

A Statement of Canada ALPHA on the Nishimatsu's Yasuno "Settlement"

--- A "Settlement" Lack of Remorse and Sincerity in Reconciliation

On October 23, 2009, Nishimatsu Construction Co. Ltd., a Japanese private corporation that enslaved about 600 Chinese laborers in Hiroshima and Niigata during World War II, reached a so-called "Settlement" through a group of Japanese lawyers representing the Chinese forced laborers who were enslaved at Nishimatsu's Yasuno worksite in Hiroshima. The plaintiffs of this lawsuit have not been provided with assistance from any Chinese lawyer and this so-called "Settlement" contains many problematic terms. Such kind of "settlement" has been rejected by a separate group of Chinese forced laborers who were enslaved at Nishimatsu's Shinanogawa worksite in Niigata. The Shinanogawa Chinese forced labor plaintiffs all along have the assistance from a Chinese lawyer. Negotiation with this latter group is still going on.

Canada ALPHA notes that in the Yasuno "Settlement" Terms, although Nishimatsu includes the term "apology", it fails to admit the facts of inhumane and cruel treatments by the corporation to the Chinese laborers, which have in fact been verified in Japanese courts already. It is also noted that the liability for damages caused by such severe violation of human rights is distorted by Nishimatsu into an act of providing "charitable relief". The "settlement" amount offered is very small, just about one-ninth of a case that involves Korean forced laborers. All these show that Nishimatsu is unremorseful and insincere in reconciliation.

Nishimatsu Handing Out Humanitarian Relief Instead of Paying Compensation

Dr. Joseph Wong and Thekla Lit, Co-Chairs of Canada ALPHA show their support to the Shinanogawa forced labor plaintiffs who have strong reasons to reject such kind of "settlement" terms offered by Nishimatsu. Firstly, the "settlement" terms still deny the legal liability of Nishimatsu's abduction and enslavement of Chinese laborers by citing a wrong ruling of the Supreme Court of Japan made on April 27, 2007. Thus, the nature of the "settlement" money is based on handing out humanitarian relief instead of paying compensation to the slave laborers. According to Chinese lawyer Kang Jian who assists the Shinanogawa plaintiffs, the Supreme Court of Japan unilaterally misinterpreted the 1972 China-Japan Joint Communiqué in its April 27th ruling. The Supreme Court was of the opinion that the Chinese government had given up the right to claim damages, including the right to claim damages by its people. However, on the day when the April 27th ruling was given, the spokesperson for the Ministry of Foreign Affairs of China refuted it, stating that the Supreme Court's unilateral interpretation of the Joint Communiqué was illegal and invalid.

Absolving Nishimatsu on Abduction & Enslavement of Chinese Laborers, Shifting Responsibility onto Wartime Japanese Cabinet

Secondly, in the Yasuno "Settlement" Nishimatsu simply shifts the responsibility for the abduction of Chinese laborers onto the wartime Japanese cabinet, obviously attempting to absolve Japanese corporations of the crime. In fact, the Japanese corporations abducting and enslaving the Chinese at that time were all military supplies corporations and had common interests with the state. Archival records can prove this. Also, many courts in Japan dealing with the Chinese forced laborers' claims for compensation, including the Supreme Court of Japan, ruled that the Japanese

government and corporations jointly planned and carried out the abduction and enslavement of the Chinese laborers.

A Hollow “Apology” Evading Facts and Accountability

In the Yasuno “Settlement”, Nishimatsu evades to include the historical facts that the Chinese laborers were subjected to cruel and ruthless treatments. Their refusal to acknowledge these facts makes their “apology” a hollow statement and casts serious doubt on their remorse and sincerity.

Moreover, the 250 million Japanese yen “settlement” payment for the 360 Chinese laborers enslaved at Yasuno worksite means that each laborer will get about 690 thousand yen, amounting to approximately 50 thousand Chinese Yuan (Renminbi). It must be pointed out that this “settlement” amount will also be used to cover expenses incurred in building a memorial in Japan, investigations and memorial ceremonies etc. Such term is same as in the strongly criticized Hanaoka “Settlement” in 2000. Under the Hanaoka “Settlement”, half of the “settlement” amount was first deducted for the expenditure on exchange visits, investigations and memorial ceremonies etc, leaving only the remaining half for distribution to the victims. Such a meager Yasuno “settlement” amount is inadequate even to just cover the wages the slave laborers deserve, and thus can hardly be qualified as compensation.

“Settlement” Amount Worth Only One-Ninth of a Korean Slave Laborers Case

Some years ago, another Japanese corporation Nachi paid each of the Korean forced laborers a settlement amount of 5 million yen. The amount of 600 thousand yen set for the Chinese forced laborers by Nishimatsu is just about one-ninth of the former case. This is obviously a discrimination against the Chinese laborers. In fact, the postwar Japanese government in 1946 gave huge “indemnification payments” to the Japanese corporations that claimed “losses” in enslaving the Chinese laborers for administration costs, food costs, wages etc., even though the Chinese forced laborers had not received any wages. Nishimatsu got an “indemnification payment” of 920,000 yen (equivalent to 920 million yen at today’s value). It now offers only 250 million yen to the Chinese forced laborers at Yasuno worksite, merely one-third of the money they got from the government. Is this a just and honorable way to resolve the claim of the Chinese slave laborers who were in fact used to create immense wealth for Nishimatsu?

“Settlement” Fund Controlled by a Japanese Organization

The Yasuno “Settlement” Terms fail to indicate that Nishimatsu severely violated the human rights of the Chinese forced laborers and thus should assume liability. Instead, Nishimatsu just wants to brush away the victims’ claim with some small amount of money. That is an obvious lack of remorse. Even with such a meager “settlement” amount, this fund is unabashedly named “Nishimatsu Yasuno Friendship Foundation” and its management is inappropriately entrusted to a Japanese civic organization, the Japan Civil Liberties Union. How hypocritical Nishimatsu is?

In contrast to the Nishimatsu Yasuno Friendship Foundation, the Remembrance, Responsibility and Future Foundation established by the German government and corporate sector in 2000 is to compensate the forced laborers enslaved by Germany in wartime. Germany squarely faced history and explicitly assumed responsibility, comforting the hearts of victims and believing this is the only way to move into the future. On the contrary, the Yasuno “Settlement” Terms is devoid of historical facts and accountability. With the establishment of the Nishimatsu Yasuno Friendship Foundation, Nishimatsu is trying to paint itself as a friend and benefactor to the Chinese victims. This is no sincere way to resolve this matter with the Chinese forced laborers.

Yasuno Chinese Forced Labor Plaintiffs Might Have Been Misled

Article 8 of the Yasuno “Settlement” Terms states that the “Settlement” is regarded as a complete package in resolving the claim issue for all 360 Chinese forced laborers enslaved in Yasuno worksite. Thus, not only the eight plaintiffs but all other forced laborers concerned and their survivors are not entitled to make any future claims against Nishimatsu. However, Nishimatsu and the Japanese lawyers representing the Chinese forced labor plaintiffs signed a document titled “Confirmation of Settlement Issues” outside the court. In that confirmation document, the lawyers of both parties interpreted Article 8 as “*without prejudicing the legal rights*” of individuals who disagree with the “Settlement”. If both parties can reach such a consensus, why this clarification not be written directly into the “Settlement” Terms which were affirmed by the Tokyo Summary Court? Its inclusion as part of the court affirmed “Settlement” Terms would have of course carried more legal weight than as an out-of-court interpretation. Why the meaning of court affirmed “Settlement” Terms is in contradiction to the out-of-court interpretation? Without the assistance of any Chinese lawyers, had the Yasuno plaintiffs really fully understood the terms before they accepted the “Settlement”?

The Chinese version of the “Settlement” Terms, as prepared by the Japanese support group of the Nishimatsu Yasuno forced laborers case, translated the term “charitable relief” (in Japanese version) into “remedy”. Such a translation does not reflect the original meaning of that term in the April 27th ruling of the Supreme Court of Japan. Is this one of the reasons why the Chinese victims have been misled to mistakenly think that they have got compensation, not realizing that the tone of the “Settlement” is still based on providing them “charitable relief”?

Dr. Joseph Wong and Thekla Lit, Co-Chairs of Canada ALPHA, urge Nishimatsu Construction to take up the responsibility in correcting their inappropriate attitude and acts, be courageous and resolute in admitting the misdeeds committed by the company with regard to abducting, enslaving, and abusing the Chinese laborers during the War, and offering a sincere apology and just compensation to the victims, so that genuine reconciliation can be reached.

October 30, 2009