

United Nations
Commission on Human Rights
Fiftieth session

Agenda item 10

Question of the human rights of all persons subject to
any form of detention or imprisonment
(impunity)

Oral Statement of
International Fellowship of Reconciliation
(NGO: Category II)

1. The International Fellowship of Reconciliation (IFOR) submitted a written statement to the Commission on Human Rights concerning impunity under item 10 (E/CN.4/1994/NGO), to which we wish draw the attention of the Commission, therefore the speaker will not go into the detailed discussion except providing the new information obtained after the submission of the statement.

In it, the IFOR focuses on the issue of so-called "comfort women", euphemism of the military sexual slavery by Japan in relation to the question of impunity. The IFOR also raises some reasons why we appreciate the efforts made by Mr Guisse and Mr Joinet who prepared the excellent progress report (E/CN.4/Sub.2/1993/6) on the question of impunity of the perpetrators of violations of human rights for the forty-fifth session of the Sub-Commission. The report confirmed that impunity of gross violations of human rights was prohibited under international law.

2. On 7 February 1994, the representatives of the 27 "comfort women" victims from the Republic of Korea and the Korean Council for the Women Drafted for Sexual Slavery by Japan went to the Tokyo District Prosecutor's Office and tried to file complaints demanding the investigation for the punishment of the responsible persons for the sexual enslavement of the "comfort women", namely war crimes and crimes against humanity. These complaints were, however, instantly rejected by the Prosecutor's Office without any thorough consideration as regards very important aspects of the gravity and nature of the crimes under international law. All of the reasons of the rejection were concerning the Japanese domestic law, such that the conducts were not punishable because of time limitation and that no penal provisions were available under the Japanese law. The IFOR has

no option other than to express its deep regrets with this unfaithful attitude shown by the Prosecutor's Office.

3. The IFOR believes that this rejection contradicts with the acknowledgement made by Japan at the last Sub-Commission of the enslavement of the "comfort women" by the Japanese Imperial Forces and Government during World War II.

Considering the acknowledgement by Japan, one may conclude that Japan is bound by the duties to punish those responsible for the crimes onto the "comfort women" victims under international law. If the crimes are not punishable under the Japanese domestic law, Japan has to legislate a new law in order to abide by international law.

Immediately after the rejection by the Prosecutor's Office, the IFOR submitted to Prime Minister Mr Morihiro Hosokawa some recommendations, which include a proposal for "Law concerning punishment of crimes under international law including war crimes and crimes against humanity".

Despite the obligations under international law, Japan has failed to punish even a single perpetrator of the crimes committed onto the "comfort women", who are estimated to be about 200,000. This state of non-punishment should be condemned as one of the worst examples of de facto impunity in the history of the World.

The Japanese Government representative refused to admit any legal obligation for the "comfort women" in South Korea, saying "the claims' issues between Japan and the Republic of Korea have been resolved by an agreement on 27 June 1965 between Japan and the Republic of Korea." The obligations, however, for punishment were not at all resolved by the said Agreement, as the terms of the Agreement limit the scope within "the issues as regards properties, rights and interests ..." (Article 2 of the Agreement).

4. Many reports made by the learned experts in the Sub-Commission seem to be very useful to clarify the legal problems as regards this issue.

The final report on the Study concerning the right to restitution, compensation and rehabilitation for the victims of gross violations of human rights and fundamental freedoms (E/CN.4/1993/8) made by the special rapporteur Prof Theo van Boven points out as follows (Article 2 of the General Principles in para. 137). "States shall ensure that no person who may be responsible for gross violations of human rights shall have immunity from liability for their actions." At the Sub-Commission, Prof van Boven urged the United Nations to address the issue of "comfort women" as well as slavery-like practices.

The report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1993/30); the initial report (E/CN.4/Sub.2/1993/17 and Corr.1) on the human rights dimensions of population transfer, including the implantation of settlers and settlement prepared by Mr Awn Shawkat Al-Khasawneh and Mr Ribot Hatano; and the working paper (E/CN.4/Sub.2/1993/10 and Corr.1) on the recognition of gross and large-scale violations of

human rights as an international crime prepared by Mr Stanislav Chernichenko may clarify the legal issue under international law of the crimes committed by the Japanese Imperial Forces.

The Sub-Commission proposes to the Commission the appointment of Ms Linda Chavez, an expert of the Sub-Commission as the special rapporteur on slavery and slavery-like practices during wartime. Her in-depth study will be very useful to solve this issue.

5. Considering the current situation in Japan and the progress of various studies by the working group and the experts of the Sub-Commission, the IFOR respectfully requests the Commission to encourage the Sub-Commission, the Working Group on Contemporary Forms of Slavery and the special rapporteurs to continue their efforts further and also to take into consideration of the information mentioned above as well as the information and the recommendations made by the IFOR in its written statement under this item.