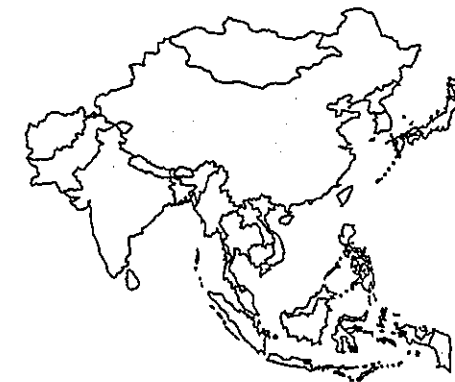


International Symposium Commemorating the 50th
Anniversary of the Universal Declaration of Human Rights

Women's Human Rights in Asia : Violence against Women in Armed Conflict



September 16 - 17, 1998

National Assembly Memorial Building, Seoul, Korea

Association of National Assembly Members Studying the 'Comfort Women' Issue·Korea

Women's Hot Line·The Korean Council for The Women Drafted for Military Sexual

Slavery by Japan·Friedrich-Ebert-Stiftung·American Friends Service Committee

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Content

Pictures from the International Symposium ... 8

Purpose of the Symposium ... 11

Publication Address ... 17

Opening Ceremony ... 19

[Keynote Speech]

Women's Human Rights in Armed Conflict / Theo van Boven ... 32

Questions & Answers ... 49

[Report I]

Violence Against Women - South Asian Experiences / Nimalka Fernando ... 52

Situation of Women in Armed Conflicts: Burma, Kambodia, and Thailand /

Virada Somswasdi ... 57

Recent Armed Conflicts and Afflictions of Violence against Women in Asia : Korean Case /

Chung Chin-sung ... 76

Violence Against Women : Indonesia Experiences "Yellow Ribbon" Campaign for Indonesia
... 86

Violence Against Women : East Timor Experiences ... 92

Questions & Answers Period ... 120

【 Report II 】

- The Activities of Taiwanese National Assembly for the settlement of the issue of Japanese Military Sexual Slavery / Hsieh, Chi-Ta ... 124
- The Activities of Japanese National Assembly for the settlement of the issue of Japanese Military Sexual Slavery / Yoriko Madoka ... 126
- The Activities of Korean National Assembly for the settlement of the issue of Japanese Military Sexual Slavery / Chun Jung-Bae ... 130
- Questions, Answers Discussion ... 135

【 Presentation 】

- The Role of the Nation(National Assembly) for the Promotion of Women's Human Rights in Asia / Lee Mi-Kyung ... 142
- Supplemental Information : Fundamental Rights and Moral Leadership / Claire Marienfeld ... 147
- Role of NGOs for Women's Human Rights / Shin, Hei-soo ... 159
- Role of Education and Media in Women's Human Rights / Luz Martinez ... 170
- Role of International Criminal Court in Women's Rights / Theo van Boven ... 180
- Questions, Answers Discussion ... 182

【 Resolution 】

- Discussion of Draft Resolution ... 186
- Resolution for the Promotion and Protection of Women's Human Rights during and After Armed Conflicts ... 188

【 Evaluation Meeting 】

- Concrete discussion of steps to be taken on comfort women issue ... 192

- Co-Organizers ... 199

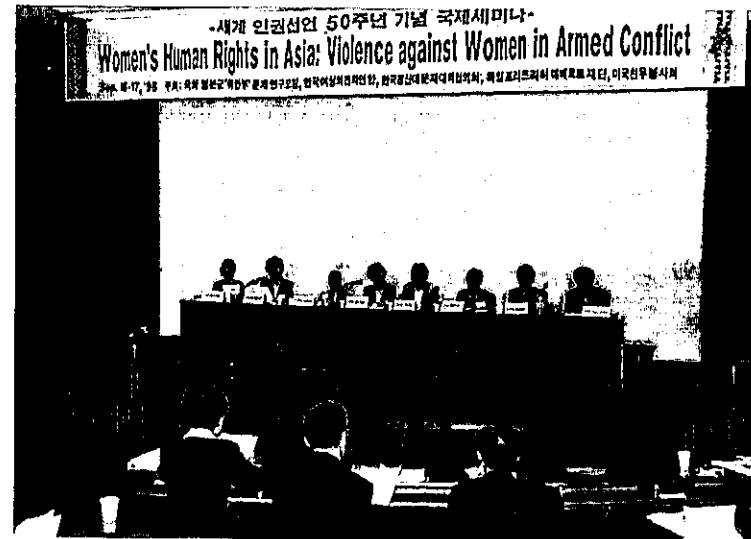
Pictures from the International Symposium



Theo Van Boven delivers the keynote address



A representative from Taiwan joins the active discussion



Discussion about the final resolution



Tea and conversation during a break



Reception hosted by Speaker of the National Assembly



Prof. Kang Hye-sook dances



Listening to simultaneous interpretation

Prof. Van Boven studies photos displayed by the Council for the Women Drafted for Military Sexual Slavery by Japan





"Grandmother" describes the victims' suffering while showing her own and others' artwork to the participants



Discussion about the result and future of the after Symposium



In front of Sharing House's museum on Japanese military "comfort women," (from left) Korean Congress member Lee Miyoung, Japanese Diet member Yoriko Madoka, "grandmother", and Taiwanese lawyer Ching Feng Wang



At Sharing House, the participants visit the new museum on military "comfort women"



Participants and "grandmothers" during a break

(International Symposium Commemorating the 50th Anniversary of the Universal Declaration of Human Rights)

Women's Human Rights in Asia : Violence against Women in Armed Conflict

◎ September 16 - 17, 1998

◎ National Assembly Memorial Building, Seoul, Korea

1. Purpose of the Symposium

Human rights in Asia, especially women's rights, are routinely and severely violated. Trafficking in women, prostitution, rape, and other forms of gender violence are growing, and the details of violence against women during wars have yet to be revealed.

Such violations of women's human rights in Asia are linked to the deeply-rooted patriarchy and the backwardness of democracy in Asia. In particular, Japan still has not acknowledged her war crimes and crimes against humanity, such as military sexual slavery, experiments on live human beings and forcible labor drafting. The fact that Japan still exercises strong power in Asia without full disclosure of its war crimes and official accountability attests to the backwardness of human rights in Asia.

Nowadays, the problems of human rights and peace cannot be solved within a single nation's boundaries. Rather, they can be solved only if all sides join forces to follow international human rights standards. The struggles of victims of human rights violations and NGOs working with them are more effective if they can cooperate with their governments and legislatures.

It is meaningful, therefore, that members of national legislatures as well as NGOs are jointly holding a symposium on human rights. We hope to seek concrete ways to act for the MPs and NGOs of the participating countries and to continue this effort in the future.

2. Co-Organizers :

- Association of National Assembly Members Studying the 'Comfort Women' Issue
- Korea Women's Hot Line
- Korean Council for the Women Drafted for Military Sexual Slavery by Japan
- Friedrich-Ebert-Stiftung
- American Friends Service Committee

3. Overseas Participants:

- Two national legislators from the Taiwan, and Japan.
- Four civil activists from Sri Lanka, Thailand, Indonesia, and the Philippine

4. Program

Sept. 15: Participants from abroad arrive.

19:00 Dinner with organizers (At Korean Restaurant in Hotel Holiday Inn Seoul)

Moderator : Shin Heisoo

Introduction about participations, discussion about resolution, information about symposium,

Sept. 16: International Symposium

Moderator : Kim Yoon-Ok (Co-representative, Korean Council for the Women Drafted for Military Sexual Slavery by Japan)

09:00 - 10:00 Registration

10:00 - 10:45 Opening Ceremony

Opening Address: Lee Mi-kyung (MP, Chairperson, Association of National Assembly Members Studying the 'Comfort Women' Issue)

Welcoming speech: Park Jyun-Kyu (Speaker of the National Assembly)

Park Sang-Cheon (Minister of Justice)

Yoon Hoo-Jung (Chairperson, Presidential Commission on Women's Affairs)

Opening Address : Shin Hei-Soo (Chairperson, Korea Women's Hot Line)

Yun Chung-Ok (Co-representative, Korean Council for the Women Drafted for Military Sexual Slavery by Japan)

Peter Mayer (Head, Seoul Office of Friederich-Ebert-Stiftung)

Introduction of participants from overseas and Korean National Assembly and women's NGOs

10:45-11:00 Tea Break

11:00-11:40 Keynote Speech : "Women's Human Rights in Armed Conflict"

Theo Van Boven (Professor, University of Masstricht and member of the UN Commission on Racial Discrimination)

11:40-12:00 Q & A

12:00-13:30 Lunch and movie about 'comfort woman'

13:30-14:30 Report I : Report on women's human rights during war in Asia: NGO

representatives from each region :

Moderator: Lee Hyun-sook(Vice president, Korea Women's Hot Line)

1. Nimalka Fernando(International Movement Against All Forms of Discrimination and Racism) : Sri Lanka(also covering India, Bangladesh, Pakistan)
2. Virada Somswasdi(Asia Pacific forum on Women, Law, and Development) : Thailand(also covering Burma, Cambodia, Vietnam)
3. Indonesia (also covering East Timor)
4. Chung Jin-Sung(Professor of Seoul National University, Executive Committee Korean Council for the Women Drafted for Military Sexual Slavery by Japan Korea (also covering the situation of North and South Korea)

14:30-15:00 Q & A and Discussion

15:00-15:15 Tea Break

15:15-16:45 Report II : Report on actions of the National Assembly and other governments on the 'Comfort Women' Issue :

Moderator : Oh Yang-Soon(MP, Member of Association of National Assembly Members Studying the 'Comfort Women' Issue)

1. Yoriko Madoka(Japan, MP)
2. Hsieh Chi-Ta(Taiwan, MP)
3. Chun Jung-Bae(South Korea, Member of Association of National Assembly Members Studying the 'Comfort Women' Issue)

16:45-17:30 Q & A and Discussion :

19:00-21:00 Reception(Hosted by Speaker of the National Assembly)

Sept. 17: International Symposium

09:00 - 09:30 Registration

09:30 - 11:00 Plenary

Moderator : Chi Eun-Hee(Executive Committee of Korean Council for the Women Drafted for Military Sexual Slavery by Japan, Co-representative, Korea Women's Association United)

09:30 - 10:30 Presentation

- "Role of Parliaments in Women's Human Rights":

Lee Mi-kyung(MP, Chairperson of Association of National Assembly Members Studying the 'Comfort Women' Issue)

- "Supplementary Information: Fundamental Rights and Moral Leadership" :

Claire Marienfeld (Parliamentary Commissioner, Germany)

- Note, Axel Woelk(Friedrich-Ebert-Stiftung)

- "Role of NGOs in Women's Human Rights" : Shin Hei-soo(President, Korea Women's Hot Line)

- "Role of Education and Media in Women's Human Rights" :

Luz Martinez(Research and Advocacy manager, Isis International Manila)

- "Role of International Criminal Court in Women's Human Rights" :

Theo Van Boven(Professor, University of Maastricht and member of the UN Commission on Racial Discrimination)

10:30-11:00 Discussion

11:00-11:15 Tea Break

11:15-12:30 Presentation of a draft declaration Discussion Announcement of final

declaration

12:30-14:30 Lunch - Discussion about the result and future of the after symposium

Moderator : Lee Mi-kyung(MP, Chairperson, Association of National Assembly
Members Studying the 'Comfort Women' Issue)

14:30-16:00 Visit to the 'Sharing House' for 'comfort women'

16:00-18:00 Meeting with the victims, Video viewing

Moderator: Yang Mi-kang (General Secretary, Korean Council for the Women Drafted
for Military Sexual Slavery by Japan)

18:00-19:30 Dinner & Closing

19:30-21:00 Return to Seoul

Sept. 18: Departure from Seoul

Publication Address

In commemoration of the 50th anniversary of the UN Declaration of Human Rights, we have prepared this international seminar in order to strengthen solidarity for the promotion of women's human rights and protection of their rights in the international community, based on a sincere examination of the current status of women's human rights in Asia. The UN Declaration on Human Rights reaffirms the fact that "all people are equal in terms of integrity and rights, and have the right to protection by the law without discrimination". However, crimes against humanity are being committed in armed conflict situations all over the world, dealing a huge blow to the integrity and rights of civilians. Furthermore, despite special regulations on women and children, they are often victims of organized and intentional violence and rape.

Efforts to ensure respect for the individual human rights and prevent violation of women's integrity in armed conflict situations are often confined to certain individual or nations, and complete solution is yet to be sought. The more an area is influenced by patriarchal ideology, the more difficult it is to restrain and find solution to violence against women and oppression of human rights. I believe this seminar is all the more meaningful because it has been jointly prepared by the research association of the members of the National Assembly and the private organizations of Korea, as well as by the private organizations of the United States and Germany.

In this seminar, we will call for the complete revelation of the truth as to the issues involving

armed conflicts in Asia, including the issue of military sexual slavery by the Japanese Imperial Army. We will also call for the payment of relief for the victims, and the punishment of those involved. Furthermore, we will work together to step up education to prevent the repetition of such crimes, and realign the domestic law. I especially look forward to strengthened cooperation between the National Assembly and the private organizations for the promotion of equality, peace and human rights.

I would like to express my sincere gratitude to all the participants from foreign countries, who have attended this seminar for the past two days despite their busy schedule to give outstanding keynote speeches. I would also like to thank all the participants who took part in the discussions. I sincerely hope that the "Documents" will be widely used by all those who are interested in peace and human rights.

September 1998

- Association of National Assembly Members Studying the 'Comfort Women' Issue
- Korea Women's Hot Line
- Korean Council for the Women Drafted for Military Sexual Slavery by Japan
- Friedrich-Ebert-Stiftung
- American Friends Service Committee

【Opening Ceremony : SEPT. 16 - AM, Moderator : Kim Yoon-Ok】

Welcoming Speech

Park Jyun-Kyu(Speaker of the National Assembly)

Dr. Herzog of Germany, now visiting Korea, is a champion of human rights. Four years ago when he was elected President of Germany, he visited Warsaw, Poland, to pay tribute to the victims of Nazism, and his candid and honest apology at that time was highly appreciated. This is in sharp contrast with leaders of other countries who do not repent of the past. The honorable leaders of your four organizations - Korea Women's Hot Line, Korean Council for the Women Drafted for Military Sexual Slavery by Japan, Friedrich-Ebert-Stiftung, and the American Friends Service Committee - are working hard to solve the problems of women. Along with MP Lee Mi-Kyung, chairperson of the Association of National Assembly Members Studying the "Comfort Women" Issue, we are holding this symposium on "Violence against Women in Armed Conflict" in commemoration of the 50th anniversary of the United Nations Declaration on Human Rights. Let me express my appreciation to those who have prepared this meeting.

The National Assembly has 40 study groups engaged in learning about important issues and situations, and one of the most active is the team led by lawmaker Lee Mi-Kyung. I appreciate their activities, especially their achievements in making an issue of human rights, and also the role of other citizens' groups dealing with this issue. When we look at the present situation of women's human rights, we feel frustration and shame rather than pride. Under the UN, the rights and status of women around the globe have improved but still there are many difficulties; patriarchal culture still emphasizes the traditional role of women; and the concept of women's rights as human rights is not recognized. Despite the social and economic development of the

past decade, there remain many obstacles to women's human rights development.

Sexual abuse and violence are rampant, especially in situations of armed conflict. There have been grave violations of women's human rights, especially in the case of the young Korean women drafted under Japanese colonial rule during World War II--we all know about this painful past. Without healing these, it is impossible to feel love and benevolence for the wrongdoers. Therefore the UN decided that the "comfort women" system was a violation of women's basic human rights and dignity, and the UN Commission on Human Rights submitted a report in which the historical facts of violations of Asian women's rights were elaborated. All this was possible due to your efforts. This seminar will be yet another fruit of your work, providing a good opportunity to look at the fundamental issue. I hope this will be a valuable time for all the participants and help to ease the pains of the victims--their suffering from the past.

【Opening Address : SEPT. 16 - AM, Moderator : Kim Yoon-Ok】

Opening Address

Lee Mi-Kyung(MP, Chairperson,
Association of National Assembly Members Studying the 'Comfort Women' Issue)

Representing the five organizations who are holding this international symposium, I am honored to give the opening remarks. First of all, let me express my thanks to the participants, who have busy schedules but have given your time to attend this meeting. I am especially thankful to prof. Theo van Boven, from the Netherlands, who serves on the UN Commission on the Elimination of Racial Discrimination, and to Members of Parliament Yoriko Madoka from Japan and Hsieh Chi-Ta from Taiwan; and also to Nimalko Fernando from Sri Lanka, Virada Somswadi of Thailand, and Luz Martinez from the Philippines. My particular thanks also to National Assembly Speaker Park Jyun-Kyu and Minister of Justice Park Sang-Cheon; and my special thanks to Ms. Sung Shin-Do, one of the "comfort women" under the Japanese Imperial Army.

In the struggle to learn the facts about the "comfort women" system, we have gathered much information, although the Japanese government was not much help. Most importantly, the UN has declared this system a grave crime against human rights, and stated that Japan should compensate its victims according to international law. The two reports by Radhika Coomaraswamy and Gay McDougall were the basis for this decision. When we first began looking into this situation of 50 years ago, we thought it was an issue between Japan and Korea, but we have found the universal truth that there are no national borders when we are engaged in struggle over issues of human dignity and human rights. We all share in the task of helping those who suffer from human rights violations. We do not know in detail what is happening in

other countries, but now is the time to listen to their stories. When holding hands in solidarity, we can begin to solve the problems, including the Japanese comfort women issue. We are all together in challenging violations of women's human rights. In Asia such violations happen more often than in other areas. NGOs and international organizations prepared this symposium together, as we need cooperation among all conscientious and concerned parties. I hope this will be a meaningful forum for improvement of women's human rights situation.

[Opening Ceremony : SEPT. 16 - AM, Moderator : Kim Yoon-Ok]

Welcoming Speech

Park Sang Chun (Minister of Justice)

I am happy to greet you, and thankful for this meaningful seminar which has been prepared by several organizations interested in this issue. It has been 50 years since the UN Human Rights Declaration on the value and dignity of human rights. People in every corner of the world have contributed to the realization of human rights; many issues have been raised and improvements made. Many have felt the calling to solve this issue, including the need to identify possibilities for solution. Many conscientious persons in the international arena have contributed to the fruits of the struggle, and the UN Commission on Human Rights has raised the issue as one of international responsibility. This symposium can provide a momentum for international cooperation and improvement of human rights.

The new government of Kim Dae-Jung has a philosophy of parallel development of politics and the economy, so protection of human rights is an important priority. The Ministry of Justice has made guidelines on human rights; women's rights are part of the basic policy of this government, which is planning to expand women's participation in society. Revision of laws is being pursued, such as the Law to Prevent Domestic Violence, removal of the ban on marriage between persons with the same family name and origin, and elimination of the waiting period for women in cases of divorce. The Ministry of Justice also plans to set up a people's human rights commission, through public hearings. I hope the people's rights commission will upgrade Korea's human rights situation to advanced-country level. We will try to accommodate expert opinions. This will be an important medium for protection and improvement of human rights in

Korea. The history of human rights is closely correlated with progress in democracy, because democracy is based on human dignity. In this regard the women's movement has made great progress in this area. Your efforts will be recognized in international politics. I hope this forum will bring face-to-face discussions by parliamentarians and women's groups.

【Opening Ceremony : SEPT. 16 - AM, Moderator : Kim Yoon-Ok】

Welcoming Speech

Yoon Hoo-Jung (Chairperson, Presidential Commission on Women's Affairs)

Greetings to Dr. van Boven, the other foreign guests and the participants from Korea. It is an honor to congratulate you. This year marks the 50th anniversary of the Declaration of Human Rights, and in Korea we are celebrating the 50th year of our national foundation as well. In this modern history we have experienced colonial rule and fratricidal war on the Korean peninsula, and its aftermath is still causing suffering for all of us. Especially women's human rights have been violated in many Asian countries, where the patriarchal system is strong. This seminar will contribute to the protection of human rights of women not only in Korea but also in other Asian nations. An especially important issue is that of women sexual slaves under the Japanese colonial rule. I raised this issue at the UN, i.e., Japan's effort to deal with the "comfort women" issue through the Asian Women's Fund. I emphasized that restoration of the women victims' honor is the main issue. Still there is massive violence against women's human rights in areas of conflict in many parts of the world; for the victims, spiritual as well as material healing is needed.

Activities by citizens' organizations are important, and the two reports by Coomaraswamy and McDougall are especially helpful. The UN Human Rights Declaration, in articles 1, 2 and 4, clearly states that all human beings have fundamental rights from birth, that no one should be the victim of discrimination for any reason. The 1975 Year of Women, which declared equal rights and development for women, based on the Universal Declaration of Human Rights, has affected the constitutional and legal systems of many countries, affecting the lives of all human

beings. Today your efforts will also contribute to the opening of rights in the 21st century. The Special Presidential Commission on Women's Issues will try its best to cope with the remaining problems.

Lastly, I express my appreciation to the Association of National Assembly Members Studying the "Comfort Women" Issue, Korea Women's Hot Line, Korean Council for the Women Drafted for Military Sexual Slavery by Japan, Friedrich-Ebert-Stiftung, and American Friends Service Committee, for their support in organizing this symposium.

【Opening Ceremony : SEPT. 16 - AM, Moderator : Kim Yoon-Ok】

Opening Address

Yun Chung-Ok (Co-representative, Korean Council for the Women Drafted for Military Sexual Slavery by Japan)

The speakers who went before me have made all the greetings I wanted to make.

When human beings settled into the world, their history gradually turned into a history of wars. As time has passed, wars have become bigger and weapons systems have developed. That is, war now has a bigger capacity to damage its victims. Women and children are the major victims. This seems even more apparent in the 20th century, when damage from wars seems more systematic. The 'comfort women' issue, in which women were mobilized for the Imperial Army of Japan, is a sample case of military sexual slavery. Since World War II, 50 years has passed, but still people in every corner of the world are experiencing armed conflicts. It is very close to us: recently in Indonesia's internal conflict, Chinese women were sexually assaulted by Indonesian males. We have not learned from history—we cannot afford to sit and do nothing, even though there are encouraging reports from the UN. Japan's tradition, it is said, is not to apologize. But in the Yamaguchi court case, for the first time in history, it was recognized that the government has the duty to accept responsibility. This decision may be appealed and overturned; it will not be easy for Japan to admit its wrongdoing and pay compensation, but at least this verdict was announced. I am happy about this, but realize it is not an easy task. Human nature tends to be optimistic—Koreans more so than others. All of you who are working against sexual violence in armed conflicts should be realistic as well as optimistic. I appeal to you: when we pursue this issue, we should take a concrete stand on cases and actually meet the persons involved. It is difficult to love the person standing in front of you.

The women's movement for the past 7 or 8 years is one thing, but when we see the actual perpetrators, it is difficult to love them. We have to realize this is a human rights issue but also a human relations issue. We should realize the need to achieve peace among us, then we can clear up the bad history of this comfort women's issue and establish a new century of peace. The process is as important as the results; we find the results in the process of movement, when we are persistent.

【Opening Ceremony : SEPT. 16 - AM, Moderator : Kim Yoon-Ok】

Opening Address

Shin Hei-Soo(Chairperson, Korea Women's Hot Line)

Korea Women's Hot Line has a 15-year history. It started with the issue of domestic violence, then expanded to include the human rights problems of women workers. Especially in the 1990s, legislative efforts were the main focus, laws to protect women's rights. In 1995, based on the principle of women's human rights, we focused our efforts on political and economic mainstreaming in society. Now we have entered a new dimension, especially in the current economic situation under the IMF bailout system. We must focus on the economic situation of women and how women's situation is reflected in policies. As mentioned by Yun Chung-Ok, I tried to raise this comfort women issue in the UN and international arena, and many women's organizations came together around this issue. I visited Geneva many times, and tried to make links with global women's rights organizations. There I met Dr. van Boven, and was impressed with his activities for women's rights. With his help and in collaboration with other women's organizations, I raised the issue in the UN. I am pleased to see the excellent report by Gay McDougall concerning women's sexual slavery in armed conflict. We made some impact on the report through the women's rights subcommittee in August. Now it is extended by one year; next year will see another report. Many exciting things are happening.

In 1994 the Human Rights Commission dispatched a special rapporteur on violence against women: Sri Lankan lawyer Radhika Coomaraswamy. We achieved certain things related to this issue: we made it an official UN issue and created the necessity for compensation for the victims. In the process of participating in the UN meetings, I heard about many cases of human

rights violations, especially violations of women's human rights. We discussed, for example, the independence fight in Bangladesh, when more than 100,000 Bangladeshi women were raped systematically by the Pakistani soldiers. The East Timor case has similarities, as does the India-Pakistan fight over Kashmir. Residents--especially women--of the Kashmir region are being victimized. Koreans need to understand women's issues not only in Asia but in all parts of the world. Conferences including the Beijing Women's Meeting in 1997 were a valuable opportunity to identify women's rights as human rights, and to encourage mainstreaming of women.

Last year a woman, Mary Robinson, was appointed High Commissioner for Human Rights. In April I attended a panel discussion with her, Radhika Coomaraswamy, and others, to discuss women's human rights issues for inclusion in the main Human Rights Commission. This development is a desirable change, bringing women's issues into the mainstream of human rights discussions. It is significant to see the change happening this year, as we commemorate the Declaration of Human Rights. Women's human rights should be the core of all human rights discussions. In the process of preparing the Human Rights Commission in Korea, women's human rights should be a major part--not a one- or two-time event. General understanding of women's human rights should be enhanced.

In the past, Korea received assistance from many countries for our economic development. Now it is time for us to render assistance to other countries, playing a new, respected role in the international community.

[Opening Ceremony : SEPT. 16 - AM, Moderator : Kim Yoon-Ok]

Opening Address

Peter Mayer(Head, Seoul Office of Friderich-Ebert-Stiftung)

It is my great honor and pleasure to greet you at this important conference. Friedrich-Ebert-Stiftung is a German NGO that cooperates with other NGOs and trade unions in 100 countries of the world. We believe human rights issues extremely are important for the future, so we are happy to jointly support this conference. I praise the organizers for their good preparations.

As our German organization is one of the co-organizers, let me mention that Germany has a bitter history. However, We cannot deny our responsibility for the First and Second World Wars. Both wars brought great tragedy for people in Europe and other countries, and Millions of Jewish people died in concentration camps, million others were killed in the war. I am proud that my country found a way to apologize to people who were hurt; proud of our Chancellor Willy Brandt, who spoke with appropriate words about what happened in the past. We have to continue to deal with that history, including the issue of forced labor during World War II. We have to find appropriate solutions; we cannot run away from that history.

We have two objectives for this conference: 1) Cope with the past and find solutions. 2) Gain a perspective on what to do for the future. We should look at cases in Asia and elsewhere, see what kinds of courts we need, and find ways to sensitize people to look at women's rights as human rights, so people grow up with a distinct appreciation for those rights. Tomorrow we will give a briefing on a mechanism developed in Germany, by parliament, to ensure that soldiers grow up with that kind of appreciation.

I wish you fruitful deliberations.

[Keynote Speech : SEPT. 16 - AM, Moderator : Kim Yoon-Ok]

WOMEN'S HUMAN RIGHTS IN ARMED CONFLICT

Theo van Boven

Introduction

This year marks the fiftieth anniversary of the Universal Declaration of Human Rights. This landmark document was proclaimed by the United Nations General Assembly "as a common standard of achievement for all peoples and all nations." The history of rights has always given prominence to the rights of the privileged, leaving the majority of people outside its spectrum: the voiceless, the powerless, the destitute, the exploited, the neglected. The Universal Declaration of Human rights was meant, however, to inaugurate a new era, an era in which peoples of the world and all human beings would move from exclusion to inclusion. We are still far removed from fulfilling this objective. The pattern of exclusion still persists and prevails in the world at large and in many - if not in all - national societies. What also persists and prevails is man's inhumanity to man and woman, to all living creatures and man's ruthless exploitation and disregard of the world's precious resources. Armed conflicts between nations and in particular within national borders as well as systematic violence continue to cause immense suffering. There is, however, at least one basic difference with the past: more rapid and elaborate reporting through media networks and greater sensitivity in sectors of civil society about human rights and humanitarian issues. This Symposium on Women's Human Rights in Asia is an illustration of such sensitivity. This gathering is part of a worldwide movement of awareness building, empowerment and rededication.

The United Nations

In my presentation I will speak from the background and perspective of the United Nations. I have been closely associated, in various capacities, with the United Nations human rights programme over a period of more than thirty-five years. I have often doubt in my mind about the relevance of the United Nations. The organization has offered blueprints for a better world and a better life, echoing those magnificent and inspiring words which constitute the opening phrase of the Charter of the United Nations: "We the Peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought endless sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small...". The idealist in my own heart can only be excited by such words but the sceptic in my mind who has become sadder and wiser after some thirty-five years, may qualify or even denounce these phrases and blueprints as sheer rhetoric. We all have moments of doubt and we are all shaken between periods of hope and vision and moments of despair and resignation. Nevertheless, I still keep enough faith in those forces who continue to turn to the United Nations for guidance and assistance, who feel that the United Nations may be helpful and instrumental in changing patterns of injustice, who call on the United Nations with the urgent plea "Don't abandon us", as I experienced while on a UN fact-finding mission in Latin America. We owe it to these forces and these people to strengthen the United Nations and to defend the causes which the United Nations is expected to uphold and to serve.

Two Developments

Before going into the subject assigned to me, i. e. women's human rights in armed conflict, I

would like to point to two developments which I consider highly relevant in the broader context of this subject matter. The first development I should highlight - and this aspect is of course very familiar to you - is the emphasis in recent years on the gender dimensions of human rights and on efforts to make these dimensions an integrated part of the human rights movement. As the Beijing Declaration of 15 September 1995 put it clearly and forcefully: "Women's rights are human rights". The second development which is becoming evident in human rights work is to identify not only human rights violations as facts but also to look for the persons behind the facts: the offenders and their responsibility as well as the victim-survivors and their right to reparation.

Women's Human Rights

The first development, sometimes referred to as the feminization of the human rights movement, is marked by a series of global conferences of recent years, in particular the World Conference on Human Rights held in Vienna in June 1993 and the Fourth World Conference on Women held in Beijing in September 1995, which succeeded in making women's human rights a priority issue of the global human rights agenda. Coalitions of women's groups and organizations with a forceful lobby capacity have been highly instrumental. Radhika Coomaraswamy, the United Nations Commission Special Rapporteur on Violence Against Women, gave in a Harvard Law School lecture an interesting overview of distinct lobbies that address several women's issues and concerns. She highlighted the women's lobby strongly interested in the problems of violence against women in armed conflict and thus emphasizing the applicable principles of humanitarian law. The mass rapes and killings in Bosnia Herzegovina influenced this process and the lobby includes East Asian groups working with

women who had been victim-survivors of the Japanese military's sexual slavery before and during the Second World War. Many of you are militants in this undertaking. A second lobby with strong roots in Africa and Asia was working on health and traditional practices such as female genital mutilation, dowry deaths and other customary practices of violence against women. A third lobby of North American, European and Latin American women concentrated on issues of domestic violence, rape and sexual harassment. A fourth lobby associated with Women Living Under Muslim Laws was focussing attention to the violation of women's rights resulting from religious extremism. And finally, a lobby from Southeast and East Asia dealt with issues of trafficking in women and girls and related forced prostitution. This broad women's movement, diversified as regards the areas of special concern but united in the major objective that human rights should encompass the experiences of women at all stages of their lives, has made a difference and is a striking phenomenon and a remarkable new dimension in the overall human rights movement.

Persons Behind the Facts

A second important development relates to the persons behind the facts. Over the years the United Nations Commission on Human Rights has established a series of mechanisms - rapporteurs or working groups - with a mandate to investigate gross and massive violations of human rights and to report thereon in the light of international human rights standards. These reports which identify facts and practices and indicate avenues and measures of correction and redress are potentially important tools for the restoration of human rights and for the prevention of further evil. But these devices often fail to address the responsibilities and the fates of human beings behind the facts and practices. The offenders may feel comfortable to shield behind the

facts - they unjustly benefit from immunity and impunity - and the victim-survivors are ignored and suffer in silence. Therefore, additional and more personalized means and methods are required to do justice, as an urgent prescription of the rule of law, to the persons behind the facts. The International Military Tribunal at Nuremberg, set up after World War II to prosecute and punish the major German war criminals, stated quite correctly that war crimes are not committed by abstract entities but by human persons. At the same time victim-survivors should not be reduced to numbers or commodities. It is therefore a welcome development that more avenues are opened up, nationally and internationally, for complaints procedures available to victims of violations of human rights. Such procedures which exist under a number of human rights treaties are increasingly resorted to and a similar procedure is presently elaborated in connection with the Convention on the Elimination of All Forms of Discrimination against Women. Also with respect to victims, a study was made and basic principles and guidelines were drawn up on the right to reparation resulting from gross violations of human rights and international humanitarian law. Let me just quote one provision from this set of principles and guidelines: "States have the duty to adopt special measures, where necessary, to permit expeditious and fully effective reparations. Reparation shall render justice by removing or redressing the consequences of the wrongful acts and by preventing and deterring violations. Reparations shall be proportionate to the gravity of the violations and the resulting damage and shall include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition".

Having been deeply involved myself in this work on the right to reparation for victims of gross violations of human rights and international humanitarian law, many of my colleagues, friends and myself would be very pleased if the UN General Assembly would endorse and approve these principles and guidelines before the end of this century. Already now, in their

draft form, they are being quoted and utilized at national and international levels.

On the other side of the spectrum, the criminal responsibility of offenders of basic human rights norms and international humanitarian law is receiving increased attention. It is obviously the duty of States, individually and collectively, to prosecute and punish those responsible for international crimes but we live in a world where it is more likely that a hungry child who steals a loaf of bread gets punished than that justice is meted out to a dictator who is responsible for the killings of thousands of men, women and children. Nevertheless, the establishment in 1993 and 1994 of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda and the recent adoption in July of this year in Rome of a Statute of an International Criminal Court are indications of a new trend. The creation of these institutions reflects the wish and the determination of broad sectors of the international community, strongly supported by conscientious representatives of civil society, to bring an end to impunity for the perpetrators of serious international crimes and to help contribute to the prevention of such crimes. I have highlighted these recent developments because of their potential impact on women's human rights in armed conflict—the theme of my presentation—and because of their significance for the lives of present and future generations.

Male Stereotypes and Domination

For putting in place norms and mechanisms for redress and accountability, the strong support of the women's movement is essential. Gender specific violations of human rights and international humanitarian law have been largely ignored. This state of affairs has to be remedied. It cannot be denied that public life, notably government, finance, economic and legal

institutions, international organizations—but also religious institutions—is to a large extent the privileged domain of men.

The rules that govern these institutions and the codes of conduct and behaviour in this area were framed from the perspective of men. Radhika Coomaraswamy, the UN Special Rapporteur on violence against women, its causes and consequences, recalls in her most recent report that the masculinity cults that pervade military institutions are intrinsically anti-female and create a hostile environment for women. She illustrates the typical male character of the laws of war by referring to Article 27 of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War which treats violence against women as a crime of honour rather than as a crime of violence. She then adds: "By using the honour paradigm, linked as it is to concepts of chastity, purity and virginity, stereotypical concepts of femininity have been formally enshrined in humanitarian law. Thus, criminal sexual assault, in both national and international law, is linked to the morality of the victim. When rape is perceived as a crime against honour or morality, shame commonly ensues for the victim, who is often viewed by the community as "dirty" or "spoiled". Consequently, many women will neither report or discuss the violence that has been perpetrated against them". The "macho-culture" prevails in an open and sometimes more hidden fashion in most societies and in many sectors of life. Moreover, in many situations of male domination and male violence against women, sexist attitudes and sexual abuse and assault are compounded by racist mentality and racist behaviour in exactly the terms as the German nazis put it by using the notion of "master race". This convergence or rather this accumulation of sexist and racist behaviour is at the root of much violence against women in times of armed conflict, as was also sadly illustrated by the atrocious recounts of the sex slaves of the Japanese imperial army before and during the Second World War.

Widespread Sexual Abuse in Armed Conflict

The gender perspective in situations of armed conflict is receiving increased attention. What remained hidden and unattended for a long time, is now brought to the public fore, largely due to the insistence of the women's movement and to women survivors who started to raise their voices.

The end of decades of silence at the massive and perverse sexual exploitation of Korean and other women by the Japanese imperial army, the many shocking reports of widespread use of rape, forced pregnancies as part of policies and practices of ethnic cleansing in territories of the former Yugoslavia as well as terrible information on brutality, massacres, rape and abduction of women and girls in Rwanda—all these histories and accounts of violence against women in armed conflict have deeply shocked conscience and have shaken awareness. Similar practices are occurring in many places of the world. Radhika Coomaraswamy included in her most recent report to the UN Commission on Human Rights a by no means exhaustive series of deeply tragic stories and testimonies of cases of violence against women and girls in times of armed conflict pertaining to Afghanistan, Algeria, Bosnia and Herzegovina, Indonesia, Guatemala, Haiti, India, Japan, Liberia, Mexico, China (Tibet), Peru, Rwanda, Sri Lanka and the United States of America. Names of countries are associated with the names of victimized women and girls who in most cases remain anonymous and unknown but who now appear, for once, in a UN document. The widespread nature of suffering is also recorded in the publication of the proceedings of the International Conference on Violence Against Women in War And Armed Conflict Situations held in Tokyo in autumn 1997. The Declaration adopted at that occasion on 3 November 1997 refers to the accounts of "Japanese military sexual slavery, the rape of Nanking, the sexual brutality of tens of thousands of women at the hand of the Pakistani military forces during the Bangladesh war for Independence, the victimization of women

through the spraying of toxic chemicals by US military forces during the Vietnam war, and more recently, the mass rape of women in former Yugoslavia and Rwanda, the sexual violence against women under the Indonesian military occupation of East Timor, the military administration of Burma, the Islamic fundamentalist violence against women in Afghanistan and Algeria, rape occurring around the US military bases, forced evictions during situations of armed conflict".

Women Particularly Affected

The Beijing Platform for Action drew already attention to the extent to which armed conflicts directly and in a particular way affect women, girls and children. Women and children constitute some 80 percent of the world's millions of refugees and other displaced persons, including internally displaced persons. And it was stated at Beijing:

"While entire communities suffer the consequences of armed conflict and terrorism, women and girls are particularly affected because of their status in society and their sex. Parties to conflict often rape with impunity, sometimes using systematic rape as a tactic of war and terrorism. The impact of violence against women and violation of the human rights of women in such situations is experienced by women of all ages, who suffer displacement, loss of home and property, loss or involuntary disappearance of close relatives, poverty and family separation and disintegration, and who are victims of acts of murder, terrorism, torture, involuntary disappearance, sexual slavery, rape, sexual abuse and forced pregnancy in situations of armed conflict, especially as a result of policies of ethnic cleansing and other new and emerging forms of violence".

It is obvious that many if not all of the practices I just referred to are gross violations of the human rights and that a substantial number of them are violations of international humanitarian law applicable in armed conflict.

Enforcement of Law relating to Women

The enforcement of human rights and humanitarian law, both at domestic and international levels, lags far behind the enunciation of standards, in particular when the basic rights of women and girls are violated. Reparation to victims and prosecution and punishment of perpetrators were—and still are—more the exception than the rule. The reasons are legend. The general pattern and practice is a lack of willingness and disposition to render justice.

But in cases where justice was meted out, such as at the Nurennberg trials, rape was not prosecuted as a war crime under customary international law. The Charter of the International Military Tribunal did not contain any reference to rape. The Tokyo trials found some Japanese military and civilian officials guilty of war crimes, including rape, because they had failed to prevent the abuse, mistreatment, torture, rape, killing and other atrocities committed by their subordinates. It was not until the Fourth Geneva Convention of 1949 and the Additional Protocols of the Geneva Conventions of 1977 that more explicit legal protection was offered to women in time of armed conflict, at least in law but not necessarily in fact. However, the International Tribunal for the Former Yugoslavia, established by the Security Council in 1993, described the express inclusion of rape as a crime against humanity in the Statute of the Tribunal and the rule setting forth a victim-friendly evidentiary procedure for cases of sexual assault in the rules of procedure and evidence of the Tribunal, as a watershed in the history of international humanitarian law. It should also be noted that in order to help victims of rape and

sexual assault to testify at the Tribunal in The Hague, and to protect them, a Victims and Witnesses Unit was established within the Registry of the Tribunal. Similar provisions also apply at the International Criminal Tribunal for Rwanda which has its seat in Arusha (Tanzania). These developments in relation to the two ad hoc tribunals, together with the women's lobby and the active support of authorities like the United Nations High Commissioner for Human Rights, had a clear bearing upon making the Statute of the International Criminal Court a gender-sensitive instrument. Having participated myself in the diplomatic conference, held in Rome in June-July of this year, to establish an International Criminal Court, I take this opportunity to draw the attention to a series of aspects in the Statute of the International Criminal Court which represent clearly a gender perspective and seek to ensure justice for female victims of crimes committed in armed conflicts. Before doing so I would like to express my appreciation here in Seoul to the delegation of Korea who, at the diplomatic conference and in the preparatory stages leading to the conference, played in many respects a very constructive and forward-looking role.

International Criminal Court

Let me now mention a number of gender sensitive elements and notions included in the Statute of the International Criminal Court:

a) Among crimes against humanity (article 7) are listed:

"rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or other forms of sexual violence of comparable gravity". The same article defines "forced pregnancy" as meaning "the unlawful confinement, of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of

international law." A further sentence follows saying that the definition shall not in any way be interpreted as affecting national laws relating to pregnancy. It should also be noted that for the purpose of the Statute the term "gender" is understood to refer to the two sexes, male and female, within the context of society.

b) Among war crimes (article 8) in connection with international and non-international armed conflict, are listed: "committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions" or "also constituting a serious violation of article 3 common to the four Geneva Conventions" respectively.

c) The Prosecutor who may initiate investigations proprio motu may seek additional information from among other non-governmental organizations, other reliable sources and receive written or oral testimony at the seat of the court (article 15)

d) In the selection of judges States Parties shall take into account, among other factors, the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women or children (article 37).

e) In the Office of the Prosecutor advisers shall be appointed with legal expertise on specific issues, including, but not limited to, sexual and gender violence against children (article 43)

f) The Registrar shall set up a Victims and Witnesses Unit which shall provide protective measures and security arrangements, counselling and other appropriate assistance for

witnesses, victims who appear before the Court and others who are at risk on account of testimony given by such witnesses. The Unit shall include staff with expertise in trauma, including trauma related to crime of sexual violence (article 44)

g) More in particular the Court shall take measures to protect victims and witnesses and their participation in the proceedings as regards safety, physical and psychological well-being, dignity and privacy. The Court shall have regard to all relevant factors, including age, gender, health, and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children (article 68)

h) Finally, an elaborate provision is included regarding reparations to victims. The Court shall establish principles that this effect and it may make an order directly against a convicted person specifying appropriate reparations for victims, including restitution, compensation and rehabilitation. The Court may also order that the award for reparations be made through a Trust Fund to be established for the benefit of victims and their family members (articles 75 and 79).

To sum up, the gender perspective in the International Criminal Court finds explicit expression in the definition of crimes against humanity and war crimes, in the role and in the office of the independent prosecutor, in the selection of judges, in the protection of victims and witnesses and in legal remedies for victims, notably in their entitlement to reparations which includes restitution, compensation and rehabilitation. This recognition of gender dimensions in the Statute of the Court and, more generally, the adoption of a fairly good legal basis for an International Criminal Court by the United Nations diplomatic conference in Rome, are reasons for satisfaction. At the same time we should be aware that the creation of this Court is

only a step on a long road towards the prevention and punishment of international crimes which cause immense suffering to numerous people, notably women and girls.

It may still take years before the Court will become operational, but its existence may eventually make a difference.

Three Interconnected Strategies of Justice

In the concluding part of my statement I would like to stress the importance of three strategies of justice. First, the strategy of prevention ; second, the strategy of criminal responsibility ; third, the strategy of rehabilitation and reconstruction.

It cannot be overemphasized that preventive means and mechanisms are absolutely crucial for the sake of averting armed conflicts and consequently for the protection of women and girls against abuse and violence in times of armed conflict. In the peace agenda of the world, preventive diplomacy and preventive action must have top priority. Among the preventive means to which civil society can highly contribute is peace research and peace education in relationship with human rights and humanitarian law. The current Decade for Human Rights Education (1995-2004) offers a good opportunity and an appropriate platform to give concrete meaning and content to these preventive means in the area of education. Educational efforts should also include an important training component, in particular the training of military and law enforcement personnel so as to impress upon them the need to respect human life and the integrity of the human person. This training should also include systematic gender sensitization training. The UN Special Rapporteur on violence against women quite rightly recommended that the training should provide information and guidance on how to identify sexual assault as a

serious crime under international law, outline gender-sensitive procedures in terms of investigation and prosecution, and address underlying attitudes of members of the forces which may lead to gender-insensitive action when operating in the field. Education and training, adapted to the cultural contexts of diverse societies but at the same time unequivocal in their emphasis on basic human values, is an indispensable component of the strategy of prevention.

The strategy of criminal responsibility responds to the duty under international law that gross violations of human rights, including women's human rights, and international humanitarian law must be duly investigated and brought to light, and that perpetrators are prosecuted and, if found guilty, are punished. While prosecution and punishment are important ingredients of this strategy, the revelation of the truth is perhaps even more essential as is recognized by several truth and reconciliation commissions set up in countries deeply affected by conflict and violence. We have noted that steps have been taken to enforce criminal responsibility by means of the criminal justice system at national and international levels. Again, it should be stressed that gender aspects must be fully incorporated in the applicable standards, in the legal procedures and in the protection of victim-survivors.

Finally, the strategy of rehabilitation and reconstruction is aimed at the rebuilding of post-conflict situations. This strategy is in fact a strategy of prevention as well, since rehabilitation and reconstruction should have as objective and effect that catastrophes and sufferings do not repeat themselves. Post-conflict rehabilitation and reconstruction requires a broad range of measures and services, notably economic reconstruction, social rehabilitation, psychological counselling as well as structures of democratic participation. Reconciliation and healing are essential components of this rehabilitation and reconstruction strategy and by the same token

these components are clearly interlinked with the strategies of prevention and of criminal responsibility. It is my strong belief that genuine reconciliation and healing will not be attained unless the rights and legitimate interests of victim-survivors are recognized and acknowledged. These rights and interests of victim-survivors must find expression in policies of reparation encompassing a wide gamma of measures of compensation, rehabilitation and satisfaction. Ignoring the rights and interests of victim-survivors is adding serious injustice to deep grief. This is true for all victim-survivors, notably those victimized by sexual violence during times of armed conflict. We are firm in our determination that such injustice is unacceptable and must come to an end.

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Career

Theo Van Boven(64) is professor of international law at the University of Maastricht (Netherlands). He is a member of the United Nations Committee on the Elimination of Racial discrimination and he holds positions in several non-government organizations, among them: vice-president of the International Commission of Jurists(Geneva), vice-president of the International Institute of Human Rights(Strasbourg) and member of the board of directors of the International movement against All forms of Discrimination and Racism(Tokyo). Previously he was director of the United Nations Center for Human Rights in Geneva and registrar of the International Criminal Tribunal for the Former Yugoslavia in The Hague. He was also a member of the United Nations Sub-Commission on Human Rights and he served in that capacity as Special Rapporteur of the Right to Reparation for victims of gross violation of Human Rights. Theo van Boven is married and he is the father of a son and a daughter.

【Keynote Speech : SEPT. 16 - AM, Moderator : Kim Yoon-Ok】

Questions & Answers

Q (member of Korea Council): Please explain your phrase "feminization of the human rights movement".

A: By "feminization of the human rights movement" I tried to explain that, thanks to various lobbies (described in the Coomaraswamy report), the human rights movement has become more sensitive to women's human rights issues. And as Shin Hei-Soo said, women's rights are becoming more mainstreamed in the human rights movement. This is tremendously important. I called this "feminization of the human rights movement" just to indicate what I have expressed. "Feminization" has a specific connotation in some societies in the US and Europe; some men see it as a radical approach. I think women's lobbies have showed a radical approach that was needed. At a certain stage you have to be radical in order to accomplish what is needed. I think you as women know what I mean.

Q (Han Kook-Yum): As for the second strategy of criminal responsibility, the recommendations by the Human Rights Commission were rejected by countries that perpetrated crimes. When they refuse to cooperate, how far can the Human Rights Commission solve the issue?

A: It is true that the main focus of the Court will be on prosecution and punishment. But what

is needed now is a clause on compensation. The Commission is not particularly related to the Tribunal. But as for money, we still have problems with many institutions of the UN; there is still an enormous lack of resources for financing. There is a question of whether the Tribunal can be financed. For example, the U.S. is still trying to prevent an effective Tribunal. I will discuss this more tomorrow.

Explanation (Shin Hei-Soo): What she meant was, if the UN Rapporteur recommends something, if the state party that must respond does not take any action, what do you do? And sometimes the state wants to solve it with money. So what do you do in this case?

A: Thanks for the clarification. What can be done when states do not comply with the UN resolutions? The matter should continue to be pursued. The UN has only limited enforcement means—only the Security Council, not the Human Rights Commission. We can use publicity, and the matter can be picked up by NGOs. We can use the mobilization of shame—some countries are more sensitive to pressure than others.

Q: On the Shimonoseki case, we consider it a small victory, and are trying to get the Japanese Diet to set up a new law for proper compensation. I wonder if the new law will be appropriate under international law—or maybe the Japanese government does not intend to accept the new law?

A: The new law is very important, according to its contents. If Japan adopts the new law, it will be a step forward. It should respond to the requirements of international law. This depends

on whether the Diet approves it, which is still in question.

Q (Lee Hyun-Sook, Women Making Peace): I appreciate your explanation of the UN dimension. I have a question on page 79 of the English version. Prevention of armed conflict is most important. You name several means of prevention of armed conflict: preventive action, the role of NGO studies on peace and peace education. But you have no elaboration of preventive diplomacy. In our view NGOs should study peace, but for immediate impact, preventive diplomacy could be very effective, carried out on the government level. Is it possible for NGOs to participate in preventive diplomacy? What role could we play, in your view?

A: This is a very important question. I have spelled out some views related to this. When it comes to preventive diplomacy and action, that is the response of the nation and the UN. But you are right—private groups can do a great deal in this matter. For example, groups can visit the other side for peace purposes. In the relations between North and South Korea, it is still very difficult at the level of governments. I believe it is extremely important that the possibility be explored, for people to meet each other at the NGO level—not using the other side as the enemy, but as partners, engaging in continuing dialogue. NGOs can participate in the peace process, which can be a lengthy process over many years, as in Northern Ireland, where religious and women's groups, trade unions and many other groups were involved in peace-building. This is an added dimension you have brought in—thank you.