a joint statement and clarified in relevant part, "Historical research has unequivocally established that the Japanese government and army proposed, established, managed, and regulated "comfort stations" at military facilities, and that the "comfort women" system was essentially a system of sexual slavery that violated existing domestic and international legal standards." *The Historical Science Society of Japan, A Joint Statement by Japanese Historians and History Educators on the "Comfort Women" Issue*, *Journal of Historical Studies* (May 30, 2016), available at: <[http://rekiken.jp/english/appeals/appeal\\_20160530.html](http://rekiken.jp/english/appeals/appeal_20160530.html)> [<https://perma.cc/88PQ-H586>].

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