

raped in public and forced into prostitution. My report maintains that these atrocities must be identified as the crimes that they are, namely crimes against humanity, slavery, genocide, war crimes and torture. The perpetrators must be held accountable and the victims given full criminal and civil redress, including legal compensation.

There are any number of reasons why sexual slavery and sexual violence have been and continue to be so prevalent in armed conflict situations. Some of these are that:

1. They are effective weapons to terrorize a population.
2. They are effective tools to demean and demoralize "the enemy".
3. The generally violent and lawless climate created by armed conflict permits such crimes.
4. Access to women's bodies and sexuality is seen as "spoils of war"
5. Military indoctrination is designed so that combatants are desensitized and "the enemy" dehumanized.
6. Individual soldiers bring to combat their own pathology or sadism.
7. Individual conscience is often subordinated to mob rule or to superior orders.
8. Women and girls are devalued in society in general.
9. Racism, xenophobia or ethnic hatred is often directed against women and girls of a particular group in society.
10. Sexual violence is an attempt at "ethnic cleansing" through forced impregnation, the prevention of births, or the infliction of severe physical or mental suffering.

In the case of Japanese military sexual slavery, the reasons cited in official reports by the Government of Japan for establishing the so-called "comfort stations" were to prevent rapes against local residents in occupied areas, prevent venereal disease and prevent espionage. Thus, the rationale behind the comfort women system was that the systematic and repeated raping of women and girls should be centralized and regulated.

In order to counter the causes of sexual slavery and sexual violence, there must be even more compelling reasons for individuals not to commit such crimes. If fundamental respect for human life and dignity is not enough of a deterrent, then holding the perpetrators responsible and ensuring that they are brought to justice is crucial to the goal of prevention.

As we are all too aware, sexual slavery and sexual violence is not confined to one country, one region, one armed struggle, one internal conflict, or one period in history. Unfortunately, history does repeat itself if we let it. That is why it is never too late to revisit the crimes of the past, particularly when they have yet to be redressed. The protection of women against sexual slavery and sexual violence in future armed conflicts depends on what we do to end impunity for these crimes today.

VIOLENCE AGAINST WOMEN IN WAR NETWORK LECTURE MEETING ON 1 JUNE 1999, TOKYO

"How to End Violence Against Women in War and Armed Conflict Situations: Japan's Military Sexual Slavery Viewed from International Law"

In 1997, I was appointed by the United Nations Sub-Commission on Human Rights to complete a study on systematic rape, sexual slavery and slavery-like practices during armed conflict. The report analyzes the established human rights, humanitarian and international criminal law frameworks that are applicable to sexual violence committed during armed conflict. The report was welcomed and endorsed by the Sub-Commission and my mandate as Special Rapporteur has been extended for another year. I am currently preparing an update to the report which I will present at the next session of the Sub-Commission which meets in August.

The appendix to my report contains a case study on the issue of Japanese military sexual slavery during WWII, one of the most egregious examples of wartime systematic rape and sexual slavery in history — one which implicates the highest levels of government design and policy. In fact, as I note in my report, the issue of the former "comfort women" was a major impetus for the United Nations deciding to commission the study on systematic rape and sexual slavery during armed conflict.

Tonight, I would like to examine the unsettling and unsettled comfort women issue in the context of the world we are living in today. I wish to highlight how what happened more than 50 years ago is inextricably linked to what is happening to women in armed conflicts today.

There are dozens of armed conflicts currently taking place at this very moment. Most of them are not international wars between two or more states, but are internal conflicts where neighbor is pitted against neighbor. Regardless of the nature or intensity of the conflict, the same litany of human rights abuses are being committed — massacres of civilians, abuses of POWs, attacks on relief workers, torture, forced relocations, forced labour, disappearances, arbitrary detentions — and as my report focuses on — sexual slavery and sexual violence, including rape.

Women and girls are detained in rape camps — the Japanese military referred to their WWII rape centres, in objectionably euphemistic terms, as "comfort stations". Women and girls are forced into so-called "marriages" to combatants — the term marriage being used shamefully to describe forced labour and sexual slavery. Women and girls are abducted for sexual abuse, tortured and mutilated, forcibly impregnated, gang raped.

Positive steps are being made to end impunity and address injustices related to WWII — at least for crimes which took place in the European theatre. For example, Dinko Sakic, now 76-years-old, is currently on trial in Croatia for crimes he allegedly committed while he was the commander of a Nazi concentration camp. Erich Priebke, a former Nazi SS captain, was convicted and sentenced to life imprisonment in November 1998 for his involvement in a 1944 massacre of 335 civilians in Italy. And in April 1999, Anthony Sawoniuk was sentenced to life by a British court for war crimes committed while a member of the Gestapo in Nazi-occupied Belarus.

There have also been positive developments with respect to claims of wartime forced labour. Just two months ago, the Tokyo-based steelmaker NKK entered into a settlement to compensate a South Korean man who was a forced labourer during WWII.

Other cases and claims involving wartime forced labour are being pursued against German and American companies and 12 German companies have pledged to set up a fund to compensate former slave labourers. Also, in August 1998, Switzerland's largest banks agreed to establish a compensation fund of \$1.25 billion (US) to settle claims brought by Holocaust victims whose bank accounts, gold and other assets were looted by Nazis and improperly held and concealed in Swiss banks.

The issue of impunity has also been highlighted by the controversy surrounding the extradition to Spain of Chile's former dictator Augusto Pinochet, the uncertain fate of Khmer Rouge leaders in Cambodia, and the continuing drama in the former Yugoslavia being orchestrated by the intractable Slobodan Milosevic. These are certainly situations where political considerations, legal complications and practical difficulties may determine the nature of redress that is sought and won. However, there is no reason so compelling that we should resign ourselves to not pursuing the truth or seeking justice. And I say "we" because gross violations of international human rights, humanitarian or criminal law is rightfully of universal concern.

President Milosevic is our latest constant reminder of how the cycle will go on if it is not broken. What is there to deter him from ethnic cleansing in Kosovo when he has gotten away with ethnic cleansing in Bosnia? As stated in a recent resolution of the United Nations Commission on Human Rights, "the expectation of impunity for violations of international human rights or humanitarian law encourages such violations."

Both the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda have made important strides toward minimizing the expectation of impunity for sexual slavery and sexual violence committed during armed conflict. It is notable that they share a legal office for gender-related crimes headed by Assistant Prosecutor Patricia Sellers.

Today, as they wait to cross the border, ethnic Albanian women and girls in Kosovo are being picked out by Serb soldiers, taken to nearby buildings and raped. Today, young women and girls in Uganda, Sierra Leone and Algeria are being abducted from their homes and their schools to be used as sex slaves by rebel fighters. Today, women and girls are being raped by security forces and rebel groups in Liberia, Burundi, the Democratic Republic of Congo, Burma and Peru. Today, Tamil women and girls in Sri Lanka and ethnic Chinese women and girls in Indonesia are being targeted for sexual abuse because of their gender and their ethnic background. The list goes on and on.

The purpose underlying my report on wartime systematic rape and sexual slavery is to examine how we as a global community can work toward making sure that the list does not continue unabated. My report focuses on international criminal law as a fruitful area for effective action to end the cycle of impunity for sexual violence as a tactic of war. Ending impunity means that violations will not go unpunished or unredressed.

Impunity for crimes of sexual violence is linked to the larger question of impunity for everyday violence and discrimination against women. In some countries, rape and sexual violence committed against women outside of armed conflict is not even seen as a crime. The obstacles to women seeking redress is often staggering in every society — not the least of which being the ostracism and social rejection that victims of sexual violence face when they speak out. Often the shame, disgrace, dishonor and loss of dignity that should befall the perpetrator, attaches instead to the survivor. In addition, women's subordinate status and inequality in society make it that much more difficult for women to obtain redress for violations, deal with the lasting physically and psychologically damaging after-effects, and rebuild their lives in a self-empowering way.

Armed conflict exacerbates the discrimination and violence that is directed at women everywhere everyday. It also compounds the racism, xenophobia and other hatreds that make women members of minority groups especially vulnerable to abuse. The first part of the title of my presentation is: "How to end sexual violence against women in war and armed conflict?" The short answer is (1) end sexual violence against women everyday and (2) prevent war and armed conflict. The ultimate task is not only to end the cycle of impunity for violence, but to end the cycle of violence itself. This will require that the equal rights of all persons to participate in the economic, social, political and cultural life of their societies is protected and promoted.

I should also add that impunity for international crimes involving sexual slavery and sexual violence during armed conflict is also linked to impunity for international crimes in general. If we are to prevent atrocities, gross violations of human rights, and acts of brutality of all kinds, it is imperative that perpetrators are held accountable and that victims receive full redress.

I am sure that those of you here know more than I about the various efforts that are underway to bring justice to the former "comfort women", including several on-going cases in Japanese national courts. The campaign on behalf of the former "comfort women" has become a model of advocacy at the local, national and international levels, even as the struggle continues. Through a tireless and cross-border combination of public outreach and education, litigation, lobbying, demonstrations and direct appeals to governments and the United Nations — and through the use of the media, the creative arts and forums such as this one — advocates, activists and sexual slavery survivors here today, and all over the world, have placed the issue of Japanese military sexual slavery on the world's agenda.

In addition, the International Women's Criminal Tribunal, which is scheduled for the year 2000, promises to be a powerful and important forum in which to raise the issue of the over 200,000 women and young girls enslaved by the Government of Japan and the Japanese Imperial Army. Only 25% of the so-called "comfort women" are thought to have survived their ordeal. Out of those who did survive, only a relative few are still living today. Many of the survivors have shared with the world their experiences and they have touched us with their grace, honour and dignity. I would like to acknowledge the extraordinary determination and courage of all the survivors of military sexual slavery. I fear that nothing can ever fully compensate for what they have lost. And it is clear that their pain continues each time they reveal and relive their ordeal. Let us resolve that at the very least, their pain of coming forward will not be in vain.

During the trial in the Yamaguchi District Court which concluded with an award of 300,000 yen — or \$2,300 (US) — to each of the three former "comfort women" from Korea, the women testified as to how they were deceived into leaving their homes and to the horrors and brutalities they faced once they were brought to the rape centres.

Ha Sun-nyo was 10-years-old when she was taken to an army base in Shanghai. She was assigned to a room in a dormitory where she was raped by soldiers everyday all day. She was beaten constantly, once with a 50 centimeter oak club on the head. After the war, she was abandoned at the station. When she eventually found her way back home, her father was dead and she told her mother that she had been working as a cook and a laundry woman.

Park Tu-ri thought she would be working at a factory in Japan but was taken to a rape centre in Taiwan instead. She was forced to have sex with an average of ten men a day with one day off per month. She was also beaten many times. And she too hid her past from her family when she finally returned home after the war.

Lee Gun-dok was taken to a rape centre in Shanghai by deception and force. She and 14-15 other girls were placed in small huts built around an army tent. She was raped

A major impetus for the creation of the Yugoslavia Tribunal was sexual violence committed against women in Bosnia, and at least half of the tribunal's public indictments contain charges of gender-based violence. Three of the cases that have been concluded by trial in the Yugoslavia Tribunal have involved sexual violence. The Trial Chamber in one case (Celebici) relied in part on my report in concluding that rape and sexual violence can and should be prosecuted as torture. This case is the first Yugoslavia Tribunal conviction for rape as torture. The Foca case, which I cited in my report, is still on-going. The defendants are charged with detaining nine women and girls in a house for three months for the purpose of forced labour and sexual slavery. This case represents the first time that sexual violence has been charged as enslavement.

The Rwanda Tribunal was slower to actively pursue cases involving sexual violence. However, at least one of its indictments contains allegations of sexual violence. Interestingly, one of the suspects in that indictment is a woman accused of forcing women to publicly undress.

The most recent case out of the Rwanda Tribunal was the trial of a former mayor (Jean-Paul Akayesu). Even though the original indictment did not have any charges relating to sexual violence, several witnesses testified to acts of rape, sexual abuse and forced nudity — prompting the Prosecutor to amend the indictment and include new charges of sexual violence. The Trial Chamber found that rape and sexual violence constitute acts of genocide, crimes against humanity and torture. It also found that while the defendant did not personally commit the acts of sexual violence, he was responsible for ordering, instigating and encouraging the crimes.

In addition to these important developments in the two international tribunals, the International Criminal Court (or ICC) is also a welcome development in international humanitarian law and the campaign to end impunity. On July 17, 1998, the Rome Statute of the International Criminal Court was adopted. The core crimes within the Court's jurisdiction will be genocide, crimes against humanity and war crimes — as well as the crime of aggression which has yet to be defined.

The ICC statute explicitly includes gender and gender-related crimes. For instance, the statute explicitly recognizes that various acts of sexual violence, including rape and sexual slavery, may constitute crimes against humanity and war crimes. The statute also provides that the Court should have a fair representation of female and male judges. It also contains a provision on the payment of reparations to victims. However, the ICC will only be able to deal with crimes committed after the treaty has come into effect. Thus, survivors of past atrocities, specifically those forced into military sexual slavery during WWII, will have to look beyond the ICC for justice.

The importance of truth does not diminish with the passage of time. Fifty years of denial and cover-ups is not easily corrected. Many in Japan, citizens and politicians alike, insist that comfort stations were brothels and not rape centres, that comfort women were voluntary prostitutes and not sexual slaves, that the comfort women system was a private venture and not a government and military operation. There is even an effort underway to delete all references to comfort women from school textbooks. Clearly it is not enough to declare the truth and move on — people need to be educated and efforts to rewrite history and deny the facts need to be vigorously countered.

In addition to truth, there must be justice, which in this case includes investigation, prosecution and legal compensation. Individual Japanese military officers and soldiers must be held liable for any unlawful acts they have committed — either in Japan's national courts or in the courts of other countries which provide for such prosecutions. Individual victims of military sexual slavery must be legally compensated for their suffering.

While my report welcomes the expression of the people of Japan's atonement and support for former "comfort women", it maintains that the Asian Women's Fund does not satisfy the legal responsibility of the Government of Japan. The Fund has been the focus of a great deal of divisiveness and controversy and a majority of survivors have not accepted it. So long as it is seen as a vehicle for Japan to avoid its legal obligations to pay compensation, all the good that the Asian Women's Fund tries to do will be under a cloud of suspicion and resentment.

The response of the Government of Japan to my report on the comfort women system was that rather than concentrate on legal liability issues, it would be best to focus on "what we can actually do for the victims, fully considering the advanced age of the former comfort women."

What the Government of Japan can actually do for the former "comfort women" is to acknowledge its legal liability. Only then can it honour the lives and the memories of the victims of military sexual slavery. The Government of Japan is not alone in this — other governments bear a responsibility for sexual slavery and sexual violence in past and present armed conflicts. The Government of Japan, however, has a tremendous opportunity to set an example for the world. Through truth and justice comes reconciliation and healing — and where there is healing for the past, there is hope for the future.

by an officer shortly after arriving at the centre. Afterwards, she was raped by 8-9 soldiers every weekday and 17-18 soldiers every Sunday for eight years. In one beating incident, a soldier kicked her in the stomach and slashed her back with his sword. She was abandoned after the war and returned home to find her parents had died. She too kept her past a secret.

These are just three stories — three out of 200,000. Each story is personal, each suffering is unique and each testimony is worthy of our attention. Even as we recognize the systematic manner in which sexual slavery is carried out and the collective response that is called for, we must continually pause and fully acknowledge each individual woman's pain and need for healing. What is particularly disheartening about the recently concluded case of the 46 former comfort women from the Philippines who sued and whose claims were denied, is that the Tokyo District Court did not even review the facts and experiences to which each plaintiff testified. And in the five years it took for the case to reach its disappointing conclusion, seven of the women died.

One survivor of military sexual slavery, who honoured me with a visit to my office in Washington, DC, said the following: "Japan dragged thousands of us women and girls into sexual slavery and when they were defeated, we were deserted. Now all of us victims are in old age and weak. We hope this is resolved so we can live in peace." What will it take for these women and every survivor of sexual slavery and sexual violence to live in peace? In my report I make a number of concrete recommendations but they can all be summarized into two categories: truth and justice.

Let us start with truth. The Government of Japan has already acknowledged the official involvement of the government and the military in establishing and maintaining the comfort women system. It has also admitted that many of the comfort women were recruited by force and deception. What the government has failed to acknowledge and admit is that the comfort women system was military sexual slavery and represents a violation of international human rights, humanitarian and criminal law — namely crimes against humanity. This is the conclusion of the legal analysis contained in my report — an analysis which takes as its sole factual basis the admissions freely made by the Government of Japan in official statements and reports.

The arguments of the Government of Japan against legal liability are unpersuasive, particularly its contention that the comfort women system was not slavery, and even if it were, slavery was not prohibited at the time. The government also claims at every possible occasion that the comfort women issue was settled through peace treaties and reparations agreements following the war. Given the fact that the government denied until 1992 that there even was an issue, it is barred from claiming that it settled the issue 50 years ago.