

THE WOMEN'S INTERNATIONAL WAR CRIMES TRIBUNAL ON JAPAN'S MILITARY SEXUAL SLAVERY

INDICTMENT

The Taiwanese Prosecutors of the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery (hereinafter "the Tribunal"), pursuant to their authority granted under Article 11 of the Charter of Women's International War Crimes Tribunal 2000 for the Trial of Japanese Military Sexual Slavery (hereinafter "The Charter"), charges:

DEFENDANTS The Government of Japan (hereinafter DJ), TAKIMULA, MIYAMODO, ELA, NALIDA GUNSHO

With

Crimes Committed against Women, Against Humanity as set forth below:

Historical Background

I. Taiwan as a Colony of Imperial Japan

1. Taiwan is located between 21°45'25'' and 25°56'21'' N latitude and between 119°18'03'' and 124°34'09'' E longitude, the island of Taiwan is roughly shaped like a tobacco leaf. The total size of Taiwan, including the Pescadores, is 35,961 square kilometers.
2. Taiwan was a colony of the Dutch during 1624-61. In 1662, General Koxinga defeated the Dutch and occupied Taiwan, thereafter Taiwan was under control of General Koxinga until 1683. In 1683, Imperial Ching dynasty of China launched an all-out naval war against the descendants of Koxinga and the people of Taiwan.

Koxinga's descendents surrendered to Chinese Ch'ing Emperor. Thereafter, Taiwan was one of the territories nominally under the sovereignty of China.

3. In 1894, China and Japan declared war against each other. China was defeated. As a part of war compensation, Taiwan was ceded to Japan in accordance with Article II of 1895 Shimonoseki Treaty. The people of Taiwan at the time opposed vehemently to such cession. Nevertheless, such opposition appealed to no avail. As a result the said Treaty, Taiwan became the first colony of Imperial Japan in accordance with international law at the time. As a colony of Japan, Taiwan and its people were totally subordinate to the control of Japan.
4. The exact population in 1895 was not available. Be that as it may, as of 1897, Taiwan had an estimated population around 2,800,000. The majority of the people of Taiwan are descendents of the immigrants from China during the past three hundred years. In addition, there were ten tribes of Taiwan aborigines who were of Austronesian or Malayo-Polynesian origin pursuant to the most widely accepted theory. The population of the aborigines, as of 1897, was not available. Nevertheless, it is assumed that the aborigines' population accounted less than 10 percent of then total population of Taiwan.
5. In 1932, then Japanese Prime Minister Inukai and his cabinet decided to dispatch the Army force to Shanghai, China. As a result of this dispatching, the Japanese soldiers stationed in China increased to 17,000. However, there was wide scale of sexual violence inflicted upon Chinese women by the Japanese invading troops. In order to redress this notorious situation, Japanese military took the decision to establish comfort stations to provide those soldiers with health and venereal disease free "military provisions" under the advise experts. The establishment of comfort stations was intended to deter Japanese soldiers from raping local women in order to limit anti-Japanese sentiments among occupied population. In addition, the establishment of comfort station also carried the task of boosting the morale of the soldiers and keeping the soldiers from getting venereal diseases. Furthermore, the establishment of comfort stations reduced the potential for security breaches, information leaks and intelligence gathering on Japanese military operations.
6. In accordance with currently existing data, Japan first set up military controlled "comfort stations/stations" in Shanghai since sexual services provided by venereal disease-free women or girls were regarded as part of "military provisions". Moreover, the frequency of rapes caused Japan concern its international image

and the security of its occupation forces. As a result, the Vice-Chief of the Staff off the Shanghai Expeditionary Army requested Governor of Nagasaki Prefecture to send women to work in a "comfort stations".

7. On 7 July 1937, Japan engaged in an all-out military confrontation with China after the Marco Polo Bridge Incident. As a result of this large-scale military operation, by the late 1930s Japan was forcibly conscripting both women and men. As Japanese military action escalated in Shanghai, Nanking, Hankou and Guangdong in China, forcible or deceptive recruitment of women intensified concomitantly.
8. It is generally believed that from 1937 onward, the Japanese military, both the Imperial Army and Imperial Navy, began a widespread and systematic establishment of military comfort stations in China and elsewhere. This vast network of comfort stations for the exclusive use and enjoyment of the Japanese Army and Navy. The Japanese military planned and executed the provision of comfort facilities to its troops, wherever it sent its troops.
9. Given this situation, it was inevitable that when Japan took the decision to establish comfort stations, Taiwanese women and girls would be recruited and forced to provide sexual services in those station. These miserable women or girls were euphemistically called "comfort girls" or "comfort women" (*Jugun Ianfu* or *Ianfu* in Japanese).

II. Imperial Japanese Government and the Recruitment of Taiwanese Comfort Women

10. As indicated earlier, Japan had colonized Taiwan ever since 1895, and had stationed a large number of troops on the island, on a more or less permanent basis. The administration of Taiwan was carried out by the Japanese Government through a Japanese Governor-General, who exacted the cooperation of the local Taiwanese headmen.
11. Being one of the colonies of Japan, Taiwanese were subject to the control of Japan. As the demand for comfort women increased after 1932, Taiwan was inevitable regarded as one of the primary location for the recruitment of comfort women and girls by the Japanese military forces located in China. Consequently, Taiwanese

women and girls were put into the above-mentioned comfort stations. The forcible or deceptive recruitment of Taiwanese women and girl for comfort stations involved high-level Japanese military and cabinet figures as well as the Governor-General of colonized Taiwan.

12. As contained in the Files of Taiwan Trade Corporation (《台灣拓殖株式會社檔案》), clear evidence in the form of documentation proves that the recruitment of those Taiwanese women and girls were partly carried out through government-sponsored corporation, notably Taiwan Trade Corporation (台灣拓殖株式會社), with the help of the military forces.
13. In 1939, Taiwan Trade Corporation was requested by the military to build houses and related facilities, including highways and wells for comfort women in Hainan Island of China shortly after Japanese military occupied the island. The total amount of expense for the houses amounted to 39,830.92 yen. The expenditure for other related facilities amounted to 41,274.12 yen.
14. In addition, Taiwan Trade Corporation was requested to send 10 singers, 30 singers with the task of providing sexual services to the soldiers and another 50 women purely for providing sex services. The recruiting of these personnel was carried out under the supervision of a Director-Chief of the Palace of Governor-General of Taiwan in accordance with the documents of Taiwan Trade Corporation. Three merchants were entrusted with the work of accompanying these recruited women and girls to Hainan Island of China. On April and May of that same year, those comfort women were transported to Hainan via the vessel provided by the Governor-General of Taiwan.
15. When recruiting women or girls in Taiwan, the Japanese military forces in China either selected civilian corporation under the supervision of the Governor-General of Taiwan or directly asked the Taiwan Governor-General to carry out the task. Evidences prove that the then Japanese Government at various levels expressly or implicitly involved in the recruitment of comfort women and the establishment of comfort women stations.

III. The Treatment of Taiwanese Comfort Women

16. Those women or girls were forced, deceived, coerced or abducted to go to those

comfort stations. After arriving these comfort stations, sexual services were extracted from them under duress taking neither their physical nor psychological health into account.

17. The life in the comfort stations was brutal and inhuman. Those comfort women were confined in designated locations, where soldiers and officers violated them frequently. Some of them were taken into military camps and placed either in a room in an established barrack or lived with soldiers inside a tent, or inside a tunnel in the vicinity of the military camp. These locations where these comfort women were placed were heavily guarded and it was impossible to escape. In addition to the degradation of being raped, severe beatings, torture, killings, and other forms of physical and psychological abuse were commonplace at those comfort stations.
18. Many Taiwanese comfort women were forced to endure multiple acts of sexual violence, which were at times committed by more than one Japanese soldier. These acts of sexual violence were generally accompanied by explicit threat of death or bodily harm. The comfort women lived in constant fear and their physical and psychological health deteriorated as a result of the sexual violence, forcible abortions, beatings, and killings.
19. The Japanese government was aware that soldiers, officers or private persons were committing the acts of taking comfort women by duress, the acts of sexual violence, beating and murders. Those inhumane acts were committed by, or at the instigation of, or with the consent or acquiescence of, an official or persons acting in an official capacity.
20. In addition, the Japanese Government knew or had reason to know that personnel of the Imperial Army or Imperial Navy were about to participate in the establishment of comfort stations, and failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators.
21. By its involvement in the above acts and omissions, the Japan Government is responsible for all the atrocities happened to those comfort women. It is unambiguous that planning, preparation, recruitment, of the comfort stations proved that the highest level of then Japanese Government was deeply involved. In essence, the establishment of comfort stations amounted to an institution of military sexual slavery and was directly or indirectly implemented by the Japanese

Government. Furthermore, it is indisputable that the highest ranking members of the government and the military condoned and endorsed the actions being taken by military officers in the colony and the government failed to punish any of those committing such actions.

22. Made to live in unhygienic, cramped conditions with no avenue for escape, these women, many of them minors, were repeatedly raped for years. At the end of the war, most of them in active combat zones were simply abandoned to their fate. Those who were lucky enough to return their homes, only to suffer a lifetime of isolation and fear of social rejection.
23. Whether Japanese Government should be held responsible for those actions committed before World War II involves the following questions: the imputability of the acts of the Japanese soldiers to the State of Japan, the issue of breaches of obligations of public international law, and whether any claim that may have arisen has at a later date become extinct.
24. The acts of the Japanese army and navy have to be attributed to the State of Japan. It is well established that those soldiers and officers of the military establishment were deemed as organs of that State, not as private individuals, their actions must be imputed to the Japanese State irrespective of the fact that they may have been *ultra vires*.
25. Obligations within the field of public international law can result either from treaties or customary international law. Nevertheless, since Taiwan was a colony of Japan, those treaties before 1945 might be applied directly. Being said so, it does not preclude the possibility that certain provisions contained in relevant treaties might be codification of then customary international law and thus applicable in the instance of Taiwan.
26. As to those acts committed by Japanese soldiers against Taiwanese women, it was necessary to distinguish two types of actions. The first category of actions constituted those of recruiting comfort women and girls; as the second category consisted of those actions of forcible sexual intercourse, raping, beating and other forms of inhuman treatment.
27. In the first place, ever since the beginning of 20th century, it is generally agreed that all States are under a legal obligation to prohibit the slavery system and slave

trade. The recruiting of comfort women was a flagrant violation of international customary norm prohibiting slavery and the slave trade as codified in 1926 Slavery Convention. Article 1 of the 1926 Slavery Convention provided that: (1) slavery is the status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised. (2) The slave trade includes all acts involved in the capture, acquisition or disposal of a person with the intent to reduce him to slavery....., and, in general every act of trade or transport in slaves. This is a generally recognition definition of slavery and slave trade. By examining what happened in the instance of Taiwanese comfort women against the above definition, it is indisputable that once those Taiwanese comfort women had been taken away from their families or residence, the military acted as if it owned those women or girls. Thus those comfort women were treated liked slaves. Furthermore, the transportation of those women, which was condoned, authorized, or supervised by the Japanese military, was a form of slave trade. In that respect, Japan violated the norm prohibiting slavery and slave trade. This norm was already a part of customary international law. This violation gives rise to responsibility on the part of the State of Japan.

28. As to those actions committed by the Japanese soldiers against Taiwanese comfort women, it is appropriate to examine the norms as reflected in 1907 Hague Conventions Respecting the Laws and Customs of War on Land (hereinafter the Hague Regulation). Inasmuch as that Taiwan was a colony of Japan at the time of war, the Hague Regulations could not be applied directly in the instance of Taiwanese comfort women. Be that as it may, the Hague Regulation could serve as good evidence of the customary international law existing at that time. Customary international law in the humanitarian sector requires the belligerent to respect the lives of civilians<irrespective of the civilians are subjects to the State concerned or not.>In this respect, the Hague Regulations, especially Article 46, reflect customary international law. Article 46 protects the family honor of the civilians. The concept of family honor includes the right of women in a family not to be subjected to the humiliating practice of rape. The treatment of Taiwanese comfort women at wartime by the Japanese soldiers violated their family honor as protected by Article 46 of the Hague Convention. It is indisputable that the repetitive and systematic raping of Taiwanese comfort women by the Japanese soldiers infringed these norms as reflected in the Hague Convention.

29. Furthermore, by their way of treating Taiwanese comfort women, the Japanese soldiers disregarded for the women's lives. Customary international law also

requires the soldiers to respect for the lives of persons as reflected in Article 46 of the Hague Regulation. The meaning of respect for the lives of persons is not confined to the prohibition of arbitral killings. The drafters of the Hague Regulations recognized that notion also included human dignity. Thus the reference to the lives of persons should extend to mean that soldiers were under an obligation arising from customary international law to respect the dignity of comfort women as human beings. Despite the fact the meaning of dignity might be open to dispute, the continual brutality of the Japanese soldiers towards Taiwanese comfort women, including the continual rapes which they had to endure, was clearly a violation of their human dignity. Hence, it is reasonable to argue that Japanese soldier infringed the norms relating to respect of human dignity. This violation during wartime entails responsibility on the part of Japan.

General Allegations:

I. The Japanese Government

30. Unless otherwise set forth below, all acts and omissions set forth in the counts of this Indictment took place between August 1937 and about March 1946.
31. In each paragraph charging the crimes against women and crime against humanity, crimes recognized by Article 2 of the Charter of the Women Tribunal, the alleged acts or omission were committed as part of a widespread and systematic military sexual slavery.
32. The victims in each paragraph charging the crimes against women and crimes against humanity were Taiwanese women or girls, who were forced, deceived, coerced and in some cases even abducted to provide sexual services to the Japanese military.
33. In accordance with the statement provided by Mrs. Man-may LU, one of the Taiwanese comfort girls forced to provide sexual service to Japanese military personnel in Hainan Island of China, the transportation of these comfortable women was via naval vessels in 1943.
34. After landing on Hainan Island, these comfort girls were transferred to Comfort

House supervised by a Japanese civilian. They were then forced to provide sexual service to Japanese soldiers and officers.

35. In accordance with the statement made by Mrs. Pau-chu TENG-GUA, one of the Taiwanese comfort women, she had forced to provide sexual service to Japanese soldiers in Gongdong Province of China, Hongkong, Singapore and Lasho of Burma. The military establishments of Japan directly or indirectly ran all those Comfort stations since they were moving with the troops. During her time of being comfort woman, she was attached to the troops nearby wherever she was transported. In addition, Japanese military trucks or naval vessels have carried out all the transportation works for those comfort women through all the mentioned places. All the territories mentioned in the statement were territories occupied and controlled by Japanese Military. This evidenced the widespread and systematic establishment of comfort stations that engaged in military sexual slavery.
36. As transportation within all territories controlled by the Japanese military was strictly regulated, it is self-evident that the military was aware that those Taiwanese women were being transported within Taiwan and from Taiwan to places such as China, Hong Kong, Burma, and Singapore. The statement of Mrs. Pau-chu TENG-GUA testified to the fact that she was actually transported on military ships, and military trucks. As these vehicles were under the control of then Japanese Government, it bears responsibility for trafficking in women.
37. According to the statement of one comfort woman, Iyang-Apay, a Taiwanese aboriginal, the military doctor dispatched with the troop had constantly monitored her health to ensure that she was not afflicted by sexually transmitted disease. This evidenced the direct involvement of the Japanese military establishment in the running of the comfort stations.
38. Thus, basing on the statements presented by the witnesses, it is reasonable to argue that the Japanese Government knew or had sound reasons to know that personnel of the Imperial Army or Imperial Navy were about to participate in the establishment of comfort stations, and failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators.
39. After the war, as the facts of comfortable women reveal, Japanese Government issues an apology admitting its involvement in the establishment, maintenance, and management of comfort stations and the forcible recruitment of women. Be

that as it may, the Japanese Government still refuses to pay reparations to the victims, refuses to disclose all information concerning the crime, fails to prosecute and punish those responsible for such crimes, and fails to take necessary measures to prevent recurrence of the said crimes.

II. The Identifiable Individuals Accused

40. As the vice-captain to the Japanese troop stationed in Tong-men, NALIDA GUNSHO was responsible for the order of the troop. In February 1945, NALIDA GUNSHO brought IYAN-APAY, one of Taiwanese comfort women during wartime, to a tunnel in the vicinity of the barrack. NALIDA GUNSHO requested IYAN-APAY to wait for someone coming. Later, a Japanese soldier arrived and asked IYAN-APAY, a Taiwanese aboriginal, to provide sexual service. IYAN-APAY refused and was raped.
41. There were another five comfort women in the above-mentioned barrack. Initially, they were deceived to do laundry works for the army. Later, they were forced to provide sexual services to the Japanese army. Nevertheless, all forced sexual actions were carried out in the tunnel nearby where a bed was provided in it.
42. Not only did those soldiers of the stationed troop forced the six Taiwanese women to provide sexual services, the officers, including MIYAMOD, ELA and NALIDA GUNSHO, of the troop also forced Taiwanese comfort women to provide sexual services as evidenced in Iyang-Apay's statement.

Charges

I. The Japanese Government

43. By its involvement in the above acts and omissions, the Japanese Government is responsible for violating the following provisions of the Charter of Women's Tribunal:
Count 1, Violating Crime Against Humanity punishable under Article 4(a) of the Charter of the Women's Tribunal

Count 2: Violating Article 4(b) of the Charter of the Women's Tribunal**II. The Accused Individuals**

44. TAKIMULA: He was the Sergeant of Police Station of Tong-men in Taiwan. As a sergeant, he was responsible for recruiting Taiwanese women and girls for Japanese Comfort House located within his jurisdiction.

45. ELA: He was the captain of the troop stationed in the vicinity of Tong-men. As the captain, he was in a position of authority superior to everyone in the barrack mentioned.

46. NALIDA GUNSHO: He was vice-captain of troops stationed in the vicinity of Tong-men. As the vice-captain, he was in a position superior to soldiers of the barrack mentioned.

47. MIAYAMODO, DR.: He was the army doctor for the troop stationed in the vicinity of Tong-men to ensure that comfort women were not affected by sexually transmitted disease.

48. By their involvement in the above acts and omissions as mentioned in para. 13, MIYAMOD, ELA, and NALIDA GUNSHO committed:

Count 1: Crimes against women for rape punishable under Article 2(1) of the Charter of Women's Tribunal.

Count 2: Crimes against Women for Sexual Slavery punishable under Article 2(1) of the Charter of the Women's Tribunal.

49. In addition, NALIDA GUNSHO and TAKIMURA by their involvement of forcing Iyan-Apay to provide sexual services to Japanese soldiers, he committed

Count 3: Crime against Women for enforced prostitution punishable under Article 2(1) of the Charter of the Women's Tribunal.

Count 4, Crime in planning, preparation and execution of a crime against humanity of Article 2(1) punishable under Article 3 of the Charter of Women's Tribunal.

Date

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Prosecutors

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Taipei, TAIWAN