

# Searching for justice: the Tokyo Women's Tribunal

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*The 1009th Wednesday Demonstration. Women into their 80s and 90s have gathered in front of the Japanese Embassy since 1992 to demand justice for Japan's system of sexual slavery during the rule of Imperial Japan. Flickr/Joonyoung Kim. Some rights reserved.*

The search for justice of those who have been affected by mass violations of human rights takes many forms and may continue for decades. Although many of those who have been victimised by mass violations of human rights seek formal (state-sponsored) mechanisms to assess the responsibility of those who engaged in the atrocities, for several decades civil society has accepted that, at times, it must fulfil the lacunae that can take place when a state (and/or the international community) refuses to act or delivers what one might call partial justice. The survivors of the 'comfort women' system—those girls and women taken by the Japanese military and forced to remain in military brothels—began speaking about their experiences in the early 1990s.

Although the Japanese government issued a lukewarm apology in 1993, the government has never accepted its responsibility to acknowledge the serious criminal nature of what occurred, nor offered to make restitution to the women. In December 2000 civil society organisations responding to the wishes of the comfort women held the Women's International War Crimes Tribunal for the Trial of Japan's Military Sexual Slavery [[the Tokyo Women's Tribunal](#)], an important development for international law and the creation of a fuller and more accurate historical record.

The international community has long recognised the rights of victims and the importance of ending impunity. But neither our domestic nor our international institutions have been able to overcome the political and other factors that determine whether or not someone will be brought to justice for the atrocities

they have committed, ordered, condoned, sanctioned or should have prevented. The [obligation of states](#) to “provide those who claim to be victims of a human rights or humanitarian law violation with equal and effective access to justice ... irrespective of who may ultimately be the bearer of responsibility for the violation” is not easily enforceable by members of the international community, even assuming there is the political will to do so. Obtaining justice for mass violations of human rights is particularly difficult when state officials have committed those violations, as such officials are likely to remain in power for some time and will either ignore calls for the prosecution of those who engaged in atrocities, or will ensure that such investigations are limited in scope and result in a few lower ranking officials being charged.

There is little doubt that the nature of the crimes committed against comfort women was a factor in the failure to bring significant prosecutions against Japanese officials. The documents produced during the war referred to the women as “camp followers”, thus making it unlikely that prosecutors would try to understand the true position of the women and undertake the investigations necessary to bring charges for the systematic trafficking and rape of women and girls. The focus of the Allied interest in their existence during the war was the manner in which their presence might have aided the Japanese to continue their war effort, not the harm being inflicted on the women.

All of the factors highlighted above culminate in a situation where the horrors endured by numerous victims and survivors will never be part of our collective understanding of human history, nor will those affected by atrocities feel that some form of justice has been provided to them. This may add to their sense of marginalisation and isolation from their own societies. The limiting effects of partial justice and international politics on our ability to deliver some form of justice to victims and survivors of mass atrocities are two of the main reasons that civil society groups come together to establish people's tribunals.

## The Tokyo Women's Tribunal

[The Tokyo Women's Tribunal](#) was held from 8 to 10 December 2000 in Tokyo. The final judgment was delivered in The Hague on 4 December 2001. It was organised by [Korean Council for the Women Drafted for Sexual Slavery by Japan](#), ASCENT and [VAW-Net Japan](#). Hundreds of individuals contributed to the work of the tribunal, either by interviewing the women who would testify, conducting research or participating as lawyers, judges, witnesses or experts during the proceedings of the tribunal.

As noted by some commentators, the proceedings of the Tokyo Women's Tribunal were designed to resemble the formal processes of a court. This adherence to a more legalistic framework arose from extensive consultations with the women and the desire to distinguish this process from the various public hearings and seminars that had taken place in Tokyo and Seoul throughout the 1990s. The women and those organisations working with them wanted a new type of process which would allow for the naming of specific military and government figures, and would bring together the evidence establishing official responsibility for the crimes these individuals had ordered, committed and/or condoned. It was left to the legal teams to demonstrate how this evidence supported the obligation of Japan to make restitution for such crimes.

The extensive documentary and oral evidence placed before the judges of the tribunal concerned events in eight countries occupied by Japan as well as the organisation of the government and military of Japan. Whilst many of the issues

considered by the tribunal are similar to those that continue to affect women and girls in times of armed conflict, I would like to highlight two aspects of the tribunal's findings: the targeting of the most vulnerable members of society and the ongoing effects of gender-based violence on survivors. [It remains the case](#) that women's status within their societies is a contributing factor to the violence they experience, and that women from disadvantaged groups are more likely to be subjected to such violence.

## The findings of the tribunal

We will never know the number of women who were taken by the Japanese military and placed in these brothels. Estimates have ranged from 100,000 to 200,000. It is important to note that many of the so-called 'comfort women' were actually girls. Some of the individuals were 13 when they were taken from their families. A range of methods were used, sometimes forcible taking, sometimes deceit. The judgement contains the following observation:

263. The Japanese military preyed on the most vulnerable members of society for its sexual slavery system...

264. Many, if not most, 'comfort women' came from poor, rural households where the girls had to go to work at an early age to provide support to their families. Some of the witnesses testified that at the time they were enslaved, although they were still just girls, they had already been working outside the home. Already living a difficult life, they were among the most underprivileged people in their own society.

In addition to being repeatedly raped, the women were subjected to other forms of torture such as having lit cigarettes placed on their bodies and implements placed into them. Some were subjected to forced abortions and the vast majority were denied any liberty of movement. Many of the women felt unable to return to their families; the majority of those that did could not discuss their suffering with those close to them and the majority of Korean survivors described lives of utter isolation. The experiences they endured have been devastating for the women's psychological and physical health.

## The lasting effects of gender-based violence

When systematic abuses occur in a situation where individuals such as soldiers have absolute control over the lives of other human beings, the incidence of all forms of torture appears to increase. Whilst it is not difficult to imagine the direct physical and continuing psychological harms that would result from being placed in a situation where a survivor was raped 20 to 30 times a day, as indicated above, many of the women were subjected to other acts of violence that have fundamentally affected their lives. The totality of their experience needs to be understood in determining the responsibility of the government of Japan. Below are some of the findings made by the tribunal:

408. ... Six survivors testified that they were unable to bear children ... Ms X and Ms Suhanah testified that they had had their uteruses removed due to infection as a result of sexual violence. Park Young Sim testified that a doctor in the POW camp removed her womb after she had a miscarriage and Chong Sun Myong and Le San Gyung lost their wombs as a result of torture.

413. Survivors also experienced nervous breakdowns and addictions due to the trauma they suffered. Park Young Sim testified that she suffered a nervous



breakdown. Song Shin Do and Teng Kao Pao Chu both testified that they had drinking problems. Teng Kao Pao Chu stated that she was able to quit drinking only when it was necessary to win the respect of her children. A study at In-chun Sa-rang Hospital showed that a large number of former comfort women smoked and had smoking-related illnesses due to the stress. Some became addicted to painkillers.

441. Several survivors of sexual slavery testified that they lost the ability to take pleasure in sexual relations. As Jan Ruff-O'Herne stated, "How can you enjoy lovemaking, even by your husband, if you are reminded of all the hundreds of times you were forcibly raped by the Japanese?" She stated that she felt fortunate that her husband [was] very patient. Ms Mardiyem and Ms S testified that they had no pleasure in sexual relations with their husbands ...

445. ... For others ... their family members were unable to handle the truth. ... Jan Ruff-O'Herne testified that she only spoke with her mother once about what she had suffered as a comfort women, and that because her mother could not cope with what she heard, she never spoke about it again. Kim Bok Dong testified that at first she told her mother only that she had been a nurse, and that her mother had a heart attack when she finally told her mother the truth in response to her mother's urging for her to marry.

From my first engagement with the women who became known as the comfort women, it was clear to me that their lives, even for those who had been able to build some semblance of what to us would appear to be a normal life, had been profoundly coloured by these attacks on their dignity and on their very humanness. None of the women has been able to recover—for some the physical injuries have been a constant reminder of what took place and for all of them, the psychological trauma has never fully abated. Each of them in their own way expressed their ongoing sorrow for what they had lost—their childhoods, their aspirations, and their sense of their place in the world.



*"Comfort Women Wanted". Artist Chang-Jin Lee displayed photos of women trafficked into Japan's system of sexual slavery, referencing Asian newspapers' 'comfort women' advertisements that were circulated during the war. Flickr/New York City Department of Transportation. Some rights reserved.*

## The legacy of the tribunal

The search for justice in its broadest sense—wanting the international community to respond to horrific crimes and to find ways of decreasing their prevalence—is an indication of the human need to reassert a moral order on the society around them. The families of victims, survivors and the organisations and individuals who work with them often are faced with legal and political systems that appear unresponsive to their needs. Those who organise and participate in what have been termed people's tribunals are among the trans-boundary actors that both challenge and seek to contribute to the development of international law. Reviewing the judgement of the tribunal, it is obvious that it was the result of a thorough and rigorous analysis of the evidence placed before the judges, and that its findings and conclusions have influenced public debate on the issue of the comfort women. The materials collected for the tribunal have been made available to historians, sociologists, international lawyers and the general public through the efforts of groups in Japan and South Korea as well as some international scholars.

The tribunal received an extensive amount of publicity; each day the third tier of Kudan Kaikan Hall was packed with media personnel. Throughout the tribunal many of the women were interviewed by print, radio and TV journalists. I believe that one of the reasons the media gave this event such an extraordinary amount of publicity was the quality of the evidence that was introduced and the solemnity with which the proceedings were conducted. With respect to the women, the tribunal provided them with an opportunity to come together and share not only their pain, but their passions and their sense of achievement in having participated in an international event that gained worldwide attention.

Given my commitment to women's rights it would be remiss of me not to mention the importance of considering gender dynamics in the organisation of people's tribunals. Despite the concepts of equality between men and women and equality before the law being considered basic tenets of the international legal system many of the actors that compromise the international community have not embraced the necessity of examining the extent to which their own practices discriminate against women and affect women's ability to be fully integrated and respected members of their communities. This includes those who engage in civil society exercises. The underlying prejudices that precede a conflict compound the suffering and horror experienced by women during a war and negatively affect their ability to participate in peace negotiations as well as the transition to new political, social and legal orders. As all of our domestic legal systems and the international justice framework are marred by the persistence of negative attitudes to women, civil society has a responsibility to ensure that those attitudes do not permeate their work.

Conclusions reached in civil society commissions or tribunals reflect the evidence put before those bodies and are a product of the legal traditions of those who participate in such efforts. The stories/histories created by such endeavours will not be complete if serious attention is not given to gender during the planning stages of people's tribunals. As we are at the forefront of those attempting to democratise international law, our work should make the concept of justice meaningful to those who traditionally have been marginalised or further disadvantaged by unresponsive justice systems.