

UNITED NATIONS COMMISSION ON HUMAN RIGHTS

Sub-Commission on the Promotion and Protection of Human Rights, Fifty-third session

Item 6: Other Issues

**Systematic Rape, Sexual Slavery and Slavery-like Practices
during Armed Conflicts**

**Oral Statement by Cho Sihyun
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Thank you, Mr. Chairperson. It is my honor to make the first speech before the Sub-Commission on behalf of Korea Women's Associations United (KWAU), which has received the ECOSOC consultative status this year. I would like to make four observations with respect to the sub-item: systematic rape, sexual slavery and slavery-like practices during armed conflicts: (i) the Women's International War Crimes Tribunal 2000, (ii) the 2001 Observation of the International Labour Organization Committee of Experts on the Application of Conventions and Recommendations, (iii) the High Commissioner's report, and (iv) history textbooks in Japan.

First, **the Women's International War Crimes Tribunal 2000 for the Trial of Japanese Military Sexual Slavery**. This Tribunal was established by various Asian women NGOs, acting on behalf of victims and survivors in North and South of Korea, China, Taiwan, Malaysia, the Netherlands, the Philippines, Indonesia, East Timor and Japan, in cooperation with experts and activists all over the world. It is a response from international public opinion and conscience to bring justice to the perpetrators and restore human dignity to the victims and survivors of Japanese military sexual slavery. These victims continue to suffer without reparation and still find difficulties in rehabilitation and reintegration into societies.

This peoples' Tribunal sat in Tokyo from December 8 to 12, 2000, well attended and with broad media coverage. The panel of judges composed of Gabrielle Kirk McDonald, Carmen Maria Argibay, Christin Chinkin, Willy Mutunga deliberated the indictments and applications submitted by the International Prosecutors, Patricia Viseur Sellers and Ustinia Dolgopol, and other country prosecutors. This peoples' Tribunal dealt with not only the state responsibility of the Japanese Government but also those individuals who committed atrocities against countless women in the Asia-Pacific region during and before the Second World War. To our regret, the Japanese Government refused to attend the Tribunal.

After examining the evidence presented to the Tribunal, the judges found the indicted, including the Emperor Hirohito, guilty under international law at that time for rape and sexual

slavery as crimes against humanity. The Government of Japan was also found responsible for its establishment and maintenance of the 'comfort stations' system.¹

While the Women's International War Crimes Tribunal broke many new grounds, Mr. Chairperson, I would like to highlight one particular achievement. The Women's Tribunal acknowledged the heartbreaking fact that, after being murdered and massacred in the aftermath of the Japanese war defeat, there are still many other victims abandoned, left behind and endlessly waiting to return home in a foreign terrain where the Japanese military incarcerated them in 'comfort stations'. Coming from countries under the colonialism and military occupation ensuing from the Japan's aggression into Asia and the Pacific region, hundreds of thousands of women victims of sexual slavery had been forcibly deported, often thousands miles away from their home, to comfort stations throughout Asia. They had been forcibly subjected to rape and sexual slavery at tightly controlled military barracks, mostly in war fronts. In most cases, the language, people, climate, culture was completely alien to them leaving no hope and possibility to go home. For more than 50 years, these women survivors in diaspora suffer permanent, multiple neglect and non-recognition from the wrongdoing Government of Japan, their home country, and the international community. In the face of continued denial by the Japanese government of its legal responsibility for these crimes and the inaction of other State actors to seek reparations, considerations of humanity dictate an urgent effort to identify former 'comfort women' abandoned throughout the Asia-Pacific region for the repatriation of survivors and the return, at least, of the bones of the deceased. As has been emphasized by the High Commissioner, "[t]o end impunity for acts of sexual violence and sexual slavery during armed conflict, political will and concerted action on the part of the international community, Governments and non-governmental actors are required".²

Mr. Chairperson, the second development concerns the recent **Observation of the International Labour Organization Committee of Experts on the Application of Conventions and Recommendations** concerning the Japanese military sexual slavery.³ Since 1996, the ILO Committee of Experts has found several times that "gross human rights abuses and sexual abuse of women detained in so-called military 'comfort stations'" should be

¹ Prosecutors and the Peoples of the Asia-Pacific Region v. Emperor Hirohito et al. and the Government of Japan, Summary of Findings and Preliminary Judgement, Women's International War Crimes Tribunal 2000 for the Trial of Japanese Military Sexual Slavery, 12 December 2000; <http://www.jca.apc.org/vaww-net-japan/en/Dec2000/tribunal.html>.

The activities of this Tribunal were taken note of in the report of the Special Rapporteur on the violence against women. E/CN.4/2001/73 (23 Jan. 2001), para. 96. See also Christin Chinkin, Women's International Tribunal on Japanese Military Sexual Slavery, *American Journal of International Law*, vol. 95 (2001), p. 335; E/CN.4/2001/NGO/127 (13 Feb. 2001).

² E/CN.4/Sub.2/2001/29, para. 34.

³ CEACR, Individual Observation concerning Convention No. 29, Forced Labour, 1930 Japan (ratification: 1932), Report of the Committee of Experts on the Application of Conventions and Recommendations,

characterized as sexual slavery in violation of the Forced Labour Convention. While requesting the Japanese government to take necessary measures to compensate the victims, the Committee stated this year that "as a matter of law, the Government is correct in stating that compensation issues have been settled by treaty". The Committee does not provide any ground or reasoning for this position.

The position of the ILO Committee of Experts on the issue of compensation is far from being ambiguous and in sharp contrast with the position of the Sub-Commission on the Promotion and Protection of Human Rights and UN Special Rapporteurs on the matter. In its resolution 1999/16, the Sub-Commission noted that "the rights and obligations of States and individuals with respect to the violations referred to in the present resolution cannot, as a matter of international law, be extinguished by peace treaty, peace agreement, amnesty or by any other means". This position can also be found in the reports of the Special Rapporteurs on violence against women and on wartime sexual slavery.⁴ Mr. Theo van Boven and M. Louis Joinet of this Sub-Commission and the Special Rapport of the Human Rights Commission, Mr. Cherif Bassiouni have reaffirmed the right to an effective remedy under international law in their monumental studies.⁵ The conflicting position taken by the ILO Committee raises serious concern not only for the victims of Japanese military sexual slavery but also for the credibility of the Sub-Commission. In view of this development, the Sub-Commission is urged to take necessary measures for the vindication of victims of serious human rights violations.

Mr. Chairperson, my third point goes to the **report of the High Commissioner for Human Rights** on systematic rape, sexual slavery and slavery-like practices during armed conflict (E/CN.4/Sub.2/2001/29). This report, together with the last year's⁶, covers gender-based violence in present situations of armed conflict and the handling of the issue by human rights treaty bodies and mechanisms including the International Criminal Tribunals for former Yugoslavia and Rwanda. Although it is within the mandate of the High Commissioner to monitor the development concerning the Japanese military sexual slavery, the High Commissioner's report does not incorporate information as to whether the Japanese Government fulfills the recommendations by the Special Rapporteur on wartime sexual slavery. To our dismay, it is still the fact that the Japanese Government fails to acknowledge its legal responsibility. Domestic remedies sought by victims before the Japanese courts have not been effective, either.⁷

Report III(Part 1A) (2001), p. 141.

⁴ For example, E/CN.4/1996/53/Add.1 and Corr.1 (4 Jan. 1996), E/CN.4/Sub.2/1998/13 (22 Jun. 1998), E/CN.4/Sub.2/2000/21 (6 Jun. 2000).

⁵ For example, E/CN.4/Sub.2/1993/8 (2 Jul. 1993), E/CN.4/Sub.2/1996/18 (20 Jun. 1996), E/CN.4/1997/104 (16 Jan. 1997), E/CN.4/1999/65 (8 Feb. 1999), E/CN.4/2000/62 (18 Jan. 2000).

⁶ E/CN.4/Sub.2/2000/20.

⁷ For example, E/CN.4/2001/73, paras. 94-95. For an unsuccessful legislative effort in Japan to resolve

Fourth, Mr. Chairperson, there further arose a matter of serious concern over the **history textbooks** that the Japanese Government approved as suitable teaching material for young students this year. Compared to the previous ones, the lately approved textbooks do not make any reference to the Japanese military sexual slavery. Moreover, they purport to teach young generations that there had been no wars of aggression, nor gruesome atrocities and damages inflicted upon the peoples of the Asia-Pacific for which Japan bears responsibility. These circumstances raise doubt whether the Japanese Government position on these history textbooks does not indicate its attempt to deliberately conceal and distort the historical truth on the matter. While fast developing into an international dispute among the States in the region, the issue of the Japanese history textbook has ramifications on the integrity of human rights in general as well as on the issue of the Japanese military sexual slavery. This lamentable development prevents the healing of the past wrongdoing. It also frustrate genuine reconciliation and the build-up of peaceful relations between the Japanese people and other affected, victimized peoples in which respect for human dignity and human rights will be fully guaranteed. The truth is that, if the future generations do not become aware of the atrocities committed in the past and with impunity, history will repeat itself. Moreover, it is beyond comprehension that if the Japanese Government had the courage to visit the Yaskuni shrine in order to console the deal souls of the war criminals found guilty by the Tokyo International Military Tribunal, why it does not meet squarely its international obligations owed to the victims of their war crimes and crimes against humanity.

In concluding, Mr. Chairperson, we request the Sub-Commission to continue its invaluable work for the vindication of victims of systematic rape and sexual slavery. In order not to silence yet again voiceless victims of wartime sexual slavery still prevalent in this world, the Sub-Commission should take further necessary measures to redress, protect and rehabilitate the victims and to strengthen human rights education with respect to gross violations of human rights including rape and sexual slavery during armed conflict.

Thank you, Mr. Chairperson.

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