

International law on comfort women issue

Ten years of protest produces much support, no official apology

*The following is an update of the history of reports and requests made to the Japanese government. Except for the entries on the War Crimes Tribunal, the information is from a report in the newsletter **International Activities Against Military Slavery by Japan** published by the Korean Council for the Women Drafted for Military Sexual Slavery by Japan.*

THE INTERNATIONAL COMMISSION OF JURISTS (11/22/94)

This report called for monetary reparations to each victim, reasoning that Japan obviously committed war crimes against them during World War II and that the treaty between Korea and Japan did not resolve offenses against them. It specified \$40,000 immediate interim payments to each victim, and calls on the government to use legislation, an administrative forum, tribunal or arbitration panel to settle the matter of war crimes.

JAPAN FEDERATION OF BAR ASSOCIATIONS (1/24/95)

The group states that "It should be taken for granted" that the Japanese government owes each victim reparations, the amount of which should be set through arbitration by an international legal committee or through legislation. Because the Asian Women's Fund (an unofficial fund established to pay comfort women) is not well supported by the Taiwanese comfort women, the government itself, or Taiwanese political parties, the Japanese government should make apology and pay reparation to the victims immediately after passing legislation.

BEIJING PLATFORM FOR ACTION (9/95)

This report specifies that government, international and regional organizations reaffirm that rape, in the conduct of armed conflict, constitutes a war crime.

Undertake a full investigation of all acts of violence against women committed during war, including rape, in particular systematic rape, forced prostitution and other forms of indecent assault and sexual slavery. Prosecute all criminals responsible for war crimes against women and provide full redress to women victims.

SPECIAL RAPporteur ON VIOLENCE AGAINST WOMEN, THE U.N. COMMISSION ON HUMAN RIGHTS (2/6/96)

This strongly-worded report asserts that no treaty, such as the one negotiated between Japan and Korea at the end of the war, can be viewed as compensation to the former comfort women, who were victims of human rights violations. It states that the Japanese government bears legal responsibility for this crime, and it lists six measures that the Japanese government must take: 1) Accept legal responsibility for the crimes; 2) Pay compensation to individual victims; 3) Ensure that full disclosure be made of documents and material; 4) Make a public apology in writing to individual women; 5) Raise awareness of these issues by amending educational curricula; 6) Identify and punish the perpetrators involved in the "comfort women" system.

ANNUAL REPORT OF THE INTERNATIONAL LABOR ORGANIZATION EXPERTS COMMITTEE (3/4/97)

This case was addressed in both 1996 and 1997 by the annual report of the ILO Experts Committee, according to the ILO counsel agreement. The comfort women were explained as victims of illegal forced labor, which is prohibited by the ILO, and the ILO also resolved that the Japanese government should quickly compensate the victims in a reasonable way.

THE UNITED STATES DEPARTMENT OF JUSTICE (12/96)

No former Japanese war criminals can enter the United States. According to the "Holtsman Law," any person who is under suspicion of being a violator of human rights cannot enter the U.S. legally. There are 33 former military officials on the list.

RESOLUTION BY THE U.S. HOUSE OF REPRESENTATIVES (7/97)

This resolution states that there is no doubt that the Japanese government should make a formal and official apology for its brutal crimes against the victims and should pay reparations to each victim of any war crime such as the comfort women system or the Nanking massacre.

SOUTH KOREAN LEGISLATION BANS ENTRY OF JAPANESE WAR CRIMINALS (11/18/97)

The National Assembly has banned from Korea any Japanese citizen who is closely related to war crimes during World War II, according to the legislation of the revised Immigration Control Law. The Immigration Control Law prohibits people in the following categories from entering: Any person who was involved in acts of homicide or mistreatment of victims as a result of orders from the Japanese government, or from pro-Japanese Korean officials during the Japanese colonial era, or from a government which was influenced by the Japanese government or for any reason such as race, culture, religion, nationality or political, between the dates of September 29, 1910 and August 15, 1945.

WOMEN'S INTERNATIONAL WAR CRIMES TRIBUNAL ON JAPAN'S MILITARY SEXUAL SLAVERY, TOKYO (12/00)

This people's tribunal found Hirohito, emperor of Japan during World War II, and the government of Japan, guilty of crimes against humanity in connection with the comfort women system that subjected an estimated 200,000 girls and young women to sexual slavery and other inhumane treatment at the hands of the Japanese military between 1938 and 1945.

This preliminary judgment found the state of Japan responsible for the kidnapping, detention, assault, rape, murder and ill treatment of innocent women but also for the murders and the abandonment of these women at the end of the war.

It also recognized the long-term mental illness and physical ailments suffered by the surviving women and the psychological suffering inflicted by the Japanese government.

WOMEN'S INTERNATIONAL WAR CRIMES TRIBUNAL ON JAPAN'S MILITARY SEXUAL SLAVERY, THE HAGUE (12/01)

The final judgment of this people's tribunal was delivered on Dec. 4

and charged the following with crimes against humanity, particularly rape and sexual slavery: Emperor Hirohito, Matusui Iwane, Hata Shunroku, Terauchi Hisaichi, Itagaki Seishiro, Tojo Hideki, Umezu Yoshijiro, Kobayashi Seizo, and Ando Rikichi.

Emperor Hirohito and Yamashita Tomoyuki are also charged with rape as a crime against humanity for the mass rapes inflicted upon the female population of Mapanique in the Philippines on Nov. 23-24, 1944.

The judgment also asserts that the state of Japan incurs international responsibility for the commission of international wrongs. The Tribunal seeks reparations from the state for the harm inflicted on women as a result of these criminal acts and for the continuing harm inflicted because of the failure of Japan to fulfill its duty to prosecute perpetrators and provide reparations.

The Tribunal made the following recommendations:

- 1) Acknowledge fully its responsibility and liability for the establishment of the comfort woman system, and that this system was in violation of international law;
- 2) Issue a full and frank apology, taking legal responsibility and giving guarantees of non-repetition;
- 3) Compensate the victims and survivors and those entitled to recovery as a result of the violations through the government and in amounts adequate to redress the harm and deter its future occurrence;
- 4) Establish a mechanism for the thorough investigation into the system of military sexual slavery, for public access and historical preservation of the materials;
- 5) Consider in consultation with the survivors, the establishment of a Truth and Reconciliation Commission that will create a historical record of the gender-based crimes committed during the war, and occupation;
- 6) Recognize and honor the victims and survivors through the creation of memorials and a museum and library dedicated to their memory and the promise of "never again;"
- 7) Sponsor both formal and informal educational initiatives, including meaningful inclusion in textbooks at all levels and support for scholars and writers, to ensure the

education of the population and particularly, the youth and future generals concerning the violations committed and the harm suffered;

- 8) Support training in the relation between the military slave system and gender inequality and the prerequisites for realizing gender equality and respect for the equality of all the peoples of the region. Repatriate survivors who wish to be repatriated;
- 9) Disclose all documents or other material in its possession with regard to the "comfort stations;"
- 10) Identify and punish principal perpetrators involved in the establishment and recruitment of the "comfort stations;"
- 11) Locate and return the remains of the deceased upon the request of family members or close associates.

Recommendations for the former allied nations:

- 1) Immediately declassify all military and governmental records concerning the establishment and operation of the "comfort" system and the reasons why it was not prosecuted before the International Military Tribunal of the Far East (IMTFE);
- 2) Immediately declassify all military and governmental records concerning the failure to prosecute the Emperor Hirohito before the IMTFE;
- 3) Acknowledge its own failures to investigate and prosecute the crimes committed against the former comfort women in the post war trials and in the intervening 55 years.

Recommendations for the United Nations and other countries:

- 1) Take all steps necessary to ensure that the government of Japan provides full reparations to the victims and survivors and those entitled to recover on account of the violations committed against them;
- 2) Seek an advisory opinion of the International Court of Justice as to the illegality and continuing liability of the government of Japan in regards to the former "comfort stations;"
- 3) Understanding that atrocities of this dimension have their roots in pervasive discrimination based on gender, race and poverty, the direct link between militarism and the abuse of women as a gender must be further researched, explicitly acknowledged and understood as relevant to all concerns of war and peace. Only then can such abuse be challenged in real terms and efforts to limit its recurrence be effective. ●