

Khulumani Support Group

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Johannesburg 30 June, 2005

Penuell Maduna and South African Government Unwittingly Thwart International Human Rights Case

The Court of Appeals in the District of Columbia in the United States of America has decided against compensation for women who were victims of the Japanese war crime known as the "/jugun ianfu/ scheme" during World War II. These women have also been referred to as "comfort women".

Khulumani Support Group has been reliably informed that this judgement cited the Maduna affidavit as one of the reasons why the "comfort women" appeal was dismissed. The Maduna affidavit was submitted on behalf of the South African government to the New York court in June 2003, in opposition to the apartheid lawsuits. Khulumani is convinced that the South African government did not intend that the Maduna affidavit should be used to thwart cases of war crimes, such as the one.

Under the /jugun ianfu/ scheme, the government of Japan abducted or fraudulently induced the recruitment of women and girls from territories under Japanese occupation, transported them away from their homes, detained them in special facilities, and allowed its soldiers to repeatedly rape them. A significant number of women and girls were murdered outright or allowed to die of injuries or starvation. Most were beaten and grossly abused. Many were forced to watch other women and girls murdered, beaten or abused. Food and medical care for them was grossly inadequate. Their living conditions were atrocious. In legal terms, victims of the /jugun ianfu/ scheme, were murdered, deported, enslaved, imprisoned, tortured by rape and other forms of torture, and subjected to inhumane acts.

On September 18, 2000, 15 former "comfort women" from Korea, China, the Philippines and Taiwan filed a historic, class-action lawsuit in U.S. federal court against the Government of Japan. (Geum Joo Hwang, et al, Appellants v. Japan) The lawsuit was based on an 18th century law called the "Alien Tort Claims Act," which allows foreigners to sue in U.S. courts.

At the Vienna Tribunal on Women's Human Rights held during the World Conference on Human Rights in 1993, a courageous Korean "Comfort Woman", testified on behalf of many other women who had been similarly abused. She spoke powerfully about how her entire life had been destroyed; about how she had been forced to provide sexual services to up to thirty Japanese soldiers a day every day for several years; about how she had lost her sense of dignity; and about how her capacity to have a lifelong loving relationship with a partner and to bear children, had been destroyed.

Khulumani Support Group regards it as tragic that the stance taken by the South African Government in terms of the so-called "apartheid litigation" has now become the instrument by which compensation to the victims of particularly horrendous war crimes and abuses of human rights has been denied.

Apart from the injustice for the "comfort women", in terms of rightful redress from the Government of Japan, this ruling will surely retard the accountability of governments all over the world in terms of war crimes, crimes against humanity, and human rights abuses committed while particular governments are in power.

Although the Khulumani Lawsuit (Barclays et al., vs Khulumani et. al.) is holding businesses rather than government liable under the United States Alien Tort Claims Act, Khulumani is concerned that the effect of this most recent ruling will allow not only governments, but international corporations to also act with impunity when they aid and abet regimes in committing gross human rights abuses.

We call on government, and especially our President, our new Deputy President and Cabinet, to take strong and swift action to retract the unfortunate affidavit submitted by former Minister Maduna to the New York Court in June 2003.

This is not only in the interests of Khulumani Support Group locally, but globally in the interests of International Human Rights.

Issued by:

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