

A Women's International War Crimes Tribunal - Its Potential Contribution to the Development of International Law

by Ustinia Dolgopol*

All of us in this room are aware of the disadvantages experienced by women in our respective societies. These disadvantages are inherent in the structure of the society in which we live, including the operation of the law and of the courts. The biases inherent in our laws and in our court systems are mirrored at the international level. Just as it is difficult for women who have been subjected to violence, including sexual violence to obtain adequate redress for their harms at the domestic level, it is also difficult for women to obtain justice at the international level. The debates surrounding the Statute for the ad hoc tribunal with respect to the former Yugoslavia and the initial difficulties of getting either the Yugoslav or Rwanda tribunals to focus on the nature of the crimes committed against women, demonstrate the continuing obstacles women face in obtaining redress for violations of their rights in the international arena.

We have come together today to discuss a particular historical denial of justice, the situation of the Comfort Women. The horrific crimes committed against the majority of women we have come to know as the comfort women were not punished to any substantial degree during the series of trials conducted in the Asia Pacific theatre of war at the close of World War II. The full extent of this denial of justice can only be understood when one realises that evidence of the crimes was in existence. No one could have had any illusions about the impact the repeated rapes and torture would have on the lives of the women who endured this experience. Yet the choice of those with the ability to do something, was to do nothing.

Unfortunately it had also been the choice of the Japanese government to show its continuing disdain of all women in general and of the comfort women in particular by its steadfast refusal to offer a meaningful apology to the women and to make adequate restitution to the women. The government has ignored international opinion on this matter, including the most recent report of the Special Rapporteur of the UN Subcommission on Sexual Slavery who has called on the government to make adequate restitution. As I have noted on previous occasions, none of the government's reasons for denying adequate reparations sound convincing. Notwithstanding any legal arguments it is within the power of the government to decide to act with decency, humility and respect, but the government of Japan has continually refused to do. This obstinacy is an affront to all women and demonstrates a lack of respect for the rights of women both within Japan and elsewhere in the world.

A small and committed group of women and men have realised the importance to Japanese women as well as to the Comfort Women of trying to change this attitude. The bravery of all of those who have worked within Japan to raise public awareness of this issue and to assist in the lawsuits brought by the Comfort Women is to be applauded. Their tenacity and unselfishness continues to inspire many of us working in different parts of the world.

Maintaining this tradition are the members of VAWW-NET Japan who have taken on the herculean task of organising a Women's International War Crimes Tribunal for December 2000. When Yayori Matsui first spoke to me about the possibility of organising such a tribunal I was both amazed and

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awed by the imagination and commitment that such an idea demonstrated. She and Indai Sajor of the Philippines are to be commended for their willingness to give the world a glimpse of what is possible when women act together to further the rights and interests of women everywhere. This tribunal may very well be one of the defining events of the closing decade of the 20th century. It will undoubtedly educate all those who attend as well as many others who will hear of it or read about it. Already researchers are working to put together an historical record which will more accurately reflect the impact of the Second World War on women and which will be used by future generations wanting to learn about the 20th century.

One of the prime objectives of the organisers is to conduct this Tribunal with sensitivity and to ensure its procedures reflect the point of view of women. The manner in which this Tribunal conducts its affairs could influence the work of the new International Criminal Court. In addition the holding of this Tribunal will give impetus to groups elsewhere in the world who want to ensure that the experiences of women are not overlooked in the history of our time. It is vital that all of us work to make the lives of women in the 20th century visible to those who will come after us.

In the next few pages I seek to explain the importance of this Tribunal to the International Community, to Japan and most of all to women. Before doing so I would like to state once again my ongoing affection and admiration for the women we now refer to as the Comfort Women. It is their courage that infuses us all and makes it possible for us to continue in our work. One of the legacies of the Comfort Women will be the changes that have taken place in international law, particularly international humanitarian law. There is no doubt that international law has been made to take notice of violations of women's rights to an extent that would not have been possible without the ongoing determination of the Comfort Women to make their voices heard and to obtain justice. I thank all of them most sincerely.

The Tribunals Importance to Japan

Perhaps because of the approaching change of millennium people in many countries around the world are engaging in a dialogue about the meaning of society. What do we expect of our societies, what role does the government have in shaping the way we relate to one another and what are our responsibilities to other members of our communities. For any country which has unresolved issues relating to crimes or atrocities committed against members of their own population or against other populations there is a need to decide how those issues will be addressed. This is not an easy task for any country.

It is clear to those of us who visit Japan that one of the issues that has to be resolved by the members of this society is the record of crimes committed by soldiers of the Japanese Imperial Army against the populations of the countries that make up Asia and the Pacific. Among those crimes were those perpetrated against the Comfort Women. A population is defined both by its past and its vision for the future. The question everyone in this audience has to ask themselves is what type of society they want to be living in 20 years from now and what values do they want to bequeath to their children and grandchildren.

To ignore the nature of the crimes committed against the Comfort Women would be tantamount to saying that we do not recognise women as full citizens, we do not recognise them as deserving equal protection of the laws, we do not want them to live without fear and we accept that if we should go to war that others may rape and torture Japanese women with impunity. I doubt that this is the message the people of Japan want their government to convey to women in this country, but it is the subtle message which is being sent by the government.. Further by refusing to come to grips with the past

the Japanese government is indicating to women in the Asia-Pacific region that they do not regard them as equals, that they do not understand them to have suffered serious harms and that they do not wish to enter into a process of reconciliation with the women of this region. Again one can question whether this is in fact the message the people of Japan would like their government to be sending to their compatriots in other parts of this region.

The Tribunal can assist the Japanese people to impart a very different conception of this society and its values. By holding the Tribunal here, the Japanese people can say:

- we do want reconciliation;
- we do value women both within Japan and elsewhere in the region;
- we believe in the equality of women;
- we do not want women anywhere to live in fear of violence;
- we recognise that the crimes committed against the Comfort Women were horrific; and
- we do not believe in impunity for those who have committed war crimes.

Those are very powerful messages. The vision contained in those words is of a country which believes in justice, wants to encourage the promotion and protection of human rights and is committed to upholding and developing international law. That would be a very positive vision and set of values to transmit to future generations.

For the women of Japan the Tribunal can assist them to see themselves as actors, as a group that has the capacity to bring about fundamental change both domestically and internationally. Women are too often portrayed as the objects of other peoples beneficence.¹ The women involved in VAWW-NET do see themselves as agents of social change, but it remains the case that large numbers of women in many societies do not perceive of themselves as able to change the structures of the society in which they live. By organising and holding this Tribunal women in Japan and elsewhere will have a greater appreciation of their ability to rewrite history so that it more accurately reflects the reality of women's lives. This will enable women to think more creatively about how they can change other aspects of their lives and the society in which they live.²

There will be those in Japan who will oppose this Tribunal. From time to time it has been suggested by some individuals that the law applied during the Tokyo War Crimes Trial (The International Military Tribunal for the Far East) was not the law as it stood at the time of the Second World War. Those individuals must be reminded of the fact that the treaty of peace that Japan signed at San Francisco contained a clause which stated explicitly that Japan accepted the judgement of this Tribunal as well as other allied war crimes trials.³

Perhaps it would be salutatory to remind ourselves of the heinous nature of the crimes committed against the Comfort Women, crimes which the Japanese government has stated were indefensible. From 1928 onwards the then military government of Japan took over 100,000 women from their homes in order to place them in military brothels where they would be repeatedly raped and often tortured. For

¹ C. Chinkin, "Strategies to Combat Discrimination Against Women" in M. O'Flaherty and G. Gisvold (eds), *Post-War Protection of Human Rights in Bosnia and Herzegovina* (Kluwer Law International UK 1998) at 182-83

² Doris Buss has noted that "Narratives of war become an important source of the symbolism that surrounds war. Thus holding the right to narrate is perhaps the ultimate spoil of war." This has particular resonance with respect to this Tribunal as it will allow women to give their narrative of war and provide future generations with very different symbols than the ones we have at the moment. See D. Buss, "Women at the Borders: Rape and Nationalism in International Law," [1998] VI (2) *Feminist Legal Studies* 171 at 188.

³ United Nations Treaty Series, Vol 136, No.1832 (Article 11), Treaty of Peace with Japan signed at San Francisco on 8 September 1951.

every minute of their day the Comfort Women were subject to the whims of those around them. Soldiers with particularly brutal personalities were allowed to kill and maim as they chose. The women were treated as slaves. We must never forget the terror that was a part of these women's daily lives from the moment they were taken by the Japanese Imperial Army. The psychological and physical harm done to the Comfort Women is almost beyond description. Many of them ended up living lives of total isolation. Even those who were able to re-enter family relationships were unable to discuss what had happened to them. Their ability to trust, to dream and to live with equanimity were taken away from them. They have been made to pay for the crimes committed against them.

We should also bear in mind the fact that the phrase Comfort Women is in some senses a misnomer as many of the people taken were in fact children. There is evidence of 14 and 15 year olds being kidnapped from their families.

There is no doubt that the crimes committed against the Comfort Women amounted to violations of international law at the time they were committed. As indicated in the report of the Special Rapporteur on Contemporary Forms of Slavery, including systematic rape, sexual slavery and slavery-like practices during armed conflict, slavery had been considered to be a crime under international law since the late 1800s.⁴ Japan in reports to the League of Nations indicated that it had outlawed slavery.⁵ One can only wonder at the mentality of a government which in the 1990's wants to act as if it had not accepted a binding principle of international law (*jus cogens*) when in the early 1900's Japan saw itself as part of the "civilised" body of nations. Although I personally do not like the connotations of that term, Japan at the time referred to itself as the only Asian country to be part of the civilised group of nations. And it was clear that this group of nations considered slavery to be a particularly outrageous violation of international criminal law.⁶

With respect to the crimes of rape and enforced prostitution these were also considered to be crimes under both international and Japanese law at the time WWII broke out. Japanese military regulations specifically outlawed the commission of assaults against women.⁷ These regulations were issued in the belief that they reflected the rules of international law. With respect to international law itself, the Commission on Responsibilities of the Paris Peace Commission of 1919 had drawn up a list of war crimes.⁸ That list included the crimes of rape and enforced prostitution. When the Allied Nations decided that war crimes trials would be held and had to determine the evidence to be collected they used the Peace Commission list as their starting point because Japan had been a signatory to the list.⁹ This means there can be little doubt about the culpability under international law of members of Japan's armed forces and military leaders.

Returning to the issue of the Treaty of San Francisco, those in Japan who want to question the terms of the treaty should be reminded that it contained clauses waiving the rights of Allied soldiers to seek reparations from the government of Japan.¹⁰ If segments in Japanese society want to question one part of the peace treaty, then all parts of the treaty are open to debate. In addition, Japan is a member of the United Nations and considers itself to be a supporter of that organisation. "By a resolution passed unanimously on 11 December 1946, the United Nations general assembly (sic) affirmed the principles of

⁴ G. McDougall, Special Rapporteur of the Subcommission on Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub2/1998/13 at paragraphs 11-16.

⁵ *Id.*

⁶ Dolgopol and Paranjape, *infra* n12.

⁷ U. Dolgopol, "Rape as a War Crime-Mythology and History," in I. Sajor (ed) *Common Grounds* (Ascent Manila 1998).

⁸ *Id.* at 128.

⁹ *Id.*

¹⁰ *Supra* n3 at Article 14.

international law recognised by the Charter of the Nuremburg tribunal and the judgement of the Tribunal.”¹¹ The law applied in the Tokyo tribunal was the law as enunciated at Nuremberg.¹² There is no basis for an argument in modern day Japan that the legal principles applied by the Tokyo tribunal were incorrect or inapplicable.

Japan has prospered since the Second World War. This prosperity is due in part to the willingness of those who suffered during the war to forego some aspects of reparations. The government of Japan should not ignore this aspect of Japanese history. The Japanese people also experienced tremendous losses and hardship during the war. But the suffering of the Japanese people themselves is not an excuse to ignore the suffering inflicted by the Japanese Imperial Army on others. The post war Constitution of Japan was drafted in recognition of the harmful impact of militarism on the Japanese society. It is time to give due recognition to the impact of militarism on all the peoples that came under Japanese control during the war.

During the Hiroshima day ceremonies lanterns are floated on the river next to Peace memorial park in order to assist the souls of the dead to rest peacefully. The symbolic value of this ceremony resonates with people the world over. Yet the souls of those women who were lost because of the comfort stations whether during the war or after have not been allowed to rest peacefully. More must be done to give recognition to their sorrow and suffering. It is in the hands of both the Japanese people and the Japanese government to undertake an act similar to the floating of the lanterns.

One of the survivors of the A-bomb disaster, Suzuko Numata, spoke to me of the devastation which befell Hiroshima on the day the A-bomb was dropped and of her personal experiences with injury and pain. She also spoke of the importance of learning about the tribulations of others and of understanding the past. She herself has tried to learn more about the treatment of Korean forced labourers and the Comfort Women. “Through learning the truth comes wisdom” she told me. I think that message is the one the organisers of the Tribunal are trying to give to the Japanese public.

And it is a particularly important message for the younger generation. Everyone must ask themselves what values and lessons they want transmitted to future generations. One lesson must be the disastrous impact of militarism. Another is the importance of the promotion and protection of human rights. Young people should be encouraged to think of their country as one promoting peace and a spirit of cooperation regionally and internationally. Such a positive set of values can not but help give young people faith in their own society.

I would also like to encourage you to seek the participation of young people in this Tribunal. This would be fitting given that some of the Comfort Women were themselves adolescents. Also, young people around the world are keen to be involved in the promotion of peace and human rights. During August of this year the Third World Youth Forum took place in Braga, Portugal. This Forum immediately preceded the First World Conference of Ministers Responsible for Youth which took place in Lisbon, Portugal.

At the conclusion of the Forum the participants adopted a Youth Action Plan which contained their views about their potential role in their societies. Crucial to the principles set out in the Braga Action plan is the idea that young people have a responsibility to themselves and to the community to

¹¹ *Regina v. Bartle and the Commissioner of Police for the Metropolis and others Ex parte Pinochet*, Judgement of the House of Lords issued on 25 November 1998 per Lord Nicholls at <http://www.parliament.the-stationery-office.co.uk/pa/ld199899/ldjudgmt/>.

¹² See the discussion of this issue in U. Dolgopol and S. Paranjape, *Comfort Women - An Unfinished Ordeal* (International Commission of Jurists Geneva 1994) at 162-171..

ensure that human rights are guaranteed to all in the society. The concept of responsibility has many facets and a key aspect of that concept is the promotion of the human rights of others. Perhaps these young people have taken to heart an idea first expressed by Benjamin Franklin that those who would trade security for liberty do not deserve their freedom. This may be a crucial idea to communicate during the preparations for this Tribunal.

I would like to make a brief comment on the recent decisions of the Japanese District Court in respect of the case brought by Comfort Women from the Philippines. It is unfortunate that the Court did not consider more carefully the right to compensation under international law, particularly the right to compensation set out in the 1907 Hague Convention. Although that Convention does not create specific mechanisms for the enforcement of claims, it was the intention of the drafters that those who suffered as a result of violations of the provisions of the Convention were to receive compensation. Those who drafted the Statue believed it was possible for international law to be "self-operating" even in times of war.¹³ Although this might seem naive to those of us living at the end of the 20th century, we have to remember that warfare was conducted in a more limited form during the 19th century and that there was a spirit of optimism preceding the Hague conferences; delegates believed that it would be possible to agree to "gentlemen's rules" for the conduct of wars.¹⁴ Article 3 of the Hague Convention was given some effect in the Treaty of Versailles.¹⁵ International law and practice at the time Japan inflicted "unbearable pain and suffering" on the Comfort Women was to the effect that compensation was payable for harms inflicted by belligerent armies.¹⁶

Gay McDougall in her report to the United Nations outlines the relevant precedents with respect to state responsibility and liability to pay compensation. (I would like to pause here and add a couple of words about the significance of this report to the United Nations. There have been several reports by UN experts in the field of international law which have concluded that Japan has a legal obligation to made reparations to the Comfort Women. The international community has been clear in its desire to have Japan take some positive steps toward resolving this issue. In all those reports it has been recognised that the actions of the Japanese government whether in undertaking research, apologising or in setting up the Asian Women's Fund have not matched the international communities expectations with respect to Japan's obligations under international law. People around the world are aware of what happened to the Comfort Women and they would like to see Japan take more humane measures in dealing with the present situation of the Comfort Women. It would assist Japan's international reputation if the recommendations of the Special Rapporteurs on the Right to Restitution, Violence Against Women and Contemporary Forms of Slavery were followed.)

Returning to the question of state responsibility, Ms McDougall develops the point that international law prior to the Second World War made states responsible for the acts of their agents which violated the rights of aliens.¹⁷ Under the applicable rules of international law Japan would be responsible to make restitution to all individuals whose rights were violated on the territory of Japan; this would include all those who were brought to Japan in order to be sent to Comfort Stations elsewhere in

¹³ A. Roberts, "Land Warfare: From Hague to Nuremberg," in M. Howard, G.J. Andreopoulos, and Mark R. Schulman (eds) *The laws of War - Constraints on Warfare in the Western World* (Yale University Press New Haven and London 1994) at 126. See also, Frits Kalshoven, "State Responsibility for Warlike Acts of the Armed Forces," (1991) 40 Int'l and Comp. Law Qtly 827 in which the author states that Article 3 had "as its core element the attribution to individual victims of a right to claim compensation for war damages directly from the responsible State. (at 837)

¹⁴ Roberts, *supra* n12.

¹⁵ *Id.*

¹⁶ *Supra* n4 at 45-52.

¹⁷ *Supra* n4 at 41-44.

the Asia-Pacific region. It is worth remembering that the violations were considered to be particularly serious violations of international law, that is the slave trade and the trafficking of women and children.

Although I do not agree with the decisions reached by some of the Courts in Japan with respect to reparations for the Comfort Women, I continue to believe that the more appropriate response to this issue is a government initiated response. The former Comfort Women should not have to endure a lengthy and emotional court battle to achieve justice. It is up to the people of Japan to put pressure on their government to do the right thing. One way for every Japanese citizen to show their support for the Comfort women and for Woman's Rights is to support this Tribunal. The world will be watching in the year 2000 when the historical record is set straight. It is up to each of you sitting here today to assist the organisers and to educate those around you about the importance of this activity.

Women and the Tribunal

Women continue to be particularly susceptible to violence, including sexual violence, during armed conflict. In a speech to the Third Committee of the UN General Assembly the representative of the International Committee of the Red Cross made the following remarks:

“.. [c]ountless women [have] become victims of serious abuses as a result of the frequent targeting of civilians in recent conflicts.”¹⁸

Over time the international community has come to recognize the difficulties faced by women in achieving justice. The ICRC representative observed that it was his organizations experience that:

“women were affected by armed conflict now primarily because of a lack of humanitarian rules to protect them, but rather, from a failure to coherently interpret and implement existing rules.”¹⁹(emphasis added)

This sentiment was echoed by Angela King, Assistant Secretary - General, Special Advisor on Gender Issues and the Advancement of Women when she stated that “climate of impunity” has surrounded sexual crimes committed during armed conflict.²⁰

There is no doubt that the activities of the Comfort Women, the organizations and individuals supporting them in their home countries and the groups in Japan have assisted women every where in beginning the long march to overcome this climate of impunity. The Tribunal being organized by VAWW-NET Japan will be one further step along this path.

In stark contrast the actions of the government of Japan are undermining this attempt to overcome impunity. Although the government has indicated time and time again that it wishes to be reconciled with its Asian neighbors, its unwillingness to be honest about its part has prevented true reconciliation.

The connection between reconciliation and the ending of impunity has been recognized by international scholars as well as the UN.²¹ When establishing the International Criminal Tribunal for

¹⁸ Statement of Walter Fullerman to the Third Committee of the UN General Assembly on 15 October 1998, UN Press Release OA/SHC/3475.

¹⁹ Id.

²⁰ Statement to Third Committee of the UN General Assembly on 14 October 1998, Press Release GA/SHC/3473

²¹ See, e.g., Final Report of Ms. Gay Mac Dougall, Special Rapporteur on Systematic Rape, sexual slavery and slavery-like practices, during armed conflict, E/CN.4/Sub.2/1998/13; Jose Zalaguet, ‘Balancing Ethical Imperatives and Political Constraints; The Dilemma of New Democracies Confronting Past Human Rights

Rwanda the Security Council noted that a specific aim of the Tribunal “ s to prosecute and punish the perpetrators of the atrocities in Rwanda in such as way as to put an end to impunity and thereby to promote national reconciliation and the restoration of peace.”²²

There can not be genuine reconciliation between the women of this region, including the Comfort Women, and Japan until something is done to end the impunity of Japanese military officers and soldiers who fought during WWII with respect to their treatment of women. As I have previously indicated ²³ the documentary evidence exists to bring individuals to trial. However, other means exist to end this long reign of impunity. And, it may be that the cost of conducting such trials is disproportionate to the benefit to be achieved if these other mechanism are instituted.

Alternatives to war crimes trials include:

- A commission of inquiry similar to the truth and justice commissions that have taken place elsewhere in the world;
- A clear acceptance of moral culpability by the government of Japan;
- Adequate restitution to the Comfort Women;
- Individualized apologies; and
- Meetings with the Comfort Women

Unfortunately it is apparent that the government of Japan is unwillingly to take these steps. Because of the government’s continued intransigence it has become necessary for the Japanese public to act. The proposed Women’s Tribunal is a very important mechanism for countering the impression of impunity. It will allow people in Japan and elsewhere to learn of the complicity of the Japanese military hierarchy in the commission of war crimes and crimes against humanity. It is important the details of these acts become known so that no one can be under any illusion about the extent of the planning that took place. The Japanese Imperial Army systematically and intentionally violated the rights of Asian women. Whenever atrocities are committed there are always perceived as being more heinous when they are brought about intentionally.²⁴ Such crimes are considered to be of a greater magnitude and deserving of a higher level of censure. This makes it even more crucial that the years of impunity be brought to an end.

It is also important that the details of the crimes become widely known and appreciated. It is not useful for any society toward away from the horror they have brought about. Only by recognizing that each of our societies is capable of committing acts of extreme brutality can we begin to put in place mechanism to prevent such acts from happening in the future.

The Comfort Women who have chosen to come forward know they have many supporters in Japan and it has been important to them to plan an important role in the raising of public consciousness. We should not forget however, that it has been extremely painful emotionally for them to recount what was done to them.

It must prolong the emotional pain of the comfort women to realize that the Japanese government is unwilling to assist the people of Japan to come to terms with their past. As an observer I am unable to understand the government’s refusal to take steps toward real reconciliation.

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²³ U. Dolgopol, “Rape as a War Crime - Mythology and History in I. Sajo r(ASCENT) (ed.) Common Ground (ASCENT Manila, 1998)

²⁴ A. Roberts, supra np7.

The recent decision of the ICTR in the case of Kambanda lends support to the idea that one should question the motivation of those who do not explain their reasons for participating in widespread acts of atrocities and who do not express contrition, regret or sympathy for the victims.²⁵ In determining the sentence to be imposed the Court decided that it was appropriate to interpret lack of remorse as an aggravating factor which would militate toward a longer sentence.²⁶

Using this standard one can interpret the behaviour of the government of Japan as suspect as it has not shown true remorse. This makes it vital that the citizens of Japan take action to expose the full extent of the horrors inflicted on the Comfort Women, thereby demonstrating their own remorse.

As stated by the Secretary General of the UN:

“There can be no healing without peace, there can be no peace without justice, and there can be no justice without respect for human rights and the rule of law.”²⁷

The Tribunal and International Law

As noted earlier, women continue to experience the horrors of warfare. Questions have been raised as to whether or not the existing provisions of international law are sufficient. Associate Professor Judith Garden (University of Adelaide) and Professor Hilary Charlesworth (Australian National University) have been working on a project which examines the existing rules of international humanitarian law with respect to women. They believe further guidelines are necessary.

Their draft guidelines highlight the importance of having women involved in:

- decision-making during times of armed conflict;
- training peace keeping and military personnel;
- organizations that work with women victims

In addition they stress the need to put in place training programmes for all personnel with respect to gender issues including the appropriate treatment of women. They reiterate a point that all those working in this area have stressed which is that violence against women during armed conflict is due in part “to the inequalities faced by women in all cultures at all times.”²⁸

Others working in this area believe the rules we have are sufficient and that the real problem is the failure on the part of national governments and the international community to implement and enforce those rules. The ICRC is undertaking work in this area in connection with “Project Avenir” (a document being prepared in conjunction with the 50th anniversary of the Geneva Conventions.) It will be requesting governments to provide information on the strategies they adopt to give meaning to the Geneva Conventions. In addition the ICRC will be distributing questionnaires to war-affected women in different

²⁵ See ICTR Update, ICTR/UPD/011 Arusha 4 September 1998

²⁶ *Id.* A+3-4

²⁷ Secretary-General of the UN, Kofi Anan in respect of the judgement in Kayesu, Press Release, Secretary-General/S6/sm/668/L/2896, 2 September 1998

²⁸ (Draft) Guiding Principles on the Protection of Women in Times of Armed Conflict prepared by Judith Gard and Hilary Charlesworth.

countries in order to make an assessment of the effectiveness of international humanitarian law and its operation.²⁹

In the statement made by the ICRC to the Third Committee of the General Assembly, the organization stressed the importance to the development of international humanitarian law of organizations with an interest in this area to improve our knowledge of the "Multiple and often complex problems faced by women."³⁰ By holding this Tribunal VAWW-NET Japan and all those individuals involved in the organization of the Tribunal will assist the international community to understand the experiences of women and the types of acts that bring about the violation of women's rights in times of armed conflict. The experiences of the Comfort Women are being replicated today in various parts of the world. Looking at what happened to the Comfort Women and comparing it to the abuses women suffer today will help us to understand the appropriate next step in the development of international law.

It will also highlight the importance of bringing to justice all those responsible for crimes against women. I believe the long term consequences for women whether emotional, psychological or physical are worse when they have to live with the knowledge that those who perpetrated the crimes are allowed to escape retribution while they must live with the harms inflicted on them. It will be important for those organizing the Tribunal to think about this issue. The Tribunal should stand as a challenge to those creating the new International Criminal Court not to repeat the mistakes of the past. I believe it can and will fulfill this goal.

In closing I would like to express my heartfelt gratitude to all of you who have been involved in organizing this symposium and those of you who will become involved. You are agents for progressive social change and should be proud of what you are doing.

²⁹ See Statement n9 supra. Some of this information was obtained at an Expert Group Meeting on Women in Armed Conflict organized by J. Gardam and H. Charlesworth

³⁰ Statement supra n7.