

✓ Position Paper by Asian Centre for Women's
Human Rights (ASCENT)/ Malaya Lolas
on the deliberation of HB 3467 and HR 378

The Asian Centre for Women's Human Rights (ASCENT) and the Malaya Lolas support:

1. House Bill No. (HB) 3467, entitled "An act authorizing the Commission on Human Rights to document reports of personal injury, detention, death, torture, suffering, captivity, imprisonment, rape, other atrocities and human rights violations committed by the Japanese military forces against the Filipinos during the World War II from December 7, 1941 to September 1945" authored by Rep. Romeo D.C. Candazo; and,
2. House Resolution No. (HR) 378, entitled "Resolution urging the Japanese government to enact a post-war compensation law that would fulfill the demands of justice for the women victims of sexual slavery or "comfort women" in World War II sponsored by Rep. Romeo D.C. Candazo.

A little over five years ago, a group of Filipino comfort women hoped for justice. On April 2, 1993, the women survivors of the Task Force for Filipina Victims of Military Sexual Slavery by Japan filed a court case against the Japanese government at the Tokyo District Court. The 46 former comfort women demanded for post-war responsibility, compensation and reparations for the crimes against humanity committed during World War II.

Four months ago, on October 9, 1998, the Tokyo District Court dismissed the claims filed against the Japanese government by the Filipino women forced into sexual slavery by the Imperial Japanese Army during World War II demanding to pay compensation for their wartime suffering.

The Court had not only failed to order the Japanese government in assuming legal responsibility but even denied to recognize the sufferings of Filipino women saying the court cannot recognize any case that a State has paid compensation to individuals claiming the right of persons resident in occupied territory to claim compensation for

damages suffered from acts of member of the occupying force in violation of the laws of war of Article 3 of the Convention (IV) Respecting the Laws and Customs of War on Land.

Presiding Judge Yoriaki Ichikawa refused to accept and examine the case because he said there was no legal basis of the claims of the victims even under international humanitarian law referring to the Hague Convention. Therefore, he refused to examine the evidence and testimonies presented into his court after five years of court hearings and testimonies and legal experts' opinion. His decision is a travesty of justice.

It is painfully obvious that gross violations of human rights and fundamental freedom, particularly when these have been committed on a massive scale, are by their nature irreparable. Any remedy or redress stands in no proportional relationship to the grave injury inflicted upon the women victims.

Nevertheless, it is an imperative norm of justice that the responsibility of the perpetrators be clearly established and the rights of the victims be sustained.

The women who were forced into sexual slavery by the Japanese military of World War II have declared that their honor and dignity can never be restored until the perpetrators of the crimes against them are brought to justice.

With the long awaited ruling finally handed down, ASCENT and the Malaya Lolas feel a mix of sadness and anger. Clearly, the court has failed to perform its legal duty. The court should have admitted wrongdoing and legal responsibility. Instead, it panders to Japan's refusal to voluntarily pay redress to former sex slaves and other victims of war. In the eyes of Asia and the world, Japan has lost its moral core. Japan calls itself a modern state yet it spits upon the very constitution that it was founded upon, a constitution that vows to respect human rights and women's dignity.

Japan stubbornly wields a government policy that ignores the fact that the former slaves continue to suffer long after the war. The ruling dismally failed in correcting the errors of history. Regrettably, the court

missed the opportunity to staunchly acknowledging the existence of the gross human rights violations done to women during World War II.

Even as the Japanese government refuses to recognize rape and sexual slavery as a war crime and a crime against humanity, Japanese lawyers, friends and supporters contributed time, money and energy for the filing of the court case and challenged their own government to set historical records straight and make amends.

Encouraged and inspired by such efforts from all over, the Malaya Lolas has refused to accept payment from the Asian Women's Fund (a private fund for former sex slaves) in the firm belief that Japan should stop hiding behind the argument that postwar treaties settled all wartime claims and instead recognize rape as a war crime and assume legal responsibility for its wartime actions. ASCENT and the Malaya Lolas demand that law-making, administrative and judicial bodies in Japan resolve legally the problem of war compensation.

The ruling of Judge Ichikawa will go down in history as a desperate denial of the former Asian comfort women's struggle for dignity. The court decision has miserably fallen out of step with the worldwide effort by women and men to prosecute crimes in war and armed conflict, to the extent of working for the establishment of the International Criminal Court that perceives gender-based prosecution during armed conflict situations as crimes against humanity of which Japan is a signatory.

By reliving and confronting the past, and demanding justice for the war crimes of 50 years ago, the survivors of military sexual slavery leave a legacy of hope to other women from conflict-ridden regions where wars, ethnic strife, and communal violence happen everyday. A verdict that missed the mark will not change that. There is victory in making the case known to the world, in showing that our generation had worked together to recognize the mistakes of the past, to take the steps to ensure that these war crimes never happen again.

The plaintiffs have pursued the case to the Tokyo High Court. Lawyers and human rights workers are on our side, joined in the work to make international humanitarian laws truly work for the survivors.

The unjust ruling will also not deter future lawsuits by victims of military sexual slavery. The Malaya Lolos will file their own case at the Tokyo District Court soon. Malaya Lolos will continue to fight for justice and we will never give up until the Japanese government recognize sexual slavery as a war crime and assume legal responsibility for its wartime actions. Malaya Lolos has the support of many women and men who are fighting to eradicate violence against women in war and armed conflict situations. Last year, a network called VAWW-NET (Violence Against Women in War-Network) was set up among Japanese women's groups and international organizations to address the issues of violations committed to women in armed conflict.

We urge the House of Representatives to enact a law giving monthly pension and medical assistance to the victims of military sexual slavery known to us as the comfort women. We have taken note of the fact that the governments of South Korea and Taiwan have enacted laws supporting their former comfort women by giving them a monthly pension, housing and medical assistance. ASCENT and the Malaya Lolos feel that the Philippine government should assume responsibility in giving direct assistance to the victims.

There is a sense of urgency in the issue of military violence against women: the victims don't have the luxury of time. A denial of justice only stirs more outrage. Women will continue to come forward, make their stories public, file their cases, and demand for justice that's long been their due.

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