

최종판 12/6 427

The Women's International War Crimes Tribunal on Japan's Military Sexual Slavery

APPLICATION INSTITUTING PROCEEDINGS

filed in the Registry of the Court on 20 November 2000

Women survivors and victims of Japan's Military Sexual Slavery
(The People of the Asia-Pacific Region v. Japan)

Re: Application for Restitution and Reparations

By: The People of the Asia-Pacific Region through their representatives who seek to protect the rights of women in the Asia-Pacific Region

Against: Japan

The People of Asia-Pacific region respectfully request that Japan be ordered to make full restitution and pay reparations for all material and moral damages done by officials of Japan.

provide

Subject of Dispute

1. As set out in the paragraphs of the general and country indictments submitted to the Tribunal various officials of the State of Japan violated the rights of the women who are survivors and victims of Japan's military sexual slavery. These violations constitute breaches of Japan's international obligations.

+ surrogates?

2. After numerous attempts to achieve a satisfactory resolution to this issue, the People of the Asia-Pacific region file this application with the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery with a view to obtaining a finding that Japan is guilty of serious violations of international law committed upon the person of each and every woman subjected to military sexual slavery.

(emphasis on time elements
e.g. obligations under IL

in force
at the
time...

responsible?

Basis for Jurisdiction

3. Sovereignty ultimately resides in the people of each state and territory and therefore the region. This Tribunal has been given jurisdiction over this application by the People of the Region so that it may adjudicate this matter.

4. Women from Japan have been included in the Application because they have no reasonable hope of achieving a resolution of this matter within their own country and they are part of the larger class of women who bring this application through their representatives.

Legal Grounds

5. The People as the ultimate holders of sovereignty have the right to require States to adhere to their international obligations, particularly those that relate to the protection of the individual and concern serious breaches of international humanitarian law, international human rights law and customary norms of international law.

6. The Women are entitled to have their rights asserted by the global community, as it is a fundamental tenet of modern international law that certain rights transcend national boundaries.

7. The People of the Asia Pacific region are entitled to institute proceedings against Japan as it has violated major principles of international law that profoundly affect the dignity of the human person.

8. The particulars of those legal violations are as follows:

8.1 Officials of the Japanese government and military consciously decided to establish and maintain a system of military facilities for sexual slavery. All acts necessary to build this system were authorised by those acting in their official capacity. Such acts included but were not limited to: the recruitment of women by force and deceit, the building of facilities or the use of existing structures for such facilities; the allocation of material resources such as furniture, bedding and clothing; and the use of medical personnel of the armed forces to facilitate the operation of these facilities. Acts committed by officials that are attributable to the State of Japan and constitute violations of its international obligations are set out in the indictments filed by the country teams. All these acts were done either with knowledge of the consequences or with reckless disregard for the consequences that included rape, torture, murder, slavery, mutilation and inhumane treatment. Such acts were in violation of Japan's obligations pursuant to international humanitarian law, the international law of human rights and general international law.

8.2 In carrying out the plan to establish and maintain a system of military facilities for sexual slavery officials of the State of Japan engaged in acts which constituted the trafficking of women and children contrary to Japan's international obligations.

8.3 At the time the system for military sexual slavery was put into place the international community had accepted that men and women were to be treated equally. The creation of a system that allowed the systematic rape, torture, murder, mutilation and brutalisation of women was a breach of Japan's international obligations.

8.4 Equality among the races was a fundamental tenet of the League of Nations and was a customary norm of international law. The creation and maintenance of the system of military sexual slavery violated Japan's international obligations as it

possible transfer

*abducting & al.
forced recruitment*

under

was sustained on the basis that non-Japanese people were inferior to Japanese people.

8.5 In violation of its obligations concerning the treatment of civilian detainees, the State of Japan took women from civilian internment camps and placed them into facilities for military sexual slavery knowing that they would be raped, tortured and treated inhumanely.

8.6 Officials of the Japanese government engaged in a course of conduct designed to destroy evidence of the war crimes and crimes against humanity committed by its military contrary to its obligations under international law.

8.7 The State of Japan further violated its international obligations by refusing to acknowledge its participation in the above acts when presented with evidence that officials of the former government had engaged in the course of conduct set out in paragraphs 8.1 to 8.6 above. This violation was exacerbated by the repeated refusal of the government to heed the requests for satisfaction and reparations made by the international community through the offices of the United Nations, in particular Special Rapporteurs on human rights matters appointed by duly constituted bodies of the United Nations.

*to be specific
CHR Sub Comm*

8.8 By its ongoing refusal to investigate these matters thoroughly the State of Japan continues to violate the obligations it has ^{to the victims and to} the international community.

8.9 The failure to prosecute those responsible for war crimes and crimes against humanity is a violation of Japan's obligations under international law.

8.10 The State of Japan has allowed members of the government and supporters of the government to engage in acts which have as their purpose the destruction of the reputation of the women whose lives have been affected by the system of military sexual slavery. Its failure to control the acts of these individuals displays a contemptuous disregard for the rights of women. This continuing violation is a reflection of the gender and racial bias that permeates the government's actions in this area.

8.11 The State of Japan has further breached its international obligations by displaying a contemptuous disregard for the human rights mechanisms of the United Nations in particular the right of the international community to monitor compliance with human rights norms and practices.

8.12 The refusal of the State of Japan to compensate directly all women affected by the system of military sexual slavery is an act of gender bias and therefore is itself a breach of Japan's international obligations.

8.13 By allowing members and supporters of the government to make comments that suggest rape in war is not a breach of international law, the State of Japan is in breach of its obligations under the Geneva Conventions of 1949 and the general principles of international humanitarian law in that it has failed to ensure respect for the provisions of those Conventions. The obligation to ensure respect for the Conventions places an affirmative obligation on the government to educate the public as well as the Armed Forces about the types of conduct prohibited by international humanitarian law.

Factual Basis of Claim

9. The facts demonstrating the above violations of Japan's international obligations will be proved at trial and are particularised in the indictments filed by the Country teams.

Decision Requested

10. The People of Asia-Pacific region request that Japan be declared in breach of its international obligations and that it be ordered to make appropriate forms of restitution and reparations. The orders for restitution and reparations should be in keeping with the nature of the harms inflicted by the Government of Japan, particularly the ongoing nature of those harms.

11. The harms inflicted by the State of Japan on the women subjected to the system of military sexual slavery include but are not limited to the following:

- 11.1 Systematic and repeated rape
- 11.2 Torture
- 11.3 Mutilation
- 11.4 Slavery
- 11.5 Sexual Slavery
- 11.6 Murder
- 11.7 Inhumane treatment
- 11.8 Emotional Trauma
- 11.9 Psychological illness
- 11.10 Physical illness
- 11.11 Isolation
- 11.12 Interference with or destruction of family relations
- 11.13 Pain and suffering, including recurrent nightmares
- 11.14 Damage to reputation
- 11.15 Loss of opportunities, such as education
- 11.16 Loss of earnings and earning capacity
- 11.17 Damage to Personal Dignity
- 11.18 Permanent deprivation of the enjoyment of life.
- 11.19 Interference with sense of community and sense of belonging to a given society.

- 11.20 Being subjected to gender discrimination
- 11.21 Being subjected to racial discrimination

12. The People of the Asia Pacific region request the Tribunal to take into account the aggravation of the injuries suffered by the women as a result of the failure of the government of Japan to address this issue in an appropriate fashion as of 1992.

13. It has not been possible for the applicants or the women to exhaust local remedies as the law as applied in Japan is not in keeping with international law.

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14. The specific forms of relief requested by the Applicants are as follows:

14.1 The issuance of an apology.

14.2 The establishment of a mechanism for the thorough investigation into the system of military sexual slavery and the creation of a designated archive.

14.3 Restoration of the Honour of the Victims and Survivors through the creation of Memorials and a Museum.

14.4 Taking of steps to educate the Japanese public about the system of military sexual slavery.

14.5 Creation of scholarships and grants for those wishing to research this and related issues.

14.6 The payment of compensation adequate to redress the harm.

14.7 Return of the Bones of the Deceased

14.8 Repatriation of Survivors who wish to be repatriated.

14.9 Bringing to justice those responsible for war crimes and crimes against humanity.

Respectfully requested by the People of the Asia Pacific Region through their representatives who seek to protect the rights of women in the Asia-Pacific Region

*history book
prevent. of
repeat. from
educate people.*