

Recommendations on the Japanese Military Sexual Slavery (‘comfort women’) Issue by UN Human Rights Bodies

2015

Recommendations and Reports

- Committee Against Torture (CAT)
- Human Rights Committee on the International Covenant on Civil and Political Rights(CCPR)
- Committee on the Elimination of All Forms of Discrimination Against Women(CEDAW)
- Committee on Economic, Social and Cultural Rights(CESCR)
- Committee on the Elimination of Racial Discrimination (CERD)
- Universal Periodic Review(UPR)
- Special Rapporteur on violence against women, its causes and consequences
- Special Rapporteur on Systematic rape, sexual slavery and slavery-like practices during armed conflict
- Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Statements and Messages

- High Commissioner for Human Rights
- Special Rapporteurs on the promotion of truth, justice, reparation and guarantees of non-recurrence
- Special Rapporteur on violence against women, its causes and consequences



The Korean Council for the Women Drafted for Military Sexual Slavery by Japan

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Recommendations and Reports (excerpts)

Committee Against Torture (CAT)

2007 (CAT/C/JPN/CO/1);

12: The Committee notes with concern that acts amounting to torture and ill-treatment are subject to a statute of limitations. The Committee is concerned that the statute of limitations for acts amounting to torture and ill-treatment may prevent investigation, prosecution and punishment of these grave crimes. In particular, the Committee regrets the dismissal of cases filed by victims of military sexual slavery during the Second World War, the so-called “comfort women”, for reasons related to statutory limitations.

The State Party should review its rules and provisions on the statute of limitations and bring them fully in line with its obligations under the Convention, so that acts amounting to torture and ill-treatment, including attempts to commit torture and acts by any person which constitute complicity or participation in torture, can be investigated, prosecuted and punished without time limitations.

24: The Committee is concerned at the inadequate remedies for the victims of sexual violence, including in particular survivors of Japan’s military sexual slavery practices during the Second World War and the failure to carry out effective educational and other measures to prevent sexual violence- and gender-based breaches of the Convention. The survivors of the wartime abuses, acknowledged by the State party representative as having suffered ‘incurable wounds’, experience continuing abuse and re-traumatization as a result of the State party’s official denial of the facts, concealment or failure to disclose other facts, failure to prosecute those criminally responsible for acts of torture, and failure to provide adequate rehabilitation to the victims and survivors.

The Committee considers that both education (article 10 of the Convention) and remedial measures (article 14 of the Convention) are themselves a means of preventing further violations of the State party’s obligations in this respect under the Convention. Continuing official denial, failure to prosecute, and failure to provide adequate rehabilitation all contribute to a failure of the State party to meet its obligations under the Convention to prevent torture and ill-treatment, including through educational and rehabilitation measures. The Committee recommends that the State party take measures to provide education to address the discriminatory roots of sexual and gender-based violations, and provide rehabilitation measures to the victims, including steps to prevent impunity.

2013 (CAT/C/JPN/CO/2)

Victims of military sexual slavery

19. Notwithstanding the information provided by the State party concerning some steps taken to acknowledge the abuses against victims of Japan’s military sexual slavery practices during the Second World War, the so-called “comfort women”, the Committee remains deeply concerned at the State party’s failure to meet its obligations under the Convention while addressing this matter, in particular in relation to:

(a) Failure to provide adequate redress and rehabilitation to the victims. The Committee regrets that the compensation, financed by private donations rather than public funds, was insufficient and inadequate;

(b) Failure to prosecute perpetrators of such acts of torture and bring them to justice. The Committee recalls that on account of the continuous nature of the effects of torture, statutes of limitations should not be applicable as these deprive victims of the redress, compensation, and rehabilitation due to them;

(c) Concealment or failure to disclose related facts and materials;

(d) Continuing official denial of the facts and retraumatization of the victims by high-level national and local officials and politicians, including several diet members;

(e) Failure to carry out effective educational measures to prevent gender-based breaches of the Convention, as illustrated, inter alia, by a decrease in references to this issue in school history textbooks;

(f) The State party's rejection of several recommendations relevant to this issue, made in the context of the universal periodic review (A/HRC/22/14/Add.1, paras.147.145 ff.), which are akin to recommendations made by the Committee (para. 24) and many other United Nations human rights mechanisms, inter alia, the Human Rights Committee (CCPR/C/JPN/CO/5, para. 22), the Committee on the Elimination of Discrimination against Women (CEDAW/C/JPN/CO/6, para. 38), the Committee on Economic, Social and Cultural Rights (E/C.12/JPN/CO/3, para. 26) and several special procedures mandate holders of the Human Rights Council (arts. 1, 2, 4, 10, 14 and 16).

Recalling its general comment No. 3 (2012), the Committee urges the State party to take immediate and effective legislative and administrative measures to find a victim-centred resolution for the issues of “comfort women”, in particular, by:

(a) Publicly acknowledging legal responsibility for the crimes of sexual slavery, and prosecuting and punishing perpetrators with appropriate penalties;

(b) Refuting attempts to deny the facts by government authorities and public figures and to re-traumatize the victims through such repeated denials;

(c) Disclosing related materials, and investigating the facts thoroughly;

(d) Recognizing the victim's right to redress, and accordingly providing them full and effective redress and reparation, including compensation, satisfaction and the means for as full rehabilitation as possible;

(e) Educating the general public about the issue and include the events in all history textbooks, as a means of preventing further violations of the State party's obligations under the Convention.

Human Rights Committee on the International Covenant on Civil and Political Rights(CCPR)

2008 (CCPR/C/JPN/CO/5);

22: The Committee notes with concern that the State party has still not accepted its responsibility for the “comfort women” system during the Second World War, that perpetrators have not been prosecuted, that the compensation provided to victims is financed by private donations rather than public funds and is insufficient, that few history textbooks contain references to the “comfort women” issue, and that some politicians and mass media continue to defame victims or to deny the events (art. 7 and 8).

The State party should accept legal responsibility and apologize unreservedly for the “comfort women” system in a way that is acceptable to the majority of victims and restores their dignity, prosecute perpetrators who are still alive, take immediate and effective legislative and administrative measures to compensate adequately all survivors as a matter of right, educate students and the general public about the issue, and refute and sanction any attempt to defame victims or to deny the events.

2014 (CCPR/C/JPN/CO/6)

- **Sexual slavery practices against “comfort women”**

14. The Committee is concerned by the State party’s contradictory position that the “comfort women” were not “forcibly deported” by Japanese military during wartime but that the “recruitment, transportation and management” of women in comfort stations was done in many cases against their will, through coercion and intimidation by the military or entities acting on behalf of the military. The Committee considers that any such acts carried out against the will of the victims are sufficient to consider them as human rights violations involving the direct legal responsibility of the State party. The Committee is also concerned about revictimization of the former “comfort women” by attacks on their reputations, including by public officials, and some that are encouraged by the State party’s equivocal position. The Committee takes into account information that all claims for reparation brought by victims before Japanese courts have been dismissed, and all complaints to seek criminal investigation and prosecution against perpetrators have been rejected on the ground of the statute of limitations. The Committee considers that this situation reflects ongoing violations of the victims’ human rights, as well as a lack of effective remedies available to them as victims of past human rights violations (arts. 2, 7 and 8).

The State party should take immediate and effective legislative and administrative measures to ensure:

- (a) That all allegations of sexual slavery or other human rights violations perpetrated by the Japanese military during wartime against the “comfort women” are effectively, independently and impartially investigated and that perpetrators are prosecuted and, if found guilty, punished;
- (b) Access to justice and full reparation to victims and their families;
- (c) The disclosure of all available evidence;
- (d) Education of students and the general public about the issue, including adequate references in textbooks;
- (e) The expression of a public apology and official recognition of the responsibility of the State party;
- (f) Condemnation of any attempts to defame victims or to deny the events.

Committee on the Elimination of All Forms of Discrimination Against Women(CEDAW)

1994(A/49/38);

576. In additional comments, members observed that the report included very little information about cases of Asian women who had raised issues of exploitation against Japan. Reference was made to cases of sex tourism, the abuse of other Asian women in the Japanese sex industry, mail-order brides and the exploitation of women through forays of Japanese men into other Asian countries. The Government was urged to discourage sex tourism. Particular reference was made to the fate of women who had been forced into prostitution by Japanese men during the Second World War, often referred to as “comfort women”. It was suggested by some members that the Government should pay overall compensation to the surviving victims without their having to go to court individually, and create a women’s fund in memory of those who had died in the meantime, thus meeting its commitment to the women of Asia. They requested an explanation about the measures the Government was planning to take to assist those women.

2003(A/58/38);

361. ...While appreciative of the comprehensive information provided by the State party with respect to the measures it has taken before and after the Committee’s consideration of the second and third periodic reports of the State party with respect to the issue of wartime “comfort women,” the Committee notes the ongoing concerns about the issue.

362. ...The Committee recommends that the State party endeavour to find a lasting solution for the

matter of “wartime comfort women”.

2009 (CEDAW/C/JPN/CO/6);

37. The Committee notes that some steps were taken by the State party to address the situation of “comfort women” but regrets the State party’s failure to find a lasting solution for the situation of “comfort women” victimized during the Second World War and expresses concern at the deletion of references to this issue in school textbooks.

38. The Committee reiterates its recommendation that the State party urgently endeavour to find a lasting solution for the situation of “comfort women” which would include the compensation of victims, the prosecution of perpetrators and the education of the public about these crimes.

Committee on Economic, Social and Cultural Rights(CESCR)

2001(E/C.12/1/Add.67)

26. The Committee expresses its concern 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.

situation of “comfort women” but regrets the State party’s failure to find a lasting solution for the situation of “comfort women” victimized during the Second World War and expresses concern at the deletion of references to this issue in school textbooks.

53. The Committee strongly recommends 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.

2013(E/C.12/JPN/CO/3)

26. The Committee is concerned about the lasting negative effects of the exploitation to which “comfort women” were subjected on their enjoyment of economic, social and cultural rights and their entitlement to reparation (arts. 11 and 3).

The Committee recommends that the State party take all necessary measures to address the lasting effects of the exploitation and to guarantee the enjoyment of economic, social and cultural rights by “comfort women”. The Committee also recommends that the State party educate the public on the exploitation of “comfort women” so as to prevent hate speech and other manifestations of hatred that stigmatize them.

Committee on the Elimination of Racial Discrimination (CERD)

2014(CERD/C/JPN/CO/7-9)

Comfort women

18. The Committee notes information provided by the delegation of the State party about efforts made

to solve the issue of foreign “comfort women” who were sexually exploited by the Japanese military during the World War II. The Committee also notes information on compensation provided through the Asian Women Fund, established by the State party in 1995, and government expressions of apology, including the apology of the Prime Minister of Japan in 2001. Bearing in mind that human rights violations against surviving “comfort women” persist as long as their rights to justice and reparation are not fully realized, the Committee is concerned at reports that most of the “comfort women” have never received recognition, apologies or any kind of compensation (art. 2, 5).

The Committee urges that the State party take immediate action to:

(a) Conclude investigations on violations of the rights of comfort women by the Japanese military, and bring to justice those responsible for human rights violations;

(b) Pursue a comprehensive, impartial and lasting resolution of the issue of comfort women, including expressions of sincere apology and the provision of adequate reparation to all surviving comfort women or to their families;

(c) Condemn any attempts at defamation or denial of such events.

Universal Periodic Review(UPR)

2008(A/HRC/8/44)

I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

B. Interactive dialogue and responses by the State under review

15. The Democratic People’s Republic of Korea said that military sexual slavery represents crimes against humanity with no statutory limitations and referred to the resolutions of human rights mechanisms which called on Japan to acknowledge legal responsibility for the Japanese Military Sexual Slavery of 200,000 people, bring the perpetrators to justice and compensate the victims. Reference was also made to the serious concerns expressed and recommendations made by two human rights treaty bodies and to the resolutions adopted by parliaments of many countries and the European Parliament, which called on Japan to address this problem. The Delegation recommended that Japan take concrete measures to address, once and for all, the Japanese Military Sexual Slavery and other violations committed in the past in other countries, including Korea.

18. China welcomed the implementation of comprehensive legal support and awareness activities, including on child abuse and child pornography. China also referred to some historic issues mentioned in reports of the Special Rapporteur on violence against women, the Committee on the Elimination of Discrimination against Women, the Committee against Torture and several NGOs. It also noted that the Special Rapporteur on contemporary forms of racism has requested the Japanese Government to eliminate racial discrimination and xenophobia. China hoped that the Japanese Government will seriously address those concerns and adopt effective measures to implement the recommendations of those mechanisms.

26...On the issue of “comfort women”, France indicated that in the light of the many recommendations put forward by several committees on this subject, it would like to encourage Japan to find a long-lasting solution to this problem of women who were forced into prostitution during the Second World War.

32. The Netherlands highlighted Japan’s accession to the International Criminal Court and asked how

it will respond to the recommendations made by the international community and various human rights mechanisms with regard to Japan's military sexual slavery practices during the Second World War...

37. The Republic of Korea...referred to concerns expressed by various human rights mechanisms about the issue of "comfort women", which they considered had not been adequately addressed and their recommendations to Japan on this matter. The Republic of Korea called on the Government to respond sincerely to the recommendations of the United Nations mechanisms (Special Rapporteur on violence against women, the Committee on the Elimination of Discrimination against Women and the Committee against Torture) on the issue of "comfort women" during the Second World War. It noted with concern the conclusion of the Special Rapporteur on contemporary forms of racism that racial discrimination and xenophobia do exist in Japan, in particular against three groups, including the Korean minority. Noting the recommendation in the United Nations report regarding the revision of history textbooks, the Republic of Korea wished to emphasize the importance of correct history education in Japan, which is a crucial factor in fostering future-oriented relations with neighbouring countries.

45. ... Japan referred to a statement released by the Government in August 1993, which recognized that the issue of "comfort women" had severely injured the honour and dignity of many women, and extended apologies and remorse. Japan stressed that the statement was its consistent basic position. Japan stated that it has been dealing with the issue of reparation, property and claims concerning the Second World War, including the issue of "comfort women", in good faith, pursuant to the San Francisco peace treaty, bilateral peace treaties, and other relevant agreements. In this way, such issues, including that of "comfort women", have been legally settled with the countries of the parties to these treaties. It also mentioned the activities of the Asian Women's Fund (AWF), which was established in 1995 and dissolved in March 2007, and its efforts for the projects of the AWF to facilitate feasible remedies for former "comfort women" who had reached advanced ages by such means as contributing about 4.8 billion yen from its national budget. Japan stated that letters from the Prime Minister were delivered to the former "comfort women" through the activities of the AWF. Japan stressed that it would continue its efforts to promote understanding of the sympathy of the Japanese people represented by the AWF and actively cooperate in the activities for caring the former "comfort women" succeeding the purpose of the AWF. The Government expressed its readiness to continue to have a dialogue with the treaty bodies on this issue.

II. CONCLUSIONS AND/OR RECOMMENDATIONS

5. Respond sincerely to the recommendations of the United Nations mechanisms (Special Rapporteur on violence against women, the Committee on the Elimination of Discrimination against Women and the Committee against Torture) on the issue of "comfort women" during the Second World War (Republic of Korea);

18. Take concrete measures to address, once and for all, the Japanese Military Sexual Slavery and other violations committed in the past in other countries including Korea (Democratic People's Republic of Korea);

2012(A/HRC/22/14)

I. Summary of the proceedings of the review process

B. Interactive dialogue and responses by the State under review

38. The Netherlands regretted that the issue of "comfort women" during World War II was no longer part of the school curricula. This eliminated an instrument to raise awareness on past atrocities and a discussion of the relevant rights involved. It made recommendations.

46. The Republic of Korea... noted treaty body and stakeholder concerns that Japan had not taken effective measures to address the issue of “comfort women” victims during World War II. It made recommendations.

58. Timor-Leste...encouraged Japan to pursue its dialogue with the international community to reach understanding, possibly entailing direct, genuine communication with survivors of past atrocities.

59. The Government of Japan recognizes that the issue of “comfort women” was a grave affront to the honour and dignity of a large number of women, and has extended its sincere apologies and remorse to all those known as “comfort women” who suffered immeasurable pain and incurable physical and psychological wounds.

60. The issue of reparations, property and claims concerning the Second World War has been legally settled with the countries that are parties to the San Francisco Peace Treaty, bilateral treaties, agreements and instruments.

61. In 1995, the Government of Japan, together with the people of Japan, jointly established the Asian Women’s Fund to facilitate support for former “comfort women” who had by then reached an advanced age. The Government of Japan has extended its maximum support to the activities of the Fund, including the health and welfare assistance projects as well as the provision of “atonement money” to former “comfort women.” The Government of Japan will continue its utmost efforts to widen further recognition of the earnest feelings of the people of Japan as reflected through the activities of the Fund and will continue to follow up on the activities of the Fund.

62. Regarding the education curricula, Japan indicated that the Courses of Study refers to the Second World War, mentioning in the commentary of it that Japan has inflicted tremendous losses, especially to those in Asia. Respect for the opposite sex and respect of human rights is also part of the Courses of Study.

113. China noted Japan’s gender equality plan and campaign to eliminate violence against women, but expressed concern over inadequate measures implementing earlier UPR recommendations. It raised concerns over comfort women. China made recommendations.

118. Democratic People’s Republic of Korea was concerned at the persistent denial of state legal responsibility for Japan’s past crimes, and the continued distortion of history in Japan.

133. Malaysia... hoped that Japan would allow its younger generation to learn from its past history.

135. Responding to additional questions, Japan reiterated its aforementioned position on the comfort women.

136. Concerning the Second World War, the Government of Japan indicated that it has expressed deep remorse for having caused tremendous damage and suffering to the people of many countries, particularly those of Asian nations in the past, and its determination to never again repeat such a calamitous history at every opportunity including in the “Statements by the Prime Minister”.

II. Conclusions and/or recommendations

147.145. Recognize its legal responsibility for the issue of the so-called ‘comfort women’ and take appropriate measures acceptable to the victims, as recommended by the relevant international community (Republic of Korea);

147.146. Face up to and reflect on its past and present a responsible interface to the international community by making apologies on the issue of comfort women and giving compensation to its victims (China);

147.147. Acknowledge its responsibility for the issue of "comfort women" used during World War II, and take steps to restore the dignity of victims and compensate them adequately (Costa Rica);

147.148. Accept legal responsibility for and address, once and for all, the Japanese military sexual slavery and other violations committed in the past in other Asian countries including Korea (Democratic People's Republic of Korea);

147.158. Ensure that future generations continue to be informed of all aspects of their history, by taking measures such as the introduction of the topic of comfort women in textbooks for school children (The Netherlands);

**Special Rapporteur on violence against women, its causes and consequences,
Radhika Coomaraswamy**

**Further Promotion and Encouragement of Human Rights and Fundamental Freedoms,
including the Question of the Programme and Methods of Work of the Commission**

**Alternative approaches and ways and means within the united nations system for improving the
effective enjoyment of human rights and fundamental freedoms**

**Preliminary report submitted by the Special Rapporteur on violence against women, its causes
and consequences, Ms. Radhika Coomaraswamy, in accordance with Commission on Human
Rights resolution 1994/45
(E/CN.4/1995/42)**

2. Violence against women in situations of armed conflict

(b) Nature of abuse

273. For the first time also, after nearly 50 years, Korean women survivors of the Second World War used as "comfort women" by the Japanese imperial forces have broken their silence and come forward to tell their stories. It is estimated that more than 200,000 Asian women, mainly Koreans, were forcibly recruited by the Japanese army command to serve as sexual slaves of soldiers in brothels, so-called "military comfort houses".

(c) Motives

278. Distinctive patterns of rape have been discernible in situations of armed conflict, whether in Korea during the Second World War or in the territories of the former Yugoslavia. Women are abused and raped by looters and civilians, sometimes people known to them, prior to military action in their own homes, or in public in their villages to serve as a deterrent for any resistance to the forthcoming military action, to suffocate dissent and to force collaboration. Upon the arrival of the military, the women are raped, sometimes killed and otherwise deported to detention camps. During deportation, women also may have to endure physical abuse. In the detention camps, they are once again raped and are sometimes required to serve as sexual slaves to the enemy soldiers, often having to endure other forms of sexual torture, beating and threats. Furthermore, the detention of women in hotels or similar facilities for the sole purpose of sexually entertaining soldiers, members of the camps and surrounding

enemy communities has also been documented. / S/1994/674, paragraph 249./

(e) "Comfort women"

286. It is precisely this question of impunity that the former "comfort women" victims of the Second World War are addressing in their recent testimonies. / For a detailed study see Karen Parker and Jennifer F. Chew "Compensation for Japan's WW II war rape victims", in *Hastings International and Comparative Review*, Vol. 17, No.3, Spring 1994./

287. Between 1932 and 1945, the Japanese imperial forces are reported to have practiced a policy of systematic mobilization of women of colonized or occupied areas by force, pretext or kidnapping, in order to use them as sexual slaves for the armed forces. Most of the women were young girls between the ages of 11 and 20.

288. The "comfort women" or "jugun ianfu" had to endure multiple rape on an everyday basis in the "military comfort houses", which were strictly regulated by the military and set up in such places as north-east China or Manchuria, other parts of China, the Philippines, Korea, and the Dutch East Indies, Malaysia, Indonesia. Allegedly, soldiers were encouraged by their commanding officers to use the "comfort women" facilities rather than civilian brothels "for the purpose of stabilizing soldiers' psychology, encouraging their spirit and protecting them from venereal infections", as well as a measure to prevent looting and widespread raping during military attacks on villages. / Paper prepared by the non-governmental organization Korean Women Drafted for Military Sexual Slavery by Japan, Seoul, August 1994./

289. It is only after having overcome their own sense of guilt and shame, as well as the social stigma associated with being a victim of rape, and only after the discovery of official documentary evidence in the Japanese national archives of the "comfort women" operation, that the few survivors have finally spoken out. They are demanding (a) disclosure by the Government of Japan of all records and information in its possession concerning the issue, (b) an official public apology recognizing Japanese guilt, (c) the provision of due reparation to the surviving victims and their families and (d) the punishment of the perpetrators. The Filipino and Korean "comfort women" have also filed law suits against the Government of Japan. These demands may be seen as setting the framework for future action with regard to State accountability for violence against women in times of armed conflict.

290. In July 1992, an apology was delivered by the Japanese Prime Minister, admitting that the Japanese military had forced tens of thousands of women to work as sex slaves in a vast network of Government-run brothels. However, the question of compensation has still to be determined and the act has still to be recognized as a crime under international humanitarian law.

291. Nearly 50 years have passed since the end of the Second World War. And yet this issue should not be considered a matter of the past but of today. It is a crucial question that would set a legal precedent at the international level for the prosecution of perpetrators of systematic rape and sexual slavery in times of armed conflict. A symbolic gesture of compensation would introduce a remedy of "compensation" for women victims of violence perpetrated during times of armed conflict.

292. ... The Special Rapporteur on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, Mr. T. van Boven, has said "there is no doubt that the obligation to provide for compensation as a means to repair a wrongful act or a

wrongful situation is a well established principle in international law". / E/CN.4/Sub.2/1990/10, para. 33. /

Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, in accordance with Commission on Human Rights resolution 1994/45

**Report on the mission to the Democratic People's Republic of Korea, the Republic of Korea and Japan on the issue of military sexual slavery in wartime
(E/CN.4/1996/53/Add.1)**

IX. RECOMMENDATIONS

136. The Special Rapporteur wishes to make the following recommendations which aim at the discharge of her mandate in a spirit of cooperation with the Governments concerned and at trying to understand the phenomenon of military sexual slavery in wartime within the wider framework of violence against women, its causes and consequences. The Special Rapporteur counts, in particular, on the cooperation of the Government of Japan, which has already shown, in discussions with the Special Rapporteur, its openness and willingness to act to render justice to the few surviving women victims of military sexual slavery carried out by the Japanese Imperial Army.

A. At the national level

137. The Government of Japan should:

(a) Acknowledge that the system of comfort stations set up by the Japanese Imperial Army during the Second World War was a violation of its obligations under international law and accept legal responsibility for that violation;

(b) Pay compensation to individual victims of Japanese military sexual slavery according to principles outlined by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms. A special administrative tribunal for this purpose should be set up with a limited time-frame since many of the victims are of a very advanced age;

(c) Make a full disclosure of documents and materials in its possession with regard to comfort stations and other related activities of the Japanese Imperial Army during the Second World War;

(d) Make a public apology in writing to individual women who have come forward and can be substantiated as women victims of Japanese military sexual slavery;

(e) Raise awareness of these issues by amending educational curricula to reflect historical realities;

(f) Identify and punish, as far as possible, perpetrators involved in the recruitment and institutionalization of comfort stations during the Second World War.

B. At the international level

138. Non-governmental organizations working at the international level should continue to raise these

issues within the United Nations system. There should also be an attempt to seek an advisory opinion of the International Court of Justice or the Permanent Court of Arbitration.

139. The Governments of the Democratic People's Republic of Korea and the Republic of Korea may consider requesting the International Court of Justice to help resolve the legal issues concerning Japanese responsibility and payment of compensation for the "comfort women".

140. The Special Rapporteur urges the Government of Japan in particular to take into account and act upon the above recommendations at the soonest possible time, bearing in mind the advanced age of the surviving women, as well as the fact that 1995 is the fiftieth anniversary of the ending of the Second World War. The Special Rapporteur feels that not only have fifty years passed since the end of the war but that it is time to restore the dignity of those women who have suffered so much.

Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission resolution 1997/44 (1998, E/CN.4/1998/54)

A. Cases of violence against women in times of armed conflict

Japan: the case of Chong, a former "comfort woman" during the Second World War

1. "One day in June, at the age of 13, I had to prepare lunch for my parents who were working in the field and so I went to the village well to fetch water. A Japanese soldier surprised me there and took me away I was taken to the police station in a truck where I was raped by several policemen. When I shouted, they put socks in my mouth and continued to rape me. The head of the police station hit me on the left eye because I was crying. I lost eyesight in the left eye. After ten days or so I was taken to the Japanese army garrison There were around 400 other Korean young girls with me and we had to serve over 5,000 Japanese soldiers as sex slaves every day. Each time I protested, they hit me or stuffed rags in my mouth. One held a matchstick to my private part until I obeyed him. My private parts were oozing with blood." (12)

2. The Government of Japan has made some welcome efforts at dealing with the problems of past violence to "comfort women". The Government of Japan and successive Japanese prime ministers have expressed remorse and have apologized to former "comfort women". A private fund called the Asian Women's Fund has been set up to assist individual victims with a grant of 2 million yen each. As of this writing, over 100 victims have applied to receive funds and about 50 would have actually received atonement money. The Fund also attempts to help elderly women in countries in which there exist former "comfort women", but where cultural restraints prevent women from coming forward. The Government has set aside 700 million yen from the national budget for medical and welfare projects of the Asian Women's Fund. It has also made a commitment to raise awareness and to include reference to these tragedies in textbooks so that such practices do not emerge in the future. However, the Government of Japan has not accepted legal responsibility. Perhaps it is waiting for decisions of the six court cases filed with Japanese courts.

Integration of the Human Rights of Women and the Gender Perspective; Violence against Women

Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 2000/45

**Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000)
(E/CN.4/2001/73)**

Executive summary

The Special Rapporteur wishes to emphasize that there remains a significant gap between the international community's recognition that those who commit rape and other gender-based violence are legally liable and must be punished, and the political will of Member States to enforce international humanitarian and human rights law and insist that those who violate it are held accountable. The ongoing impunity of those who perpetrated Japan's system of military slavery during the Second World War is only one of many examples of an ongoing failure by Member States to investigate, prosecute and punish those found responsible for past acts of rape and sexual violence. This failure has contributed to an environment of impunity that perpetuates violence against women today. Whether the violence described in this report is investigated and punished, and whether such acts are prevented in the future depends ultimately on the firm commitment of the States Members of the United Nations.

V. CASES OF VIOLENCE AGAINST WOMEN IN TIMES OF ARMED CONFLICT (1997-2000)**I. Japan: developments with regard to justice for comfort women**

92. Although the Government of Japan has acknowledged moral responsibility for the system of organizing sexual slaves euphemistically called "comfort women" during the Second World War, it has refused to accept legal liability or to pay compensation to the victims.¹¹⁵ There has been no attempt to implement the set of recommendations the Special Rapporteur made in her 1996 report,¹¹⁶ or those outlined by the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights in the appendix to her final report on systematic rape, sexual slavery and slavery-like practices during armed conflict.¹¹⁷

93. According to the December 2000 report of The Asian Women's Fund, the private fund set up to compensate the victims and to carry out projects to assist them, the project of atonement from the Japanese people involves recipients receiving a letter from the Prime Minister of Japan expressing apology and remorse and compensation of 2 million yen. To date 170 former comfort women have received atonement money. In addition, the Fund conducts many other laudable activities to assist women and elderly people affected by the Second World War and violence against women.

94. In recent years, several of the victims of sexual slavery have brought lawsuits in Japanese courts; a number of these cases are still pending. Of those that have been decided, the results are decidedly mixed. Three “comfort women” were each awarded 300,000 yen (US\$ 2,300) by the Shimonoseki Branch of the Yamaguchi District Court on 27 April 1998, after the court found that the women had been held in sexual slavery and that their human rights had been violated. The court essentially held that there was a legal obligation for the Government of Japan to compensate the women, holding that the failure of the Diet to pass legislation compensating the women for their suffering “constituted a violation of Japanese constitutional and statutory law”.¹¹⁸ Both the plaintiffs and the Government filed an appeal at the Hiroshima Higher Court, which is currently pending.

95. By contrast, the Tokyo District Court rejected the lawsuit of 46 former “comfort women”

from the Philippines on 9 October 1998,¹¹⁹ as well as the claim of a Dutch former “comfort woman” on 30 November 1998.¹²⁰ An appeal filed by the plaintiffs in the Filipino women’s case was rejected by the Tokyo Higher Court on 6 December 2000. An appeal in the case of the Dutch woman is pending before the Tokyo Higher Court. Similarly, the Japanese High Court of Justice rejected the appeal of a former Korean “comfort woman” on 30 November 2000, acknowledging her suffering but ruling that she - as an individual - did not have the right under international law to bring an action against a State for compensation. The Court also held that the statute of limitations for Koreans living in Japan to claim compensation for war damages ended in 1985.¹²¹ In September 2000, a group of 15 former “comfort women” filed a class action suit in the Washington District Court demanding compensation for the crimes committed against them.¹²²

96. In December 2000, women’s groups held a Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery (Tokyo Tribunal 2000), to highlight the ongoing denial of

compensation to the victims of Japan’s system of “comfort women” by the Government and the impunity that continues for its perpetrators. Evidence from “comfort women” living in the two Koreas, the Philippines, Indonesia, East Timor, China and the Netherlands were gathered in detail and were now finally available as a matter of record. The evidence was presented by an international prosecutor before an eminent panel of international judges. The findings of the judges to the Tribunal reiterated the legal liability of the Government of Japan and the need to set up a process to punish the perpetrators of the crimes. The Government was, however, not represented at the Tribunal.

Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 2002/52

Addendum 1

**International, regional and national developments in the area of violence against women
1994-2003
(E/CN.4/2003/75/Add.1)**

Japan

Issues of concern

1043. At the invitation of the Governments of the Republic of Korea and Japan, the Special

Rapporteur on violence against women, its causes and consequences, visited Seoul from 18 to 22 July 1995 and Tokyo from 22 to 27 July 1995 to study in depth the issue of military sexual slavery in wartime, within the wider framework of violence against women (E/CN.4/1996/53/Add.1). Japan has still not accepted legal responsibility for the “comfort women” who were kept in military sexual slavery during the Second World War. It has also not punished many of the perpetrators responsible for such crimes.

**Special Rapporteur on violence against women, its causes and consequences,
Rashida Manjoo**

**Report of the Special Rapporteur on violence against women,
its causes and consequences, Rashida Manjoo
(A/HRC/14/22)**

III. Reparations for women subjected to violence

A. Conceptual challenges

2. Bringing women into the reparations debate

25. There are signs that the traditional neglect of women in the reparations domain, best exemplified by the largely unsuccessful movement for reparations for the so-called “comfort women”, is ending. The international legal response to violence against women over the past 15 years and the explicit recognition of violence against women as a human rights concern within the United Nations serve as indicators. Furthermore, the inroads of feminism in international criminal law, crystallizing in the inclusion of some forms of gender violence as war crimes and crimes against humanity in the Rome Statute of the International Criminal Court, were accompanied by relevant discussions about how other transitional justice mechanisms, and not just criminal courts, could be rendered more inclusive to women.

C. Reparations for women subjected to systemic violations in other contexts

2. Looking to the past

71. The single most organized and well-documented movement for reparations for women is that for the so-called “comfort women”. Since the late 1980s, survivors have come forward to bear witness and mobilize international public opinion, asking for an official apology and reparation. Survivors have rejected financial aid gestures as inadequate and reiterated their desire for a formal apology and individual compensation through public funds rather than a welfare- or benevolence-type of assistance based on socio-economic needs. As victims of sexual crimes, they do not want to receive economic compensation without an official apology and official recognition of State responsibility.

**Special Rapporteur on Systematic rape, sexual slavery and slavery-like practices
during armed conflict, Gay J. McDougall**

CONTEMPORARY FORMS OF SLAVERY

Systematic rape, sexual slavery and slavery-like practices during armed conflict

**Final report submitted by Ms. Gay J. McDougall, Special Rapporteur
(E/CN.4/Sub.2/1998/13)**

Appendix

AN ANALYSIS OF THE LEGAL LIABILITY OF THE GOVERNMENT OF JAPAN FOR “COMFORT WOMEN STATIONS” ESTABLISHED DURING THE SECOND WORLD WAR

C. Recommendations

1. The need for mechanisms to ensure criminal prosecutions

63. The United Nations High Commissioner for Human Rights should work for

the prosecution in Japan, and in other jurisdictions, of those responsible for the atrocities that have now been clearly linked to the actions of the Japanese military in establishing the Japanese rape camps. It is incumbent upon the United Nations to ensure that Japan fully satisfies its obligation to seek out and prosecute all those responsible for the “comfort stations” who remain alive today and that other States similarly do all they can to assist in the capture and prosecution of offenders in other jurisdictions. Accordingly, the High Commissioner, together with Japanese officials, should work to: (a) gather evidence on individual military and civilian personnel who may have established, supported or frequented Japanese rape centres during the Second World War; (b) interview victims; (c) forward the preparation of cases for trial to Japanese prosecutors; (d) work with other States and survivors’ organizations to identify, arrest and prosecute offenders within their jurisdictions; and (e) assist States in any way in the development of legislation to allow such prosecutions in their jurisdictions.

2. The need for mechanisms to provide legal compensation

64. The Sub-Commission has joined other United Nations bodies in “welcoming” the creation in 1995 of the Asian Women's Fund. The Asian Women’s Fund was established by the Japanese Government in July 1995 out of a sense of moral responsibility to the “comfort women” and is intended to function as a mechanism to support the work of NGOs that address the needs of the “comfort women” and to collect from private sources “atonement” money for surviving “comfort women”. 89/ The Asian Women’s Fund does not, however, satisfy the responsibility of the Government of Japan to provide official, legal compensation to individual women who were victims of the “comfort women” tragedy, since “atonement” money from the Asian Women’s Fund is not intended to acknowledge legal responsibility on the part of the Japanese Government for the crimes that occurred during the Second World War.

65. Because the Asian Women’s Fund does not in any sense provide legal compensation, a new administrative fund for providing such compensation should be established with appropriate international representation. To accomplish this, the United Nations High Commissioner for Human Rights should also appoint, together with the Government of Japan, a panel of national and international leaders with decision-making authority to set up a swift and adequate compensation scheme to provide official, monetary compensation to the “comfort women”. Accordingly, the role of this new panel would be to:

(a) determine an adequate level of compensation, looking to compensation that may have been provided in comparable settings as guidance; (b) establish an effective system for publicizing the fund

and identifying victims; and (c) establish an administrative forum in Japan to expeditiously hear all claims of “comfort women”. 90/ Such steps, moreover, should be taken as quickly as possible in light of the advancing age of the comfort women.

3. Adequacy of compensation

66. An appropriate level of compensation should be based on considerations such as the gravity, scope and repetition of the violations, the intentional nature of the crimes committed, the degree of culpability of public officials who violated the public trust, and the extensive time that has passed (and thus the loss of the present value of the money, as well as the psychological harm caused by the extensive delay in relief). In general, compensation applies to any economically assessable damage, such as physical or mental harm; pain, suffering and emotional distress; lost opportunities, including education; loss of earnings and earning capacity; reasonable medical and other expenses of rehabilitation; harm to reputation or dignity and reasonable costs and fees of legal or expert assistance to obtain a remedy. Based on these factors, an adequate level of compensation should be provided without further delay. Some consideration should also be given to the level of compensation that may be required to act as a deterrent to ensure that such abuses will not occur in the future.

4. Reporting requirements

67. Finally, the Government of Japan should be required to submit a report to the United Nations Secretary General at least twice a year detailing the progress that has been made in identifying and compensating the “comfort women” and in bringing perpetrators to justice. The report should also be made available in both Japanese and Korean and distributed actively both within and outside of Japan, particularly to the “comfort women” themselves and in the countries where they currently reside.

VII. CONCLUSION

68. The present report concludes that the Japanese Government remains liable for grave violations of human rights and humanitarian law, violations that amount in their totality to crimes against humanity. The Japanese Government’s arguments to the contrary, including arguments that seek to attack the underlying humanitarian law prohibition of enslavement and rape, remain as unpersuasive today as they were when they were first raised before the Nürnberg war crimes tribunal more than 50 years ago. In addition, the Japanese Government’s argument that Japan has already settled all claims from the Second World War through peace treaties and reparations agreements following the war remains equally unpersuasive. This is due, in large part, to the failure until very recently of the Japanese Government to admit the extent of the Japanese military’s direct involvement in the establishment and maintenance of these rape centres. The Japanese Government’s silence on this point during the period in which peace and reparations agreements between Japan and other Asian Governments were being negotiated following the end of the war must, as a matter of law and justice, preclude Japan from relying today on these peace treaties to extinguish liability in these cases.

69. The failure to settle these claims more than half a century after the cessation of hostilities is a testament to the degree to which the lives of women continue to be undervalued. Sadly, this failure to address crimes of a sexual nature committed on a massive scale during the Second World War has added to the level of impunity with which similar crimes are committed today. The Government of Japan has taken some steps to apologize and atone for the rape and enslavement of over 200,000 women and girls who were brutalized in “comfort stations” during the Second World War. However, anything less than full and unqualified acceptance by the Government of Japan of legal liability and the consequences that flow from such liability is wholly inadequate. It must now fall to the Government of Japan to take the necessary final steps to provide adequate redress.

**Update to the final report submitted by Ms. Gay J. McDougall, Special Rapporteur
(E/CN.4/Sub.2/2000/21)**

VI. DEVELOPMENTS CONCERNING JAPAN.S SYSTEM OF MILITARY SEXUAL SLAVERY DURING THE SECOND WORLD WAR

71. One of the most egregious documented cases of sexual slavery was the system of rape camps associated with the Japanese Imperial Army during the Second World War. A significant impetus for the creation of the mandate of the Special Rapporteur was the increasing international recognition of the true scope and character of the harms perpetrated against the more than 200,000 women and girls enslaved in so-called .comfort stations throughout Asia. The Special Rapporteur, in an appendix to the final report, included a case study on the continuing legal liability of the Government of Japan for the .comfort women system, which in its totality constitutes crimes against humanity.

72. The atrocities committed against the so-called .comfort women.⁹⁷ remain largely unremedied. There has been no reparation to the victims: no official compensation, no official acknowledgement of legal liability, and no prosecutions. While the Government of Japan has taken some steps to apologize for its system of military sexual slavery during the Second World War, it has not admitted or accepted legal liability and has failed to pay legal compensation to the victims. Thus, the Government of Japan has not discharged fully its obligations under international law.

77. Legislation has been proposed in Japan calling for the establishment of a fact-finding bureau to investigate Japan.s system of military sexual slavery and other issues, including compensation for war-related injuries and violations.¹⁰⁴ Legislation also has been introduced in the Philippines urging the Japanese Diet to accept the recommendations of the Special Rapporteur.s final report “and enact a post-war compensation law that would fulfil the demands of justice for the women victims of sexual slavery or ‘comfort women’”.

78. The Special Rapporteur notes that there have been encouraging efforts to redress abuses that took place in the European theatre during the Second World War. These efforts include trials of Nazi war criminals; agreements to compensate Holocaust victims whose assets were confiscated by the Nazis; and agreements to compensate victims of wartime forced labour. For example, the Government of Germany has agreed to compensate approximately 235 United States’ citizens who were imprisoned in Nazi concentration camps. The Special Rapporteur reiterates that in order to end impunity for gross violations of international law committed during armed conflict, the legal liability of all responsible parties, including Governments, must be acknowledged, and the victims must be provided with full redress, including legal compensation and prosecution of the perpetrators.

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène

**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA
AND ALL FORMS OF DISCRIMINATION**

**Report of the Special Rapporteur on contemporary forms of racism, racial discrimination,
xenophobia and related intolerance, Doudou Diène**

Addendum*

**MISSION TO JAPAN
(E/CN.4/2006/16/Add.2)**

III. PRESENTATION OF THEIR SITUATION BY THE COMMUNITIES CONCERNED

D. The Koreans

59. Finally, concerning the most shameful form of discrimination endured by the Koreans -

the system of sexual slavery of Korean women put at the disposal of the Japanese military during the Second World War - only in 1991 did the Government of Japan recognize its responsibility in the establishment of this system. However, issues such as official apology, compensation and proper education about this tragic historical episode known as “comfort women” have still not been settled. The Special Rapporteur was even informed that, starting from next year, school textbooks will not include any reference to the “comfort women”.

V. RECOMMENDATIONS

82. The Government should revise history textbooks in order to better reflect, with objectivity and accuracy, the history of minorities and the relations with neighbouring countries. The Special Rapporteur noticed with concern that the parts of the history books dedicated to the history of the Buraku people, the Ainu, the people of Okinawa, the Koreans and the Chinese have been particularly reduced, and therefore urges the Government to proceed to the revision of such textbooks in order to include a detailed section on the history and culture of these groups, in the perspective of the long memory of history, the relations and interactions with the people and communities concerned, and the origins and reasons of the discrimination to which they were subjected. Their important contribution to the construction of the Japanese identity should also be highlighted. Textbooks should also include explanations of the crimes linked to the colonial era and wartime committed by Japan, including a recognition of its responsibility, and for the establishment of the “comfort women” system. The Special Rapporteur is concerned that decisions on the content of the school textbooks can be taken locally without any capacity of control at the national level. He therefore recommends the adoption of a legal provision at the national level which guarantees that the above-mentioned minimum content requirements be included in school textbooks. Moreover, given the fundamental impact of the drafting and teaching of history in the actual and future relations between the countries of the region, the Special Rapporteur recommends that, in the spirit and the scientific methodology of the drafting by UNESCO of the regional histories of Africa, Latin America, the Caribbean countries and Central Asia, Japan in consultation and with the agreement of all the countries of the region invite UNESCO to start the process of drafting the general history of the region.

Statements and Messages (excerpts)

**UN High Commissioner for Human Rights,
Navi Pillay**

Press Release from OHCHR

Japan's approach to the issue of "comfort women" causing further violations of victims' human rights – Pillay

GENEVA (6 August 2014) – UN High Commissioner for Human Rights Navi Pillay on Wednesday expressed profound regret that Japan has failed to pursue a comprehensive, impartial and lasting resolution of the issue of wartime sexual slavery, warning that the human rights of the victims, known as "comfort women", continue to be violated decades after the end of the Second World War.

"During my visit to Japan in 2010, I appealed to the Government to provide effective redress to the victims of wartime sexual slavery," the High Commissioner said. "Now, as my tenure in office comes to an end, it pains me to see that these courageous women, who have been fighting for their rights, are passing away one by one, without their rights restored and without receiving the reparation to which they are entitled."

"This is not an issue relegated to history. It is a current issue, as human rights violations against these women continue to occur as long as their rights to justice and reparation are not realised," she stressed.

Instead of justice, the High Commissioner said, the women are facing increasing denials and degrading remarks by public figures in Japan. A report issued by a Government-appointed study team on 20 June 2014, stated that "it was not possible to confirm that women were forcefully recruited." Following the release of this report, a group in Tokyo publicly declared that "comfort women were not sex slaves but wartime prostitutes."

"Such statements must cause tremendous agony to the women, but we have not seen any public rebuttal by the Government," Pillay said.

Over the years, Japan has received recommendations from a number of UN independent experts, human rights treaty bodies and from the Human Rights Council under its Universal Periodic Review for it to take concrete measures to tackle the issue. Most recently, the UN Human Rights Committee, which oversees implementation of the International Covenant on Civil and Political Rights, called on Japan to take "immediate and effective legislative and administrative measures" to ensure that all allegations of sexual slavery are investigated and perpetrators prosecuted. It also called for access to justice and reparations for victims and their families, the disclosure of all evidence available, and education in the country surrounding the issue.

Pillay noted that Japan had signed the UN Declaration on the Prevention of Sexual Violence in Conflict last year and that it had offered strong support to the UK summit on sexual violence in conflict earlier this year

"I encourage Japan to pursue a comprehensive, impartial and lasting resolution of the wartime sexual slavery issue with the same vigour," she added, noting the Office's readiness to offer any necessary assistance.

Press Release from OHCHR

"Time to go up a gear," say UN human rights chief at end of Japan visit

TOKYO (14 May 2010) – The UN High Commissioner for Human Rights Navi Pillay said Friday she had held encouraging discussions with the Japanese government on a range of domestic and international human rights issues, including discrimination, treatment of migrants, methods to combat trafficking, the death penalty and maximizing Japan's potential as an influential actor on the international stage.

...

The High Commissioner also appealed to the Government to deal once and for all with the "comfort women" issue by apologizing and providing redress to thousands of women victims of wartime sexual slavery. "There have been too many half-measures that have failed to satisfy victims," Pillay said. "The new Government has an opportunity to not only put this terrible past to rest, but set a positive example to other countries in the region."

...

**UN High Commissioner for Human Rights,
Zeid Ra'ad Al Hussein**

Statement at the Yonsei University(24 June 2015)

Korea in the Human Rights World

...

We have learned that history ceaselessly informs the present. A sense of a shared history is a precious, and vital, element in creating the understanding that we belong to a common community – one in which differences in the interpretation of history should be discussed and resolved. Because when the wounds of history remain unattended, they widen and deepen. When their very existence is doubted, they will not heal: they will harden into fault-lines that impede our ability to manage disagreements with harmony and respect.

Often there is a failure to see how other groups have very different narratives of those same historical events. Certain episodes may also be airbrushed out of history textbooks – their victims excluded from official memory, their rights and therefore their fundamental humanity erased. Specific communities may be portrayed negatively, so that children grow up with a slanted vision which pits one people against another, inciting the discrimination and extreme nationalism that drive new violence.

I believe that impartially examining a painful past, acknowledging it, understanding it, and above all transcending it together, is the best way to guarantee that it will not happen again for all states. In a sense, this means that it is the victims – and their families – who measure whether or not societies fully recover from the brutality of war or repression. If their needs are not addressed as a central priority, reconciliation will never occur, and the state of deep distrust, though partially buried, will continue to smoulder.

We all hope to live long, healthy, lives and yet too many human beings across the world experience terrible trauma and pain, many, tragically, in the form of outrageous assaults on their most fundamental rights. If they survive war, torture or persecution, time will dim the initial razor-sharp memories. But pain has an unusual quality. Even with the passing of many years, memory can blur, but the pain is always there. With only a little nudge, it can spring back, and the memory becomes alive again. Suddenly, very suddenly, decades disappear and the past overwhelms the present.

This morning I met with three extraordinarily brave victims of sexual slavery, euphemistically called comfort women. Like all the victims of war, in the past or the present, and irrespective of location, what they need most from us is not more formal statements or proclamations. Neither do they need others to claim their victimhood, and abuse it for political motives. What they need are gestures of acknowledgment and heartfelt atonement. We need to sit quietly with them, listen to them, ask about them, laugh a little with them, hold their hands and lament their suffering.

The Asian continent has witnessed, and continues to witness in some parts still, its share of persecution, brutal oppression, and the denial of human rights, including economic and social rights. But it can change, and it must.

...

**Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,
Pablo de Greiff**

**At the Parallel event on the Japanese Military Sexual Slavery ('Comfort Women') issue
24th session of the Human Rights Council
11 September 2013**

Ladies and Gentlemen, Ms. Kim and other distinguished panellists,

I would like to start my intervention today by expressing my sincere sympathy to all the victims of military sexual slavery and my admiration for their courage and the strength with which they continue to fight for their rights. I wish to thank the civil society advocates who ensure that this issue remains in the international agenda until it is fully settled. Two of the leading organisations working on military sexual slavery are the organizers of today's important event. I thank them for the invitation.

The issue we have before us today – the issue of military sexual slavery by Japan during wartime known as the issue of 'comfort women' - has two important dimensions which make it directly relevant to my mandate concerned with truth-seeking, justice initiatives, reparation and guarantees of non-recurrence. First, the issue of 'comfort women' shows the central importance, or in the specific case at hand, the lack of implementing a victim-centred approach. The second dimension is concerned with the strong commitment by the international community to integrate a gender perspective when

dealing with the legacy of past atrocities. Both a victims-centred approach and a gender perspective to justice are core tasks the Human Rights Council has bestowed on the mandate I currently have the honour to hold.

I am, however, not the first Special Rapporteur who is concerned with the issue of military sexual slavery by Japan during wartime. The number of special procedures mandates that have focused on this topic shows the continuing urgency to provide remedy to the victims and their families. The variety of the mandates in question also demonstrates that the violations had and continue to have a severe impact on a great number of human rights. I shall recall here some of my colleagues' observations as they remain valid points of departure for my analysis.

In the mid-90s, the former Special Rapporteur on Violence against Women Radhika Coomaraswamy first put emphasis on military sexual slavery as a gross human rights violation in the context of her report on the visits to the Republic of Korea and Japan. She recommended to the Japanese authorities to accept legal responsibility, pay compensation to the victims, disclose all documentation regarding the 'comfort stations', issue public apologies to the individual victims, raise awareness about military sexual slavery in educational curricula, and punish the perpetrators insofar possible. She also recommended to the governments of the Republic of Korea and the Democratic People's Republic of Korea that they seek reparations for the victims.

In 1998, the former Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict, Gay McDougall, defined Japan's responsibility under international law for war crimes, crimes against humanity and slavery. McDougall's second report recalled that the violations remained unremedied.

In 2006, the former Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène visited Japan, and placed emphasis on the importance of recognizing Japan's responsibility for establishing the system of 'comfort women' in school books.

In his 2008 thematic report on 'Strengthening the protection of women from torture' former Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, Manfred Nowak underscored how female victims of torture, and in particular victims of sexual violence, including 'comfort women', have been ignored. He stressed that Japan's failure to provide rehabilitation causes the victims to experience continuing abuse and re-traumatization.

Finally, the current Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, in her 2010 thematic report on reparations to women who have been subjected to violence in contexts of both peace and post-conflict makes reference to the case of the 'comfort women' as an example of the 'traditional neglect of women in the reparations domain'. While pointing out that over the past 15 years there has been an international legal response to violence against women, the attempts by 'comfort women' or their representatives to get reparations from Japan have been 'unsuccessful'. Her report suggests that beyond international criminal courts, other mechanisms of transitional justice should be more inclusive to women. The perspective of transitional justice will be the prism through which I would like to make my intervention today.

As can be seen from the recommendations of the various special procedures, redress to the victims should be comprehensive, and include measures of truth-seeking and reparation, the holding of perpetrators to account and the obligation to put in place effective measures to ensure no-recurrence of such violations. Redress should not be limited to financial compensation. In this respect, I would like to elaborate on four issues, which relate directly to my mandate and to the main objectives and overarching principles of transitional justice.

I

Obtain recognition as rights holder

First, one of the fundamental aims of transitional justice measures is to provide recognition to victims. This does not merely involve acknowledging the victims' suffering and their capacity to endure. What is indispensable, and what transitional justice measures seek to accomplish is to recognize that the victim is the holder of rights. Recognition means to restore the victim's rights and affirm her standing as someone who is entitled to make claims on the basis of rights, precisely, and not simply as a matter of empathy or any other type of consideration.

This dimension of recognition, common to all transitional justice measures, has an important implications for defining what counts as reparations to begin with. It is well known that victims do not want economic compensation without an official apology and official recognition of State responsibility. I would like to stress that any public apology must clearly affirm that the victims are holders of rights. Recognition as a rights holder also underscores that nobody is above the law, certainly not perpetrators of sexual crimes – this is one of the basics of the principle of the rule of law. In this connection, I would also clarify that the existence of treaties between or among States cannot be put forward as a justification to simply deny redress to victims, understood as involving acknowledgment of responsibility.

II

Inter-generational impact of gross violations

Second, it is important to keep in mind that gross human rights violations, such as those suffered by 'comfort women' have an inter-generational impact. As we know, many women who had been forcefully drafted into sexual slavery have passed away. We should do the utmost to provide urgent redress to those who remain among us. But let me clarify that the issue of the 'comfort women' will not simply cease to exist with the last direct victim having passed away. As many of the victims will confirm, the aforementioned exclusion and destitution does not stop with the direct victim. Rather, the stigma and committed violations are carried on to future generations in relation to a variety of rights, including economic, social and cultural rights. Not addressing the legacy leaves our societies with a tremendously deepening scar.

I have argued elsewhere, including in my first report to the Human Rights Council that transitional justice measures have the potential of promoting social integration. At the national level this is to say that they contribute to rebuilding social trust in the aftermath of precisely the sort of events that predictably shatter trust both amongst individuals and particularly in state institutions. By the same token, leaving the issue of forced sexual slavery unresolved generates mistrust. I believe in the potential of the measures, when applied cross-nationally, to promote the corresponding form of 'integration' in this case at the regional and the international level.

III

Public education and the writing and teaching of history

Third, I wish to draw your attention to public education and the writing and teaching of history in connection to ‘comfort women’. In their 1993 statement, the Japanese authorities committed themselves to squarely face the historical facts on ‘comfort women’ and take them to heart as lessons of history. This pledge is directly related to guarantees of non-recurrence - one of the aspects under my mandate. Continuing research and analysis of such gross violations is a must. Relevant material needs to be disclosed and victims should be afforded unhindered access to it. The wider society should be informed of the possibility to consult such information, evidently with certain precautions which serve to protect the right of privacy of victims. The call for renewed efforts to research, analyze and disclose information on military sexual slavery is not only addressed to Japanese authorities, but also to other countries in the region and beyond. The objective to obtain redress must not stop at the bilateral front; efforts need to be particularly made at the regional level.

Information has been received that the issue of ‘comfort women’ was removed from school textbooks in Japan – yet, the treatment of military sexual slavery in education manuals was a firm commitment made 20 years ago. I would like to express grave concern in this regard. Such concern must also be expressed in the face of reported attempts to deny the facts by government authorities and public figures, which in turn re-traumatize the victims. Treaty bodies have recently made concrete recommendations in this regard.

IV

Fourth, I want to clarify some aspects concerning reparations, to return to a point I made in the earlier part of my intervention. Reparations differ from, say, crime insurance schemes precisely because they are not simply compensatory mechanisms. The aim of reparations is not merely to ‘make up’ for losses on the side of victims, or to ‘fine’ perpetrators for their transgressions. The fundamental aim of reparations has to do with the establishment of regimes of rights, to signal that the violation of norms does not remain inconsequential. And this, I want to emphasize, inevitably involves clear and unambiguous acknowledgment of responsibility.

In the conclusion of my intervention I want to highlight some positive aspects in relation to the treatment of ‘comfort women’ and some ways forward. In stark contrast to the lack of progress to redress victims is the increasing advocacy and support of ‘comfort women’ coming also from within the Japanese society itself. For instance, Japanese NGOs submitted reports to the Committee Against Torture and the Committee on Economic, Social and Cultural Rights during the countries latest reviews. As we will be able to hear from Professor Maeda Akira in some minutes, members of academia in Japan have also contributed with thorough analysis to this important subject matter.

International efforts should also be commended. I refer here to Japan’s second Universal Periodic Review in October 2012, which contains several recommendations in relation to ‘comfort women’. What is notable is that those recommendations were put forward from countries of all regions, which is a strong expression that such gross violations cannot remain unaddressed. It is clear from recent developments that the unresolved issue of ‘comfort women’ is no longer seen in isolation but placed in the context of a broad range of topics, which include discrimination and racism, women’s rights, sexual violence, education, peace and security, minorities rights and forced labour, only to

mention some of them. As these topics are moving forward, the issue of ‘comfort women’ must not lag behind.

My two concluding thoughts are the following: this is a case that perhaps cannot be properly characterized as unattended, but as under-attended; it calls attention to crucial conditions of sufficiency and appropriateness of responses in order for them to count as justice measures. In this respect I think that therein lies the ground for hope. While what remains to be done in order to satisfy the conditions of appropriate redress is crucial, indeed, fundamental, the fact that we are not starting from zero should make a difference. (Of course this will be of small consolation to those that have already perished, a thought that should also spur action). Second, and again searching for some grounds for optimism, I think that more attention should be given to regional approaches to the issue, given the regional dimension of the problem.

I thank again the organizers for the opportunity to participate and pay my respects to victims.

**Special Rapporteur on Violence against Women, its causes and consequences,
Rashida Manjoo**

**A Message for the International Symposium Commemorating the First International Memorial Day for the “Comfort Women”
13 August 2013**

Ladies and gentlemen,

I wish to thank the organizers for inviting me to participate in this International Symposium to commemorate the first anniversary of the International Memorial Day for the “Comfort Women” and to address this important issue. I regret, however, I am unable to attend in person and hereby provide a short message to be read out on my behalf.

Several UN and other international human rights organizations including the first Special Rapporteur on violence against women following her visit to Japan in 19951, the Committee on the Elimination of All Forms of Discrimination against Women, the Committee Against Torture (CAT), the Human Rights Committee (CCPR), the Universal Periodic Review of the Human Rights Council (UPR), and the ILO, have made recommendations regarding the comfort women issue. Among the numerous issues that have been addresses, the need for acknowledgement of harms perpetrated; accountability for such harms; and also the need for reparations, are some crucial aspects. I will address the last aspect in this brief presentation.

The need for reparations for women victims of violence has been one of the on-going themes in the work of my mandate. My 2010 thematic report to the Human Rights Council was devoted to the issue of reparations, and I would like to share with you some of the main findings of my research on this subject. I will also complement this presentation with a brief description of the international human rights principles that are applicable to this particular issue.

The mandate of the Special Rapporteur on Violence against Women has consistently adopted a holistic approach to violence against women by recognizing it as a form of discrimination against and

subordination of women at both the individual and structural level. This approach acknowledges that violence against women results from a complex interplay of individual, family, community and social factors. In so doing, the mandate situates violence against women on a continuum, in terms of both time and place, and thus examines and addresses violence against women, its causes and consequences in all spheres of human interaction and in all situations – whether in times of peace or conflict, past or present.

Situations of conflict, violence and insecurity, exacerbate existing environments of discrimination and oppression of women. The first mandate-holder devoted a full report specifically on Violence against women perpetrated and/or condoned by the State during times of conflict (1997-2000), which emphasized the significant gap between the international community's recognition that those who commit rape and other gender-based violence are legally liable and must be punished, and the political will of Member States to enforce international humanitarian and human rights law, to hold accountable those who violate it.

Often, women bear most of the consequences of violence inflicted upon them and their families. Because each woman experiences violence differently, targeted and specific measures of redress are needed to meet their individual needs and priorities. Since violence perpetrated against individual women generally feeds into patterns of pre-existing and often cross-cutting structural subordination and systemic marginalization, measures of redress need to link individual reparation and structural transformation. I have noted in my report that victims of sexual crimes often do not want to receive economic compensation without an official apology and official recognition of the responsibility of the State with regard to these crimes.

The legal basis for a right to a remedy and, linked to it, a right to reparation has become firmly enshrined in the corpus of international human rights and humanitarian instruments. For instance, the 1993 Declaration on the Elimination of Violence against Women states in article 4 (d) that women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered, and that States should inform women of their rights in seeking redress through such mechanisms. Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment requires that States ensure that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.

The 2005 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law defines the parameters of state responsibility for providing reparation to victims for acts or omissions which can be attributed to the State. It highlights that States are responsible for their failures to meet their international obligations even when substantive breaches originate in the conduct of private persons. The Basic Guidelines and Principles also affirm that the modality of reparation must be proportional to the gravity of the violation and can include the following forms: 1) restitution, as those measures to restore the victim to his/her original situation before the violation; 2) compensation for any economically assessable damage; 3) measures of rehabilitation; 4) measures of satisfaction; and 5) guarantees of non-repetition.

In view of the structural and multiple forms of discrimination that women face during conflict and post-conflict as well as in times of peace, I argue that reparations cannot be just about returning

women to the situation in which they were found before the individual instance of violence. Reparations should strive to have a transformative potential. This implies that reparations should aspire, to the extent possible, to subvert instead of reinforce pre-existing patterns of cross-cutting structural subordination, gender hierarchies, systemic marginalization and structural inequalities that may be at the root cause of the violence that women experience.

In this regard, complex schemes of reparations, such as those that provide a variety of benefits, including guarantees of non-repetition, can better address the needs of female beneficiaries in terms of transformative potential, both on a practical material level and in terms of their self-confidence and esteem. Measures of symbolic recognition can also be crucial. They can simultaneously address both the recognition of victims and the dismantling of patriarchal understandings that give meaning to the violations.

Women-centred processes of reparations require participation of women in the process of shaping, implementing, monitoring and evaluating reparations programmes; inclusion in the design of a reparations procedure that renders it accessible to all women and girls; the investigation of facts to determine whether certain violations of rights have taken place and making sure that those violations that target women and girls have been duly included; the determination of harms, including those which are gender-specific or have a differential impact on women and girls; the identification of responsibility for the violation, including by omission, and by those perpetrators that target women and girls; and determination of measures of redress aimed at returning the victim to where she was before the violation took place, except for when those measures may in themselves be discriminatory or fail to address the structural roots underlying the violence.

Conclusion

The demand for acknowledgement, truth, justice and reparations for acts of violence against women, is a global challenge that my mandate continues to witness. The institutionalisation of memory is crucial, both to honour victims as well as to understand and avoid such violations in the future. It is my hope that civil society actors to continue to raise public awareness at the national and international level on this issue, and the need for acknowledgement, accountability and reparations.

Thank you for your attention.

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