

The Chinese Forced-labor Lawsuit: the Case of Liu Lianren

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1. A Short History

1.1 Chinese forced-labor

Please refer to Matsuoka Esq. for the general introduction of the Chinese forced-labor history.

1.2 The case of Liu Lianren

Liu Lianren was forcibly brought from Shandong Province to Japan in September 1944 to work in a Hokkaido mine as a slave laborer. He worked in the Showa Mining Factory of Meiji Mining Company. When he was arrested at his home by Japan's puppet Chinese soldiers, he was a peasant, 31 years old, and his wife was pregnant.

The Chinese labors were forced to work 12 hours each day under harsh conditions. They were not provided with enough food and clothes. They suffered from unsanitary environment and illness. They were frequently beaten.

Unable to bear the harsh working and inhumane living conditions, Liu ran away in July 1945 with four co-workers. After June 1946, he was alone after having lost connection with the other runaways. Twice he tried to commit suicide.

Without knowing the end of the war, he hid in a mountainous area for 13 years before he was found in January of 1958. He expressed his protest and requested compensation from the Japanese government. The Japanese government gave him an envelope with money when he departed for China. He refused to take the money, left a declaration condemning the Japanese government, and returned to China.

His wife and son were waiting for his return for 14 years.

2. From litigation to judgment

With the help of Japanese lawyers, Liu litigated in Tokyo District court against the Japanese government and requested 20 million Japanese yen compensation in 1996. The company Meiji Mining no longer existed at that time, so Liu could not sue it.

The defendant Japanese government from the beginning neither recognized nor denied the facts as charged. It sought to extricate itself from the lawsuit with its own legal theory. The Tokyo court especially requested the government's stance regarding the charge of suffering after the war. However, the Japanese government did not say anything about it until the last day of the lawsuit.

After 23 oral debates, the case was concluded in February 2001. Liu himself testified in the court. However, he passed away on September 2, 2000. His son Liu Huanxin and other two relatives succeeded him and continued the lawsuit, until the ruling date of July 12, 2001.

3. The contents of the judgment

3.1. Main point

The Tokyo District Court judgment fully recognized Liu Lianren's compensation request.

3.2. Violation of protection obligation and the cause of compensation request

The judges studied the Chinese forced-labor history, and recognized that the forced-labor was carried out based on Japan's state policy.

It also recognized that Liu Lianren was forcibly brought to Japan; that he worked under inhumane conditions so he had to run away; that he spent 13 years in hiding. It concluded that Liu "was forced to suffer miserable experience beyond description."

The judgment concluded that since Japan had surrendered, the government is under obligation to protect the forced-laborers to restore their former status. From the official Japanese MOFA (Ministry of Foreign Affairs) documents and others recording Liu's escape, the Japanese government should have known that Liu was at risk.

The Japanese government did not take any measure to protect Liu. So Liu's suffering was due to the government's default.

3.3. The statutory limitation

The court also made a ruling on whether the so-called statutory limitation of 20 years applies to Liu's case.

The judgment rejected the statutory limitation based on the following facts: first, from the MOFA report, Liu Lianren requested compensation when he was found in 1958 and the Japanese government knew of Liu's suffering, but did not respond to Liu's request nor did any research on his case; second, it only became possible for Liu to litigate in 1994 when he became aware of the existence of the MOFA report on him. It would be unjust and unfair if the statutory limitation is applied in this case to exempt the Japanese government from its responsibility.

3.4. The wartime forced-labor

This case recognized the Japanese government's default for its failure to protect Liu during his 13 years of postwar fugitive life. The judgment recognized the fact of forced-labor and implicitly mentioned it as the cause of Liu's suffering. However, the judgment did not rule that the forced-labor per se was an illegal action basing its conclusion on the so-called "sovereign immunity" theory (according to wartime law theory, state could not be responsible for illegal actions).

3.5. Others

The plaintiff also introduced other legal theories, to which the judgment replied and which I omit to introduce here.

4. Analysis of the judgment

This is the first case in which a Japanese court fully recognizes the plaintiff's right to request compensation in post-war compensation lawsuits. Such a court ruling per se is significant. However, this judgment does not recognize the forced-labor as illegal action; instead, it takes Liu Lianren's 13-year runaway life as a special case. The other Chinese forced-laborers, without Liu's

runaway experience, cannot use the Liu case as a precedent to sue for compensation. In this regard, the recent Fukuoka judgment, which rules that forced-labor is illegal, is definitely one step forward.

5. The appealing lawsuit

The Japanese government appealed against this Tokyo District Court ruling. The Appeals Court started on May 28, 2002, and will have the third debate on November 26, 2002. We need first to defend the Tokyo District Court judgment's victory and break through the wall of "sovereign immunity". We will fight on three points: the default of protection obligation, the statutory limitation and the state responsibility.

6. Toward the total solution

The victory of the Liu Lianren lawsuit shocked China. This is the first time for a Chinese citizen to win a lawsuit against the Japanese government in a post-war lawsuit. Furthermore, the Fukuoka court judgment indicates that "ordinary" Chinese forced-laborers without Liu's special experience can also seek compensation from Japan. More Chinese victims will request compensation and they are now forming associations to do so. We expect many other on-going forced-labor compensation lawsuits brought by Chinese victims.

Our purpose is not limited to victory in Liu's case only. We need a total solution for all 40 thousand Chinese forced-laborers. We need to broaden our fight from Hokkaido to Tokyo, Nagano, Niigata, Kyoto, and the whole country.

We believe Germany's solution is the best, i.e., to establish a compensation fund by the government and companies to compensate these forced-laborers.

To realize this goal, we need to mobilize international media and community to pressure the Japanese government and the Japanese companies to take responsibility.

I have heard that ILO will raise this issue next year. We have made some progress. I hope today's meeting is also one step forward toward the total solution of this Chinese forced-labor issue.