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Politics of Redress: Analyzing the Civil Liberties Act of 1988 as  
a Model to Resolve the “Comfort Women” Issue Between Japan  
and South Korea

By

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Nearly eighty years since the conclusion of the Pacific War, the “comfort women” issue still haunts East Asia and the Pacific.<sup>1</sup> “Comfort women” is a euphemism for the women across Asian and Pacific nations who were forced to provide sex to Japanese troops during the Pacific War. The “comfort women” issue largely remained unknown until 1991 when former “comfort woman” Kim Hak-sun publicly testified to her experience and suffering.<sup>2</sup> A few months later, Japanese professor Yoshimi Yoshiaki found documents that proved Japan’s military and government were directly involved in creating and using the “comfort women” system.<sup>3</sup> Yoshiaki’s findings were subsequently published in the *Asahi Shinbun*, a major Japanese newspaper.<sup>4</sup> As a result of the publicity of the “comfort women” issue, numerous actors felt that action needed to be taken to provide justice and redress. The US House of Representatives became one of those actors.

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<sup>1</sup> During the final editing stage of this paper, former Japanese Prime Minister Abe Shinzo was assassinated. Media reports indicated that the assassin (who is Japanese) killed Abe because Abe was allegedly linked to a religious organization that supposedly defrauded the assassin’s mother. Investigators had not yet identified the religious organization or determined if a link with Abe existed. Because of the lack of verified information regarding the motive, this paper will not address the ramifications of Abe’s assassination.

<sup>2</sup> Pyong Gap Min, *Korean “Comfort Women.” Military Brothels, Brutality, and the Redress Movement* (Rutgers University Press, 2021), p. 1. C. Sarah Soh, *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan* (University of Chicago Press, 2008), p. 43. Kumagai Naoko, *The Comfort Women: Historical, Political, Legal, and Moral Perspectives*, translated by David Noble (International House of Japan, Inc., 2016), pp. 6-7. C. Sarah Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” *Pacific Affairs* 76, no. 2 (Summer 2003), pp. 209, 215, <https://www.jstor.org/stable/40024391>. Yangmo Ku, “National Interest or Transnational Alliances? Japanese Policy on the Comfort Women Issue,” *Journal of East Asian Studies* 15, no. 2 (May-August 2015), p. 256, <https://www.jstor.org/stable/26335139>. “Report on the Review of the Korea-Japan Agreement of December 28, 2015, on the Issue of ‘Comfort Women’ Victims,” *Republic of Korea Ministry of Foreign Affairs*, p. 5, [https://www.mofa.go.kr/eng/brd/m\\_5674/view.do?seq=319637&srchFr=&srchTo=&srchWord=victim&srchTp=0&multi itm seq=0&itm seq 1=0&itm seq 2=0&company cd=&company nm=&page=1&titleNm=](https://www.mofa.go.kr/eng/brd/m_5674/view.do?seq=319637&srchFr=&srchTo=&srchWord=victim&srchTp=0&multi itm seq=0&itm seq 1=0&itm seq 2=0&company cd=&company nm=&page=1&titleNm=). George Hicks, *The Comfort Women: Sex Slaves of the Japanese Imperial Forces* (Souvenir Press, 1995), pp. xi, 148, 152.

<sup>3</sup> Min, *Korean “Comfort Women,”* p. 2. Soh, *The Comfort Women*, p. 44. Kumagai, *The Comfort Women*, p. 7. Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” pp. 209, 215. Ku, “National Interest or Transnational Alliances?,” p. 256. Hicks, *The Comfort Women*, pp. 164-165.

<sup>4</sup> Min, *Korean “Comfort Women,”* p. 2. Soh, *The Comfort Women*, p. 44. Kumagai, *The Comfort Women*, p. 7. Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” p. 209. Ku, “National Interest or Transnational Alliances?,” p. 256. George Hicks, *The Comfort Women*, pp. 164-165.

Although largely viewed as an East Asian issue, a notable occurrence in the “comfort women” issue was the passage of House Resolution 121 in the US House of Representatives in 2007. Resolution 121 was a clear, public rebuke aimed at Japan’s government over its inability to settle the “comfort women” issue. Specifically, resolution 121 called on the Japanese government to “formally acknowledge, apologize, and accept historical responsibility in a clear and unequivocal manner for its Imperial Armed Forces’ coercion of young women into sexual slavery.”<sup>5</sup> A leading sponsor of resolution 121 was Representative Mike Honda of California. In an interview with NPR about resolution 121, Representative Honda was asked why the House demanded the Japanese government to apologize. Honda answered that the goal was to get Japan to take “historical responsibility,” and he proceeded to elaborate on how the US took historical responsibility for Japanese-American internment when it passed the Civil Liberties Act of 1988.<sup>6</sup>

This paper will seek answer the following question: can the Civil Liberties Act of 1988 serve as a feasible model for resolving the “comfort women” issue between Japan and South Korea? To answer this question, this paper will compare how the Civil Liberties Act of 1988 differs structurally from past Japanese resolution attempts, compare the obstacles the “comfort women” and Japanese-American internment redress movements faced, and examine the political contexts of past resolution attempts in order to project the likelihood of passing a “comfort women” resolution based on the Civil Liberties Act of 1988 today. Ultimately, this paper argues that “comfort women” redress legislation modeled after the Civil Liberties Act of 1988 would be

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<sup>5</sup> US Congress, House, *A Resolution Expressing the Sense of the House of Representatives that the Government of Japan Should Formally Acknowledge, Apologize, and Accept Historical Responsibility in a Clear and Unequivocal Manner for Its Imperial Armed Forces’ Coercion of Young Women into Sexual Slavery*, H.Res.121, 110<sup>th</sup> Congress, 1<sup>st</sup> sess., <https://www.congress.gov/bill/110th-congress/house-resolution/121/text>.

<sup>6</sup> “U.S. Demands Apology for ‘Comfort Women,’ *NPR*, July 31, 2007. <https://www.npr.org/templates/story/story.php?storyId=12372399>.

a feasible model and believes there are several reasons to be optimistic about the Japanese government passing such a resolution.

Before we can begin the analysis, three clarifications are needed. First, this paper will specifically address the “comfort women” issue between Japan and South Korea. The “comfort women” system involved women from several Asian and Pacific countries such as the Philippines, Taiwan, Indonesia (including Dutch nationals), Malaysia, China, Burma, and even Japan itself.<sup>7</sup> However, South Korean women constituted the majority of “comfort women,” and Japan has clearly not resolved the “comfort women” issue with South Korea.<sup>8</sup> Furthermore, South Korea has arguably been the most vocal in its criticism of Japan over the “comfort women” issue, and it is home to powerful “comfort women” advocacy groups. Likewise, a second clarification is that this paper will only discuss the Japanese-American portions of the Civil Liberties Act of 1988. The Civil Liberties Act of 1988 also included redress measures for the Aleuts—the inhabitants of the Aleutian Islands located near Alaska. This paper focuses only on the Japanese-American portions because the context, experience, and redress measures for the Aleuts differed slightly, Japanese-Americans were the majority of internment victims, and because much of the lobbying and debate over redress for internment revolved around the Japanese-American experience. The third clarification is that this paper is not attempting to

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<sup>7</sup> Min, *Korean “Comfort Women,”* pp. 81-82. Soh, *The Comfort Women*, pp. xii, 1. Kumagai, *The Comfort Women*, pp. 3-4, 19. Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” p. 212. Hicks, *The Comfort Women*, pp. 22-23, 31, 71, 78-81, 84, 90, 92, 94-95, 196-199, 201-202, 204-205. Craig W. Blatz, Karina Schumann, and Michael Ross, “Government Apologies for Historical Reconciliation,” *Political Psychology* 30, No. 2 (April 2009), Political Reconciliation (April 2009), p. 225, <https://www.jstor.org/stable/25655387>. Radhika Coomaraswamy, “Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Ms. Radhika Coomaraswamy, in Accordance with Commission on Human Rights Resolution 1994/45,” *UN Commission on Human Rights: Special Rapporteur on Violence Against Women*, p. 13, <https://digitallibrary.un.org/record/228137?ln=en>.

<sup>8</sup> Min, *Korean “Comfort Women,”* pp. 1, 81-82. Soh, *The Comfort Women*, pp. xi-xii, 1. Kumagai, *The Comfort Women*, p. 19. Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” p. 212. Hicks, *The Comfort Women*, pp. xvi-xviii, 22, 80. Ku, “National Interest or Transnational Alliances?,” pp. 243-244.

compare the injustices of Japanese-American internment and the “comfort women” system. Rather, this paper is taking the Civil Liberties Act of 1988—a widely regarded example of a well-executed government apology and government-funded reparations—and exploring what strategies or ways of framing redress can be gleaned for possible resolutions to the “comfort women” issue between Japan and South Korea.

Answering this question is significant for several reasons. First, given the rising age of surviving “comfort women,” it is important to quickly identify a model or at least possible strategies that will gain an acceptable apology and compensation. Second, resolving the “comfort women” issue is significant to repairing Japan-South Korea relations. Because Japan and South Korea have increasingly clashed over compensation for the Pacific War and Japan’s colonization of South Korea, their diplomatic relations have notably suffered. While I do not believe that Japan and South Korea will ultimately cut ties with one another (or worse), I do believe failing to resolve the “comfort women” issue before the “comfort women” pass on will be a permanent stain and a constant cloud hanging over the two countries. This still has real consequences. As will be discussed later in the paper, frustration over failing to resolve the “comfort women” issue and related injustices has led to real economic damage to Japan and South Korea as well as the threat of ending crucial national security intelligence sharing.<sup>9</sup> Thus, the failure to resolve the “comfort women” has already—and will likely continue—to bring tangible harm to both countries. Third, this paper is significant because while much scholarship and advocacy regarding the “comfort women” issue has thoroughly documented the “comfort women” system and echoed resolution 121’s condemnation of the Japanese government, few attempts have been

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<sup>9</sup> Troy Stangarone, “Parsing the Economic Damage from the Japan-South Korea Dispute,” *The Diplomat*, January 24, 2020, <https://thediplomat.com/2020/01/parsing-the-economic-damage-from-the-japan-south-korea-dispute/>. “South Korea and Japan’s Feud Explained,” *BBC*, December 2, 2019, <https://www.bbc.com/news/world-asia-49330531>.

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made to find resolutions to the “comfort women” issue other than naming and shaming the Japanese government. Specifically, past Japanese attempts at resolution such as the Asian Women’s Fund and the 2015 Agreement between Japan and South Korea have been widely criticized for failing to meet the demands of a proper apology and legal compensation, but no other potential models for successful resolution have been suggested. Thus, this paper will examine whether the Civil Liberties Act of 1988 can be adapted to resolve the “comfort women” issue between Japan and South Korea and determine if such a measure would be passed by the Japanese government.

The structure of this paper is as follows. The first half of the paper addresses the obstacles that will need to be overcome in order to pass a “comfort women” resolution issue modeled after the Civil Liberties Act of 1988. Namely, this section addresses how proponents of redress must overcome arguments that the government already provided redress and how a proponent of redress must contend with a significant conservative government coalition likely opposed to redress. Additionally, the first half examines the components of the Civil Liberties Act of 1988 in comparison to the Japan’s failed resolution attempts. The second half of the paper analyzes the political contexts of the Japanese government’s prior attempts at resolving the “comfort women” issue with South Korea. By understanding the context of prior resolution attempts, we will have a better chance of identifying current conditions that make passing a resolution modeled after the “Civil Liberties Act of 1988” more or less likely.

### **Literature Review**

For learning about the “comfort women” issue between Japan and South Korea, I have primarily relied on the work of C. Sarah Soh, Kumagai Naoko, and Pyong Gap-Min. C. Sarah Soh’s *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan* is a

foundational work on the “comfort women” issue between South Korea and Japan. Soh sees the “comfort women” system as resulting from the “mutually reinforcing convergence of sexism, classism, colonialism, militarism, and capitalist imperialism.”<sup>10</sup> Soh puts a great emphasis on the role Koreans (particularly men in positions of power) played in creating the “comfort women” system in addition to Japanese officials. Furthermore, Soh tries to show that “comfort women” were not passive objects passed between men, but that several made consistent efforts to exert some form of agency during their captivity.<sup>11</sup> Finally, Soh offers criticism towards the redress movement in South Korea, particularly the Korean Council for the Women Drafted for Military Sexual Slavery by Japan (hereafter the Korean Council) which is the major Korean “comfort women” advocacy group. To Soh, the “comfort women” redress movement has been co-opted by “ethnic nationalism.”<sup>12</sup> Soh believes the presence of “ethnic nationalism” is counter-productive to the redress movement because it erases the role Koreans played in creating the “comfort women” system, it has marginalized “comfort women” who do not fit Korean nationalists’ narrative, and it inspires Japanese nationalists to dig in their heels on their interpretation of the “comfort women” issue.<sup>13</sup>

I have also relied on Soh for the history of and South Korean reaction to the Asian Women’s Fund. Specifically, I consulted Soh’s article “Japan’s National/Asian Women’s Fund for ‘Comfort Women.’” The Asian Women’s Fund was an organization created by Japan in the mid-1990’s that attempted to resolve the “comfort women” issue with several Asian and Pacific nations, and it will be discussed in greater detail later in this paper. While many are dismissive of the Asian Women’s Fund as an attempt by the Japanese to resolve the “comfort women” issue,

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<sup>10</sup> Soh, *The Comfort Women*, pp. xii-xiii.

<sup>11</sup> Soh, *The Comfort Women*, pp. 33, 47, 81, 181.

<sup>12</sup> Soh, *The Comfort Women*, pp. 32, 236-237.

<sup>13</sup> Soh, *The Comfort Women*, pp. 31-33, 96-97, 228-229, 236-238.

Soh considers the Asian Women's Fund an admirable (albeit "imperfect") attempt at resolution.<sup>14</sup>

Kumagai Naoko's *The Comfort Women: Historical, Political, Legal, and Moral Perspectives* echoes much of Soh's findings. However, Kumagai tries to examine the "comfort women" in an impossibly comprehensive manner. For instance, Kumagai argues that (in less than 200 pages) she will explore the themes of "patterns of sexual abuse and violence in wartime Japan and other countries; Japan's war guilt and postwar responsibility; retributive and restorative justice in ethics and law; womens' rights and dynamism in law and politics; nationalism the representation of victims' voices; and the prospects and means for reconciliation."<sup>15</sup> In the end, Kumagai believes that the inability to resolve the "comfort women" issue boils down to the lack of trust between Japan and its former victims.<sup>16</sup> I believe a resolution between Japan and South Korea modeled after the Civil Liberties Act of 1988 would go a long way in establishing that trust.

I have also relied on Pyong Gap Min's *Korean "Comfort Women:" Military Brothels, Brutality, and the Redress Movement* for the history of the "comfort women" issue and redress movement in South Korea. Published in 2021, Min's book is useful because it addresses the 2015 Agreement's negotiation and demise between Japan and South Korea. Throughout the book, Min clearly situates himself on the side of the Korean Council and redress movement. Moreover, he is highly critical of the Japanese government's and occasionally some Korean politicians' handling of the "comfort women" issue. Additionally, Min places his book in direct conversation with Soh. Min specifically takes issue with Soh's assertion that the redress

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<sup>14</sup> Soh, "Japan's National/Asian Women's Fund for 'Comfort Women,'" pp. 232-233.

<sup>15</sup> Kumagai, *The Comfort Women*, p. ix.

<sup>16</sup> Kumagai, *The Comfort Women*, p. xi.



movement has been consumed by nationalism and Soh's use of "several deviant cases" to refuse categorizing the "comfort women" system as sexual slavery.<sup>17</sup>

These works discuss at length the origins of the "comfort women" and the "comfort women" system, the role of Koreans in creating and perpetuating the issue, the importance of "comfort women" terminology (such as referring to the "comfort women" system as sexual slavery), and the presence of nationalism in the redress movement. However, none propose a model for resolving the "comfort women" issue between Japan and South Korea other than building trust between the countries, criticizing the Japanese government, or criticizing the presence of nationalist discourse around the "comfort women" issue. Thus, I hope to contribute to the literature by proposing a feasible model based on the Civil Liberties Act of 1988 to resolve the "comfort women" issue between Japan and South Korea.

For background on the redress movement for Japanese-American internment and the passage of the Civil Liberties Act of 1988, I consulted Mitchell T. Maki, Harry H.L. Kitano, and Megan S. Berthold's *Achieving the Impossible Dream: How Japanese Americans Obtained Redress* as well as Leslie Hatamiya's *Righting a Wrong: Japanese Americans and the Passage of the Civil Liberties Act of 1988*. Maki, Kitano, and Berthold's book provides the big picture for the Japanese-American internment redress movement. Of particular use to this paper is their account of prior apologies and efforts by Congress or presidents to provide redress for internment. Additionally, Maki, Kitano, and Berthold provide insight into Reagan's opposition to the Civil Liberties Act of 1988 and why he was ultimately persuaded to support the legislation.

While Maki, Kitano, and Berthold are concerned with the history of the redress movement for Japanese-American internment, Hatamiya focuses exclusively on the passage of

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<sup>17</sup> Min, *Korean "Comfort Women,"* pp. 2-5.

the Civil Liberties Act of 1988. Specifically, Hatamiya seeks to answer why the Civil Liberties Act of 1988 was passed by Congress and signed into law by President Reagan. Hatamiya finds through statistical analysis that factors like Congresspeople's geographic region, political party, ideology, or the demographics of Congresspeople's districts/states did not fully explain why the Civil Liberties Act of 1988 was passed.<sup>18</sup> Rather, Hitamiya argues that "skillful leadership, the lack of a coherent opposition, and a moral appeal to 'right a wrong'" best explain why the Civil Liberties Act of 1988 was passed and signed into law.<sup>19</sup> Based on my own readings of debate over the Civil Liberties Act of 1988 in the *Congressional Record*, I largely agree with Hitamiya's conclusions; however, I also believe supporters' ability to successfully convince Congresspeople that prior redress measures were inadequate was a key reason why some members of Congress—especially conservatives—were persuaded to support the Civil Liberties Act of 1988.

### **Obstacles to Overcome: "We Already Apologized for This"**

The first obstacle to overcome is the argument that the Japanese government already apologized for the "comfort women" issue. I will rely on Craig W. Blatz, Karina Schumann, and Michael Ross's (hereafter Blatz et al.) "Government Apologies for Historical Reconciliation," for my analysis of government apologies. In their article, Blatz et al. determined a list of "10 potentially important elements" for a government apology, evaluated a list of government apologies using their list of elements, and tried to measure the effectiveness of these apologies based off the number of elements the apologies contained.<sup>20</sup> Six of these elements can be found

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<sup>18</sup> Leslie Hatamiya, *Righting A Wrong: Japanese Americans and the Passage of the Civil Liberties Act of 1988* (Stanford University Press, 1993), pp. 58-60, 62-67, 71-80.

<sup>19</sup> Hatamiya, *Righting A Wrong*, p. 5.

<sup>20</sup> Blatz, Schumann, and Ross, "Government Apologies," pp 220-221.

in both interpersonal and government apologies.<sup>21</sup> These six components are “remorse,” “acceptance of responsibility,” “admission of injustice or wrong doing,” “acknowledgement of harm and/or victim suffering,” “forbearance,” and “offers of repair.”<sup>22</sup> I will refer to these six elements as the core components of an apology. Blatz et al.’s other four elements, in my perception, resemble rhetorical strategies governments might employ in framing their apologies rather than components of the apology itself. These four elements are “address[ing] the identity concerns of a specific minority,” phrasing an apology to “minimize resistance from the non-victimized majority,” “includ[ing] praise for the current system of laws and government,” and “dissociating the present system from the system that permitted the injustice to occur,”<sup>23</sup> Since these latter four elements resemble optional rhetorical strategies rather than core components of an apology, I am only sticking with Blatz et al.’s first six core components for this paper’s analysis of government apologies.

I find Blatz et al.’s article useful for analyzing government apologies for a couple of reasons. First, they explicitly look at government apologies for government-committed injustices rather than interpersonal apologies for interpersonal offenses. As Blatz et al. note, this is a crucial distinction because “a government apology for a historical injustice is likely to be more comprehensive than a typical interpersonal apology. A government apology represents a formal attempt to redress a severe and long-standing harm against an innocent group.”<sup>24</sup> Second, I believe Blatz et al.’s six core components serve as a thorough and nuanced checklist to evaluate apologies. Rather than setting up a binary where a government statement either meets or does not meet the definition of an apology, Blatz et al.’s six core components allow the reader to evaluate

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<sup>21</sup> Blatz, Schumann, and Ross, “Government Apologies,” p. 221.

<sup>22</sup> Blatz, Schumann, and Ross, “Government Apologies,” p. 221.

<sup>23</sup> Blatz, Schumann, and Ross, “Government Apologies,” pp. 222-223.

<sup>24</sup> Blatz, Schumann, and Ross, “Government Apologies,” p. 221.

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and differentiate how much government apologies have to offer in resolving an injustice. Third, I appreciate Blatz et al.'s transparency in providing a table that shows their analysis of past government apologies which allows the reader to see Blatz et al's conclusions and determine if they agree or disagree.

For this paper, there are three apologies regarding the "comfort women" issue between Japan and South Korea that are key to examine. They are the Murayama Statement, Prime Minister Obuchi's apology, and the Kono Statement. These three apologies were chosen because they are probably the Japanese government's three most well-known apologies relevant to South Korea and because they separately address three intersecting issues required to resolve the "comfort women" issue.

The first apology is the Murayama Statement. The Murayama Statement is considered the Japanese government's de facto official apology for the Pacific War, and it was given by Prime Minister Murayama for the 50<sup>th</sup> anniversary of the Pacific War's end. Thus, the Murayama Statement provides an apology for the war that not only created the Japanese military's desire for the "comfort women" system, but that also led to the deaths of thousands of Koreans conscripted in the Japanese military, working in Japanese factories, etc. Quoted below are important excerpts from the Murayama Statement:

Now that Japan has come to enjoy peace and abundance, we tend to overlook the pricelessness and blessings of peace. Our task is to convey to younger generations the horrors of war, so that we never repeat the errors in our history. I believe that, as we join hands, especially with the peoples of neighboring countries, to ensure true peace in the Asia-Pacific region—indeed, in the entire world—it is necessary, more than anything else, that we foster relations with all countries based on deep understanding and trust....

During a certain period in the not too distant past, Japan, following a mistaken national policy, advanced along the road to war, only to ensnare the Japanese people in a fateful crisis, and, through its colonial rule and aggression, caused tremendous damage and suffering to the people of many countries, particularly to those of Asian nations. In the hope that no such mistake be made in the future, I regard, in a spirit of humility, these

irrefutable facts of history, and express here once again my feelings of deep remorse and state my heartfelt apology. Allow me also to express my feelings of profound mourning for all victims, both at home and abroad, of that history.

Building from our deep remorse on this occasion of the 50th anniversary of the end of the war, Japan must eliminate self-righteous nationalism, promote international coordination as a responsible member of the international community and, thereby, advance the principles of peace and democracy. At the same time, as the only country to have experienced the devastation of atomic bombing, Japan, with a view to the ultimate elimination of nuclear weapons, must actively strive to further global disarmament in areas such as the strengthening of the nuclear non-proliferation regime. It is my conviction that in this way alone can Japan atone for its past and lay to rest the spirits of those who perished.<sup>25</sup>

The Murayama Statement is included in Blatz et al.'s analysis of government apologies, and they determined that it met five of their six core components.<sup>26</sup> I agree with that conclusion. First, Prime Minister Murayama said he wished to express “deep remorse and state [his] heartfelt apology” which satisfied the remorse component.<sup>27</sup> Second, Murayama expressed Japan’s responsibility by acknowledging Japan’s “colonial rule and aggression” as well as the “tremendous damage and suffering to the people of many countries, particularly to those of Asian nations” that the Pacific War caused.<sup>28</sup> This also satisfied Blatz et al.’s third and fourth components of an admission of injustice and acknowledgment of victim suffering. Fifth, Murayama promised forbearance numerous times. For example, Murayama said “Our task is to convey to younger generations the horrors of war, so that we never repeat the errors in our history.”<sup>29</sup> Additionally, Murayama closed by stating “Building from our deep remorse...Japan must eliminate self-righteous nationalism, promote international coordination as a responsible

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<sup>25</sup> Murayama Tomiichi, “Statement by Prime Minister Murayama: ‘On the Occasion of the 50<sup>th</sup> Anniversary of the War’s End,’” August 15, 1995, *Ministry of Foreign Affairs*, <https://www.mofa.go.jp/announce/press/pm/murayama/9508.html>.

<sup>26</sup> Blatz, Schumann, and Ross, “Government Apologies,” p. 227.

<sup>27</sup> Murayama, “On the Occasion of the 50<sup>th</sup> Anniversary of the War’s End.”

<sup>28</sup> Murayama, “On the Occasion of the 50<sup>th</sup> Anniversary of the War’s End.”

<sup>29</sup> Murayama, “On the Occasion of the 50<sup>th</sup> Anniversary of the War’s End.”

member of the international community and, thereby, advance the principles of peace and democracy.”<sup>30</sup> Repair is the one component Murayama did not incorporate.

Even though the Murayama Statement contained five of their first six components, Blatz et al. note that a weakness of the Murayama Statement is that it can be interpreted as an expression of only Murayama’s sentiments. Specifically, Blatz et al. note that the Murayama Statement was never “endorsed” by the Japanese Diet (their national legislature).<sup>31</sup> Blatz et al. were not the only ones to notice this. In a *New York Times* article covering another Japanese apology in 1998, the article noted how Murayama’s apology was seen as a “personal” statement rather than an official government apology.<sup>32</sup> Murayama’s own words even back this up. For example, in the section where he uses the word “apology,” Murayama said he wanted to “express here once again *my* feelings of deep remorse and state *my* heartfelt apology. Allow me also to express *my* feelings of profound mourning for all victims, both at home and abroad, of that history” [emphasis added].<sup>33</sup> It can be argued that this point is merely semantic and that a public statement by the chief executive official of a democratic national government should be considered as reflecting the national government’s sentiments. Nonetheless, Murayama’s consistent references to his own feelings gives the point room to stand.

The second apology to examine is Prime Minister Obuchi’s apology to South Korea in 1998. Obuchi’s apology appeared in a joint declaration between Japan and South Korea on the current status and future of the countries’ relationship. In this apology, Prime Minister Obuchi specifically addressed Japan’s colonization of Korea, so it was a distinct apology on a separate

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<sup>30</sup> Murayama, “On the Occasion of the 50<sup>th</sup> Anniversary of the War’s End.”

<sup>31</sup> Blatz, Schumann, and Ross, “Government Apologies,” p. 229.

<sup>32</sup> Nicholas D. Kristof, “Japan Apologizes Forcefully for Its Occupation of Korea,” *New York Times*, October 9, 1998, <https://www.nytimes.com/1998/10/09/world/japan-apologizes-forcefully-for-its-occupation-of-korea.html>.

<sup>33</sup> Murayama, “On the Occasion of the 50<sup>th</sup> Anniversary of the War’s End.”

yet related issue than the Murayama Statement. Moreover, I believe Obuchi's specificity in addressing Japan's colonial relationship with South Korea is important because Japan's colonization of Korea directly contributed to the establishment of the "comfort women" system (and other forms of exploitation against Koreans).<sup>34</sup> Below is Obuchi's apology and South Korean President Kim Dae Jung's response:

Looking back on the relations between Japan and the Republic of Korea during this century, Prime Minister Obuchi regarded in a spirit of humility the fact of history that Japan caused, during a certain period in the past, tremendous damage and suffering to the people of the Republic of Korea through its colonial rule, and expressed his deep remorse and heartfelt apology for this fact.

President Kim accepted with sincerity this statement of Prime Minister Obuchi's recognition of history and expressed his appreciation for it. He also expressed his view that the present calls upon both countries to overcome their unfortunate history and to build a future-oriented relationship based on reconciliation as well as good-neighborly and friendly cooperation.<sup>35</sup>

Analyzing Obuchi's apology with Blatz et al.'s framework, we see that Obuchi's apology contains four of the six components.<sup>36</sup> Obuchi "expressed his deep remorse and heartfelt apology," which satisfies the remorse component. Obuchi, "in a spirit of humility," also stated that Japan's colonization was responsible for "tremendous damage and suffering" which counts as acceptance of responsibility, admission of injustice, and acknowledgement of suffering. The two components Obuchi's apology is missing is the promise of forbearance and offer of repair.

Despite missing two components, the apology appeared to be well-received. The joint declaration contained the South Korean president's response where he accepted the apology.<sup>37</sup>

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<sup>34</sup> For more on how the "comfort women" system intersected with Japan's colonization of Korea, see C. Sarah Soh, *The Comfort Women: Sexual Violence and Postcolonial Memory in Korea and Japan* (University of Chicago Press, 2008).

<sup>35</sup> "Japan-Republic of Korea Joint Declaration: A New Japan-Republic of Korea Partnership Towards the Twenty-First Century," *Ministry of Foreign Affairs of Japan*, October 8, 1998, <https://www.mofa.go.jp/region/asia-paci/korea/joint9810.html>.

<sup>36</sup> Blatz, Schumann, and Ross, "Government Apologies," p. 221.

<sup>37</sup> "Japan-Republic of Korea Joint Declaration: A New Japan-Republic of Korea Partnership Towards the Twenty-First Century."

Furthermore, foreign media outlets praised the apology. For example, the *New York Times* described Obuchi's apology as "unusually forthright," and as "one more step [by Japan] toward greater public contrition for World War II."<sup>38</sup> Additionally, the *New York Times* article found Obuchi's apology significant because Obuchi was a member of the LDP (Japan's conservative, dominant political party of the postwar era).<sup>39</sup> Because the LDP has been in power nearly the entirety of Japan's postwar era and because LDP members have frequently inflamed tensions between Japan and its neighbors over Japan's colonial and military legacy, the article asserts that an apology from a powerful LDP member has more weight than apologies from officials belonging to other parties.<sup>40</sup>

The final apology this paper will examine is the Kono Statement which specifically addressed the "comfort women" issue. This apology was given by Chief Cabinet Secretary Kono Yohei on August 4, 1993. The Kono Statement was the result of Japanese government study of the "comfort women" issue sparked by the emergence of the redress movement.<sup>41</sup> Additionally, George Hicks points out that the Kono Statement was issued shortly before the UN Sub-Commission on Human Rights' monthly meeting.<sup>42</sup> Hicks believes this timing is significant due to Japan having been singled out for criticism eleven times at the UN Commission on Human Rights' meetings six months earlier.<sup>43</sup> In the statement, Kono announced that:

As a result of the study which indicates that comfort stations were operated in extensive areas for long periods, it is apparent that there existed a great number of comfort women. Comfort stations were operated in response to the request of the military authorities of the day. The then Japanese military was, directly or indirectly, involved in the establishment

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<sup>38</sup> Kristof, "Japan Apologizes Forcefully for Its Occupation of Korea."

<sup>39</sup> Kristof, "Japan Apologizes Forcefully for Its Occupation of Korea."

<sup>40</sup> Kristof, "Japan Apologizes Forcefully for Its Occupation of Korea."

<sup>41</sup> Soh, *The Comfort Women*, p. 44. Kumagai, *The Comfort Women*, p. 7. Soh, "Japan's National/Asian Women's Fund for 'Comfort Women,'" p. 219. Ku, "National Interest or Transnational Alliances?," pp. 253-254. "Report on the Review of the Korea-Japan Agreement of December 28, 2015, on the Issue of 'Comfort Women' Victims," p. 10. Hicks, *The Comfort Women*, pp. 222-223

<sup>42</sup> Hicks, *The Comfort Women*, pp. 222-223.

<sup>43</sup> Hicks, *The Comfort Women*, p. 219.



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...

Undeniably, this was an act, with the involvement of the military authorities of the day, that severely injured the honor and dignity of many women. The Government of Japan would like to take this opportunity once again to extend its sincere apologies and remorse to all those, irrespective of place of origin, who suffered immeasurable pain and incurable physical and psychological wounds as comfort women...

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>44</sup>

A major difference between the Kono Statement, the Murayama Statement, and Obuchi's apology that should be immediately noted is that the Kono Statement explicitly and only refers to the "Government of Japan's" view whereas the Murayama Statement appears to only refer to Prime Minister Murayama's personal feelings and Obuchi's apology refers to both. Moreover, the Kono Statement predated both the Murayama Statement and Obuchi's apology, so there was already an example of an official apologizing on behalf of the whole Japanese government that subsequent apologies could have followed. These distinctions support the criticism that the Murayama Statement was a personal rather than official government apology.

If we apply the six core components of an apology from Blatz et al. to the Kono Statement, we see that the Kono Statement contains five of the six components. It only misses the offer of reparations.<sup>45</sup> By stating "the Government of Japan would like to take this opportunity once again to extend its sincere apologies and remorse to all those, irrespective of

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<sup>44</sup> Kono Yohei, "Statement By the Chief Cabinet Secretary," August 4, 1993, *Ministry of Foreign Affairs*, [https://www.mofa.go.jp/a\\_o/rp/page25e\\_000343.html](https://www.mofa.go.jp/a_o/rp/page25e_000343.html).

<sup>45</sup> Blatz, Schumann, and Ross, "Government Apologies," p. 221.

place of origin, who suffered immeasurable pain and incurable physical and psychological wounds as comfort women,” the Kono Statement showed remorse and acknowledgment of harm.<sup>46</sup> Although it couched the Japanese government’s involvement as “directly or indirectly,” the Kono Statement still acknowledged responsibility and injustice by noting that “comfort women” were “recruited against their own will, through coaxing, coercion, etc...They lived in misery at comfort stations in a coercive atmosphere.”<sup>47</sup> Finally, the Kono Statement pledged forbearance by promising to acknowledge the “comfort women” system and the Japanese government’s involvement as a “historical fact” and promising—through education and reflection—to never create another institution like the “comfort women” system again.<sup>48</sup>

Overall, despite the fact that the Murayama Statement, Obuchi’s apology, and the Kono Statement contained most of six components borrowed from Blatz et al., they are seen as unsatisfactory due to confusion over whether they reflect only personal sentiments and because none contain a promise of compensation. Thus, a resolution modeled after the Civil Liberties Act of 1988 should prove satisfactory compared to the past apologies because it would be a resolution formally passed by Japan’s national legislature that accompanies direct, government-funded monetary reparations and educational efforts. Additionally, while the apology in the possible resolution should focus on the “comfort women” system, it should also address Japan’s colonization of Korea and Japan’s responsibility for the Pacific War since all three are connected. After all, the “comfort women” system did not exist in a vacuum. The “comfort women” system was created for Japan’s troops fighting a war Japan started, and the “comfort women” system was assisted by Japan’s colonization of Korea. Overall, I believe an apology that

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<sup>46</sup> Kono, “Statement By the Chief Cabinet Secretary.”

<sup>47</sup> Kono, “Statement By the Chief Cabinet Secretary.”

<sup>48</sup> Kono, “Statement By the Chief Cabinet Secretary.”

addresses all three issues has the greatest chance to be accepted by the “comfort women” system’s victims, their advocates, the South Korean government, and international audiences.

### **Obstacles to Overcome: “We Already Paid for This”**

The second obstacle that needs to be overcome are claims that redress for the “comfort women” issue has already been provided through prior measures. To begin, the Japanese government believes compensation for Pacific War-related issues was provided in post-Pacific War treaties. For example, the Japanese Ministry of Foreign Affairs’ current webpage argues postwar treaties and agreements provided legal compensation for the Pacific War or colonization.<sup>49</sup> The first of these treaties was the 1951 Treaty of San Francisco which formally ended the Pacific War. Article 14 of the 1951 San Francisco Treaty deals with claims, and subsection (b) of Part 5 states:

Except as otherwise provided in the present Treaty, the Allied Powers waive all reparations claims of the Allied Powers, other claims of the Allied Powers and their nationals arising out of any actions taken by Japan and its nationals in the course of the prosecution of the war, and claims of the Allied Powers for direct military costs of occupation.<sup>50</sup>

Thus, the 1951 Treaty of San Francisco is both explicit about waiving claims for the signing nations and is broad in the claims covered. The 1951 San Francisco Treaty is clear not just “all reparations claims” are waived, but also “other claims of the Allied Powers and their nationals” as well.<sup>51</sup> However, the 1951 Treaty of San Francisco did not completely settle war claims against Japan. South Korea was not a signing member of the 1951 Treaty of San Francisco, so

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<sup>49</sup> “Japan’s Efforts on the Issue of Comfort Women,” *Ministry of Foreign Affairs*, [https://www.mofa.go.jp/policy/postwar/page22e\\_000883.html](https://www.mofa.go.jp/policy/postwar/page22e_000883.html).

<sup>50</sup> “Treaty of Peace with Japan (With Two Declarations),” *United Nations Treaty Series* 1832, signed September 8, 1951, p. 64, <https://treaties.un.org/doc/publication/unts/volume%20136/volume-136-i-1832-english.pdf>.

<sup>51</sup> “Treaty of Peace with Japan,” p. 64.

the 1951 San Francisco Treaty does not absolve Japan of South Korea's claims. Thus, Japan had to negotiate and sign an additional, specific bilateral treaty with South Korea.

In 1965, Japan and South Korea reestablished relations via the "Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Co-Operation" (hereafter the "1965 Agreement"). In the 1965 Agreement, Article 2 deals with claims. Section 1 of Article 2 states:

The Contracting Parties confirm that [the] problem concerning property, rights and interests of the two Contracting Parties and their nationals (including juridical persons) and concerning claims between the Contracting Parties and their nationals, including those provided for in Article IV, paragraph (a) of the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951, is settled completely and finally.<sup>52</sup>

Interpreting this passage has proved to be much more difficult and contentious than the 1951 Treaty of San Francisco. The minutes section of the 1965 Agreement clarifies that "it is understood that 'property, rights and interests' means all kinds of substantial rights which are recognized under law to be of property value."<sup>53</sup> Thus, some make the argument that the 1965 Agreement only covered property claims, not other claims such as war crimes like the "comfort women" system.<sup>54</sup> However, because the section went on to say "*and* [emphasis added] concerning claims between the Contracting Parties and their nationals" in addition to "property, rights and interests," one could also argue that the 1965 Agreement does in fact cover all claims regarding the Pacific War.<sup>55</sup> Regardless, between the 1951 Treaty of San Francisco and the 1965

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<sup>52</sup> "Agreement on the Settlement of Problems Concerning Property and Claims and on Economic Cooperation (With Protocols, Exchanges of Notes, and Agreed Minutes)," *United Nations Treaty Series* 8734, signed on June 22, 1965, p. 260, <https://treaties.un.org/doc/Publication/UNTS/Volume%20583/volume-583-I-8473-English.pdf>.

<sup>53</sup> "Agreement," p. 290.

<sup>54</sup> Coomaraswamy, "Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Ms. Radhika Coomaraswamy, in Accordance with Commission on Human Rights Resolution 1994/45," p. 25. Min, *Korean "Comfort Women,"* p. 46.

<sup>55</sup> "Agreement," p. 260.

Agreement, opponents of the “comfort women” redress movement have argued that redress has been legally provided through treaties.

These claims that the “comfort women” issue was resolved in prior treaties have proven largely unpersuasive, however. As a result, the Japanese government made two other attempts at resolving the “comfort women” issue. The first of these two attempts was the Asian Women’s Fund. As Soh notes, the Asian Women’s Fund was established in 1995 with four missions: to provide monetary compensation and apologies for “comfort women,” to fund healthcare services for “comfort women,” to further research the “comfort women” issue, and to support other “comfort women”-related projects.<sup>56</sup>

The Asian Women’s Fund was an organization that involved both Japan’s public and private sectors. The money sent to the “comfort women” consisted of private donations from Japanese nationals.<sup>57</sup> These private donations totaled somewhere between 448-600 million yen (roughly 2 million yen or \$18,800 per “comfort woman”).<sup>58</sup> The Japanese government, meanwhile, covered the operational costs of the Asian Women’s Fund and provided 700-830 million yen to cover the fees for “comfort women’s” health care services.<sup>59</sup>

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<sup>56</sup> Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” p. 223. “An Appeal for Donations for the Asian Women’s Fund,” *Digital Museum: The Comfort Women Issue and the Asian Women’s Fund*, <https://www.awf.or.jp/e2/foundation-01.html>.

<sup>57</sup> Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” pp. 222-223. Min, *Korean “Comfort Women,”* pp. 169, 218. Soh, *The Comfort Women*, p. 44. Kumagai, *The Comfort Women*, pp. 101-102. “The Asian Women’s Fund,” *Ministry of Foreign Affairs*, <https://www.mofa.go.jp/files/100173322.pdf>. “An Appeal for Donations for the Asian Women’s Fund,” *Digital Museum: The Comfort Women Issue and the Asian Women’s Fund*, <https://www.awf.or.jp/e2/foundation-02.html>.

<sup>58</sup> Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” p. 222. Min, *Korean “Comfort Women,”* p. 218. Kumagai, *The Comfort Women*, pp. 8, 101. “The Asian Women’s Fund,” *Ministry of Foreign Affairs*. “An Appeal for Donations for the Asian Women’s Fund,” *Digital Museum: The Comfort Women Issue and the Asian Women’s Fund*, <https://www.awf.or.jp/e2/foundation-02.html>. “The Asian Women’s Fund,” *Ministry of Foreign Affairs*, <https://www.mofa.go.jp/files/100173322.pdf>.

<sup>59</sup> Min, *Korean “Comfort Women,”* p. 218. “Establishment of the AW Fund, and the Basic Concepts of Its Project,” *Digital Museum: The Comfort Women Issue and the Asian Women’s Fund*, <https://www.awf.or.jp/e2/foundation-02.html>. Kumagai, *The Comfort Women*, p. 102. Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” p. 222.

Accompanying the money delivered to “comfort women” who accepted the payments were apology letters from the prime minister and the Asian Women’s Fund’s president. Below is the prime minister’s letter. The same text was used for the letters sent by Prime Ministers Hashimoto, Obuchi, Mori, and Koizumi with one exception. The first paragraph in Hashimoto’s letter referred to his “personal feelings,” but the word “personal” was removed once Obuchi became prime minister in 1998.<sup>60</sup> Here is the prime minister letter:

Dear Madam,

On the occasion that the Asian Women's Fund, in cooperation with the Government and the people of Japan, offers atonement from the Japanese people to the former wartime comfort women, I wish to express my feelings as well.

The issue of comfort women, with an involvement of the Japanese military authorities at that time, was a grave affront to the honor and dignity of large numbers of women.

As Prime Minister of Japan, I thus extend anew my most sincere apologies and remorse to all the women who underwent immeasurable and painful experiences and suffered incurable physical and psychological wounds as comfort women.

We must not evade the weight of the past, nor should we evade our responsibilities for the future.

I believe that our country, painfully aware of its moral responsibilities, with feelings of apology and remorse, should face up squarely to its past history and accurately convey it to future generations.

Furthermore, Japan also should take an active part in dealing with violence and other forms of injustice to the honor and dignity of women.

Finally, I pray from the bottom of my heart that each of you will find peace for the rest of your lives.<sup>61</sup>

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<sup>60</sup> “Letter from Prime Minister to Comfort Women,” *Digital Museum: The Comfort Women Issue and the Asian Women’s Fund*, <https://www.awf.or.jp/e6/statement-12.html>.

<sup>61</sup> “Letter from Prime Minister to Comfort Women.”

Calling back to the six core apology components borrowed from Blatz et al., the prime minister letter contains five—and arguably all six—of the components.<sup>62</sup> By expressing the prime minister’s “most sincere apologies and remorse,” the letter demonstrates remorse.<sup>63</sup> The phrases “with an involvement of the Japanese military authorities at that time,” and “I believe that our country, painfully aware of its moral responsibilities,” show an admission of responsibility.<sup>64</sup> By noting the “immeasurable and painful experiences and suffered incurable physical and psychological wounds” the “comfort women” suffered, the letter acknowledges harm. The letter shows forbearance by promising to recognize Japan’s mistakes in the past, provide education on the “comfort women issue,” and support projects that advocate for women’s rights reducing violence against women.<sup>65</sup> Finally, since the letter accompanies a payment of monetary compensation funded by private donations, one can argue it also covers the offer of repair.

Overall, the Asian Women’s Fund got mixed to negative responses in South Korea and internationally. Seven “comfort women” initially accepted the Asian Women’s Fund’s payments and letters.<sup>66</sup> However, the majority of South Korean “comfort women” did not accept the payments and letters, and the Korean Council—the primary “comfort women” advocacy group—publicly criticized the Asian Women’s Fund. The chief criticism of the Asian Women’s Fund was that because the monetary compensation came from private Japanese citizens’ donations, the Japanese government continued to “evade” its legal responsibility to provide compensation.<sup>67</sup> In

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<sup>62</sup> Blatz, Schumann, and Ross, “Government Apologies,” p. 221.

<sup>63</sup> “Letter from Prime Minister to Comfort Women.”

<sup>64</sup> “Letter from Prime Minister to Comfort Women.”

<sup>65</sup> “Letter from Prime Minister to Comfort Women.”

<sup>66</sup> Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” p. 228. Min, *Korean “Comfort Women,”* p. 219. Kumagai, *The Comfort Women*, p. 107. “Projects by Country or Region—South Korea,” *Digital Museum: The Comfort Women Issue and the Asian Women’s Fund*, <https://www.awf.or.jp/e3/korea.html>.

<sup>67</sup> Coomaraswamy, “Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Ms. Radhika Coomaraswamy, in Accordance with Commission on Human Rights Resolution 1994/45,” p. 17. Min,

fact, the Korean Council objected to the Asian Women's Fund to a such a degree that it urged "comfort women" to not take the Asian Women's Fund's payments and "refused to even meet with [Asian Women's Fund] staff members."<sup>68</sup> Furthermore, the Korean Council worked with President Kim Dae Jung's administration to pay 31.5 million won (\$20,000-\$26,000) to each of the "comfort women" who had not accepted the Asian Women Fund's payments in exchange for their promise not to not accept the Asian Women's Fund's payments in the future.<sup>69</sup> As it turns out, however, 54 "comfort women" who received the South Korean government's payments also accepted the Asian Women's Fund's payments, bringing the total number of South Korean "comfort women" who received Asian Women's Fund payments to 61.<sup>70</sup> Given the increasing resistance to the Asian Women's Fund in South Korea, the Asian Women's fund suspended its South Korean operations in 1999. They never resumed.<sup>71</sup>

The second notable attempt to resolve the "comfort women" issue between Japan and South Korea was the now defunct 2015 Agreement. The 2015 Agreement was negotiated between the governments of Prime Minister Abe and President Park. On Japan's side of the 2015 Agreement, the Japanese government first issued another apology. At the press conference announcing the 2015 Agreement, Japan's Minister of Foreign Affairs Kishida Fumio stated:

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*Korean "Comfort Women,"* p. 218. Kumagai, *The Comfort Women*, pp. 104, 118-120. Soh, "Japan's National/Asian Women's Fund for 'Comfort Women,'" pp. 218, 228. Ku, "National Interest or Transnational Alliances?," p. 261.

<sup>68</sup> Min, *Korean "Comfort Women,"* p. 219. Soh, "Japan's National/Asian Women's Fund for 'Comfort Women,'" pp. 228-229.

<sup>69</sup> Min, *Korean "Comfort Women,"* pp. 219-220. Soh, "Japan's National/Asian Women's Fund for 'Comfort Women,'" pp. 228-229. "Projects by Country or Region—South Korea," *Digital Museum: The Comfort Women Issue and the Asian Women's Fund*, <https://www.awf.or.jp/e3/korea.html>.

<sup>70</sup> "Japan's Efforts on the 'Comfort Women' Issue," *Ministry of Foreign Affairs*. Kumagai, *The Comfort Women*, p. 107. Min, *Korean "Comfort Women,"* p. 220. Min puts the total number "comfort women" who accepted the Asian Women's Fund's money at 68, but I have chosen to go with the figure published by the Japanese government. It should also be noted the Japanese government's number is lower than Min's, so this is not an attempt to inflate the success of the Asian Women's Fund.

<sup>71</sup> "Projects by Country or Region—South Korea," *Digital Museum: The Comfort Women Issue and the Asian Women's Fund*, <https://www.awf.or.jp/e3/korea.html>.



The issue of “comfort women” was a matter which, with the involvement of the military authorities of the day, severely injured the honor and dignity of many women. In this regard, the Government of Japan painfully acknowledges its responsibility.

Prime Minister Abe, in his capacity as Prime Minister of Japan, expresses anew sincere apologies and remorse from the bottom of his heart to all those who suffered immeasurable pain and incurable physical and psychological wounds as “comfort women.”<sup>72</sup>

In addition to the apology, the Japanese government agreed make a one-time payment of one billion yen (\$8,800,000-\$9,500,000) to the South Korean government and the Reconciliation and Healing Foundation to be used to directly compensate “comfort women.”<sup>73</sup> The estimated money spent per “comfort women” varies considerably among sources. A *New York Times* article reporting on the 2015 Agreement’s reception estimated payments to be \$180,000 per “comfort women.”<sup>74</sup> However, in his book *Korean “Comfort Women:” Military Brothels, Brutality, and the Redress Movement*, Professor Pyong Gap Min wrote that “comfort women” received \$85,000 and deceased “comfort women’s” family members received \$18,000.<sup>75</sup> I trust Min’s estimate to be more reliable given his use of interviews with “comfort women” as sources for his book.

On the other side of the 2015 Agreement, South Korea first pledged to consider the “comfort women” issue “finally and irreversibly resolved” once Japan apologized and made its payment.<sup>76</sup> Second, South Korea promised to “make efforts to appropriately address the concern” of “comfort women” statues, specifically the statue in front of the Japanese embassy in Seoul.<sup>77</sup>

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<sup>72</sup> “Announcement by Foreign Ministers of Republic of Korea and Japan at the Joint Press Availability (December 28, 2015),--Remarks at Joint Press Availability,” *Republic of Korea Ministry of Foreign Affairs*, p. 2, [http://www.mofa.go.kr/cntntsDown.do?path=eng&physic=\(2\)151228.docx&real=\(2\)151228.docx](http://www.mofa.go.kr/cntntsDown.do?path=eng&physic=(2)151228.docx&real=(2)151228.docx).

<sup>73</sup> “Announcement by Foreign Ministers of Republic of Korea and Japan,” p. 2. Choi He-suk, “Japan-Funded ‘Comfort Women’ Foundation to be Dissolved,” *The Korean Herald*, November 21, 2018, <http://www.koreaherald.com/view.php?ud=20181121000139>. Min, *Korean “Comfort Women,”* p. 223. “South Korea and Japan’s Feud Explained,” *BBC*.

<sup>74</sup> Jonathan Soble and Choe Sang-Hun, “‘Comfort Women’ Deal Angers Some,” *New York Times*, December 30, 2015, <https://www.proquest.com/hnpnewyorktimes/docview/2074622773/fulltextPDF/DA392BC933134AF8PQ/29?accountid=14657>.

<sup>75</sup> Min, *Korean “Comfort Women,”* p. 223.

<sup>76</sup> “Announcement by Foreign Ministers of Republic of Korea and Japan,” pp. 3-4.

<sup>77</sup> “Announcement by Foreign Ministers of Republic of Korea and Japan,” pp. 3-4.

Action on the “comfort women” statues would also help with the third and final obligation for South Korea (which also applied to Japan): ending public criticism of each other’s governments “in international forums, including at the United Nations.”<sup>78</sup>

Despite the encouraging prospect that the administrations in Japan and South Korea could come to an agreement to resolve the “comfort women” issue, and despite the fact that the Japanese government finally provided a direct payment, the 2015 Agreement was short-lived for three reasons. First, the deal lacked broad approval from the moment it was initially announced. Some representatives in South Korea’s Parliament went as far as to call the Agreement “traitorous” and demanded the resignation of South Korea’s Foreign Minister.<sup>79</sup> Of course, this may have just been dramatic partisan theatrics to a degree. However, significant opposition to the deal was also expressed through opinion polls. The newspaper *Korea JoongAng Daily* reported the results of an opinion poll of 1,000 South Koreans that found that 58% of the respondents disagreed that the 2015 resolved the “comfort women” issue, and 54% said they were not “content” with the deal.<sup>80</sup> Additionally, the 2015 Agreement was not accepted by the Korean Council—the major advocacy group for Korean “comfort women.”<sup>81</sup> Similar to their response to the Asian Women’s Fund, the Korean Council tried to persuade “comfort women” not to accept Japan’s payments, and they secured funds to pay the “comfort women” instead.<sup>82</sup>

The second reason the 2015 Agreement was short-lived was that because the deal lost some political legitimacy when President Park was impeached and removed from office a little over year after the 2015 Agreement was announced. Park was not impeached over the 2015

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<sup>78</sup> “Announcement by Foreign Ministers of Republic of Korea and Japan,” pp. 3-4.

<sup>79</sup> Soble and Sang-Hun, ““Comfort Women” Deal Angers Some.”

<sup>80</sup> “Most Koreans Split Over Japan’s Legal Liability,” *Korea JoongAng Daily*, January 4, 2016, <https://koreajoongangdaily.joins.com/news/article/article.aspx?aid=3013529&cloc=joongangdaily%7Chome%7Cnewslist1>

<sup>81</sup> Min, *Korean “Comfort Women,”* p. 223.

<sup>82</sup> Min, *Korean “Comfort Women,”* pp. 223-224.

Agreement, but over an unrelated corruption scandal.<sup>83</sup> Nonetheless, Park's removal still damaged the 2015 Agreement's image.

The third reason the 2015 Agreement was short-lived was because Park's successor, Moon Jae-in, opposed the deal. Moon established a task force to investigate the 2015 Agreement's negotiation, and the task force ultimately concluded that the 2015 Agreement was unsatisfactory because the Park Administration's emphasis on the "comfort women" issue jeopardized relations with Japan, the negotiations were not transparent, and the 2015 Agreement did not follow a "victim-centered approach."<sup>84</sup> On December 28, 2017, at the conclusion of a task force's investigation, President Moon said

[The 2015 Agreement] runs afoul of the universal established principle of the international community for settling history issues, and above all, it was a political agreement that excluded victims themselves and citizens...Along with the citizens, I, as president, make it clear again that the comfort women issue can't be settled through the deal.<sup>85</sup>

In sum, the Japanese government has already made two attempts to resolve the "comfort women" issue, but neither have been unsuccessful. Now that we understand what past Japanese attempts at resolving the "comfort women" issue looked like and why they were unsuccessful, we can move on to examine of the Civil Liberties Act of 1988 and determine if it could serve as a model for successful redress for the "comfort women" issue between Japan and South Korea.

### **The Civil Liberties Act of 1988**

This paper will now shift to its comparison of the Japanese government's prior redress attempts to the passage of the Civil Liberties Act of 1988. Specifically, this comparison will

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<sup>83</sup> Min, *Korean "Comfort Women,"* p. 224.

<sup>84</sup> "Report on the Review of the Korea-Japan Agreement of December 28, 2015, on the Issue of 'Comfort Women' Victims," pp. 3-4, 21-25.

<sup>85</sup> Jung Min-Kyung, "Moon Decries 2015 Korea-Japan 'Comfort Women' Deal as Flawed," *The Korean Herald*, December 28, 2017, <http://www.koreaherald.com/view.php?ud=20171228000905>.

analyze three things: what were the contents of the Civil Liberties Act of 1988 and the accompanying apologies from Presidents Reagan and Bush; how did the redress movement for Japanese-American internment address and rebut arguments that redress had already been accomplished in past legislation or apologies; and, how did the redress movement overcome a significant conservative coalition in the legislative and executive branches.

The Civil Liberties Act of 1988 had three main parts: an apology from Congress, a plan for paying reparations to surviving victims of internment, and the announcement a “public education fund” to ensure that internment would never be forgotten or repeated.<sup>86</sup> Recalling Blatz et al. and the six apology components, Blatz et al. argued that the Civil Liberties Act of 1988 met five of those components (only missing responsibility).<sup>87</sup> However, I believe that it meets all six. First, Congress conveyed remorse by saying it “apologizes for the Nation.”<sup>88</sup> Congress also met the second and third criteria of accepting responsibility and acknowledging injustice by stating that internment was a “grave injustice” that was “carried out without adequate security reasons...and [was] motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership” [emphasis added].<sup>89</sup> Fourth, Congress acknowledged harm by saying internment caused “material and intangible” harms, specifically mentioning “losses in education and job training, all of which resulted in significant human suffering for which appropriate compensation has not been made.”<sup>90</sup> Fifth, Congress expressed forbearance by establishing a public education fund dedicated to studying Japanese-American internment.<sup>91</sup>

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<sup>86</sup> *An Act to Implement Recommendations of the Commission on Wartime Relocation and Internment of Civilians*, Public Law 100-383, *US Statutes at Large* 102 (1988): pp. 903-916, <https://www.congress.gov/bill/100th-congress/house-bill/442/text>.

<sup>87</sup> Blatz, Schumann, and Ross, “Government Apologies,” p. 227.

<sup>88</sup> *An Act to Implement Recommendations of the CWRIC*, p. 904.

<sup>89</sup> *An Act to Implement Recommendations of the CWRIC*, pp. 903-904.

<sup>90</sup> *An Act to Implement Recommendations of the CWRIC*, p. 904.

<sup>91</sup> *An Act to Implement Recommendations of the CWRIC*, pp. 908-909.

Sixth, while not mentioned in the opening apology, the Civil Liberties Act of 1988 planned to overturn convictions related to internment and to pay those who were interned \$20,000 as compensation.<sup>92</sup>

Additionally, the Civil Liberties Act of 1988 was followed by statements from Presidents Reagan (at the law's signing) and George H.W. Bush (in letters accompanying the payments). At the signing ceremony, Reagan stated that internment was a "grave wrong" that was "based solely on race."<sup>93</sup> In his brief letter accompanying the payments, George H.W. Bush admitted that offering money and apologies "cannot restore lost years or erase painful memories."<sup>94</sup> Rather, President Bush stated that they demonstrate Americans "[taking] a clear stand for justice and recogniz[ing] that serious injustices were done to Japanese Americans during World War II."<sup>95</sup>

These two additional statements related to the Civil Liberties Act of 1988 are important for several reasons in addition to being personal apologies for internment. First, they represent apologies from the executive branch joining an apology from the legislative branch, thereby exhibiting that the US government was widely remorseful for internment. Second, these statements are valuable because they came from two conservative presidents who initially opposed the Civil Liberties Act of 1988. Third, both Reagan and Bush were members of the World War II generation. Thus, these apologies came from the generation that committed the injustice which arguably added a degree of sincerity.

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<sup>92</sup> *An Act to Implement Recommendations of the CWRIC*, pp. 904-906.

<sup>93</sup> Ronald Reagan, "Remarks on Signing the Bill Providing Restitution for the Wartime Internment of Japanese-American Civilians, August 10, 1988, *Ronald Reagan Presidential Library and Museum*, <https://www.reaganlibrary.gov/archives/speech/remarks-signing-bill-providing-restitution-wartime-internment-japanese-american>.

<sup>94</sup> George H.W. Bush, "Apology Letter to Interred Japanese-Americans," *National Museum of American History*, <https://americanhistory.si.edu/righting-wrong-japanese-americans-and-world-war-ii/redress-payments>.

<sup>95</sup> Bush, "Apology Letter."

Next, like “comfort women” redress proponents, supporters of the Civil Liberties Act of 1988 had to contend with the argument that compensation and apologies had already been delivered. The often-cited example of prior legislation that already provided compensation to internees was the Japanese-American Evacuations Claims Act of 1948. The Commission on Wartime Relocation and Internment of Civilians (hereafter “the Commission”)—a Congressionally-appointed committee formed to study Japanese-American internment—described the Japanese-American Evacuation Claims Act of 1948 as a law that only allowed people who were interned the “right to claim from the government ‘damage to or loss of real or personal property,’ not compensated by insurance, which occurred as ‘a reasonable and natural consequence of the evacuation or exclusion.’”<sup>96</sup> All in all, the Commission determined that the Japanese-American Evacuation Claims Act paid out \$37 million in compensation out of \$148 million in claimed damages.<sup>97</sup>

Furthermore, Maki, Kitano, and Berthold point out additional forms of partial redress besides the Japanese-American Evacuation Claims Act of 1948. For example, Maki, Kitano, and Berthold discuss the Supreme Court’s ruling in *Honda v. Clark* (1967) which “permitted approximately 4,100 Japanese Americans to recover bank deposits from the Yokohama Specie Bank Ltd... seized by the US government at the outset of World War II.”<sup>98</sup> However, because first-generation Japanese-Americans were classified as enemy aliens in World War II, they could not file these claims.<sup>99</sup> Thus, the redress from *Honda v. Clark* was limited because it only helped non-first generation Japanese-Americans with deposits in just Yokohama Specie Bank Ltd.

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<sup>96</sup> “Economic Loss,” in *Personal Justice Denied: Report of the Commission on Wartime Relocation and Internment of Civilians: Part* ( Commission on Wartime Relocation and Internment of Civilians, 1982) p.118, <https://www.archives.gov/files/research/japanese-americans/justice-denied/chapter-4.pdf>.

<sup>97</sup> “Economic Loss,” p. 118.

<sup>98</sup> Mitchell T. Maki, Harry L. Kitano, and Megan Berthold, *Achieving the Impossible Dream: How Japanese Americans Obtained Redress* (University of Illinois: 1999), p. 60.

<sup>99</sup> Maki, Kitano, and Berthold, *Achieving the Impossible Dream*, p. 67.

Maki, Kitano, and Berthold discuss three additional forms of partial redress in the 1970's. First, President Nixon signed H.R. 8215 into law which removed the enemy alien classification for first-generation Japanese-Americans, thus allowing them to file claims for seized deposits per *Honda v. Clark*.<sup>100</sup> Furthermore, Nixon signed H.R. 1 into law a month later which gave interned individuals credit towards Social Security contributions.<sup>101</sup> Finally, in 1976, President Ford terminated Executive Order 9066—the executive order that started internment—and issued an apology.<sup>102</sup> In his accompanying apology, President Ford referred to internment as one of the US's "national mistakes," and stated "I call upon the American people to affirm with me this American Promise—that we have learned from the tragedy of that long-ago experience forever to treasure liberty and justice for each individual American, and resolve that this kind of action shall never again be repeated."<sup>103</sup> Thus, opponents of the Civil Liberties Act of 1988 could point to several examples of redress already being achieved.

And point they did. For example, during the debate in the Senate over the Civil Liberties Act of 1988, Senator Strom Thurmond cited both the Japanese Evacuation Claims Act of 1948 and President Ford's termination of and apology for Executive Order 9066, concluding "that these actions by our Government have resolved this matter."<sup>104</sup> Likewise, Senator Malcolm Wallop pointed to the "undeniable facts" that the US government already atoned for internment by paying \$37 million in compensation via the Japanese-American Evacuation Claims Act of

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<sup>100</sup> Maki, Kitano, and Berthold, *Achieving the Impossible Dream*, p. 67.

<sup>101</sup> Maki, Kitano, and Berthold, *Achieving the Impossible Dream*, p. 67.

<sup>102</sup> Maki, Kitano, and Berthold, *Achieving the Impossible Dream*, p. 70-71. Hatamiya, *Righting a Wrong*, p. 135.

<sup>103</sup> Gerald Ford, "President Gerald R. Ford's Proclamation 4417, Confirming the Termination of the Executive Order Authorizing Japanese-American Internment During World War II," (February 19, 1976), *Gerald R. Ford Presidential Library and Museum*, <https://www.fordlibrarymuseum.gov/library/speeches/760111p.htm>.

<sup>104</sup> Senator Thurmond, speaking on S. 1009, on April 20, 1988, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., *Congressional Record* 134, pt. 6, p. 7625, <https://www.congress.gov/100/crecb/1988/04/20/GPO-CRECB-1988-pt6-1-1.pdf>.



1948 and President Ford’s apology.<sup>105</sup> Senator Chic Hecht was also critical. Senator Hecht proposed an amendment (which was not adopted) to remove the monetary compensation in the Civil Liberties Act because Senator Hecht argued monetary compensation had already been provided via the Japanese-American Evacuation Claims Act of 1948.<sup>106</sup> In addition to believing the monetary compensation was redundant, Senator Hecht argued that the monetary compensation was also financially irresponsible, citing the \$136 billion federal deficit.<sup>107</sup> The most vocal Senator in opposition to the Civil Liberties Act of 1988 was Senator Jesse Helms. Senator Helms conceded that the Japanese-American Evacuation Claims Act of 1948 was not perfect, but he argued that it was an adequate measure given it was more “contemporaneous” than the Civil Liberties Act of 1988.<sup>108</sup> Furthermore, Senator Helms quipped that “If [the Japanese-American Evacuation Claims Act of 1948] was inadequate, those inadequacies can and should be determined and resolved by the courts—not in a political carnival in an election year by the Congress.”<sup>109</sup> Clearly, there were a number of Congresspeople who believed redress had already been achieved.

In addition to Congressional skeptics, the Reagan administration also initially opposed the Civil Liberties Act of 1988 on similar grounds. At the subcommittee hearing to accept S.1009—the Senate’s draft of the Civil Liberties Act of 1988—Reagan’s Department of Justice submitted testimony outlining three main reasons for its opposition. First, they argued that

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<sup>105</sup> Senator Wallop, speaking on S. 1009, on April 20, 1988, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., *Congressional Record* 134, pt. 6, p. 7615, <https://www.congress.gov/100/crecb/1988/04/20/GPO-CRECB-1988-pt6-1-1.pdf>.

<sup>106</sup> Senator Hecht, speaking on S. 1009, on April 20, 1988, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., *Congressional Record* 134, pt. 6, p. 7543, <https://www.congress.gov/100/crecb/1988/04/20/GPO-CRECB-1988-pt6-1-1.pdf>.

<sup>107</sup> Senator Hecht, speaking on S. 1009, p. 7543, <https://www.congress.gov/100/crecb/1988/04/20/GPO-CRECB-1988-pt6-1-1.pdf>.

<sup>108</sup> Senator Helms, speaking on S. 1009, on April 20, 1988, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., *Congressional Record* 134, pt. 6, pp. 7611-7612, <https://www.congress.gov/100/crecb/1988/04/20/GPO-CRECB-1988-pt6-1-1.pdf>

<sup>109</sup> Senator Helms, speaking on S. 1009, p. 7612, <https://www.congress.gov/100/crecb/1988/04/20/GPO-CRECB-1988-pt6-1-1.pdf>.



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S.1009's indictment of the wartime US government, which was reeling at the time from devastation and shock of Pearl Harbor, was a mischaracterization and unjust use of hindsight.<sup>110</sup> Second, Reagan's Department of Justice also argued that redress was already provided via the Japanese American Evacuation Claims Act of 1948, President Ford's apology for and revocation of Executive Order 9066, and the *coram nobis* cases' outcomes.<sup>111</sup> Third, Reagan's Department of Justice argued that S.1009 made recommendations that would "impose heavy administrative burdens" and were arguably unconstitutional.<sup>112</sup> Specifically, Reagan's Department of Justice believed that S.1009's recommendation for the Department of Justice to review and execute pardons for internment-related convictions was unconstitutional because the authority to pardon belongs solely to the President.<sup>113</sup> Additionally, Reagan's Department of Justice claimed that S.1009's delegation of "investigating, finding, and paying eligible recipients" to the Department of Justice would create too much work for the Department of Justice's employees.<sup>114</sup> Thus, the Japanese-American redress movement faced challenges in both the Legislative and Executive Branches, most importantly that redress had already been provided.

These arguments that the US government already apologized and compensated Japanese-Americans for internment did not stop Congress from passing the Civil Liberties Act of 1988,

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<sup>110</sup> US Congress, Senate, Subcommittee on Federal Services, Post Office, and Civil Service of the Committee on Governmental Affairs, *To Accept the Findings and to Implement the Recommendations of the Commission on Wartime Relocation and Internment of Civilians*, 100<sup>th</sup> Congress, 1<sup>st</sup> sess., June 17, 1987, pp. 282, 289, [https://congressional-proquest-com.proxy.uchicago.edu/congressional/result/pqpresultpage.gispdfhitspanel.pdfink/\\$2fapp-bin\\$2fgis-hearing\\$2f5\\$2f4\\$2fb\\$2f0\\$2fhrg-1987-sga-0056\\_from\\_1\\_to\\_476.pdf/entitlementkeys=1234%7Capp-gis%7Chearing%7Chrg-1987-sga-0056](https://congressional-proquest-com.proxy.uchicago.edu/congressional/result/pqpresultpage.gispdfhitspanel.pdfink/$2fapp-bin$2fgis-hearing$2f5$2f4$2fb$2f0$2fhrg-1987-sga-0056_from_1_to_476.pdf/entitlementkeys=1234%7Capp-gis%7Chearing%7Chrg-1987-sga-0056)

<sup>111</sup> US Congress, Senate, Subcommittee on Federal Services, Post Office, and Civil Service of the Committee on Governmental Affairs, *To Accept the Findings and to Implement the Recommendations of the CWRIC*, pp. 283-287, 293-294.

<sup>112</sup> US Congress, Senate, Subcommittee on Federal Services, Post Office, and Civil Service of the Committee on Governmental Affairs, *To Accept the Findings and to Implement the Recommendations of the CWRIC*, pp. 290-296.

<sup>113</sup> US Congress, Senate, Subcommittee on Federal Services, Post Office, and Civil Service of the Committee on Governmental Affairs, *To Accept the Findings and to Implement the Recommendations of the CWRIC*, pp. 290-291.

<sup>114</sup> US Congress, Senate, Subcommittee on Federal Services, Post Office, and Civil Service of the Committee on Governmental Affairs, *To Accept the Findings and to Implement the Recommendations of the CWRIC*, pp. 295-296.

however, and even President Reagan ultimately signed the Civil Liberties Act of 1988 into law despite his Justice Department's opposition. Why? Leslie Hatamiya's *Righting a Wrong: Japanese American's and the Passage of the Civil Liberties Act of 1988* offers some insight. Hatamiya argues that Democrat leadership, the Nikkei Congressmen's efforts, the absence of any formidable opposition lobby, and strategic framing best explain why the Civil Liberties Act of 1988 was ultimately passed by Congress. I largely agree with Hatamiya, but I would add that—based on my reading of the *Congressional Record*—proponents of redress successfully rebutted the argument that prior redress measures were adequate. Furthermore, I believe this is the most applicable strategy for a “comfort women” resolution modeled after the Civil Liberties Act of 1988.

Hatamiya presents four reasons why proponents of the Civil Liberties Act of 1988 overcame opposition in Congress. First, Hatamiya argues that while Democrats gaining a majority in both chambers helped, the specific individuals in Congressional leadership positions were more important than party affiliation.<sup>115</sup> As Hatamiya points out, Democrats achieving a majority in both chambers meant that Democrats controlled Congress' various committees and subcommittees—the places where bills are presented, debated, tabled, or sent to the whole chamber floor for a vote—and Hatamiya assumes Democrats are more prone to vote for a civil liberties bill than Republicans.<sup>116</sup> Since Republicans had the majority in the Senate from 1980-1986, it was difficult to get an earlier version of the Civil Liberties Act of 1988 passed.<sup>117</sup>

But even when Democrats gained the majority, Hatamiya posits that the specific people in power mattered most. For example, Hatamiya notes that while Democrat Representative Dan

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<sup>115</sup> Hatamiya, *Righting A Wrong*, pp. 100-109.

<sup>116</sup> Hatamiya, *Righting A Wrong*, pp. 32-35, 100-101.

<sup>117</sup> Hatamiya, *Righting A Wrong*, p. 99.

Glickman initially assumed leadership of the Judiciary subcommittee (where the House’s version of the Civil Liberties Act of 1988 resided), he did not try to pass the bill.<sup>118</sup> Instead, it took Barney Frank replacing Glickman to get the bill out of the subcommittee.<sup>119</sup> In addition, Hatamiya asserts that the specific individuals who held the positions of House Majority Whip, House Majority Leader, Speaker of the House, Senate Majority Whip, and Senate Majority Secretary were crucial. The three House positions are the most important in the House because they set the agenda and are responsible for securing the required number of votes.<sup>120</sup> For instance, Hatamiya mentions that when the Civil Liberties Act of 1988 was debated and passed, Majority Leader Thomas Foley and Majority Whip Tony Coelho were from the Western US, so internment was a pertinent issue in their minds; additionally, Hatamiya notes that Speaker Jim Wright was an ardent supporter of redress as evidenced by his authoring the bill that established the Commission on Wartime Relocation and Internment of Civilians—the body whose recommendations the Civil Liberties Act of 1988 would implement.<sup>121</sup> In the Senate, Hatamiya points out that Majority Whip Alan Cranston was known for having opposed internment while working for the Office of Facts and Figures during WWII, and Majority Secretary Daniel Inouye was a veteran of the all-Japanese-American 442<sup>nd</sup> unit in World War II and a sponsor of the Senate’s version of the Civil Liberties Act of 1988.<sup>122</sup> Thus, Hatamiya showed that not only did Democrats have a majority in both chambers of Congress, but known supporters of redress occupied key leadership positions which aided the Civil Liberties Act of 1988’s passage in the face of some Congressional opposition.

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<sup>118</sup> Hatamiya, *Righting A Wrong*, pp. 106-107.

<sup>119</sup> Hatamiya, *Righting A Wrong*, pp. 107-108.

<sup>120</sup> Hatamiya, *Righting A Wrong*, pp. 104-105

<sup>121</sup> Hatamiya, *Righting A Wrong*, pp. 103-105

<sup>122</sup> Hatamiya, *Righting A Wrong*, pp. 101-103, 111.

The second reason Hatamiya believes the Civil Liberties Act of 1988 was passed in spite of opposition was the effort of the four Nikkei (second-generation Japanese-American) Congressmen. Hatamiya points out that not only did the Nikkei Congressmen actively testify to their experiences and effectively lobby for votes, but they were all directly connected to internment and thus put immense pressure on other Congresspeople to support redress.<sup>123</sup> For example, Hatamiya mentions that Senator Matsunaga lobbied every single senator to vote for redress, and that both his and Senators Inouye's status as veterans of a segregated Japanese-American unit from World War II was influential.<sup>124</sup> In the House, Hatamiya notes that in addition to determined lobbying efforts, Representatives Norman Mineta and Robert Matsui both testified either in Congressional hearings or on the House floor to their experiences of being interned.<sup>125</sup> Overall, Hatamiya shows that the Nikkei Congressmen were invaluable because they were well-respected, deft politicians, whose openness with their personal experiences of internment made it difficult to vote against redress.

The third reason Hatamiya believes proponents of redress overcame Congressional opposition was because there was no formidable, organized opposition lobby. Hatamiya notes that only two opposition lobbies existed, and both were far too weak to mount any serious challenge to the Civil Liberties Act of 1988. The first lobby was Lillian Baker's Americans for Historical Accuracy. Baker argued against redress for three main reasons: internment was just a "sacrifice," and all Americans sacrificed in World War II; the Civil Liberties Act of 1988 would unconstitutionally overturn the Supreme Court's decision during the War to uphold internment; and, there were numerous instances of Japanese-Americans being disloyal which made the

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<sup>123</sup> Hatamiya, *Righting A Wrong*, pp. 110-120.

<sup>124</sup> Hatamiya, *Righting A Wrong*, pp. 110-113.

<sup>125</sup> Hatamiya, *Righting A Wrong*, pp. 115-118.

Japanese-American community undeserving of redress.<sup>126</sup> However, Baker was unpersuasive because—in Hatamiya’s words—Baker “came across as an embittered woman engaged in a personal vendetta...her writings on the internment and her testimony to Congress displayed racist feelings and scant respect for Congress.”<sup>127</sup> The other lobby group opposed to redress that Hatamiya identified were some “local chapters of veterans’ groups.”<sup>128</sup> However, Hatamiya also points out that these local chapters opposed to redress were undercut because their national branches never backed them and other local chapters publicly supported redress.<sup>129</sup> In sum, Hatamiya shows that there were no effective lobbying groups that organized Congressional opposition to the Civil Liberties Act of 1988.

Hatamiya’s final reason for how the Civil Liberties Act of 1988 overcame Congressional opposition was that redress supporters successfully framed redress to be compatible with conservative ideals.<sup>130</sup> Specifically, Hatamiya argued that redress was framed to appeal to conservative ideals like “equality of opportunity,” “limited government,” and government accountability.<sup>131</sup> Moreover, Hatamiya adds that potential opponents of redress were dissuaded by the possibility of being perceived as racist or valuing money over rights.<sup>132</sup>

Hatamiya’s four reasons are solid and insightful. However, based on my readings of the *Congressional Record*, I would add that another key reason proponents overcame possible opposition was because proponents successfully rebutted arguments that redress had already been achieved via measures like the Japanese-American Evacuation Claims Act of 1948.

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<sup>126</sup> US Congress, Senate, Subcommittee on Federal Services, Post Office, and Civil Service of the Committee on Governmental Affairs, *To Accept the Findings and to Implement the Recommendations of the CWRIC*, pp. 336-338, 346-351, 354. Hatamiya, *Righting A Wrong*, pp. 49, 149.

<sup>127</sup> Hatamiya, *Righting A Wrong*, p. 149.

<sup>128</sup> Hatamiya, *Righting A Wrong*, p. 149.

<sup>129</sup> Hatamiya, *Righting A Wrong*, pp. 48-49, 149-150.

<sup>130</sup> Hatamiya, *Righting A Wrong*, p. 151.

<sup>131</sup> Hatamiya, *Righting A Wrong*, pp. 151-152.

<sup>132</sup> Hatamiya, *Righting A Wrong*, p. 152.

Hatamiya notes that redressing non-property losses was the underlying message and purpose for creating the Civil Liberties Act of 1988, but she misses analyzing whether that message was actually convincing to Congresspeople.<sup>133</sup> Not only do I believe proponents of redress convinced many Congresspeople to support the Civil Liberties Act of 1988 by successfully painting prior redress measures as too limited, but I also believe this is an important strategy to convince Japanese policymakers to support a “comfort women” resolution based on the Civil Liberties Act of 1988.

The argument that the Civil Liberties Act of 1988 was needed because prior redress was too limited started with the Commission’s findings and report. For example, in Chapter 4 of its report *Personal Justice Denied*, the Commission noted that the Japanese-American Evacuation Claims Act of 1948 only dealt with material losses, specifically property losses at the time of evacuation. As the Commission went on to say:

There were many kinds of injury the Evacuation Claims Act made no attempt to compensate: the stigma placed on people who fell under the evacuation and relocation orders; the deprivation of liberty suffered during detention in the assembly and relocation centers; the psychological impact of evacuation and relocation; the loss of earnings or profits; physical injury or death during detention; and losses from resettlement outside the camps.<sup>134</sup>

Thus, the Commission found the Japanese-American Evacuation Claims Act of 1948 too limited to be adequate redress. This argument proved to resonate with a number of Congresspeople years later when it came time to pass the Civil Liberties Act of 1988.

Many Democrat Congressional supporters echoed the Commission’s opinion. For example, Senator Inouye argued that “the individual payments acknowledge the unjust deprivation of liberty, the infliction of mental and physical suffering, and the stigma of being

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<sup>133</sup> Hatamiya, *Righting A Wrong*, pp. 51, 81.

<sup>134</sup> “Economic Loss,” p. 118.

branded disloyal, losses not compensable under the Japanese Evacuation Claims Act of 1948.”<sup>135</sup> These remarks from Inouye about the stigma of internment and discrimination of Japanese-Americans was particularly powerful for other Congresspeople because Inouye was Japanese-American, and he was transparent about his experience with racial discrimination. In addition to Senator Inouye, Senator Dennis DeConcini argued that the Japanese-American Evacuation Claims Act of 1948 was insufficient because it “only provided compensation for 75 percent or the total value of approved real and personal property losses or \$2,500—whichever was less. The act did not allow for loss of liberty, income or pain and suffering. It even placed an elaborate proof on loss on the injured parties.”<sup>136</sup> Thus, Senator DeConcini also clearly believed and stated why prior redress measures were too limited.

Several Democrat House members agreed. For example, Representative Ronald Dellums succinctly stated he supported the Civil Liberties Act of 1988 despite earlier redress measures because “later legislation, such as the [Japanese-American] Evacuation Claims Act, did not come close to repaying the massive economic hardships imposed upon Japanese Americans.”<sup>137</sup> Additionally, Representative William Hughes argued that the Civil Liberties Act of 1988 was needed to address that “[Japanese-Americans] were moved hastily and taken to distant locations, losing their homes, businesses, *and most importantly their liberties*[emphasis added].”<sup>138</sup> Representative Mel Levine made his thoughts on prior redress measures’ limitations clear by differentiating that prior redress measures were simply “remedial” whereas the Civil Liberties

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<sup>135</sup> Senator Inouye, speaking on S. 1009, on April 20, 1988, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., *Congressional Record* 134, pt. 6, p. 7543, <https://www.congress.gov/100/crecb/1988/04/20/GPO-CRECB-1988-pt6-1-1.pdf>.

<sup>136</sup> Senator DeConcini, speaking on S. 1009, on April 20, 1988, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., *Congressional Record* 134, pt. 6, p. 7624, <https://www.congress.gov/100/crecb/1988/04/20/GPO-CRECB-1988-pt6-1-1.pdf>.

<sup>137</sup> Representative Dellums, speaking on H.R. 442, on September 17, 1987, 100<sup>th</sup> Cong., 1<sup>st</sup> sess., *Congressional Record* 133, pt. 17, p. 24287, <https://www.congress.gov/100/crecb/1987/09/17/GPO-CRECB-1987-pt17-9-1.pdf>.

<sup>138</sup> Representative Hughes, speaking on H.R. 442, on September 17, 1987, 100<sup>th</sup> Cong., 1<sup>st</sup> sess., *Congressional Record* 133, pt. 17, p. 24288, <https://www.congress.gov/100/crecb/1987/09/17/GPO-CRECB-1987-pt17-9-1.pdf>.

Act of 1988 “recognize[d] that the basic civil liberties and constitutional rights of those interned were fundamentally violated by the evacuation and interment.”<sup>139</sup> As a final example, Representative Sidney Yates—who was elected to Congress the same year the Japanese-American Evacuation Claims Act of 1948 was signed into law—supported the Civil Liberties Act of 1988 on the grounds that prior redress measures like the Japanese-American Evacuation Claims Act of 1948 only redressed a “pittance of the actual losses that took place against those who had been placed in the camps.”<sup>140</sup> Thus, numerous Democrat members of Congress were clearly convinced that redress had not been sufficiently attained by prior measures.

Moreover, this framing proved persuasive for several conservative members of Congress. Understanding how conservative politicians were persuaded to vote for Civil Liberties Act of 1988 is crucial for supporters of the “comfort women” redress movement because Japan’s government has been dominated by its conservative party in the post-war era. Senator Orin Hatch offered his support for the Civil Liberties Act of 1988 dispute prior redress measures by stating, “Despite various court rulings since [internment], it is clear that these citizens were denied their constitutional right to due process. The bill that we are acting upon today is truly an important step in correcting that denial of due process, and I intend to support its final passage.”<sup>141</sup> Thus, Senator Hatch believed that a violation of civil rights required additional redress not provided in prior measures. Additionally, Representative Hamilton Fish supported the Civil Liberties Act of 1988 and stated “It is important to emphasize that this \$20,000 payment per person is not reimbursement for the loss of property or employment. Rather...these

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<sup>139</sup> Representative Levine, speaking on H.R. 442, on September 17, 1987, 100<sup>th</sup> Cong., 1<sup>st</sup> sess., *Congressional Record* 133, pt. 17, pp. 24288-24289, <https://www.congress.gov/100/crecb/1987/09/17/GPO-CRECB-1987-pt17-9-1.pdf>.

<sup>140</sup> Representative Yates, speaking on H.R. 442, on September 17, 1987, 100<sup>th</sup> Cong., 1<sup>st</sup> sess., *Congressional Record* 133, pt. 17, p. 242302, <https://www.congress.gov/100/crecb/1987/09/17/GPO-CRECB-1987-pt17-9-1.pdf>.

<sup>141</sup> Senator Hatch, speaking on S. 1009, on April 20, 1988, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., *Congressional Record* 134, pt. 6, p. 7619, <https://www.congress.gov/100/crecb/1988/04/20/GPO-CRECB-1988-pt6-1-1.pdf>.



individuals are being partially compensated for the violation of their civil rights.”<sup>142</sup> Thus, Representative Fish clearly identified the limited nature of prior redress measures and explained why the Civil Liberties Act of 1988 needed to be passed. Finally, Representative Ben Blaz believed prior redress measures were too ineffective. Although he does not explicitly criticize prior redress measures by name, Representative Blaz notes that “45 years later [since the end of World War II] and we have yet to remove this blight from our consciousness.”<sup>143</sup> In other words, Representative Blaz saw that prior redress measures were ineffective and that the Civil Liberties Act of 1988 could sufficiently provide redress. Overall, it appears that stressing the limited nature of prior redress was another important strategy in gaining Congressional support for the Civil Liberties Act of 1988.

While Hatamiya’s four reasons plus the successful rebuttal that prior redress measures were inadequate help explain why most Congresspeople were persuaded to support the Civil Liberties Act of 1988, they do not necessarily address why Reagan signed the Civil Liberties Act of 1988 into law. Overall, it seems scholars on the Civil liberties Act of 1988 agree that Reagan’s personal connection to World War II and the upcoming 1988 election were the biggest reasons why President Reagan signed the Civil Liberties Act of 1988 into law. During World War II, Reagan spoke at the funeral of a Japanese-American soldier, and supporters of the law privately reminded Reagan of his prior supportive remarks towards Japanese-Americans while the Civil Liberties Act of 1988 was being debated.<sup>144</sup> As far as the 1988 election is concerned, Reagan could not run due to term limits; however, George H.W. Bush—Reagan’s vice president—was

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<sup>142</sup> Representative Fish, speaking on H.R. 442, on September 17, 1987, 100<sup>th</sup> Cong., 1<sup>st</sup> sess., *Congressional Record* 133, pt. 17, p. 24280, <https://www.congress.gov/100/crecb/1987/09/17/GPO-CRECB-1987-pt17-9-1.pdf>.

<sup>143</sup> Representative Blaz, speaking on H.R. 442, on September 17, 1987, 100<sup>th</sup> Cong., 1<sup>st</sup> sess., *Congressional Record* 133, pt. 17, pp. 24283, <https://www.congress.gov/100/crecb/1987/09/17/GPO-CRECB-1987-pt17-9-1.pdf>.

<sup>144</sup> Maki, Kitano, and Berthold, *Achieving the Impossible Dream*, pp. 192-193, 195-197. Timothy P. Maga, “Ronald Reagan and Redress for Japanese-American Internment, 1983-1988,” *Presidential Studies Quarterly* 28, no. 3 (Summer 1998), pp. 614-615. Hatamiya, *Righting a Wrong*, pp. 162-163.

running. Thus, Reagan and his political legacy were tied to the results of the election. Additionally, Bush and the Democratic presidential candidates were on record supporting the Civil Liberties Act of 1988's passage; so, by signing the Civil Liberties Act of 1988 into law, Reagan would not undercut Bush and could prevent Democrat candidates from claiming the moral high ground.<sup>145</sup>

I agree that both these reasons are good explanations for President Reagan's decision. However, I will add that Reagan likely considered that his veto could have been overridden which would have been an embarrassing defeat at the end his presidency. Both chambers need two-thirds majority to override a Presidential veto. The Senate's bill had over 70 co-sponsors and the bill passed with 69 votes.<sup>146</sup> The House passed its version 243-141 which was just a 63% majority, but 51 members—including numerous co-sponsors—did not vote.<sup>147</sup> It needs to be noted that "Not Voting" in this case does not necessarily reflect indifference. The House's vote took place on Constitution Day, and "Not Voting" members may have been absent attending Constitution Day events in their districts.<sup>148</sup> Furthermore, given the way Hatamiya describes the effective lobbying ability of the Nikkei Congressmen and other redress proponents, it is not far-fetched to think redress proponents could have found enough votes to override a veto.

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<sup>145</sup> Maki, Kitano, and Berthold, *Achieving the Impossible Dream*, pp. 194. Maga, "Ronald Reagan and Redress for Japanese-American Internment, 1983-1988," pp. 615-618. Hatamiya, *Righting a Wrong*, p. 162.

<sup>146</sup> Senators Inouye, Matsunaga, Wallop, and DeConcini on S. 1009, on April 20, 1988, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., *Congressional Record* 134, pt. 6, pp. 7543, 7551, 7615, 7624, <https://www.congress.gov/100/crecb/1988/04/20/GPO-CRECB-1988-pt6-1-1.pdf>. Roll Call Vote for S. 1009, on April 20, 1988, 100<sup>th</sup> Cong., 2<sup>nd</sup> sess., *Congressional Record* 134, pt. 6, p. 7639, <https://www.congress.gov/100/crecb/1988/04/20/GPO-CRECB-1988-pt6-1-1.pdf>.

<sup>147</sup> Roll Call Vote for H.R. 442, on September 17, 1987, 100<sup>th</sup> Cong., 1<sup>st</sup> sess., *Congressional Record* 133, pt. 17, pp. 24315-24316, <https://www.congress.gov/100/crecb/1987/09/17/GPO-CRECB-1987-pt17-9-1.pdf>.

<sup>148</sup> Representatives Lungren and Matsui, speaking on H.R. 442, on September 17, 1987, 100<sup>th</sup> Cong., 1<sup>st</sup> sess., *Congressional Record* 133, pt. 17, pp. 24276, 24304, <https://www.congress.gov/100/crecb/1987/09/17/GPO-CRECB-1987-pt17-9-1.pdf>.

To conclude this section, a bill modeled after the Civil Liberties Act of 1988 should theoretically resolve the “comfort women” issue between Japan and South Korea because it would check three (potentially four) boxes required for the Japanese government to meet a proper apology and reparations. Moreover, the South Korean government and even some “comfort women” have shown a willingness to accept the payments and services from past, flawed Japanese resolution attempts. The first box is the potential one. It would be advisable for the Japanese government to carry out another investigation or hold a public hearing for former “comfort women” and their advocates to give testimony (if they choose) prior to passing a resolution modeled after the Civil Liberties Act of 1988. It is important that a public hearing is held that gives former “comfort women” and their advocates the option to testify because—as we saw with criticism of the 2015 Agreement—victim participation in a resolution attempt is considered crucial to reaching redress today. This hearing could resemble a similar but shorter version of the Commission on Wartime Relocation and Internment of Civilians’ hearings. The Japanese government conducted some investigations prior to the issuing of the Kono Statement and the establishment of the Asian Women’s Fund, so they would not be starting from scratch in terms of implementing an investigation or report on the “comfort women” issue.

Second, a resolution modeled after the Civil Liberties Act of 1988 would include an apology written and passed by members of the Diet (Japan’s legislature). Japanese prime ministers and chief cabinet secretaries have issued apologies in the past claiming to speak for the Japanese government, but the Diet has never passed its own apology. An apology that contains Blatz et al.’s first six components, is passed by the Diet, and approved by the prime minister would undeniably show that the Japanese government is remorseful for the “comfort women” system. Again, the groundwork has already been laid for this apology, most notably through the

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Kono Statement, the Murayama Statement, and Prime Minister Obuchi's apology. All three contained at least four of Blatz et al.'s components, and they collectively addressed Japan's responsibility for the "comfort women" system, colonization, and the Pacific War.

Third, a resolution modeled after the Civil Liberties Act of 1988 would provide direct monetary compensation to former "comfort women" from the Japanese government. In the Asian Women's Fund, Japan was able to work with foreign governments and former "comfort women" to arrange direct payments, albeit consisting of private donations. In the 2015 Agreement, the Japanese government directly provided money to compensate the "comfort women," but the money was paid to a separate foundation in South Korea. Thus, the Japanese government has demonstrated it can provide government funds for compensation and that it can organize direct payments; it just has not put the two together yet in the same resolution measure.

However, while Japanese government-provided reparations is possible, it could cause a snag for two reasons. First, the amount of money to be paid out per person will likely be a contentious issue. Namely, the Japanese government will have to decide if it will pay the same amount as the 2015 Agreement or not. The second facet of reparations that will cause a snag is deciding who will get paid. Only 11-14 South Korean "comfort women" were believed to still be alive at the time this paper was written. Japan will have to decide if it would be better to pay only the surviving "comfort women" (with likely a large per person sum) or follow the 2015 Agreement's model of also paying deceased "comfort women's" family members. The latter would probably be better received internationally.

The fourth and final reason a "comfort women" resolution modeled after the Civil Liberties Act of 1988 would be successful is the educational component. In the Civil Liberties Act of 1988, an education fund was established "to sponsor research and public educational

activities, and to publish and distribute the hearings, findings, and recommendations of the Commission [on Wartime Relocation and Internment of Civilians].”<sup>149</sup> Again, possible models and groundwork have already been established for a similar organization in Japan to deal with the “comfort women” issue. For example, there is already an online museum dedicated to the “comfort women” issue and the Asian Women’s Fund.<sup>150</sup> This website not only provides information of the “comfort women” system, but it also serves as an archive by providing digital versions of documents related to the “comfort women” system and the “comfort women” issue. Additionally, there is the Women’s Active Museum on War and Peace located in Japan which is dedicated to the “comfort women” issue.<sup>151</sup> The Japanese government could fulfill the educational component of a Civil Liberties Act of 1988-based resolution by creating its own museum on the “comfort women” issue, or it could publicly support these already existing museums through financial contributions or organizing visits (in the Women’s Active Museum’s case) for government officials.

Besides checking all the boxes required by the Japanese government to provide redress, a resolution modeled after the Civil Liberties Act of 1988 would likely succeed because both the South Korean government and even some “comfort women” themselves accepted—at least initially—past Japanese resolution attempts that were perceived as flawed. For instance, the South Korean government worked with the Asian Women’s Fund for three years before relenting to the Korean Council’s demands to terminate its cooperation with the Fund.<sup>152</sup> Additionally, despite pressure from the Korean Council, 61 South Korean “comfort women” still ultimately

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<sup>149</sup> *An Act to Implement Recommendations of the CWRIC*, p. 908.

<sup>150</sup> *Digital Museum: The Comfort Women Issue and the Asian Women’s Fund*, <https://www.awf.or.jp/e2/foundation-02.html>.

<sup>151</sup> Min, *Korean “Comfort Women,”* p. 214.

<sup>152</sup> “Projects by Country or Region—South Korea,” *Digital Museum: The Comfort Women Issue and the Asian Women’s Fund*, <https://www.awf.or.jp/e3/korea.html>. Soh, “Japan’s National/Asian Women’s Fund,” pp. 228-229.

accepted the Asian Women's Fund's payments.<sup>153</sup> In regard to the 2015 Agreement, South Korean officials directly negotiated the deal. Furthermore, 31 of 46 South Korean "comfort women" accepted the 2015 Agreement's payments.<sup>154</sup> Thus, in both Japan's prior flawed attempts to resolve the "comfort women" issue with South Korea, both the South Korean government and a notable number of "comfort women" demonstrated a willingness to accept the resolutions. If there was that much willingness to accept flawed deals, then I believe there will be support for a resolution modeled after the Civil Liberties Act of 1988.

While a resolution modeled after the Civil Liberties Act of 1988 should resolve the "comfort women" issue between Japan and South Korea, it is vital that we explore whether such a resolution could be passed today or in the near future. After all, a legislation model is significantly less useful if it has no chance at ever being enacted. To determine if a Civil Liberties Act of 1988-modeled resolution could be introduced and passed in Japan, we must understand the political contexts of Japan's prior attempts at resolving the "comfort women" issue with South Korea.

### **Political Contexts of Past Japanese Attempts at Resolution**

Starting with the Asian Women's Fund in the mid-1990's, Japan first had to officially acknowledge that the "comfort women" system existed and was an injustice. Japan made that acknowledgment via the Kono Statement in 1993. What caused Japan to make that acknowledgement? While there is some disagreement in the literature, it appears that Japan made this statement as a result of reactions to its foreign policy shifts in the early 1990's.

Kevin Cooney's *Japan's Foreign Policy Since 1945* and Yangmo Ku's "National Interest or Transnational Alliances?: Japanese Policy on the 'Comfort Women' Issue" shed light on these

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<sup>153</sup> "Japan's Efforts on the 'Comfort Women' Issue." Kumagai, *The Comfort Women*, p. 107.

<sup>154</sup> Min, *Korean "Comfort Women"*, p. 223.

shifts. Although Cooney focuses on debate and changes regarding Japan's Article 9 (the article in Japan's constitution that prohibits Japan from maintaining a military) and its Special Defense Forces, Cooney still touches on Japan's war legacy which I will further connect to the "comfort women" issue specifically. Ku, meanwhile, seeks to determine whether security and economic considerations or transnational activism better explain the Japanese government's actions to resolve the "comfort women" issue. Ku concludes that while security and economic concerns are a "plausible explanation," he believes transnational activism offers the better explanation.<sup>155</sup> Specifically, Ku asserts that the difference in strength between "comfort women" activists versus conservative forces in the Japanese government is a better predictor of the Japanese government's behavior towards the "comfort women" issue than security and economic concerns.<sup>156</sup> However, I disagree for three reasons. First, by his own admission, security and economic concerns offer "plausible explanations," for the Japanese government's redress attempts in the mid-1990's.<sup>157</sup> Second, Ku does not offer a convincing explanation for why a strong "comfort women" activist network did not achieve any redress when the LDP was firmly out of power between 2009-2012.<sup>158</sup> Third, Ku paints a bleak picture for the redress movement's future in 2014 (when the article was written) given the Abe government's stance on the "comfort women" issue and the weakening of the redress movement, so Ku's transnational activist theory does not explain why Abe's government suddenly negotiated the 2015 Agreement with South Korea.<sup>159</sup> Despite my disagreeing with his conclusions, Ku's article still sheds light on the political context of Japan's prior redress efforts.

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<sup>155</sup> Ku, "National Interest or Transnational Alliances?," pp. 243-244, 255.

<sup>156</sup> Ku, "National Interest or Transnational Alliances?," pp. 247-251, 255-257, 263-264.

<sup>157</sup> Ku, "National Interest or Transnational Alliances?," p. 255.

<sup>158</sup> Ku, "National Interest or Transnational Alliances?," pp. 264-265.

<sup>159</sup> Ku, "National Interest or Transnational Alliances?," pp. 264-265.

Both Cooney and Ku argue that the end of the Cold War and the emergence of the Persian Gulf War caused critical shifts in Japan's foreign policy. According to Cooney, Japan's foreign policy in the Cold War adhered to the Yoshida Doctrine.<sup>160</sup> The Yoshida Doctrine essentially held that the US would provide for Japan's security while Japan could "pursue rapid economic development without the added economic weight of having to maintain a standing military that would drain badly needed resources to rebuild the economy."<sup>161</sup> Because Japan could focus almost entirely on its economic development, Japan emerged as an economic superpower by the 1980's.

However, the end of the Cold War and the start of the Persian Gulf War meant an end to the Yoshida Doctrine and thus required a shift in policy. For example, both Cooney and Ku describe that even though Japan eventually committed \$13 billion to the US-led efforts in the Persian Gulf War, Japan was criticized for not making a "human" or "military" contribution.<sup>162</sup> Japan found a way to make these contributions through the Peacekeeping Operations Law (passed in 1992) which allowed Japanese civilians and Japan's Special Defense Forces to join UN Peacekeeping missions.<sup>163</sup> According to the stipulations in the 1992 Peacekeeping Operations Law, Japanese peacekeeping personnel would only enter a country if there was an official ceasefire and if the parties in the conflict agreed to allowing a peacekeeping mission to enter.<sup>164</sup> Furthermore, Japanese peacekeeping personnel could only use weapons if they were absolutely needed to preserve the peacekeeping personnel's lives.<sup>165</sup> In the end, Japan's government responded to international criticism by shifting its foreign policy.

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<sup>160</sup> Kevin Cooney, *Japan's Foreign Policy Since 1945* (M.E. Sharpe: An East Gate Book, 2007), p. 36.

<sup>161</sup> Cooney, *Japan's Foreign Policy Since 1945*, p. 36.

<sup>162</sup> Cooney, *Japan's Foreign Policy Since 1945*, p. 39. Ku, "National Interest or Transnational Alliances?," p. 255. Louis D. Hayes, *Introduction to Japanese Politics* (New York: Routledge, 2018), p. 226.

<sup>163</sup> Cooney, *Japan's Foreign Policy Since 1945*, pp. 41-43. Hayes, *Introduction to Japanese Politics*, pp.226-227.

<sup>164</sup> Cooney, *Japan's Foreign Policy Since 1945*, p. 42. Hayes, *Introduction to Japanese Politics*, pp. 226-227.

<sup>165</sup> Cooney, *Japan's Foreign Policy Since 1945*, p. 42. Hayes, *Introduction to Japanese Politics*, pp. 226-227.



Cooney also noted that at the same time it passed the 1992 Peacekeeping Operations Law, Japan also actively pursued becoming a permanent member of the United Nations Security Council.<sup>166</sup> Put simply, the Security Council has immense power. The Security Council's function is to ensure the "maintenance of international peace and security."<sup>167</sup> As a result, the Security Council has the ability to issue economic sanctions or military force against countries.<sup>168</sup> Furthermore, members of the United Nations General Assembly are required to abide by the Security Council's decisions and requests.<sup>169</sup> Japan likely chose to pursue a permanent Security Council seat after passing the Peacekeeping Operations Law because Japan had already established itself as an economic powerhouse, and the new Peacekeeping Operations Law opened the door for Japan to send its Special Defense Forces abroad—a requirement for a permanent seat.<sup>170</sup>

Finally, Ku argues that Japan felt economically threatened at this time for three reasons. First, Ku notes that President Clinton pledged to "rectify the trade imbalances" with Japan.<sup>171</sup> Second, Ku points out that the US named China—Japan's largest rival and the world's potentially largest economic market—as a "strategic partner."<sup>172</sup> Third, Ku posits that as Japan saw "the rise of economic regionalism" in North America and Europe, it felt a need to seek a similar economic arrangement in Asia.<sup>173</sup> As a result, Ku asserts Japan had to "to take proactive

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<sup>166</sup> Cooney, *Japan's Foreign Policy Since 1945*, p. 48.

<sup>167</sup> Article 24, "United Nations Charter," *United Nations*, signed June 26, 1945, <https://www.un.org/en/about-us/un-charter/full-text>.

<sup>168</sup> Articles 41 and 42, "United Nations Charter."

<sup>169</sup> Article 25, "United Nations Charter."

<sup>170</sup> Article 45, "United Nations Charter." Cooney, *Japan's Foreign Policy Since 1945*, p. 41.

<sup>171</sup> Ku, "National Interest or Transnational Alliances?," p. 255.

<sup>172</sup> Ku, "National Interest or Transnational Alliances?," p. 255.

<sup>173</sup> Ku, "National Interest or Transnational Alliances?," p. 255.

steps to nurture a favorable environment in Asia to protect its long-term security and economic interests.”<sup>174</sup>

Even though Japan relented to international pressure by passing the Peacekeeping Operations Law to start making “human” contributions to global security affairs, the potential for Japan’s Special Defense Forces being sent abroad, Japan’s lobbying for a permanent seat at the UN Security Council, and Japan’s economic aims in Asia raised alarms across the region. For example, Cooney notes that during the period when the Diet was debating and passing the Peacekeeping Operations Law, both Chinese and South Korean leadership expressed fear of a remilitarized Japan—especially a remilitarized Japan that could have the power entailed in a permanent UN Security Council seat.<sup>175</sup> Additionally, briefly recalling George Hicks from the context of the Kono Statement, Japan was being criticized for the “comfort women” issue in multiple UN forums, and its quest to gain a permanent Security Council seat was consequently opposed formally several times.<sup>176</sup> Finally, Ku shows that Japan had to address its historical legacy in Asia in order to foster trust and stronger economic relations in the region.<sup>177</sup> It is in this context of fear and debate over Japan’s shifting foreign policy that issues of Japan’s historical legacy were consistently raised by foreign governments to the point that Japan had to respond.

While the Japanese government’s desire to keep a good reputation, obtain a permanent seat on the UN Security Council, and forge stronger regional economic relations can explain why the Japanese government decided to respond to international criticism by carrying out investigations and apologizing for issues like the “comfort women” system, it still does not

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<sup>174</sup> Ku, “National Interest or Transnational Alliances?,” p. 255.

<sup>175</sup> Cooney, *Japan’s Foreign Policy Since 1945*, pp. 26, 43, 48, 51-53. For a brief discussion on Japanese domestic reaction to the Persian Gulf War and Peacekeeping Operations Law, see Ian Buruma, *The Wages of Guilt: Memories of War in Germany and Japan* (New York: Farrar Straus Giroux, 1994), pp. 31-46.

<sup>176</sup> Hicks, *The Comfort Women*, pp. 213-222.

<sup>177</sup> Ku, “National Interest or Transnational Alliances?,” p. 255.

entirely explain why an organization like the Asian Women's Fund came into existence. To understand that, we must look at the aftermath of the 1993 National Diet election.

The Japanese government runs on a parliamentary system, so the composition of the legislature—the Diet—determines the executive leadership. In the 1993 election, the LDP lost its majority in the Diet and was unable to form a coalition to maintain the government. It appears that frustration with corrupt politics and delayed political reform bills were the main causes.<sup>178</sup> As a result, the 1993 election marked the first time the LDP would not be in control of the government since the LDP's creation in 1955.<sup>179</sup> However, the LDP was not powerless. For example, the LDP still held 223 of the House of Representatives' 511 seats while the next-largest number of seats belonging to a single party was 70 (belonging to the Democratic Socialist Party of Japan).<sup>180</sup> Thus, while not in power, the LDP could not be ignored. Moreover, the new government was a seven-party coalition which was a cause for concern.<sup>181</sup> That many parties being able to work together to form a government and all of them being pleased with the results was a tall order. Additionally, that coalition contained break-away groups from the LDP, so the coalition contained conservative as well as liberal parties.<sup>182</sup> Nonetheless, the point remained the LDP was no longer in total control of Japan's government.

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<sup>178</sup> Purnendra C. Jain, "A New Political Era in Japan: The 1993 Election," *Asian Survey* 33, no. 11 (November 1993): pp. 1071-1075, <https://www.jstor.org/stable/2645000>. Hayes, *Introduction to Japanese Politics*, pp. 69, 87. Kōji Nakakita, *The Liberal Democratic Party of Japan: The Realities of Power*, translated by Stephen Johnson (Routledge, 2020), pp. 137, 157.

<sup>179</sup> Jain, "A New Political Era in Japan," pp. 1071-1072. Hayes, *Introduction to Japanese Politics*, p. 69. Kōji, *The Liberal Democratic Party of Japan*, p. 34. Cooney, *Japan's Foreign Policy Since 1945*, p. 49. Keiko Tabusa, "The 1996 General Election in Japan," *The Australian Quarterly*, Autumn, 1997, 69, No. 1 (Autumn, 1997): p. 21, <https://www.jstor.org/stable/20634762>.

<sup>180</sup> Jain, "A New Political Era in Japan," p. 1078.

<sup>181</sup> Jain, "A New Political Era in Japan," pp. 1071, 1079. Hayes, *Introduction to Japanese Politics*, p. 69.

<sup>182</sup> Jain, "A New Political Era in Japan," pp. 1072-1073, 1075-1079. Hayes, *Introduction to Japanese Politics*, p. 90. Kōji, *The Liberal Democratic Party of Japan*, pp. 2, 5, 34, 137.

The coalition governments had a bumpy rule. From 1993 to 1996—when the LDP returned to power—there were ultimately four coalition governments.<sup>183</sup> It was during this succession of coalition governments that Prime Minister Murayama came to power. Murayama became prime minister in 1994 as a part of a coalition that contained the LDP, and he oversaw both the eponymous Murayama Statement and the creation of the Asian Women’s Fund.<sup>184</sup> The coalition government established a Diet subcommittee to investigate the “comfort women” issue and make recommendations on possible means of redress. That subcommittee released a report of its findings and recommendations in December 1994.<sup>185</sup> The Japanese government took those findings and recommendations to formally establish the Asian Women’s Fund in July 1995.<sup>186</sup> As a fourth and final note, when the LDP returned to power in 1996, it maintained the Asian Women’s Fund. While this may surprise some, the LDP’s decision to maintain the Fund should not be too shocking since the LDP was a part of the coalition government that formed the subcommittee to investigate the “comfort women” issue and established the Fund in the first place. This is especially important when considering the possibility of an LDP-controlled government passing another measure to resolve the “comfort women” issue today.

### **Political Context for 2015 Agreement**

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<sup>183</sup> Tabusa, “The 1996 General Election in Japan, p. 21.

<sup>184</sup> “Establishment of the AW Fund, and the Basic Nature of Its Projects,” *Digital Museum: The Comfort Women Issue and the Asian Women’s Fund*, <https://awf.or.jp/e2/foundation.html>. Hayes, *Introduction to Japanese Politics*, p. 69. Ku, “National Interest or Transnational Alliances?,” pp. 254, 258. Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” p. 220. Hicks, *The Comfort Women*, p. 230. Cooney, *Japan’s Foreign Policy Since 1945*, p. 41. Kōji, *The Liberal Democratic Party of Japan*, p. 34.

<sup>185</sup> “Establishment of the AW Fund, and the Basic Nature of Its Projects,” <https://awf.or.jp/e2/foundation.html>. For the subcommittee’s report, see: “Documents of the Japanese Government and the AWF: The First Report on the So-called Wartime Comfort Women Issue,” *Digital Museum: The Comfort Women Issue and the Asian Women’s Fund*, <https://awf.or.jp/e6/statement-05.html>. Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” p. 220. Hicks, *The Comfort Women*, p. 230.

<sup>186</sup> “Documents of the Japanese Government and the AWF: Statement by Prime Minister Tomiichi Murayama on the Occasion of the Establishment of the ‘Asian Women’s Fund,’” *Digital Museum: The Comfort Women Issue and the Asian Women’s Fund*, <https://awf.or.jp/e6/statement-08-2.html>. Soh, “Japan’s National/Asian Women’s Fund for ‘Comfort Women,’” pp. 220-221. Ku, “National Interest or Transnational Alliances?,” p. 254.

Now we'll shift to the political context for the 2015 Agreement—the Japanese government's second attempt to resolve the “comfort women” issue with South Korea. The political context of Japan at this time is important to grasp for two reasons. First, unlike some apologies and the Asian Women's Fund from the mid-1990's, the 2015 Agreement was forged while the LDP was in firm control of the Japanese government. Understanding how an LDP-dominated government was persuaded to make another attempt to resolve the “comfort women” issue with South Korea is key because the LDP dominates the Japanese government today and will likely continue to do so in the future. Second, 2015 is not far into the past, so the same circumstances that inspired action may still be at play today. This is especially true for members of government. For example, the Japanese foreign minister involved in the negotiation and implementation of the 2015 Agreement was Kishida Fumio—the current prime minister.

I believe the crucial part of the 2015 Agreement's context was the US's “Pivot to Asia” during the Obama administration. The US's “pivot” can be summarized as seeking two goals: “first, economic revival through positive economic cooperation with regional states, especially China; second, the prevention of a new regional hegemon by the adoption of a deterrence strategy against China and strengthening of existing allies.”<sup>187</sup> The latter goal is what appears crucial to the context of the 2015 Agreement between Japan and South Korea.

By hypothesizing US pressure was the primary force behind Japanese and South Korean leadership coming together to form the 2015 Agreement, I am not trying to strip Japan and South Korea of agency. For example, a Korean court ruled in 2011 that the Korean government had

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<sup>187</sup> Jangho Kim, Dongsoo Kim, Hyun-Wook Kim, Yongsoo Kim, and Wootae Lee, *The Second Term Obama Administration's Policy Towards the Korean Peninsula* (Korean Institute for National Unification, Policy Research 12-04 (E), February 2013), p. 18.

acted unconstitutionally by refusing to resolve the “comfort women” issue with Japan.<sup>188</sup> This surely put pressure on Korean leadership, but it still took them four years after that ruling to negotiate the 2015 Agreement. Rather, I am hypothesizing US pressure was likely the catalyst for three reasons. First, given the US’s importance to both countries’ security and economies, it would have had strong enough leverage to influence South Korean and Japanese leadership to come to the negotiating table. Second, Japan showed in its redress attempts in the 1990’s that it would respond to strong foreign pressure—especially from the US. Third, the numerous controversies and crises facing East Asia in the early 2010’s—including disputes between South Korea and Japan—and prior statements by Japanese Prime Minister Abe on the “comfort women” issue makes such a quick, organic turnaround between Japan and South Korea to resolve the “comfort women” issue hard to believe.

In the early 2010’s East Asia saw a variety of disputes that threatened stability in the region. First, for example, China’s expansion in the South China Sea worried the US and its allies.<sup>189</sup> Second, China and Japan clashed over the Senkaku/Diaoyu Islands.<sup>190</sup> Third, North Korea conducted a nuclear test in 2013 and launched around 100 missiles into the sea in the summer of 2014.<sup>191</sup> With all these issues in mind, the US likely wanted to get its allies all on the same page. That required some doing as Japan and South Korea were in a rough patch in their relationship due to another iteration of the Dokdo/Takeshima Islands dispute and Japanese Prime Minister Abe’s public, official visit to Yasukuni Shrine in December 2013.

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<sup>188</sup> Min, *Korean “Comfort Women,”* p. 222. Kumagai, *The Comfort Women,* p. 11. “Report on the Review of the Korea-Japan Agreement of December 28, 2015, on the Issue of ‘Comfort Women’ Victims,” p. 6.

<sup>189</sup> Kim et al., *The Second Term Obama Administration’s Policy Towards the Korean,* p. 34.

<sup>190</sup> Sandip Kumar Mishra, “East Asia in 2015,” *Institute of Peace and Conflict Studies*, Special Report #175 (January 2015), p. 8, <http://www.jstor.com/stable/resrep09388>.

<sup>191</sup> Mishra, “East Asia in 2015,” pp. 10, 14.

Starting with the Dokdo/Takeshima dispute, the controversy centers around debate between Japan and South Korea over ownership of the island group.<sup>192</sup> In 2012, the controversy reignited when Japan's Defense Ministry claimed ownership of the islands in its annual report.<sup>193</sup> South Korean President Lee Myung-bak responded by becoming the first South Korean president to ever visit the islands. In response to President Lee's visit, Japan recalled its ambassador from South Korea.<sup>194</sup>

The other major source of contention between Japan and South Korea immediately prior to the 2015 Agreement was Japanese Prime Minister Abe's visit to Yasukuni in December 2013.<sup>195</sup> Yasukuni Shrine is a Shinto shrine that is believed to be the home of the enshrined spirits of Japan's war dead. Yasukuni is controversial because over 1,000 convicted war criminals and thousands of Koreans and Taiwanese who were colonial subjects of Japan at the time of their deaths are among the enshrined.<sup>196</sup> In a statement following Abe's visit, a South Korean government spokesperson characterized Yasukuni as a site that "glorifies Japan's history of colonial rule and war of aggression and enshrines war criminals," and added that Abe's visit "fundamentally undermine[d] not only the ROK-Japan relations but also stability and cooperation in Northeast Asia."<sup>197</sup> Clearly, Japan-South Korean relations were in a rocky spot.

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<sup>192</sup> Choe Sang-Hun, "South Korean's Visit to Disputed Islets Angers Japan," *New York Times*, August 10, 2012, <https://www.nytimes.com/2012/08/11/world/asia/south-koreans-visit-to-disputed-islets-angers-japan.html>. Mishra, "East Asia in 2015," p. 17.

<sup>193</sup> Choe, "South Korean's Visit to Disputed Islets Angers Japan."

<sup>194</sup> Choe, "South Korean's Visit to Disputed Islets Angers Japan."

<sup>195</sup> Mishra, "East Asia in 2015," p. 5.

<sup>196</sup> Andrew M. McGreevy, "Arlington National Cemetery and Yasukuni Jinja: History, Memory, and the Sacred," *The Asia Pacific Journal* 3, no. 8 (August 3, 2005), pp. 1-2, 4, <https://apjif.org/-Andrew-M-McGreevy/1786/article.pdf>. For a more detailed discussion on Yasukuni the site, see Buruma, *Wages of Guilt*, pp. 219-224.

<sup>197</sup> "Statement by the Spokesperson of the ROK Government on Japanese Prime Minister Abe's Visit to the Yasukuni Shrine," *Embassy of the Republic of Korea to the Republic of Trinidad and Tobago*, January 3, 2014, [https://overseas.mofa.go.kr/ten/brd/m\\_6747/view.do?seq=703670&srchFr=&srchTo=&srchWord=&srchTp=&multi\\_itm\\_seq=0&itm\\_seq\\_1=0&itm\\_seq\\_2=0&company\\_cd=&company\\_nm=&page=23](https://overseas.mofa.go.kr/ten/brd/m_6747/view.do?seq=703670&srchFr=&srchTo=&srchWord=&srchTp=&multi_itm_seq=0&itm_seq_1=0&itm_seq_2=0&company_cd=&company_nm=&page=23).

Abe's visit also elicited what I believe was the US's first public condemnation of a Japanese prime minister's visit to Yasukuni. The day after Abe's visit, the US government stated it was "disappointed" in Abe because of the predictable damage his visit would have on East Asia relations.<sup>198</sup> While the word choice may be understandably perceived as weak on the US's part, it bears repeating that this was the US's first public condemnation of a prime minister's visit to Yasukuni. The symbolic weight of the US—by far Japan's largest and most important ally—publicly criticizing Japan is what is crucial.

President Obama himself levied another criticism of Japan's behavior four months later, this time directly referring to the "comfort women" issue. At a joint press conference in April 2014 with South Korea's President Park, President Obama was asked about his thoughts on Abe's visit to Yasukuni and the tensions between Japan and South Korea.<sup>199</sup> President Obama skipped over the Yasukuni visit and directly addressed the "comfort women" issue by calling it a "terrible, egregious violation of human rights."<sup>200</sup> President Obama then went on to urge Japan and South Korea to "look forward as well as backwards and to find ways in which the heartache and the pain of the past can be resolved, because, as has been said before, the interests today of the Korean and Japanese people so clearly converge."<sup>201</sup> Clearly, the "comfort women" issue and the tension it was causing between Japan and South Korea was on President Obama's mind as we have originally asked about only Yasukuni. As a result, the sitting President of the United

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<sup>198</sup> "Statement on Prime Minister Abe's December 26 Visit to Yasukuni Shrine," *U.S. Embassy & Consulates in Japan*, December 26, 2013, <https://japan2.usembassy.gov/e/p/2013/tp-20131226-01.html>.

<sup>199</sup> "The President's News Conference with President Park Geun-hye in Seoul, South Korea," April 25, 2014, *University of California Santa Barbara: The American Presidency Project*, <https://www.presidency.ucsb.edu/documents/the-presidents-news-conference-with-president-park-geun-hye-south-korea-seoul-south-korea>

<sup>200</sup> "The President's News Conference with President Park Geun-hye in Seoul, South Korea."

<sup>201</sup> "The President's News Conference with President Park Geun-hye in Seoul, South Korea."



States—the leader of the major ally for both Japan and South Korea—publicly called on both countries to quickly resolve the “comfort women” issue.

Finally, Prime Minister Abe had a history of controversial statements on the “comfort women” issue. For example, during his first stint as prime minister, Abe said, “The fact is, there is no evidence to prove there was coercion [in forcing women into the ‘comfort women’ system].”<sup>202</sup> In a separate statement in the Diet on March 5, 2007, Abe said, “testimony to the effect that there had been a hunt for comfort women is a complete fabrication.”<sup>203</sup> However, Abe later contradicted himself in that same statement to the Diet because he also said, “There probably was not anyone who followed that path because they wanted to follow it...In the broad sense, there was coercion.”<sup>204</sup> Additional problematic statements on the “comfort women” issue continued in the Abe’s government during his second stint as prime minister. For example, while not directly from Abe himself, a *New York Times* article reported on statements from his chief cabinet secretary (and eventual successor as prime minister) Suga Yoshihide in 2014 regarding the Kono Statement. The *New York Times* reported “Yoshihide Suga, the chief cabinet secretary, said a team of scholars would examine what historical evidence had been used in composing the apology, known as the Kono Statement.”<sup>205</sup> Suga’s statements led many to fear that the Japanese government would retract the Kono Statement which would have led to remarkable outrage in East Asia and the Pacific. It took Abe two weeks to relieve the world and publicly state he would

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<sup>202</sup> “Japan’s PM Denies ‘Comfort Women’ Coerced,” *NBC News*, March 1, 2007, <https://www.nbcnews.com/id/wbna10625961>.

<sup>203</sup> Martin Fackler, “No Apology for Sex Slavery, Japan’s Prime Minister Says,” *New York Times*, March 6, 2007, <https://www.proquest.com/hnpnewyorktimes/docview/433548817/fulltext/8312C779580C4B48PQ/8?accountid=14657>.

<sup>204</sup> Fackler, “No Apology for Sex Slavery, Japan’s Prime Minister Says.”

<sup>205</sup> Martin Fackler, “Japan to Revisit Apology for Wartime Sex Slaves,” *New York Times*, March 1, 2014, <https://www.proquest.com/hnpnewyorktimes/docview/1941553334/F48A3A8FD99C46C9PQ/1?accountid=14657>.

uphold the Kono Statement.<sup>206</sup> Given how bleak South Korean-Japanese relations looked from 2012-2014, the fact that the two countries suddenly negotiated the 2015 is remarkable.

Furthermore, it offers insight into the possible prospects of a “comfort women” resolution modeled after the Civil Liberties Act of 1988 being passed in the future.

### **Reasons to be Pessimistic or Optimistic Today: Japan’s Policy Making Structure**

Now that we understand the contexts of when past Japanese attempts at resolving the “comfort women” issue with South Korea were made, we can address reasons to be pessimistic or optimistic about the Japanese government passing a measure modeled after the Civil Liberties Act of 1988 in the future. A crucial factor to address here is the Japanese government’s current means of making policy. Scholars in Japanese politics recognize that, recently, the prime minister’s office and the bureaucracy have a significantly greater amount of power in policy making than the Diet, but there is disagreement about how much power the prime minister has as an individual. For example, in his book *Introduction to Japanese Politics*, Louis D. Hayes writes that “for all practical purposes [the Diet] is limited to ‘rubber-stamping’ decisions made elsewhere.”<sup>207</sup> That “elsewhere” is the bureaucracy. It is in the bureaucracy, Hayes writes, that “decisions are made through an extensive, and time consuming process of consultations and negotiations among government agencies and relevant interest groups.”<sup>208</sup> However, Hayes also points out that at its core, policy decisions by the Bureaucracy are really made between “officials who probably have close personal ties to one another and always a high degree of mutual

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<sup>206</sup> Martin Fackler, “Japan Stands by Apology to Its Wartime Sex Slaves,” *New York Times*, March 15, 2014, <https://www.proquest.com/hnpnewyorktimes/docview/1941564979/fulltextPDF/F48A3A8FD99C46C9PO/3?accountid=14657>.

<sup>207</sup> Hayes, *Introduction to Japanese Politics*, p. 42.

<sup>208</sup> Hayes, *Introduction to Japanese Politics*, p. 48.

trust.”<sup>209</sup> Thus, individual officials still conceivably wield a significant amount of power, particularly through the use of personal networks.<sup>210</sup>

Kōji Nakakita, however, sees things a little different. In *The Liberal Democratic Party of Japan*, Kōji believes the Policy Research Council and “preliminary review system” have historically dictated policy making.<sup>211</sup> Under this system, policy is typically created in a division of the Policy Research Council—an LDP organization made up of research groups “established to correspond with the government ministries and standing committees in the national Diet.”<sup>212</sup> Policy drafted by the Policy Research Council then moves up to the Policy Research Council Board, the LDP’s General Council, and finally the Cabinet.<sup>213</sup> In addition to the number of organizations policy has to pass through, policy making can be slow because consensus-building is vital for policy to move up the ladder.<sup>214</sup> But in this pursuit of consensus-building, Kōji also points to the importance of high-level officials mobilizing their “human networks.”<sup>215</sup>

Despite the predominance of “bottom-up” policy making that often relies on consensus-building, Kōji argues that officials’ personal networks are important and that prime ministers can—and recently have—passed their desired policies despite opposition in the preliminary review system. In fact, Kōji goes as far to say that “since the Koizumi government, the prime minister’s office has clearly been in charge of policy making in Japan.”<sup>216</sup> Furthermore, while he concedes that the Policy Review Council and preliminary review system “cannot be bypassed,” Kōji cites Koizumi’s privatization of the postal industry and Abe’s agricultural reform as two

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<sup>209</sup> Hayes, *Introduction to Japanese Politics*, p. 48.

<sup>210</sup> Hayes, *Introduction to Japanese Politics*, pp. 48-50.

<sup>211</sup> Kōji, *The Liberal Democratic Party*, pp. 66, 68.

<sup>212</sup> Kōji, *The Liberal Democratic Party*, p. 66.

<sup>213</sup> Kōji, *The Liberal Democratic Party*, p. 68.

<sup>214</sup> Kōji, *The Liberal Democratic Party*, pp. 68-74.

<sup>215</sup> Kōji, *The Liberal Democratic Party*, pp. 72-74.

<sup>216</sup> Kōji, *The Liberal Democratic Party*, p. 66.

examples that “when circumstances require quick action, big decisions can be taken in the teeth of opposition.”<sup>217</sup> Thus, the preliminary review system’s obstacles can be overcome by a prime minister’s skillful and strong use of power.

Assuming Prime Minister Kishida would support a resolution to the “comfort women” issue modeled after the Civil Liberties Act of 1988 (reasons to assume he would support such a resolution will be discussed later), there are reasons to be pessimistic and optimistic about him getting such a resolution through the preliminary review system. The primary reason to be pessimistic is Kishida’s lack of experience of leading as prime minister. Kishida may not have enough experience or skill yet as the prime minister to get a resolution modeled after the Civil Liberties Act of 1988 past opposition in the preliminary review system.

However, there are a few reasons to be optimistic because Kishida still has considerable experience working with the preliminary review system and could potentially mobilize a formidable personal network. First, not only did Kishida serve in the Internal Affairs and Communications Divisions of the Policy Research Council, but he also later served as the Chair of the Policy Research Council for the final three years of Abe’s rule.<sup>218</sup> Thus, Kishida has direct knowledge of how policy drafts are created, presented, and passed in the Policy Research Council. Additionally, while serving as Chair of the Policy Research Council, Kishida experienced and possibly facilitated Abe’s policy-making leadership that Kōji describes.<sup>219</sup> Second, immediately prior to his stint as Chair of the Policy Research Council, Kishida was Japan’s longest-serving foreign minister.<sup>220</sup> Kishida served as foreign minister for nearly five

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<sup>217</sup> Kōji, *The Liberal Democratic Party*, pp. 72-86.

<sup>218</sup> Daisuke Akimoto, “The Arrival of Kishida Diplomacy?,” *The Diplomat*, September 7, 2021, <https://thediplomat.com/2021/09/the-arrival-of-kishida-diplomacy/>. “Profiles of Key Members of the LDP: Fumio Kishida,” The Liberal Democratic Party of Japan, <https://www.jimin.jp/english/profile/profiles/202306.html>.

<sup>219</sup> Kōji, *The Liberal Democratic Party*, pp. 80-86.

<sup>220</sup> Akimoto, “The Arrival of Kishida Diplomacy?” “Fumio Kishida: Japan’s New Prime Minister Takes Office,” *BBC*, October 4, 2021, <https://www.bbc.com/news/world-asia-58784635>.

years.<sup>221</sup> Compared to his US counterpart, Kishida served longer than any US secretary of state since George Schultz in the Reagan administration. Thus, Kishida served for a long time at the top of the foreign affairs policy making ladder, again under Abe. Third, in addition to his service in the Policy Research Council and Ministry of Foreign Affairs, Kishida has been an elected Diet member for 29 years and served on various Diet committees.<sup>222</sup> This is important not so much for the Diet's role in creating policy, but because it adds to the potentially formidable personal network Kishida could mobilize if he supported a resolution for the "comfort women" issue modeled after the Civil Liberties Act of 1988. Recalling Hayes and Kōji, both noted that personal networks are crucial to building consensus and overcoming opposition in the preliminary review system.<sup>223</sup> Overall, if Prime Minister Kishida were to support a resolution for the "comfort women" issue modeled after the Civil Liberties Act of 1988, there are several reasons to be optimistic that he could get such resolution through the preliminary review system.

### **Reasons to be Pessimistic or Optimistic Today: Other Factors**

In addition to the Japanese government's method of making policy, there are a variety of other reasons to be pessimistic or optimistic about a "comfort women" resolution modeled after the Civil Liberties Act of 1988 being passed in the near future. Starting with reasons to be pessimistic, many in the Japanese government may feel that Japan already made several attempts to apologize and provide reparations for the "comfort women" issue only to have the plug pulled by South Korea immediately afterwards. For example, skeptical Japanese politicians could say that after years of work to establish the Asian Women's Fund and the 2015 Agreement, "comfort women" were immediately pressured to refuse the money and services those attempted

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<sup>221</sup> Akimoto, "The Arrival of Kishida Diplomacy?"

<sup>222</sup> "Profiles of Key Members of the LDP: Fumio Kishida," The Liberal Democratic Party of Japan. Akimoto, "The Arrival of Kishida Diplomacy?"

<sup>223</sup> Hayes, *Introduction to Japanese Politics*, pp. 48-49. Kōji, *The Liberal Democratic Party*, pp. 72-74.

resolutions provided before the South Korean government became ambivalent about the deals as well. Thus, Japanese politicians may feel that they have already made attempts to resolve the issue and that any attempt they make in the future will be scuttled as well.

A second reason to be pessimistic is the April 2021 dismissal of a South Korea “comfort women” lawsuit. In April 2021, a South Korean court dismissed a lawsuit filed by former “comfort women” seeking compensation from the Japanese government on the grounds of sovereign immunity.<sup>224</sup> Even though the lawsuit was dropped because of sovereign immunity and not because the court found Japan clear of wrongdoing, the dismissal could be potentially spun as vindication for Japan.

Third, Japanese-South Korean relations appear to still be in a contentious state, although slightly improved from the low point of 2019. The most recent downtrend in Japan-South Korea relations is believed to have started with a South Korean court’s ruling that Japanese companies must pay compensation for their prior exploitation of Korean colonial labor, although this ruling also came around the time of South Korean President Moon Jae-in’s rebuke of the 2015 Agreement.<sup>225</sup> In retaliation, Japan downgraded South Korea’s trading status and implemented export controls on chemicals that are vital to South Korea’s manufacturing of semiconductors.<sup>226</sup> South Korea’s government countered by equally downgrading Japan’s trade status and threatening to discontinue national security intelligence sharing while South Korean citizens began a boycott of Japanese products.<sup>227</sup> Given the recent animosity between the countries’

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<sup>224</sup> Hyonhee Shin, “S. Korea Court Dismisses ‘Comfort Women’ Lawsuit, Contradicts Earlier Ruling,” *Reuters*, April 21, 2021, <https://www.reuters.com/world/china/skorea-court-dismisses-comfort-women-lawsuit-contradicts-earlier-ruling-2021-04-21/>.

<sup>225</sup> “South Korea and Japan’s Feud Explained,” *BBC*.

<sup>226</sup> Stangarone, “Parsing the Economic Damage from the Japan-South Korea Dispute.” “South Korea and Japan’s Feud Explained,” *BBC*.

<sup>227</sup> Stangarone, “Parsing the Economic Damage from the Japan-South Korea Dispute.” “South Korea and Japan’s Feud Explained,” *BBC*.

leadership, one can certainly feel pessimistic about the Japanese Diet passing a law that provides a formal apology and reparations to South Koreans.

Despite these reasons to be pessimistic about Japan passing a law like the Civil Liberties Act of 1988 to resolve the “comfort women” issue with South Korea, there are still some reasons to be optimistic. First, South Korea and Japan were not far removed from disputes over the Dokdo/Takeshima Islands and Prime Minister Abe’s visit to Yasukuni Shrine when the countries’ governments created the 2015 Agreement. Thus, the Japanese government showed within the past decade it can make a serious attempt at resolving the “comfort women” issue with South Korea despite tense relations. Additionally, Prime Minister Abe showed that even a politician with a record of problematic statements on the “comfort women” system could make a real attempt to resolve the issue.

Second, Japan’s current prime minister, Kishida Fumio, was Japan’s Minister of Foreign Affairs during the negotiation and implementation of the 2015 Agreement, so he has direct experience with trying to find a resolution to the “comfort women” issue with South Korea. Furthermore, Kishida has been described as a “moderate liberal,” so he is not as likely to harbor strong nationalist views that could prevent him from supporting and signing a law officially apologizing and providing reparations for the “comfort women” issue.<sup>228</sup> Additionally, Kishida comes from a “liberal and dovish” LDP faction with past members like Prime Minister Miyazawa—the prime minister who established the investigation into the “comfort women” system that ultimately produced the Kono Statement—and even Kono Yohei himself.<sup>229</sup>

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<sup>228</sup> “Fumio Kishida: Japan’s New Prime Minister Takes Office,” *BBC*. Akimoto, “The Arrival of Kishida Diplomacy?”

<sup>229</sup> Akimoto, “The Arrival of Kishida Diplomacy?” Kōji, *The Liberal Democratic Party of Japan*, pp. 4-5, 16. Kono left the Kochikai faction a few years later but still remained in the LDP.

Third, although the LDP (which controls Japan's government today) has understandably been criticized for some of its members' revisionist, nationalist views on history, the LDP has also nonetheless cooperated with past attempts at resolving the "comfort women" issue. For instance, the Kono Statement was given by an LDP member during an LDP administration, and it was the culmination of a Japanese government investigation into the "comfort women" system. Furthermore, as part of a coalition government, the LDP was involved in establishing the Asian Women's Fund, and the LDP maintained the Fund after it regained power in 1996. Additionally, the LDP was in control of the Japanese government when Japan and South Korea forged the 2015 Agreement. Thus, the LDP in general has a history of making attempts to resolve the "comfort women" issue with South Korea.

Fourth, despite the recent ruling dismissing a "comfort women" lawsuit on the grounds of sovereign immunity, the threat of recurring "comfort women" lawsuits could persuade some lawmakers to pass a resolution to resolve the "comfort women" issue with South Korea because such legislation would likely end the threat of future lawsuits. Each time a lawsuit is filed and each time there is a development, ruling, or appeal in these lawsuits, the "comfort women" issue and Japan's responsibility enters international headlines. Because a resolution addressing the "comfort women" issue modeled after the Civil Liberties Act of 1988 would provide a formal government apology and reparations, it should prevent future "comfort women" lawsuits from being filed and thus prevent future unfavorable headlines for Japan.

Fifth, the US is likely to put renewed pressure on Japan and South Korea to resolve the issue. China is still probably the US's biggest potential adversary for the future although Russia's recent invasion of Ukraine and Putin's nuclear saber rattling may have bumped China down to two for the time being. Regardless, Russia's invasion of Ukraine and China's actions in



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Hong Kong in 2019 have raised alarms over the possibility of a China-US confrontation over Taiwan. Battles over economics and soft power recently occurred as well through President Trump's trade war with China and China's Belt and Road Initiative. As a result, the US will undoubtedly seek to get its allies in Asia and the Pacific on the same page strategically in regard to China. This means seriously attempting to resolve the "comfort women" issue between Japan and South Korea. Furthermore, Japan's government has shown through its past "comfort women" resolution attempts that it does respond to international pressure. Finally, the Japanese government and Prime Minister Abe showed a quick turnaround in trying to resolve tensions with South Korea in 2015 once the US started applying pressure for the two countries to find a resolution to the "comfort women" issue.

### **Conclusion**

So, can the Civil Liberties Act of 1988 serve as a model for resolving the "comfort women" issue between Japan and South Korea? I believe it can. Whereas there has been skepticism over whether past apologies from Japanese government officials represented the government's or personal feelings, a measure modeled after the Civil Liberties Act 1988 that must be approved by the legislature and signed by the chief executive clearly shows a government's remorse. Furthermore, such a resolution should include a public hearing for "comfort women" and advocates to testify or submit records, state-provided monetary compensation, and the establishment of educational measures. These components should theoretically end criticisms that the Japanese government has not listened to or worked with their former victims, has not paid legal compensation, or has not or showed forbearance.

Whether or not such a measure would get passed by the Japanese Diet or Cabinet is a more complicated answer. The context surrounding Japan's past resolution attempts provides

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reasons to be both pessimistic and optimistic. Reasons to be pessimistic include: too many Japanese lawmakers may be cynical that a resolution modeled after the Civil Liberties Act of 1988 will be rejected in a similar fashion as the Asian Women's Fund and the 2015 Agreement; Japanese lawmakers may feel vindicated by the April 2021 dismissal of a "comfort women" lawsuit by a South Korean court; and, relations between Japan and South Korea may still be too contentious for enough Japanese officials to introduce and pass a "comfort women" resolution. However, there are several reasons to be optimistic. First, Japan showed in 2015 that it could make a serious attempt at resolution despite tense relations with South Korea and despite Prime Minister Abe's past record of problematic statements on the issue. Second, current Prime Minister Kishida has been described as a moderate, was Japan's foreign minister during the 2015 Agreement's negotiation and implementation, and has plenty of experience with Japan's policy making system. Third, despite deserved criticism for some of its members' problematic statements and actions regarding Japan's military past, the LDP was still involved in Japan's prior attempts at resolving the "comfort women" issue with South Korea. Fourth, Japanese lawmakers may be motivated to resolve the issue so recurring lawsuits and protests do not constantly drag the "comfort women" issue and Japan's responsibility for the issue back into international headlines or forums. Fifth, in pursuit of its own foreign policy goals in East Asia, the US is likely to exert a great deal of pressure on Japan and South Korea to put the issue to rest.

Thirty years since the "comfort women" redress movement emerged, redress has still not been achieved between Japan and South Korea. With only about a dozen South Korean "comfort women" still living, time is of the essence to reach an appropriate resolution. Furthermore, while I do not believe the two countries will cut ties, the failure to resolve the "comfort women" issue and other historical injustices has recently resulted in economic harm and the threat of ending

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national security intelligence sharing between Japan and South Korea. Thus, it is vital for both Japan and South Korea to resolve the “comfort women” issue. I believe a resolution modeled after the Civil Liberties Act of 1988 would provide a chance at resolving the “comfort women” issue between the two countries. Furthermore, while there are reasons to doubt that such a resolution would be introduced and passed by the Japanese government, I also believe there are as many or more reasons to be optimistic that redress can finally be attained.

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