

**The plan for the indictment proposed by the Japanese Group:
agreed between research team, legal advisors' group and VWW-NET Japan
for Shanghai Conference 2 April 2000**

1. historical background to the damages of sexual slavery inflicted by Japanese military

1-1) pre-history or historical background that led to the establishment of Japanese military's "comfort women" system <during the colonisation period>

-the establishment of "Kosho-sei", the system of licensed prostitution that in effect legalised the civilian system of sexual slavery that prevailed followed by the colonisation of Taiwan and the Korean Peninsula then the introduction of Kosho-sei; with its effects/influences being: e.g. -further development of slight of women and their sexuality,

and social change in attitudes towards sexuality at large

-Japanese people's growing superior feeling about themselves as belonging to a "big power" and the "emperor cult", and thus their growing slight against other Asian people including Koreans and Chinese

1-2) Japanese military's "comfort women" system :

its history from the establishment of sexual slavery to its end (including wartime sexual violence)...to illustrate the wholesome picture of the "comfort women" system in chronological order

a) at the stage of the so-called "Manchurian Incident"

- the so-called "Shanghai Incident" : the birth of "comfort stations"
- "comfort stations" system in "Manchuria"

b) at the stage of Sino-Japanese War

- development of the "comfort women" system into full-scale establishment bringing of Korean and Taiwanese women from the colonies to be put in "comfort stations" in China;
- making of local women into "comfort women" [taking of local women, along with those brought from colonised Korea and Taiwan, for "comfort stations" in China, as well as violations against local women regardless of "comfort stations"]

c) at the stage of the Asia-Pacific War:

- project of "comfort women" establishment planned at the core of the Army's command;
- bringing of women from the colonies;
- making of local women into "comfort women" in occupied areas [taking of local women,

along with those brought from the colonies, for "comfort stations", and violations against local women regardless of "comfort stations"]

2. facts that constitute culpability

2-1) system and hierarchy of command and supervision within the government and military of Japan:

- illustrate the system of command in each of the different categories of wartime sexual violence by Japanese military including sexual slavery
- sort out collected facts and their system of command, and clarify the officer's responsibility for lack of supervision in each case
 - a. "comfort stations" as an established institution: those directly run by military, those specially assigned for military's exclusive use, and those used by military non-exclusively
 - b. mass rape
 - c. category in between sporadic cases of wartime rape and the established institution of "comfort stations" : "rape centres" (provisional term)

2-2) facts proving the responsibility of high-ranking officers of the government and military, and of the emperor :

- as subjects to be brought to justice, lay out symbolical examples for each of the categories in 2(1), along with the names of individuals to be accused, in which the roles and responsibilities of the officers etc. within the system and/or the position in the chain of command can be proven, along with other detailed facts

2-2)-1) evidence for responsibility of high-ranking officers, both military and civilian

- examples:
 - a. "comfort stations" as an established institution:
 - OKAMURA Yasuji, Commander-in-Chief of the China Expeditionary Army
 - ← HA Kun-ja in a "comfort station" in Hankow;
 - SONG Shin-do in a "comfort station" in Wuchang;
 - (another individual name of officer) ← (another concrete case)
 - b. mass rape
 - MATSUI Iwane ← cases of Nanking Massacre and Mass Rape
 - (another individual name of officer)

← case of mass rape of Mapanique, the Philippines

c. category in between sporadic cases of rape and the established institution of "comfort stations" : "rape centres" (provisional term)

- (individual name of officer) ← "case of Shanxi Province" (China) now heard at court

- (individual name of officer) ← "case of the Philippines" now heard at court

←←the core people of the military who promoted the war of aggression
(Army General Staff, Navy General Staff)

2-2)-2) evidence for responsibility of the Emperor

▲ It is possible to prove his responsibility for war :

-that he played an active role as the "Empire's Supreme Marshal" in promoting the war of aggression (see: YAMADA Akira, etc.)

-also for the "sacred decision that came too late" [that the emperor delayed the end of the war] and the damage caused by the delay

▲ How about his involvement in the "comfort women" system?

2-3) post-war facts of neglect and thus making the damages grow worse

- lack of disclosing the whole truth

i.e. destruction of related documents, closure of existing documents, etc.

- failing to make sincere apology and proper redress to victims, and to exercise its duty to prosecute perpetrators

▲ in the immediate aftermath of the war, leaving and deserting the women where and as they were

▲ the Far East Tribunal : exemption for the emperor; exclusion of conducts made within colonies; not properly punishing sexual violence

▲ other war crimes tribunals in the areas of the Asia-Pacific War : ?

▲ statements and comments negating Emperor Showa's war responsibility

▲ continuation of damages after the war :

PTSD, negative effects/influences on the next generation

▲ emotional assaults such as slanders or insults still frequently made against the women, in particular against those who have come out

← Japanese politicians' views of history

(on issues of WW2, colonisation, "comfort women", etc.)

▲ Japanese government's view of responsibility for the "comfort women" system

2-4) characters particular to the crime of "comfort women", as opposed to other war crimes

-psychology of victimised women

-with regard to wartime rape : similarities and differences

-features of trafficking of women or slave trade

-taking girls under age

-stigma laid on the victims; silence on the part of survivors and perpetrators

3. evaluation from the legal perspective :

to make the Tribunal a precedent of criminal prosecution of wartime sexual violence

3-1) legal evaluation of facts of perpetration

- including the neglect of international law on the part of Japan's military forces and government

3-2) legal evaluation as to where the responsibility lies

- making best of the international law at the time of conduct

☞ integrating the development of international law, particularly from the gender perspective on war crimes against women

(e.g. ICC Statute, statutes for ICTFY and ICTR, etc.)

- international move on the issue of State responsibility

3-3) counter-arguments against the anticipated criticism and defence for the accused

- arguments against Japanese government's grounds

i.e. statute of limitations, State's non-responsibility, negation of individual's subjectivity under international law, etc.

3-4) legal evaluation of post-war responsibility?

- what releases the State from its responsibility