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 제목: COMMON INDICTMENT FROM PATTI SELLERS

Dear Prosecutors.

Great news! We now have the First Part of the Common Indictment from Patti Sellers.

All the best,

Indai

>To: ascent@csi.com.ph
 >Date: Tue, 21 Nov 2000 12:40:14 -0000

>Hello Indai - following you will find two documents. The first is a letter
 >from Patricia to you and the Country Prosecutors. Directly after that you
 >will find the current draft of the Common Indictment. Both of these should
 >be forwarded to the Country Prosecutors.

>As always, thanks very much for you help and hope all is well with you.

>Tina G.

>Dear Indai and Prosecutors,

>Thank you for all the excellent work that you have put into the indictments.
 >The wealth of materials has permitted the drawing up of a Common
 >Indictment. You should be exhausted, yet proud.

>Attached is the Common Indictment. The Common Indictment has been drafted
 >after analyzing the different country indictments, the Tokyo Judgement and
 >the documentary evidence that the individual countries and the expert
 >witnesses will present. It provides an umbrella under which the acts and
 >omissions of the named accused in the country indictments, as well as the
 >supporting evidence, documents and affidavits should be able to be
 >adequately covered. Most importantly, the Common Indictment is footnoted to
 >direct the Judges attention to the specific details in the country

>indictments.

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>The relevant time frame of the indictment is 1937 until the conclusion of
>the Asia-Pacific War in 1945. Two other periods are referred to for the
>background facts: the late 19th century - early 20th century Japanese-Sino
>and Japanese-Korean history, and; the 1932-1937 renewal of Japanese- Sino
>hostilities. Our evidence, that we are bound to prove however starts in
>1937 at the conclusion of the Rape of Nanking. Prior to those events, we
>will ask the Judges to either take judicial notice of historical facts or to
>refer them to "their" previous factual findings in the Tokyo Judgement.

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>However, as is apparent, the number of named accused has been reduced to
>include Emperor Horohito, Iwane Matsui, Kuniaki Koiso, Shunroku Hata,
>Hisaichi Terauchi, Seishiro Itagaki, Hideki Tojo, Yoshirjiro Umezu,
>Mitsuhiko Komatsu, Jiro Minami, Seizo Kobayashi, Kioshi Hasegawa, Rikichi
>Ando and Tomoyuki Yamashita. Each of the named accused can be linked to
>documentary evidence concerning their involvement with the establishment
>of the system of FFS or "comfort station".

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>Notably, the Common Indictment has attempted to indict the top layer of the
>Japanese Army in China during the 1937-1941 period (with the exception of
>Komatsu), the Governor-Generals of Korea and Taiwan for that period and the
>War Ministers and the Prime Minister. For the period of the Asia-Pacific
>war, the Common Indictment centers on the Commander of the Southern Army,
>Terauchi, the War Ministry which overlaps with the Prime Minister and
>certain acts of Governor Generals.

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>One factor that becomes obvious among the named accused is that there are
>many instances of an accused being first in the field of battle and then in
>the government or vice versa. Hence the accused's "knowledge" of the
>attack against the women via sexual slavery is demonstrated. Also,
>according to the holding of the Tokyo Judgement, the standard for command
>responsibility should be sufficiently met.

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>The incidents that have been highlighted, "tell a story" - the setting up
>of "comfort stations" along with the movement of Japanese troops and
>political domination. The evidence in the country indictments and that will
>be called at trial round out the details of "the story" and will give the
>Judges a framework in which to place the facts. The inevitable conclusion of
>this story is constant official involvement to the extent that the Japanese
>Government is responsible for the establishment of the sexual slavery
>system.

>

>A few problems exist. The most prominent is that the case of Hirohito is
>circumstantial. The experts Bix and Yoshimi do not seem to be completely
>conclusive on his individual responsibility. (Can anyone find this missing
>key document???) Still, he is retained in the Common Indictment and we will
>continue to "develop our case".

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>Another difficulty is that at the time of the almost final draft, the East
>Timorese Indictment is outstanding. Will we have information or evidence on
>Malaysia?

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>Also, the page numbers referring to the latest Japanese indictment are
>possibly incorrect. Also, the Common Indictment has been written without the
>benefit of Exhibit I and II of the Taiwanese Indictment or the documents
>referred to by Yoshimi.

>
>A further difficulty is the Batavia case and the Dutch victim from
>Indonesia. The Batavia case states that the Japanese Government, upon
>learning about the Batavia case ordered that the brothel be closed. This
>would seem to 1) exculpate the Japanese Government in regard to the Dutch
>women in that case, and; 2) put the Japanese Government on notice that
>coercion, forced recruitment and abduction was used to staff "comfort
>stations". While this might exclude the Dutch comfort women from
>reparations in that narrow case, it would serve to show the Japanese
>Governments awareness of FSS in Indonesia, in the very least.

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>Finally, a legal memo will be forthcoming shortly. As stated earlier, it
>will stress, both factually and legally that it is an "addendum" to the
>Tokyo Judgement.

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>Best Regard - we are almost at our goal.

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> Patricia

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

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> THE PROSECUTORS v.

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> EMPEROR HIROHITO et al.

COMMON INDICTMENT

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>1. The Prosecutors of the Women's International War Crimes Tribunal on
>Japanese Military Sexual Slavery, (hereinafter the "Tribunal") pursuant to
>their authority granted under Article 2 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,
>Iwane Matsui, Kuniaki Koiso, Shunroku Hata, Hisaichi Terauchi, Seishiro

>Itagaki, Hideki Tojo, Yoshijirou Umezu, Mitsuhiro Komatsu, Jiro Minami,
>Seizo Kobayashi, Kiyoshi Hasegawa, Rikichi Ando, and Tomoyuki Yamashita
>with:

Crimes Against Humanity: Sexual

>Slavery and Rape

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

>2. The Prosecutors of the Tribunal further allege that 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

>3. From the late nineteenth century to the mid-twentieth century the
>Japanese government pursued expansionist policies in north and southeast
>Asia that culminated in the Asia-Pacific War and the unconditional surrender
>of Japan in 1945. Japan colonized Taiwan in 1895 and subsequently
>subjugated 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." Between
>1937 until Japan's military defeat in 1945, the Japanese government and the
>Japanese Army and Navy enslaved Korean, Chinese, Filipino, Indonesian,
>Burmese, Malay, Taiwanese, Eurasian, Pacific Islanders, Dutch and Asian
>aboriginal women in order to furnish Japanese troops engaged in active
>military service with sexual recreation. From 1937 through 1945, the period
>of time covered by this indictment, an estimated tens of thousands of women
>from Asian countries that were occupied, colonized or subjugated by Japan
>were forced to serve as military sexual slaves in "comfort stations"
>authorized by the Japanese government.

TAIWAN

>4. 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.
>Japan appointed Governor-Generals to administer Taiwan. Taiwan remained
>a colony of Japan during the armed conflict between China and Japan in the
>1930's and throughout the Asia-Pacific War until the Japanese surrender in
>1945. Commencing in 1937, Taiwanese women were abducted, forcibly
>removed, falsely recruited or otherwise deceived or coerced into servitude

>at the "comfort stations". The Japanese government, in tandem with
 > the Governor-Generals of Taiwan, and the Japanese Armed Forces
 >transported and "stationed" Taiwanese women in comfort stations located in
 > Hainan Island and Kwantung (Guandong) Province in occupied China,
 >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 inhumane treatment and at times death at
 >the hands of the Japanese armed forces.

Lasho ?

KOREA

>5. In 1905, Korea became a Protectorate of Japan. In the 1910 Treaty
 >of Annexation, the Korean Emperor ceded all sovereign power over Korea to
 >the Japanese Emperor, who completely subjugated the Korean population.
 > Japan ruled Korea until 1945 through a succession of Japanese
 >appointed Governor-Generals. From 1937 until 1945, the Japanese government
 >enacted the Act of State General Mobilization and forcibly
 >conscripted Korean men into the Japanese Army and Korean women
 >into the National Labour Service Corp. Within this context, and
 >by the ruse of deceitful recruitment, as well as abduction and
 >kidnapping, Many Korean women were sent to "comfort stations" in China,
 >Burma and southeast Asia. The Governor-Generals of Korea as well as other
 > Japanese army commanders and governmental officials participated
 > in the enslaving of Korean women. Due to Korea's complete subjugation,
 >Korean women constituted the majority of women forced into military
 >sexual enslavement by the Japanese Government. In the "comfort
 >stations," Korean women were thus subjected to sexual torture, including
 >rape, as well as to starvation, physical maiming and at times death.

CHINA

>6. The 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 Chinese
 >women. "Comfort stations" were set up in Manchuria, Shanghai, Zhejiang,
 >Hunan, Fujian and various locations in the south and north of China. As
 >part of the conquered population, Chinese women were frequently captured,
 >kidnapped ordered to leave their villages, 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 Army operated (a system of military
 >sexual enslavement) throughout occupied China. Notwithstanding the
 >Japanese government's administrative response to massive rapes,
 >Chinese women continued to be sexually assaulted by Japanese
 >occupational forces.

INDONESIA

>7. Indonesia, known as the Dutch East Indies, was a colony of the
 >Netherlands until 1947. In 1941 the official Japanese war strategy included
 >the planned invasion and occupation of Indonesia. The Japanese forces that
 >landed in Java on March 8, 1942, overthrew Dutch sovereignty and divided
 >Indonesia into military occupation zones. The Japanese Army, under the
 >command of the Southern Expeditionary Forces, controlled the islands of
 >Java, Sumatra and Borneo and the eastern region of Indonesia. Japanese
 >occupation policies centered on conscription of Indonesian men and women as
 >a means to sustain the Japanese war effort. Under such programs, many
 >Indonesian females between 13 and 17 years of age were forcibly and
 >deceptively sent to "comfort stations". The Japanese occupiers meanwhile
 >incarcerated the Dutch population of Indonesia in several local detention
 >camps. Some Dutch women were then moved from detention camps and placed
 >in "comfort stations" to serve Japanese officers. Taiwanese and Korean
 >women who were enslaved by the Japanese army were sent to "comfort stations"
 >in Indonesia, while many Indonesian women were sent abroad to "comfort
 >stations" in Burma, Singapore and the Philippines.

THE PHILIPPINES

>8. At the conclusion of nineteenth century, the Philippines became a U.S.
 >protectorate. On December 8, 1941, one day after the Japanese attack on
 >Pearl Harbor in the Hawaiian Islands the Japanese Army attacked Mindanao
 >Island in the Philippines. The Japanese 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
 >sizeable Japanese Army garrisons existed. The successive Commanders of the
 >14th Area Army, under the command of the Southern Expeditionary Forces,
 >established "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 Cayagan de Oro City, Butuan, and
 >Masbate. In some cases, the Japanese Army administered the "comfort
 >stations" yet licensed civilians to operate them. Due to the presence of
 >the Japanese occupational forces, Filipino women were frequently captured
 >and raped for several days or longer by Japanese soldiers at locations where
 >formal "comfort stations" had not been established. Thus 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. In that military operation, 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

>9. The overall Japanese strategy aimed to militarily defeat its enemies and
 >to expand Japanese political domination into east and southeast Asia. The

> establishment of facilities of sexual slavery or "comfort stations" was
 > integral to the military strategy and was authorized at the highest military
 > and political levels. There were several military objectives behind the
 > "comfort stations." The most clearly documented objective was the intent to
 > deter Japanese soldiers from raping local women and thus contain the
 > anti-Japanese sentiments among the occupied population.

> 10. In 1932, in the aftermath of the takeover of Shanghai, the frequency
 > of rapes of Chinese women caused Japan to be concerned about its
 > international image and the security of its occupation forces. After 1937,
 > as the Japanese military actions escalated in Shanghai, Nanking, Hankou and
 > Kwantung (Guandong) areas of China, the forcible or deceptive recruitment of
 > non-Japanese women intensified. From 1941 until the unconditional surrender
 > of Japan in 1945, "comfort stations" proliferated along side of Japanese
 > military operations. The War Ministry institutionalized the military sexual
 > slavery system.

> 11. Concomitantly with the military operations, the Commander of the
 > Central Chinese Area Army and the Commander of the Kwantung (Guandong) Army,
 > through the Chief of Staff of the North China Area Army, directed the
 > setting up of "comfort stations." In July 1941, the Commander of the
 > Kwantung (Guandong) through his Staff Officer requested that 20,000 comfort
 > women from the Korean peninsula be transported to China in preparation of
 > the Guandong Army Special Exercise. Thus, between 1937 and 1945, successive
 > Commanders of the China Expeditionary Armies authorized and otherwise
 > participated in recruitment for "comfort stations" and their subsequent
 > operation.

> 12. The establishment of "comfort stations" in China involved high-level
 > Japanese military and cabinet figures as well as the Governors-General
 > Taiwan and Korea. For example, in 1939, when the officers under the
 > Commander of the 21st Army requested the Appointments Section Chief of the
 > War Ministry's Personnel Bureau, to transmit a request for "comfort women"
 > to the Home Ministry. That request was then relayed the Japanese
 > prefectural governors. The officers of the 21st Army also requested that
 > the Governor-General of Taiwan supply women for the "comfort stations."
 > Another example occurred in 1941 when the Governor-General of Korea, in
 > response, facilitated the deportation of 3,000 Korean women.

cf. 223 indol.

> 13. In 1942, the Commander of the Japanese Southern Expeditionary Army,
 > directed a request to the War Ministry to authorize that the Japanese army
 > in Taiwan deliver 50 women to Borneo. As a result, the War Ministry
 > approved the hiring of three civilian brokers to secure the Taiwanese women
 > who would satisfy the sexual needs of the Southern Expeditionary Army. In
 > 1941, the War Minister was also the Prime Minister of Japan. The
 > constitutional responsibilities of the Prime Minister included informing and
 > advising the Head of State of the execution about governmental policies.

Terawshi

> 14. 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 a matter of official policy. For
 > example, the "comfort stations" in the occupied Shanghai South Sector were
 > obliged to: keep a fixed rate chart; conduct weekly venereal examinations

>and physical inspections; issue licenses 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 of designated civilians, and; hours of
 >operation. The hierarchy of rank recognized in the Japanese Armed Forces
 >was imprinted on the regulation of "comfort station". The Allied Report
 >documents that officers were permitted to use the "comfort stations" 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 women were supplied to
 >"comfort stations" that served Japanese officers, aboriginal Asian women
 >mostly serviced laborers or low-ranking servicemen.

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 >15. Irrespective of national origin, racial background, 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 generated continuing crimes upon women
 >from subjugated or 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, subjected to
 >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 and urinary infections. Some endured unsafe medical procedures
 >such as abortions or removal of their sexual organs and suffered chronic
 >mental disorders.

} cf. 443

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 >The Accused

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 >16. The accused are Emperor Hirohito, Iwane Matsui, Kuniaki Koiso, Shunroku
 >Hata, Hisaichi Terauchi, Seishiro Itagaki, Hideki Tojo, Yoshijirou Umezu,
 >Mitsuhiko Komatsu, Jiro Minami, Seizo Kobayashi, Kiyoshi Hasegawa, Rikichi
 >Ando, and Tomoyuki Yamashita.

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 >Positions and Authority of the Accused

cf. 1000

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 >17. From 1937 until 1945 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
 >legislative, 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 to advise him about domestic and international political
>relations and military operations of Japan.

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>18. As Head of State, Emperor Hirohito was also the Supreme Commander of
>the Japanese Army and Navy. The Supreme Commander was superior to and held
>command responsibility over the military Chiefs of Staff, their commanding
>generals and other armed forces personal. Emperor Hirohito exercised
>ultimate command authority of the Japanese Army, including direct
>jurisdiction over each of Japan's Expeditionary Armies and Japan's Area
>Armies that invaded and occupied China, Indonesia (the Dutch East Indies),
>the Philippines, Malaysia and Burma. 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, to supervise support of military operations as well as
>to ensure the overall war making capacity of Japan.

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>19. As Head of State and Supreme Commander, Emperor Hirohito also exercised
>ultimate political and military rule over the Japanese ruled territories of
>Korea and Taiwan. Japanese army divisions permanently stationed in these
>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 apprised
>on the governing policies, military operations, and general status of
>Japanese interests in each colony during the time period at issue in this
>indictment, 1937 to 1945. The Governor-Generals were in a subordinate
>position to the accused, Emperor Hirohito.

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>20. In addition to his de jure authority 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
>members of the Japanese government, the Japanese armed forces and the
>Japanese people.

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>21. Accused Seishiro Matsui held two positions between 1937 and 1938. In
>1937, he was recalled from retirement to command the Shanghai Expeditionary
>Forces. Also in 1937, he was appointed Commander of the China
>Expeditionary Force, a position directly subordinate to the Emperor. He
>remained Commander of the China Expeditionary Force only until February
>1938. In these positions, Seishiro Matsui commanded the troops that
>captured Nanking in 1937. In the Tokyo Judgement, he was found guilty of
>the atrocities committed in Nanking.

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>22. Accused Kuniaki Koiso was Commander of the Korean Army from December
>1935 until July 1938. From 1939 until 1940 he was Minister of Colonial
>Affairs. From 1942 until 1944 he served as Governor-General of Korea. In
>July 1944, he was recalled from Korea to become Prime Minister of Japan.
>He remained Prime Minister until April 1945.

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>23. In February 1938, accused Shunroku Hata was appointed to be Commander
>of the Central China Expeditionary Forces. Three days after that

>appointment, he became leader of all Expeditionary Forces in China. During
 >a brief period of time sometime during the spring or summer of 1939,
 >Shunroku Hata served as the Aide-de-Camp to the Emperor. In August 1939,
 >Shunroku Hata became the Minister of War and stayed in that position until
 >July 1940. From March 1941 until November 1944, Shunroku Hata returned to
 >the field as Commander of the China Expeditionary Forces.

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 >24. From 1937 to 1945, the accused Hisaichi Terauchi held two high-ranking
 >positions in the Japanese government. In 1938, Hisaichi Terauchi was the
 >Commander of the North China Area Army. In addition, from November 1941
 >until the end of the war in 1945, Hisaichi Terauchi was also the Commander
 >of the Southern Expeditionary Forces. As such, he commanded the Japanese
 >Army in the Philippines, Indonesia, Malaysia and Burma.

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 >25. From 1937 to 1945, accused Seishiro Itagaki held a number of
 >high-ranking positions. From June 1938 until August 1939, Seishiro Itagaki
 >was the War Minister and as such was responsible directly to the Emperor.
 >As of September 1939, Seishiro Itagaki held the position of Chief of Staff
 >of the China Expeditionary Force. From July 1941, Seishiro Itagaki served
 >as Commander of the Korean Army. From April 1945 until Japan's surrender,
 >Seishiro Itagaki commanded the 7th Area Army, which operated in the areas of
 >Java, Sumatra, Malaya, Borneo and other surrounding islands in Indonesia.

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 >26. During the relevant time period, accused Hideki Tojo held successive
 >positions in the Japanese government. In 1937, Hideki Tojo was Chief of
 >Staff of the Kwantung (Guandong) Army. In May 1938, Hideki Tojo became
 >Vice Minister of War. From 1941 until July 1944, Hideki Tojo held three
 >positions simultaneously, Prime Minister, War Minister, and Minister of
 >Interior Affairs. As Prime Minister, Hideki Tojo was in a position to
 >review the actions of all governmental ministries involved in the war
 >effort. Hideki Tojo was responsible under the Meiji Constitution to report
 >to and to advise the Emperor about the functioning of the government.

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 >27. Accused Yoshijirou Umezu was Commander of the 1st Army in May 1938,
 >Commander of the Kwantung (Guandong) Army from September 1939 until July
 >1944 and Chief of Staff in July 1944.

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 >28. The accused Mitsuhiro Komatsu was the Appointments Section Chief of the
 >War Ministry's Personnel Bureau in May 1939. This agency coordinated with
 >the Home Ministry to provide "comfort women" to overseas posts when
 >requested.

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 >29. Accused Jiro Minami was the Governor-General of Korea from 1936 until
 >1942. The Governor-General oversaw all administrative functions of the
 >Japanese government in their respective territories. As Governor-General,
 >Jiro Minami was at the center point of the administrative of the territory
 >of Korea during that time.

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 >30. Accused Seizo Kobayashi was the Governor-General of Taiwan from 1936
 >until 1940.

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 >31. Accused Kiyoshi Hasegawa was the Governor-General of Taiwan from 1940
 >until 1944.

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- >32. Accused Rikichi Ando was the Commander of the 21st Army from at least
- >November 1938 until sometime in 1942. From 1942 until 1944, Rikichi Ando
- >served as Commander of the Taiwan Army.
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- >33. The accused Tomoyuki Yamashita was the Commanding General of the 14th
- >Army from September 1944 to September 1945. In this position, he commanded
- >and was responsible for the troops operating in the Philippines during that
- >period. Tomoyuki Yamashita issued the guidelines and was responsible for
- >the attack of the 14th Army directed against the inhabitants of Mapanique,
- >which included massive sexual violence against the female population.
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- >General Allegations
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- >34. Unless otherwise specified, all criminal acts or admissions set forth
- >in the indictment were committed between 1937 and 1945 in the countries
- >indicated in the predicate paragraphs that proceed the charges.
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- >35. In each Count alleging crimes against humanity, the acts or omissions
- >were committed as part of a widespread or systematic attack directed against
- >the civilian population.
- >
- >36. The attack against the civilian population occurred from 1932 to 1941
- >during the armed conflict between China and Japan and continued during the
- >Asia-Pacific War of 1941-1945.
- >
- >37. The accused, Emperor Hirohito, Iwane Matsui, Kuniaki Koiso, Shunroku
- >Hata, Hisaichi Terauchi, Seishiro Itagaki, Hideki Tojo, Yoshijirou Umezu,
- >Mitsuhiko Komatsu, Jiro Minami, Seizo Kobayashi, Kiyoshi Hasegawa, Rikichi
- >Ando, and Tomoyuki Yamashita are individually responsible for the crimes
- >alleged against them 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.
- >
- >38. The accused, Emperor Hirohito exercised the ultimate political and
- >military authority in Japan. He commanded the Japanese Army and Navy,
- >including the Japanese Expeditionary Forces and Japanese Area Armies, and
- >controlled the entire populations of occupied, colonized and subjugated
- >countries. Inasmuch 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 and Taiwan and
- >civilians authorized to act on behalf of his military and political
- >subordinates.
- >
- >39. As stated in Article 5(2) of the Statute, a superior or commander is
- >criminally responsible if that individual knew, or had reason to know, that
- >the subordinate was about to commit such acts or had done so and the
- >superior or commander failed to take the necessary and reasonable measures
- >to prevent or repress their commission or submit the matter to the competent
- >authorities and prosecution.

>

>COUNTS 1-2

>CRIMES AGAINST HUMANITY

>

>40. Between 1937 and 1945 during the armed conflict between China and Japan
>and during the Asian-Pacific War, the Japanese government, and armed forces,
>led by Emperor Hirohito, instituted a system of military sexual slavery to
>provide 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 and controlled by the
>Japanese Army and the Japanese Navy, including, but not limited to China,
>Indonesia, the Philippines, Taiwan and Burma.

>

>41. Thousands of 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, other forms of inhumane acts and at times death at the hands of
>the Japanese Army, the Japanese Navy and their agents.

>

>Specific Charged Acts

>

>42. In December 1937, shortly after the Central China Area Army invaded
>Nanking under the command of Iwane Matsui, and following the international
>outcry regarding the massive number of rapes committed during that invasion,
>Iwane Matsui gave orders to set up "comfort stations" in Nanking in an
>attempt to control the behavior of his troops. At least twenty "comfort
>stations" were established in Nanking pursuant to this order.

>

>43. In June of 1938, when Hisaichi Terauchi commanded the North China Area
>armies, similar orders were issued to establish "comfort stations" to serve
>each unit under his command. Hisaichi Terauchi therefore bears
>responsibility for those orders and the actions taken to carry them out. As
>War Minister at the time, and thus as overall Commander of the war effort,
>Seishiro Itagaki also bears responsibility for these actions.

>

>44. In November 1939, Rikichi Ando, then Commander of and responsible for
>the 21st Army, requested that Mitsuhiko Komatsu, Appointments Section Chief
>of the War Ministry's Personnel Bureau, to recruit women to staff "comfort
>stations" for the troops in the 21st Army. At that time, the 21st Army
>requested that the Government-General of Taiwan provide women for "comfort
>stations. Seizo Kobayashi, the Governor-General of Taiwan, and Rikichi
>Ando, Commander of the 21st Army, and Mitsuhiko Komatsu bear responsibility
>for those acts. As War Minister during this period, Shunroku Hata also
>bears responsibility for these actions.

>

>45. In or around July 1941, Yoshijirou Umezu developed a plan to provide as
>many as 20,000 "comfort women" for the troops preparing to invade the
>U.S.S.R. With assistance from the Government General of Korea,
>Governor-General Jiro Minami, and the Commander of the Korean Army, Seishiro
>Itagaki, between 3,000 and 8,000 women were "recruited" and sent from Korea
>to northeastern China to be military sexual slaves. For these actions,
>Yoshijirou Umezu, Jiro Minami and Seishiro Itagaki bear responsibility.

>

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>46. In 1941, Shunroku Hata, as Commander of the Central China Expeditionary Forces was responsible for actions of troops under his command. The Tokyo Judgement found that Shunroku Hata's troops, while moving south through China in the areas of Hankow and Kwelin in 1941, "recruited women labor [sic] on the pretext of establishing factories [then] forced the women thus recruited into prostitution for Japanese troops." Shunroku Hata is responsible for that fraudulent recruitment and the subsequent crimes committed against women forced to work in the "comfort stations" created to serve his troops in Central China.

} See reference

>47. In March 1942, Hisaichi Terauchi, then Commander of the Southern Expeditionary Army in southeast Asia, requested that the War Ministry, then headed by War Minister Hideki Tojo, provide "comfort women" from Taiwan for facilities in Borneo. Kiyoshi Hasegawa, the Governor-General of Taiwan in 1942, Hisaichi Terauchi and Hideki Tojo bear responsibility for those actions.

>48. As Supreme Commander of the Army and Navy, as well as the de jure and de facto Head of State for Japan during all of the incidents listed in paragraphs 39 through 45, Emperor Hirohito bears responsibility for each incident in addition to each defendant listed therein.

>49. Taken together, and with the additional evidence that the Prosecutors will introduce to describe the existence and functioning of the overarching system of military sexual slavery, the incidents described in paragraphs 39 through 45 provide sufficient facts to find that each defendant planned, participated in and/or condoned the illegal system of military sexual slavery perpetuated through the "comfort stations" from 1937 through 1945. Consequently, each defendant is also responsible for the rapes perpetrated against the "comfort women" in perpetuation of the system of "comfort stations."

>50. Paragraphs 1-12, with the exception of that portion of paragraph 6 regarding the events of Mapanique in the Philippines, the general allegations in paragraphs 27-31, and paragraphs 39 through 45 insofar as they relate to Emperor Hirohito, Iwane Matsui, Kuniaki Koiso, Shunroku Hata, Hisaichi Terauchi, Seishiro Itagaki, Hideki Tojo, Yoshijirou Umezu, Mitsuhiro Komatsu, Jiro Minami, Seizo Kobayashi, Kiyoshi Hasegawa, and Rikichi Ando, are hereby re-alleged and incorporated.

>51. For their direct participation, as pursuant to Article 3 of the Charter, Emperor Hirohito, Iwane Matsui, Kuniaki Koiso, Shunroku Hata, Hisaichi Terauchi, Seishiro Itagaki, Hideki Tojo, Yoshijirou Umezu, Mitsuhiro Komatsu, Jiro Minami, Seizo Kobayashi, Kiyoshi Hasegawa, and Rikichi Ando are charged with Crimes Against Humanity as listed below. In addition, Emperor Hirohito, Seishiro Itagaki and Shunroku Hata are charged in the alternative for their positions as superiors and commanders as pursuant to Article 5(2) of the Charter with Crimes Against Humanity:

>Count 1: SEXUAL SLAVERY, as recognized by Article 2(l) of the Charter,
>Count 2: RAPE, as recognized by Article 2(l) of the Charter.

>
 >COUNT 3
 >RAPE
 >
 >52. In 1942, the invasion of the Philippines was notorious for the rapes
 >inflicted against the female population of Manila. These rapes prompted the
 >Japanese government to institute and later to intensify the military sexual
 >slavery system. Nevertheless, rapes of the local women by the Japanese
 >occupational forces continued in China, Indonesia, and 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.
 >
 >53. 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 Army. While the Filipino men suspected
 >of being guerrilla fighters were tortured and executed, the women and
 >children were sexually tortured including forced nudity, gang rapes and
 >~~public rapes~~. In addition, the women were subjected to other forms of
 >physical violence such as beatings, and mental suffering.
 >
 >54. Paragraph 6, and the general allegations in paragraphs 27-31, insofar as
 >they relate to Emperor Hirohito and Tomoyuki Yamashita, are hereby
 >re-alleged and incorporated.
 >
 >55. For their participation in the Mapanique mass rapes as pursuant to
 >Article 3 of the Charter, and or in the alternative for their positions as
 >superiors and commanders as pursuant to Article 5(2) of the Charter, Emperor
 >Hirohito and General Tomoyuki Yamashita charged with Crimes Against
 >Humanity:
 >
 >
 >
 >COUNT 3: RAPE as recognized by Article 2(l) of the Charter.
 >
 >
 >

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 보낸 날짜: 2000년 11월 23일 목요일 오전 1:20
 제목: COMMON INDICTMENT FROM PATTI SELLERS

Dear Friends,

We have now the Second Part of the Common Indictment from Patti Sellers.

All the best,

Indai

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

THE PROSECUTORS v.

EMPEROR HIROHITO et al.

COMMON INDICTMENT

1. The Prosecutors of the Women's International War Crimes Tribunal on Japanese Military Sexual Slavery, (hereinafter the "Tribunal") pursuant to their authority granted under Article 2 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, Iwane Matsui, Kuniaki Koiso, Shunroku Hata, Hisaichi Terauchi, Seishiro Itagaki, Hideki Tojo, Yoshijirou Umezu, Mitsuhiro Komatsu, Jiro Minami,

Seizo Kobayashi, Kiyoshi Hasegawa, Rikichi Ando, and Tomoyuki Yamashita with:

Crimes Against Humanity: Sexual
Slavery and Rape

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

2. The Prosecutors of the Tribunal further allege that 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

3. From the late nineteenth century to the mid-twentieth century the Japanese government pursued expansionist policies in north and southeast Asia that culminated in the Asia-Pacific War and the unconditional surrender of Japan in 1945. Japan colonized Taiwan in 1895 and subsequently subjugated 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." Between 1937 until Japan's military defeat in 1945, the Japanese government and the Japanese Army and Navy enslaved Korean, Chinese, Filipino, Indonesian, Burmese, Malay, Taiwanese, Eurasian, Pacific Islanders, Dutch and Asian aboriginal women in order to furnish Japanese troops engaged in active military service with sexual recreation. From 1937 through 1945, the period of time covered by this indictment, an estimated tens of thousands of women from Asian countries that were occupied, colonized or subjugated by Japan were forced to serve as military sexual slaves in "comfort stations" authorized by the Japanese government.

TAIWAN

4. 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. Japan appointed Governor-Generals to administer Taiwan. Taiwan remained a colony of Japan during the armed conflict between China and Japan in the 1930's and throughout the Asia-Pacific War until the Japanese surrender in 1945. Commencing in 1937, Taiwanese women were abducted, forcibly removed, falsely recruited or otherwise deceived or coerced into servitude at the "comfort stations". The Japanese government, in tandem with

the Governor-Generals of Taiwan, and the Japanese Armed Forces transported and "stationed" Taiwanese women in comfort stations located in Hainan Island and Kwantung (Guandong) Province in occupied China, 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 inhumane treatment and at times death at the hands of the Japanese armed forces.

KOREA

5. In 1905, Korea became a Protectorate of Japan. In the 1910 Treaty of Annexation, the Korean Emperor ceded all sovereign power over Korea to the Japanese Emperor, who completely subjugated the Korean population.

Japan ruled Korea until 1945 through a succession of Japanese appointed Governor-Generals. From 1937 until 1945, the Japanese government enacted the Act of State General Mobilization and forcibly conscripted Korean men into the Japanese Army and Korean women into the National Labour Service Corp. Within this context, and by the ruse of deceitful recruitment, as well as abduction and kidnapping, Many Korean women were sent to "comfort stations" in China, Burma and southeast Asia. The Governor-Generals of Korea as well as other Japanese army commanders and governmental officials participated in the enslaving of Korean women. Due to Korea's complete subjugation, Korean women constituted the majority of women forced into military sexual enslavement by the Japanese Government. In the "comfort stations," Korean women were thus subjected to sexual torture, including rape, as well as to starvation, physical maiming and at times death.

CHINA

6. The 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 Chinese women. "Comfort stations" were set up in Manchuria, Shanghai, Zhejiang, Hunan, Fujian and various locations in the south and north of China. As part of the conquered population, Chinese women were frequently captured, kidnapped ordered to leave their villages, 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 Army operated a system of military sexual enslavement throughout occupied China. Notwithstanding the Japanese government's administrative response to massive rapes, Chinese women continued to be sexually assaulted by Japanese occupational forces.

INDONESIA

7. Indonesia, known as the Dutch East Indies, was a colony of the Netherlands until 1947. In 1941 the official Japanese war strategy included the planned invasion and occupation of Indonesia. The Japanese forces that landed in Java on March 8, 1942, overthrew Dutch sovereignty and divided Indonesia into military occupation zones. The Japanese Army, under the command of the Southern Expeditionary Forces, controlled the islands of Java, Sumatra and Borneo and the eastern region of Indonesia. Japanese occupation policies centered on conscription of Indonesian men and women as a means to sustain the Japanese war effort. Under such programs, many Indonesian females between 13 and 17 years of age were forcibly and deceptively sent to "comfort stations". The Japanese occupiers meanwhile incarcerated the Dutch population of Indonesia in several local detention camps. Some Dutch women were then moved from detention camps and placed in "comfort stations" to serve Japanese officers. Taiwanese and Korean women who were enslaved by the Japanese army were sent to "comfort stations" in Indonesia, while many Indonesian women were sent abroad to "comfort stations" in Burma, Singapore and the Philippines.

THE PHILIPPINES

8. At the conclusion of nineteenth century, the Philippines became a U.S. protectorate. On December 8, 1941, one day after the Japanese attack on Pearl Harbor in the Hawaiian Islands the Japanese Army attacked Mindanao Island in the Philippines. The Japanese 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 sizeable Japanese Army garrisons existed. The successive Commanders of the 14th Area Army, under the command of the Southern Expeditionary Forces, established "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. In some cases, the Japanese Army administered the "comfort stations" yet licensed civilians to operate them. Due to the presence of the Japanese occupational forces, Filipino women were frequently captured and raped for several days or longer by Japanese soldiers at locations where formal "comfort stations" had not been established. Thus 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. In that military operation, 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

9. The overall Japanese strategy aimed to militarily defeat its enemies and to expand Japanese political domination into east and southeast Asia. The establishment of facilities of sexual slavery or "comfort stations" was

integral to the military strategy and was authorized at the highest military and political levels. There were several military objectives behind the "comfort stations." The most clearly documented objective was the intent to deter Japanese soldiers from raping local women and thus contain the anti-Japanese sentiments among the occupied population.

10. In 1932, in the aftermath of the takeover of Shanghai, the frequency of rapes of Chinese women caused Japan to be concerned about its international image and the security of its occupation forces. After 1937, as the Japanese military actions escalated in Shanghai, Nanking, Hankou and Kwantung (Guandong) areas of China, the forcible or deceptive recruitment of non-Japanese women intensified. From 1941 until the unconditional surrender of Japan in 1945, "comfort stations" proliferated along side of Japanese military operations. The War Ministry institutionalized the military sexual slavery system.

11. Concomitantly with the military operations, the Commander of the Central Chinese Area Army and the Commander of the Kwantung (Guandong) Army, through the Chief of Staff of the North China Area Army, directed the setting up of "comfort stations." In July 1941, the Commander of the Kwantung (Guandong) through his Staff Officer requested that 20,000 comfort women from the Korean peninsula be transported to China in preparation of the Guandong Army Special Exercise. Thus, between 1937 and 1945, successive Commanders of the China Expeditionary Armies authorized and otherwise participated in recruitment for "comfort stations" and their subsequent operation.

12. The establishment of "comfort stations" in China involved high-level Japanese military and cabinet figures as well as the Governors-General Taiwan and Korea. For example, in 1939, when the officers under the Commander of the 21st Army requested the Appointments Section Chief of the War Ministry's Personnel Bureau, to transmit a request for "comfort women" to the Home Ministry. That request was then relayed the Japanese prefectural governors. The officers of the 21st Army also requested that the Governor-General of Taiwan supply women for the "comfort stations." Another example occurred in 1941 when the Governor-General of Korea, in response, facilitated the deportation of 3,000 Korean women.

13. In 1942, the Commander of the Japanese Southern Expeditionary Army, directed a request to the War Ministry to authorize that the Japanese army in Taiwan deliver 50 women to Borneo. As a result, the War Ministry approved the hiring of three civilian brokers to secure the Taiwanese women who would satisfy the sexual needs of the Southern Expeditionary Army. In 1941, the War Minister was also the Prime Minister of Japan. The constitutional responsibilities of the Prime Minister included informing and advising the Head of State of the execution about governmental policies.

14. 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 a matter of official policy. For example, the "comfort stations" in the occupied Shanghai South Sector were obliged to: keep a fixed rate chart; conduct weekly venereal examinations and physical inspections; issue licenses 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 of designated civilians, and; hours of operation. The hierarchy of rank recognized in the Japanese Armed Forces was imprinted on the regulation of "comfort station". The Allied Report documents that officers were permitted to use the "comfort stations" 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 women were supplied to "comfort stations" that served Japanese officers, aboriginal Asian women mostly serviced laborers or low-ranking servicemen.

15. Irrespective of national origin, racial background, 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 generated continuing crimes upon women from subjugated or 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, subjected to 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 and urinary infections. Some endured unsafe medical procedures such as abortions or removal of their sexual organs and suffered chronic mental disorders.

The Accused

16. The accused are Emperor Hirohito, Iwane Matsui, Kuniaki Koiso, Shunroku Hata, Hisaichi Terauchi, Seishiro Itagaki, Hideki Tojo, Yoshijirou Umezu, Mitsuhiro Komatsu, Jiro Minami, Seizo Kobayashi, Kiyoshi Hasegawa, Rikichi Ando, and Tomoyuki Yamashita.

Positions and Authority of the Accused

17. From 1937 until 1945 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 legislative, 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 to advise him about domestic and international political

relations and military operations of Japan.

18. As Head of State, Emperor Hirohito was also the Supreme Commander of the Japanese Army and Navy. The Supreme Commander was superior to and held command responsibility over the military Chiefs of Staff, their commanding generals and other armed forces personal. Emperor Hirohito exercised ultimate command authority of the Japanese Army, including direct jurisdiction over each of Japan's Expeditionary Armies and Japan's Area Armies that invaded and occupied China, Indonesia (the Dutch East Indies), the Philippines, Malaysia and Burma. 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, to supervise support of military operations as well as to ensure the overall war making capacity of Japan.

19. As Head of State and Supreme Commander, Emperor Hirohito also exercised ultimate political and military rule over the Japanese ruled territories of Korea and Taiwan. Japanese army divisions permanently stationed in these 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 apprised on the governing policies, military operations, and general status of Japanese interests in each colony during the time period at issue in this indictment, 1937 to 1945. The Governor-Generals were in a subordinate position to the accused, Emperor Hirohito.

20. In addition to his de jure authority 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 members of the Japanese government, the Japanese armed forces and the Japanese people.

21. Accused Iwane Matsui held two positions between 1937 and 1938. In 1937, he was recalled from retirement to command the Shanghai Expeditionary Forces. Also in 1937, he was appointed Commander of the China Expeditionary Force, a position directly subordinate to the Emperor. He remained Commander of the China Expeditionary Force only until February 1938. In these positions, Iwane Matsui commanded the troops that captured Nanking in 1937. In the Tokyo Judgement, he was found guilty of the atrocities committed in Nanking.

22. Accused Kuniaki Koiso was Commander of the Korean Army from December 1935 until July 1938. From 1939 until 1940 he was Minister of Colonial Affairs. From 1942 until 1944 he served as Governor-General of Korea. In July 1944, he was recalled from Korea to become Prime Minister of Japan. He remained Prime Minister until April 1945.

23. In February 1938, accused Shunroku Hata was appointed to be Commander of the Central China Expeditionary Forces. Three days after that appointment, he became leader of all Expeditionary Forces in China. During

a brief period of time sometime during the spring or summer of 1939, Shunroku Hata served as the Aide-de-Camp to the Emperor. In August 1939, Shunroku Hata became the Minister of War and stayed in that position until July 1940. From March 1941 until November 1944, Shunroku Hata returned to the field as Commander of the China Expeditionary Forces.

24. From 1937 to 1945, the accused Hisaichi Terauchi held two high-ranking positions in the Japanese government. In 1938, Hisaichi Terauchi was the Commander of the North China Area Army. In addition, from November 1941 until the end of the war in 1945, Hisaichi Terauchi was also the Commander of the Southern Expeditionary Forces. As such, he commanded the Japanese Army in the Philippines, Indonesia, Malaysia and Burma.

25. From 1937 to 1945, accused Seishiro Itagaki held a number of high-ranking positions. From June 1938 until August 1939, Seishiro Itagaki was the War Minister and as such was responsible directly to the Emperor. As of September 1939, Seishiro Itagaki held the position of Chief of Staff of the China Expeditionary Force. From July 1941, Seishiro Itagaki served as Commander of the Korean Army. From April 1945 until Japan's surrender, Seishiro Itagaki commanded the 7th Area Army, which operated in the areas of Java, Sumatra, Malaya, Borneo and other surrounding islands in Indonesia.

26. During the relevant time period, accused Hideki Tojo held successive positions in the Japanese government. In 1937, Hideki Tojo was Chief of Staff of the Kwantung (Guandong) Army. In May 1938, Hideki Tojo became Vice Minister of War. From 1941 until July 1944, Hideki Tojo held three positions simultaneously, Prime Minister, War Minister, and Head of the Home Ministry. As Prime Minister, Hideki Tojo was in a position to review the actions of all governmental ministries involved in the war effort. Hideki Tojo was responsible under the Meiji Constitution to report to and to advise the Emperor about the functioning of the government.

27. Accused Yoshijirou Umezu was Commander of the 1st Army in May 1938, Commander of the Kwantung (Guandong) Army from September 1939 until July 1944 and Chief of Staff in July 1944.

28. The accused Mitsuhiro Komatsu was the Appointments Section Chief of the War Ministry's Personnel Bureau in May 1939. This agency coordinated with the Home Ministry to provide "comfort women" to overseas posts when requested.

29. Accused Jiro Minami was the Governor-General of Korea from 1936 until 1942. The Governor-General oversaw all administrative functions of the Japanese government in their respective territories. As Governor-General, Jiro Minami was at the center point of the administrative of the territory of Korea during that time.

30. Accused Seizo Kobayashi was the Governor-General of Taiwan from 1936 until 1940.

31. Accused Kiyoshi Hasegawa was the Governor-General of Taiwan from 1940 until 1944.

32. Accused Rikichi Ando was the Commander of the 21st Army from at least November 1938 until sometime in 1942. From 1942 until 1944, Rikichi Ando served as Commander of the Taiwan Army.

33. The accused Tomoyuki Yamashita was the Commanding General of the 14th Army from September 1944 to September 1945. In this position, he commanded and was responsible for the troops operating in the Philippines during that period. Tomoyuki Yamashita issued the guidelines and was responsible for the attack of the 14th Army directed against the inhabitants of Mapanique, which included massive sexual violence against the female population.

General Allegations

34. Unless otherwise specified, all criminal acts or admissions set forth in the indictment were committed between 1937 and 1945 in the countries indicated in the predicate paragraphs that proceed the charges.

35. In each Count alleging crimes against humanity, the acts or omissions were committed as part of a widespread or systematic attack directed against the civilian population.

36. The attack against the civilian population occurred from 1932 to 1941 during the armed conflict between China and Japan and continued during the Asia-Pacific War of 1941-1945.

37. The accused, Emperor Hirohito, Iwane Matsui, Kuniaki Koiso, Shunroku Hata, Hisaichi Terauchi, Seishiro Itagaki, Hideki Tojo, Yoshijirou Umezu, Mitsuhiro Komatsu, Jiro Minami, Seizo Kobayashi, Kiyoshi Hasegawa, Rikichi Ando, and Tomoyuki Yamashita are individually responsible for the crimes alleged against them 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.

38. The accused, Emperor Hirohito exercised the ultimate political and military authority in Japan. He commanded the Japanese Army and Navy, including the Japanese Expeditionary Forces and Japanese Area Armies, and controlled the entire populations of occupied, colonized and subjugated countries. Inasmuch 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 and Taiwan and civilians authorized to act on behalf of his military and political subordinates.

39. As stated in Article 5(2) of the Statute, a superior or commander is criminally responsible if that individual knew, or had reason to know, that the subordinate was about to commit such acts or had done so and the superior or commander failed to take the necessary and reasonable measures to prevent or repress their commission or submit the matter to the competent authorities and prosecution.

COUNTS 1-2

CRIMES AGAINST HUMANITY

40. Between 1937 and 1945 during the armed conflict between China and Japan and during the Asian-Pacific War, the Japanese government, and armed forces, led by Emperor Hirohito, instituted a system of military sexual slavery to provide 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 and controlled by the Japanese Army and the Japanese Navy, including, but not limited to China, Indonesia, the Philippines, Taiwan and Burma.

41. Thousands of 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, other forms of inhumane acts and at times death at the hands of the Japanese Army, the Japanese Navy and their agents.

Specific Charged Acts

42. In December 1937, shortly after the Central China Area Army invaded Nanking under the command of Iwane Matsui, and following the international outcry regarding the massive number of rapes committed during that invasion, Iwane Matsui gave orders to set up "comfort stations" in Nanking in an attempt to control the behavior of his troops. At least twenty "comfort stations" were established in Nanking pursuant to this order.

43. In June of 1938, when Hisaichi Terauchi commanded the North China Area armies, similar orders were issued to establish "comfort stations" to serve each unit under his command. Hisaichi Terauchi therefore bears responsibility for those orders and the actions taken to carry them out. As War Minister at the time, and thus as overall Commander of the war effort, Seishiro Itagaki also bears responsibility for these actions.

44. In November 1939, Rikichi Ando, then Commander of and responsible for the 21st Army, requested that Mitsuhiro Komatsu, Appointments Section Chief of the War Ministry's Personnel Bureau, to recruit women to staff "comfort stations" for the troops in the 21st Army. At that time, the 21st Army requested that the Government-General of Taiwan provide women for "comfort stations. Seizo Kobayashi, the Governor-General of Taiwan, and Rikichi Ando, Commander of the 21st Army, and Mitsuhiro Komatsu bear responsibility for those acts. As War Minister during this period, Shunroku Hata also bears responsibility for these actions.

45. In or around July 1941, Yoshijirou Umezu developed a plan to provide as many as 20,000 "comfort women" for the troops preparing to invade the U.S.S.R. With assistance from the Government General of Korea, Governor-General Jiro Minami, and the Commander of the Korean Army, Seishiro Itagaki, between 3,000 and 8,000 women were "recruited" and sent from Korea to northeastern China to be military sexual slaves. For these actions, Yoshijirou Umezu, Jiro Minami and Seishiro Itagaki bear responsibility. As War Minister at the time, and thus as overall Commander of the war effort, Hideki Tojo also bears responsibility for these actions.

46. In 1941, Shunroku Hata, as Commander of the Central China Expeditionary Forces was responsible for actions of troops under his command. The Tokyo Judgement found that Shunroku Hata's troops, while moving south through China in the areas of Hankow and Kwelin in 1941, "recruited women labor [sic] on the pretext of establishing factories [then] forced the women thus recruited into prostitution for Japanese troops." Shunroku Hata is responsible for that fraudulent recruitment and the subsequent crimes committed against women forced to work in the "comfort stations" created to serve his troops in Central China. As War Minister at the time, and thus as overall Commander of the war effort, Hideki Tojo also bears responsibility for these actions.

47. In March 1942, Hisaichi Terauchi, then Commander of the Southern Expeditionary Army in southeast Asia, requested that the War Ministry, then headed by War Minister Hideki Tojo, provide "comfort women" from Taiwan for facilities in Borneo. Kiyoshi Hasegawa, the Governor-General of Taiwan in 1942, Hisaichi Terauchi and Hideki Tojo bear responsibility for those actions.

48. As Supreme Commander of the Army and Navy, as well as the de jure and de facto Head of State for Japan during all of the incidents listed in paragraphs 39 through 45, Emperor Hirohito bears responsibility for each incident in addition to each defendant listed therein.

49. Taken together, and with the additional evidence that the Prosecutors will introduce to describe the existence and functioning of the overarching system of military sexual slavery, the incidents described in paragraphs 39 through 45 provide sufficient facts to find that each defendant planned, participated in and/or condoned the illegal system of military sexual slavery perpetuated through the "comfort stations" from 1937 through 1945. Consequently, each defendant is also responsible for the rapes perpetrated against the "comfort women" in perpetuation of the system of "comfort stations."

50. Paragraphs 1-12, with the exception of that portion of paragraph 6 regarding the events of Mapanique in the Philippines, the general allegations in paragraphs 27-31, and paragraphs 39 through 45 insofar as they relate to Emperor Hirohito, Iwane Matsui, Kuniaki Koiso, Shunroku Hata, Hisaichi Terauchi, Seishiro Itagaki, Hideki Tojo, Yoshijirou Umezu, Mitsuhiro Komatsu, Jiro Minami, Seizo Kobayashi, Kiyoshi Hasegawa, and Rikichi Ando, are hereby re-alleged and incorporated.

51. For their direct participation, as pursuant to Article 3 of the Charter, Emperor Hirohito, Iwane Matsui, Kuniaki Koiso, Shunroku Hata, Hisaichi Terauchi, Seishiro Itagaki, Hideki Tojo, Yoshijirou Umezu, Mitsuhiro Komatsu, Jiro Minami, Seizo Kobayashi, Kiyoshi Hasegawa, and Rikichi Ando are charged with Crimes Against Humanity as listed below. In addition, Emperor Hirohito, Seishiro Itagaki and Shunroku Hata are charged in the alternative for their positions as superiors and commanders as pursuant to Article 5(2) of the Charter with Crimes Against Humanity:

Count 1: SEXUAL SLAVERY, as recognized by Article 2(l) of the Charter,
 Count 2: RAPE, as recognized by Article 2(l) of the Charter.

COUNT 3 RAPE

52. In 1942, the invasion of the Philippines was notorious for the rapes inflicted against the female population of Manila. These rapes prompted the Japanese government to institute and later to intensify the military sexual slavery system. Nevertheless, rapes of the local women by the Japanese occupational forces continued in China, Indonesia, and 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.

53. 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 Army. While the Filipino men suspected of being guerrilla fighters were tortured and executed, the women and children were sexually tortured including forced nudity, gang rapes and public rapes. In addition, the women were subjected to other forms of physical violence such as beatings, and mental suffering.

54. Paragraph 6, and the general allegations in paragraphs 27-31, insofar as they relate to Emperor Hirohito and Tomoyuki Yamashita, are hereby re-alleged and incorporated.

55. For their participation in the Mapanique mass rapes as pursuant to Article 3 of the Charter, and or in the alternative for their positions as superiors and commanders as pursuant to Article 5(2) of the Charter, Emperor Hirohito and General Tomoyuki Yamashita charged with Crimes Against Humanity:

COUNT 3: RAPE as recognized by Article 2(l) of the Charter.
