

**THE WOMEN'S INTERNATIONAL
WAR CRIMES TRIBUNAL ON
JAPAN'S MILITARY SEXUAL SLAVERY:
A LEGAL AND FEMINIST APPROACH TO THE
'COMFORT WOMEN' ISSUE**

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The Women's International War Crimes Tribunal on Japan's Military Sexual Slavery was held in Tokyo from the 8th to 12th December 2000. The Tribunal was organised by non-governmental organisations including VAWW-NET (Violence against Women in War Network) Japan and other Asian women's and human rights organisations.¹ Its purpose was to make a judgement on Japanese military sexual slavery before and during the Second World War from the perspective of international law and gender justice. International legal experts, including Gabrielle McDonald (former President of the International War Crimes Tribunal on the Former Yugoslavia) and Patricia Viseur-Sellers (Legal Adviser for Gender-Related Crimes in the Office of the Prosecutor for the International Tribunal for the Former Yugoslavia, and the Rwanda Tribunal), acted as judges and chief prosecutors.

During the Tribunal, eight regional teams of prosecutors, including the joint team from North and South Korea, presented cases on behalf of the former 'comfort women,' who testified in person and/or on video. Two former Japanese soldiers, who took part in rape, also testified. As the Japanese government did not respond to the invitation, a Japanese lawyer, acting as *amicus curiae* (independent adviser), explained the Japanese position. On the final day, following the testimony and other evidence presented by the prosecutors, the judges found both the Japanese State and the Emperor Hirohito guilty of war crimes and crimes against humanity. The Tribunal concluded by recommending that the Japanese government make a meaningful apology and provide compensation to the surviving victims.

Despite the fact that the Tribunal does not have authority to enforce the judgement, the outcome is a significant achievement for feminists and human rights activists, as well as for the former 'comfort women' themselves. The

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¹ For details on the Tribunal see at <www.iccwomen.org/tokyo/> and <www.jca.apc.org/vaww-net-japan>.

event marks the culmination of ten years of work to establish that the 'comfort women' are the victims of organised sexual violence and to pursue the legal responsibility of the Japanese State for this. The principles and arguments that emerged during the Tribunal provided a comprehensive overview of the 'comfort women' issue. In particular, the legal arguments heard at the Tribunal will almost certainly influence the proceedings of any future official body that might finally resolve this dispute.

The Tribunal was held after two and a half years of preparation, including activities such as workshops and symposia, public lectures, panel discussions, and press conferences. The people attending were a fascinating mix of international lawyers, feminists, NGO workers, and former 'comfort women' from Korea, China, Taiwan, the Philippines, Indonesia, East Timor, Malaysia and Holland. The proceedings were conducted as a formal court case on stage in front of the audience of about one thousand. Four judges in black gowns sat at the table on the left of the stage, and prosecuting teams presenting their cases from the right of the stage. In the foyer outside the auditorium where the Tribunal was held, supporting organisations had booths, distributing newsletters, selling books and T-shirts, and collecting signatures for petitions. There were displays of paintings by victims, appeals and messages for peace, photographs of victims demonstrating in front of Japanese embassies or showing the scars that still remain on their bodies. Inside the auditorium, the front seats were reserved for people from the 'victimised countries.' During the proceedings, the elderly survivors frequently came and went from their seats at the front through the body of the hall to the rear exit, creating a strong visual impact for the general audience and media representatives upstairs. The media were effectively managed, and well supplied with press releases and information packages. During the recesses, the different prosecuting teams held press conferences. The organisers were sufficiently worried by Japanese nationalist demonstrators outside the building, that the main door was locked and people had to leave from the building next door. At the end of the closing ceremony, the survivors appeared together on the stage, holding signs with messages such as 'End Impunity of Wartime Sexual Slavery,' or 'No Peace without Justice' to huge applause from the audience. Afterwards a demonstration was held, and hundreds of people walked through the crowded streets of Tokyo, accompanied by police. The demonstration was also accompanied by groups of Japanese nationalists with megaphones shouting slogans such as 'there were no military comfort women!' or 'there are international communists behind this Tribunal!' or even 'you must be Chinese, are you not ashamed?' The 'comfort women' issue has clearly aroused strong emotions in Japan. The publicity generated by the Tribunal and international prestige of the judges now means that the comfort women issue can no longer be ignored and has in fact become an established part of the Japanese political agenda.

In the following, after a providing a brief background, I will discuss the significance of the Tribunal from three aspects. Firstly, the pronounced shift from the demand for 'apology and compensation' to the demand for 'punish the responsible'; second, the creation of a unified voice of the survivors and their supporters; third, the Tribunal's contribution to the future development and application of humanitarian law.

Background

The Tribunal marked a new phase in the ten years of legal activities regarding the comfort women issue. The 'comfort women' system of sexual slavery organised by the Japanese military, victimised many women in Asia, leaving the survivors with permanent physical and psychological scars. The issue was ignored during the post-war trials, and it was not raised again until 1991, when Ms. Kim Hak Soon and two other Korean former 'comfort women' filed a lawsuit at the Tokyo District Court against the Japanese government.² Since then, more former 'comfort women' and their supporters have been demanding an official apology and compensation from the Japanese government. In all of the eight court cases to date, the litigants have been frustrated in their efforts to obtain justice. Since 1993, the Japanese government has acknowledged a *moral* responsibility for the situation, and has made a number of formal and informal apologies. In 1995 it proposed and then established a semi-official organisation, the Asian Women's Fund, which was intended as a vehicle to pay compensation money to the victims. The government's continuing denial of *legal* responsibility, however, has frustrated many people working on the 'comfort women' issue. The Asian Women's Fund was largely regarded as a 'charity payment' designed to obscure the state's official responsibility.³

The 'comfort women' issue first developed in the context of the continuing and often difficult post-colonial discourse between Japan and Korea. Over 80 per cent of the 'comfort women' were Korean, and Korean viewpoints on the issue commonly revolved around images of 'our women,' 'our shame,' and 'our history.'⁴ The initial Japanese response to the lawsuit was also strongly influenced by issues of national identity ('should "we" apologise?', 'who are "we"?'), and the 'comfort women' issue soon became central to the many discussions on the meaning of Japan's national past, produced especially around the fiftieth anniversary of the end of the war.⁵ The way the issue surfaced, and, in particular, the antagonism occurring after the establishment of the Asian Women's Fund, indicated there was a danger that the 'comfort women issue' might become subsumed in the rhetoric of Korean and Japanese nationalism.⁶ Korean and Japanese feminists, however, tried to extend the debate beyond nationalism by linking the 'comfort women' issue to contemporary international human rights issues. The Tribunal should be understood as a part of their efforts to view the issue from an international perspective. Some earlier feminists had originally discussed the 'comfort

² Suzuki Yuko, 'Sekinin-sha shobatsu to "ianfu" mondai,' (Punishment of those responsible and the "Comfort Women" issue) *Senso-seikin to Jendā* (War responsibility and gender) Mirai-sha, 1997, pp.85-101.

³ Suzuki Yuko, a Japanese feminist, states that the Women's Fund means nothing but a 'second rape' for the victims. *Ibid*, p.67.

⁴ See, for example, Kim Un Shil, 'Minzoku gensetsu to josei' (Ethnic discourse and women) *Shisō*, August, 2000. p.74.

⁵ Norma Field, 'War and Apology: Japan, Asia, the Fiftieth and After,' *Positions*, 5, 1 (1997), pp.1-49.

⁶ For reactions to the Asian Women's Fund in Korea and Japan, see Chunghee Sarah Soh, 'Human Rights and the "Comfort Women,"' *Peace Review* 12,1 (2000), pp.123-129; and the journal *Impaction*, no. 107, 1998 (a special issue devoted to 'comfort women').

women' in relation to the modern phenomena of 'sex tourism' by Japanese men in Asia. The wider issue of sexual violence in wars came to prominence after the establishment of United Nations' International War Crimes Tribunals for the former Yugoslavia and Rwanda. These two Tribunals are currently prosecuting those who committed sexual violence against women. The International Criminal Court, established in 1998, also covers violence against women during war and armed conflicts under its jurisdiction. It was in this international context, in 1998, that VAWW-NET Japan proposed at the fifth Asian Solidarity Conference on 'Comfort Women' in Seoul that the Tribunal be organised, and subsequently received international support for the proposal from women's groups throughout the world.

From 'Apology and Compensation' to 'Punishment'

The opening ceremony of the Tribunal began dramatically with a projection of a painting titled 'Punish the Responsible!' by Kang Dak Kyung, a victim of Japanese military sexual slavery. In the painting, three guns aim at a man in military uniform, who is blindfolded and tied to a tree. Ms. Kan's voice followed the image – 'it [the Japanese government] must be punished because it committed a crime. . . We must fight and fight . . .'

The Tribunal took a clear stance that the identification and judgement of those responsible for the 'comfort women' system was necessary to restore the dignity of the victims. In the past, although the argument for punishment appeared in South Korea as early as in 1993, it never become a significant issue in Japanese and international discourse on the 'comfort women.' Japanese NGOs demanded an apology and compensation, but did not pursue punishment, a concept some considered foreign to Japanese culture and also unrealistic in view of the fact that those responsible are now at least eighty years old, if not already dead. The Coomaraswamy Report (1996), the first UN document on the 'comfort women' issue, also emphasised compensation rather than punishment.⁷ However, this Tribunal placed the notion of punishment at the centre, as one of the convenors clearly expressed: 'those who are found guilty should not escape.'⁸ One result of this may be that from now on groups working on the 'comfort women' issue will focus more on punishment than their previous demands for apology and compensation.⁹

This shift in focus from 'apology and compensation' to 'punishment' reflects the international trend in prosecuting war criminals for sexual violence. According to the organisers, the Tribunal was conceived in response to the voices of the former 'comfort women' themselves that there is no justice, no

⁷ Radhika Coomaraswamy, 'Report of the Special Rapporteur on Violence Against Women, its causes and Consequences: Mission to the Democratic People's Republic of Korea, the Republic of Korea and Japan on the Issue of Military Sexual Slavery in Wartime,' (UN doc. E/CN.4/1996/53/Add.1, 1996).

⁸ Yun Chung Ok, 8th December, 2000. Opening remarks, Tribunal.

⁹ Indeed, Matsui, the representative of the VAWW-NET Japan, hold that the punishment of the responsible will be the greatest task of the future support movement in Japan. Matsui Yayori, 'Naze sabaku ka, dou sabaku ka' (Why punish, and how to punish) *Sekai*, December, 2000. p.113.

recovery of lost honour, without the punishment of the responsible.'¹⁰ The demand for punishment certainly was a reaction to Japan's continuing denial of the legal responsibility. At the same time, the emphasis on punishment also reflects the efforts of international feminist groups to define sexual violence as a war crime, and to prosecute and imprison the offenders, which materialised in the International War Crimes Tribunals for the former Yugoslavia and Rwanda during the early 1990s. Applying the same principle to Japanese wartime military sexual slavery, the McDougal Report (1998) became the first UN document that recommended the punishment of those responsible for the 'comfort women' system.¹¹ The McDougal report maintained that the cycle of impunity of wartime sexual violence has allowed more recent incidents such as those in Kosovo, and that prosecution and punishment will help preventing similar incidents in future.

Continuing this feminist logic, the Tribunal criticised the gender-blindness and omission of rape in the 1946 Tokyo Tribunal. Whilst in the immediate post-war period it was considered politically expedient to shield the emperor, no such considerations apply now, and the Tribunal charged the late Emperor Hirohito, the Japanese State and over twenty-five named individuals. The Public Hearing on Crimes Against Women in Recent Wars and Conflicts, which was held on the fourth day of the Tribunal, demonstrated how strongly the Tribunal organisers felt that the Japanese military sexual slavery system was a matter to be judged in the light of universal women's rights. There, women from Okinawa, East Timor, Guatemala, and Kosovo presented reports on sexual violence. The Tribunal has thus consolidated the feminist perspective that sexual violence during a war is a legal crime fit for punishment, and completely rejected the commonly held view that sexual violence against women in war is an expression of 'natural' male sexual drive, supposedly exaggerated by fighting.

The importance of punishment was also emphasised from the viewpoint of the healing of the survivors. As a result of a long impunity and prejudice in society, many former 'comfort women,' even today, feel ashamed, and feel what happened to them was their own fault. The general lack of understanding and support for the victims from the society and the lack of any apparent effort to punish the offenders have left them to cope alone with their wartime experiences. The Tribunal's recognition that they are victims of legal crime should help restoring their sense of justice. This point was emphasised by Lepa Mladjenovic, an expert witness on PTSD (post traumatic stress disorder), who suggested that the state's admittance of its responsibility and punishment of those who are responsible, is extremely important for the recovery from trauma caused by rape in a war.¹²

The new focus on punishment implies the need to problematise and redefine Japan's past, emphasising its responsibility for wartime atrocities. Japan, unlike Germany, has never attempted to prosecute war criminals.

¹⁰ The Korean Council for Women Drafted from Military Sexual Slavery by Japan, *Past, Present and Future Activities to Solve the Japanese Military Sexual Slavery Issue*, Seoul, 2000, p. 38.

¹¹ Gay McDougal, 'Final Report of the Special Rapporteur on Systematic Rape, Sexual Slavery and Slavery-like Practices During Armed Conflict, including Internal Conflict,' (UN doc.E/CN.4/Sub.2/1998/13, 1998).

¹² Lepa Mladjenovic, 10th December, 2000. Expert Testimony, Tribunal.

Many post-war generation Japanese view the war as a thing of the past, completely separate from and irrelevant to their existence. The call for punishment challenges this 'collective amnesia' as well as the persisting image that the Japanese people were the real victims of the war, an image constructed around the symbol of the A-bombs.

International Community versus the Japanese Government

Perhaps the greatest achievement of the Tribunal was that it put together the voices of the survivors and their supporters from several different countries, weaving them into a single challenge to the Japanese government. More than sixty survivors gathered in Tokyo for this occasion, including those from North Korea and East Timor, whose stories have been little known so far. Due to their advanced ages, it is likely that this Tribunal will be the only occasion that so many former 'comfort women' ever gather in one place. Indeed, some of the survivors had passed away since their testimony was videotaped for the Tribunal. In the past, a number of individual stories of the former 'comfort women' had been collected and published.¹³ The Tribunal provided an authoritative setting, where the victims' stories were validated in the context of an international court case and used as evidence to prove the legal responsibility of the Japanese State.

The unified voice of the victims, prosecutors, expert witnesses and judges clearly articulated what Japan did then and what it should do now, from both feminist and legal perspectives. The euphemism 'comfort' was rejected, and words such as 'survivors,' 'victims,' 'trafficking,' 'torture,' 'rape' and 'sexual slavery' were constantly used. The fact that not only lawyers and expert witnesses but also the victims themselves use these terms, illustrates the dominance of feminist and legal discourse within the social movement surrounding the 'comfort women.' The united voice that emerged from the Tribunal strongly criticised the Japanese government's distinction between moral and legal responsibility, and demanded that the government admit full legal responsibility. The use of the Asian Women's Fund as a means of reparation was repeatedly and clearly rejected; it was stated that no other source could replace the State in aiding the victims' recovery from the psychological disorder caused by sexual violence in war. Atonement payments and apologies, without admission of legal responsibility, were considered to be completely inadequate to resolve the issue.

The voice of the Tribunal was represented as that of the 'international community' set against the Japanese government. At one level, this

¹³ Hirabayashi Hisae, *Kyousei-renkou to Jūgun Ianfu*, Tokyo, Nihon Tosho Sentā, 1992; Ustina Dolgopol and Snehal Paranjape, *Comfort Women: An Unfinished Ordeal*, Geneva, International Commission of Jurists, 1994; Ustina Dsolgopol, *Women's Voices, Women's Pain*, Canberra, Peace Research Centre, 1994; George L. Hicks, *The Comfort Women: The Sex Slaves of the Imperial Japanese Forces*, St. Leonards, Allen and Unwin, 1995; Yoshimi Yoshiaki, *Jūgun Ianfu*, Tokyo, Iwanami Shinsho, 1995; and David A. Schmidt, *Ianfu: The Comfort Women of the Japanese Imperial Army of the Pacific War: Broken Silence*, Lewiston, Edwin Mellon Press, 2000.

'international community' was represented as that of the 'people,' rather than an official body with formal authority. It was emphasised that the Tribunal was organised by 'women,' 'citizens,' 'human rights organisations,' or 'NGOs,' reflecting the 'voices of global civil society.'¹⁴ The proceedings revealed the existence of an international network of human rights activists, feminists and survivors, sharing resources, ideas and information. The prosecuting teams were able to make extensive use of evidence unearthed by Japanese scholars and activists. The influence of the international network was evident in the uniform language used at the Tribunal. International contacts meant that the response to the Asian Women's Fund also was internationally co-ordinated. One Dutch survivor mentioned that she decided to oppose the Fund after a Korean feminist-scholar sent papers explaining its derogatory nature.¹⁵ Four judges from four countries, eight prosecuting teams from eight regions, three convenors from three countries, and members of supporting NGOs from all over the world, also showed the 'international solidarity' of people behind the Tribunal.

At the second level, the voice of the 'international community' was represented as that of a more formal international body, the United Nations. The Tribunal criticised the Japanese government for having ignored the investigations of two UN special Rapporteurs and the formal exhortations of the international community. Its findings and recommendations endorsed those in the UN reports. Whilst there was no formal connection with the UN, some of the most prominent figures who took part in the Tribunal as the judges, chief prosecutors and expert witnesses are closely associated with the UN and associated organisations. Gabrielle McDonald, who acted as the chief judge, was the former President of the International War Crimes Tribunal on the Former Yugoslavia. Gay McDougall, who was invited as an expert witness, was a UN special Rapporteur. Patricia Viseur-Sellers, who acted as the chief prosecutor, was a Legal Adviser for Gender-Related Crimes in the Office of the Prosecutor for the International Tribunal for the Former Yugoslavia, and the Rwanda Tribunal. In particular, Viseur-Sellers had explicitly commented, prior to the Tribunal, that the International Tribunal for the Former Yugoslavia had given her formal permission to attend the Women's Tribunal, and that this meant that the International Tribunal for the Former Yugoslavia publicly supported the Women's Tribunal.¹⁶ The informal association of the Tribunal and the UN and the involvement of key figures currently involved in international war crimes investigations effectively increased the legitimacy and authority of the Tribunal's proceedings.

At the third level, the 'international community' spoke from the position of the law as the universal justice. At the Tribunal, Japan's position was refuted from the superior position of the 'international justice,' embodied in international human rights and humanitarian law. The Tribunal responded

¹⁴ 'The Charter of the tribunal,' Women's International War Crimes Tribunal on Japan's Military Sexual Slavery (Tribunal pamphlet), p.13. The Charter is also available at <www.iccwomen.org/tokyo/>, <www.jca.apc.org/vaww-net-japan>, and <www.whrnet.org>. The full content of the final judgement was made available on the 8th March, 2001, International Women's Day.

¹⁵ Jan Ruff-O'Herne, 10th December, 2000. Tribunal.

¹⁶ See "'Shakai-teki na shi'" o maneku sei-doreisei' (Sexual slavery leads to a 'social death') *Sekai*, December, 2000, p.133.

to the Japanese government's position that the 'comfort women' system was not illegal by 1945 and that laws should not be applied retrospectively by stating that systematic rape and enslavement constitute crimes against humanity, and that Japan had violated a number of already-existing treaty obligations as well as the norms of international customary law. In particular, the Tribunal found that although Japan had not ratified the 1926 Slavery Convention, the idea expressed there had already become an international customary law, from which Japan was not exempt. The Tribunal also pointed out that when a state violates international obligations, regardless of the domestic law, the act is still illegal under international law. In all these findings the dominance of the international law over domestic law was recognised, especially by utilising the notion of crimes against humanity. Japan's position was then characterised as the denial of universal justice.

What became visible in the Tribunal, then, is the network of feminists and activists working on the 'comfort women' issue, which has created a discourse of 'international common sense' regarding the 'comfort women' issue. Appealing to the higher order of the international community and universal justice, they tried to put strong pressure on the Japanese government to take steps to resolve the issue. In the early 90s, when some NGOs began calling for Japan's legal responsibility in support of the former 'comfort women,' their voice was not strong enough to influence the Japanese government. Since that time, the NGOs have brought the issue to the attention of the United Nations and have been developing an international legal approach to the issue. In the post-Cold War world, where the concept of human rights has become a principle of a new world order, the role of the UN human rights commission and associated human rights NGOs are becoming increasingly important. The role of NGOs in the United Nations' efforts in the field of human rights is apparent in their campaigns for implementation of the Universal Declaration of Human Rights.¹⁷ The Tribunal demonstrates this new collaboration between the United Nations and international human rights NGOs. It has established that the 'comfort women' issue is a matter of neither the survivors against the Japanese government, nor some NGOs against Japanese government, but the 'international community' and 'international justice' against the Japanese government. Throughout the Tribunal, it was repeatedly stated that Japan was 'internationally responsible' for what was done, that reparations were an 'international obligation,' and that Japan's accountability was to the 'peoples of the world.' Through these and other similar phrases, a clear image came through that Japan is refusing to accept international justice, the guardian of which are the United Nations, International law, and international NGOs. This image was then sent out to the world through various internet sites, mailing lists and international media, providing further international pressure on the Japanese government.

The Tribunal has contributed to the affirmation and development of the international humanitarian law. To use the words of the convenors, the Tribunal was an attempt to 'push the law to the limit of humanity.'¹⁸ International humanitarian law and its central concept, crimes against humanity, are relatively new, and their interpretation and application are still

¹⁷ William Korey *NGOs and the Declaration of Human Rights*, New York, St Martins Press, 1998.

being developed. The Tribunal was an intervention in this process by feminists and human rights activists with the aim of establishing a legal basis for the prosecution of sexual violence against women in wars.

The Tribunal affirmed a number of principles of humanitarian law that could influence its future applications. It recognised individuals' right to action under international law, and suggested that time limit does not apply to crimes against humanity. It also pointed out that states could not agree by treaty to waive the liability of another state for crimes against humanity. The Tribunal found that the San Francisco Peace Treaties and bilateral treaties between Japan and other nation-states have not diminished the individual right to compensation, contrary to the claims of the Japanese government. The Tribunal also pointed out the failure of post-war Japanese governments to prosecute those who are responsible and to make reparations, and that this post-war neglect, in addition to the wartime violence itself, constitutes a legal basis for compensation. These principles will allow humanitarian law to become a powerful tool in future struggles against wartime sexual violence, and thus aid other compensation struggles from victims of Japanese militarism.

Conclusion

The Tribunal has firmly located the 'comfort women' in feminist discourse on sexual violence against women in wars, making it into a universal women's issue of contemporary and international significance. It has contributed to the definition of rape as war crime under the international law, and introduced the concept of punishment into the supporting movements. Through feminist and legal perspectives, it has created a unity amongst the survivors and their supporters across national borders, and mounted a powerful legal challenge to the Japanese government.

It should be also noted that behind the apparent unity of the voice of the Tribunal, some differences persisted, especially in the testimony of the survivors. On the one hand, women from Korea, the Philippines, Taiwan and the Netherlands, spoke in unison in their representation of themselves as victims of sexual slavery, their demand for 'legal' state responsibility, and their rejecting of the Asian Women's Fund. On the other hand, for example, the Korean survivors' articulation of their experience in terms of 'ethnic genocide' and colonial memory was clearly different from the Dutch survivor's narrative centering on Christianity and the rule of law. Both the Indonesian and East Timor prosecution teams accused the Japanese government, but when the East Timorese lawyer made a strong appeal to the audience that the Indonesian military destroyed evidence for East Timorese 'comfort women,' a rupture appeared in the unified representation of the 'victim' subject. Whilst the Tribunal's official narrative separated the Japanese State from Japanese people, holding only the State and its leaders responsible, some victims made it clear that they did not feel that way, stating that Japanese 'people' should apologise or that they could never forget or forgive the Japanese soldiers.

¹⁸ Yun Chung Ok, 8th December, 2000. Opening remarks, Tribunal.

The predominantly legal discourse and procedure of the Tribunal sometimes seemed unable to contain the witnesses' experience, bodies, and voices within that framework. Some witnesses were unfamiliar with the legal question, 'will you tell the truth?' and were offended. One woman retorted angrily, 'Why do you think I do not tell the truth?' and kept talking about how Japanese people should apologise, how the Japanese took her away, before the lawyers finally extracted a simple 'yes.' One witness suddenly stood up in the middle of the session, and was told by the judge to remain seated. What she said at that point of her speech was not translated, but her voice, expression, and sheer presence created a strong impression – perhaps even more so than the detailed legal discussion of the Tribunal. In so far as the Tribunal took the form of a formal court case, what it needed was only what was legally necessary to prove the responsibility of the Japanese state; not more, not less. The victims were there primarily as the 'witness.' They were fashioned into a legal subject. But now and again one could sense the existence of something that cannot be captured within the somewhat dry, rational legal discourse and its procedures. It is very difficult to describe the moments when the survivors spoke of their experience of rape in their own personal and emotional languages, mixing anger, desperation, sadness, and strength.

This does not mean that the organisers or the judges were oblivious to the effect of the power of the legal/feminist discourse exercised over the victims during the Tribunal. Far from it, recognising and respecting the victim's voice, the judges began the final judgement by reading out long quotes from the survivors' testimonies. It was an attempt to tell in the words of the victims, to let the subaltern speak. Still, those elements in testimony that resisted and disrupted the unifying narrative of the Tribunal seem to suggest something of importance. That is, the dominance of legal discourse within the current social movement surrounding the 'comfort women' may mean the forgetting of, or at least the difficulty in addressing, certain issues beyond simply defining what constitutes a legal crime. These issues may include the question of ethical and political wrongs as opposed to legal crime, or the question of subject-formation of national and historical apology. They may also include the question of the hierarchical representations within the category of the 'comfort women' – between the ideal-type victim (an innocent young virgin who was forcefully taken) and a deviation from this. The construction and selection of any one narrative as *the* representation of collective suffering inevitably represses other narratives and other voices. In this sense, the position of the universal justice constructed in the Tribunal may also entail some foundational violence. To what extent the post-Tribunal NGO activities can and will address this matter depends on the Japanese response to the demand for a legal solution. For that, we will have to wait for future developments.