

Prosecuting at a global level

Human rights attorney takes on a big defendant in war crimes tribunal

With all that Ustinia Dolgopol has done, she considers herself only one more cog in the wheel that is turning in the cause of justice for the former comfort women of North and South Korea, China, the Philippines and other Asian countries invaded by Japan during World War II.

Dolgopol, an American-born Australian attorney known for her work in human rights, was one of the two prosecutors who presented evidence against Emperor Hirohito and the entire Japanese government, at the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery in Tokyo in December 2000. She also appeared for the prosecution at the final judgment event, a reprise of the tribunal, held in The Hague, Netherlands, in December 2001, an effort to garner more international awareness and support for the issue.

Dolgopol began working on the case in 1991. Her human rights work prompted the International Justice Center (IJC) in Geneva to ask her to fly to North and South Korea, the Philippines and China. There she conducted interviews with 40 victims who had been coerced and forced into military sexual slavery for the Japanese Imperial Army.

She had known of the infamous Rape of Nanking perpetrated by the Japanese military in 1937, just prior to the outbreak of World War II. "I knew there were acts of brutality, but I hadn't heard of the comfort stations."

Everyone who has worked with the comfort women in their quest for justice, retribution and an official Japanese government apology is affected differently, Dolgopol said. Some people have focused on the responsibility of the Japanese government; others have focused on the victimized women, "And some of this (tribunal) brings the two strands together," she said.

For Dolgopol, interviewing women who were nearly the same age as her own mother gave her pause. "They're the same as your parents. And then you realize that the defining event of their lives made them ashamed of themselves—of all the women we interviewed, they all expressed the

shame, the guilt they carried with them, especially the women from the Korean peninsula. All the women had an overriding sense of isolation from their own communities.

"One of the Philippine women said, 'They stole my childhood from me. They stole my ability to be innocent.' That's a very powerful statement, and if you're looking back at your life as a 70-year-old, unable to trust another human being—I can't imagine what it must be like to go through your whole life feeling that you could not confide in another person about these horrific events that happened to you, that left such emotional scars on you. That's what touched me on a very emotional level."

Dolgopol grew up in Brooklyn, N.Y. She graduated from the Faculty of Law of the State University of New York at Buffalo, worked as an associate for a U. S. District Court judge, then practiced in a private firm for two years. She moved to Geneva, Switzerland, where she joined the staff of the International Convention of Jurists (ICJ) and was the director of the Centre for the Independence of Judges and Lawyers. She then moved to Australia and has lived there 15 years. When she speaks, a hint of Brooklyn still shades her Australian accent.

In 1993, the ICJ asked Dolgopol to do a report for them, based on her experience with the two Geneva organizations. Accompanied by a woman from India, Dolgopol traveled to Japan, Philippines, North and South Korea to meet and interview the comfort women who had come forward to tell their stories. Dolgopol wrote a report based on the interviews and later wrote a book. Since then, her continuing work involves staying in touch with groups in Japan, attending conferences, conducting historical research and publishing papers on the issue.

Dolgopol always seemed to have an interest in human rights. "I can actually remember what triggered (my interest)," she said. "When I was in primary school, we went on a field trip and the bus went through a ghetto in Brooklyn where I lived. I remember looking out the window. Normally we took the subway so you don't see very much.

"I'd never actually seen a ghetto before. And I kept looking around and I thought to myself, 'No one should have to live this way.'"

"It's everyone's hope that the judgment will serve as a sound argument to develop international law that looks at the way in which crimes against women can and should be pursued," Dolgopol said. "It is also an opportunity to look at the interpretation and the construction of the law around these crimes and the sorts of evidence that can be used to establish that a crime has been committed."

The Tribunal has set in motion the legal structure to enable international groups and countries to apply international pressure on Japan. "Many international courts look at the work of scholars," Dolgopol said, "to help them decide how crimes should be understood."

"I think it would be quite reasonable to think that the judgment will be looked at as a work of scholarship," she said. "And that it can influence the way judges and people think about these crimes."

The motives for overlooking war violence upon women have not been fully examined yet, Dolgopol said. There was no doubt that rape was a war crime in the 1800s and was considered so in the Treaty of Versailles after the first world war. When the Allies set up their investigations very early on in the war, she explained, they state quite clearly that rape will be investigated as a war crime. And it was. But the actual prosecution became the problem. No one was under any illusions of the comfort stations. Nobody doubted that these were crimes. Evidence was collected, but nothing was done.

"Overlooking crimes against women in war happens for two reasons," Dolgopol said. "The attitude is that while in their minds authorities know the women were taken by force, deceit and against their will, the language of the reports described the women as 'camp followers.' It's hard for people not to taint the women, color them, and blame them."

The other factor is weighing the impact on the victims coming forward and testifying at that time. In

the case of Korean women, there was little documentation of who was brought to the ports and put on boats. There were no records of whom they were, Dolgopol said. And people thought it would be too hard, too difficult at the time to have women testify. The better prosecutors also realized that by asking young women to come forward so soon after the war would tarnish them in the eyes of their families and communities.

"It was the epitome of blaming the victim and then the victim being victimized again," Dolgopol said. "First the shame of what had happened to them and then being shunned."

"People might think things are so different in Western countries," Dolgopol said, "but the Dutch women didn't want to come forward either. One Dutch woman, who's never spoken publicly, has said privately that every time she and her husband have an argument, he calls her a Japanese whore."

"To keep the issue in the international forefront, human rights and women's groups around the world should report upon the judgment delivered at The Hague Tribunal, the previous Tokyo Tribunal and what it means," Dolgopol said, "to disseminate knowledge of the issues, and to promote understanding of the importance of these events. The judgment delivered first in Tokyo a year ago, and at The Hague in December, will enhance the groups within Japan to continue to lobby on this issue and raise public awareness among the governments of global civil society."

"The judgments will also help in some levels of diplomacy," Dolgopol said, "in looking for a government that might be willing to raise the issue with the (Japanese) government. Governments like to see an underlying legal base, that a government might be willing to pick up on some of these issues in a way that they weren't able to before."

Another step to consider is whether to go again to the Commission of Human Rights at the United Nations. "That's not so clear to me, but it's worth trying," Dolgopol said. "The commission looked at this report before and whether or not it's willing to reopen it again, I don't know.

The mere fact of holding the tribunal in The Hague is actually a form of justice in itself, Dolgopol said. The Tribunal demonstrated the international community's support of the women, women who for so many years lived in shame and silence.

"The women from the various countries have been fairly well briefed and most of them really do understand that this is not a legally constituted tribunal, so they can't take the judgment and collect money on it or anything like that," Dolgopol said. "But the judgment showed them that someone has listened to them, that someone found that the (Japanese) government was responsible, and that individual military officers and government officials were responsible for what happened to them. For me, the Tribunal was a form of justice in and of itself.

"Civil society came together and organized it, provided resources and did it," Dolgopol said. "When you consider the amount of commitment, when you look at our judges — four highly committed prominent people who willingly gave up their time to lend their names and their reputations to this process, it gives people an enormous amount of satisfaction."

"The tribunals in Tokyo and The Hague have also been important to the victims," Dolgopol said, "because they've been able to come forward and break their isolation."

At a press conference held on the Saturday afternoon before the tribunal, former comfort woman Jan Ruff-O'Herne, formerly of the Dutch East Indies, spoke of how important it has been for her healing to meet and talk to other victims. The tribunals have allowed the women to be with others "who understand what you have suffered and the horrors inflicted on you," Dolgopol said. "You don't want to talk about that level of horror because no one could ever understand."

"Most of them now have a community so that in the last years of their lives at least, they will feel a part of something," Dolgopol said. "For me, that's the most important aspect of what comes out of this—that an individual's life can be touched and enhanced by this process." ●