

# Transitional Justice between Consolidated Democracies

A Focus on Japan–South Korea Relations

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Statue of the Peace Girl built on August 11, 2015 in South Korea Jeonju Poongnammun Square.

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## ABSTRACT

This theoretical study examines the Korean ‘comfort women’ dispute and its impact on diplomatic relations between Japan and the Republic of Korea to explore how the pool of transitional justice can be exploited for diplomatic reconciliation. Korean ‘comfort women’ refers to the more than two hundred thousand Korean girls and women forcibly recruited as sexual slaves for the Japanese Imperial Army during the Second World War. The main research question guiding this paper is how can measures of transitional justice (TJ) contribute to a long-term reconciliation of diplomatic bilateral relations between Japan and the Republic of Korea. This case study demonstrates how TJ can transcend its traditional definitions and be adapted in diverse contexts for various scopes. It seeks to challenge and reinterpret the current literature on TJ by extending its normative purposes beyond conflict prevention and democratisation. Through the Japan-Republic of Korea example, the research uses TJ revelatory measures of truth-telling and collective memory to normalise unsettled interstate diplomatic relations between two consolidated democracies. Using a sociological and historical perspective, this work is an attempt to explore a novel application of TJ, contributing to the scholarly debate by demonstrating the enormous potential of TJ to be remodelled to non-transitioning and non-conflicting contexts that have yet to address historical legacies of past atrocities.

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## MAIRA CARDILLO

**Maira Cardillo** is an Italian graduate currently based in Geneva, Switzerland, with experience in international affairs and human rights advocacy. She recently completed her Master’s Degree in International and Development Studies, with a specialisation in Human Rights and Humanitarianism at the Geneva Graduate Institute (IHEID). The following research project was partly conducted during an exchange semester at Waseda University in Tokyo, Japan. Her broader research interests include humanitarian assistance, justice and reconciliation, conflict management, peace making and diplomacy, community-driven development efforts and sustainable digital solutions.

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- 3 I have often considered having my heart split between different cities as a curse. Always having to choose between my ambition, roots, dreams, bonds, love, career. The constant feeling of not belonging entirely anywhere. The guilt of missing key moments with loved ones. Forced to say goodbye more often than one wishes and never getting used to it.
- 4 It is only thanks to Geneva and Tokyo that I realised that a torn heart is the greatest luck of all. It means having the opportunity to feel at home in so many places. Feeling in the right place wherever one is. Leaving pieces of yourself scattered all over while bringing with you the best that each place has to offer. Having the chance to love more. Appreciate all the fleeting moments because well aware that they will never return. Feel one's heart get bigger with every new acquaintance, every new place visited, every new experience made, every new culture embraced. It means realising that the new does not replace the old. Love is not finite. The world is waiting for you; and home is also waiting for you, whichever this is.
- 5 I feel an endless sense of gratitude towards all the friends I have shared these past two years with. Friends who ended up becoming my roommates, neighbours, travel companions, adventure buddies, and greatest source of fun and stress relief. Most important of all, my family. The grey skies of Geneva would have been unbearable without having each one of you by my side every day.
- 6 Thank you also to all my lifelong friends, with whom I continue to share successes, failures, difficulties, sufferings, joys.
- 7 To my dad, my mom, and my brothers, whose unconditional love and support has never made me feel too far away from home.

8 To justice, peace, and reconciliation.

# 1. Introduction

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## 1.1 Defining the problem

- 1 There are about fifty identical-looking statues scattered across the Republic of Korea (ROK).<sup>1</sup> Another ten can be found across the United States and several replicas have also been installed in countries such as Australia, Canada, China, and Germany. To globalise awareness and support, civil society organisations around the world are currently drawing up plans to erect copies of the statue in their own cities.<sup>2</sup> These consist of life-size bronze statues of a young barefoot woman with short black hair, dressed in a hanbok—the traditional Korean dress—who is either sitting on a chair or standing up. Commemorative plaques in the Korean language refer to them as ‘*pyeonghwaui sonyeosang*’, which translates as ‘The Statue of a Girl for Peace’.<sup>3</sup> International description plates in the English language commonly share the euphemistic term ‘comfort women’. On somewhat similar lines, they briefly cite: ‘The monument bears witness to the suffering of hundreds of thousands of women and girls, who were sexually enslaved by the Japanese Imperial Armed Forces in thirteen Asia-Pacific countries from 1931 to 1945’.<sup>4</sup> Evidence supports estimates that, throughout World War II, more than two hundred thousand young Korean girls were forcibly recruited in ‘comfort stations’ as sexual slaves for the Japanese Imperial Army.<sup>5</sup> These women and girls were abducted, coerced, deceived or forcibly taken away from their families to be confined in ‘comfort stations’, facilities where they were subjected to sexual violence, rape, and sexual enslavement. They were given Japanese names, completely denying them their identity, and were imprisoned to prevent them from escaping. As the war ended, these women were either abandoned or killed. Those who survived had to endure extreme psychological trauma, physical pain, and societal stigma which isolated or exiled them from their homes. After South Korea regained independence with the downfall of the Japanese Empire in 1945 and the 1953 Korean war ceasefire dividing the island into North and South, comfort women came to symbolise the suffering that the Korean nation had endured during Japanese colonisation.
- 2 The Japanese government has not stood still. It has repeatedly condemned the instalment of the memorials and has demanded all governments for the statue to be removed.<sup>6</sup> Their presence was criticised as undermining Japan’s international



reputation and impairing efforts to resume and consolidate bilateral diplomatic relations with South Korea.<sup>7</sup> Since the restoration of normal relations with the 1965 ‘Treaty on Basic Relations Between Japan and The Republic of Korea’, Japan and South Korea’s alliance has been extremely unstable, alternating periods of friction with more peaceful discussions. Unresolved disagreements around the comfort women issue continue to affect weak Japan-Korea present-day relations.<sup>8</sup>

- 3 The failure of reconciliation stems from the Japanese government’s defiant and dismissive behaviour concerning the violations committed during its imperial era. This has spurred Korean sentiments to only grow stronger in collectively blaming and adamantly demonising the Japanese population for its past colonial rule.<sup>9</sup> The latest diplomatic battles over the instalment of the comfort women memorial sites demonstrate the need for policy measures addressing Japanese and South Korean perceptions of historical accountability, collective truth, memory, and national identity.<sup>10</sup> Persistent controversies also revolve around the lack of apologies and reparations by Japan, mutual historical revisionism and politicisation, disagreements over the interpretation of the past, and the continued disrespect shown by the Japanese administrations towards the suffering endured by the victims. As comfort women survivors are growing older by the day, it is urgent to identify appropriate forms of reparation, truth-telling, and memorialisation to achieve reconciliation in Japan-ROK diplomatic relations. Shared judicial and nonjudicial exercises could help reestablish bilateral diplomatic ties by addressing contemporary core injustices, achieving historical reconciliation, guaranteeing forms of non-recurrence, and educating the younger generations about their historical past.<sup>11</sup>

‘At this point, we don’t really care about the money; we don’t really care about politics. We just want a proper apology from them directly to us. We want them to think about us, the actual women that were involved’ – Ahn Jeom-sun, comfort women survivor.<sup>12</sup>

Figure 1. Statue of the Peace Girl built on August 11, 2015 in South Korea Jeonju Poongnammun Square.



Source: Shutterstock.



## 1.2 Research questions, objectives, and contributions

- 4 This research stems from a desire to understand the historical animosities shaping the contemporary diplomatic relations between Japan and South Korea. Documenting myself on why relations initially broke down and have since struggled to recover pushed me to analyse potential avenues for diplomatic reconciliation and normalisation of their bilateral relations. Given my interest in what it means to do justice and what is necessary for an enduring peaceful and stable society after a period of systemic human rights abuses and violations, I have found a practical avenue of research in the multidisciplinary field of transitional justice (TJ).
- 5 As the name itself suggests, the field of TJ is usually implemented within contexts requiring a transition from or utter transformation of a political regime to another. As Chapter 2 will analyse, these typically refer to post-conflict, authoritarian and conflict-affected societies which have yet to undergo democratisation. The present critical study intends however to argue that it is not necessary for transitional justice to be implemented exclusively in contexts of regime change. Unlike the majority of the literature on TJ, this research seeks to demonstrate that an application of TJ in well-consolidated democracies is possible and favourable. It aims to reinterpret the current literature review on TJ into a new field of study which goes beyond the typical scope of TJ. Rather than dealing with democratisation or reconciliation between groups within the same country as typical TJ goals, this paper aims to use the pool of TJ to achieve a form of reconciliation that is applicable to a diplomatic relation between two different countries.
- 6 To fulfil its research objectives, this paper will build upon existing academic literature criticising the normative transitional justice purposes of conflict prevention and democratisation. Attention will be given to arguments put forward by scholars such as Barolsky and Crocker, arguing how even consolidated democratic orders have exploited transitional justice forms of reconciliation and redress to address their past evils, recover their reputation and develop into more inclusive societies.<sup>13</sup> Keeping this in mind, a deep examination of the comfort women dispute impairing Japan-South Korea bilateral relations represents an ideal starting point for analysing how transitional justice can be used as an instrument to further diplomacy rather than to prevent the re-emergence of conflict. The example of Japan and South Korea will be used to explore how to deal with past large-scale abuses in the contemporary context of a 'Cold War type' conflict, not characterised by direct violence. Analysis of the thwarted Japan-ROK diplomatic relationship will help understand how to use TJ not only to prevent the reoccurrence of past harms, but also to promote reconciliation within an interstate diplomatic framework. The choice of an Asian case study was initially dictated by the author's personal academic interest in this geographical sphere. Nevertheless, it proved to be a particularly relevant context to associate with TJ. Because the latter has been criticised as the product of a Western construct, a social, political, and cultural environment as different as the Asian one has contributed to demonstrating how TJ can overcome its definitional limitations and be applied in the most disparate conditions to achieve different purposes.
- 7 These reflections provide a solid entry point into the intended research of this paper, which is guided by the following research question:
- 8 How can measures of transitional justice contribute to a long-term reconciliation of diplomatic bilateral relations between Japan and the Republic of Korea?

- 9 Following sub-questions that the paper will attempt to answer include:
1.  
Can the foundational aspect of transitional justice extend beyond its normative conception to be practically applied to non-conflicting contexts in which peace is not at stake and transition is not necessary?
  2.  
How can the pool of TJ measures be reinterpreted to achieve a form of reconciliation that is applicable to the diplomatic relations between two different countries?
  3.  
How does the comfort women dispute help demonstrate how transitional justice can successfully work in two well-established democracies supporting the respect and promotion of human rights, democratic policies, and the rule of law for a normalisation of their relations?
  4.  
How is historical reconciliation relevant for the restoration of bilateral diplomacy between Japan and the Republic of Korea?
- 10 Overall, the objective of this research paper is to investigate how transitional justice measures can extend beyond their normative design of transition to a democracy and social reconciliation within the same country as the ultimate outcomes. The paper aims to fulfil its scope by showcasing what it means to address past atrocities involving the interstate relations of two different countries. The goal is to discuss how TJ can work in a context of well-established democracies that wish to reconcile their bilateral diplomatic relationship.
- 11 The analysis and results emerging from this paper, while possibly being connected to the broader academic framework on transitional justice, must be understood within the Japan-South Korea context without making general assumptions. Moreover, the results of this study should not be misinterpreted as contrary to the application of TJ in its standard form. This has been abundantly demonstrated to be generally successful.<sup>14</sup> The aim of this study is solely to investigate one assumption of transitional justice that is making its way into the contemporary academic context. Even more specifically, the research intends to draw attention to how improved relations between the democratic states of Japan and South Korea are necessary in the current East-Asian political sphere, which is being subjected to strong pressures from a changing balance of power in the international arena.

### 1.3 Research Methodology

- 12 The present theoretical study exploits a critical academic approach in exploring tools of transitional justice beyond its traditional realm. It employs a combination of in-depth Open Source Intelligence (OSINT) library research and a literature review to explore the different dimensions surrounding transitional justice approaches. Significant to point out is that this research is conducted from a more sociological and historical perspective, rather than adopting a legal and political lens. The literature review on TJ, in particular, includes an intersection of political, legal, and moral frameworks arguing on how past abuses should be responded to. This approach helps push the boundaries of TJ discourses to question the normative TJ purposes and suggest

a vision more suited to the current context. The chapter dedicated to a literature review of the transitional justice concept helps establish a theoretical framework relevant to the chosen case study of the Japan-Korea comfort women dispute. Through the literature review, this research reinterprets the use of TJ measures to adapt them to a different type of reconciliation for an unsettled diplomatic relationship between two different states, a purpose which falls outside the typical scope of TJ. This normative work is thus an attempt to explore a novel and emerging theoretical framework of TJ and contribute to the growing scholarly debate by provoking further thought and spurring reflection on additional applications of TJ.

- 13 The research focuses on the diplomatic relationship between Japan and South Korea and how it has been hindered by the comfort women dispute. It explores how TJ measures have been exploited by Japan and how they have been received by South Korea. This will help understanding of how TJ can contribute to the resumption and strengthening of diplomatic ties between two well-established democratic contexts. It will challenge the normative and conceptual assumptions about TJ that support the desired outcomes of preventing the reemergence of conflict and bringing peace through transition to democracy. The questions raised by the example of the Japan-ROK diplomacy are not a stand-alone case. The arguments that will be discussed about reconciliation efforts by settler colonial societies, the need for diplomatic resumption between states through historical reconciliation, and the tackling of past atrocities in consolidated democracies are applicable to other contemporary cases. The Japanese settler colonialism of forced assimilation and discrimination in Korea is frequently compared to the Western settler colonialism of Canada, Belgium, France, New Zealand, Indonesia and Australia.<sup>15</sup> Solicitation of truth-telling practices through memorials and exchanges of historical accounts to achieve sociopolitical transformation has also recently emerged in these former settler colonial societies. Uncovering the truths about colonial history appears to be widely recognised as an opportunity for local and international reconciliation and utter decolonisation.<sup>16</sup>
- 14 Before delving into the main body of research, several limitations must be pointed out. First, only one example of historical grievance, that is, the Korean comfort women issue, will be investigated here. Other animosities between the two countries had to be left aside due to research and time limitations. The author thus believes it is important to emphasise that friction between Japan and South Korea is not solely due to the comfort women dispute. Although this represents the most salient argument between the two countries and is at the forefront of their diplomatic disagreements, the road to resolution is still long. To cite a few examples, maritime disputes concerning a contended set of islets, economic tensions, and historical disputes concerning Korean forced labourers during WWII are also affecting close bilateral relations between the two countries.<sup>17</sup> Moreover, it is also necessary to remember that while this research will address Korean comfort women, history shows that similar, if not identical, sexual violations were committed by the Japanese Imperial Army against women and girls from Australia, Myanmar, China, the Netherlands, the Philippines and Indonesia. Nonetheless, the majority of the identified victims were from Korea.<sup>18</sup>
- 15 Third, reconciliation is a process which must come from all the parties involved. However, this paper is primarily focused on an analysis of the Japanese government's reconciliation efforts. Less emphasis will be given to how Japanese TJ application is received by the counterparty, that is South Korea's government and population. The influence played by third parties, such as the United States, in the reconciliation

process is also left unaddressed. Finally, it would have been interesting to look deeper into how a reconsolidation of Japan-South Korea diplomatic relations would affect the balance of power in the East-Asian sphere and in the international community overall. Nonetheless, due to limitations of space, the complex regional political and economic relations will not be covered, and only brief statements will be made. Perhaps this might represent future follow-up research.

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## FOOTNOTES

1. Throughout this dissertation, the terms 'Republic of Korea' or its abbreviated form ROK, 'South Korea' and 'Korea' will be used interchangeably. When specification is required, the official state name 'Republic of Korea' will be used.
2. Hu, "'Comfort Woman' Memorial Statues".
3. Shim, "Memorials' Politics", 665.
4. Johnston, "'Comfort Women' Statues Spur Debate".
5. Song, "Just Reparations", 377; Min, "Korean 'Comfort Women'", 938; Amnesty International, "South Korea: Disappointing Japan Ruling".
6. Constante, "Who Are the 'Comfort Women'".
7. Kyodo News. "Japan Regrets New Korean 'Comfort Women' Statue Set up in Berlin"; Constante, "Who Are the 'Comfort Women'".
8. Roman, "The past or the politics of the present", 57; Hwang, "Rethinking the East Asian balance of power", 95; Kim and Prideaux, "A Post-Colonial Analysis of Bilateral Tourism Flows", 591.
9. Futamura, "Individual and Collective Guilt", 475-479.
10. Constante, "Who Are the 'Comfort Women'".
11. Ishinabe, "Kishida Asks Scholz to Intervene in Berlin on 'Comfort Women' Statue".
12. Hu, "'Comfort Woman' Memorial Statues".
13. Barolsky, "Truth-telling about a settler-colonial legacy", 2023; Crocker, "Reckoning with Past Wrongs", 1999.
14. Examples include: Jones, "The performance and persistence of transitional justice", 2021; De Greiff, "Theorizing Transitional Justice", 2012; Posner et al., "Transitional Justice as Ordinary Justice", 2004; Gready & Robins, "Transitional Justice and Theories of Change", 2020; Paige, "How 'Transitions' Reshaped Human Rights", 2009; Roman, "What We Know About Transitional Justice", 2017; Hayner, "Transitional Justice in Peace Processes", 2022; Hoddy & Gready, "Transitional Justice and Peacebuilding", 2022; Van der Riet, "Avowing Truth, Embodying Justice", 2021; Lambourne, "Transitional Justice and Peacebuilding after Mass Violence", 2009; Gentile & Foster, "Towards a minimal

conception of Transitional Justice”, 2022; Mutua, “What Is the Future of Transitional Justice?”, 2015; Sriram, “Justice as Peace?”, 2007.

15. Mc Namee, Lachlan. “Settler Colonialism Is Not Distinctly Western or European”, 5 October 2023. <https://aeon.co/essays/settler-colonialism-is-not-distinctly-western-or-european>.

16. Barolsky, “Truth-telling about a settler-colonial legacy: decolonizing possibilities?”, pp. 540-556.

17. For more information about Japan-South Korea diplomatic disputes: Smith, Josh. “The Many Disputes Overshadowing Relations between South Korea and Japan.” *Reuters*, 2023, [www.reuters.com/world/asia-pacific/many-disputes-overshadowing-relations-between-south-korea-japan-2023-03-15/](http://www.reuters.com/world/asia-pacific/many-disputes-overshadowing-relations-between-south-korea-japan-2023-03-15/).; Bae, Chinsoo. “Territorial Issue in the Context of Colonial History and International Politics: The Dokdo Issue Between Korea and Japan.”, *The Journal of East Asian Affairs* 26, no. 1: 19–51, 2012. <http://www.jstor.org/stable/23257907>.; Sangho Shin, Edward J. Balistreri, “The other trade war: Quantifying the Korea–Japan trade dispute”, *Journal of Asian Economics*, Volume 79: 1049–0078, 2022. <https://doi.org/10.1016/j.asieco.2022.101442>.

18. Song, “Just Reparations”, 377; Min, “Korean ‘Comfort Women’”, 938; Amnesty International, “South Korea: Disappointing Japan Ruling”.

## 2. Literature review: an investigation into the concept of transitional justice

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- <sup>1</sup> This chapter will be entirely dedicated to a literature review of the main academic articles, scholarly journals, policy briefs and books that have offered a comprehensive framework for the main arguments put forward on the history and nature of transitional justice over the years. Subsections 2.1 and 2.2 of this literature review aim to showcase the conventional inclusion of the concepts of democratic transition and conflict re-emergence prevention within definitions outlining TJ's desired outcomes. Subsection 2.3 will instead build a theoretical framework questioning the TJ-democratisation link and will suggest a novel application of TJ to non-transitioning contexts. Finally, subsection 2.4 clarifies what is meant, within the scope of this paper, when talking about broader concepts of justice, peace, truth, reconciliation and memory. The arguments put forward by each author were mixed to provide fruitful insights into the debate. Most relevant authors include David Crocker, Paul Gready, Eric Hoddy, Neil Kritz, David Roman, and Ruti Teitel.

### 2.1 The emergence and development of the field of transitional justice

- <sup>2</sup> There is a vast body of literature on TJ which relies on both theoretical and empirical evidence set forth primarily by academic scholars, civil society organisations, non-governmental organisations (NGOs) and the United Nations (UN). These have defined TJ both broadly and narrowly in its measures, purposes and desired outcomes. Among the most influential studies exploring the evolution and direction of TJ over the past century through a historical and political lens is Ruti Teitel's 2003 'Transitional Justice Genealogy'.<sup>1</sup> Most academics cited in this literature review will in fact continuously refer to Teitel in their arguments.<sup>2</sup>
- <sup>3</sup> The origins of TJ can be traced back to the second half of the twentieth century. Its major developments then occur during three distinct phases. Phase I goes from post-World War I until the end of the Cold War. The idea of individual criminal



accountability driving the 1945 Nuremberg Trials is crucial to the development of a model of punitive justice that supersedes the powers of the state. It is precisely during Phase I's Nuremberg Trials that the Westphalian conception of individual criminal accountability promotes a system of retributive justice which goes hand in hand with the law as the main instrument leading for the modernisation of the Western justice system.<sup>3</sup>

- 4 The retributive model is partially set aside during Phase II's wave of democratisation. The end of the Cold War ignites democracy building processes across Central America, South Africa and Eastern Europe which will last until the end of the 1990s. Scholars such as Roman and Hoddy & Gready build upon the same timeline when discussing the change in the meaning of 'Phase I TJ', intended as purely legal and punitive, to a more restorative response to systemic domestic abuses.<sup>4</sup> This is when truth and reconciliation commissions (TRCs) are introduced as a reconciliatory tool to investigate patterns of human rights violations which happened during times of conflict.<sup>5</sup> South Africa is the case par excellence demonstrating how restorative processes of truth telling, confession, apology, and the creation of a common historical narrative are prioritised for reaching peace, even at the expense of punishment. Teitel and Roman both argue that it is during this phase that the achievement of peace becomes associated with the consolidation of democracy.<sup>6</sup> After all, the 1980s and 1990s third wave democratisation processes were led by the assumption that the establishment of a democracy was the safest way to ensure national and international peace since democracies are theorised to be less prone to go to war with one another.<sup>7</sup>
- 5 The third phase covers the contemporary applications of transitional justice within the globalised context and political instabilities present at the time of writing of the article (2003).<sup>8</sup> During this third phase, Teitel believes TJ becomes part of the ordinary humanitarian and human rights law governing situations of conflict. A return to the Phase I Western retributive model of criminal justice reemerges, giving rise first to the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY), then to the institutionalisation of the contemporary International Criminal Court (ICC).<sup>9</sup> The difference is seen in the broadening of Phase I transitional justice as a purely legal process enacted in post-conflict contexts to include situations of weak states, political fragmentation, and war in times of peace. It is from this moment that the contemporary application of international humanitarian law and the increased focus on individual prosecutions help hold government leaders accountable and thus justify the need for regime change.
- 6 Subsequently to Teitel's study, Roman reviews publications such as the *Encyclopedia of Transitional Justice*<sup>10</sup> and the *International Journal of Transitional Justice*<sup>11</sup> to demonstrate how TJ has developed into an interdisciplinary field intersecting with legal, political, social, psychological, and moral fields.<sup>12</sup> In addition to the legal and criminal aspects, exhibited mainly by Teitel, discussions also begin to focus on other nonjudicial mechanisms, including apologies, memorials, reparations, and rehabilitation programmes, which are beginning to be regarded as vital measures of transitional justice processes.<sup>13</sup> Simultaneously, TJ operations are officially included in United Nations (UN) peacebuilding mandates in post-conflict and weak-state settings. Here, TJ exits from a purely academic domain and becomes an active policy measure capable of achieving both peace and justice through pillars of truth, justice, reparations, and guarantees of nonrecurrence.<sup>14</sup>

- 7 Having briefly looked at the origins, nature, and developments of the field of TJ, we can now proceed to investigate the embedded presence of elements of conflict resolution, democratisation, and regime change within normative definitions of transitional justice.

## 2.2 The intrinsic presence of democratisation and conflict resolution within TJ definitions

- 8 The appearance of the concept of transitional justice can first be identified in the 1995 publication of scholar Neil Kritz entitled 'Transitional Justice: How Emerging Democracies Reckon with Former Regimes'.<sup>15</sup> As the title suggests, transitional justice was limited to countries in which not only was a change of regime occurring, but in which this change was specifically to a democracy. Under Kritz's influence, subsequent scholars have tended to accept democratisation as the final aim of a process of transitional justice. Siegel, for instance, argues that TJ occurs when new democratic leaders replace former authoritarian ones.<sup>16</sup> On the same note, Piccone believes that transitional justice approaches help explain how newly formed democracies deal with violations committed during former repressive governments.<sup>17</sup> More than retribution, focus is given to the reintegration and rehabilitation of survivors in post-conflict environments.
- 9 Teitel is one of the very few authors who initially distances herself from Kritz's assumption of emerging democracies. Despite echoing an understanding of transition as 'the interval between one political regime and the other',<sup>18</sup> Teitel more broadly defines TJ as 'the conception of justice associated with periods of political change'.<sup>19</sup> In the 2002 study 'Transitional Justice in a New Era', the objectives of transitional justice shift during the post-Cold War period from the necessity to establish democratisation to an emphasis on reaching peace and stability.<sup>20</sup> This statement at first excludes democracy-building as a necessary outcome of a TJ process. However, Teitel makes clear that reaching peace is a first step to achieve for building a solid base that would help for a stable transition in a later moment.<sup>21</sup> Moreover, her later studies proceed to explicitly acknowledge TJ mechanisms as 'prerequisites for a transition to a functioning democracy'.<sup>22</sup>
- 10 At present, transitional justice measures have evolved to fit into the universal human rights agenda seeking to regulate the individual conduct of countries. As democratic systems are regarded as the benchmark for human rights promotion, peace, and security protection,<sup>23</sup> Kritz's assertion of intrinsic connection between TJ, rule of law and democracy continues to influence the guidelines of contemporary TJ applications.<sup>24</sup> For instance, Roman and Van der Riet refer to TJ as 'a set of measures and processes adopted to deal with the consequences of mass human rights violations in the aftermath of regime changes, violent conflicts, wars, and other historical injustices that were derivatives of undemocratic regimes, colonisation, occupation, and so on'.<sup>25</sup> Here, the set of institutional reforms and democratisation processes facilitated by TJ in post-conflict and/or authoritarian societies can help not only address past crimes, but also potential future violence.<sup>26</sup>
- 11 Stan & Nedelsky and Gready & Robins have also significantly contributed to shaping the contemporary understandings of TJ.<sup>27</sup> Drawing on the 2010 International Journal of TJ by Duggan, TJ is envisioned as 'addressing the evil pasts in transitions from conflict or repressive rule or in highly contested and fragile contexts' through TJ processes of

truth-seeking, criminal trials, reparations, and law reform.<sup>28</sup> Other definitions describe TJ as the ‘set of practices, mechanisms and concerns that arise following a period of conflict, civil strife or repression’<sup>29</sup> or as ‘the ways countries emerging from periods of conflict and repression address large-scale or systematic human rights violations’<sup>30</sup> It is evident how conceptualisations of TJ have developed within a context of democratisation and transition, where democracy is seen as the sole avenue for confronting and overcoming past wrongdoings from the former regime. Simultaneously, TJ mechanisms help in consolidating this newly formed democratic rule of law.<sup>31</sup>

- 12 Support for this latter statement can be found within the UN framework. A first mention of transitional justice can be found in the 1999 Secretary General’s first guidance note.<sup>32</sup> The 2004 UN Secretary General’s Report on ‘The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies’ offers a general interpretation of what transitional justice is.<sup>33</sup> It defines it as ‘the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation’.<sup>34</sup> This definition today leads the conflict resolution agenda of the UN, with transitional justice ‘contributing to achieve the broader objective of prevention of further conflict’.<sup>35</sup> While not explicitly mentioning democratic transition as the ultimate objectives of TJ, its inclusion within a report focusing on post-conflict environments implies a nexus between TJ and democracy for peacebuilding. This because ‘large-scale abuses’ refer to a systematic violation of rights which ordinarily occur in repressive regimes. To prevent reoccurrence of these violations, sociopolitical transformations are thus necessary for peacebuilding. Given that democracy is a core value of all founding documents of the UN, it becomes a requirement for the success of TJ. The same conception is also shared by Paige,<sup>36</sup> who argues that TJ measures are designed solely for the brief political transition period, and Teitel, who defines TJ as the conception of justice associated with periods of political change.<sup>37</sup>
- 13 Until now, most recent definitions have focused on regime change of post-conflict contexts in general. References to democratisation specifically are implicit in the references to the need for distancing from repressive and authoritarian regimes.<sup>38</sup> It is already evident from these early definitions how the purpose of TJ is normatively envisioned to be that of transformation to a democratic social order.<sup>39</sup> This direct link to democracy might be explained by how TJ tries to separate past violations from a present which is more attentive to rights, justice, and the rule of law. Thus, the most appropriate political agenda is a democratic one, advocating for respect and promotion of human rights.<sup>40</sup>
- 14 A more explicit advocacy for a democratic agenda can be identified in authors such as Gready & Robins, Gentile & Foster, David & Choi, and Van der Riet, referring to TJ as a set of policies envisioned to ‘foster peace and establish democracy in the aftermath of political conflicts and authoritarian regimes’,<sup>41</sup> together with ‘the protection of human rights’.<sup>42</sup> On the same note, Webber, Kasmi, and Lambourne argue that TJ is about situations in which a society is moving from ‘a state of injustice to justice’,<sup>43</sup> from ‘oppressive government to government that respects the rule of law’,<sup>44</sup> from ‘autocracy to democracy’,<sup>45</sup> and from ‘violation of human rights to a more peaceful and democratic state’.<sup>46</sup>
- 15 At this stage, a legitimate question which arises is what are precisely these TJ mechanisms that help the democratisation process. Some operations have already been

mentioned above. These include, but are not limited to, criminal prosecution, apologies, memorials, reparations, and rehabilitation programmes. More specifically, these procedures are typically divided into broader types of retributive, reparatory, and reconciliatory justice models.<sup>47</sup> Roman, for instance, argues for retributive justice measures to include criminal prosecution but also noncriminal sanctions, such as fines, deprivations in pensions and other penalties; as well as nonactions in terms of pardons, amnesties, and conditional amnesties.<sup>48</sup> Roman includes financial compensation, rehabilitation, restitution of property, provision of a platform for victims to share their stories freely, and social acknowledgment of wrongdoing as financial and symbolical reparatory measures.<sup>49</sup> It also explores reconciliatory measures of apology, expression of regret, and admission of guilt, which attempt at restoring the victim-offender relationship. Roman adds a fourth additional model of revelatory justice, which includes measures of truth-telling, truth commissions, memorialisation, and publishing of historical accounts.<sup>50</sup> These models will be examined thoroughly within the context of the Japan-South Korea comfort women dispute.

- <sup>16</sup> De Greiff rightfully points out that the main TJ mechanisms require the use of inclusive participatory processes, civic empowerment, and promotion of the rule of law, which are at the basis of democratic policies.<sup>51</sup> This means that for TJ measures to work, certain conditions of social participation, civic trust, and democratic procedures must already be in place before the TJ process begins. From this affirmation stems the criticism that TJ is more successful in contexts of already established democracies with stable institutions. It is from these same criticisms that we can build our theoretical framework.

## 2.3 Theoretical framework: TJ mechanisms in consolidated democracies

- <sup>17</sup> The application of transitional justice processes in non-transitioning consolidated democracies is commonly rejected among scholars, who claim that such application dilutes the essence of TJ, which is primarily intended for transitional contexts.<sup>52</sup> Thomas Hansen is among the first scholars arguing that TJ can be brought to different scenarios without necessarily following the authoritarian to democratic path.<sup>53</sup> In his study, he analyses TJ processes within liberal transition, non-liberal transition, deeply conflicted societies, and consolidated democracies.<sup>54</sup> The argument put forward by Crocker expresses a similar view, identifying three types of countries that can implement TJ procedures without necessarily initiating democratic transition.<sup>55</sup> A first type is post-conflict societies such as Rwanda, which are confronting security issues and are too fragile to start democratic transition. A second type is authoritarian societies such as former Yugoslavia, followed by mature democracies such as Germany and Japan, which grapple with past evils of war crimes, slavery, and colonisation.<sup>56</sup>
- <sup>18</sup> Critics such as Mutua have gone further to argue that most TJ endeavours have not yielded the desired outcomes.<sup>57</sup> Given the ‘fixed period of time’ in which TJ processes usually operate,<sup>58</sup> TJ efforts can destabilise weak post-conflict societies and fail in preventing new conflicts from resurfacing. Because of its short timeframe, TJ may fail to eradicate structural core legacies underlying decades of oppression from authoritarian or colonial regimes.<sup>59</sup> Thus, the new democracy, established through foreign support, risks reverting to the previous repressive regime once TJ processes are concluded. This because the weak institutional and legal frameworks of former

authoritarian or post-conflict societies lack the capacity to sustain democracy building in the long-term.<sup>60</sup> Furthermore, the new political leaders that emerged from regime change come from a repressive past which might fear the retributive approaches that a TJ process might put forward.<sup>61</sup> It thus follows that TJ might work better in contexts of already well consolidated democracies with stable and inclusive institutions. First, democracies have both the capacity and the time to address the historical grievances that shape sociocultural aspects of a certain country. Moreover, they are also less affected by fear of conflict re-emergence compared to post-conflict and fragile states that are prone to power imbalances.<sup>62</sup> This because established democracies already guarantee basic levels of accountability, transparency, freedom of speech, and victim participation in decision-making processes.

- 19 An excessive focus on democratisation might also distract from other equally relevant achievements of recognition of past evils, guarantees of non-recurrence, acquiescence of historical wrongdoings, social reconciliation, and redress.<sup>63</sup> Crocker follows up arguing that the challenge of transitional justice of responding to past abuses can also apply to nations 'other than new democracies' which have yet to decide what to do with their historical past.<sup>64</sup> This because democratisation alone guarantees neither absence of human rights violations nor justice. Even consolidated democratic orders themselves may require TJ processes to address historical wrongs and remedy structural harms and injustices.<sup>65</sup> Examples are countries with a long legacy of colonialism, such as Japan, which might reconceptualise TJ as a mechanism for strengthening and improving democratic performances which are already well consolidated in the country. In a country such as Japan, TJ measures could help improve sociopolitical diplomatic relations with former colonies and work towards social transformation and inclusion instead of pursuing radical regime change.<sup>66</sup>
- 20 Additionally, insisting on democracy building as a necessary outcome of TJ might be inappropriate depending on the political and cultural context to which it is applied. Authors supporting the absence of a one-size-fits-all model of TJ draw on the critiques made of the contemporary peacebuilding practices conducted under the UN's global human rights project. Since the 2004 UN's Secretary General Report, the field of TJ has overlapped with that of UN peacebuilding operations responding to systemic human rights abuses in post-conflict societies. The intertwining of the two fields is evident in their common goal of doing justice and promoting human rights while addressing past wrongdoings to build stable and peaceful societies. This overlap, however, subjects TJ to the same criticisms that apply to peacebuilding mandates.
- 21 Justice, peace, and democracy are deemed as 'mutually reinforcing' each other within the UN framework.<sup>67</sup> Transitional justice measures can help achieve peace, justice, and enhance democratic performance only through democratic institutions that are already in place to guarantee civic participation.<sup>68</sup> Sriram's study of TJ strategies as a part of liberal peacebuilding has criticised the Western-centric nature of human rights, peacebuilding, and TJ programmes that see democracy as the sole final solution.<sup>69</sup> Even the TJ historical phases advanced by Teitel have demonstrated how TJ derived first from the retributive justice model favoured by the Western victors of World War II during the Nuremberg and Tokyo Trials.<sup>70</sup> With the contemporary ICC, the individual legal accountability of Western liberal institutions has further been advocated as the first step to doing justice. However, it is important to keep in mind that TJ does not limit to criminal punishment. Other TJ mechanisms outlined in the previous subsection grew out of restorative justice models used in community moots, religious practices,

and communal ceremonies, such as *ubuntu* or *gacaca* systems developed by Middle Eastern, African, and Asian communities.<sup>71</sup> Each of these measures can have different understandings of what it means to do justice, what is beneficial for society as a whole and for individuals, and what is necessary for peace and stability.<sup>72</sup> The African concept *ubuntu*, for instance, translates as ‘humanity towards others’.<sup>73</sup> It values social interconnectedness, respect towards one another and collectivity. In the concept of justice, *ubuntu* acts as a restorative practice which aims to restore social harmony through collective memory, responsibility, and support.<sup>74</sup> Societies which emphasise community identity and community rights over individual ones might not resonate with the Western human rights agenda that focuses on individualism and the political right to democracy. This is not meant to criticise the overall usefulness of TJ. Rather, it aims to stress the enormous potential it has for being adapted to different contexts, including ones which are not undergoing any transition.<sup>75</sup> In these, rather than prevention of conflict reemergence and stability as the main purposes, the reestablishment of diplomatic ties with third parties and the development of more inclusive societies can be desired outcomes.<sup>76</sup> A strong point is put forward by Sharp in his study ‘Emancipating Transitional Justice from the Bonds of the Paradigmatic Transition’, which sustains that TJ should be normalised into an everyday peace exercise for all societies.<sup>77</sup>

- 22 It might thus be fruitful to adopt broader definitions of TJ which do not underline conflict resolution, conflict prevention, or democratic transition as ultimate objectives of the TJ process. Scholars such as Kasmi, Roman, and Van der Riet provide substantial examples that contend normative definitions developed from Teitel and Krititz’s analyses<sup>78</sup>. Kasmi and Roman, for instance, define TJ as seeking to ‘address past atrocities and human rights abuses while promoting peace, justice, and reconciliation’.<sup>79</sup> Van der Riet complements this definition by looking at TJ as a ‘deeper, richer, and broader vision of justice which seeks to confront perpetrators, address the needs of victims, and start a process of reconciliation and transformation toward a more just and humane society’.<sup>80</sup> The ‘transition’ part of the transitional justice terminology can be envisioned in a novel way which goes beyond Krititz’s understanding as ‘the interval between one political regime and the other’.<sup>81</sup> Transition may come to be understood as a change in the ‘equilibrium among members of groups’, who may be part of either the same country or two different ones.<sup>82</sup> A just transition ought to assist societies in correcting the structural injustices and the disequilibrium that allowed for abuses to occur. It is these very theoretical definitions that form the basis of the critical analysis on how to encourage resumption of diplomacy between Japan and South Korea.

## 2.4 Conceptualising transitional justice terminologies within the scope of research

- 23 As the concept of ‘justice’ will continue to emerge during this discussion, it is necessary to advance a preliminary framework that delineates the nuances of this concept. The problem is that the topic of justice constitutes a very slippery terrain as its multidimensional nature touches upon interdisciplinary discourses of ethics, morality, anthropology, politics and economics, to mention but a few. It is beyond the aims and limits of this research study to develop an exhaustive overview of the multiple understandings of what justice is as it would probably require research of its own. This



paper will hence limit itself to simply presenting how the specific process of transitional justice is intended within the scope of research.

- 24 Japan's approach to transitional justice regarding its past war crimes and human rights violations has blended retributive and restorative measures of criminal prosecutions, reparations, and apologies. The Tokyo Trials were conducted with the belief that the individual offenders involved in the crimes had to be proportionately punished through imprisonment in order for justice to be restored and for equating the offender-victim relationship.<sup>83</sup> Conversely, later Japan-South Korea tensions have prioritised the healing and rehabilitation of victims by insistently demanding apologies, reparations, and truth-telling measures to hold the perpetrators accountable.<sup>84</sup> While punishment is also a part of the restorative justice process, it was no longer considered the only sufficient measure for restoration and forgiveness.<sup>85</sup>
- 25 The transitional justice model that is required in the Japan-South Korea question calls for a combination of retributive, reparatory, restorative, and revelatory justice models. Justice will be considered to be achieved when societal equilibrium is restored through shared visions of what amounts to truth, responsibility, national memory, and historical narratives. Furthermore, it necessitates consensus on appropriate degrees of apologies, memorials, and reparations.<sup>86</sup> Ignatieff relevantly distinguishes the healing of a nation from that of an individual.<sup>87</sup> This is highly relevant in the discussion of individual versus collective healing and memory processes. Transitional justice can be considered successful at the higher political domestic level when both governments agree that all the processes to facilitate individual healing have been addressed. However, this is a mere starting point. Individual healing lacks a fixed time and rehabilitation processes can last through decades. This is an entirely personal process which must not be rushed.
- 26 From a national perspective, the term of reconciliation will be used in lieu of healing, the latter intended fully as an interpersonal experience. From a societal perspective, reconciliation between Japan and Korea will be considered achieved once it has obtained a 'positive change in emotions between groups' based on mutual respect, friendship, and willingness to listen to each other.<sup>88</sup> From a more political and national lens, following on from the definition adopted by Bloomfield in 2003, reconciliation is intended as 'a two-way process through which a society moves from a divided past to a shared future'.<sup>89</sup> Importance is given to the establishment of friendly and trusting relations and the willingness to cooperate peacefully at the international level. Rather than restore previous ties, the aim is to create new, improved relations that break away from the past.<sup>90</sup>
- 27 An additional debate relevant for this study concerns the 'peace versus justice' debate.<sup>91</sup> This typically rests on the tension between granting amnesty versus prosecuting perpetrators. However, this study advocates for a holistic approach that concurrently pursues peace and justice through diverse forms of justice. Truth also commonly emerges in contrast to peace and justice discussions. The pursuit and understanding of a shared truth are the key disagreement between Japan and South Korea over the comfort women dispute. Questions revolve around how truth-telling should be conducted, which version of the truth is the most accurate, how different narratives should be compounded, and which one should be prioritised among truth, peace, or justice. This research will acknowledge the existence of different understandings and degrees of truth. In this regard, this author endorses the view of Hearty, who maintains that the aim of the truth-telling process 'should be to reduce the amount of

“permissible lies” in dominant discourses’ by establishing a collective and shared memory of the historical past.<sup>92</sup>

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## 3. Historical Background: The Japanese Colonial Empire and the annexation of Korea

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- <sup>1</sup> Chapter 3 is entirely dedicated to an outline of the history shared by Japan and Korea from the nineteenth century until the end of the Japanese Empire and the liberation and creation of the Republic of Korea. Section 3.1 outlines the historical and nationalistic reasons behind Japan's embarking on empire building and expansion. Section 3.2 depicts the coloniser/colonised relationship between Japan and South Korea to portray the abuses that the Korean population suffered during colonisation. These two sections are necessary to reveal how and why strong nationalist sentiments emerged and strengthened in both countries, which are explained in section 3.3. This purely discursive chapter of the most salient historical grievances helps comprehend in what ways the Japanese colonial experience has and still is affecting present-day diplomatic relations between Japan and Korea.

### 3.1 The national goal of '*Bunmei Kaika*' during the Meiji Restoration Era in Japan

- <sup>2</sup> The 1853 American attack conducted by General Matthew Perry against the Japanese ports at Edo Bay was the focal event opening Japan to the rest of the world. From this moment on, Japan became aware of its technological, social, economic and political backwardness compared to the more modernised West. Change began with the suppression of the feudal Tokugawa regime in 1868. The transition towards a centralised imperial system and the beginning of the Meiji Restoration era, a period which would then end in 1912 with the death of the emperor Meiji, kickstarted a rapid industrialisation process which would bring Japan to rival its European competitors in the quest for territory in East Asia.<sup>1</sup>
- <sup>3</sup> A brief analysis of the contradictory process of the Meiji era is worth mentioning for a deep understanding of the causes behind Japan's embarking on empire building and expansion. During this period, Japan was careful to preserve and foster its domestic culture and customs through a restoration of the old imperial system. Meiji reforms

involving compulsory education, military conscription and centralised taxation helped bring people under one statehood, spurring a nationalistic pride and a homogeneity that was missing throughout the feudal regime. At the same time, the Meiji government's national goal of '*Bunmei Kaika*', literally translated as 'let the civilisation flourish', referred to the desire to transform Japan into a European style nation-state.<sup>2</sup> Following this line of thinking, Japan conveniently proceeded to internalise Western ideals and values for a faster process of development and modernisation, including the internalisation of the Western model of military expansion and empire building.<sup>3</sup> The desire to attain the civilisation levels of the West was also spurred by a Japanese fear of becoming subjected to the expanding Western colonialism, ultimately being relegated to a marginal role within the international community. The other main national objectives of the Meiji Restoration Era—'*Shokusan kogyo*' (encouragement of new industry) and '*Fukoku kyohei*' (enriching the country, strengthening the military)<sup>4</sup>—also helped Japan achieve the necessary levels of industrialisation and national security that allowed it to compete with the West. This growing nationalistic pride ultimately transformed into a concept of civilian superiority, reflected in the English concept of the 'white man's burden' and the French notion of the '*mission civilisatrice*', justifying interference in other territories due to a duty to engage in a civilising mission.<sup>5</sup> This provided the basis for a colonial discourse around the necessity for Japan to export its own model of progressed civilisation to its more uncivilised neighbours (*kaishinteki tenshoku* 開進的天職)<sup>6</sup>.

4 Japan's was a form of colonialism that went beyond the mere 'establishment of political control over a territory and its people by another nation', as defined by Etemad, Caprio, and Kim and Prideaux.<sup>7</sup> It makes more sense to interpret what Japan pursued according to the words used by Osterhammel, who views colonialism as occurring 'when a power moves into an imperialism phase and establishes colonies for nationalistic reasons that may or may not have a great deal to do with economic returns from commercial activity'.<sup>8</sup> Economic and strategic reasons of market industrialisation, natural resource exploitation, and the formation of preventive buffer zones among Asian powers were also central causes of Japan's imperial expansion and colonial building.<sup>9</sup> Nonetheless, much stronger was the Japanese belief of colonial building as a necessary duty to engage in a civilising mission of helping the more backwards Asian countries to progress towards civilisation, modernisation and development (*kaishinteki tenshoku* 開進的天職).<sup>10</sup> In order to do so, the Japanese Empire subjected its colonies, including Korea, to the so-called *kōminka* 皇民化 assimilation policies.<sup>11</sup>

5 The formation of the Japanese Colonial Empire is commonly identified with the formal acquisition of Taiwan in 1895.<sup>12</sup> The Japanese colonial ambitions progressed further with the expansion into the South Pacific and the subsequent annexation of southern Sakhalin in 1905, the formal occupation of Korea in 1910, the advancing into Manchuria in the 1930s, and the eventual secession of Northern China around 1935 to 1937. Japan's imperialistic ambitions ultimately collapse with its defeat in the Asia Pacific War and in World War II in 1945, leading to the distribution or independence of its colonies.<sup>13</sup>

## 3.2 The Korean experience of Japanese colonisation and its culmination in the 'Comfort Women' sexual slavery violation

- 6 The historical animosities between Japan and the Republic of Korea refer to the period of harsh Japanese colonial rule in the island. Japan expressed its interests in Korea first with the 1876 Treaty of Kanghwa, which forced Korea to open three ports, granted Japan extraterritoriality rights and recognised Korea as 'an independent state enjoying the same sovereignty rights as Japan'. The subsequent immigration initiated by the Japanese to the island laid the foundations for the future Japanese interference in Korean affairs and interrupted China's attempts of gaining control of the Korean territory.<sup>14</sup>
- 7 The recovery of the Qing dynasty in China in the 1880s raised Japan's security anxiety and installed in Japanese minds the necessity of making the Korean land a buffer zone between Japan and both China and Russia. Also on the opposite side, the Russian construction of the Siberian Railway and its increasing naval expansion pushed Korea to look for a preventive alliance with Japan. Korea thus first became an informal protectorate of Japan in 1895 following Japan's victory of the First Sino-Japanese War and was then established as a formal protectorate in 1905 after the defeat of the Russians in the Russo-Japanese War. Korea was then forcibly annexed as an official colony in 1910. Interestingly, already at the time, in 1909, historian Asakawa Kanichi, in his book 'Japan's Crisis' warned of Japan's imperialistic ambitions and expressed concern about a Japanese crisis in its relations with other nations after the Russo-Japanese War.<sup>15</sup>
- 8 The Japanese colonisers had different opinions on how to behave in relation to Korea, given the presence of a historical past and strong local culture. In the initial years of colonisation, the need for a more gradual transformation and civilisation of the peninsula was strongly supported.<sup>16</sup> The *Chōsen Sōtokufu*, the Governor-General, was appointed as the main authority responsible for the colony on behalf of the emperor, intensive industrialisation and urbanisation projects were initiated, and Japanese immigration to the peninsula was encouraged. Concurrently, the first years of colonisation in Korea were characterised by a high militarisation of the country in order to subjugate and subordinate the population.<sup>17</sup> *Kōminka* policies forced Korean civilians to adopt Japanese names, study Japanese history and culture in schools, use the Japanese language in lieu of Korean surnames and languages, and to follow Japanese cultural practices, for instance by making the wearing of traditional Japanese clothes and visits to Shinto temples mandatory.<sup>18</sup> Koreans who refused to adhere to these measures were deemed outcasts and isolated from society at best.<sup>19</sup> This entailed a discriminatory and absolute 'Japanisation' process to ensure the creation of loyal imperial subjects (*shinmin* 臣民) and disciplined citizens (*kokumin* 国民). The idea of the superiority of the Japanese race was evident in the creation of separate school system for Koreans and Japanese, with Korean schools being inferior in both quality and quantity to the schools in Japan.<sup>20</sup>
- 9 Quite soon, opposition movements developed through the Korean island. The 1919 March First demonstration (*Samil Undong* 삼일 운동) put forward strong anticolonial sentiments demanding for an end to the Japanese occupation regime, the return of independence, and the reestablishment of an equal relationship between the two

countries. While the Japanese responded with brutal suppression of the protests, the Koreans managed to obtain some concessions. Japan felt it necessary to ease restrictions in the country to maintain trust and control over the population. The 'Cultural Rule' policies changed the military government to a civil one and granted freedoms, although limited, in education and political organisation.<sup>21</sup> Unsurprisingly, rather than eradicating the growing Korean nationalism, the eased policies gave Koreans the advantage to strengthen support for their fight for independence. Organised student protests emerged during the 1930s, showing how 'Japanisation' of Koreans was still far from being achieved.<sup>22</sup>

- 10 The brutal colonial oppression culminated during the Second Sino-Japanese War and throughout World War II. Large numbers of Koreans were forced to work in mines, factories, and military bases, and a colonial conscription system forced young Korean men to fight alongside the Japanese. Additionally, among the war crimes committed, more than 200,000 young Korean girls were forcibly recruited to 'comfort stations' as sexual slaves for the Japanese Imperial Army.<sup>23</sup> Comfort women were abducted, coerced, deceived or forcibly removed from their families and were subsequently imprisoned within facilities where they were forced into sexual slavery, rape, and physical violence.<sup>24</sup> Despite the few remaining survivors to date, the abuse suffered by comfort women came to symbolise the victimisation of South Korea by an aggressive and brutal Japan. This narrative continues to influence the weak Japan-Korea present-day relations.<sup>25</sup>

### 3.3 The emergence and persistence of nationalist sentiments in Japan and South Korea

- 11 The opposition movements during colonial rule demonstrated how Koreans managed to exploit the harsh Japanese assimilation policy to further reinforce their already strong national identity. As an anti-colonialist response, Korean nationalists supported the concept of '*minjok*', a term which emerged during the establishment of the Korean Empire under the Joseon Dynasty in 1897. In its translation, *minjok* simultaneously encompasses the terms of 'nation', 'people', 'ethnic group' and 'race nation'.<sup>26</sup> *Minjok* culture developed after liberation as the way to unite the nation by removing all that remained of Japanese rule and establish a democratic state.<sup>27</sup> Rather than nation-building, Korean nationalists facilitated post-colonial democratisation by putting forward a perspective of Korea as a nation which had already existed prior to Japanese rule and merely had to be rediscovered.<sup>28</sup> The perception of Japan as the violent aggressor helped shape Korean narratives around the national resilience and opposition strength demonstrated during the discrimination, cultural oppression, and labour and sexual exploitation that the population endured during colonisation. The repressive Japanese colonial rule spurred widespread anti-Japanese sentiments which continue to bolster a strong Korean nationalist pride today.
- 12 As discussed above, the emergence of nationalism was different for Japan. During the Meiji Restoration Era, Japan's Korean and Chinese neighbours were useful in hierarchically distinguishing its superior ethnicity in the eyes of the West. Perceived by Japan as the 'inferior other', Korea's existence helped Japan shape its national identity by positioning Japanese society above all other Asian civilisations and reconfiguring Japan itself as the benevolent neighbour bearer of civilisation.<sup>29</sup> The growing nationalism of the Japanese was mostly encouraged by the State Shinto ideology

introduced with the beginning of the Meiji Restoration Era. State Shintoism envisioned the Japanese nation as a large family, with the emperor, a direct descendant of the gods, at the top.<sup>30</sup> Considered a non-religious practice, State Shinto was incorporated into state bureaucracy. Shrines were nationalised, Shinto doctrine was introduced in schools, and the emperor's divine nature embodied Japan's national spirit. The emperor-worshipping proposed by Shintoism fuelled the population's sense of unity and devotion toward the survival and expansion of the Japanese Empire.<sup>31</sup> It was during this period that the two most important shrines of Japan were built. The Meiji Shrine, built to commemorate the Emperor and Empress, and the Yasukuni Shrine, where the war dead, including war criminals, are honoured to this day. While nowadays the emperor is no longer believed to be of divine origin and no longer exercises political power, he is still regarded as an emblem of national unity and pride.<sup>32</sup>

- 13 The Japanese perspective naturally stands in sharp contrast to the 'Korean victims versus Japanese perpetrators' narrative. During the late twentieth century, Japanese scholars have justified colonisation by largely emphasising the positive modernisation and economic development that the Korean peninsula underwent as a colony.<sup>33</sup> This distorted version of colonialism, coupled with its certainty of national superiority, has stood in the way of the Japanese government acknowledging the war crimes committed towards Korean nationals during colonial rule. Besides scepticism in providing formal apologies and reparations, the Japanese government has repeatedly denied its commission of war atrocities and has reluctantly assumed any type of responsibility.<sup>34</sup> This inconsistent and controversial behaviour spurred Korean sentiments to only grow stronger in collectively blaming and demonising the Japanese population for its past colonial rule.<sup>35</sup> It is this coloniser/colonised history between Japan and Korea which has been determinate in the formation of both countries' national identity in relation to one another and which to date continues to influence present political and cultural discourses. Misaligned preconceptions of one another help consolidate a strong conservative pride in their national self which continues to affect interstate relations by reinforcing opposing national identities through mutual feelings of frustration, distrust and resentment.<sup>36</sup>

Figure 2. Yi Okseon, Kang Ilchul e Kim Soonok, former Comfort Women protesting in front of the Japanese Embassy in Seoul, South Korea on 22 October 2008.



Source: Shutterstock.

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## 4. Post-colonial redress: justice measures applied and the persisting diplomatic disputes

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- 1 Both the Japanese and Korean governments have repeatedly recognised the need to settle their twentieth century historical issues for better diplomatic relations. Attempts at doing so are identified in the 1946 Tokyo War Crimes Tribunal, the 1965 normalisation treaty, the 2015 comfort women agreement, and the recent Japanese and South Korean government summits resuming shuttle diplomacy. These past agreements and most recent activities represent endeavours to implement TJ mechanisms of retributive, reparatory, reconciliatory, and revelatory justice.<sup>1</sup>
- 2 Chapter 4 discusses the post-colonial justice approach adopted by Japan to make up for its colonial repressive rule. This chapter is a first level of analysis supporting the theoretical framework of this research. It demonstrates that transitional justice measures have already been applied within the consolidated democracy of Japan. While they have not provided for full reconciliation in Japan-ROK diplomatic relations, the improvements made are undeniable. In addition, chapter 4 helps identify where and why TJ measures have failed, to then present more targeted measures in the next chapter.
- 3 Each section will be dedicated, respectively, to the missing feelings of collective responsibility emerging from the Tokyo Trials (4.1), Japan's reluctance to provide for formal reparations (4.2) and apologies (4.3), and Japan's politicisation of the past through historical revisionism and continued visits to the national Yasukuni shrine (4.4). This will help to fully understand the diplomatic disputes that persist nowadays between the two countries and why both continue to have trouble letting go of animosities in order to achieve reconciliation and stability. This chapter lays the groundwork for approaching the main research analysis, which discusses the relevance and implementation of transitional justice in the Japan-ROK bilateral diplomatic context.

## 4.1 Retributive justice: missing feelings of collective responsibility in the Tokyo Trials

- 4 The first attempt at retributive justice is represented by the International Military Tribunal for the Far East (hereafter the Tokyo Trial or Tribunal), which failed to bring a sense of justice and closure to the widespread number of victims subjected to the atrocities committed by Imperial Japan. Under the Charter, the Tokyo Tribunal had jurisdiction only over what were identified as 'Class A' crimes, indicating crimes against peace. 'Class B' and 'Class C' crimes, respectively, violations of the laws or customs of war and crimes against humanity, could be prosecuted only by national courts. This meant that accountability did not happen for all colonial subjects, whose mistreatment was systematically excluded from the Tribunal's mandate. This applied to the Korean comfort women case, for which, although part of Class B and Class C crime categories, no national trials were conducted. Most importantly, Emperor Hirohito and most of the military officials involved in the war crimes were granted immunity and continued to play a significant role in the political spectrum.<sup>2</sup>
- 5 Several reasons explain why the Tokyo Trial is far from being considered a success at bringing justice. A primary strength of international criminal tribunals lies in individual accountability. Victims can fulfil their sense of justice by witnessing their aggressor being punished. The emphasis on individualism prevents a collectivisation of guilt being created that would otherwise lead to feelings of hate and distrust towards an entire group of people. Even more so, individual accountability of political figures prevents the re-establishment of the same national regime which perpetrated the crimes in the first place.<sup>3</sup> The impunity of Emperor Hirohito lightened the war responsibility of the population and quickly settled prosecution of all other crimes, preventing the nation from reflecting on their past wrongdoings as a colonial empire.<sup>4</sup> Second, the Tokyo Trial managed to put forward a distorted narrative which framed Japanese civilians as victims of imperial leaders that not only did not keep them informed of the war crimes committed, but ultimately lost the war.<sup>5</sup> Last, the complete administration of the Trial by the victorious powers of World War II led to a strong sentiment of nationalist pride against a foreign power which was viewed as attempting to cancel the culture and spirit of Japan to facilitate regime change.<sup>6</sup>
- 6 The scant critical scrutiny surrounding the Tokyo Trial, coupled with the postwar and postcolonial education instated in the country, promoted the picture of a victimised and resilient Japan against foreign powers. Apologies and acceptance of past crimes came to be viewed as costly for the national strength of the country.<sup>7</sup> These failures all contributed to a distortion of Japanese war responsibility and to a missing feeling of national guilt and shame for the colonial atrocities committed. Above all, it has prevented reconciliation between Japan and its former colonies, with persistent grievances over issues of apology and reparations, historical revisionism, and refusal to admit responsibility for war crimes conducted during the system of colonial oppression.<sup>8</sup>
- 7 Another attempt at punitive justice came in 2000 with the informal Women's International War Crime Tribunal. The Tribunal aimed at investigating larger categories of crimes against humanity, including comfort women, which the Tokyo Trial was unable and unwilling to cover. The Tribunal's success was facilitated by the growing number of survivors' testimonies which pushed the Japanese government to partially acknowledge the crimes committed. Nonetheless, the Tribunal did not lead to

a complete shift in Japan's stance, which has kept either denying or justifying the comfort women cases as voluntary recruitments and as permanently settled through the 1965 Agreement.<sup>9</sup> The Tribunal's International Organising Committee comprised victims organisations from countries across Asia and from the offending country (Japan) and an International Advisory Council which included members from foreign countries.<sup>10</sup> The Tribunal presented itself as an additional punitive approach to the one already conducted by the Tokyo Trial. It resumed where the Tokyo Trial left off, by trying the cases of widespread human rights violations and crimes against humanity of rape and sexual slavery that comfort women had to go through. It went even further by convicting Emperor Hirohito as guilty.<sup>11</sup> However, given its informal nature and lacking any effective judicial power, all it could do was to strongly demand that the Japanese officials involved in past cases of sexual slavery be held liable.<sup>12</sup>

## 4.2 Reparatory justice: the 1965 Treaty on Basic Relations and demands for financial compensation

- 8 In 1965, a few years after colonial liberation, Japan and South Korea signed the Treaty on Basic Relations between the Republic of South Korea and Japan, which restored 'future-facing and friendly relations' through the granting of 'loans' to South Korea that were intended to function as compensation for past wrongdoings.<sup>13</sup> Given the need for financial aid for a rapid development of the war-torn peninsula, Korean leaders accepted to give up on reparations requests in exchange.<sup>14</sup> Nonetheless, disagreements between the two countries were far from resolved. The signing of the Treaty was condemned by the majority of Koreans since the 'granting of loans', rather than compensation for a wrongdoing, indicated a form of financial aid given by a stronger actor to the weaker other. Political mobilisation for comfort women first emerged in 1988, when the Korean Church Women's Alliance demanded apologies, compensation and investigation on the matter. To this, the Japanese restated that all issues were settled through the 1965 Agreement. This shift seemed to occur with the death of Emperor Hirohito in 1989, which fostered a feeling of remorse in Japan and a wave of protests in Korea. The more progressive Japanese Prime Ministers that succeeded openly began to acknowledge Japan's violent colonial rule and war crimes, offering repeated apologies to their Asian neighbours.<sup>15</sup> At the same time, protests emerged in Korea against the government's decision to send an emissary to the Japanese Emperor's funeral. Again, the lack of apologies and reparations on the comfort women issue was brought to the forefront as the main grievance between the two countries.
- 9 As part of the protest movement, new political demands for compensation emerged in 1991, with the first testimony of a former Korean comfort woman in a press interview.<sup>16</sup> Subsequent to this, in 1995 Japanese companies agreed to set up an 'Asian Women's Fund' to provide victims with adequate reparations. However, not only did this compensation measure come without any apology from the government, but the money collected was given by private companies and not by the national government itself.<sup>17</sup>
- 10 Recently, at the end of November 2023, the Seoul High Court overturned a lower court ruling and ordered the Japanese government to pay two hundred million won as compensation to surviving comfort women, together with explicit acknowledgement of Japan's extremely oppressive colonisation system and of its repeated denial of the war atrocities committed.<sup>18</sup> The unwillingness of Japanese Foreign Minister Yoko Kamikawa

to comply with the Seoul High Court ruling encouraged a highly antagonistic and anti-Japanese narrative among South Koreans, gaining domestic public support for the view that the Japanese government cannot be trusted.<sup>19</sup>

- 11 Reparations are a key victim-centred measure, which aims to allay doubts on how to acknowledge and repair the abuses that victims have gone through. These can manifest in the form of financial remedies, symbolic apologies, investigations of the abuses perpetrated, and guarantees of non-recurrence.<sup>20</sup> Financial compensation, in particular, represents a concrete way to provide justice to the victims by making the offender 'give up' something to try to restore or retribute some form of alleviation and dignity to the victim.<sup>21</sup> The framing of reparations as grants for foreign assistance or charity instigates feelings of embarrassment and shame on the part of the victims. Rather than being appeased by what is owed to them, they feel once again in a position of subordination before a power which has previously caused them harm, and which now positions itself as though it has conferred a kind favour. Additionally, the Japanese government has consistently failed to put its capabilities and reputation at stake, by delegating to third parties the duty and burden to provide for compensations. For compensation to work, this should be regarded not as a punitive act for the offender. Rather, it should be conceived as a supportive measure for more symbolic acts of apology and memorialisation and a useful diplomatic tool in the resolution of disputes.

<sup>22</sup>

### 4.3 Reconciliatory measures: 'apology fatigue' and denial of war crimes responsibility

- 12 The willingness of Japanese officials in the 1990s to openly admit the commission of war crimes, set up financial reparations and issue statements of apologies could have been a turning point in the relations between Japan and South Korea. If this was not case, it is because it lacked a coordinated effort among the measures adopted by Japan. Apology and financial compensation, instead of being considered as two separate approaches, should go hand in hand. Material compensation without more symbolic gestures can appear as not putting enough effort into repairing and recognising the consequences of abuses. Equally, mere words of remorse should be backed up by more concrete actions to demonstrate care and interest in the victims' rehabilitation and restoration of their dignity and moral worth.<sup>23</sup> Above all, apologies should be sincere and victim-centred, admit responsibility, acknowledge the suffering caused, ask for forgiveness and be coherent with the other measures put in place to show willingness to reconcile and detach from past wrongdoings.<sup>24</sup> Once a sincere apology has been expressed, the general sentiment should be one of acceptance, restored trust and renewed safety of guarantees of non-recurrence.<sup>25</sup> This has yet to be the case for Japan and South Korea, where the lack of sincere and coherent apologetic statements has been a central point of friction and hostility between the two countries.
- 13 Since democratisation, Japanese Prime Ministers have extensively offered their 'deep remorse and heartfelt apologies' for the atrocities committed during the colonial Empire.<sup>26</sup> A breakthrough occurred in 1993, when Chief Cabinet Kono released a statement acknowledging the involvement of the Japanese military in the establishment of the comfort stations and the recruitment of comfort women.<sup>27</sup> This was released after a government study found that the military had indeed played a direct role in coercing women into these stations. Again, in 1995, Prime Minister

Tomichii Murayama, on the occasion of the establishment of the Asian Women's Fund, described the acts of the Japanese military forces of the time as 'inexcusable', offering a 'profound apology to all those who, as wartime comfort women, suffered emotional and physical wounds that can never be closed'.<sup>28</sup> Progress in reconciliation efforts was cut short several years later when Prime Minister Shinzo Abe, to pressures of drafting a nonbinding resolution to formally acknowledge responsibility, denied the existence of evidence demonstrating coercion of women into sexual slavery.<sup>29</sup> This was regrettable especially considering that, after release of the Kono statement, Kim Young-sam, the President of South Korea, stated that he would not ask the Japanese government for material compensation in order to pursue a renewed Japan-ROK diplomatic relationship.<sup>30</sup>

- <sup>14</sup> To date, despite emphasis on the shared democratic values and rule of law, public sentiment has yet to change positively. Koreans have criticised the insincerity and contradiction of the Japanese government's political apologies due to their refusal to admit responsibility of the past war crimes or to provide for adequate reparations.<sup>31</sup> In particular, following Prime Minister Abe's statement of denial in 2007, protests by comfort women survivors escalated across former Japanese colonies. Discontent with the Japanese government's actions rose and demands became even more insistent and uncompromising.

'How can Abe lie to the world like that?', Wu Hsiu-mei, 90-year-old Taiwanese comfort women survivor.<sup>32</sup>

'Mr. Abe should act like a man and face the truth of the crimes that were done to us. I was robbed of my youth, and I want him to apologise before I die', Yong Soo Lee, 86-year-old Korean comfort women survivor.<sup>33</sup>

- <sup>15</sup> To continued requests of apology and compensation by an unforgiving Korean public, Japan has instead expressed 'apology fatigue', claiming exhaustion as it had already provided for numerous apologies for what seems to have given no result. Additionally, the Japanese government has continued to argue that all compensation issues were settled with the 1965 Agreement and, again, with the 2015 Japan-South Korea Comfort Women Agreement.<sup>34</sup>
- <sup>16</sup> The 2015 Agreement probably represents the most notorious example of Japan's polarising and controversial behaviour when it comes to apology and acknowledgment of guilt. With the Agreement, Japan explicitly expressed responsibility, apologised to the comfort women, and agreed to provide for reparations to the survivors through the establishment of a foundation. In exchange the Korean government offered to consider the issue resolved 'finally and irreversibly'.<sup>35</sup> Several issues with the agreement can nonetheless be identified. First, rather than an official document between the two states, the 2015 Agreement comprised of a joint announcement made at a press conference. This meant that no written document was made public by either government, leaving nothing for the survivors to read, who complained about the lack of a victim-centred approach in the drafting and implementation of the agreement.<sup>36</sup> South Korean NGOs and civil society responded by protesting against the government's decision and by erecting comfort women memorials across the country. The most problematic event, however, was that shortly after the announcement, Abe released a statement of there being no records which proved that the victims were forcibly taken away, thus denying the war crime. Prime Minister Abe underscored the 'finally and irreversibly' clause, adding that there would be no more apologies from Japan in the future and no more claims could be put forward by Korea.<sup>37</sup> Tensions between the two countries further escalated in 2018, culminating in heavy trade restrictions, when the

new South Korean government closed the Japanese compensation scheme established in 2015 to demonstrate the invalidity of the flawed Agreement.

- 17 The reason behind the struggles of providing for genuine apologies lies in the absence of a collective memory and historical narrative of what has occurred. In the case of comfort women reconciliation agreements, national backlash and domestic criticism have usually hindered attempts of normalising bilateral foreign relations. Admitting to the wrongdoings is perceived as a weakness affecting the strong national identity of both countries, given the disagreements over the impact that colonialism had on Korea.

<sup>38</sup> Moreover, it could allow for further requests of compensation to repair a damage caused by a past which no longer belongs to the present community.<sup>39</sup> This is why, in the context of the 2015 Agreement, Prime Minister Abe denied responsibility over the violations committed and proposed closure once and for all. As argued previously for compensation, apology claims should not be intended exclusively in terms of collective accountability. Their effectiveness should reside in their power of social healing and trust-building for positive transformation. A genuine apology has the capacity to restore a broken relationship, acting as a diplomatic tool influencing how states are perceived by other actors.<sup>40</sup> The re-establishment of social harmony through restorative justice must however be preceded, as conceived within the African *ubuntu* justice approach, by a process of truth-telling for a shared acceptance of the historical past.<sup>41</sup>

## 4.4 Revelatory justice: collective memorialisation versus national historical revisionism

- 18 2023 saw developments in the desire of both Japan and Korea to resume closer ties through the resolution of historical grievances. The first quarter of 2023 was characterised by a great willingness from both South Korean President Yoon Suk-Yeol and Japanese Prime Minister Kishida Fumio to restore diplomatic ties. In March 2023, the two leaders held a bilateral summit to discuss resuming country visits for the purposes of increased security cooperation and resolving the existing trade limitations. This first visit to Tokyo was made by South Korean President Yoon, representing the first bilateral trip by a South Korean leader since 2011. A month later, in April 2023, Japanese Prime Minister Kishida Fumio made a trip to Seoul, the last visit having taken place in 2018. This time, discussions about reconciliation and resuming closer diplomatic bilateral relations through the resolution of their historical misunderstandings were at the forefront.<sup>42</sup> On this occasion, Japanese Prime Minister Kishida acknowledged the need to address the shared past, expressing how he was ‘personally so heartbroken that so many people suffered so much pain and sadness under such harsh circumstances at the time’.<sup>43</sup> Although not explicitly admitting accountability, nor naming the victims, nor elaborating on what the ‘harsh circumstances’ were, Kishida expressed a ‘strong desire to strengthen Japan-Korea bilateral relations’.<sup>44</sup> Kishida’s flawed statement was criticised in the South Korean press, expressing once again disapproval and dissatisfaction over the lack of transparent apologies.<sup>45</sup>
- 19 When the two political figures met again at the April 2023 trilateral summit with the US, positive developments in their relations culminated in the official institutionalisation of the trilateral cooperation in August 2023. Mutual commercial exchanges were revived, with both countries adding each other back to their whitelists



of trusted trading partners as ‘Group A country’ after having removed each other in 2019 due to product boycott campaigns and stringent export restrictions.<sup>46</sup> To proceed further in the resolution of their historical animosities, the South Korean government set up a plan asking South Korean companies’ funds to compensate the victims of forced labour under the Japanese Empire. The aim was to finally end the generational cycle of hatred that has heavily influenced public opinion in both countries in order to achieve higher security and economic purposes.

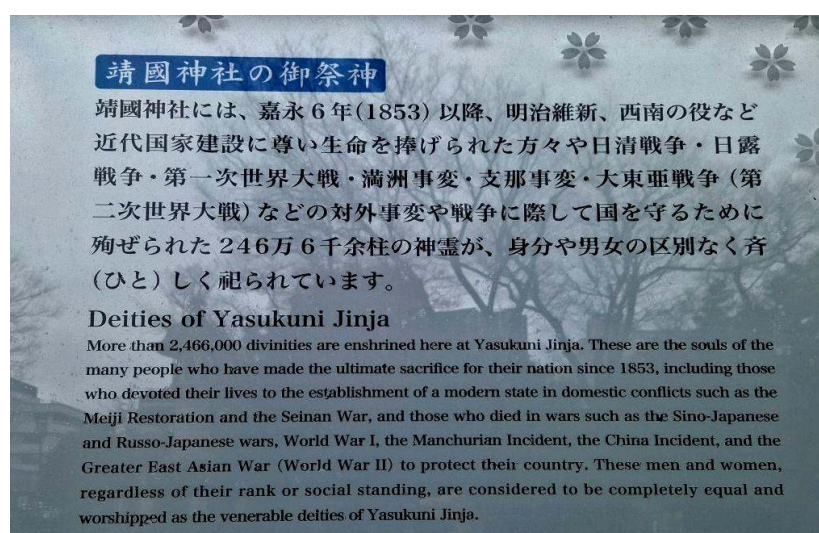
- 20 To briefly explain why both sides suddenly felt such urgency to resume diplomatic ties, reference can be made to China’s growing economic and military power, North Korea’s latest belligerent behaviour and the Russia-Ukraine war beginning its third year of war. Domestically, the new governments of Yoon, South Korean President since 2022, and Kishida, in office in Japan since 2021, have also contributed to the search for a more peaceful union. Nevertheless, the purpose of the research is not to dwell on the analysis of the changing balance of power in the Asia Pacific Region or the evolution of international relations. Rather, understanding the complex historical animosities originating from the former coloniser/colonised relation of Japan and South Korea could help identify why relations broke down and how to fully recover their diplomatic alliance. For grievances between states, it is necessary to agree on a shared view of how to do justice and how to interpret and narrate the harm that has been caused for remembrance, guarantees of non-recurrence, and restoration of social and political harmony. Interpreting the past and determining which narrative represents the true version of events is perhaps the most significant source of tension between Japan and South Korea. Establishing historical factuality is an inherently challenging task, as the actors involved experience and perceive events in profoundly different ways. Furthermore, in the process of remembrance, the past often becomes modified and idealised according to prevailing emotions. Traumatic experiences may be amplified, forgotten, or minimised to create discrepancies in the memories of atrocities.
- 21 Historical misrepresentation has been used by both Japan and South Korea to strengthen national identity by politicising interpretations of the past.<sup>47</sup> The Japanese revision of history textbooks has consistently distorted and softened the brutality of Japanese colonial rule, encountering criticism and outrage from its former colonies. The shift towards a less conservative government in the 1990s first allowed for the passing of a resolution emphasising the need to face the country’s colonial past evils. Historical textbooks were edited to include more information on Japanese colonisation, including the coercion of women into sexual slavery by the Japanese Imperial Army. When the conservative Liberal Democratic Party returned to power in 1996 the Japanese government retracted its reconciliatory behaviours, with textbooks again omitting, belittling or understating the atrocities committed towards the colonised civilians.<sup>48</sup>
- 22 Despite the growing antagonism, in 2005 Japan’s Ministry of Education again approved the use of a new revised history textbook published by the Japanese right wing. As a response, South Korea expressed disapproval and accused Japan of ‘whitewashing aggression’.<sup>49</sup> Besides downplaying the aggression of and suffering due to Japan’s actions as a colonial empire, Japanese educational textbooks removed any reference to sexual slavery, indicating that comfort women were prostitutes under voluntarily contracted labour, who independently and consciously chose to work in the army, and framed Koreans’ participation in the Japanese army as a voluntary decision.<sup>50</sup> In most



cases, the abuses endured by comfort women were completely omitted from the historical events.<sup>51</sup>

- 23 Exacerbating historical revisionism practices are also the regular visits by Japanese officials to Japan's Yasukuni Shinto Shrine, commemorating Japan's war dead, including war criminals involved in the comfort women issue. For Japan, these visits symbolise respect for the nation's past and strength of national identity. Victims of Japanese colonisation, including China, Taiwan and Korea consider the visits to the shrine as an attempt at historical misinterpretation, a refusal of accountability, and the glorification of Japan's past colonial empire.<sup>52</sup> South Korea in particular has expressed disappointment over the visits and has called on Japan to accept and reflect on its past history of aggression.<sup>53</sup> The international community has on several occasions advised Japanese officials to abstain from visiting the shrine to avoid a deterioration of its diplomatic relations with its Asian neighbours.<sup>54</sup> Nonetheless, Japan has continued its actions, especially under Prime Minister Abe's term.<sup>55</sup> A positive development occurred in 2022, as the Japanese Prime Minister Fumio Kishida voluntarily avoided visiting the shrine on the day of the anniversary of Japan's defeat in WWII. South Korea responded positively, voicing the need for overcoming their historical misunderstandings and repairing their bilateral ties.<sup>56</sup>

Figure 3. Billboard hanging at the entrance to the Yasukuni Shrine in Chiyoda, Tokyo. It recites: 'More than 2,466,000 divinities are enshrined here at Yasukuni Jinja. These are the souls of the many people who have made the ultimate sacrifice for their nation since 1853.'

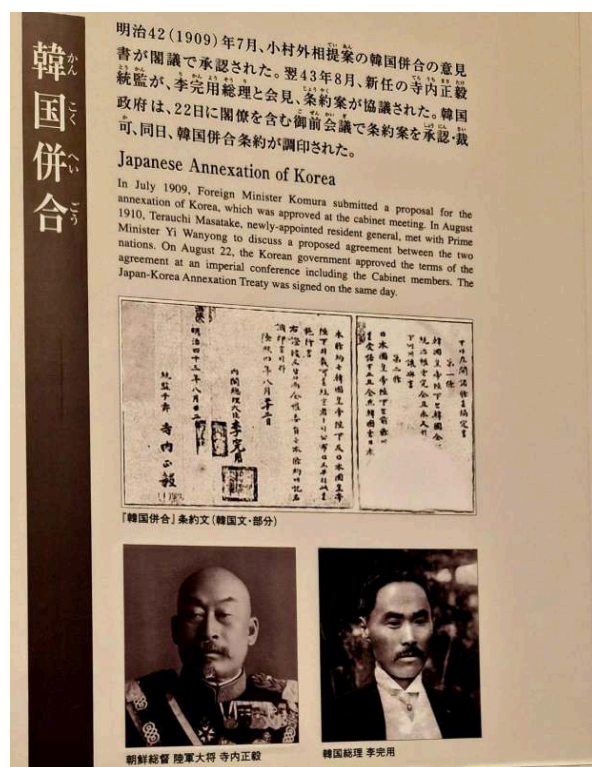


Source: author.

- 24 The historical revisionism dispute is a question of identity politics and collective national memory.<sup>57</sup> In both Japanese and Korean society, worship of ancestors and roots with tradition and family history are sacred and legacies survive for an extremely long time among generations. Distorted truth-telling, transmitted through textbooks and memorials, politically socialises successive generations into believing the dominant narrative put forward by their elders.<sup>58</sup> As the historical grievances have become part of both the Korean and Japanese identities, it is necessary to accept the past and let go of feelings of resentment and distrust to find a balance between peace, truth, justice, and reconciliation.<sup>59</sup> The ongoing diplomatic battles demonstrate the need for justice measures dealing specifically with changing perceptions of collective truth, memory,

and identity.<sup>60</sup> Particularly as comfort women survivors are growing older every day, it is important to identify a common narrative of truth and memory to educate the younger generations about their historical past and prevent history from repeating itself while simultaneously addressing contemporary issues.<sup>61</sup> The hope is that transitional justice measures of historical reconciliation help consolidate peaceful and amicable diplomatic relations between Japan and South Korea for a shared and stable future.

**Figure 4.** Poster displayed in the Yūshūkan Museum, the Japanese military and war museum located within the Yasukuni Shrine in Chiyoda, Tokyo.



The poster briefly recounts the events surrounding the annexation of Korea by Japan, proposing a version in which both nations agreed to openly approve the annexation of Korea by the Japanese Empire.

It recounts: 'In August 1910, Terauchi Masatake, newly appointed resident general, met with Prime Minister Yi Wanyong to discuss a proposed agreement between the two nations. On August 22, the Korean government approved the terms of the agreement [...]. The Japan-Korea Annexation Treaty was signed on the same day.'

Source: author.

## FOOTNOTES

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3. Futamura, "Individual and Collective Guilt", 473-475.
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## 5. Redefining Transitional Justice: promoting historical reconciliation for the restoration of Japan-Republic of Korea diplomatic relations

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- <sup>1</sup> The two countries have been going through a series of ups and downs ever since the liberation of South Korea and the democratisation of Japan. While positive developments emerged from the 2023 summit, it remains to be seen how relations will evolve and whether they will survive in the long term. It has been observed how on the one hand the Japanese government has been controversial over its attempts at atonement and acknowledgment of past wrongdoings. On the other hand, the South Korean government has been distrustful and sceptical of Japanese intentions, consistently demanding greater efforts and dismissing Japan's attempts to break away from its aggressive and imperial past. These dynamics have hindered and keep hindering reconciliation and the building of close diplomatic ties.<sup>1</sup>
- <sup>2</sup> Chapter five encapsulates the intents of this research, which is to demonstrate how transitional justice can assist two non-conflicting and non-transitioning democracies in the restoration of their bilateral diplomatic ties. This analysis will reconceptualise the objective of TJ from one of 'transition from one regime to another' to one of 'transition in the equilibrium among members of groups'.<sup>2</sup> This paradigm of societal transition is examined in terms of historical reconciliation. It is by fostering a shared historical memory that the members of the groups, that is, the Korean and Japanese governments and populations, can break away from the past and renew their diplomatic engagement.
- <sup>3</sup> Section 5.1 provides a critique of the Japanese government's excessive consideration of domestic public support. National pride overrides the importance of foreign relations, hampering diplomatic reconciliation through transitional justice measures of truth-telling and collective memory formation. Section 5.2 demonstrates how a joint community of historians could foster reconciliation by transforming national versions

of historical events into a unified collective history which would help reduce the number of ‘permissible lies’. Section 5.3 argues how recognising colonialism as a structural injustice of its time helps with practices of remembrance and facilitates the acceptance of guilt for the Japanese government. Finally, Section 5.4 emphasises the potential of truth commissions in bringing victims to the forefront of the reconciliation process.

## 5.1 Moving past the fear of domestic backlash for national identity reframing

- 4 Japanese Prime Minister Fumio Kishida’s use of incomplete and euphemistical apologies stems from an excessive consideration of domestic public opinion. Brought to power by the most conservative faction of the ruling Liberal Democratic Party (LDP), Kishida’s foreign policy is steered by fear of political backlash and loss of domestic support.<sup>3</sup> The LDP has retained control of the government almost consistently since its formation in 1955, influencing negative views of South Korean demands for apology and compensation as being excessive and misguided. Believing Japan’s former colonisation of Korea to be beneficial to South Korea’s steady social and economic development, providing for an apology would mean to succumb to a narrative of events which does not mirror the Japanese reality of facts.<sup>4</sup>
- 5 Anti-Japan and anti-Korean sentiments are regrettably embedded in both countries’ national identities, exacerbated by nationalised education systems and incongruous historical narratives.<sup>5</sup> While Japan has reconciled with other former colonies, such as China and Taiwan, it has remained reluctant to address the comfort women dispute. The strong connection between national pride and the perceived weakness that would result from apologies and compensation on the matter has attached greater priority to maintaining public support than to fostering foreign policy. Nationalism influences foreign relations with the socialisation of misrepresented historical memories that, in turn, emphasise nationalistic sentiments. At the same time, domestic pressure limits the behaviour of politicians, who pursue conservative policies to accommodate public sentiments and demands.<sup>6</sup>
- 6 On the Korean side, especially during the Moon administration in 2017, feelings towards cooperation with Japan have soured. The validity of the 2015 Agreement, signed by the previous Park administration, was denied, and suggestions of foreign diplomatic relations with Japan appeared as betrayals for the most assertive Korean nationalists.<sup>7</sup> South Korean President Yoon has embarked on a different direction. Rather than catering to national public demands, Yoon has professed his desire to resume diplomatic relations by publicly declaring he would not politicise history to gain domestic support.<sup>8</sup> With even firmer commitment, Yoon has also dismissed the Korean need of apologies by sharing Japan’s complaints on how it has already apologised numerous times.<sup>9</sup> Nonetheless, without reciprocal willingness from Kishida to defy conservative pressures, restoring diplomatic relations remains a remote possibility.
- 7 The fundamental issue is a lack of trust between the two nations, stemming from differing historical understandings.<sup>10</sup> Memories of the past are at the core of nationalism and identities, which shape processes of foreign diplomacy and domestic policymaking. For genuine reconciliation and trust building, both countries need to cooperate to develop a shared understanding of their shared past. Reshaping national



myths and fostering a cultural identity independent of past conflicts is a powerful diplomatic tool as it can influence perceptions of one another. Both Japan and Korea would have the chance to move past their co-dependent opposing narratives. Korea could establish a cultural identity not defined by its history of resistance against Japan, while Japan could appraise its development as independent of comparisons with its Asian neighbours.<sup>11</sup> Moreover, the Japanese national identity now thrives on the pressure from and shaming by third actors, where subjugation and acceptance of repentance becomes viewed as a sign of weakness for the nation.<sup>12</sup> This shift would help contemporary Japan detach from its imperial past, encouraging stronger and more inclusive democratic sociopolitical structures which are already well consolidated in the country.<sup>13</sup>

- 8 This is where transitional justice comes into play. TJ measures of apologies, reparations, judicial trials and memorialisation have already been applied in the novel post-conflict democratic context of Japan. The holistic application of these measures over the second half of the twentieth century is already evidence of how these can be adopted by consolidated democracies for societal transformation and correction of structural injustices. If these did not succeed, it is because both Japan and Korea welcomed them without keeping in mind the final objective of a close diplomatic partnership. Bigger economic and security foreign policies were overshadowed by nationalist sentiments of pride and hostility, unwilling to uncover and clarify even the most factual historical events. The subjugation of revelatory justice processes to political practices of conservative nationalism led to insufficient retributive consequences for offenders and the lack of a victim-centred approach in reparatory and reconciliatory processes. In the feeble Japan-South Korea interstate relationship, historical revisionism and misinterpretation become part of transitional justice patterns as they clash with processes of memory and remembrance.<sup>14</sup> For a meaningful social reconciliation, both governments ought to begin open dialogues with all relevant stakeholders to conduct comprehensive investigations into their collective past and decide together which truth represents the most accurate version of the story. Only then can restorative, reparatory and retributive justice practices be discussed and allow for their relationship to reconcile.<sup>15</sup>

## 5.2 Transforming revisionist narratives through joint historical research committees

- 9 To transform revisionist narratives, it is crucial to separate the process of remaking history from its influence on the political sphere. Historical narratives should not be shaped according to nationalist sentiments. In turn, political agendas should not exploit historical misconceptions to further their national self-interests. A first key aspect for correcting disagreements and misinterpretations of the historical past is to allow apolitical institutions to oversee historical matters. Leaving the process of creating history to historians themselves, in an environment that allows for open dialogue and knowledge-sharing, helps to avoid framing history in a way that favours diplomatic relations and domestic political acceptance.<sup>16</sup>
- 10 In 2000, Japan and China engaged in a joint research programme aimed at reconciliation through history. The 'Japan-China Young Scholars Conference on History' brought together academics and historians from both countries to work on a collective version of their shared history.<sup>17</sup> The programme was supported by private

organisations over the course of 15 years throughout which time Japanese and Chinese scholars shared national archives, historical documents and testimonies to create consensus on the course of the historical events.<sup>18</sup> Agreeing on a common historical perception was deemed as the only pathway for appeasing the sentiments of both countries over their hostile past. The research resulted in a series of publications reinterpreting Sino-Japanese relations and forming co-existent historical understandings.<sup>19</sup> Following the same approach, a 'Korea-Japan Joint History Research Committee' was also launched in 2001 to prevent history politicisation from affecting diplomatic ties by promoting mutual understanding of historical facts and historical perspectives. The research organisation was comprised of history academics and professionals from each country, divided into subcommittees dealing with different periods of history. The final research results were expected to be integrated within school textbooks and historical research bodies. It was intended as an effective way to keep the history problem to expert historians themselves, and prevent it from flooding public sentiments, domestic politics and foreign diplomacy. The hope was that the joint history would contribute to the resolution of history issues between Korea and Japan.<sup>20</sup>

- 11 This Japan-Korea joint research programme did not achieve the hoped-for results of diplomatic reconciliation. Very few common interpretations of historical events were reached. One was the inexistence of a Japanese government headquarter to rule over the Korean ancient kingdoms in the fourth century. The establishment of Japanese governmental offices in the southern part of the Korean island was used in several history textbooks to justify Japan's subsequent annexation of Korea centuries later.<sup>21</sup> While both sides agreed that such institutions never existed, the Japanese government was reluctant in removing the sections claiming otherwise. The Japanese government's refusal to use the agreed research findings in its academic textbooks interrupted the project in 2005.<sup>22</sup>
- 12 Although historical reconciliation processes can be made apolitical, their success is ultimately dependent on the current political context. If governments themselves maintain a hostile and contradictory stance, domestic public opinion will be even more adamant about accepting and transmitting the revised historical narrative among their own generations. Perhaps a less conservative Japanese government in 2005 would have been more open to the adoption of revised textbooks in schools and would have allowed the research project to progress. In what appears to be a more open and inclusive Kishida-Yoon partnership, today the establishment of a community of historians could yield different and improved results.
- 13 Drawing on Hearty's view of reducing the amount of 'permissible lies in dominant discourses'<sup>23</sup> for greater chances of reconciliation, a process dedicated to the remaking of history should begin first by identifying the most factual and objective historical events. Alex Boraine calls these the 'hard facts' or the 'legal truth', that is the 'basic information about whose moral and legal rights were violated, by whom, how, when, and where'.<sup>24</sup> For Japan, this means acknowledging its imperial past and forced colonisation of its neighbours, and abandoning justifications suggesting that colonisation was desired by the populations affected. This could be conducted by examining the available documentary evidence and the national histories taught in each country. Confronting them would allow shared perspectives to be pinpointed and outline a general historical framework.<sup>25</sup>
- 14 Once this initial step is complete, the different national interpretations of the same events can be analysed through historical materials and documents rendered accessible

by both governments. Consulting written evidence would help establish an initial level of truth. This first superficial narrative would have to inevitably be confronted with the analysis of emotional truth. Emotional truth can be interpreted, according to David Crocker's definition, as 'knowledge concerning the psychological and physical impact on victims and their loved ones from rights abuses and the threat of such abuses'.<sup>26</sup> The analysis of emotional truth-telling relies on a victim-centred approach. Through participatory processes, survivors' testimonies can be of fundamental help with the reconstruction of historical events. At the same time, these processes would benefit them with a greater sense of dignity and empowerment, stimulating reconciliatory feelings.<sup>27</sup> A major issue is that emotional memory cannot be verified by any historical repository and, as time progresses, becomes increasingly difficult to verify in survivors' accounts. The survivors' own emotions can be extremely divergent and ambiguous from one to another, depending on individual acceptance of the trauma and suffering they have endured. Emotional history is not a shared experience, but tends to change, reinforce, or alleviate depending on current relationships, feelings, and how it has been dealt with. Thinking, for instance, of Japan-Korea relations over the past decades, the atonement shown by the Japanese government throughout the 1990s had initially softened the angry feelings of Koreans. However, during heightened periods of tension, such as during the 2012-2020 Abe administration, the emotional memory surrounding comfort women had become much louder, confrontational, and unwilling to compromise.

15 Japan's failure to recognise the emotional burden that the Korean people have kept carrying with them from generation to generation contributes to feelings of distrust and misunderstanding. This occurs because the Japanese people are acquainted with a different version of the story, which does not have to mean it is any less real. Standing on the side of the offender, Japan's national history does not portray the suffering of the victims. Rather, it merely recounts the events in a way which preserves its reputation. It is thus fundamental to establish an equilibrium between hard facts and emotional memory. Overemphasising statistics of comfort women victims, for instance, could overshadow the emotional memory that survivors continue to deal with to this very day.<sup>28</sup> Incorporating both objective historical descriptions and emotional experiences into a shared narrative would help bridge the divide and reduce the number of permissible lies. This would transform state-dominated national histories into parts of a shared, collective one, fostering greater understanding and reconciliation.<sup>29</sup>

16 There is a chance that the two countries may never fully agree on their shared history. Nonetheless, reconciliation can still be aspired to through mutual respect of their differences and a willingness to listen to one another.<sup>30</sup> Reciprocal respect should be demonstrated by creating a space in which diverging narratives and memories can co-exist. This space should be nurtured through sensible actions, including halting visits to the Yasukuni shrine and avoiding inflammatory statements denying that any war crimes were ever committed during the colonial period.<sup>31</sup> Furthermore, in creating a single unified interpretation, a definitive version of the events could be left up to the public to decide. An example of this is given by the 2001 'History Opens the Future' joint initiative between Japan, South Korea and China. The textbooks that emerged from the initiative introduced the factual events and the historical grievances surrounding them, including disagreements over the comfort women and the Yasukuni

shrine. These accounts, however, did not give any conclusive thoughts on the matters, leaving it up to the readers to formulate their own opinions on the dynamics.

### 5.3 Addressing the underlying structural injustices of colonialism

- 17 The process of truth-telling should not limit itself to what has happened, but also to understanding how and why such an atrocity was permitted to occur. The Japanese government's acknowledgment of responsibility for the wrongdoings committed during its colonial Empire could be facilitated by a process examining the structural core injustices underlying the social dynamics of the time. This would mean moderating practices focused exclusively on shaming and blaming the Japanese past and contemporary society for its actions. Instead, it would help Japan accept its past atrocities while recognising the structural injustices inherent in the colonial practices of the twentieth century. This would provide for a more comprehensive narrative, switching from a perpetrator-centred snapshot to capturing the broader picture of the ways in which colonial structures were legitimised and normalised by the international system of the time.<sup>32</sup> After all, colonialism as a practice was only internationally condemned in 1960, when the United Nations General Assembly recognised, through the 'Declaration on the Granting of Independence to Colonial Countries and Peoples', that 'the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights'.<sup>33</sup>
- 18 As argued in the previous chapters, Japan's empire-building mission was driven by a desire for acceptance from European colonial powers. In order to be considered as an 'equally civilised' nation and to avoid becoming subjected itself to the expanding Western colonialism, Japan saw the colonisation of its Asian neighbours as the only solution. A comprehensive historical narrative thus requires analysing the underlying structural processes shaping the relations and institutions of the time, rather than simply promoting a description of perpetrators versus victims. Focusing solely on the wrongs done by colonisers to the colonised is a simplistic view of the colonial system's functioning.
- 19 Scholars such as Soh argue that the comfort women system was legitimised by existing institutions.<sup>34</sup> It was not only reproduced by the evil Japanese coloniser, but a certain degree of complicity was also inherent in the behaviour of the colonised Korean population. The patriarchal social structures entrenched in Korean society contributed to the role played by women during wartime and the silence, stigma and shame that derived later on.<sup>35</sup> It was only with the 1990s emergence of a global women's rights campaign of increased awareness on gender inequality and violence against women that the experiences of comfort women, almost forgotten, started coming forward with demands for justice.<sup>36</sup> Even in this case, however, the victimhood of comfort women survivors is often exploited by South Korea for leveraging its diplomatic self-interests in obtaining more concessions from Japan.<sup>37</sup> This excessive nationalism, coupled with patriarchal and gender-based injustices, are complicit with Japanese colonialism in protracting the suffering of comfort women.<sup>38</sup> This structural approach shifts the perspective on the degrees of responsibility. While it is essential to investigate and prosecute those directly responsible for crimes, a process of collective responsibility must also occur among all societies that perpetuated, supported or remained silent about colonial-era atrocities and abuses. The goal should be to confront and reflect on

the atrocities witnessed by all during the colonial era, acknowledging the moral complicity of everyone involved. This does not detract from the moral and legal blame of direct perpetrators but can help initiate an international process of critique and self-reflection, making Japan feel less attacked and demonised by its counterparts for actions that were accepted or reproduced by many.

- <sup>20</sup> Acknowledging the underlying core injustices paints a fuller historical picture, rather than reducing it to a coloniser versus colonised view which inevitably places them in a situation of conflict and antagonism.<sup>39</sup> Criticising structural colonialism itself does not absolve guilty individuals of blame but encourages a more complete understanding of the historical processes contributing to the occurrence of such injustices.<sup>40</sup> This third degree of truth, that is the structural truth, is able to go beyond the legal and emotional levels of truth to locate what has happened within the deeper realities of the abuse. According to Hearty, structural truth uncovers the systematic violence and structures of impunity that allowed for such atrocities to be tolerated by 'looking beyond the basic responsibility of those held responsible'.<sup>41</sup> While the Japanese military involved in the comfort women system should be prosecuted and Korean victims should obtain the appropriate measures of apology and compensation, historical accounts should carefully explain the unjust social patterns shaping the past international community.<sup>42</sup> This narrative aims not to blame the victims but to transform society by making it more conscious of past atrocities and strengthen practices of collective memory and remembrance as guarantees of non-recurrence.

## 5.4 Ensuring a victim-centred approach in the truth-telling process

- <sup>21</sup> The right to truth is a fundamental basis on which liberal democracies rest and a crucial task of TJ measures. The United Nations have recognised the importance of the right to truth in declarations explaining how it 'implies knowing the full and complete truth as to the events that transpired, their specific circumstances, and who participated in them, including knowing the circumstances in which the violations took place, as well as the reasons for them'.<sup>43</sup> It also calls on truth as a form of symbolic compensation which, in a TJ framework, aligns perfectly with the South Korean need for appeasement and satisfaction from a Japanese demonstration of atonement.
- <sup>22</sup> Given the need to create new spaces in which insight on the past is provided, direct testimonies from survivors can help uncover the different experiences of the abuses suffered, going beyond the legal truth to analyse its structural and emotional aspects. As two non-conflicting consolidated democracies, it is easier for both Japan and Korea to conduct inclusive and participatory processes of truth-telling that contribute to restorative and transformative processes of justice. These processes can be conducted through victim-centred public hearings, giving space to the different existing truths emerging from the individual experiences of those who survived the colonial system.<sup>44</sup> The UN Report on the right to truth recognises truth and reconciliation commissions (TRCs) as ideal victim-centred spaces for survivors to be heard.<sup>45</sup> TRCs have the ability to promote interstate reconciliation by acting as a platform in which to build a shared historical narrative. The revelation of truth through these platforms contributes to the process of peace and reconciliation. In the diplomatic struggle between Japan and Korea, peacemaking theory is especially relevant to emphasise the crucial role of the public in the peace process. The Yoon and Kishida administrations have demonstrated

that, when the peace process is left solely in the hands of political officials, a discrepancy forms between the public's unspoken expectations and government decisions. This gap causes the public to feel disengaged and less responsible in fostering a culture of peace, trust, and acceptance.<sup>46</sup> Public-oriented diplomacy can bridge this divide, enabling leaders to collaborate with the public in building a new social order. A diplomacy focused on the public's needs can employ a variety of diplomatic tools to garner public support for the peace process, while enabling the public to voice their demands and influence political leaders.<sup>47</sup> Moreover, the promotion of a culture of remembrance, respect of human rights and of the rule of law at the interstate level would pave the way for discussions on adequate reparations and dignified apologies.<sup>48</sup> Nonetheless, as argued for the joint historical committees, for TRCs to be successful, both governments would need to endorse the testimonies provided by openly depicting them in official reports and by disseminating them across domestic academic and public channels.

- <sup>23</sup> Already in 2002, in the context of the Japan-South Korea joint research committee, Japanese and Korean civil societies organised the 'History Education Conference of Japan and South Korea' to overcome nationalist-driven education by offering a platform to openly listen to victims' testimonies.<sup>49</sup> A similar project was initiated in 2012 by the Korean Council. With the establishment of the 'War and Women's Human Rights Museum', envisioned as a platform for historical memory and education of future generations, the Council promoted the 'Butterfly Fund'. This initiative allowed survivors to share their experiences with other victims and with the public.<sup>50</sup>
- <sup>24</sup> For Japan and South Korea to reset diplomatic relations, survivors' participation in negotiations is crucial. Any resulting agreement without their involvement would be perceived as inadequate.<sup>51</sup> Civil society organisations, independent from government and political influence, have been playing an essential role in supporting historians and academics by engaging in investigative activities to reconstruct historical accounts.<sup>52</sup> By focusing on the individual healing of survivors, they have been instrumental in disseminating shared narratives and encouraging victims' voices to build trust and connection.<sup>53</sup> Following their example, Japanese and Korean public spaces should foster tolerance for diverse ideas and perspectives, ensuring open and safe environments free from reprisals and criticisms. Given their principles of transparency, freedom of speech and civic participation, stable democracies provide for ideal contexts in which to implement these TJ processes of truth telling. In the absence of fear of conflict re-emergence, Japanese and Korean societies lack neither the capacity nor the time to address their historical grievances. Yet, as of May 2023, only nine survivors are left of the 240 comfort women victims registered by the South Korean government. All are between the ages of 90 and 95.<sup>54</sup> A victim-centred reconciliation process is therefore urgent as time is running out for the remaining survivors who have now been advocating for justice for more than 30 years. Transitional justice measures of collective memory and historical remembrance are only a first step for Japan and Korea to work towards social re-education and transformation to improve their sociopolitical diplomatic relations and domestic democratic performances.<sup>55</sup> Only a common sense of collective memory and identity can spur shared feelings towards what has happened and a shared vision of the future ahead.

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## 6. Conclusion

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- 1 The concluding chapter of this paper does not aim to simplify or resolve the interstate reconciliation process between Japan and South Korea but to demonstrate that a reinterpretation of the field of transitional justice is both possible and favourable. The core of the debate has focused on how TJ processes can extend beyond their typical scope and be reconceptualised for application in contexts other than transitioning post-conflict and/or authoritarian societies. The Japan-ROK unsettled diplomatic relationship serves as an intriguing example of a novel application of TJ as a tool for advancing diplomacy. Chapter 5, in particular, engages with TJ's revelatory processes of truth-seeking and historical reconciliation to demonstrate that TJ can transcend its definitional limits to reach outcomes beyond conflict prevention and/or democratisation. It illustrates that TJ can contribute to reconciliation and promote a renewed interstate diplomatic framework between two countries that have yet to fully confront their historical past.
- 2 This research paper has first explored the academic field of transitional justice, explaining its measures of prosecution, reparations, apology, collective memory and truth-seeking. In the context of the comfort women dispute between Japan and South Korea, TJ measures represent the most ideal justice approach, as they can guarantee a holistic healing process that addresses the underlying structural injustices of historical human rights violations. Despite being impaired by strong nationalist sentiments stemming from their colonial dichotomy, both Japan and Korea have demonstrated a willingness for closer bilateral diplomacy. Although the past retributive, reparatory, restorative and revelatory justice measures adopted have not yet led to full reconciliation, they have occasionally mitigated the hostile anti-Japanese and anti-Korean sentiments felt in Korea and Japan respectively.
- 3 The lack of a long-term reconciliation is dictated by the lack of a collective truth and of a shared international memory. Both countries have engaged in historical revisionism and politicisation of the past to garner domestic support and obtain advantage in their foreign relations. This has ultimately hindered the development of friendly diplomatic relations between the two countries. Fostering a shared historical truth is essential for Japan and Korea to move beyond their troubled past and restore their diplomatic ties. This requires narrowing the gaps existing between their different historical narratives to shape a collective memory. National pride must be set aside in favour of a more open and lenient attitude towards one another. The transitional aspect of TJ can thus be

intended as a transformation of their diplomatic partnership to a closer and more balanced one and a change in their national identity independent of the former coloniser/colonised relationship.

- 4 Up until this point, this research has provided a theoretical pathway for diplomatic reconciliation between the two countries. The analysis should be pursued in empirical research by initiating a dialogue with civil society organisations in both countries. This would provide insight into the feasibility of implementing TJ measures of historical reconciliation within the two societies and to gauge domestic opinions on closer diplomatic ties. Moreover, given the recent trilateral meeting between Japan, South Korea and China in May 2024,<sup>1</sup> it has become pressing to investigate how renewed diplomacy between Japan and Korea would affect the balance of power in the East Asian sphere. Japan's Prime Minister Kishida and South Korea's President Yoon both expressed a desire for greater security and economic cooperation in response to rising political tensions, with the goal of ensuring regional peace and stability. Despite no major breakthroughs at the moment, the meeting promoted greater communication and showed progress in defusing tensions.
- 5 Finally, there is no one-size-fits-all approach to the implementation of TJ. Many countries with legacies of war crimes or colonialism have room for improvement in their domestic democratic performance and foreign diplomatic relations. The case study of Japan and South Korea demonstrates that even consolidated democracies require peace and reconciliation processes to remedy past core injustices. Transitional justice should be used by all as a peacebuilding and peacekeeping exercise. This research has suggested that novel patterns of TJ can be reconceptualised within different environments for various scopes. Hopefully, this research paper provides a valuable starting point for deeper analysis into the widespread potential of transitional justice applications.

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