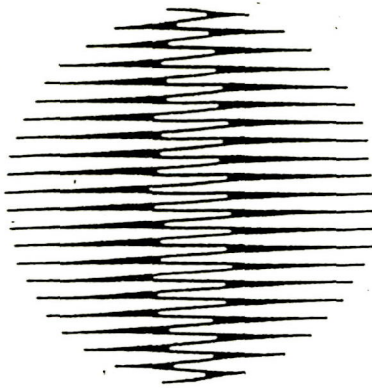


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11. 16



SPEAKER:

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UNITED NATIONS
COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection of Minorities
Agenda item 16

CONTEMPORARY FORMS OF SLAVERY
Statement of International Educational Development,
a non-governmental organization on the Roster
(Secretary-General's list)

The IED raised the issue of JUGUN IANFU: KOREAN COMFORT WOMEN and FORCED LABOUR OF KOREAN MEN in the last Commission on Human Rights (E/CN.4/1992/SR.30/Add.1 page3) and in the last Working Group of Contemporary Forms of Slavery (E/CN.4/Sub.2/1992/34 page28).

SEX SLAVE (COMFORT WOMEN ISSUE)

This is about the situation of Korean girls and women abducted or compulsorily displaced by the Japanese Imperial Forces during World War II for use as SEX SLAVES, who were as many as some 200,000.

The IED would like to express its sincere appreciation for the Working Group, which took an action adopting the decision, in which the WG "requests the Secretary-General to submit to the Special Rapporteur on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms information received by the Working Group of Contemporary Forms of Slavery regarding the situation of women forced to engage in prostitution during wartime".

This, however, is only part of the problem.

SLAVERY OF MEN (FORCED LABOUR ISSUE)

There were also some 1.5 million Korean men who were abducted or compulsorily displaced to Japan during the Japanese occupation of Korea. They were enslaved there for the hardest works by the Japanese Government during the war. They were detained in 'TAKO-BEYA' a barrack which was heavily guarded with no hope for freedom.

Because of the defect of the Japanese domestic legal system and the lack of willingness of the Japanese Government, those victims have received no remedy.

LEGAL ISSUES

The main legal issues, which were raised and suggested by

the Japanese Government are as follows.

1) Japan is claiming that the issue was solved by the 1965 Agreement between Japan and the Republic of Korea, in which Japan promised to give \$ 300 million and to loan \$ 200 million to the Republic of Korea. Japan claims that, in the Agreement, the Republic of Korea abandoned all the claims including those of Korean individuals and/or the right of diplomatic protection of the Republic of Korea for individual Koreans and that no individual Korean has any legal right to claim any compensation against Japan.

The IED does not think this was the case. First, human rights and fundamental freedoms cannot be deprived of by any governments, as they are INALIENABLE (UDHR). Claims for restitution, compensation and rehabilitation are vital part of the human rights of the victims of any violation of human rights. Second, SLAVERY IS JUS COGENS, as the report of the Working Group says. It cannot be derogated from or evaded by governments. This has been so since long before World War II, as freedom from slavery is one of the oldest fundamental freedoms under customary international law. No government is allowed to abandon any right of individuals or its right of diplomatic protection for individuals against the rules of JUS COGENS. Any treaty which violates the rules of JUS COGENS is nil and void. As a result, even if any claim of the individual Koreans and/or the right of diplomatic protection was abandoned by the RoK's Government, the IED believes that the individual rights of the Koreans against Japan of the individual victims and the right of diplomatic protection of the RoK are still existing.

This point has never been discussed formally by the Japanese Government.

2) The Japanese Government cannot invoke the defense mentioned above against the Democratic People's Republic of Korea, as there has been no agreement between Japan and the DPRK. Against the DPRK, it is reported that Japan has been implying that there was no violation of then Japanese domestic legal system in their practice of the comfort women and use of labour of the men.

The IED thinks that this argument is wrong. It has been the Japanese legal tradition that international law is incorporated in the domestic legal system without any legislation and that international law override statutory laws. International customary law, such as a crime against humanity, which was confirmed by the Nuremberg International Military Tribunal has been part of the Japanese domestic legal system.

Furthermore, FREEDOM FROM SLAVERY has been customary international law, which took an explicit form in the Forced Labour Convention of 1930, which was ratified by Japan in 1932 and took effect for Japan in 1933 makes another ground for compensation. In the Convention, even if it is in the event of war, the typical exceptions of forced labour are only: COMPULSORY MILITARY SERVICE (Article 2-2(a)) and "any work of service exacted in cases of EMERGENCY (Article 2-2(d)).

* Forced labour of women is prohibited by Articles 1 and 11 in any case. It is clear that not only COMFORT WOMEN but

also other labour of women are prohibited, if it is forced.

* Forced labour of men is prohibited in principle (Article 1). Compulsory works are allowed exceptionally, but only under very strict conditions stipulated by a number of articles which protect human rights of the men. For example, forced labour for the benefit of private individuals, companies and associations is prohibited (Article 4); children, students or men older than 46 cannot be drafted (Article 11); it should not exceed 60 days in any one period of twelve months including the time spent in going to and from the place of work (Article 12); it should be remunerated in cash at rates not less than those prevailing for similar kinds of work (Article 14); it should not be used for work underground in mines (Article 21); and so on. According to the result of the investigation made by KYOSEI-RENKO SHINSO CHOSADAN (Group for Factfinding regarding Forced Displacement), many articles in it were violated by Japan in those cases of enslaved Korean men and women mentioned above.

OTHER SITUATIONS

There are other situations of atrocities, which are against JUS COGENS other than the Korean people v. Japan case. Followings are just part of them.

1) An NGO, the War Amputations of Canada brought to the latest Commission on Human Rights the case of 200,000 PoWs and civilian internees who were enslaved and harshly ill-treated by the Japanese Imperial Forces during World War II.

2) It was reported that the comfort women were drafted not only from Korea but also from China, Taiwan and the Phillipine Islands. Recently, it was reported that at least 35 Dutch women detained in the camps by the Japanese occupation forces in Indonesia, were forced to engage in prostitution in 1944. It was also alleged by an Indonesian journal (Tempo, 25 July 1992) that there were some 60,000 comfort women of Japan in Indonesia.

The IED urges, considering the nature of slavery and JUS COGENS, Japan to change its current attitude of refusal in paying compensation to the victims of enslavement by Japan.

ROLE OF THE UN

Regrettably, there is, no prospect of swift and effective remedy for the individual victims of the gross violation of human rights, in particular plight of enslaved victims by the Japanese Imperial Forces even 47 years after the violation. There seems to be no other alternative than the vigorous intervention by the UN bodies, such as the Special Rapporteur, the Working Group, the Sub-Commission, the Commission, the ECOSOC and the General Assembly.

The IED wishes to urge those UN bodies to take any necessary steps for the victims, as they did for the victims in Europe of Nazi Regime against Germany (please see the IED's statement for the WGS under item 5). The IED fears, that inaction for the victims in Asia may be blamed as an example of double standards.