



**PERMANENT MISSION OF THE REPUBLIC OF THE PHILIPPINES
TO THE UNITED NATIONS AND OTHER INTERNATIONAL
ORGANIZATIONS, GENEVA**

NV-EPG-95-2018

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference the letter dated 06 December 2017 from Ms. Beatriz Balbin, Chief of the OHCHR Special Procedures Branch, transmitting the joint communication (with reference no. AL PHL 15/2017) dated 06 December 2017 from the Special Procedures mandate holders, namely: Mr. Pablo De Greiff, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Ms. Dubravka Simonovic, Special Rapporteur on Violence Against Women, its Causes and Consequences; and Ms. Alda Facio, Chair-Rapporteur of the Working Group on the Issue of Discrimination Against Women in Law and in Practice, on the issue of comfort women, has the honor to provide the response from the Philippine government through the attached document.

The Permanent Mission of the Philippines requests the OHCHR-Special Procedures Branch to inform the Philippines prior to the presentation by the Special Procedures mandate holders on the inclusion of the provided information to any report in the Human Rights Council.

The Permanent Mission of the Philippines in Geneva conveys to the High Commissioner for Human Rights the assurances of the Philippine Government's efforts to promote, protect and fulfill the rights of the Filipino people.

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 03 April 2018

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

Palais Wilson
52 Rue des Pâquis
CH-1201 Geneva

Attention : The Special Procedures Branch



Philippines' response to the Joint Communication from the Special Procedures on the Japanese "comfort system" in the Philippines

The Government of the Philippines acknowledges receipt with appreciation, of the joint communication from Special Procedures (AL PHL 15/2017), particularly from the Special Rapporteurs on the promotion of truth, justice, reparation and guarantee of non-recurrence, and on violence against women, its causes and consequences and the Working Group on the issue of discrimination against women in law and in practice.

The Philippine Government emphasizes that it has always remained keenly sensitive to the welfare of Filipina "comfort women." The Government has been consistent in its position on the matter as the Government has always articulated as follows:

- Its calls on Japan to adhere to the spirit of past apologies conveyed by the highest Japanese officials, particularly the KONO Statement of 1993, Murayama Statement of 1995, and the 2002 letter of then Prime Minister Junichiro Koizumi to Filipina comfort women;
- To be swift in rejecting any attempt to dilute the spirit of past apologies earlier referred to;
- That all claims to the war are understood to have been covered by the San Francisco Treaty of 1951 and the bilateral Repatriation Agreement of 1956. The Philippine Government, however, underscores that it will not object to any claims made on an individual or private capacity.

The Philippine Government wishes to provide its comments to the following paragraphs from the Joint Communication:

"Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations."

"Reportedly, no step has been taken by the Government of the Philippines with regard to the crimes endured by the victims, nor any reparation provided to them."

As the Government of the Philippines has long maintained, it considers the reparations paid by Japan pursuant to the San Francisco Peace Treaty and the Reparations Agreement between the Republic of the Philippines and Japan as reparations for all damages and sufferings caused by Japan during the war.

It is emphasized that, in fact, the inclusion of reparations provisions in the San Francisco Peace Treaty (Article 14a) had partly resulted from pressure from the Philippine Government¹ at the time, which felt strongly about the issue of specific Japanese reparations for the Philippines. The issue of Japanese reparations to the Philippines was of such importance to the Philippine Government that, although it signed the San Francisco Peace Treaty, it did not ratify the same until after the ratification and entry into force of its bilateral Reparations Agreement with Japan on 23 July 1956. It will be noted that the anniversary of Philippine-Japan diplomatic relations is reckoned and celebrated

¹ See, for example: <<http://www.jpri.org/publications/workingpapers/wp78.html>>

annually on the day of the entry into force of the said agreement, further proof that reparations had been key to inaugurating post-war relations between the two countries.

“One of the symbolic demands of the survivors, which was the preservation of the Bahay na Pula (Red House), the old mansion where the abuses took place, as a historical marker/memorial, was reportedly not met.”

As acknowledged in the joint letter, the “demand” to have the structure preserved and declared a marker is a symbolic one. As such, no human rights violation can conceivably directly result from the request not being given due course. Moreover, non-accommodation of this request cannot be equated with a lack of understanding or sympathy on the part of the Philippine Government for the victims and their tragic experiences.

“We would like to express serious concern regarding the Philippine Government’s systemic denial of the opportunity for reparation for the survivors of rape and sexual slavery by Japanese military forces.”

Based on the efforts of the Philippine Government to work for the settlement of the “Comfort Women” issue with Japan, there is clearly no “systemic denial” on the part of the government. In addition, the use of the term “systemic” is sweeping and denies the existence of overall efforts of the government to provide justice to its affected people to the best of its abilities. Reparations are already deemed paid. The Philippine Government reiterates that it considers the reparations paid by Japan pursuant to the San Francisco Peace Treaty and the Reparations Agreement between the Republic of the Philippines and Japan as covering all damages and sufferings caused by Japan during the war.

“Further serious concern is expressed as this failure to seek reparations from the Japanese Government perpetuates gender bias against women in the Republic of the Philippines where crimes of rape and sexual slavery were left completely unaddressed in the aftermath of the Second World War.”

The Philippine Government reiterates that there is no “failure to seek reparations from the Japanese Government”. As already indicated above, the inclusion of reparations provisions in the San Francisco Peace Treaty (Article 14a) had to a great extent been the result of strong representations and pressure from the Philippine Government. The Philippines Government’s strong position on the matter of reparations was such that it deferred ratification of the 1951 San Francisco Peace Treaty only until after it had concluded, ratified, and secured the entry into force of the Philippines-Japan Reparations Agreement on 23 July 1956.

It is acknowledged that the San Francisco Peace Treaty and the settlement of the war with Japan, both in terms of war crimes trials and reparations agreements, had tended to cover damages and sufferings by the latter as a whole, and not in terms of individual victims and claims. It is also noted that, within the context of the proceedings and judgements of the International Military Tribunal for the Far East and the related war crimes trials in the Philippines, rape and sexual violence had been considered under the

broader category of crimes against humanity.² However, these procedures and outcomes – now over seven decades removed from the present and benefit of richer international jurisprudence and more developed and evolved human rights regime – were the product of its era.

Be that as it may, it would also not be accurate to assert that “rape and sexual slavery were left completely unaddressed” in the Philippines in the aftermath of the Second World War. The Philippine Government reiterates that it successfully argued in favor of reparations provisions in the San Francisco Peace Treaty, and having second that, regards all damages and sufferings caused by Japan during the War to have been met by the reparations paid by Japan pursuant to the San Francisco Peace Treaty and the Reparations Agreement between the Republic of the Philippines and Japan.

Drawing a link between the issue of comfort women and the Philippine Government’s overall stance on gender bias and larger gender issues, or implying that such issues are not being adequately addressed, is not cogent. While more can be done, the Republic of the Philippines has been taking, and continues to take, substantial measures to address gender bias and women’s concerns. The Philippines is, in fact, regarded as a regional and even global leader in the area of gender equality, as the World Economic Forum’s annual Gender Gap Report attests to. The Philippines also has a robust and ever-maturing legislative, regulatory and policy framework for addressing gender issues, violence against women and girls, supporting victims, etc.

“Please provide detailed information on the actions that will be taken to ensure that women and girls victim to the so-called “comfort women” receive compensation in accordance with international human rights norms and standards.”

The Philippine Government reiterates that it considers the reparations paid by Japan consistent with its obligations in the San Francisco Peace Treaty and the Reparations Agreement between the Republic of the Philippines and Japan as reparations for all damages and sufferings caused by Japan during the war. The Philippine Government reiterates and stresses that it does not object to victims pursuing private or individual claims.

Domestically, an inter-agency Philippine Task Force created by former President Fidel V. Ramos, implemented a number of projects and initiatives in cooperation with the Government of Japan, which established the Asian Women’s Fund (AWF) in 1995 to offer the atonement of the Japanese Government and people and provide assistance to former Filipina comfort women:

- Awarding of Atonement money, apology letters from former Japanese Prime Minister Junichiro Koizumi and the President of the AWF to the recipient *lolas*, and the establishment of medical and social service program for the comfort women.
- The Assistance to *Lolas* (grandmothers) in Crisis Situation (ALCS) Project was implemented in the Philippines between January 1997 and June 2002. It served a total of 185 *lolas*, with each *lola* receiving an amount equivalent to JPY 1,200,000.

² Fordham, Rape as a War Crime, see <<https://www.state.gov/documents/organization/6518.doc>

- The Project for the Improvement of Geriatric Clinic at the Philippine General Hospital (PGH), with funds amounting to USD 18,519 granted in June 2003, specifically to renovate and upgrade the clinic's equipment and services to suit the needs of elderly patients, of whom about 200 are being provided clinical services at the PGH Outpatient Department on a daily basis.
- The construction of facilities at the Golden Acres Home for the Aged in Quezon City, amounting to USD 60,000 granted in March 2002, to rehabilitate and expand services for bed-ridden client-wards and install a specialized bathing system that would help reduce the incidence of pneumonia among the 290 homeless elderly Filipinos housed at Golden Acres.
- The construction of a home for 36 abandoned elderly women to expand and improve services at the Home for the Aged run by the *Balay Puso* Apostolate Foundation, Inc., in Balanga, Bataan, with funds amounting to USD 69,919 granted in June 2003.

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9