

Seoul Court Delivers Shock ‘Comfort Women’ Verdict

Surprise decision will cheer Japan but the emotive issue won't likely be put to rest until the UN's ICJ weighs in

By [Andrew Salmon](#)

Asia-Pacific Research, May 05, 2021

[Asia Times](#) 21 April 2021

Region: [East Asia](#)

Theme: [Justice](#)

All Global Research articles can be read in 51 languages by activating the “Translate Website” drop down menu on the top banner of our home page (Desktop version). Visit and follow us on Instagram at @crg_globalresearch.

In a surprise, if not shock, judgment that will infuriate locals but may placate neighboring Japanese, a South Korean court on Wednesday rejected a compensation suit filed by 20 former “comfort women” against Tokyo.

The same court had earlier reached the opposite judgment in a near-identical case in January.

Relations between the two neighbors, long troubled by historical issues and a dispute over the sovereignty of a pair of islets in the sea between them, look set to remain dire. Japan’s decision last week to release irradiated water from its crippled Fukushima nuclear reactor into the Pacific has become the latest bone in an endless series of contentions.

Meanwhile, and regardless of local court decisions, activists and a high-profile former comfort woman are lobbying to resolve the vexed and emotive issue of the wartime brothels once and for all – by placing it before the impartial eyes of the UN’s International Court of Justice.

But further complicating the issue, both Seoul and Tokyo are competing to curry favor with Washington, which seeks a trilateral united front in East Asia against a rising China. Given this, one related party suggested to Asia Times that Seoul may, in order to accommodate Washington’s wishes, have exerted leverage on the court to ameliorate its stance against Japan.

Surprise decision

Seoul District Court Wednesday cited the principle of “sovereign immunity”, an international legal protocol that grants a country protection against civil suits filed in foreign courts.

The judges in Wednesday’s case appeared to have an eye on diplomacy as well as

justice, [saying](#): “When we recognize exemptions of sovereign immunity, diplomatic clashes will inevitably ensue.”

The court cited court cases after World War II that were rejected on the principle. In 2012, the UN’s International Court of Justice overturned Italy’s seizure of German diplomatic assets. Those assets had been taken in order to remunerate wartime Italian forced laborers.

Wednesday’s decision was surprising because the same Seoul court – albeit, with a different panel of judges – had reached an opposite conclusion in January in an almost identical case brought by 12 former comfort women, when it granted them each 100 million won (US\$89,600) in damages to be paid by Tokyo.



Comfort women (comfort girls) captured by U.S. Army, August 14 1944, Myitkyina. (Public Domain)

That judgment had referred to the precedent set by domestic Italian courts in the above case rather than the final outcome of the case at the ICJ. The Seoul court had also, at the time, made the point that “systematic crimes against humanity” superseded legalities.

Moreover, the same court Wednesday appeared to slightly dilute its decision in the January case, stating that Japan does not have to pay the plaintiffs’ legal fees due to international diplomatic laws, [Yonhap news agency reported](#). That reversed its earlier decision, in which it had called for Tokyo to foot those bills in addition to paying damages.

Tokyo had refused to attend either court and has not made any payments. It characterized the January judgment, as well as yet another judgment by a different South Korean court in 2018 that had found on behalf of Korean forced laborers and seized Japanese corporate assets, as breaches of international law.

Tokyo also accuses Seoul of unilaterally overturning a deal on comfort women reached in

2015 between the two capitals under which Japan made a statement of apology and paid compensation.

While a majority of then-living comfort women accepted the Japanese monies, a vocal minority refused, angrily insisting they had not been consulted about the deal and calling Japan's apology insincere.

Seoul's Moon Jae-in administration has disowned the agreement, made under its predecessor administration, and frozen the funds.

Wednesday's decision was doubly surprising, given that surviving comfort women enjoy tremendous public sympathy in South Korea – to the point where survivors are treated with the kind of reverence accorded national heroes.

Lee Yong-soo, a 92-year-old former comfort woman, attended Wednesday's hearing in a wheelchair.

Attired in silver-grey hanbok, or traditional Korean dress, she told reporters after the decision that she wants the issue placed before the UN's ICJ – [a plea she has been making since early this year](#).

Lee, together with a number of supporters from civil society, has been meeting senior political figures in South Korea to push the government to put the issue to the ICJ. Though both Japan and South Korea are ICJ members, neither capital has yet committed to putting the issue before the international body.

Amnesty International's East Asia branch Wednesday [released a statement](#), saying: "This ruling runs contrary to a decision by the same court in January ... What was a landmark victory for the survivors after an overly long wait is again now being called into question."

South Korean legal professionals were mixed on the contrasting court decisions in Seoul.

"I am of the opinion that once the Korean government accepted a certain amount of money to pay to the ladies, the issue was resolved," **Hwang Ju-myung**, a former Constitutional Court research judge and the lead partner in Seoul law firm HMP, told Asia Times.

Shin Hee-seok, a researcher at the elite Yonsei University Institute for Legal Studies, who lobbies for ex-comfort women, said the fight will continue.

"It is a setback, but it does not affect the whole picture," he told Asia Times. "The January decision stands and this case will be appealed – we have not formally decided, but it is pretty much given – so it will probably go to the High Court."

Historical, moral and political battlegrounds

Shin is one of the brains behind the ICJ maneuver that Lee is promoting. There are multiple grounds of contention to resolve.

"Comfort women" staffed military brothels established for the exclusive use of Imperial Japan forces during the Pacific War. While some comfort women were sex workers, others

were tricked, coerced or even forced into the “comfort stations.”

Due to lack of documentation, it is unclear how many there were. There is a gulf in estimates, which range from 20,000 to 400,000. It is also unproven which nationalities – from among Chinese, Korean, Japanese and Southeast Asians, as well as a handful of Europeans – were most predominantly recruited.

In South Korea, it is widely believed that the majority of comfort women were Koreans. They have been dubbed “sex slaves” and their cause has been actively promoted around the world by Korean NGOs, with campaigns that include the raising of statues not just in South Korea, but also in overseas cities, to the acute embarrassment of Tokyo.

Bilateral disagreements over the wartime status of the Korean comfort women are most notably over who recruited them. Tokyo’s position is that recruiters were third parties; Koreans are of the belief that many were kidnapped by Japanese troops.

Contemporarily, Tokyo points to Seoul’s refusal to accept past apologies, deals and compensation packages. South Korea points to Japan’s lack of sincerity in accepting its past crimes, such as its whitewashing of textbooks.

It also points to the actions of some right-wing politicians whose actions, such as visits to the controversial Yasukuni Shrine, indicate a lack of contrition.

Seoul-Tokyo-Washington axis

There are other complications. Wednesday’s court decision played out against a geopolitical backdrop where Seoul and Tokyo – which have separate, bilateral alliances with Washington – seek to win the support of the hyperpower.

The newly-installed US Joe Biden administration made abundantly clear in a recent diplomatic tour of Tokyo and Seoul by its secretaries of state and defense that it wants the two neighbors to bury their hatchets.

To Seoul’s discomfort, Washington is leaning toward Tokyo, with Japanese Prime Minister Yoshihide Suga the first foreign leader to visit Biden last week. Washington has also voiced high-profile support for Japan’s Fukushima irradiated water release plan, which so irks Seoul that it is considering international legal action.

Pressed on these issues during a meeting with reporters in Seoul on Wednesday morning, South Korean **Foreign Minister Chung Eui-young** admitted that the Biden-Suga summit had been “very successful.”

Still, Moon will get his own chance to win Biden’s ear. He is scheduled to summit with the US president next month.

But to South Korea’s further disadvantage, key members of the Biden administration were, during the Barack Obama government, among those who helped formulate the 2015 bilateral comfort women deal which the Moon administration disowned.

Perhaps sensing which way the diplomatic winds are blowing, Moon has recently done an apparent U-turn on comfort women. In his new year’s speech this year, Moon admitted he was “perplexed” by the January court decision – drawing howls of outrage from comfort

women-related NGOs.

And since last September's resignation of ex-Japanese **Prime Minister Shinzo Abe** – despised as an ultra-nationalist and historical revisionist among Koreans – Moon has reached out to Suga in hopes of a reset. Suga, a long-time Abe protégé, has thus far refused Moon's olive leaf.

So could Wednesday's court decision been made with political input? Officially – no.

Moon Chung-in, a former presidential advisor to the Moon administration, told Asia Times earlier this year that while other countries possess political mechanisms to overrule court decisions that may have diplomatic repercussions, South Korea lacks any such mechanism under the constitution.

That raises an apparent seamless wall between politics and the judiciary. However, the government does, in fact, have a communication channel to the judiciary – and arguably wields influence over it – via its minister of justice.

“On the surface, I don't see a pattern of intervention by the Korean government as this is a very sensitive political issue,” Shin said. “But I suspect they may have pulled strings.”

He added, regarding Wednesday's judgment, that “many people suspect the government had a hand in it.”

So what is next for the activists?

In addition to a likely appeal of the case, Shin said that he and colleagues' lobbying efforts are now aimed at making the comfort women's ICJ maneuver an issue in the South Korean presidential election, set for next March.

*

Note to readers: Please click the share buttons above or below. Follow us on Instagram, @crg_globalresearch. Forward this article to your email lists. Crosspost on your blog site, internet forums. etc.

The original source of this article is [Asia Times](#)
Copyright © [Andrew Salmon](#), [Asia Times](#), 2021

[Comment on Global Research Articles on our Facebook page](#)

[Become a Member of Global Research](#)

Articles by: [Andrew Salmon](#)

Disclaimer: The contents of this article are of sole responsibility of the author(s). Asia-Pacific Research will not be responsible for any inaccurate or incorrect statement in this article. Asia-Pacific Research grants permission to cross-post Asia-Pacific

Research articles on community internet sites as long the source and copyright are acknowledged together with a hyperlink to the original Asia-Pacific Research article. For publication of Asia-Pacific Research articles in print or other forms including commercial internet sites, contact: editors@asia-pacificresearch.com

www.asia-pacificresearch.com contains copyrighted material the use of which has not always been specifically authorized by the copyright owner. We are making such material available to our readers under the provisions of "fair use" in an effort to advance a better understanding of political, economic and social issues. The material on this site is distributed without profit to those who have expressed a prior interest in receiving it for research and educational purposes. If you wish to use copyrighted material for purposes other than "fair use" you must request permission from the copyright owner.

For media inquiries: editors@asia-pacificresearch.com