

Note on the recent developments after the Tokyo Women's Tribunal in 2000

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I would like to bring your attention to some of the developments on the issue of the Japanese military sexual slavery made at the international level since the Tokyo Women's Tribunal.

First, the activities of this Tribunal were taken note of in the report of the UN Special Rapporteur on the violence against women (UN document E/CN.4/2001/73 (23 Jan. 2001), para. 96). I hope that international recognition on our Tribunal will be widely accorded after tomorrow's Judgment.

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. Since 1996, the ILO Committee of Experts has rightfully found several times that "gross human rights abuses and sexual abuse of women detained in so-called military 'comfort stations'" should be 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" (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, Report III(Part 1A) (2001), p. 141). 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 not satisfactory on many points. In particular, it sharply conflicts with the position of the UN 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 (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).

Third, it is regrettable that 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) still does only cover covers gender-based violence in present situations of armed conflict and not including the development concerning the Japanese military sexual slavery. Specifically, 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.

Fourth, it is nonetheless important that the UN Sub-Commission on Human Rights decided to continue to consider the issue of systematic rape, sexual slavery and slavery-like practices during armed conflicts. Moreover, in the light of serious concern over the Japanese history textbooks, the Subcommission adopted Resolution 2001/20 16 August 2001 which "[E]ncourages States to promote human rights education on the issues of systematic rape, sexual slavery and slavery-like practices during armed conflicts, ensuring the accuracy of accounts of historical events, in the educational curricula." It is expected that the High Commissioner will report on the implementation of this part of the resolution. It is also to be noted that women in Korea and Japan took the initiative to write a common history textbook to be completed in three years time.

Fifth, when the Committee on Economic, Social and Cultural Rights examined the report of the Japanese government at the twenty-sixth session in August 2001, it expressed concern in the concluding observations that "the compensation offered to wartime "comfort women" by the Asian Women's Fund, which is primarily financed through private funding, has not been deemed an acceptable measure by the women concerned." (UN document, E/C.12/1/Add. 67 (24 Sep. 2001), para. 26). It also made a strong recommendation that "the State party find an appropriate arrangement, in consultation with the organizations representing the "comfort women", on ways and means to compensate the victims in a manner that will meet their expectations, before it is too late to do so"(Ibid., para. 53).

Sixth, there have been cases filed on behalf of victims of the Japanese sexual slavery before the courts of the United States. In *Hwang Geum Joo, et al. v. Japan*, the plaintiffs sought compensation for the inhumane treatment that they undergone in the comfort stations (Civil Action 00-02233 (HHK), Judgment, 4 Oct. 2001). The US Federal District Court for the District of Columbia, however, dismissed the complaint on jurisdictional grounds. Appeals from this judgment will be made. It is apparent that the Japanese government still refuses to accept its international legal responsibility. The US and other relevant governments should take more positive steps for the vindication of human rights of victims of the Japanese military sexual slavery which constitute crimes against humanity, war crimes and violations of the *jus cogens* of international law.

I would like to conclude my observation with the following puzzle: if the Japanese Government had the courage to visit the Yaskuni shrine in order to console the dead souls of the war criminals found guilty by the Tokyo International Military Tribunal, why is it that it does not meet squarely its international obligations owed to the victims of their war crimes and crimes against humanity?