

Seoul High Court

Criminal Department 8

Judgment

Case 2023No3351 Defamation

Defendant Park Yu-ha ([REDACTED]), Professor

Address: [REDACTED]
[REDACTED]

Place of registration: [REDACTED]

Appellant Prosecutor

Prosecutor Kwon Bang-moon (prosecution), Park Bong-hee (trial)

Counsel Attorneys Hong Se-wook and Kim Hee-won

Judgment of the lower court: Seoul Eastern District Court. Jan. 25, 2017. Sentence
2015Gohap329

Judgment of this Court before remand: Seoul High Court on Oct. 27, 2017. Sentence
2017No610

Judgment of remand: Supreme Court on October 26, 2023. Sentence 2017Do18697

Sentencing on April 12, 2024.

Order

The judgment of the lower court is quashed.

The criminal Defendant is not guilty.

The gist of this judgment shall be publicly announced.

Reason

1. Progress of litigation and the scope of adjudication by this court

A. Progress of Litigation

1) Judgment of the lower court

The lower court said, "The Defendant is found to have committed the crime on August 12, 2013. The "Root and E-Paris" Publishing Company in 541-28 Seogyo-dong, Mapo-gu, Seoul, published a book titled "Comfort Women of the Empire," which contained false facts as stated in the attached Crime Table 1, and at that time distributed it through bookstores nationwide, etc. , thereby publicly undermining the honor of the victims of comfort women," and was acquitted on the grounds that the expression in the attached Crime Table 1 constitutes a crime of defamation or that it is insufficient to admit the Defendant's intention of defamation.

2) Judgment by this Court before Remand

Only the prosecutor appealed against the judgment of the lower court due to misconception of facts and misapprehension of legal principles.

Prior to remand, this Court quashed the judgment of the lower court ex officio due to the change of the subject of judgment due to the change of the indictment, and in the case of the expression listed in the attached Crime Table 2, Nos. 5, 7, 10, 11, 16, 20, 23, 26, 27, 30, and 34, the prosecutor's appeal was partially accepted on the grounds that the crime of defamation

was established and the Defendant's intention for defamation was acknowledged, and the judgment of the lower court was reversed, and the crime of defamation was found guilty for the above expression. However, the remaining expression was only an expression of opinion and could not be regarded as a indication of specific facts, so it was judged innocent for the reason.

3) Judgment of the Supreme Court

The Defendant and the prosecutor appealed against the judgment of this Court before remand on the grounds of misapprehension of legal doctrine.

The Supreme Court rejected the prosecutor's ground of appeal on the part of the judgment of this Court before remand, but judged that the guilty part should be reversed because there was a mistake that influenced the judgment by misunderstanding the law on the indication of the facts of defamation, but the above reversal was related to one crime with the part judged innocent in the reason, so the judgment of this Court before remand was quashed and the case was remanded to this Court for further deliberation and judgment.

B. The Scope of Adjudication by this Court

In the case of the final appeal, the part that was rejected because the claim of the ground of appeal was judged to be groundless was not finalized at the same time as the judgment was sentenced, and the prosecutor can no longer argue about this part, and the court that was remanded cannot make a judgment contrary to this (Supreme Court on October 28, 2005). See Sentence 2005-1247, etc.).

Before the remand, the not guilty portion of the original judgment was overturned by the

remand judgment and the case was transferred to this Court. However, in the appeal trial, the prosecutor's argument for the grounds for appeal regarding this portion was already rejected as groundless and became final, so the prosecutor has no further action on this matter, and this Court that received the remand cannot make a judgment contrary to it. Therefore, in this regard, we will follow the judgment of this Court before remand and will not make a separate judgment.

In the end, the actual scope of the court's judgment is limited to the guilty part of the judgment of this Court before remand (Attachment Crime Table 2 No. 5, 7, 10, 11, 16, 20, 23, 26, 27, 30, 34). Hereinafter, this shall be considered.

2. Summary of the grounds of appeal (prosecutor, mistake of facts and misapprehension of legal doctrine)

A. The expressions listed in No. 5, 20, and 26 of the Attachment Crime Table 2 contain the meaning that "the comfort women are not forced or forcibly mobilized by official policy of the Japanese government and become comfort women, so they cannot be legally liable for compensation or formal apology to the Japanese government," and it is clear that the contents themselves violate the social values or evaluations of the comfort women victims of the Japanese military.

B. The expressions stated in No. 16 and 34 of attached Crime Table 2 are "The Japanese comfort women of Joseon voluntarily went by their own or their parents' choice, knowing what they had to do," and it is reasonable to deem that in light of the contents of the expressions and the degree of distortion, the criticism was not diluted even in the case of the victims who are individual members,

so that it reached the extent that it affected the social evaluation of each member.

C. It can be admitted that the remaining expressions, except for the expressions listed in No. 5, 16, 20, 26, and 34 of Crime Table 2 of the Attachment, indicate specific facts in consideration of the objective content of the expression, the ordinary meaning of the vocabulary, the overall flow, the method of connecting the phrases, and the social flow.

D. As long as the Defendant recognizes that the entire expression in the attached Crime Table 2 is false, but states it to support his claim, the Defendant's intention to defame is recognized. Nevertheless, the lower court, which found the instant charges not guilty, erred by misconception of facts and misapprehension of legal doctrine.

3. Ex officio Determination Following the Change of Indictment

The prosecutor applied for permission to change the indictment by changing the existing fact of charge as "the gist of the fact of charge in this case" in [Reason for Judgment to Rewrite] and changing "Attachment Crime Table 1" to "Attachment Crime Table 2" (the "order" and "contents" in each of the above crime tables are the same) before the remand. As a result, the subject of the trial was changed, and the judgment of the original trial court could no longer be maintained. However, notwithstanding the above grounds for ex officio, the prosecution's allegation of misunderstanding of facts and misapprehension of legal doctrine are still subject to the judgment of this Court, so we will examine it.

4. Judgment on the Prosecutor's Allegation of Misunderstanding of Facts and Misapprehension of Legal Doctrine

A. Binding force of the judgment quashed and remanded

Article 8 of the Court Organization Act stipulates that "a judgment made by a higher court shall be binding on the lower court with respect to the case concerned." The latter part of Article 436(2) of the Civil Procedure Act also stipulates that the factual and legal judgments made by the appellate court as a reason for reversal bind the lower court, and although there is no corresponding provision in the Criminal Procedure Act, the appellate court, which is based on the principle of legal review, can only intervene in a limited manner with respect to the determination of the original judgment on factual determination under Article 383 or 384 of the Criminal Procedure Act, so the factual judgment that was the reason for reversal of the appellate judgment is also binding. Therefore, a court that remands a case from an appellate court is bound by the factual and legal determinations made by the appellate court in the trial of the case, unless new evidence is presented during the hearing after the remand, which changes the evidentiary relationship underlying the original determination (see Supreme Court, April 9, 2009, judgment 2008Do10572).

B. Judgment of the Lower Court

Taking into consideration the facts and circumstances as indicated in the judgment, the lower court, found the facts charged in this case not guilty on the grounds that (1) the expressions listed in the order numbers except the expressions listed in numbers 5, 16, 20, 26, and 34 are merely expressions of opinion and do not reflect specific facts, (2) the expressions listed in numbers 5, 20, and 26 correspond to the indication of facts, but are difficult to evaluate as infringing on the social values or evaluations of the Japanese military sexual slavery victims, and (3) the expressions listed in numbers 16 and 34 correspond to the indication of facts, but

only the name of the group was indicated, and thus the Plaintiffs, who are individual members of the group, could not be considered to have been specifically identified, and (4) the Defendant was not recognized for the intention of defamation regarding the above expressions.

C. The Decision of This Court

1) Relevant Legal Principles (see Remand Judgment)

A) Academic freedom, the core of mental freedom, is essential to ensuring activities to gain new awareness by constantly raising questions or criticizing without following existing perceptions and methods (see Supreme Court, July 12, 2018, Judgment 2014Do 3923). Freedom of academic expression forms the basis of academic freedom. Academic expression is an act of disclosing research results externally and developing research results by accepting new and diverse criticisms and stimuli through academic dialog and discussions, which is itself an academic process of exploring the truth, and academic development can ultimately be achieved only when these processes are freely gone through. In light of the purpose of Article 22 (1) of the Constitution, which specifically protects academic freedom, restrictions on the freedom of academic expression should be limited to the minimum extent necessary. Therefore, it is reasonable to regard the act of academic expression as a legitimate act for academic research in principle unless there are special circumstances, such as violating basic research ethics, or as the result of an act that is difficult to regard as an academic process because it is seriously beyond the customarily accepted scope in the relevant academic field, or as an expression irrelevant to the thesis or context infringes on the rights of others.

On the other hand, Article 10 of the Constitution stipulates human dignity and value, and the basis for protecting personal rights can be found in the same article. Since academic research can also be protected when conducted within the constitutional order, it should be based on human dignity and respect for the personal rights derived from it. Therefore, researchers should not neglect to protect the honor of others, respect the freedom and self-determination of individuals, and protect the confidentiality of privacy from the selection of research topics, the execution of research, and the presentation of research results. In particular, in the case of research on individuals or groups with limitations in expressing opinions on the research or refuting the research results, such as the socially weak or the minority, special responsibility is borne to respect their rights throughout the entire research process.

B) Regarding the "indication of facts" in defamation, the Supreme Court has recognized the fact as an indication of facts in a case where a statement about the fact that objectively degrades the victim's social evaluation is made in a way that implies that the facts may exist in the light of the intent of the entire expression, even if it is expressed in the form of hearsay or speculation rather than conclusive expression by citing reports, rumors, or third parties (See Supreme Court, November 27, 2008. Judgment 2007Do5312, etc.).

However, to substantially guarantee the freedom of academic expression, the appropriateness of the expression used in the presentation of academic research results should be verified through free public discussions or peer evaluation processes within the academic community rather than being obscured by criminal courts. Therefore, it is necessary to be cautious in evaluating the expression of opinions according to academic research from defamation

crimes. This is especially true when it is not a fixed fact with a clear outline and form but a fact reconstructed in the incessant process of post-mortem research, review, and criticism, such as "historical facts" in the academic field that make history or historical facts the subject of research. In this respect, it is difficult to say that it is permissible to recognize the facts by suggestion in a way that does not understand the academic expression in itself and hastily determines the background or background behind the expression.

C) Since the prosecutor is responsible for proving what constitutes the constituent requirements of the crime for which a prosecution has been filed in a criminal trial, whether it is a subjective or objective requirement, the prosecutor must prove that the expression does not belong to the realm protected as academic freedom.

2) Specific Judgment

In the light of the above legal principles, the following facts and circumstances recognized by the evidence legally adopted and investigated by the lower court and this court are reasonable to evaluate the expression of the Defendant's academic arguments or opinions (hereinafter referred to as "each expression of this case") as stated in No. 5, 7, 10, 11, 16, 20, 23, 26, 27, 30, and 34 of the Attachment Crime Table 2, and it is difficult to regard it as a "indication of facts" that can be punished for defamation. Therefore, it is not appropriate for the lower court to admit the facts in some expressions, but since it is justified in the conclusion that the Defendant was acquitted of the facts charged in this case, there is no misconception of facts and misapprehension of legal doctrine that affected the judgment of the lower court. Therefore, the prosecutor's claim on this part is without merit.

A) The Defendant studied Japanese literature and the modern and contemporary history of Korea and Japan while serving as a professor of Japanese literature at a university for a long time. The Defendant thought that there was a comfort women issue for the Korean Japanese military at the core of the Korea-Japan conflict, and that it would not be possible to establish a desirable Korea-Japan relationship without resolving it, and conducted research to resolve it, and published the research results in a book. In this case, the book appears to be an academic expression that was published as an extension of the above study.

In the process of writing the book in this case, the Defendant researched various domestic and foreign literature and materials and cited them directly and indirectly in the book in this case. Records show that the Defendant violated basic research ethics required of researchers in the humanities and social sciences field in the process of writing the book in this case. Therefore, it has not been confirmed that research materials such as historical materials were forged or altered, or that the Defendant committed an act of misconduct seriously outside the scope of what is normally accepted in the academic field, and the Defendant was involved in the entire process of planning, writing, and publishing the book in this case. There are no circumstances confirmed to indicate that the dignity of the victims, who were ‘Korean Japanese military comfort women,’ was belittled, such as infringing on their right to self-determination or freedom of privacy and confidentiality.

B) In light of the overall contents and context of the books in this case, it does not appear that each expression in this case was used to support the claim that the Defendant denied forced abduction by the Japanese military, that the Korean comfort women voluntarily engaged in

prostitution, or actively cooperated with the Japanese military, as the prosecutor claimed, nor does each expression in this case appear to presuppose such a claim. On the contrary, it is clear that it is the Japanese Empire or the Japanese military that created the structure that produced those who were forcibly taken from the books in this case, and the Defendant has revealed on several occasions that the comfort women of the Japanese military, who were Koreans, were members of the Japanese Empire and were forced to cooperate with the Japanese Empire as victims and colonists. This is far from the 'spontaneity of the comfort women,' 'denial of forced abduction,' and 'compassionate relationship' as stated in the facts charged.

In light of the context before and after each expression in this case and the intention of writing the books in this case revealed by the Defendant, the Defendant cannot deny the Defendant's subject consciousness, that is, the responsibility of the Japanese Empire or the Japanese military for the issue of comfort women for the Korean Japanese military, through the entire book in this case, but cannot deny that there are certain aspects of other social structural problems such as imperialist doctrine or traditional patriarchal order, so it seems that each expression in this case was used to highlight the subject consciousness in the process of revealing that it is difficult to help solve the comfort women problem by focusing only on the former problem.

C) The degree of infringement of personal rights suffered by individual victims due to academic expression can be diluted as the object to which the expression is pointed becomes wider or the content of the expression becomes generalized or abstracted, and this is the same

in expressions about historical facts. Expressions of past specific facts about small groups that can specify individuals or individual members or groups with relatively uniform characteristics are not only easy to prove relatively true, but also extend to victims without dilution of the effects of infringement of personal rights due to expression. On the other hand, the generalized and abstracted expression of the range beyond this is not a verifiable specific fact, but rather a comprehensive interpretation or evaluation of individual researchers based on historical facts, such as defining the times, which increases the room for it to be viewed as an expression of academic arguments or opinions.

The total number of comfort women in the Japanese military is estimated to be as small as 30,000 to as large as 400,000, of which the proportion of Koreans is also estimated to be more than 50%. Therefore, it is difficult to define the comfort women of the Japanese Imperial Army as a small group in which each member can be identified, and it cannot be regarded as a group with uniform characteristics in light of the various circumstances of the performance and damage patterns testified by the victims. In addition, it is difficult to say that each expression of this case corresponds to a statement of specific facts about each victim.

If so, each expression in this case corresponds to a general and abstract description of the entire comfort women of the Japanese military, Korean, beyond the scope of specifying an individual, and there is room for it to be viewed as an academic assertion or expression of opinion as a comprehensive interpretation or evaluation of the Defendant based on historical facts.

D) Regarding the concept of "public forced abduction" used in the expression of No. 5, 16,

20, and 26 in the attached Crime Table 2, contrary to the prosecutor's assertion that it can be regarded as forced enslavement by the official policy of the Japanese Empire, the Defendant argues that there was some soldiers' deviant behavior in the process of enslavement of Japanese comfort women, but that alone cannot be regarded as there was a "public Japanese comfort women" through the official system.

Various positions may exist on the concept or scope of terms used in academic expression. In this case, the state's declaration that only one of the various academic views is correct can be an unjust infringement on the freedom of academic expression. Therefore, even if an academic expression appears to indicate facts, various interpretations of the concept of a term or the scope of inclusion are possible, and the concept taken from that expression may be accepted in the actual academic world, or even if it is not commonly used, in the light of the objective meaning of the text or the language habits of the public, and if it can be confirmed by the context before and after the expression that the expression is based on a specific academic concept definition of the term, it is in line with the constitutional spirit that guarantees academic freedom to the maximum extent.

"Public forced abduction" is also possible to interpret or argue in various ways as to whether it can be called "public compulsory detention" only when there is some intervention at the national or military level, and it is difficult to say that the Defendant's argument occupies the mainstream position in the academic world, but it is difficult to conclude that it has reached an unacceptable level in light of the objective meaning of the text or the language habits of the public. In addition, it can be sufficiently confirmed by the context before and after the

expression that the expression is based on the premise of including the academic concept of 'public forced abduction.' Therefore, it is difficult to say that the description of 'public forced abduction' in each expression of this case corresponds to the indication of facts.

E) Since it is not possible to evaluate that academic expressions, especially academic expressions on historical facts, are not intended to be understood in themselves, and that the facts are easily identified by implication by paying attention to the background or background hidden in the expressions, there is room for recognition of the facts by implication only when there is an expression that can be immediately inferred by a specific phrase included in the academic expression. However, in the case of the expressions listed in No. 7, 10, 11, 27, 30, and 34 of the attached Crime Table 2, it is difficult to immediately draw out or analogize the proposition of "spontaneity" or "companionship" that the prosecutor claimed to be "timely fact" in the facts charged only with the wording in the expression. In the case of the expression in No. 23 of the attached Crime Table 2, in light of the context before and after the expression, it can be seen as an explanation of the Defendant's claim that "the comfort women of the Japanese military were in a contradictory situation where they were forced to cooperate with the Japanese Empire as a member of the Japanese Empire and as a colony at the same time as a victim. ". This only appears to have expressed the Defendant's academic opinions or arguments on the situation and role of the Korean comfort women, and it is difficult to say that the expression presupposes the proposition that "the Korean comfort women of the Japanese military cooperated with the Japanese military and cooperated with the Japanese Empire or the Japanese military with a sense of camaraderie. ".

5. Conclusion

If so, the judgment of the lower court has the grounds for ex officio reversal as described above, so the judgment of the lower court is reversed in accordance with Article 364 (2) of the Criminal Procedure Act, and through arguments, it is judged as follows again.

[Reasons for Ruling to be Rewritten]

1. Summary of the facts charged in this case

Victims Lee○○, Kim○○, Kim△△, Yu○○, Kang○○, Jeong○○, Park○○, Kim, Kim, Kim◇◇, Lee△△, and Lee, were victims of sexual slavery by the Japanese military, unlike prostitutes of Japan, who were forcibly mobilized or forcibly detained by the Japanese military as "sexual slavery" against their will, and were confined in the comfort stations in China and Southeast Asia during wartime situations under the surveillance of the Japanese military, and were not a prostitute who voluntarily went to the Japanese military at the choice of themselves or their parents, knowing what the contents of what to do, and did not cooperate with the Japanese military in a patriotic or self-esteem manner, and the Japanese military established and operated the comfort women as described above, and extensively intervened in the process of forced mobilization and forced arrest.

Nevertheless, the Defendant stated at the publishing house of 'Roots and Leaves', located at 541-28 Seogyo-dong, Mapo-gu, Seoul, on August 12, 2013, "As long as the comfort women of Koreans were also comfort women of the Japanese Empire, the basic relationship is the same. ", "There was no case in which a woman was forced to comfort women against her

will.", "At the time of 1996, they knew that 'comfort women' were basically women within the framework of 'prostitution' " So, the Defendant explicitly or implicitly stated the false fact that "the comfort women of the Japanese military in Korea are those who are engaged in prostitution business who receive economic consideration by becoming "comfort women" according to their choice for their lives while they are aware that the content of the work is prostitution against soldiers" by writing as specified in No. 2, 3, 4, 7, 11, 12, 13, 15, 16, 27, 30, and 34 in the attached Crime Table 2. "The reason they went to a place where there were 'war criminals,' that is, war criminals, is because they were the ones who 'carried out the war' by acting together with the 'Japanese military,'" and "If they found out that they were 'Japanese,' wearing Japanese clothes and having Japanese names, and cooperated with the 'Japanese military,' they would point the same finger at them.", and "If I found out that they collaborated with the 'Japanese military' as 'Japanese' wearing Japanese clothes and having Japanese names, I would point the same finger at them with the same hand.", and so on in the attached Crime Table 2, no 1, 6, 7, 8, 9, 10, 13, 14, 17, 18, 19, 21, 22, 23, 24, 25, 28, 29, 31, 32, 33, and 35, which explicitly or implicitly stated the false fact that "Korean comfort women patriotically and proudly collaborated with the Japanese Empire or the Japanese military with a sense of comradeship with the Japanese military" Moreover, it is stated that "it was not the Japanese soldiers who "kidnapped" and "forced-abducted" the comfort women officially, at least on Korean soil," as indicated in the attached Table 2, No. 5, 16, 20, and 26. So, it is explicitly or implicitly indicated that "there was no forced arrest of the Japanese military in the process of mobilizing the comfort women of the Japanese military. If there is, it is due to

the deviation of the individual soldier, so it is not publicly due to the Japanese military. "The Comfort Women of the Empire," which contained false facts, published a book called "Comfort Women of the Empire," and distributed it through bookstores nationwide at the time, and publicly damaged the honor of the victims.

2. Judgment

Among the facts of charge in this case, with respect to No. 1, 2, 3, 4, 6, 8, 9, 12, 13, 14, 15, 17, 18, 19, 21, 22, 24, 25, 28, 29, 31, 32, 33, and 35 of the attached Crime Table 2, which the judgment of this court was found not guilty for the reason before remand, the prosecutor's claim for the ground of appeal was rejected at the trial on appeal, so the judgment of this court before remand shall be followed, and with respect to the remaining No. 2 of the attached Crime Table 2, No. 5, 7, 10, 11, 16, 20, 23, 26, 27, 30, and 34, it falls under the case where there is no proof of crime as discussed in paragraph (4), and thus, the facts of charge in this case shall be acquitted under the latter part of Article 325 of the Criminal Procedure Act, and the summary of this case shall be publicly announced as ordered.

Presiding Judge: Judge Kim Jae-ho _____

Judge Kim Kyung-ae _____

Judge Seo Jeon-gyo _____

ATTACHMENT

Crime Table 1

No.	Page	Contents	Remarks
1	Page 19	<u>Senda understands that 'comfort women', like 'soldiers', are 'patriotic' beings who have helped soldiers carry out war at the expense of their bodies. The book's interest and argument is why there are no comfort women when there is compensation for the sacrifice of soldiers for the country. In the end, Senda's point of view was to pinpoint the essence of comfort women more than any other book that came out later.</u>	Comfort Women Were Patriotic Collaborators in Japan
2	Page 32	<u>'The descendants of Karayuki-san.' The essence of 'comfort women' lies here.</u>	Comfort Women Express That Their Essence is Prostitution
3	Page 33	<u>To see the essence of the 'comfort women', it is necessary to first know that the pain of the 'Korean comfort women' is not basically different from the pain of the Japanese foundation.</u>	"
4	Page 38	<u>As a result, there may have been cases of entrusting them to contractors, but the majority of 'comfort women' in general should be regarded as having the same duality as 'Karayuki-san'.</u>	"
5	Page 38	<u>But at least in the land of Joseon and in the public domain, it was not the Japanese military that 'kidnapped' and 'forced-abducted' the comfort women.</u> In other words, demand creation is not evidence of forced abduction.	Emphasis on non-compulsory mobilization of comfort women (illegal compulsory mobilization or forced abduction)
6	Page 61	<u>That's why they memorized the "Hwangguk Sinminseosa," changed the clothes of the "Defense Women's Association," and participated with a band on top of a kimono on some days. It was a role that the state had imposed on it at will, but it is quite conceivable that such a role as a spiritual "comfort" - pride in one's own existence (somewhat unreasonable) could have been a force to endure the harsh lives they faced.</u>	Expressing that comfort women were proud collaborators with Japan
7	Page 62	<u>"When I signed up, they were happy because I felt I could work for the soldiers, I could sacrifice myself for the country. So, women were able to do their best for the soldiers because they</u>	Expressing that the comfort women were patriotic or

		knew they had to be free and go back to the inner world, and they had to sell their bodies again. Of course, you wanted to make money. " (page 26) Of course, this is the case of Japanese comfort women. However, <u>as long as the comfort women of Koreans were also "comfort women of the Japanese Empire," the basic relationship should be the same.</u>	proud collaborators to Japan
8	Page 65	<u>Mentally and physically comforting and encouraging soldiers who may die tomorrow on a distant battlefield after leaving their families and hometowns. The basic role gave rise to numerous exceptions, but the role of the "Korean comfort women" required as a member of the "Japanese Empire" was such so that love could sprout.</u>	"
9	Page 67	Even so, it was true that this kind of love and peace was possible there, and it was <u>because the relationship between the comfort women of Joseon and the Japanese military was basically a comrade.</u> The problem is that the traces of memories that would have been precious to them were that they themselves "took it all out. ". The phrase, "It might be a problem if I leave it," also shows that <u>it was them themselves who tried to cover it up.</u>	Expressing that the comfort women had a comrade relationship with the Japanese military as patriotic or proud collaborators
10	Page 99	The comfort women, who were in Yangon (Rangoon) in Burma and fled to Thailand at the end of the war to escape the bombing, also came to Japan and returned home under the guidance of the Japanese military. <u>The reason why they went to the place where the 'war criminals' were, was because they were the ones who 'carried out the war' by acting together with the 'Japanese military'.</u> Even if they were "victims" who were forced to do harsh sex labor, it was inevitable as long as they were "members of the empire."	Expressing that the comfort women were patriotic or proud ally of the Japanese military
11	Page 112	The comfort women of Korean women are still in the same structure that poor women who <u>do not have other cultural capital capable of other economic activities are engaged in prostitution.</u>	Expressing that the essence of comfort women is prostitution
12	120 Pages	Those who deny the comfort women issue considered "comfort" as "prostitution" only, and we understood it as "rape" only, but <u>"comfort" basically included both elements.</u> In other words, "comfort" was labor in which few people actually made money in the harsh food chain structure <u>but basically expected to earn income, and in that sense, it was "rape prostitution. ". Or it was 'prostitute rape.'</u>	Expressing that the essence of comfort women is prostitution
13	130 Pages	Opium would have been a means to forget the pain of every day. However, according to testimony, most of them were directly used by the owners or merchants. <u>In the case of use</u>	The expression that the comfort women were in an

		<u>with soldiers, it should be viewed as rather for enjoyment.</u>	intimate relationship with the Japanese military
14	Page 137	In the case of the Japanese, Koreans, and Taiwanese "comfort women," although they were "slaves," <u>they basically had a "companionship" relationship with the soldiers.</u> In other words, it was their public role to "comfort" the soldiers as women of the same "imperial Japan." Their offering of sex basically <u>had the meaning of 'patriotism' for the Japanese empire.</u>	Expressing that the comfort women had a comrade relationship with Japan as a patriotic collaborator
15	144 Pages	The word "Josenbi," which refers to the "comfort women" of Koreans, reveals an explicit disrespect for Koreans. <u>The soldiers were able to rape them so simply because they were "Korean women", although they were "Korean women" above all.</u>	Expressing that the essence of comfort women is prostitution
16	158 Pages	In that sense, <u>the view that "a woman who was engaged in such a significant task went to the battlefield in her own wish" or that "a woman never had sexual slavery against her will" (Kimura Saijo) may be right as "fact".</u>	Expressing that the essence of comfort women is prostitution
17	160 Pages	Instead, <u>their "smiles" should not be seen as the smile of a prostitute but as the smile of a "patriotic maiden" given a role to "comfort" the soldiers (for "reconciliation").</u>	Expressing that the comfort women were patriotic collaborators to Japan
18	160 Pages	As a colony and as a 'civilian' woman <u>who must do her best for men with a cause of fighting 'for the country', the pride granted to them - the significance of their existence, approval - could have been only patriotism that positively internalizes their role (Kimura Saijo).</u>	"
19	190 Pages	That's why another memory of 'comfort women' as an individual has been suppressed and blocked. <u>The reason why the comfort women's memories of "dating" Japanese soldiers and thinking of "comfort" as "patriotic" were concealed is that they had to exist as those who proved that Korea was a "victim nation" against Japan for a long time.</u> That's why comfort women were not allowed to remember as individuals. As if they had skipped life after liberation, they had to stay as "15-year-old girl victims" or "fighting fighter grandmothers" forever.	"
20	Page 191	However, the state indeed took sexual labor for the military for granted, but it is difficult to hold 'legal responsibility' for it unless it was legally prohibited at the time. In addition, it is difficult to say that the Japanese state has the legal	Emphasis on non-compulsory mobilization of comfort women

		responsibility for forced abduction <u>unless the state and the military instruct forced abduction and forced labor</u> (unless the official discipline of the Japanese military was in a position to control rape, free labor, and assault). In other words, the damage caused by violence or forced free labor to comfort women is primarily due to the problems of the businessmen and soldiers.	(illegal compulsory mobilization or forced abduction)
21	Page 205	However, in fact, the Korean comfort women were mobilized for the "country" and were also those <u>who took care of them and promoted morale to win the war with the Japanese military.</u> The statue of a girl in front of the embassy hides them.	Expressing that the comfort women were patriotic collaborators to Japan
22	206 Pages	It was not only because of Japan but also because of ourselves that they could not return after liberation. In other words, the purity and patriarchal perception of rejecting 'stained' women has long been the cause of not returning them to their hometowns. But it's not just sexually tarnished memories that are there. <u>The memory of cooperating with Japan, which also prevented them from returning.</u> In other words, the memory of the 'stained' colony was not necessary for the 'liberated Korea'.	Expressing that the comfort women were patriotic or proud collaborators to Japan
23	206 Pages	To do so, if people who wore scarves, socks, and umbrellas to the victim girl found out that they had collaborated with the Japanese Army <u>as Japanese wearing Japanese clothes, they may point their fingers with the same hands.</u>	"
24	Page 207	The girl statue, which expresses only <u>the image of castrating the memory of cooperation,</u> resisting and fighting, does not express the sorrow of the comfort women who had to cooperate.	"
25	208 Pages	<u>There is no double composition of victims and collaborators in the Holocaust.</u>	"
26	Page 215	However, the Japanese government apologized and proposed an apology again in the spring of 2012. And there is no possibility that the legislation of the National Assembly, which is claimed by the Korean Council for Justice, will be made in the future. <u>The reason for this is that the 1965 treaty, and at least the national violence of "forced abduction",</u> has never been committed against the comfort women of Joseon, and if so, it is an exceptional case, so it cannot be said to be a personal crime.	Emphasis on non-compulsory mobilization of comfort women (illegal compulsory mobilization or forced abduction)
27	246 Pages	At the time of 1996, they knew that <u>'comfort women' were fundamentally women within the framework of 'prostitution'.</u>	Expressing that the essence of comfort women is prostitution
28	265	<u>The Korean comfort women had a comrade relationship with</u>	Expressing that the

	Pages	<u>the same Japanese women.</u>	<u>comfort women had a comrade relationship with Japan</u>
29	265 Pages	The reason for this was that the "Korean comfort women" were not clearly divided into the relationship between the victims and the perpetrators through "war" but were "victims of the empire" mobilized under colonial rule and a <u>complex existence with the aspect of "companionship" who structurally came to cooperate with the country (carrying out war).</u>	Expressing that the comfort women had a comrade relationship with Japan as a collaborator
30	291 Pages	<u>"Korean Comfort Women" was created when "Joseon or Chinese women were included in the lowest class of the Japanese public brothel system in this way, and became the largest source of comfort women during the Asian Pacific War" (page 110).</u>	Expressing that the essence of comfort women is <u>prostitution</u>
31	294 Pages	<u>They went to the battlefield together because they were equally like members of the "Japanese Empire" and "paramilitaries" called the "Nangja Army."</u>	Expressing that the comfort women had a comrade relationship with the Japanese military
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33	294 Pages	<u>The 'comfort women of Joseon' were victims, but they were also collaborators as colonists.</u>	Expressing that the <u>comfort women were collaborators with Japan</u>
34	296 Pages	Koreans have denied the image of a " <u>prostitute who voluntarily went</u> " because of her desire and memory.	Expressing that the essence of comfort women is prostitution
35	306 Pages	Borrowing and transcribing the memories of the " <u>perfect damage</u> " of the Japanese women who were enemies, such as China and the Netherlands, and making them the "daughters of the nation" through the girl statue that removed the memories of the "cooperation" of the Joseon women, is just another sacrifice for the nation of the "comfort women," who were the victims of the patriarchy and state.	Expressing that the comfort women were collaborators with Japan

Crime Table 2

No.	Page	Contents
1	Page 19	Senda understands that 'comfort women', like 'soldiers', are 'patriotic' beings who have helped soldiers carry out war at the expense of their bodies. The book's interest and argument is why there is no comfort women when there is compensation for the sacrifice of soldiers for the country. In the end, Senda's point of view was to pinpoint the essence of comfort women more than any other book that came out later.
2	Page 32	'The descendants of Karayuki-san.' The essence of 'comfort women' lies here.
3	Page 33	To see the essence of the 'comfort women', it is necessary to first know that the pain of the 'Korean comfort women' is not basically different from the pain of the Japanese foundation.
4	Page 38	As a result, there may have been cases of requesting to a business operator, but the majority of the general 'comfort women' should be viewed as beings with duality such as 'Karayuki-san'.
5	Page 38	But at least on the land of Joseon and in the public domain, it was not the Japanese military that 'kidnapped' and 'forced-abducted' the comfort women. In other words, the creation of demand does not become evidence of forced abduction.
6	Page 61	That's why they memorized the "Hwangguk Sinminseosa," changed the clothes of the "Defense Women's Association," and participated with a band on top of a kimono on some days. It was a role that the state had imposed on it at will, but it is quite conceivable that such a role as a <u>spiritual "comfort" - pride in one's own existence (somewhat unreasonable) could have been a force to endure the harsh lives they faced.</u>
7	Page 62	"When I signed up, they were happy because I felt I could work for the soldiers, I could sacrifice myself for the country. So, women were able to do their best for the soldiers because they knew they had to be free and go back to the inner world, and they had to sell their bodies again. Of course, you wanted to make money. " (page 26) Of course, this is the case of Japanese comfort women. However, as long as the comfort women of Koreans were also <u>"comfort women of the Japanese Empire," the basic relationship should be the same.</u>
8	Page 65	<u>Mentally and physically comforting and encouraging soldiers who may die tomorrow on a distant battlefield after leaving their families and hometowns. The basic role gave rise to numerous exceptions, but the role of the "Korean comfort women" required as a member of the "Japanese Empire" was such so that love could sprout.</u>
9	Page 67	Even so, it was true that this kind of love and peace was possible there, and it was because <u>the relationship between the comfort women of Joseon and the Japanese military was basically a comrade. The problem is that the</u>

		traces of memories that would have been precious to them were that they themselves "took it all out. ". The phrase, "It might be a problem if I leave it," also shows that <u>it was them themselves who tried to cover it up.</u>
10	Page 99	The comfort women, who were in Yangon (Rangoon) in Burma and fled to Thailand at the end of the war to escape bombing, also came to Japan and returned home under the guidance of the Japanese military. <u>The reason why they went to war criminals, or war criminals, is because they were those who "carried out the war" by acting with the "Japanese military. "</u> Even if they were "victims" who were forced to do harsh sex labor, it was inevitable as long as they were "members of the empire. ".
11	Page 112	The comfort women of Korean women are still in the same structure that poor women who <u>do not have other cultural capital capable of other economic activities are engaged in prostitution.</u>
12	120 Pages	Those who deny the comfort women issue considered "comfort" as "prostitution" only, and we understood it as "rape" only, <u>but "comfort" basically included both elements.</u> In other words, "comfort" was a labor that few people actually made money in the harsh food chain structure, <u>but basically expected to earn income, and in that sense, it was "rape prostitution. "</u> Or, it was ' <u>prostitute rape.</u> '
13	130 Pages	Opium would have been a means to forget the pain of every day. But according to testimony, most of them were direct use by the owners or merchants. <u>In the case of use with soldiers, it should be viewed as rather for enjoyment.</u>
14	Page 137	In the case of the Japanese, Koreans, and Taiwanese "comfort women," although they were "slaves," they <u>basically had a "companionship" relationship with the soldiers.</u> In other words, it was their public role to "comfort" the soldiers as women of the same "imperial Japan." Their offering of sex basically had the <u>meaning of 'patriotism' for the Japanese empire.</u>
15	144 Pages	The word "Josenbi," which refers to the "comfort women" of Koreans, reveals an explicit disrespect for Koreans. <u>The soldiers were able to rape them so simply because they were "Korean women",</u> although they were "Korean women" above all.
16	158 Pages	In that sense, the view that <u>"a woman who was engaged in such a significant task went to the battlefield in her own wish" or that "a woman never had sexual slavery against her will" (Kimura Saijo) may be right as "fact".</u>
17	160 Pages	Instead, <u>their "smiles" should not be seen as the smile of a prostitute but as the smile of a "patriotic maiden" given a role to "comfort" the soldiers (for "reconciliation").</u>
18	160 Pages	As a colony and as a 'civilian' woman who must do her best <u>for men with a cause of fighting 'for the country', the pride granted to them - the significance of their existence, approval - could have been only patriotism that positively internalizes their role (Kimura Saijo).</u>
19	190	That's why another memory of 'comfort women' as an individual has been

	Pages	suppressed and blocked. <u>The reason why the comfort women's memories of "dating" Japanese soldiers and thinking of "comfort" as "patriotic" were concealed is that they had to exist as those who proved that Korea was a "victim nation" against Japan for a long time.</u> That's why comfort women were not allowed to remember as individuals. As if they had skipped life after liberation, they had to stay as "15-year-old girl victims" or "fighting fighter grandmothers" forever.
20	Page 191	However, the state indeed took sexual labor for the military for granted, but it is difficult to hold 'legal responsibility' for it unless it was legally prohibited at the time. In addition, it is difficult to say that the Japanese state has the legal responsibility for forced abduction <u>unless the state and the military instruct forced abduction and forced labor</u> (unless the official discipline of the Japanese military was in a position to control rape, free labor, and assault). In other words, the damage caused by violence or forced free labor to the comfort women is primarily due to the problems of the businessmen and soldiers.
21	Page 205	However, in fact, the Korean comfort women were mobilized for the "country" and were also those who took care of them and promoted morale in order <u>to win the war with the Japanese military.</u> The statue of a girl in front of the embassy hides them.
22	206 Pages	It was not only because of Japan but also because of ourselves that they could not return after liberation. In other words, the purity and patriarchal perception of rejecting 'stained' women has long been the cause of not returning them to their hometowns. But it's not just sexually tarnished memories that are there. <u>The memory of cooperating with Japan, which also prevented them from returning.</u> In other words, the memory of the 'stained' colony was not necessary for the 'liberated Korea'.
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