

From:

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2 November, 2016

Individual Complaint for Consideration and Action to:

- **Dr. Dubravka Šimonović, United Nations Special Rapporteur on Violence Against Women, its Causes and Consequences**
c/o Office of the High Commissioner for Human Rights
United Nations at Geneva
8-14 Avenue de la Paix
CH-1211 Geneva 10,
Switzerland

- **Ms. Urmila Bhoola, United Nations Special Rapporteur on Contemporary Forms of Slavery, including its Causes and Consequences**
c/o Office of the High Commissioner for Human Rights
United Nations at Geneva
8-14 avenue de la Paix
CH-1211 Geneva 10,
Switzerland

Dear Dr. Šimonović, dear Ms. Bhoola,

This individual complaint is submitted to you by the Center for International Law Manila (“CenterLaw”) and the European Center for Constitutional and Human Rights (“ECCHR”), on behalf of petitioners of the Malaya Lolos organization (“Petitioners”).

I. Introduction

Centerlaw is an NGO based in Manila dedicated to the promotion of the Rule of Law in the Philippines and the ASEAN region through binding international legal norms. It

engages in capacity-building training, advocacy and strategic litigation initiatives towards this end.

ECCHR is an independent non-profit human rights organization, registered in Berlin (Germany) since 2007. By engaging in strategic litigation, ECCHR uses legal means to protect groups and individuals against systematic human rights violations, and hold state and non-state actors accountable for these egregious acts. Since 2010, ECCHR has considered the litigation of conflict-related sexualized and gender-based violence a priority in its work.

The Malaya Lolos organization is a non-profit organization established in 1997 for the purpose of providing aid to the survivors of rape and sexual slavery by Japanese military forces in the Philippines during the Second World War.

Through this individual complaint, CenterLaw and ECCHR, on behalf of the Petitioners, seek to draw your attention to the continued refusal of the Philippine government to espouse the Malaya Lolos' claims against the Japanese government in order to receive reparations for the crimes of sexualized violence they suffered at the hands of Japanese military forces during the Second World War. We submit that the Malaya Lolos have a right to receive reparations for these harms, and that by failing to espouse their claim against the Japanese government, the government of the Philippines perpetuates the inherent gender bias already present in the aftermath of the Second World War where the crimes of rape and sexual slavery were left completely unaddressed. We therefore request you to urge the government of the Philippines to comply with its duties under international law and espouse the Petitioners' claims for reparations.

II. Alleged incidents

1. Information about the victims

The individuals affected by the incident are all members of the Malaya Lolos organization. While the organization primarily acts as a support system for women who were directly victimized, those who have suffered the deaths and victimization of their husbands, sons and other male loved ones, are also among its members. In addition to providing aid and support to these survivors, the Malaya Lolos have been actively seeking reparations from the Japanese government. Until this date, however, their claims have remained unsuccessful. Back in 1997, the group consisted of about 90 members, but due to the advanced age and deteriorating health of the women, its membership has become significantly smaller over the last years. Information about the individual victims and proof of their consent can be found in the attached letter of authorization.

2. Information regarding the incidents

The “comfort system” in the Philippines

Between 1932 and 1945, thousands of women in Korea, the Philippines, Indonesia (then the Dutch East Indies), China, Japan, Malaysia, Taiwan, Vietnam, Thailand, East Timor (then Portuguese Timor), and other Japanese-occupied territories were imprisoned in sexual slavery facilities established by the Japanese army to cater to the sexual desires of its soldiers, a phenomenon which later became euphemistically known as the “comfort women system”.¹ The characteristics of this military sexual slavery system as well as testimonies from survivors were later documented by the Women’s International War Crimes Tribunal, further discussed below. The creation of such stations in the Philippines occurred as Japan set up its military regime on Philippine territory in 1942, where Filipina women and girls were forcibly taken to holding houses or cells in which they were held as forced prostitutes and repeatedly raped by Japanese soldiers.² Under this military sexual slavery system, apart from being subjected to rape on an ongoing basis, the so-called “comfort women” had to endure other forms of sexual violence and torture as well as inhumane conditions of detention. This resulted in severe pain and suffering as well as serious emotional and psychological harm. It also led to pregnancies, abortions, miscarriages, sterilization, sexually transmitted diseases and sexual mutilation. Furthermore, the abusive conditions of detention and intentional mistreatment often resulted in cases of malnutrition, disease, illness or death. As the war was nearing to an end, many “comfort women” were summarily killed or left stranded far from home.

The sexual enslavement and rape suffered by the Petitioners under the “comfort system”

On 23 November 1944, the Petitioners fell victim to this brutal system when Japanese troops raided the district of Mapanique in the municipality of Candaba in the province of Pampanga, torturing, raping and killing its residents and forcing the Petitioners - together with other women and girls - to carry the sacks of belongings looted by the Japanese soldiers and march towards the “Bahay na Pula” (Red House), the Japanese headquarters in San Ildefonso, Pampanga. Some of the Petitioners were raped along the way. Upon arrival, the Petitioners, some of which were only eight or nine years old at the time, were detained in the Bahay na Pula together with the other women and girls for between one day and three weeks. During this time they were repeatedly beaten,

¹ See The Women’s International War Crimes Tribunal for the Trial of Japan’s Military Sexual Slavery, Judgment, case No. PT-2000-1-T, 4 December 2001 (“Women’s War Crimes Tribunal Judgment”), para. 142-249 and 253-374; Transcript of Oral Judgement delivered on 4 December 2001 by the Judges of the Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery (“Women’s War Crimes Tribunal, Transcript of Oral Judgment”), para. 29-68; UN Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, Addendum : 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, 4 January 1996, E/CN.4/1996/53/Add.1 (“Report by Radhika Coomaraswamy”), paras. 11-44; Tanaka, Y., *Japan’s Comfort Women: Sexual Slavery and Prostitution During World War II and the US Occupation*, Taylor and Francis, 2003.

² Women’s War Crimes Tribunal Judgment, para. 212-216.

raped and abused by Japanese soldiers.

As a result of the atrocities they endured during this time, the Petitioners and other survivors of the military sexual slavery system experience lasting harm. They are still suffering from the physical injuries that have left lasting scars, pain, damage to their reproductive capacity and disabilities. In addition, they still experience emotional trauma from their sexual enslavement as well as harm to their social relationships in their marriage, work and community.

The failure to address the crimes committed against the Petitioners and other victims of the “comfort system”: The Tokyo Tribunal and San Francisco Peace negotiations

The Tokyo Tribunal

After Japan’s defeat, between April 1946 and November 1948, the International Criminal Tribunal for the Far East (IMTFE), more commonly known as the Tokyo Tribunal, tried Japanese officials for a wide variety of war crimes and crimes against humanity committed during the war.³ There were no prosecutions, however, for the rape and sexual slavery suffered by the victims of the “comfort women system”, in spite of ample evidence of these crimes.

The 1951 San Francisco Peace Agreement and the 1956 Reparations Agreement between the Philippines and Japan

On 8 September 1951, Japan signed various multilateral and bilateral Peace Treaties with the Allied powers and states of the Asia Pacific, including the Philippines.⁴ No negotiations took place, however, on the issue of military sexual slavery and consequently no compensation was paid to its victims. On reparation claims, the San Francisco Peace Treaty stipulated under Article 14, *inter alia*:

(b) except as otherwise provided in the present Treaty, the Allied Powers waive all reparation claims of the Allied Powers, other claims of the Allied Powers and their nationals arising out of any actions taken by Japan and its nationals during the course of the prosecution of the war, and claims of the Allied Powers for...military costs of occupation.⁵

The Philippines only signed the San Francisco Peace Treaty several years later, when a separate Reparations Agreement was reached in 1956.⁶ Again however, no negotiations were made regarding the victims of the military sexual slavery system and, as such, no compensation was provided.

³ International Military Tribunal for the Far East, Judgment, 4 November 1948.

⁴No. 1832 Argentina, Australia, Belgium, Bolivia, Brazil, etc., Treaty of Peace with Japan. Signed at San Francisco, on 8 September 1951.

⁵Ibid, Article 14.

⁶Reparations Agreement between Japan and the Republic of the Philippines, 9 May 1956.

The Women's International War Crimes Tribunal

As a response to the lack of attention for the crimes suffered by the victims of Japan's military sexual slavery system by the IMTFE, the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery was created in December 2000 in The Hague.⁷ This People's Tribunal gathered testimonies from victims, and held symbolic trials to determine the criminal liability of high-level Japanese officials as well as the separate responsibility of the state of Japan for the sexualized violence and other crimes left unaddressed by the Tokyo Tribunal. It was set up by an International Organizing Committee (IOC), chaired by representatives from the Philippines, Japan and South Korea,⁸ and the indictments and presentations were prepared by interdisciplinary teams led by legal prosecutors from East-Timor, Indonesia, Japan, Malaysia, The Netherlands, North and South Korea, China, The Philippines and Taiwan.⁹ Among other findings, the Tribunal concluded that "the state of Japan is responsible for the rape and enslavement of women and girls as "comfort women" pursuant to the military sexual slavery system, whether such enslavement was carried out by government agents, army personnel, or civilians acting on its behalf",¹⁰ and consequently "owes a duty to provide reparations in various forms".¹¹

The Asian Women's Fund

In July 1995, the Japanese government set up the Asian Women's Fund (AWF). This fund consisted of money from Japanese corporations and private individuals, and was created to raise "atonement" funds to compensate Filipino and other survivors of the "comfort women system". The AWF raised approximately twenty thousand US dollars per person. Many survivors rejected this money, however, as it was not accompanied by a genuine apology explicitly recognizing the responsibility of the Japanese State in the atrocities they suffered. Moreover, the money raised by the Fund came from private rather than governmental sources. As also pointed out by former UN Special Rapporteur on Violence Against Women, Radhika Coomaraswamy in her report on her visit to the Democratic People's Republic of Korea, the Republic of Korea and Japan, the AWF was "a clear statement denying any legal responsibility for the situation of these women and this is reflected in particular in the desire to raise funds from the private sector".¹² This was later confirmed by former Special Rapporteur on Contemporary Forms of Slavery, Gay McDougall in her extensive analysis of Japan's legal liability.¹³

⁷Women's War Crimes Tribunal Judgment, para. 3.

⁸Ibid, para. 13.

⁹Ibid, para. 14.

¹⁰Ibid, para. 930.

¹¹Ibid, para. 1085.

¹²Report by Radhika Coomaraswamy, para. 134.

¹³As stressed by Ms. Gay McDougall, "[t]he Asian Women's Fund does not (...) satisfy the responsibility of the Government of Japan to provide official, legal compensation (...) 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". UN Sub-Commission on the Promotion and Protection of Human Rights, *Systematic rape, sexual slavery and slavery-like practices during armed conflict : final report / submitted by Gay J. McDougall, Special Rapporteur*, 22 June 1998, E/CN.4/Sub.2/1998/13, Appendix ("Appendix to final Report by Gay J. McDougall"), para. 64.

Steps taken by the Petitioners to seek justice

Since 1998, the Petitioners and other victims of the “comfort women system” have been approaching the Filipino Executive Department through the Department of Justice, requesting for assistance to file a claim against the Japanese officials and military officers responsible for the establishment of the “comfort women system” in the Philippines. This request, however, was not heard by said officials who refused to file a claim against Japan. The Petitioners then turned to the Department of Foreign Affairs, the Department of Justice and the Office of the Solicitor General. Regrettably, these officials similarly disregarded their efforts, arguing that the individual claims of the Petitioners for compensation were already fully waived under the San Francisco Peace Treaty, and, in any case, already compensated by the Asian Women’s Fund.

On 8 March 2004, CenterLaw filed a Petition for Certiorari with an application for a Writ of Preliminary Mandatory Injunction (“2004 Petition”) to the Supreme Court of the Philippines to require the abovementioned government officials’ espousal of the Petitioners’ claims.¹⁴ The 2004 Petition submitted, *inter alia*, that (i) the waiver of the claims of the Filipina survivors of the “comfort women system” against Japan through the San Francisco Peace Treaty was void for being contrary to the *erga omnes* obligation not to provide impunity for rape, sexual slavery, torture and other forms of sexual violence constituting crimes against humanity and war crimes¹⁵, and (ii) the refusal of the Department of Foreign Affairs and the Executive Secretary to espouse the claim of the Petitioners constituted a grave abuse of discretion amounting to lack or excess of jurisdiction.¹⁶

On 28 April 2010, however, the Supreme Court rejected the 2004 Petition, maintaining that (i) the Executive Department had the exclusive prerogative to determine whether to espouse the petitioners’ claims against Japan¹⁷ and (ii) the Philippines had no international obligation to espouse these claims.¹⁸ The Supreme Court’s decision sparked a massive controversy when significant portions of it were discovered to have been lifted from various sources - among them scholarly works by foreign authors – without proper attribution. In addition to the plagiarism, it appears that these stolen passages were also manipulated to support the court’s erroneous conclusion that Filipina survivors of the “comfort women system” have no further available legal remedies.¹⁹

¹⁴*Vinuya et al., vs. the Executive Secretary Alberto G. Romulo et al.*, Petition for Certiorari with an Application for a Writ of Preliminary Mandatory Injunction, 8 March 2004 (“2004 Petition”).

¹⁵ *Ibid.*, p. 20.

¹⁶ *Ibid.*

¹⁷ Republic of the Philippines, Supreme Court, *Vinuya et al., vs. the Executive Secretary Alberto G. Romulo et al.*, G.R. NO. 162230, Decision, 28 April 2010, para 38.

¹⁸ *Ibid.*, para. 54.

¹⁹ On 19 July 2010, this fact was brought to the attention of the Court through a second motion for reconsideration, in which charges of plagiarism were brought against Justice Mariano C. del Castillo. On 27 July 2010, the University of Philippines Law Faculty called for his resignation as well as a review of the Court’s

A Motion for Reconsideration and a Supplemental Motion for Reconsideration were subsequently filed by Centerlaw on behalf of the Malaya Lolos highlighting the alleged plagiarism and manipulation of sources. The Malaya Lolos, in their Supplemental Motion for Reconsideration said the High Court’s ruling, penned by Justice Mariano del Castillo, “made it appear that these sources support the assailed judgment’s arguments for dismissing instant petition when, in truth, the plagiarized sources even make a strong case for the petition’s claims.”

On March 27, 2013, Centerlaw filed a manifestation asking the Supreme Court to consider a 2011 decision by the Constitutional Court of Korea on the issue of Korean survivors of the “comfort women system” in resolving the controversial Malaya Lolos case. This was noted by the Court in a resolution issued on April 11, 2013.

Here, ECCHR filed a Petitioner-in-Intervention on 23 August 2013 (“2013 ECCHR Petition”), putting forward that (i) already at the time of the Second World War, the systematic wartime enslavement of women constituted a violation of *ius cogens*²⁰ and (ii) the survivors have a right to compensation under international law.²¹

On August 5, 2014, the Supreme Court denied the Motion for Reconsideration and Supplemental Motion for Reconsideration filed by Centerlaw on behalf of the Malaya Lolos.

Further, on 12 August 2014, the 2013 ECCHR Petition was denied by the Supreme Court without addressing the abovementioned arguments.²²

Until this date, the Philippine government has maintained its position, in spite of the findings of the Women’s International War Crimes Tribunal that the negotiating parties to the Treaty had no power to waive individual claims²³ and that the AWF “does not constitute an acceptable mechanism for compensating victims for the wrongs inflicted by the state”.²⁴ This has also been recognized by former Special Rapporteur on

procedures in researching and writing its decisions. Finally, two authors from the United Kingdom, Dr. Mark Ellis and Professor Christian J. Tams, wrote separate complaint letters to the Supreme Court, expressing their concerns that their work had been used to reach conclusions that the original pieces did not support. A third author, Prof. Evan Criddle, also issued a public statement through the *Opinio Juris* blog deploring what happened. Because of the public pressure, the Supreme Court convened an ethics case against Justice del Castillo. However, on 12 October 2010, the Supreme Court rendered its judgment in the ethics case in favor of Justice del Castillo, saying that the plagiarism and related issues were attributable to limitations on the writing software used by his office in drafting the majority opinion.

²⁰ *Vinuya et al. vs. the Executive Secretary Alberto G. Romulo et al.*, G.R. NO. 162230, Certiorari with an application for a Writ of Preliminary Mandatory Injunction, Petitioner-in-Intervention European Center for Constitutional and Human Rights (ECCHR), 23 August 2013, p. 2.

²¹ *Ibid.*

²² Republic of the Philippines, Supreme Court, *Vinuya et al., vs. the Executive Secretary Alberto G. Romulo et al.*, Resolution, 12 August 2014.

²³ Women’s War Crimes Tribunal Judgment, para. 1053.

²⁴ *Ibid.*, para. 988.

Violence Against Women, Radhika Coomaraswamy, when concluding that neither the San Francisco Peace Treaty nor the bilateral treaties were concerned with the claims raised by survivors of the “comfort women system”, and that, therefore, “Japan remains legally responsible for the consequent violations of international law”.²⁵ Former UN Special Rapporteur on Contemporary Forms of Slavery, Gay McDougall, similarly stressed that survivors “clearly have a right to adequate compensation for the harms they suffered at the hands of Japanese Government and military officials”.²⁶ Finally, the CEDAW Committee has repeatedly recommended that the Japanese government “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.”²⁷

Gender and other forms of discrimination

Gender and other forms of discrimination formed an integral part of the initial creation of the “comfort women system”, and have not ceased to this day, as reflected in the continuing denial of justice faced by the Petitioners. Intersectional forms of ethnic, class and gender discrimination have been apparent in the original selection of the women, the manner in which they were treated,²⁸ and the difficulties they encountered in returning home and rebuilding their lives.²⁹ First of all, the extreme oppression and subordination of the Petitioners and other survivors of the “comfort stations” arose from a pre-existing view of women as inferior, existing solely for the purpose of serving others. This general view allowed for their dehumanization during the war, in particular of women of classes, nationalities and races perceived by the dominant group as inferior.³⁰ In her expert opinion, witness Minamoto Junko additionally drew attention to the impact of militarism in general, as well as the Japanese military structure specifically, on the high levels of gender-based violence inflicted upon women and girls as a gender group.³¹ As also concluded by the Women’s War Crimes Tribunal, “Th[e] ideology of female subordination (...) combined with the claimed necessities of the Imperial war effort [produced] one of the most brutally misogynist chapters in history”.³²

²⁵ Report by Radhika Coomaraswamy, para. 108.

²⁶ Appendix to final Report by Gay J. McDougall, para. 48. *See also* para. 55 and 60.

²⁷ UN Committee on the Elimination of Discrimination Against Women (CEDAW), *Concluding Observations on Japan*, 7 August 2009, CEDAW/C/JPN/CO/6, para. 38.

²⁸ As explained by the Women’s War Crimes Tribunal, „while the conditions of rape and sexual enslavement suffered generally by the „comfort women“ were horrific, there is some evidence in this record that those of non-Japanese or non-European origin were generally treated even worse (...). There is also some evidence that indigenous women were treated most brutally of all”. Women’s War Crimes Tribunal, para. 1004.

²⁹ The Women’s War Crimes Tribunal also notes that in 1937, Japan prosecuted those responsible for abducting and trafficking Japanese women to a Navy “comfort station” in 1932, and issued a strict order prohibiting such transportation from the Inland Japan to outside areas, while no such actions were taken on behalf of women of any other nationalities. The AWF also set different amounts for medical and welfare expenses among the women, based on their nationalities. Women’s War Crimes Tribunal, para. 1004.

³⁰ Women’s War Crimes Tribunal, para. 1007.

³¹ *Ibid*, para. 1009.

³² *Ibid*.

In a similar manner, the aftermath of the war and peace negotiations were riddled with, in particular, gender discrimination.

First of all, in spite of ample evidence of the existence of these crimes, the IMTFE ignored the sexualized and other forms of violence suffered by survivors of the “comfort women system”. The Women’s War Crimes Tribunal, created as a response to this failure, concluded in this regard: “[t]hat a court, especially an internationally constituted court, would deliberately ignore a systematic atrocity of this dimension is unconscionable and profoundly discriminatory”.³³

Secondly, during the drafting process of the San Francisco Peace Treaty and the Separate Reparation Agreement between Japan and the Philippines, no arrangements whatsoever were made to address the crimes committed against the Petitioners and other women and girls held as sexual slaves in the “comfort stations”, clearly illustrating an underlying gender discrimination, so often present in peace negotiations.³⁴ As similarly recognized by the Women’s War Crimes Tribunal:

We also find persuasive the argument of the co-Chief Prosecutors regarding the inherent gender bias underlying the Peace Treaties. We note that women, either as individuals or as a group, did not have an equal voice or equal status to men at the time of the conclusion of the Peace Treaties, with the direct consequence that the issues of military sexual slavery and rape were left unaddressed (...) and formed no part of the background to the negotiations and ultimate resolution of the Peace Treaties. The Tribunal considers that such gender blindness in international peace processes contributes to the continuing culture of impunity for crimes perpetrated against women in armed conflict.³⁵

This gender discrimination further became apparent when other categories of individual claims were eventually met with a diplomatic solution. Both in reparation claims brought by Korean men who had been subjected to forced labor³⁶ and in demands for compensation for war-related injuries and death brought by Taiwanese

³³ Ibid, para. 4.

³⁴ As, for example, stated by UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Non-Recurrence, Pablo de Greiff, “no program has explained why certain violations trigger reparation benefits and not others. Not surprisingly, most programs have ignored types of violations that perhaps could and should have been included. These exclusions have disproportionately affected women and marginalized groups”. UN Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, 14 October 2014, A/69/518, para. 27. See also para. 68-73. See also, UN Committee on the Elimination of Discrimination Against Women (CEDAW), *General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations*, 1 November 2013, CEDAW/C/GC/30, para. 74-80 on access to justice.

³⁵ Women’s War Crimes Tribunal, para. 1051.

³⁶ In 1970, a group of Korean survivors who in the Second World War were forcibly transferred to the Sakhalin Island where they suffered forced labor filed a lawsuit seeking repatriation and reparations. Years later, the Republic of Korea, Japan and the Russian Federation sought a diplomatic solution and the complaint was consequently withdrawn. The Prime Minister Murayama stated on 31 August 1994: “this issue cries out for attention particularly from a humanitarian perspective and the government intends to decide upon the support policies as soon as possible” Shortly thereafter, Japan made arrangements for the permanent repatriation of ethnic Koreans to either country of their choice at government expense. These victims were predominantly men, with the exception of a few female military nurses. Women’s War Crimes Tribunal, para. 1005.

victims,³⁷ Japan and the claimants' respective governments made diplomatic and political efforts to provide reparation to the individuals concerned. As also pointed out by the Women's War Crimes Tribunal, "[t]he contrast between the Japanese government's failure voluntarily to redress the claims of former "comfort women" and their voluntary settlements with other, primarily male, victims of forced labor and consumption indicates continuing discrimination".³⁸ While in no manner intending to trivialize the harms suffered by those individual claimants, nor their long wait to finally see justice done, the political and diplomatic efforts made with respect to victims of crimes other than sexualized violence illustrate the underlying gender bias against the survivors of the "comfort women system" whose suffering has been at least comparable, but who so far were offered only incomplete apologies and financial support from money coming from private funds.

We put forward that by its continued refusal to espouse the Petitioners claims, the Philippine government perpetuates this inherent gender bias present in the initial victimization of the women as well as in the failure to address their suffering in the IMTFE trials, the San Francisco Peace negotiations, and in the handling of individual claims after the conclusion of the peace treaties.

III. Conclusion and request for action

More than 70 years after enduring the atrocities committed under Japan's military sexual slavery system, the Petitioners are still waiting to receive reparations that adequately recognize the harms they suffered. While constituting a grave injustice, their case has proven to be emblematic for so many other present-day conflict and post-conflict situations where, in spite of important achievements over the last decades³⁹, high levels of impunity for sexualized and gender-based violence continue to persist. Preventing the commission of such crimes in the future and ensuring justice for its victims thus requires a strong stance on both a national and an international level that these are to be recognized as serious crimes, and that the rights of the victims cannot be left unaddressed.

³⁷ In 1977, a group of Taiwanese victims who had been forcibly recruited by the Japanese military during the Second World War, and their descendants filed a lawsuit for reparations for their war-related injuries and deaths, arguing that excluding members of Korean and Taiwanese origin who had been members of the Imperial army from reparations constituted discrimination as stipulated under the Japanese Constitution. After 15 years of litigation, this claim was dismissed in 1992. In spite of this decision, however, Prime Minister Murayama announced in 1994 Japan's intention to meet the claimants' obligation. Finally, in 2000, the Japanese government provided the Taiwanese claimants with compensation using public funds. Women's War Crimes Tribunal, para. 1006.

³⁸ Women's War Crimes Tribunal, para. 1005.

³⁹ In October 2000, the United Nations (UN) Security Council issued its landmark Resolution 1325 on Women, Peace and Security, followed by the adoption of six subsequent resolutions, calling on all states to take measures to prevent, prohibit and prosecute conflict-related sexual violence. More recently, progress has been made at the International Criminal Court (ICC), where in June 2014 the Office of the Prosecutor (OTP) adopted a policy paper specifically addressing the effective investigation and prosecution of sexual and gender-based violence. In the same month, 123 country delegations as well as over 900 experts and organizations gathered in London to attend the Global Summit to End Sexual Violence in Conflict. Moreover, on 21 March 2016, in the case against Jean-Pierre Bemba Gombo, the ICC issued its very first conviction on crimes of sexual violence.

Over the years, many of the Malaya Lolas have passed away without getting the opportunity to see justice in their lifetime. The few that remain, however, continue to fight to have their claims heard. Positive developments have arisen with respect to South Korea, where in December 2015 the South Korean and Japanese government agreed for Japan to issue a formal apology and provide a reparation fund for Korean former “comfort women”. While this agreement is not without any shortfalls or controversies⁴⁰, the commitment of the South Korean government to a diplomatic resolution represents a significant step in the survivors’ long road to justice. Similar efforts are needed from the Philippine government, which until this date has refused to support the Petitioners’ claims.

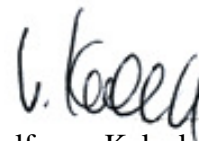
CenterLaw and ECCHR, on behalf of the Petitioners, therefore formally request you, in your capacities as UN Special Rapporteur on Violence Against Women and UN Special Rapporteur on Contemporary Forms of Slavery, to urge the government of the Philippines to reverse this ongoing denial of justice and espouse the Petitioners’ claims against the Japanese government.

If we can be of any further assistance, or provide any more information, please do not hesitate to contact us. Any court document referred to in this complaint can be made available on request.

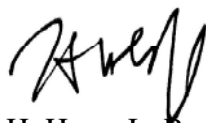
Yours sincerely,



Romel Regalado Bagares
Executive Director, CenterLaw



Wolfgang Kaleck
General Secretary, ECCHR



H. Harry L. Roque, Jr.

⁴⁰ The agreement has been criticized for failing to adequately recognize the legal liability of the Japanese government. A second controversial point is that under the agreement, a South Korean statute installed by a citizen’s group, which symbolizes the women and girls forced into sexual servitude and stands in front of the Japanese embassy in South Korea, needs to be removed. Finally, in February 2016, in spite of the agreement reached, Japan’s deputy foreign minister, Shinsuke Sugiyama, said before a UN panel in Geneva that there was no evidence that the Japanese government or military had forced women into sexual enslavement.