

## **The Batavia Trials -- a Partial Precedent towards Redress**

### Comfort Women Action for Redress and Education

One of the few post-WWII trials in which Japanese military officers and civilians were convicted of war crimes regarding “comfort women” were the Temporary Courts Martial in Batavia in the former Dutch East Indies (now Jakarta, Indonesia). The Batavia trials established that Japanese military officials and civilians could be prosecuted and found guilty under customary international law for operating “comfort stations” and forcing “comfort women” into sex work through pressure, threats, or deception, either acting alone or in concert with local traffickers.

Following the end of the war, the Allied Powers established the International Military Tribunal for the Far East (IMTFE or Tokyo War Crimes Tribunal) to prosecute three classes of crimes. Subsequently, the Allied Powers established national military courts in various locations, including Manila, Singapore, Saigon, Khabarovsk, Rabaul, and Hong Kong. The IMTFE purported to focus on “Class A” charges against Japan’s major war criminals, despite granting immunity to Emperor Hirohito and certain high-ranking officials. The subsequent trials, including those in Batavia, focused on “Class B” and “Class C” charges against minor Japanese officials or civilians.

The Batavia trials began in 1946 and charged more than a dozen individuals -- military officers and “comfort station” operators -- with the war crime of “enforced prostitution” against thirty-five Dutch women. In March 1948, the courts convicted most of the military officers and four of the civilian operators. One was sentenced to death, and the remaining defendants received prison terms ranging from two to twenty years. (Colonel Asao Okubo committed suicide after learning that he was being prosecuted by Dutch authorities.)

In 1949, the United Nations War Crimes Commission published a summary of one of the Batavia trials, in which a civilian operator, a Japanese hotel entrepreneur named Washio Awochi, was convicted and sentenced to prison for ten years for operating a “comfort station” called the “Sakura Club.” The case summary reveals crucial aspects of the legal framework that was applied to Awochi and pertain to the Japanese government’s current stance regarding “comfort women.”

Awochi had operated a hotel and restaurant in Jakarta and pressured twelve Dutch females, including girls from 12 to 14 years of age, into working at an attached brothel that he owned, together with his Dutch girlfriend, Lies Beerhorst. The measures he used to pressure, recruit, and deceive the victims included threats of intervention, beatings, imprisonment, and deportation by the Japanese military police (*Kempeitai*). The victims were forced to receive at least three Japanese civilian males and earn a minimum of 450 guilders every night. Awochi pleaded before the court that he had taken these actions under orders of the Japanese authorities.

The Awochi case was brought under a series of ordinances passed by the Lieutenant Governor General of the liberated Dutch East Indies in 1946, which authorized the Batavia courts to adjudicate war crimes in accordance with the norms of international law. The ordinance in the Awochi case (Ordinance No. 44) provided the Batavia courts with jurisdiction over crimes of sexual violence that were not expressly codified in existing international treaties or instruments but drew upon their principles and aims. Specifically, the ordinance stated:

Under war crimes are understood acts which constitute a violation of the laws and usages of war committed in time of war by subjects of an enemy power or by foreigners in the service of the enemy, such as. . . . [a]bduction of girls and women for the purpose of enforced prostitution.

In the Awochi case and other subsequent Batavia trials where Japanese military personnel and civilians were convicted, the courts focused on whether the “prostitution” arose from “compulsion in all its possible forms” and determined that whether or how the victims had been “abducted” was not the proper focus of inquiry. The courts found that the victims had been unable to act voluntarily based on their surrounding circumstances, including Japan’s military occupation of Indonesia, the defendants’ exploitation of poverty, internment, and threats of retaliation in order to exert pressure and fear upon the victims, and the victims’ inability to leave the surroundings or travel of their own free will.

Even when victims could arguably be said to have “agreed” to prostitution, the inhumane conditions they faced were “so contrary to morality and humanity” that they excluded any possibility of consent. The Awochi judgement also noted that the Japanese military’s treatment of victims was tied to racial discrimination against non-Japanese.

During Japan’s occupation of Indonesia, Japanese military officers had rounded up Dutch women from internment camps into “comfort stations” across the country. Before being taken and even during their captivity, some of the Dutch victims had had the presence of mind to protest that the acts violated the 1929 Geneva Convention, which Japan had signed (but not ratified). Dutch authorities in the camps also raised the alarm directly with Japanese officers. The Japanese military’s awareness and knowledge that they were violating international law norms contributed to the closing of “comfort stations” with Dutch victims after several months.

The rape and detention of Indonesian victims continued, however, until the end of the war – a clear example of colonial discrimination that overlapped with Japanese occupation. The Netherlands had colonized Indonesia beginning in the 19th century, and thousands of Indonesian women under Dutch jurisdiction were raped and forced to become “comfort women,” but they did not receive equivalent protection during the war or the Batavia trials, which focused only on women of Dutch or European descent.

Today, various Japanese right-wing officials and politicians continue to claim that the Japanese government has no responsibility regarding “comfort women” who “agreed” to sex work or were trafficked or sold into “prostitution” by family members or local brokers, and that there is no evidence that such “comfort women” were “forcibly taken.” That position contradicts the reasoning behind the Batavia judgments, which convicted Japanese military personnel and Japanese civilians for operating “comfort stations,” regardless of whether the victims earned money or local accomplices were involved.

Following the Batavia trials, “enforced prostitution” was not consistently included in international legal instruments, but it was named as a war crime and a crime against humanity in the Rome Statute of the International Criminal Court (ICC), together with acts of rape, sexual slavery, forced pregnancy, enforced sterilization or “any other form of sexual violence also constituting a grave breach of the Geneva Conventions.” The Rome Statute, a treaty among signatory nations, establishes the ICC as a forum for prosecuting individuals responsible for grave human rights violations. (The U.S. has not ratified the Rome Statute.) Its inclusion of

sexual crimes was directly influenced by the international community's growing awareness of "comfort women" in the 1990s and mass sexual crimes and genocide in Rwanda and the former Yugoslavia.

The Batavia cases suggest that "enforced prostitution" could be and was adjudicated as a serious war crime under international criminal law, based on a lack of voluntariness that also exists in "sexual slavery." The judgments appear to encompassed the range of violations and conditions found across the "comfort women" system, which arose from an existing and exploitative sex work and trafficking network that was adjacent to military operations and devolved further into a cross-border practice of rape that was authorized and condoned as part of military strategy.

The term "enforced prostitution," however, is undeniably problematic, imbued with connotations of consent and social stigmatization that diminish the criminal nature of the act. During the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery held in Tokyo in 2000, the Judges noted that the survivors strenuously objected to any characterization as "prostitutes" and found that the conditions which "comfort women" endured were more accurately termed as "sexual slavery" – a "long overdue renaming" that was warranted by the facts and evidence at hand, the ostracization which survivors were continuing to experience, and the Japanese government's demonstrated history of gaslighting the crimes.

The Women's Tribunal included testimony by Jan Ruff O'Herne, a Dutch survivor of one of the "comfort stations" in Semarang who did not take part in the Batavia trials. She had come forward in 1992, after seeing Korean "comfort women" break the silence. In addition to giving voice to her own ordeals, O'Herne understood that her visibility as a white European victim would support the Asian victims' claims and increase pressure on the Japanese government, which had categorically denied any involvement in the "comfort women" system. Her decision also caused other Dutch survivors, including her high school classmate Ellen van der Ploeg, to come forward.

The full records of the Batavia trials, including the names of all the defendants and victims, have been sealed by the Dutch government until 2022 to 2025. In addition, the records of the subsequent trials that were held at Ambon and Makassar, Indonesia, and Rabaul, Papua New Guinea, concerning rape and "forced prostitution" have been sealed. The details that have emerged, however, indicate that Japan's wartime policy and practice of military rape targeted victims from more countries than previously known, including American nurses taken from the Philippines to "comfort stations" in New Guinea, Australian nurses on Sumatra (e.g., during the Bangka Island massacre witnessed by the late Vivian Bullwinkel), Vietnamese, Cambodia, Laotian, and French women in the former Indochina, and German women and girls captured in Indonesia.

These discoveries underscore the need for full disclosure by, and research in the archives of all countries involved in World War II, particularly given the Japanese government's deliberate destruction of wartime records after its surrender in 1945 and the Allied Powers' failure to investigate and prosecute the "comfort women" system. Until the full records are made publicly available, the Japanese imperial government's responsibility for war crimes and crimes against humanity remains shrouded, and the legacy of violence against women and children arising

from ongoing militaristic influence throughout the Asia Pacific cannot be thoroughly examined nor resolved.



Caption: Interned Dutch women forced to bow at roll call at a Japanese camp in Indonesia, c. 1945

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