

**Taipei Forum on Wartime Responsibilities Under International Laws
Documentation, Day 3**

SUMMARY OF RESOLUTIONS, Continued

Indicting Allied Countries

- North/South Korea has reconsidered its position of charging the allied countries. Its position is now to just include allegations of the responsibilities of allied countries in its statement of facts and in the general statement of the state prosecutors. The judges will then consider this issue in its judgment.

Charge/s

- The body agreed that the charge will be crimes against humanity.
- Indonesia will also charge war crimes since it is clear that the country was a Japanese occupied territory at that time.
- North/South Korea will also attempt to charge war crimes. It was suggested that to circumvent the issue whether the country was a colony or an occupied territory during the war in order to charge war crimes, this question may be raised as a question of history for the judges to consider instead of a charge. In this manner, evidence will not be necessary to make the charge yet the issue will be dealt with in the tribunal;
- The possibility of charging torture will be considered to illustrate the evolution of the crime of torture to include sexual violence, including rape; this will show the progress of gender considerations in international law;

Defendant/s

- The body agreed to confine charges, as much as possible, to high-ranking Japanese officials, generally with ranks above lieutenant generals. Those below will be mentioned in the indictment to support the legal theory of command responsibility but will not be charged. Moreover, it will be stated that the prosecution of other responsible individuals is not waived and will be pursued in the future when sufficient evidence have been gathered for their indictment. }
- The state of Japan will be named respondent in the claim for state responsibility;
- It should be noted that for those individuals indicted, specific evidence should be provided to prove that each of them have known or should have known the commission of atrocities. Such rigor of evidence is essential considering that they will be tried in absentia;
- North/South Korea has deferred the actual naming of defendants and will just inform the body as soon as possible after due considerations of the points raised by the body on this matter;
- The defendants to be charged in each country are as follows:

Showa Emperor Hirohito

Korea

Tojo Hideki
Minami Jiro
Abe Nobuyuki
Kuramoto Keijiro
Hata Shunroku
Terauchi Hisaichi
Umezu Yoshijiro
Yamada Dtozo
Itaqaki Scishiro

China

Mastui Iwane
Okamura Yasuji
Prince Asakanomiya Yasuhiko
Tami Hisao
Nakajima Kesago

Philippines

Terauchi Hisaichi
Homma Masaharu
Kuroda Shiqeoqi
✓ Yamashita Tomoyuki

Taiwan

Kumou Arifumi(japan)
Audo Rikichi (japan)
Kobayashi Seizo
Itagaki Seishiro

Japan

Kumon Arifumi
Komatsu Mitsuhiko
Homma Kiyoshi Phillines
Audo Rikichi Taiwan
(Itagaki Seishiro Taiwan

Indonesia

Hisaichi Herauchi Korea
Keuji Dohihara
Seishiro Itagaki Korea
Hitoshi Imamura
Kumayoshi Harada
Yuichiro Nagayano

Representing Defense

- The body agreed to allow the presentation of a symbolic defense on behalf of the Japanese state. One of the lawyers for the comfort women cases in Japan will be asked to make the presentation. The presentation will be limited to a maximum of one hour and will be scripted according to the approval of the prosecutors. This will help address the questions of due process, credibility of the tribunal, need to generate more supporters for the movement. It will also be a mechanism of putting forward the positions of the Japanese government, particularly its continued denial of responsibility for war atrocities.
- Summons or an invitation for the Japanese government to represent itself in the tribunal will be issued on or AFTER 20 November 2000. The actual form of the notice will be left to the discretion of the judges.
- North/South Korea has deferred to state its position on this issue;

PROCEDURE AT TRIAL¹

1 hour	Opening Statement: - Tina, Patty and Hina - Defense lawyer (15 minutes)
1 ½ hours	Presentation of Each Victim Country (e.g., 4 witnesses of 15 minutes each, 1 video presentation, maps and other visual exhibits) Order of Presentation: China, Korea, Taiwan, Philippines, Indonesia, Netherlands
1 ½ hours	Japan Presentation of 3 Expert Witnesses on Hirohito, Military Structure, Comfort Station/FSS System
1 hour	Japan Presentation on Perpetuator Witnesses (1 Expert testimony for 30 minutes, 15 minutes each for 2 other witnesses)
1 ½ hours	Presentation of Expert Witnesses : - Trauma - Race/Gender - State Responsibility - Reparations
1 hour	Closing Statement: - Defense (less than 30 minutes) - Prosecution

- Note the allotment of time for translations during testimonies of the witnesses;

¹ Revised per proposal of Philippines and North/South Korea.

- Japan raised the issue of making a presentation of their indictment on behalf of the Japanese comfort women;

FORMS OF THE INDICTMENT

- Patty will e-mail to the prosecutors the form of the general and country indictments;
- There will be one general indictment on individual criminal responsibility with reference to each country indictment as a "sub-indictment";
- The draft form of the general indictment is as follows:

Page 1	(see Taiwan and Philippines indictment) Peoples of the Asia Pacific Region v. Showa Emperor Hirohito et al.
	- articles 11 and 2 of the tribunal Charter - indictment
Page 2	Historical Background - common paragraphs on Asia-Pacific War; - reference to specific historical details in each country indictment;
ff pages	Background of Facts of the Crimes - laying foundation for the charges of crimes against humanity/war crimes; Discussion of Accused (Hirohito, Ministers, other high ranking officials, low ranking officials/civilians Counts - crimes against humanity; - war crimes; - note re status of countries as colonies/occupied territories Prayer/Statement of Judgment sought from Court

STATE RESPONSIBILITY

(see Tina's e-mail on state responsibility)

- Reparations demanded may include: acknowledgment of wrong, apology, setting up of Truth and Reconciliation Commission similar to South Africa; compensation and reparations (more than monetary compensation), correction of historical records for remembrance of next generation as in Germany case;
- It should be pointed out that Japan's denial of responsibility amounts to continuing violations under international law. The "reparations" it has conceded to give are not adequate. In particular, the establishment of the Asian Women's Fund is not an adequate remedy as it has in fact divide the groups in the region and the amount involved is small compared to reparations allocated in other countries on this matter. The documentation by the Japanese delegation on the

continued denial by ministers of the Japanese government of legal responsibility will be appended;

- Country applications should substantiate that the status of women in their countries at that time was not equal to men hence the blatant violations of women's rights; this will be linked to the issue of reparations;
- The human rights angle of compensation should be further developed; that it is the human rights of the victims to claim for reparation;
- ✓ ▪ South Korean delegation will pass on to Tina its research on state responsibility within 10 days from now;
- There will also be a common application/brief on state responsibility with reference to specific applications in each country;

EXPERT WITNESSES

- On Hirohito - Herbert Bricks will be contacted by Yayori;
- On Structure of Japan's Military Army – Herokomi Hayasi will be contacted by Japanese delegation;
- On Comfort Stations System – Yoshimi will be contacted by Japanese delegation;
- On Reparations – Theo vanGoven;
- On State Responsibility – Fritz Kalshoven;
- On Race and Gender – McDougall;
- On Trauma – the Philippines will try to find one and also ask Patty within 10 days from now;

TIMELINE

October 2, 10:00 am	Deadline of Final Form of Indictments and Applications;
December 4, evening	Arrival in Tokyo of Rehearsal participants;
December 5, 10 am	Start of Rehearsal;
December 6	Rehearsal; 10 am appointment of Philippine team in court;
December 7	Meeting of Prosecutors and Judges
December 7, 6:30 pm	Opening
December 8-10	Tribunal Proper
December 11	Public Hearing on Current War Crimes
December 12	Judgment
December 13	Strategy meeting of NGOs and Victimised Countries

The prosecutors will wear black robes.