

2000년 12월 15일

**THE WOMAN'S INTERNATIONAL WAR CRIMES TRIBUNAL 2000
FOR THE TRIAL OF JAPANESE MILITARY SEXUAL SLAVERY**

THE PROSECUTOR v.

EMPEROR HIROHITO

INDICTMENT

1. The Chief Prosecutors and Country Prosecutors of the Women's International War Crimes Tribunal on Japanese Military Sexual Slavery, (hereinafter the "Tribunal") pursuant to their authority granted under Article 11 of the Charter of the Women's International Crimes Tribunal 2000 for the Trial of Japanese Military Sexual Slavery, (hereinafter the "Charter") charge the accused, **EMPEROR HIROHITO** with:

Crimes Against Humanity

as recognized in Article 2(1) of the Charter.

2. The Chief Prosecutors and Country Prosecutors of the Tribunal further allege that the pursuant to their authority under Article 4 of the Charter that reparations and compensation for the aforesaid crimes to the remaining survivors or descendants of deceased victims incur the state responsibility of:

THE GOVERNMENT OF JAPAN

as recognized under Article 4 of the Charter.

FACTUAL BACKGROUND

INTRODUCTION

1. From the late nineteenth century to the mid-twentieth century the Japanese Government pursued expansionist policies in North and South-east Asia that culminated the Asia Pacific War and the unconditional surrender of Japan in 1945. Japan colonized Taiwan in 1895 and subsequently Korea in 1905. In 1931, Japan invaded Manchuria, followed by Shanghai in 1932 and Nanking 1937. In direct response to the notorious scale of sexual violence inflicted upon Chinese women by the Japanese invading troops, Japan instituted a system of “comfort stations” to decrease the mass rapes of civilian women. Intensifying between 1937 until Japan’s military defeat in 1945, the Japanese Government and the Japanese Imperial Army and Imperial Navy enslaved Korean, Chinese, Filipino, Indonesian, Burmese, Malay, Taiwanese, Thai, Eurasian, Pacific Islanders, Dutch women and Asian aboriginal women in order to furnish Japanese troops engaged in active military service with sexual recreation. An estimated 200,000 women from Asian countries that were either occupied or colonized by Japan were forced to serve as military sexual slaves in “comfort stations” authorized by the Japanese Government.

TAIWAN

2. In 1895, as the result of the Japanese-Sino war, Japan extended its rule over Taiwan by the terms of Article II of the Shimonoseki Treaty. A Japanese appointed Japanese Governor-General administered Taiwan. Taiwan remained a colony of Japan during the Asia-Pacific War of 1937 until 1945, while Japan and China waged an armed conflict against each other. As a subjected colony, Taiwanese women were abducted, forcibly removed, falsely recruited or otherwise deceived or coerced into going and remaining at the “comfort stations.” The Japanese Government, in tandem with the Governor-General of Taiwan, and the Japanese Armed Forces forcibly recruited, transported and “stationed” Taiwanese women in comfort stations located in Hainan Island and Gongdong Province in occupied China, in Hong Kong, Singapore and Lasho province in Burma. Although many Taiwanese women were sent to “comfort stations” in Japanese occupied territory, others were coerced into providing sexual services to the Japanese Army stationed in Taiwan. The Taiwanese women endured sexual slavery and other forms of inhumane treatment and at times death at the hands of the Japanese armed forces.

KOREA

3. In 1905, Korea became a Protectorate of Japan, and in 1910, in the Treaty of Annexation, the Korean Emperor ceded all sovereign power over Korea to the Japanese Emperor, who completely subjugated and colonized the Korean population. Japan ruled Korea until 1945 through a succession of Japanese Governor-Generals. During the relevant time period of this indictment, from 1937 until 1945, the Japanese

Government enacted the Act of State General Mobilization and forcibly conscripted Korean men into the Japanese Imperial Army and Korean women into the National Labour Service Corp. Within this context, and by the use of other mechanisms, such as deceitful recruitment, abduction and kidnapping, Korean women were sent to “comfort stations” throughout China, Burma and South-east Asia. The Korean Governor-General, the Chief of the Headquarters of the Japanese Army Stationed in Korea as well as other Japanese army commanders and governmental officials participated in the enslaving of Korean women. Because of Korea’s status as a colony, Korean women constituted the majority of women subjected to military sexual enslavement by the Japanese Government. Korean women were subjected to countless rapes and sexual torture, as well as to starvation, physical maiming and death.

CHINA

4. Military invasion and eventual political domination of China was a Japanese strategic objective in the first half of the twentieth century. When Manchuria fell to Japan in 1931, soon followed by Shanghai, Nanking and the remaining territory of China, the Japanese government swiftly moved to establish “comfort stations” to redress the acknowledged problem of massive rapes committed by the Japanese troops against the Chinese women. Stations were set up in Manchuria, Shanghai, Zhejiang, Hunan, Fujian and various other locations in South and North China. As part of the conquered population, Chinese women were frequently captured, kidnapped, ordered to leave their villages, removed from a general and forcibly retained in the “comfort stations.” In 1938, the Guangzhou area of occupied China alone reportedly had over one thousand women enslaved in “comfort stations.” By 1945, the Japanese Imperial Army operated their most thorough system of military sexual enslavement in occupied China. Notwithstanding the Japanese administrative response to massive rapes, Chinese women continued to be sexually assaulted by Japanese occupational forces.

INDONESIA

5. Indonesia, known as the Dutch East Indies, was a colony of the Netherlands during the relevant time period of this indictment. In 1941, the official Japanese war strategy was to invade and occupy Indonesia. The Japanese forces landed in Java on March 8, 1942, overthrew Dutch sovereignty and divided the military occupation. The Japanese Imperial Army controlled the islands of Java and Sumatra, while the Imperial Navy ruled Borneo and the eastern region of Indonesia. Japanese occupation enacted policies of conscription of Indonesian men and women to sustain the Japanese war effort. Under such programs, many Indonesian females between 13 and 17 were forcibly and deceptively sent to “comfort stations”. The Japanese occupiers, meanwhile incarcerated the Dutch population in several detention camps. Many Dutch women were then removed from detention and placed in “comfort stations” to serve Japanese Officers. Taiwanese and Korean women were enslaved and sent to “comfort stations” in Indonesia, while Indonesian women were sent abroad to “comfort stations” in Burma, Singapore and the Philippines.

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to*

THE PHILIPPINES

6. At the conclusion of nineteenth century, the Philippines became a U.S. protectorate. On December 8, 1941, a day after the Japanese attack on Pearl Harbor in the Hawaiian Islands, another U.S. possession, the Japanese Imperial Army attacked Mindanao Island in the Philippines. The Japanese Imperial Army invaded Manila on January 2, 1942, effectively defeating the Filipino forces and subjugating the Filipino population to four years of military occupation. In accordance with Japanese governmental policy, "comfort stations" were established wherever sizable Japanese Army garrisons existed. In some cases, the stations were run by civilians yet administered by the Japanese Army. The successive Commanders of the 14th Area Army military police division established and managed "comfort stations" in Manila, Iloilo in the Panay Island and Tacloban in Leyte Island. Filipino women were forced to sexually serve the Japanese soldiers in other stations such as Cayan de Oro City, Butuan, and Masbate. Due to the presence of the Japanese occupational forces, Filipino women were frequently captured and raped for several days or weeks or longer by Japanese army units at locations where formal "comfort stations" had not been established. The creation of "comfort stations" did not eradicate massive sexual violations by Japanese soldiers. A notorious planned mass rape occurred in Mapanique, on November 23, 1944, wherein the Japanese forces executed Filipino men and then proceeded to rape the village women at the nearby army garrison in the infamous Bahay na Pula (Red House).

SYSTEM OF COMFORT STATIONS

7. The establishment of "comfort stations" was integral to overall Japanese war strategy that aimed to defeat its enemies and to expand the Japanese domination into Eastern Asia. It is unambiguous that planning, preparation, recruitment, of the "comfort stations" evinced Japanese governmental authorization at the highest level. In essence, the institution of military sexual slavery was direct implementation of governmental policy. The objectives behind the "comfort station" were fourfold. First, the "comfort stations" were intended to deter Japanese soldiers from raping local women in order to limit anti-Japanese sentiments among occupied population. Second, the "comfort stations" were intended to lower the rate of venereal diseases among Japanese soldiers that crippled the fighting potential of the forces. Third, "comfort stations" provided leisure and released the stress and tension of war for Japanese soldiers, yet kept them in a military-controlled environment. Fourth, use of the "comfort stations" reduced the potential for security breaches, information leaks and intelligence gathering on Japanese military operations.
8. In 1932, in aftermath of the takeover of Shanghai, of the frequency of rapes caused Japan concern its international image and the security of its occupation forces. The Vice-Chief of the Staff of the Shanghai Expeditionary Army, as a result, requested the Governor of Nagasaki Prefecture to send women to work in a "comfort station". Japan set up "comfort station". The Commander of the Shanghai Expeditionary

Army had to be aware if not he did not authorize the request. After 1937, as Japanese military action escalated in Shanghai, Nanking, Hankou and Guangdong China, forcible or deceptive recruitment of women intensified. The Commander of the Central Chinese Area Army, the Chief of Staff of the North China Area Army directed the setting up of "comfort stations." The Staff Officer of the Guangdong Army requested that 20,000 comfort women from the Korean peninsula be transported to China in preparation of the Guangdong Army Special Exercise, but only 3,000 were collected. Between 1938 and 1945, successive Commanders of Japanese Imperial Army units in China, including the Commander-in-Chief of the China Expeditionary Army authorized and otherwise participated recruitment for "comfort stations" and their subsequent operation.

9. The forcible or deceptive recruitment of women for "comfort stations" in China involved high-level Japanese military and cabinet figures as well as the Governor Generals of colonized Korea and Taiwan. When the officers under the Commander of the 21st army requested a colonel who was the Appointments Section Chief of the War Ministry's Personnel Bureau, to transmit the request to the Home Ministry. The Home Ministry relayed the request to the Police Bureau Chief who transmitted the direction to the prefectural governors. The officers of the 21st Army also requested the Governor-General of Taiwan to supply women for the "comfort stations". In 1941, when the Kwantung Army prepared to invade Russia from the Chinese boarder, the Governor-General of Korea facilitated the deportation of 3,000 women Police districts, under the Japanese Home Ministry were requested by the Governor-General of Korea to provide the locally "recruited" women with identity papers.
10. From 1941 until the unconditional surrender of Japan in 1945, "comfort stations" proliferated along side of the Japanese military operations. The War Ministry's Aide-de-camp Division and the Naval Ministry's Military Affairs Bureau and Military Preparations Bureau, respectively, institutionalized the military sexual slavery system. Japan's Asia-Pacific war policies to requisite "comfort stations" necessitated that the normal colonial administrative procedures be superseded. It was no longer to request the Governor Generals of Taiwan or Korea to supply women. For example, the Japanese Southern Expeditionary Army in Borneo, directed a request to the War Ministry to authorize that the Japanese army in Taiwan deliver 50 women. As a result, the Adjunct to the War Minister approved the hiring of three civilian brokers to secure the Taiwanese women who would satisfy the sexual needs of the Southern Expeditionary Army. At the relevant time, the direct superior to the Adjunct to the War Ministry, the War Minister, also presided as the Prime Minister of Japan. The constitutional responsibilities of the Prime Minister included informing and advising the Head of State of execution of governmental policies.
11. The Allied Report on the Amenities in the Japanese Armed Forces, based upon captured Japanese documents, unfailingly demonstrates that "comfort stations" were highly regulated as an official matter policy. For example, the "comfort stations" in the occupied Shanghai South Sector were obliged to: routinely conduct inspections by the Billet Commander; keep a fixed rate chart; conduct venereal examinations and

physical inspections on every Thursday, issue license to “brothel entertainers”; ensure that the private parts of the women were washed after each act, and; submit detailed work statements to the Billet Commander every Saturday. The Allied Report’s description of “comfort stations” run by civilians in the Philippines confirmed that the Officer-in-Charge of the Manila Sector Line of Communications, with the sanction of the Army Commanding General regulated all aspects of the “comfort stations” including; approval of the selection of managers; location of the establishment; admission, according to rank of army personnel; access to of designated civilians, and; hours of operation. The hierarchy of rank recognized in the Imperial Japanese Armed Forces was imprinted on the regulation of “comfort station”. The Allied Report cites documents that illustrate that officers were permitted to use the “comfort station” in the evening with the right to spend the night. Non-commissioned officers and enlisted men or laborers were confined to shorter access, either in the morning or afternoon. Other hierarchical constraints intoned the overt racism of the Japanese policies. European-Dutch were supplied to “comfort stations” that served Japanese officers, aboriginal Asian women mostly serviced laborers or low-ranking servicemen.

12. Irrespective of national origin, racial background or class status, or the type of “comfort station” the enslaved women suffered untold physical and mental torture. Starting with forced or deceitful recruitment or abduction, often accompanied by threats, beatings, humiliating examinations and initial rapes, Japanese policies inflicted atrocious crimes against women coming from colonized and occupied countries. Upon arrival at any one of the hundreds of “comfort stations” the women were reduced to slaves, made to endure daily, sexual violence including countless rapes, together with constant confinement in narrow cells, death threats, starvation rations, social isolation, countless beatings, maiming, and at times exposed to enemy fire and even murdered by retreating Japanese forces. As a consequence of the Japanese military slavery system, numerous women contracted venereal diseases, urinary infections, endured unsafe medical procedures such as abortions or removal of their sexual organs and suffered chronic mental disorders.

The Accused (what is the distinction between the names **Hirohito** and **Showa**?)

13. During the period relevant period of 1937 until March 1946 the accused, **Emperor Hirohito**, was the invested Head of State of Japan, under the provisions established by the Meiji Constitution. As Head of State, **Emperor Hirohito** was the de jure leader of Japan. His political powers were independent from and superior to the legislature, judicial and administrative powers of the Japanese government. His political position was superior to that of the Prime Minister, the Ministry of War, the Home Ministry, and other cabinet members. As his subordinates, the Ministers were bound by the constitution to serve **Emperor Hirohito** and advise him of the domestic and international political relations and military operations of Japan.

14. As Head of State, **Emperor Hirohito** was also the Supreme Commander of the Japanese Imperial Army and Navy. The Supreme Commander was superior to and held command responsibility over the military Chiefs of Staff, their the commanding generals and other armed forces personal. **Emperor Hirohito** exercised ultimately command authority of the Japanese Imperial Army, including direct jurisdiction over each of Japan's Expeditionary Armies and Japanese Area Armies that invaded and occupied China, the Dutch East Indies (Indonesia) the Philippines, Malaysia and Burma (Myanmar). As Supreme Commander, **Emperor Hirohito** possessed the authority to instruct the Imperial Military Headquarters to formulate national war policies, to plan and conduct military operations, and to supervise support operations as well as to ensure the over-all war making capacity of Japan. In addition to the normal
15. As Head of State and Supreme Commander, **Emperor Hirohito** also exercised ultimate political and military rule over the Japanese colonies of Korea and Taiwan. Japanese army divisions permanently stationed in the colonial possessions were subordinate to the command of the Chiefs of Staff and to Supreme Commander, **Emperor Hirohito**. Each Japanese possession was administered by a Japanese appointed Governor-General who obligatorily reported directly to **Emperor Hirohito**. As such, the accused was regularly appraised on the political policies, military operations, and general status of Japanese interests in each colony during the relevant time period of the indictment. The Governor-Generals were in a subordinate position to the accused, **Emperor Hirohito**.
16. In addition to the *de jure* authority of the accused as Head of State and Supreme Commander, the accused, **Emperor Hirohito** had and exercised *de facto* authority. He was revered as a spiritual leader and ruled Japan and the Japanese people by divine provenance. His orders, decisions, directives and policies were as such unquestioned and unconditionally obeyed by the Japanese government and Japanese people.

General Allegations

17. Unless otherwise specified, all criminal acts or admissions set forth in the indictment were committed between 1937 and March 1946 in the countries indicated in the predicate paragraphs that proceed the charges.
18. In each Count alleging crimes against humanity, the acts or omissions were committed as part of a widespread or systematic attack directed against civilians.
19. In each Count alleging war crimes, the acts or omissions were committed while a state of armed conflict existed between Japan and China, the Dutch East Indies (Indonesia) and the Philippines while in regard to Taiwan and (thereafter North and South) Korea Japan expressly exercised its colonial authority.

20. The accused, **Emperor Hirohito** is individually responsible for the crimes alleged against him in this indictment, pursuant to Article 3 of the Charter. Individual Responsibility includes planning, instigation, ordering, committing or otherwise aiding and abetting in the planning, preparation, or execution of a crime in Article 2.
21. The accused, **Emperor Hirohito** exercised the ultimate political and military authority in Japan. He controlled the Japanese Imperial Army and Navy, including the Japanese Expeditionary Forces and Japanese Area Armies, as well as subjected the entire populations of occupied and colonized countries. In as much as the accused was in a position of superior authority, pursuant to Article 5(2) of the Charter, he is criminally responsible for the acts of his subordinates, including members of the armed forces, members of the Japanese Cabinet and, the Governor-Generals of Korea, Taiwan and China, and civilians authorized to act on behalf of his subordinates.
22. A superior or commander is criminally responsible if that superior knew, or had reason to know, that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent or repress their commission or submit the matter to the competent authorities and prosecution.
23. Paragraphs 1-12 and the general allegations in paragraphs 17-22 are re-alleged and incorporated into each of the charges as set forth below.

(INSERT DESCRIPTIVE PARAGRAPHS RELATING TO STATE RESPONSIBILITY SUBSEQUENT TO THE WAR)

COUNTS 1-4 ENSLAVEMENT

24. Between 1937 and 1945, during the Japanese- Chinese War and during the Asian-Pacific War, the Japanese government, and armed forces, led by **EMPEROR HIROHITO**, instituted a system of military sexual slavery to provided sexual services to the Japanese armed forces. Referred to by the Japanese authorities as "comfort stations" these establishments were set up throughout the conquered and occupied countries controlled by the Japanese Imperial Army and the Japanese Imperial Navy, including, but not limited to China, Indonesia, the Philippines, Taiwan and Burma.
25. With the knowledge, authority, and acquiescence of the Japanese cabinet, including the War Ministry, the Home Ministry, and the Naval Ministry, and the Japanese Imperial Army and the Japanese Imperial and the Governor- Generals of Korea and Taiwan, tens, if not hundreds of thousands of women were, forcefully or deceitfully recruited or abducted, and transferred or deported to serve in the Japanese "comfort stations". The women originated from Korea, China, Taiwan, Indonesia, the

Netherlands, the Philippines, Malaysia, Burma, or were Pacific Islanders or Eurasians.

25. The women were enslaved, and subjected to continuous mental and physical suffering, countless acts of sexual violence, including countless rapes, other forms of sexual torture, starvation, threats, confinement, isolation, at times death and other forms of inhumane acts at the hands of the Japanese Imperial Army, the Japanese Imperial Navy and their agents.
26. For his direct participation, as pursuant to Article 3 of the Charter, and or in the alternative for his position as a superior and commander as pursuant to Article 5(2) of the Charter, **EMPEROR HIROHITO**, is charged with Crimes Against Humanity:

Count 1: ENSLAVEMENT, as recognized by Article 2(1) of the Charter;

COUNT 2: RAPE, as recognized by Article 2(1) of the Charter.

COUNT 3: TORTURE, as recognized by Article 2(1) of the Charter

COUNT 4: PERSECUTION, as recognized by Article 2(1) of the Charter.

COUNT 5-7 RAPE

27. The invading Japanese Imperial Army inflicted massive rapes on the female population of China, notably in Shanghai, and Nanking in 1937. In 1941, the invasion of the Philippines was notorious for the rapes inflicted against the female population of Manila. These rapes, widely criticized by the international community, prompted the Japanese government to institute and after &ç'&, to intensify the military sexual slavery system. Nevertheless, rapes of the local women by the Japanese occupational forces continued in China, Indonesia, the Philippines. In addition, women were captured and taken to make-shift locations or the individual barracks for the purpose of sexual abuse by the Japanese soldiers where they were forced to stay for days, weeks or months.
28. The notorious mass rape of Filipino women in Mapanique, on November 23, 1944, at the army garrison in the infamous Bahay na Pula (Red House) was planned and executed by the Japanese Imperial Army. While the Filipino men were tortured, killed or executed, the women and children were sexually tortured, including forced nudity, gang rapes and public rapes. In addition, the womezn were subjected to other forms of physical violence such as beatings, and mental suffering.