

Research Article

The Deafening Silence of the Korean “Comfort Women”: A Response Based on Lyotard and Irigaray

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Abstract

This article reflects upon the continuing historical denialism concerning the Korean “comfort women” forced into sexual slavery by the Japanese military during World War II. We argue that the refusal of the Japanese government and others to squarely confront this wrong is made possible through the exploitation of a *différend* in Jean-François Lyotard’s sense of the term. The *différend* arises from a complex set of social, cultural, and legal sources, including patriarchal, colonial, and nationalistic constructions of the wrong and its victims. We seek to tentatively expose the nature of the *différend* by identifying these factors. We then sketch the beginnings of a possible response, drawing on Luce Irigaray’s strategy of emphasizing sexual difference and separation to pave the way for reciprocity between the sexes. The testimonies of the “comfort women” must be allowed to speak for themselves before a response can emerge based in other discourses.

Keywords: “comfort women”, silencing, denialism, Jean-François Lyotard, Luce Irigaray

1. INTRODUCTION

The term “comfort women” is commonly used to describe the approximately 400,000 Asian women who were conscripted into sexual slavery by Japanese armed forces during the Asian and Pacific War (1931–45).¹ The women were forced to sexually service Japanese soldiers in military brothels in Asian and Pacific countries, including China, Indonesia, Thailand, and the Philippines.² Approximately 160,000 of these women are considered to have been of

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1. Previous estimates by Korean and Japanese researchers have placed the number of “comfort women” at around 200,000, but recent research suggests that this figure significantly underestimates the number of Chinese “comfort women.” See Qiu et al. (2013), p. 6.

2. McDougall (1998), p. 28.

Korean nationality.³ The women conscripted into sexual servitude were raped by Japanese soldiers from 10 to 30 times a day. They were confined in substandard housing and regularly beaten and tortured. Many women died of venereal disease or other injuries in military brothels, while others were abandoned or killed by retreating Japanese forces. Numerous other women committed suicide following the end of the armed conflict. The “comfort women” who returned to Korea following the war suffered both physically and socially. They suffered from illness and injuries and were often infertile due to repeated sexual abuse and venereal diseases. Their family lives were impaired, as were their employment prospects and cultural standing. The traumatic injuries perpetrated during the war produced long-term psychological damage.

The movement to bring the wrongs perpetrated against the “comfort women” to wider attention has gained considerable momentum since the 1990s, spurred on by the historical surge of feminist and democratic movements throughout Asia. In South Korea, 50 years of silence was seemingly broken in 1991 when Kim Hak-Sun became the first “comfort woman” to testify to the international public.⁴ The Research Association on the Women Drafted for Military Sexual Slavery by Japan has worked to compile and publish the life histories of 76 Korean “comfort women.” When evidence surfaced in 1992 as collated by both Japanese and Korean scholars, the Japanese government was pressured to accept some measure of moral responsibility—offering scattered informal apologies,⁵ conducting further research, and contributing to a method of compensating victims, the Asian Women’s Fund.⁶ At no stage up to this point, however, had the Japanese government accepted legal responsibility. There have even been suggestions from political leaders that Japan may retract its formal apology to the “comfort women” issued in 1993.⁷

The failure of the Japanese government to assume legal and moral responsibility for the treatment of the “comfort women” occurs against the backdrop of a broader silencing of their stories. As the Korean comfort women reach the ages of their 70s and 80s, we face a very real danger of losing their individual narratives.⁸ Within the parameters of the Korean “comfort women” issue itself, the interplay of cultural, colonial, social, and gendered forces preordains that some facets of the issue are privileged while others are marginalized or completely silenced. This makes the Korean “comfort women” phenomenon a powerful example of the complexities at work in silencing such profound injustice. The pattern of silencing develops as a gradient with many stages. The “unspeakable” nature of the acts inflicted upon the female victims adopts a new meaning when viewed in terms of factors interwoven into this historic fabric.

Silences speak and often they are deafening. They bear the mark of a grievance inflicted on one too aggrieved, possibly too exploited to speak out. In this context, exploitation signifies an imbalance in discursive power between the parties to the dispute. This imbalance permits this exploitation to be repeated. Repetitions that flow on from the initial silence render the

3. Min (2003), p. 941; see also Korean Research Institute for Jungshindae (2000), pp. 31–2. This article focuses specifically on issues concerning Korean “comfort women.” “Comfort women” from other regions have, however, also faced forms of silencing analogous in many ways to those discussed in this article. Important efforts have been made to record the testimonies of “comfort women” from China and South-East Asia. See e.g., Qiu et al., *supra* note 1; Henson (1999).

4. Yoshiaki (1995), p. 141.

5. Orreill (2008), p. 149.

6. Soh (2003), p. 232.

7. Joyce (2007).

8. Orreill, *supra* note 5, p. 148.

person affected by the dispute no longer a recognizable party to the proceedings but one who is divested of the very means to argue.⁹ In this sense, the silence constitutes both the product and the mark of the injustice: unlike enunciated demands, silences linger on as a damage that remains unaddressed and unattended. Wronging someone for a second time becomes entirely possible. This is the nature of the *différend*, the “violence of silencing” of which Jean-François Lyotard speaks. It describes a situation where “a damage [is suffered] accompanied by the loss of the means to prove the damage.”¹⁰

The “comfort women” issue has spawned a plethora of scholarship approaching the topic from a diversity of angles, placing emphasis on a range of discourses and upholding different criterion as the key variable in understanding the way the “comfort women” were treated.¹¹ Various important attempts have already been made to bring this issue to the fore. The tireless activism of Korean feminists like Yun Chung-Ok has provided a channel by which to raise awareness of the “comfort women’s” experiences.¹² The efforts of Asian historians, such as Yoshimi Yoshiaki,¹³ and feminist sociologists, such as Chung Chin-Sung,¹⁴ have likewise constructed a platform from which “comfort women” may testify against their perpetrators. Our aim in this article is to build on the existing body of literature by examining the different levels of the silence that these authors are seeking to overcome. Injustices such as the ones inflicted upon the “comfort women” are characterized by multiple deprivations of the ability to voice their wrong. A close examination of the nature of this silencing plays an important role in confronting it.

This article examines the case of the Korean “comfort women” with a view to more broadly architecting a philosophical linkage that may facilitate understanding of these women’s silences. We argue that, in order to bridge the elusive gulf that condemns these individuals to an abyss of prolonged silencing, it is useful to first deconstruct the historic context using Lyotard’s notion of the *différend*. We then argue that Luce Irigaray’s examination of sexual difference provides a fruitful model for imagining how the *différend* confronted by the “comfort women” can be exposed and overcome. Irigaray’s strategy of emphasizing sexual difference and separation to make possible a reciprocity between the sexes reveals the importance of allowing the women’s own voices to emerge before a legal or political response can be formulated. This suggests a strategy based on foregrounding these women’s neglected and silenced voices.

2. PHRASES IN DISPUTE

Lyotard’s notion of the *différend* focuses on the ways that the interplay of different genres of discourse may engender a situation where one party’s argument fails to be heard.¹⁵

9. Lyotard (1988), p. 9.

10. *Ibid.*, p. 3.

11. See e.g., Schellstede (2000); Howard (1995); Yoshiaki, *supra* note 4; Tanaka (2002); Kang (2003); Min, *supra* note 3; Orreill, *supra* note 5; Soh (2008); Varga (2009); Henry (2013).

12. See Vickery (2001).

13. Yoshiaki, *supra* note 4; Tanaka, *supra* note 11. Yoshimi Yoshiaki uncovered official documents in January 1992 indicating the Japanese military’s involvement in conscripting “comfort women”. These documents were later cited by the Constitutional Court of Korea (2011).

14. Chung (1997); Kim (1997); Field (1997); Jung (2014).

15. For further discussion, see Crowe (2004); Field & Crowe (2007).

Assuming there are two parties to a dispute, the argument of the party who has access to the dominant genre of discourse prevails while the other party's argument, because it does not emanate from the dominant discourse, fails to be legitimized, and thus falls from recognition. In other words, the *différend* results from the fact that "the rules of the genre of discourse by which one judges are not one of those of the judged genre."¹⁶

Lyotard's work concerning the *différend* attempts to signal wrongs which cannot be proven or remedied by conventional means, because they cannot be voiced in such a way as to enable adjudication. The injustice which Lyotard calls a *différend* does not arise where a person who has the means to plead her case is nevertheless visibly denied a remedy; such a person is wronged, but she is able to bear witness to the wrong, in a way that someone affected by a *différend* is not.¹⁷ Similarly, there is no *différend* where a person who has the means to prove her or his wrong nevertheless chooses to remain silent.¹⁸ The radical silence involved in the *différend* occurs in an area where speech is not only not present, but also not possible. "The *différend*," Lyotard observes, "is the unstable state and instance of language in which something which ought to be able to be phrased cannot yet be."¹⁹

The injustice of the *différend*, according to Lyotard, arises out of an inability of one party to communicate her grievances because the genre upon which her claim is founded is entirely different to the genre which governs the dispute.²⁰ She does not speak the language or logic of the discourse governing the dispute and is thus doubly wronged: first, in the initial violence inflicted upon her and, second, in the deprivation of the means to attest to the violence.²¹ The genuine violence done to her is reduced to a silence in the face of the testimony of the other; she is no longer a true party to the proceedings. Lyotard describes this situation as one that is both a deprivation and a negation.²² A negation deprives the victim of the ability to speak and thus covers over the wrong. Further, a deprivation insinuates that a victim's inability to speak is attributable to something else—she is bereft of the means of voicing her grievance and, insofar as this deprivation goes, no wrong exists at all.

The theoretical context for the idea of the *différend* is provided by Lyotard's philosophy of phrases. Lyotard regards the phrase as the basic, "immediately presupposed"²³ unit of discourse. For any phrase, there exist myriad possibilities as to what phrase will follow it; each phrase has the potential to give rise to an infinite variety of responses.²⁴ Therefore, the question arises as to what will follow a particular instance of any given phrase. Lyotard calls this the question of "linkage."²⁵ Given that so many different linkages between phrases are possible, what causes one linkage to occur in a given context, rather than another? For Lyotard, the answer to this question is best explored in terms of what he calls "genres of discourse."

16. Lyotard, *supra* note 9, p. 9.

17. *Ibid.*, p. 5.

18. *Ibid.*, p. 10.

19. *Ibid.*, p. 13. However, we have preferred the translation offered in Carroll (1989), p. 169.

20. Lyotard, *supra* note 9, p. 9.

21. Walker (2002), p. 69.

22. Lyotard, *supra* note 9, p. 10.

23. *Ibid.*, p. 164.

24. Williams (1998), p. 70.

25. Walker, *supra* note 21, p. 71.

A genre of discourse inspires the emergence of particular rules of linkage, which guide the ways that phrases are linked together within the context of that genre.²⁶

One genre of discourse may dictate rules of linkage which yield significantly different meanings from the rules provided for within another genre. In such cases, involving rival linkages, the genre within which a phrase falls to be interpreted can determine whether or not that phrase ultimately bears the significance intended by the phraser. This possibility gives rise to ethical issues, especially in relation to disputes between parties who are relying on different genres. For this reason, Lyotard views linkage as a political matter.²⁷ A *différend* arises where the party seeking judgment is unable to speak, because the genre which governs the dispute conflicts with the genre which founds her claim for justice. In such a case, the petitioning party finds that her wrong cannot be voiced; within the genre of judgment, it does not exist. As Lyotard puts it, "I would like to call a *différend* the case where the plaintiff is divested of the means to argue and becomes for that reason a victim."²⁸

The task of identifying and bearing witness to *différends* is, for Lyotard, the fundamental purpose of philosophical enquiry.²⁹ How, then, can *différends* be exposed and remedied? The question is fraught and difficult, because the very existence of a *différend* both eludes diagnosis and deprives the victim of conventional remedies. Efforts to develop new discourses would ordinarily start with making observations about the judgment which is responsible for the silence. One is required to identify the judge, question the authority that is presupposed in the delivery of such judgments, and ultimately interrogate the universality of the criteria applied in the judgment.³⁰ A judgment which declares itself to be all-accommodating is inherently at risk of hiding gaps through which certain individual narratives are lost. The first step in responding to *différends* is therefore to deconstruct the ruling genre of discourse. A critical inquiry into purportedly self-evident facts will lead to an untwining of the complex strands of the dominant discourse. This requires muting of the very things that were once guilty of silencing.

This interrogation of dominant genres at least makes it conceivable to engage in a search for the linkages or idioms that may overcome *différends*. "A lot of searching must be done," Lyotard says, "to find new rules for forming and linking phrases that are able to express the *différend*."³¹ This requires mustering the resources of literature, philosophy, and perhaps even politics for the creation of new idioms.³² Linkages are characteristically competitive: they inherently favour some genres and reject others. In this framework, according to Lyotard, the best way to defuse the *différend* is to revive excluded genres by finding new linkages. More broadly, the silence is both the problem and the answer to the *différend*. A search for the linkages will invariably involve beginning with and returning to silences. Effluxions of time only have the effect of perpetuating the injustice. Each time the silence is repeated, an additional wrong has been committed. Over time, the layers build up, prompting the louder discourses to rise to the surface while the weaker discourses first descend to

26. Lyotard, *supra* note 9, p. 128.

27. *Ibid.*, p. xi.

28. *Ibid.*, p. 9.

29. *Ibid.*, p. 13; Walker, *supra* note 21, p. 70.

30. Walker, *supra* note 21, p. 69.

31. Lyotard, *supra* note 9, p. 13.

32. *Ibid.*

undercurrent status and finally sink into silence. We must learn to love silence, to dwell around and alongside it, to draw out its hidden meanings. What has been silenced will nonetheless continue to scream out to be heard.

3. THE DEEPENING SILENCE

The levels of the Korean “comfort women” issue mentioned at the start of this paper embody an attempt to trace the parameters of this particular silence. This section examines the wrongs inflicted upon the Korean “comfort women” in order to tentatively expose the silences pertaining to each: the labelling of the “comfort women”; their selection in the colonial context and the gendered nature of mobilization for Japanese war efforts; their return and the silence procured under the Korean patriarchal culture; their individual testimonies buried under nationalism; and, lastly, the silencing of their lived experiences by the implicit legalism of the Japanese government’s response. We argue that Lyotard’s analysis of the *différend* offers insights into each of these issues. The “perfect crime,” Lyotard observes, “does not consist in killing the victim or the witnesses . . . , but rather in obtaining the silence of the witnesses, the deafness of the judges, and the inconsistency (insanity) of the testimony.”³³ The epitome of the perfect crime, in this sense, is the one where the victim is effaced not just once, but many times over by different means of silencing.

3.1 *Defining Realities*

The initial impetus to rupture the silence is the outright denial of the “comfort women’s” most basic human right—their right to exist. Time and time again, the Japanese government has denied the existence of the women they systematically raped and redefined.³⁴ Therefore, inherently characterizing these women’s struggles, like many other feminist struggles, is the struggle to reclaim their individual identities. In this light, it becomes important to scrutinize the label imposed upon these women and the implications flowing from the way they are defined. The term “comfort women” was imported from the Japanese *ianfu*.³⁵ *Ianfu*, in turn, is a synonym for *shofu* (“sex worker”). Some Japanese conservatives have been known to use the term *kosho*, meaning “licensed prostitutes.”³⁶ The Korean term *wianbu* may be preferable due to its indigenous origins, but it also connotes “comfort woman.” The same term has sometimes been used to describe sex workers servicing American troops stationed in Korea. In recent times, Koreans have used the term *chongshindae*, which means literally “corps volunteering their bodies.”³⁷ However, this euphemism removes the elements of gender, sexuality, and coercion from the label.

Many commentators have overlooked the significance of the “comfort women” label,³⁸ but it is necessary and desirable to take a more nuanced approach. If we consider labels to be mere “conventional signs” with the purpose of identification, then labels may not amount to

33. *Ibid.*, p. 8.

34. McDougall, *supra* note 2, p. 29; Joyce, *supra* note 7.

35. Kang, *supra* note 11, p. 44.

36. *Ibid.*

37. *Ibid.*, p. 45.

38. Compare Orreill, *supra* note 5; Yoshiaki, *supra* note 4, p. 33.

much in and of themselves. According to this argument, there is nothing in a name and the only thing that counts is what exists in reality.³⁹ However, to say that the signifier affects the signified no more than mere identification is overly simplistic. The better reasoning would be that the signifier is established in reciprocal determination with the object of signification. The reciprocal relationship between signifier and signified means that the complete meaning of a label is always deferred.⁴⁰ In this context, mere dictionary definitions will not sufficiently reveal the complete meaning of a label.

The term *ianfu* is the perpetrators’ construct. It silences the coercion, the complete lack of autonomy characterizing the wrong. Instead, by this label, the women are constructed as willing participants to the act. This label morally foregrounds consensual servitude as the defining role of a woman. “Comfort women” thus identifies the victims in terms of the larger patriarchal discourses to which they remain confined. Lyotard notes that the “silence is meaningful to the victim without a voice and without an idiom.”⁴¹ The right of the women to lead lives independent of men is utterly muted. Not only is the repugnant nature of sexual slavery comfortably hidden away from view, but this label leaves the victims at the mercy of their perpetrators for the definition of their realities. The women are even divested of the means to choose their own construction. It is therefore important to transparently acknowledge the “unrepresentative quality of the term” by, at least, “encasing [it] in quotes to register [our] disapproval.”⁴²

The level of sophistication associated with meaning makes it very difficult to change a label once it is given. Despite the obvious travesty in the usage of the term “comfort women,” it is arguable that all the continual process of “naming, un-naming and renaming” has begotten is a lack of clarity.⁴³ The term “comfort women” has been adopted for common usage, but the cumbersome nature of accuracy cannot detract from the importance of bearing in mind the euphemistic implications that it carries. The complexity associated with changing a name at will does not mean the change ought not to occur. However, it is not a change that can happen independently of deeper changes in the surrounding social discourse. Our own use of the “comfort women” label within quotation marks therefore aims to signify the problematic nature of the term as a necessary prolegomenon to more far-reaching reconsideration of the cultural backdrop to this issue.

Labels themselves have the potential to expose the dynamics between the perpetrator and the victim in a way that affects the manner in which we present the wrong. In this sense, a label is not merely a rigid designator⁴⁴: “if thought corrupts language, language can also corrupt thought.”⁴⁵ The inherent difficulty associated with causing a collective group to be redesignated allows them to be reconsidered “not only in terms of [their] past and [their] present, but hopefully in terms of [their] future.”⁴⁶ We must be aware that a bad usage of a label can seal the silence of a wrong. Without attempting to break this seal, we cannot

39. Compare Du Bois (1928).

40. Compare Derrida (1988), p. 9; Derrida (1978), p. 280. For further discussion, see Crowe (2013), pp. 422–6.

41. Lyotard, *supra* note 9, p. 10.

42. Kang, *supra* note 11, pp. 45–6.

43. *Ibid.*

44. Lyotard, *supra* note 9, pp. 37–40.

45. Orwell (1946), p. 48.

46. Keith Baird, quoted in Bennett, Jr (1967), p. 52.

confront the true nature of this wrong. On the other hand, a problematic label can serve as a marker of deeper and less obvious forms of silencing. The questions we might ask are: What does the designator gain by depriving those she labels of the right to construct themselves? What do the designates have to lose? The value of the silence to those who are complicit in its perpetuation is what ought to be considered as the starting point.

3.2 *The Gendered Double Bind*

The inherently gendered nature of the mobilizations of “comfort women” for Japanese war efforts adds another layer to the *différend*. The various examples of the *différend* presented by Lyotard have one common element: the *double bind*. The double bind is the situation where the conclusion from all alternative possibilities is the same—the silencing of the wrong. In response to Robert Faurisson’s demand for an eyewitness who has “really seen with his own eyes”⁴⁷ as unequivocal proof for the existence of the Nazi gas chambers, Lyotard demonstrates that whether the gas chambers existed or not, there would be no eyewitness to produce evidence. He goes on to call this situation the “double bind.”⁴⁸ If no gas chambers existed, then no eyewitnesses would exist. Alternatively, if gas chambers did exist, all eyewitnesses who were also victims would be deceased. In either case, the proof that Faurisson demands would not be presentable. In this way, the double bind manifests itself to render the victim’s evidence non-admissible.

Similarly, the “comfort women” issue is a case of a wrong which cannot be presented as a wrong within certain discourses. As recently as February this year, Japanese officials have threatened to review the “Kono declaration” which goes part way in acknowledging the government’s involvement in large-scale state-sanctioned military sexual slavery.⁴⁹ “Comfort stations” for the Japanese army were established on occupied territories to enhance the morale of the soldiers and provide “amenities for sexual recreation” as well as to prevent random rapes being inflicted on women indigenous to that area.⁵⁰ It is particularly ironic that the official reason for systemic rape was borne out of a concern for the international reputation of the Japanese Imperial Army after the Rape of Nanjing in 1937.⁵¹ In this historical context, the “comfort women” may claim that they were treated wrongfully and their perpetrators ought to be held accountable.

There is, however, a *différend* at work here. The Basic Treaty of 1965 aiming to settle questions of war reparations between Japan and Korea failed to mention the issue of “comfort women.” Indeed, the Korean government agreed not to seek financial reparations from the Japanese government.⁵² The issue of the “comfort women” remains perceptibly absent from the legal dialogue between the two states. More broadly, rape in wartime has been historically neglected in international humanitarian law. The only tribunal that recognized rape as a war crime after World War II was in Jakarta in 1948, convicting several soldiers for their involvement in the forced capture and prostitution of women. The charges pertained to the rape of 35 Dutch

47. Lyotard, *supra* note 9, p. 3.

48. *Ibid.*, p. 5.

49. Morris-Suzuki (2014).

50. Varga, *supra* note 11, p. 290.

51. *Ibid.*

52. *Ibid.*

women—that is, White, educated Westerners. The “very same trial ignored the ‘comfort women’ of Indonesian nationality, let alone ‘comfort women’ from other countries.”⁵³ Furthermore, the Tokyo War Crimes Tribunal of 1946 fails to even mention the military use of “comfort women,” even though the American intelligence had gathered sufficient data to convict responsible persons by that point.⁵⁴ The Tokyo Tribunal has been evoked subsequently to deny the wrong inflicted upon the “comfort women,” producing a form of “legal amnesia.”⁵⁵

The “comfort women” therefore find themselves caught in a double bind. If the “comfort stations” did not exist, as some denialists maintain, there would be no eyewitnesses to testify. However, if the “comfort stations” did exist, the eyewitnesses would be institutionally silenced by the lack of formal recognition accorded to their wrong. We may add to this the fact that many “comfort women” did not survive the armed conflict and increasing numbers of survivors are dying with their testimonies unheard. The Japanese government’s demand for documentary evidence as a condition to their acceptance of responsibility,⁵⁶ the Korean government’s historic passivity, and international humanitarian law’s failures to address gendered war crimes all illustrate what Lyotard aptly describes as the double bind. The Japanese culture of denialism pervading historical and educative sources has further had the effect of fixing the alleged “truth” of the comfort women’s unreliable testimony in “time and space.”⁵⁷

3.3 *Culture and the Double Violence*

The patriarchal norms of both Japanese and Korean culture have further reinforced the violence against the Korean “comfort women.” The first blow of silence was dealt by the Japanese patriarchy. Many of the narratives were lost when these women (mostly girls) were abducted and never returned home. The second and more prolonged silence was procured once the surviving “comfort women” returned to Korea. The traditional Confucian culture characterizing Korean society is patriarchal in nature. It maintains double standards for sexual behaviour for men and for women. Men were encouraged to enjoy their sexual freedom (take concubines or commit infidelity) as a mark of status and wealth in society. On the other hand, women’s sexuality was rigidly controlled by strict standards of the “chastity ideology.”⁵⁸ Women who lost their virginity, irrespective of their personal circumstances, were considered sullied and a disgrace to their families. For instance, where a woman was confronted with the threat of rape, she was expected to commit suicide rather than be humiliated.⁵⁹ In this cultural backdrop, many women committed suicide after being raped or as a pre-emptive measure to avoid rape during the Japanese invasions of Korea in the sixteenth century.⁶⁰

The deep-seated significance of female chastity in Korean culture and the glorification of women’s efforts to safeguard it inform the double violence that occurred after World War II. Out of fear or bringing shame to their families, many “comfort women” attempted suicide or

53. *Ibid.*

54. Henry, *supra* note 11, p. 365.

55. *Ibid.*

56. For discussion of the Japanese government’s approach to this issue in the context of negotiations with Korea, see Constitutional Court of Korea, *supra* note 13.

57. Kang, *supra* note 11, p. 66.

58. Jung, *supra* note 14, p. 46.

59. Maynes (2011), p. 7.

60. Jung, *supra* note 14, p. 46.

suffered in silence after the war.⁶¹ Those who remained silent hid their stories from their families for over half a century. The mental and physical trauma of the initial wrong was further compounded by shame and social isolation. The shame exacted upon them by the two cultures reconstructed them as responsible for their impurity. Many survivors were unable to marry or later divorced.⁶²

The “comfort women” situation thus typifies what Lyotard refers to as the “self-perpetuating” nature of the *différend*.⁶³ Where the initial wrong arises from a lack of common discourse, additional wrongs may follow from other forms of silent negation. According to Lyotard, a phrase constituted by silence may be covering four states of affairs: the wrong does not have a reality; the wrong is not presentable in the rules of discourse; the addressor does not have confidence in her own competence; or the addressor does not have confidence in the competence of the addressee. Only after these four silences are surmounted can the wrong be expressed.⁶⁴ Nonetheless, even where no common discourse exists between the parties, we must try to present the unrepresentable. Where a *différend* is signalled by the difficulty of linking one phrase to another, the silence assumes value. In the context of missing linkages, silence becomes its own kind of phrase.

3.4 *The Hierarchy of Disempowerment*

The ontology of events underpinning Lyotard’s *différend* is developed in terms of phrases being events which are connected together by virtue of linkages. The potential indeterminacy characterizing the linking of these phrases explains the limits inherent in the presentation of certain wrongs. This indeterminacy is what invites the disempowerment that consequentially engenders the *différend*. The layers of disempowerment associated with the “comfort women” issue simply act to facilitate the exploitation more fully. Disempowerment can occur in various ways, including literal silencing where victims are threatened into silence or disabled from speaking. Alternatively, the victim may still possess the ability to speak, but the discourse they can speak may nonetheless not enable them to present the wrong within the dominant discourse governing the rules of judgment.

Not only were the “comfort women” subordinated to two patriarchal cultures, but they were also poor. In this sense, these women did not possess the ability to speak and this inability was subsequently exploited. The disempowerment that ensued pushed these women deeper into silence. The false economic inducements offered by the Japanese governments in their “virgin recruitment” (*chongshindae*) mobilization scheme appealed to women from the lower socioeconomic class. The majority of Korean “comfort women” were therefore drawn from the landless tenant or semi-tenant classes. Young daughters of impoverished families were deliberately selected to “minimise public criticism” and reduce the risk of backlash.⁶⁵ It is estimated that 59% of “comfort women” were mobilized to *chongshindae*, while the remainder were abducted or obtained by other coercive means.⁶⁶ Coercion may also have

61. Sang-Hi (2000), pp. 31, 35.

62. Soon-Duk (2000), p. 40.

63. Min, *supra* note 3, p. 941.

64. *Ibid.*, p. 951.

65. *Ibid.*

66. Howard, *supra* note 11, p. 18.

been more effective against Korean and Taiwanese women than against other Asian women given their status as Japan’s imperial subjects.⁶⁷

Whether the Japanese authorities foresaw it or not, the disempowerment of the women was not limited to the time of mobilization. Even after the war, many “comfort women” found themselves uneducated and a financial burden upon their families, making it even more difficult to present their grievances. The intersectionality between the discourses of gender, age, social class, and colonialism shows the many possible ways of linking phrases and the multiple *différends* that may arise from this indeterminacy. A closer inspection of the discourses serves to explain the pedigree of the *différend* under examination. This brings us closer to finding the missing linkages required to break the silence.

3.5 Colonialism and Control

The role of colonialism in the sexual exploitation of the “comfort women” is also significant. Colonialism is sustained by unequal power between two states. It is a system of control facilitated by the unequal positions of two parties. At this point, it is relevant to consider Lyotard’s distinction between a victim and a plaintiff. The “plaintiff” is the wronged party in litigation, while the “victim” is the wronged party in a *différend*.⁶⁸ There is a difference between a plaintiff who has been wronged, yet retains the ability to present that wrong, and a victim who has suffered a wrong that cannot be presented.

Korea was a Japanese colony from 1910 until 1945. Centuries of hostilities between the two nations preceded this colonial period. The age-old enmity between the two nations culminated in the annexation of Korea by Japan in 1910. The undercurrent of racism in the forcible drafting of Korean “comfort women” is significant for several reasons. The attitudes of the Japanese government towards Korean subjects enabled them to view the Korean “comfort women” as instruments to be expended for wartime purposes. As such, Korean women could be used for the sake of efficacy to advance Japan’s war efforts by servicing the sexual needs of its soldiers. Further, the Japanese soldiers who lined up to use the “comfort stations” could commit extreme forms of abuse and humiliation against Korean comfort women without fear of repercussions from their superiors.

We saw above that coercive recruitment methods may have been more effective against Korean and Taiwanese women than other Asian women due to their status as imperial subjects. However, the preference for Korean women as “comfort women” was also closely associated with the Korean culture’s patriarchal norm of chastity which ensured that the victims were seen as more likely to be free of venereal disease. The Japanese colonial rule reinforced these patriarchal elements of Korean Confucianism by imposing its own cultural norms. For example, the Japanese family head (*hoju*) system—a system of family registration whereby only the male firstborns were allowed to inherit their fathers’ property—was implemented in Korea during the colonial period.⁶⁹

The conditions pertaining to Japanese sex workers who were mobilized to serve the Japanese army and the Korean “comfort women” were often vastly different. Japanese “comfort women” were allocated to serve officers and were often paid.⁷⁰ In contrast, Korean comfort women

67. Tanaka, *supra* note 11, p. 37.

68. Lyotard, *supra* note 9, p. 140.

69. For discussion, see Crowe & Lee (2013).

70. Min, *supra* note 3, p. 944.

served large numbers of enlisted men of lower ranks in poor and brutal conditions. The Japanese “comfort women” are, of course, also silenced in multiple ways. For instance, although historians suspect there were tens of thousands of Japanese “comfort women,” Suzuka Shiota (under a pseudonym) is the only woman to break the silence to date.⁷¹ However, the positions of the Japanese and Korean “comfort women” are distinguishable in terms of Lyotard’s *différend*. The dynamics of colonialism place a further barrier in the way of the Korean “comfort women” in addition to the role that gender, poverty, and other factors may play in silencing their Japanese counterparts. They do not have enough control over the discourse of intergovernmental negotiations to be able to communicate directly with those who are potentially empowered to give them justice. Their appeals to the institutions of the Korean government are always one step removed from those of the Japanese government that wronged them.⁷²

3.6 Nationalism: One Discourse Too Loud

Nationalist sentiment underpins the Japanese state’s reluctance to offer an unequivocal apology to the “comfort women.” This denialism has been criticized by Japanese feminists.⁷³ In a more subtle sense, Korean nationalist discourse also obscures the Korean “comfort women’s” narratives. From the very outset, the public discourses in Korea relating to the “comfort women” issue have been revolving around two major orientations: one feminist and the other nationalist. The fact that the two have been intertwined from the beginning is expected in light of Japan’s historical oppression of Korea. Feminist scholars, such as Yun Chung-Ok and Chung Chin-Sung,⁷⁴ have played a crucial role in bringing the “comfort women’s” stories to light. These discussions have created a constructive and fruitful discourse. However, over time, the “comfort women” issue has been constructed as one that is shamelessly nationalist. Why did the nationalist undertone of the public discourse eclipse the “comfort women’s” individual narratives?

The nationalist eclipse can be better understood by first identifying the motivations behind the movement. The cultural reasons for the “comfort women’s” decision to disclose their experiences serves to explain why they chose to speak out so late in life. Most of the women’s families had died by 1991 and there was no fear of bringing shame upon them. The mindset of these women was possibly that they were already in their 70s and 80s and even in the worst case scenario they would not have to suffer social condemnation for long. These women were confined to a cultural genre that explains how quickly and effortlessly their individual narratives morphed into a national quest to reclaim a nation’s dignity. The nationalist discourse surrounding the “comfort women” in Korea has, of course, been encouraged by the opposing Japanese ultra-nationalist discourse that encourages a culture of denialism while framing the issue in terms of national pride.⁷⁵

Lyotard notes that a genre always precedes the motivation for linking. A genre of discourse frames an intention for speaking. There is always a purpose in linking. Different discourses

71. Associated Press (2006).

72. See Constitutional Court of Korea, *supra* note 13.

73. See e.g., Ueno (1999).

74. Vickery (2001); Chung (1997).

75. For a detailed discussion and critique of Japanese ultra-nationalist discourse concerning the “comfort women” issue, see Ueno, *supra* note 73.

have different purposes; however, the genre of discourse selected in each case is what ultimately determines what linkages are employed to connect phrases. In this sense, the end may determine the means “by eliminating those [linkages] that are not opportune.”⁷⁶ In this context, Lyotard notes the lack of one “grand narrative” which has the capacity to determine objective truth or provide ultimate meaning. In his words, “[t]here is no genre whose hegemony over the others would be just.”⁷⁷ As soon as any one genre assumes control over the appropriate linkages, the other discourses are unable to express their unique positions. Thus, the dominance of one genre smothers the dialogue.

The hegemony of the nationalist discourse deprives other genres of linkages which capture the uniqueness of the “comfort women’s” stories. Instead, we witness dominant masculine forces coursing through the national discourse, throbbing with humiliation from emasculation at the hands of a colonial oppressor. Identifying with “ethically fallen women” is difficult and uncomfortable, but identifying with the sufferings of an entire nation is almost gratifying. For the same reason that self-pity is more appealing than empathy, the nationalist discourse reduces the personal tragedies of these women to the level of symbolism. As individuals, the “comfort women” are shameful reminders of a sordid past, but within a nationalist discourse they highlight the moral inferiority of another nation.

Evidence of this can be seen in the way the national discourse conflates the “comfort women” issue with the issue of military prostitution around US military bases in South Korea. Both groups of women have been called *wianbu*.⁷⁸ Despite clear factual discrepancies, the motive for the conflation of these two discourses is their common nationalist agenda, since both are anti-imperialist in sentiment. The nationalist discourse, however, has smothered the voices of the “comfort women.” It does not afford them the opportunity to express the wrong done to them and stifles every attempt to do so. The women are reduced to paper cut-out heroes marching to a nationalist drumbeat.

3.7 *The Legacy of Legalism*

We have seen that Lyotard contrasts the problem of a clash of genres with what he calls “litigation.”⁷⁹ Litigation is a form of discourse that imposes a single authoritative genre on communications. In litigation, antagonistic interests meet head on: they are all expressed within the one genre. Lyotard’s notion of litigation is not explicitly legal, but it seems to be modelled loosely on the courtroom context. In the courtroom, there is supposedly a guarantee that the key participants—that is, legal professionals—know how to play the language game. This is because they have learned and internalized the legal genre of discourse at law school and in their subsequent professional experience.⁸⁰

The fact that courtroom litigation is dominated by legal professionals means that the applicable genre can become highly specialized, without compromising effective communication. It is for this reason, however, that unrepresented litigants pose such a challenge. They are required to negotiate a highly complex language game, premised on a

76. Lyotard, *supra* note 9, p. 84.

77. *Ibid.*, p. 158.

78. Soh, *supra* note 11, p. 212.

79. Lyotard, *supra* note 9, p. 140.

80. For further discussion, see Crowe, *supra* note 40.

background store of knowledge that they simply do not possess. Consequently, the potential for a clash of genres is high. There is significant potential for the parties' interests, because they are expressed within different modes of discourse, to elide one another.

The dangers posed to unrepresented litigants also extend to situations where the legal genre of discourse is imposed upon the parties to disputes occurring outside the courtroom. Legal disputes are often governed by high burdens of proof—such as the beyond-reasonable-doubt standard of criminal trials—and highly restrictive rules of evidence. It is tempting for those who wish to deny the existence of a wrong to try to export these legal standards to other realms of discourse. This kind of legalism then becomes a way of preventing the victims of wrongs from airing their grievances in wider social discourses.

The Korean “comfort women” have failed to have their suffering recognized by international humanitarian law or through the formal war reparations between Japan and Korea.⁸¹ The failure of these legalistic discourses to recognize the wrong does not mean that it did not exist. However, it provides a tool for the suffering of the “comfort women” to be further suppressed by those who would impose a legalistic framework upon social discourse more generally. The culture of denialism perpetuated by some Japanese politicians, with its demand for documentary evidence and legally cognizable proof, therefore erases the “comfort women’s” voices by subjecting them to an arbitrary standard against which to establish their claims. The “comfort women” are thereby forced to speak in “the shadow of the law.”⁸² This shadow, however, functions as yet another form of silencing.

4. ETHICS AND DIFFERENCE

We have argued that the Korean “comfort women” find themselves subject to a *différend* in Lyotard’s sense of the term. Language, gender, culture, poverty, colonialism, and nationalism all play a role in depriving the “comfort women” of the capacity to voice their wrong. What strategies, then, can be used to overcome such an intractable and multifaceted form of silencing? We have seen that Lyotard focuses here on the need to create new idioms that can build linkages outside the dominant genre of discourse. However, the intersectional character of wrongs like the silencing of the “comfort women” suggests the need for a more radical strategy. We wish to suggest that such a strategy could potentially be founded on the ethics of sexual difference set out in the work of Irigaray.

Irigaray regards sexual difference as the most basic and profound form of difference underlying philosophy and politics. “Sexual difference,” she contends, “is one of the major philosophical issues, if not the issue, of our age. ... Sexual difference is probably the issue in our time which could be our ‘salvation’ if we thought it through.”⁸³ Irigaray argues that the sexes are deeply divided by the way they are constructed and understood. Woman is traditionally defined by reference to man, with tragic results for both.

81. Japan’s reparations policy in relation to the “comfort women” has focused heavily on corporate compensation through negotiations with the Korean government. See Constitutional Court of Korea, *supra* note 13. This contrasts with other countries’ reparation approaches following World War II, such as Germany’s efforts to award compensation to individual victims. See Park (1997), pp. 112–13.

82. Compare Mnookin & Kornhauser (1979).

83. Irigaray (1993), p. 5.

Irigaray describes this traditional maternal-feminine role as an *envelope* or *container*. Women provide the nurturing space within which men enact their lives. Woman, on this traditional conception, is understood as the place within which man enacts his identity and his work. However, this role denies women the capacity to find their own voice. "The maternal-feminine," then, "remains the place separated from 'its' own place, deprived of 'its' place. She is or ceaselessly becomes the place of the other who cannot separate himself from it."⁸⁴ This mode of defining the feminine makes the sexes mutually dependent. However, the dependence is not a healthy one. Man understands himself only in relation to the receptive, fecund space provided by the feminine. The feminine, meanwhile, threatens to usurp the male position by virtue of its very lack of definition: "she is then threatening because of what she lacks: a 'proper' place. She would have to re-envelop herself with herself."⁸⁵

This unhealthy form of dependency between the sexes is, for Irigaray, the fundamental social challenge that must be overcome. The key to a new sexual ethics rests on a rediscovery of wonder in the face of difference:

[M]an and woman, woman and man are always meeting as though for the first time ... I will never be in a man's place, never will a man be in mine. ... This feeling of surprise, astonishment, and wonder in the face of the unknowable ought to be returned to its locus: that of sexual difference. ... This has never existed between the sexes since wonder maintains their autonomy within their statutory difference, keeping a space of freedom and attraction between them, a possibility of separation and alliance.⁸⁶

The possibility of a truly reciprocal relation between the sexes, on this view, depends on embracing the radical difference between them. It is necessary to first separate the sexes, to disentangle them from each other, in order to create the sense of wonder in the face of the other that could found a more sustainable relation.

Irigaray envisages that women may find their own way of speaking from a position of difference. She casts this process as one of uncovering "that repressed entity, the female imaginary."⁸⁷ The task of uncovering the female imaginary is difficult, since the female has been treated as an empty space for the enactment of male plans and desires: "the rejection, the exclusion of a female imaginary certainly puts woman in the position of experiencing herself only fragmentarily, ... as waste, or excess, what is left of a mirror invested by the (masculine) 'subject' to reflect himself."⁸⁸ The female imaginary, then, may require a radically different mode of discourse. This may be a pluralistic discourse where difference is recognized and valued, rather than being subsumed within a colonizing genre.⁸⁹

Irigaray's recent work has focused on exploring the political implications of her ideas on sexual difference. This raises the question of what role politics and law can play in creating the type of discourse necessary to recognize sexual difference. Irigaray's notion of gendered citizenship suggests that law can recognize sexual difference by assigning distinct rights and obligations to women and men. Given that "the subject is at least two, man and woman ... [r]enouncing the desire to possess the other, in order to recognise him as other, is perhaps the

84. *Ibid.*, p. 10.

85. *Ibid.*, p. 11.

86. *Ibid.*, p. 13.

87. Irigaray (1985).

88. *Ibid.*, p. 30.

89. *Ibid.*

most useful and the most beautiful of tasks which falls to us.”⁹⁰ It follows from this starting point that

[i]f we are to keep faith with the sexual liberations which have taken place and the changes in political horizon they have brought about ... we must grant women and men rights corresponding to the reality of their respective needs.⁹¹

The political project indicated by sexual difference is, again, one predicated on recognizing the separation between the sexes:

Recognising that the other—man or woman—is different from me ... leads to the recognition of other forms of diversity. ... Thus, not: “I’m different from you”, but: “we differ amongst ourselves”, which implies a continual give-and-take in the establishing of boundaries ... without the one having greater authority over the other.⁹²

Irigaray’s strategy, then, is one of separation, followed by a meaningful recognition and embrace of difference. This strategy is necessary given the unhealthy symbiosis in which the sexes find themselves. They must disentangle this initial relation in order to establish a new and more fruitful interaction. Irigaray’s strategy also seeks to avoid the possibility of one pole of sexual difference being once again subsumed within or subordinated to the other by founding gender relations on the very idea of otherness.

The “comfort women,” as we have seen, find themselves in a position where their wrong is effaced by multiple forms of silencing. The prospect of justice depends on disentangling their claims from this disempowering context. A strategy of separation and recognition of difference might prove fruitful here for exactly the reasons identified by Irigaray. The “comfort women” have been silenced both by being unable to speak and by having their voices drowned out by others who claim to speak on their behalf. This suggests that a first step to creating new linkages may rest in foregrounding these women’s own neglected voices. The testimonies of the “comfort women” must be allowed to speak for themselves before a response can emerge based in other discourses. A period of respectful hearing of these testimonies could then be followed in due time by political and legal responses. However, the separation and embrace of difference involved in hearing another’s narrative are a necessary precondition to meaningful responses by those who occupy a different and potentially dominating standpoint.

We mentioned earlier the efforts of researchers to compile the life histories of Korean “comfort women.” These powerful testimonies, too long unheard, risk being drowned out by nationalistic, governmental, and legal discourses. However, the collection of these testimonies is itself a triumph over multiple forms of silencing. The more widely these stories are heard in their own terms, the more prospect there is of creating linkages between the testimonies and other forms of discourse that may, in time, pave the way for formal legal recognition. Irigaray’s strategy of separation and alliance may, then, prove fruitful in remedying this kind of entrenched *différend*. Lyotard’s focus on linkages may be too ambitious as a first step in such a context. It is necessary first to create the separation and boundaries that will allow such linkages to be formed.

90. Irigaray (2000), pp. 6–7.

91. Irigaray (1996), p. 131.

92. Irigaray, *supra* note 83, pp. 12, 14.

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