

Subject: Tokyo Tribunal 2000

Date: Wed, 02 Jun 1999 00:59:20 -0700

From: Indai Sajor <indai@csi.com.ph>

To: brunet@ichrdd.ca, iccwomen@igc.org, butegwa@starcom.co.ug, eaquino@amnesty.org, tina.dolgopol@flinders.edu.au, yayori@jca.ax.apc.or, hmarieme@mnet.fr, awcasv@solair.eunet.yu, iwhr@maclaw.law.cuny.edu, aldaf@sie.expreso.co.cr, Aldafamo@aol.com, mss@peacenet.or.kr, vaww-net-japan@jca.ax.apc.org, ascent@csi.com.ph

Dear Members of the International Advisory Council,

I am enclosing the message of Tina for the Seoul meeting for our information and perusal. Thank you very much Tina! We'll surely take it on board!

Always, Indai

Date: Wed, 2 Jun 1999 00:20:10 +0930

To: Indai Sajor <indai@csi.com.ph>

From: tina.dolgopol@flinders.edu.au (Tina Dolgopol)

Subject: Re:Tokyo Tribunal

Cc: yayori@jca.ax.apc.org

Dear Indai and Yayori,

Sorry for the delay in responding to your emails about the statute for the tribunal. It sounds as if the meeting in the Hague was both interesting and productive. I have read Indai's message the meeting of the International Advisory Committee and agree that you have a number of challenges ahead of you. I have a few suggestions/comments on the statute. I hope they are helpful.

1. I agree with Theo that the preamble should stress the notion of the moral authority of the participants to sit in judgment. Ultimately it is those of us operating as part of civil society which have the right to judge whether or not our governments, soldiers and colleagues are acting in accordance with accepted notions of human rights and whether we believe they should be held accountable for their actions.
2. With this thought in mind I have a suggestion re Article 1 - it should be changed from a focus on prompt prosecution to holding those responsible for crimes of sexual violence against women accountable to the international community for their actions in establishing operating and maintaining the comfort women system.
3. Article 2 - I would change it to something along the following lines: "The Tribunal being composed of internationally renowned scholars and activists in the field of human rights has the ability and the duty to render a decision on the culpability of individuals as well as state and non-state actors.
4. Article 3 - I don't agree that a reference should be included to a widespread or systematic plan in the para that begins "Rape, sexual slavery" and ends "widespread or systematic attack." The importance of making these acts war crimes is that each act can be tried. The notion of a crime against humanity encompasses the idea that the act is part of a widespread or systematic plan. (See ICC statute)
5. Article 4 - I would change this to "The Tribunal being composed of members of the international community has the right, as do all individuals, to comment on the culpability of any person, organisation or government authority."
6. Article 11 - it is not clear to me that we will have the time to have

the judges elect their pres and vice-pres., but this is a technical issues.

7. Article 15 - It is not clear to me that this is a real possibility as this Tribunal will have no powers to compel anyone. It might be useful to state outright that the Tribunal is being established because of the failure of the government of Japan and the Allies to punish appropriate those responsible for these crimes. Therefore those organising the Tribunal will select a representative groups of defendants in the hope that they will appear and will in any case have present individuals who will represent the legal interests of those who stand accused.

I must say that I remain worried about the ability of the Tribunal to claim to be protecting the interests of the defendants. Are we really intending on letting anyone enter evidence of innocence or of defending these charges in an aggressive manner as they would be in a criminal court of law? We ought not to claim for ourselves an ability to do something we can't deliver.

8. Article 16 - the comments above apply to this article as well.

9. Article 17 - other than allowing affidavits and witnesses testifying from behind a screen how could we protect their interests. (Clearly a gender sensitive court will go some way to protecting the interests of all women.) This article applies to a true war crimes tribunal, but it is not clear it should be here in its entirety.

10. Article 18 - I am not sure there will be time for the judges to write an opinion. It is more likely they will have a couple of hours to put together an oral opinion.

11. Article 19 - this article should reiterate the moral authority of the Tribunal and make reference to the fact that it is setting out punishments it deems would have been appropriate.

That's it folks. I look forward to hearing about the meeting in Seoul.

Kind regards to you both,
Tina