

**TEXT OF TRIBUNAL CHARTER
ADOPTED/APPROVED ON
30 JULY 2000, MANILA**

PREAMBLE

Article 1
Establishment of the Women's International War
Crimes Tribunal

The Women's International War Crimes Tribunal
("the Tribunal") is hereby established. It shall have
power to exercise jurisdiction over individuals and
States pursuant to the provisions of the present
Charter. It shall conduct a public trial on such
dates and places as may be determined by the
International Organizing Committee.

Article 2
Jurisdiction of the Tribunal

1. The Tribunal shall have jurisdiction over crimes
committed against women as war crimes, crimes
against humanity and other crimes under
international law. These crimes include, but are
not limited to the following acts: sexual slavery,
rape and other forms of sexual violence,
enslavement, torture, deportation, persecution,
murder, and extermination.

2. The Tribunal shall also have jurisdiction over
acts or omissions of States in violation of
international law with respect to the crimes as
referred to in the above paragraph.

**CHARTER WITH MODIFICATIONS
AGREED UPON IN THE HAGUE
MEETING, 26-27 OCTOBER 2000**

PREAMBLE
(*No Change*)

Article 1
(*No Change*)

Article 2
Jurisdiction of the Tribunal

1. The Tribunal shall have jurisdiction over crimes
committed against women as war crimes, crimes
against humanity and other crimes under
international law and shall cover all countries and
regions that were colonized, ruled or under the
military occupation and to all other countries that
were similarly victimized by Japan before and
during the Second World War. These crimes
include, but are not limited to the following acts:
sexual slavery, rape and other forms of sexual
violence, enslavement, torture, deportation,
persecution, murder, and extermination.

2. The Tribunal shall also have jurisdiction over
acts or omissions of States in violation of
international law with respect to the crimes as
referred to in the above paragraph.

3. The Tribunal shall also have jurisdiction over claims involving state responsibility under international law as referred to in Article 4.

4. The jurisdiction of the Tribunal shall cover all countries and regions that were colonized, ruled or under the military occupation and to all other countries that were similarly victimized by Japan before and during Second World War. It shall also extend to the present day.

Article 3 Individual criminal responsibility

A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in Article 2 of the present Charter, shall be individually held responsible for the crime. Those who have concealed the crimes in Article 2 shall be individually held responsible.

3. The Tribunal shall also have jurisdiction over claims involving state responsibility under international law as referred to in Article 4.

4. The jurisdiction of the Tribunal shall extend to the present day.

ANNOTATION:

1. *Underlined text in par. 2 taken from par. 4*
2. *Par. 4 shortened to make it consistent as a reference in Par. 3*
3. *With above changes, Par. 2 and Par. 3 will not appear redundant.*

Article 3 Individual criminal responsibility

1. A person who planned, instigated, ordered committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in Article 2 of the present Charter, shall be individually held responsible for the crime. Those who have concealed the crimes in Article 2 shall be individually held responsible.

2. The fact that such a crime referred to in Article 2 of the present Charter was committed by a subordinate does not relieve his superior or military commander of criminal responsibility if that superior or commander knew, or had reason to know, that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent or repress their commission or submit the matter to the competent authorities for investigation and prosecution.

ANNOTATION:

1. *Article 3 has now two numbered paragraphs*
2. *Par. 2 taken in toto from Art. 5 par. 2 of the Manila text.*

Article 4
State responsibility

State responsibility arises from the following:

- (a) commission of crimes or acts as referred to in Article 2 by military forces, government officials and those individuals acting in the official capacity.
- (b) acts or omissions by States such as
 - (i) concealment, denial or distortion of the facts or in any other manner its negligence or failure to meet its responsibility to find and disclose the truth concerning crimes referred to in Article 2;
 - (ii) failure to prosecute and punish those responsible for said crimes;
 - (iii) *failure to provide reparations to those victimized;*
 - (iv) failure to take measures to protect the integrity, wellbeing and dignity of the human person; or
 - (v) failure to take necessary measures to prevent recurrence.

Article 5
Command Liability and Superior Orders

1. The official position of any accused person, whether as the Emperor, the Head of the State or Government, a military commander or a responsible government official, shall not relieve such person of criminal responsibility, nor mitigate punishment.

Article 4
State responsibility

State responsibility arises from the following:

- (a) commission of crimes or acts as referred to in Article 2 by military forces, government officials and those individuals acting in the official capacity.
- (b) acts or omissions by States such as
 - (i) concealment, denial or distortion of the facts or in any other manner its negligence or failure to meet its responsibility to find and disclose the truth concerning crimes referred to in Article 2;
 - (ii) failure to prosecute and punish those responsible for said crimes;
 - (iii) *failure to provide reparations to those victimized;*
 - (iv) failure to take measures to protect the integrity, wellbeing and dignity of the human person;
 - (v) [discrimination]; or
 - (vi) failure to take necessary measures to prevent recurrence.

ANNOTATION:

1. A new sub-par (v), on discrimination, under par. b added.

2. The complete text of new sub-par (v) will be provided by Ronda Copelon.

?

Article 5
Official Capacity and Superior Orders

1. The official position of any accused person, whether as the Emperor, the Head of the State or Government, a military commander or a responsible government official, shall not relieve such person of criminal responsibility, nor mitigate punishment.

2. The fact that such a crime referred to in Article 2 of the present Charter was committed by a subordinate does not relieve his superior or military commander of criminal responsibility if that superior or commander knew, or had reason to know, that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent or repress their commission or submit the matter to the competent authorities for investigation and prosecution.

3. The fact that the crimes are committed in pursuant to an order of a superior or of a government alone shall not relieve a person of criminal responsibility

Article 6
Non-applicability of the statute of limitations

The crimes within the jurisdiction of the Tribunal shall not be subject to any statute of limitations.

Article 7
Organization of the Tribunal

The Tribunal shall consist of the following organs:
(a) Judges;
(b) Prosecutors, and
(c) A Registry.

2. The fact that the crimes are committed in pursuant to an order of a superior or of a government alone shall not relieve a person of criminal responsibility

ANNOTATION:

1. *Title of Article 5 changed to reflect corresponding ideas behind par. 1 and par. 2 respectively*
2. *Article 5 paragraphs renumbered; text of deleted par. 2 transferred to Art. 3*

Article 6
(No Change)

Article 7
(No Change)

Article 8

Qualifications and election of judges and prosecutors

The judges and the prosecutors shall be appointed by the International Organizing Committee among internationally renowned persons in the field of human rights, taking due consideration of the following:

- (a) gender balance
- (b) regional balance
- (c) contribution in advocacy, protection and promotion of women's human rights

Article 9

Rules of procedure and evidence

The judges of the Tribunal shall decide matters concerning the rules of procedure and evidence for the conduct of the trial, the protection of victims and witnesses and other appropriate matters of the Tribunal as they deem necessary. The following shall be admitted as evidence:

- (a) documentation: Written evidences such as official documents, affidavits/depositions, signed statements, diaries, letters/notes or other documents, experts' views, photos and other visual documents;
- (b) personal evidence: Written or oral testimonies of survivors and witnesses, statements of expert witnesses; and
- (c) material evidence: Other relevant physical and material evidence.

Article 10

The Registry

The International Organizing Committee establishes a Registry to the Tribunal. The Registry shall be responsible for the administration and servicing of the Tribunal.

Article 8

(No Change)

Article 9

(No Change)

Article 10

(No Change)

Article 11

Prosecutors: Investigation and indictments

1. The Prosecutors shall be responsible for the investigation and prosecution of the crimes referred to in Article 2 of the present Charter, taking into account gender and cultural issues and the trauma faced by the victimized.
2. The Prosecutors shall initiate investigation on the basis of information received from individuals, survivors, non-governmental organizations, or any source, and shall have the power to question suspects, those victimized and witnesses, to collect evidence and to conduct on-site investigations in order to establish the truth.
3. The prosecutors shall submit indictments to the Tribunal if, upon investigation, there is a reasonable basis for a prosecution.

Article 12

Trial Proceedings

1. The Tribunal shall read the indictments from the prosecutors at the commencement of the trial, and shall ensure a fair and expeditious trial.
2. The hearings shall be held in public.
3. The working language of the Tribunal shall be English. Translation and interpretation into other languages shall be provided as necessary.

Article 13

Participation and protection of those victimized and witnesses

1. The Tribunal shall allow the fullest possible participation of those victimized, their representatives and organizations in the preparation of indictments and the trial proceedings

Article 11

(No Change)

Article 12

(No Change)

Article 13

Participation and protection of those victimized and witnesses

1. The Tribunal shall allow the fullest possible participation of those victimized, their representatives and organizations in the preparation of indictments and the trial proceedings

2. The Tribunal shall take appropriate measures, including after the holding of the Tribunal, to protect the safety, physical and psychological well-being, dignity and privacy of those victimized and witnesses of sexual violence and any other person at risk on account of their testimony, having regard to the nature of crimes being dealt with and taking trauma into account. Such protection measures shall include, but shall not be limited to, audio-visual proceedings and other protective measures to safeguard the identity of those victimized wherever necessary.

Article 14 Judgements

1. The judgement shall be rendered by a majority of the judges of the Tribunal, and shall be delivered by the Tribunal in public.
2. The judgement shall state clearly whether the accused is guilty or innocent of the alleged crime based on evidence before the Tribunal, and the reasons for the particular judgement.
3. The judgement may make an order against a person or State held responsible to offer redress to those victimized, including apology, restitution, compensation and rehabilitation.
4. Copies of the judgement shall be sent to the survivors, the accused or their attorneys, the government of Japan, the governments of the States concerned, and international agencies including the United Nations High Commissioner for Human Rights, and shall be widely distributed throughout the world as historical documents.

2. The Tribunal shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of those victimized and witnesses of sexual violence and any other person at risk on account of their testimony, having regard to the nature of crimes being dealt with and taking trauma into account. Such protection measures shall include, but shall not be limited to, audio-visual proceedings and other protective measures to safeguard the identity of those victimized wherever necessary

ANNOTATION:

1. *Par. 2 is modified/shortened to take into account the fact that the Tribunal cannot extend protection measures after the term of the Tribunal.*
2. *[there some other nominal wording changes]*

Article 14 Judgements

1. *[to be redrafted by Judges]*
2. The judgement shall state clearly whether the accused is guilty or not guilty of the alleged crime based on evidence before the Tribunal, and the reasons for the particular judgement.
3. . The judgement may make a recommendation to a person or State held responsible to offer redress to those victimized, including apology, restitution, compensation and rehabilitation.
4. Copies of the judgement shall be sent to the survivors, the accused or their attorneys, the government of Japan, the governments of the States concerned, and international agencies including the United Nations High Commissioner for Human Rights, and shall be widely distributed throughout the world as historical documents.

Article 15
Cooperation

1. The Tribunal may ask every individual, non-governmental organization, Government, intergovernmental organization, United Nations organs and other international bodies to cooperate fully with the Tribunal in the investigation and prosecution of persons and states responsible for acts referred to in Article 1 of the present Charter.

2. The Tribunal may ask every individual, non-governmental organization, Government, intergovernmental organization, United Nations organ and any other international body to respect any request for assistance or a judgment issued by the Tribunal, including, but not limited to:

(a) The identification and whereabouts of persons or the location of items;

(b) The taking of testimony and the production of evidence;

(c) The voluntary appearance of persons as victimized, as witnesses or as experts before the Tribunal;

(d) The examination of places or sites;

(e) The provision of relevant information, records and documents, official or otherwise, and the full opening of wartime archives;

(f) The protection of those victimized and witnesses and the preservation of evidence;

(g) Facilitating or conducting the investigation and prosecution of the persons responsible for the crimes in compliance with its respective international obligations;

ANNOTATION:

1. Par. 1 will be redrafted to specify nature of main decision (by majority, consensus, or unanimity, etc) and to indicate/clarify that Judges may file separate or dissenting opinions.

2. The Judgement can only make a request or a recommendation in Par. 3.

Article 15
(No Change)

- (h) The provision of reparation including apology, compensation and rehabilitation in compliance with its respective international obligations, and
- (i) Any other type of assistance with a view to facilitating the objectives of the Tribunal.