

Declaration Calling for the Remedy
for the Human Rights Violations during the war

Japan caused serious damage in the Asian-Pacific region during the previous war. This includes grave human rights violations, such as murder of local residents, experiments on live human beings, sexual abuses, forcible mobilization, forced labor, deprivation of property, destruction of culture and so forth.

Whereas, after the war, Japan has settled the disputes with the governments concerned, it has hardly compensated individual victims who suffered directly. Today, almost half a century after the war, human dignity and justice require a reconsideration of the postwar compensation policy.

The government should, without delay, investigate the real situation thoroughly to grasp the actual state of suffering and clarify the location of responsibility, and start to consider adequate, possible measures to compensate the victims concerned. At the same time it should educate future generations to understand the truth of the war.

We, mandated with the mission of human rights protection and realization of social justice, swear to make the best effort to achieve these goals.

We declare as stated above.

October 29, 1993

The Japan Federation of Bar Associations

Reasons for Declaration

1. Today, more than 60 years after the Liutiao-hu (gou) incident in September, 1931, when Japan started its full scale invasion of China and more than 50 years after the Pearl Harbor, Japan's perpetration of various human rights violations in the Asian-Pacific region has become established, historical fact.

There are many examples of its human rights violations, such as murder or abuse of non-combatant residents and prisoners of war, forcible mobilization, forced labor, military comfort women and so forth.

2. These are grave human rights violations incompatible with the international treaties and the international customary law.

Since the late 19th century, there has been an international movement which tries to restrain the useless sufferings of the general public caused by war and regulate measures and manners of war to conform as much as possible with humanity. It resulted in treaties on the protection of war invalids and the treatment of prisoners of war and, in 1907, the adoption of the Hague Convention Regarding the Laws and Customs of Land Warfare as a comprehensive regulation of manners of combat. This Convention, which Japan ratified in 1911, expressly provides for the state's liability for reparation for unlawful acts of the military

and its personnel.

In addition, as a result of World War I which, with developed scientific weapons, had caused large-scale and tragic destruction to the cities and villages involved in the warfare, legal norms were strengthened further for the protection of civilians and non-military objects from immediate influence of hostilities and it was also recognized internationally that the war aimed at invasion was unlawful.

The Charter of the International Military Tribunal enacted after World War II in light of Nazi and other atrocities made punishable "murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds" as "Crimes against Humanity" in addition to "Ordinary War Crimes". And the United Nations again approved the lawfulness and validity of the Charter and the rulings under it in a resolution of the General Assembly.

The above-mentioned Japanese atrocities, such as murder of residents or sexual abuses, were in violation of the international humanitarian law.

3. By treaties between governments, Japan has settled the compensation issues with the states concerned except the Democratic People's Republic of Korea.

Compensation for individual victims, however, has

hardly been made. The Japanese government takes the position that the compensation issues for individuals have already been "settled" on the ground that each treaty contains a "claim renunciation clause." On the other hand, however, the Japanese government replied in the Diet that the claim renunciation clause in the Japan-Korea Claim Settlement Accord "does not mean the extinguishment of individual rights in the sense of national law but only the renunciation by each state of its right to diplomatic protection." (The reply of the director of the Foreign Ministry's treaty department in the Budget Committee of the House of Councilors, August 27, 1991) Essentially, the state is not able to renounce fundamental freedoms and rights of an individual. In the Constitution Japan resolved that never again shall it be visited with such horrors of war and recognized that "all peoples of the world have the right to live in peace, free from fear and want."

While the Universal Declaration of Human Rights proclaimed that everyone is entitled to human rights and fundamental freedoms, the international human rights laws, including the International Covenant on Civil and Political Rights, set forth that any person whose rights are violated shall have an effective remedy.

Germany, which formed the Axis powers with Japan, has enacted the Federal Compensation Law (Bundesentschädigungsschlussgesetz) and has been compensating the victims of Nazi Germany inside and outside the country, apart from

compensation between states. The amount of the compensation has already exceeded 7 trillion yen and almost 3 trillion yen is scheduled to be paid in the future. Also, in 1988, in the United States of America as well as in Canada, people of Japanese descent received apologies and were compensated for their internment during the war.

In light of these examples of other states, human dignity and international justice undoubtedly require Japan to make reparation for the sufferings of its war victims.

4. Although it is not referred to in this declaration, the Japanese war victims remain an issue.

In Okinawa, where the land warfare was waged, local residents were forced to follow the policy of "the military, the government and people living and dying together." Consequently, the number of civilian war dead reached more than 100,000, one fourth of the whole population at that time, which exceeded the number of military war dead there. The residents suffered severely by being forcibly removed and/or having their land expropriated. In addition, because they were under the American military occupation after the war, there are still many outstanding problems.

In Hiroshima and Nagasaki, everything was reduced to ashes instantly and more than 300,000 lives were lost. Even now, many victims are still suffering.

The war caused irreparable damage to many Japanese people, including those who were separated from their

families and deserted abroad; those who were detained in Siberia for a long time; and those who opposed the war and were repressed for political reasons.

To cope with these war sufferings, the Japanese government enacted the War Invalids and Bereaved Relief Act in 1952 and reinstated the military pension in 1953, both of which have since been playing a primary role in compensatory benefits. These plans, however, apply only to military-related victims, such as soldiers and paramilitary personnel. Although the government enacted the so-called twin atomic bomb acts for civilian sufferings, which provide for a certain measure of medical care and other aid, they are very inadequate. Therefore, comprehensive relief legislation has long been called for.

Having adopted two resolutions, one calling for a more comprehensive legislation for relief of atomic bomb victims (the 22nd Annual Human Rights Convention) and the other for a relief legislation for civilian war victims (the 18th AHRC), the Japan Federation of Bar Associations will continue efforts to realize such legislation.

5. As the foregoing, even an investigation of war-related damage has not been made sufficiently and many victims have been abandoned in anguish caused by mental, physical and financial suffering. It is clear that Japan has not dealt with postwar issues adequately. The government should take the following steps without delay.

First, it should find out the true state of things promptly to grasp the actual suffering and clarify the location of responsibility.

It should not be allowed to turn a blind eye to the stern reality of human rights violations by insisting that the sufferings have not been proven. The government launched an investigation concerning military comfort women just recently and admitted eventually that the armed forces had been involved and that comfort women had been forced to engage in prostitution. It should make a thorough investigation of sufferings caused by the war and bring the whole matter to light.

Secondly, as a member state of the international society, the Japanese government should launch a necessary study and take adequate steps to apologize and restore the honor to people who suffered unilaterally from the war. As more than 50 years has passed since the end of the war and victims are now in old age, the government should act promptly.

Thirdly, it should educate future generations to understand the truth of the war. The government once coerced authors to change the expression "invasion" to "advance" in their school textbooks and, in 1985, the then Prime Minister Nakasone paid an official visit to Yasukuni shrine. In both cases, Asian countries criticized Japan for obscuring its responsibility for the war. The Japan Federation of Bar Associations announced that "peace is a

prerequisite for human life and human rights, while there can be no real peace absent respect for human rights." (the 26th AHRC)

The purposes of this declaration are to seek the recovery from human rights violations during the war caused by Japan as well as to secure international human rights protection. We, mandated with the mission of human rights protection and realization of social justice, will make the best efforts to achieve these purposes.

For the above-stated reasons, we propose the adoption of this declaration.