

When the Perpetrator Apologizes, We Should Extend a Hand of Friendship

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On June 1, Mitsubishi Materials Corporation (Mitsubishi) formally apologized to the kidnapped Chinese laborers. I was authorized by one of the victims, the elderly Mr. Yan Yu Cheng (闫玉成), to publish this Settlement Agreement, so the world can observe and share in the first ever document from the Japanese community describing the introspection of and apology for the war crimes Japan committed in its aggression against China, 71 years after the war ended. This should serve as a valuable example for resolution of problems arising from past wars, and is undoubtedly a major contribution to post-war international legislation.

For over 20 years, especially in 2003 when I went to Japan to testify on behalf of the victimized Chinese laborers at the Sapporo Court, the impression left by the Japanese government and the perpetrator companies was one of arrogance. They ignored the cases, looked down on the Chinese, and were too stubborn to admit to any wrongdoing. While there had been isolated apologies for their aggression against China during WWII issued by elderly Japanese war veterans, the retired Prime Minister Yukio Hatoyama (鸠山由纪夫), and various smaller enterprises, no formal apology had ever come from either the Japanese government or large enterprises such as Mitsubishi. The 1995 "Dialog of Murayama" (村山谈话) is considered by many to be "An apology worthy of praise." However, when examined in detail, the apology was directed towards all Asian nations, not China specifically; it was deep regret extended from the heart, but not an apology from a country. We think of "Nanjing Massacre" (南京大屠杀), "Pingdingshan Tragedy" (平顶山惨案), and "Chongqing Bombing" (重庆大轰炸), and wonder why Japan hasn't apologized formally to China 71 years after the end of the war.

The belated apology from Mitsubishi did not originate from its own initiative. The most direct reason that compelled the apology was the diligent and tireless pursuit by the Chinese victims and their survivors, Chinese and Japanese lawyers, a broad spectrum of volunteers, and overseas compatriots, for over more than 20 years. In particular, various segments of the Chinese community and the relevant departments developed an unprecedented belief in "Righteousness will prevail", inspired and encouraged by the "Spirit of Xi Jin-Ping" (习近平精神) born and formed by the current great revival process of China. This led to the detention of a vessel from Mitsui Japan by the Shanghai Maritime Court in early 2014, the acceptance by the Beijing Intermediate Civil Court of a case represented by Attorney Kang Jian (康健) against Mitsubishi and Matsui, and other cases being accepted by various local courts. Also, the Chinese Federation of Civil Claims Against Japan demanded apology and compensation from the Japanese government and the perpetrating enterprises for crimes committed during the Japanese invasion of China. One even more important factor is the increasing Chinese comprehensive national strength and its improved international standing.

Traditional international apology falls into one of three categories: physical, written, and oral. The entire world recognized the apology of the former West German Chancellor Brandt when he did the "Kneel at Warsaw"; in 1998 a written apology was signed between Japan and Korea; even though there was no accompanying monetary payment, the chapter was considered closed when the elderly US veterans expressed their "OK" to Mitsubishi's 2015 oral apology to

the American prisoners of war forced into hard labor. In the current instance the apology from Mitsubishi to the victimized Chinese laborers contains all three forms. The word “apology” appears in the Settlement Agreement 9 times; there was a formal apology ceremony where representatives of senior management bowed in apology to the victimized laborers, according to Mr. Yan Yu-Cheng who was there to accept the apology and to sign the Settlement Agreement; a three-minute moment of silence was observed during the ceremony to recognize the 722 victimized Chinese laborers who died in Japan and those who had since died after returning to China. Yan Xin (闫欣), a Chinese lawyer who witnessed this historical moment, also said the entire ceremony was conducted in Chinese, and was somewhat similar to the acceptance of Japan’s surrender at the “Surrender Ceremony”. The Mitsubishi representative Hikari Kimura (木村光), who also represented his company in its apology to US prisoners of war, indicated while he should be speaking in Chinese, he had to resort to Japanese since his limited Chinese would not allow him to express well his true feelings.

There are four points to the full text of the apology, namely recognition of the fact that harm was done; sincere apology; payment to each laborer or the survivor a sum of RMB 100,000; and the erection of a memorial. As to the text of the apology, there has not been any similarly detailed text from the Japan government or the offending enterprises since the end of the war.

In 2000 Germany set up a “Remembrance, Responsibility, and the Future” Foundation for World War II forced laborers. The laborers were divided into three categories. Category A referred to those forced laborers imprisoned in concentration camps and slums, or detained in similar places; these victims each received an apology payment of 15,000 Deutsche Marks, then equivalent to about RMB 52,000. Victims in Category B or C were paid about 1/3 of this amount. The Foundation emphasized that the payment was a symbolic material representation of the public recognition of the tragedy visited on the victims. This task was completed in 2007.

How Germany resolved the Nazi forced labor issue set a precedent which the lawyers and volunteers engaged in the prolonged civil proceedings on compensation from Japan could learn from. During negotiations with Mitsubishi, some suggested the RMB 100,000 be called a reparation or a compensation, but the suggestion was opposed by the Chinese negotiators. RMB 100,000 was not enough to compensate for the harm done to the kidnapped Chinese forced laborers, much less the loss of precious lives by the 722 who died in captivity. They could not be brought back with RMB 500,000, or even one million. As the apology and reconciliation was not mandated by court, the RMB 100,000 was only symbolic, and as such should be called an expression of apology, and that is how the term “apology payment” came about. The “apology payment” fully illustrates the theory and practice of reparation and compensation after the war.

More importantly, during the negotiations between Mitsubishi and the victimized Chinese laborers, Li Liang Jie (李良杰) as president of the Chinese Federation of Civil Claims Against Japan, Ms. Zhu Chun Li (朱春立) as representative of kidnapped Chinese laborers, and lawyer Sun Jing (孙靖) all insisted in addition to the apology payment of RMB 100,000, Mitsubishi would also bear the cost of a memorial service, the building of a memorial, and a survey to locate the victims. In the end Mitsubishi agreed to include the following four areas in its expression of apology: (1) an apology payment of RMB 100,000 to each of the 3765 victimized laborers; (2) a one-time payment of 200 million Japanese Yen as the cost of locating the victimized laborers; (3) a one-time payment of 100 million Japanese Yen to build a memorial; and (4) a payment of 25,000 Japanese Yen for each survivor or beneficiary to attend the memorial service in Japan. In addition, the Chinese side recently has asked Mitsubishi to

increase funding to cover ancillary expenses such as attorneys' fees and fund management cost.

There is a further point to be made. There were 35 companies involved in using Chinese forced laborers; some of them have since gone bankrupt and closed, but over 20 remain. Against the backdrop of the mainstream Japanese society denying the history of war of aggression against China and its refusal to apologize to China, it was only after much fierce internal arguments of different opinions that Mitsubishi finally bowed its head and apologized to victimized Chinese laborers. If we do not positively affirm and value such an action, the other companies will not move forward, and our endeavor to seek a final settlement on the issue of kidnapped laborers may vanish into thin air. Therefore, when Mitsubishi apologizes to victimized Chinese laborers, we should extend our hand of friendship.

We must seize this historic opportunity of this "apology" from Mitsubishi in the next step of leveraging the Japanese government into apologizing to the kidnapped Chinese laborers. This appeared impossible 20 years ago, but seems to be within reach in the foreseeable future. Only when the Japanese government officially apologizes to the Chinese victims can a new chapter of Sino-Japanese friendship be opened.