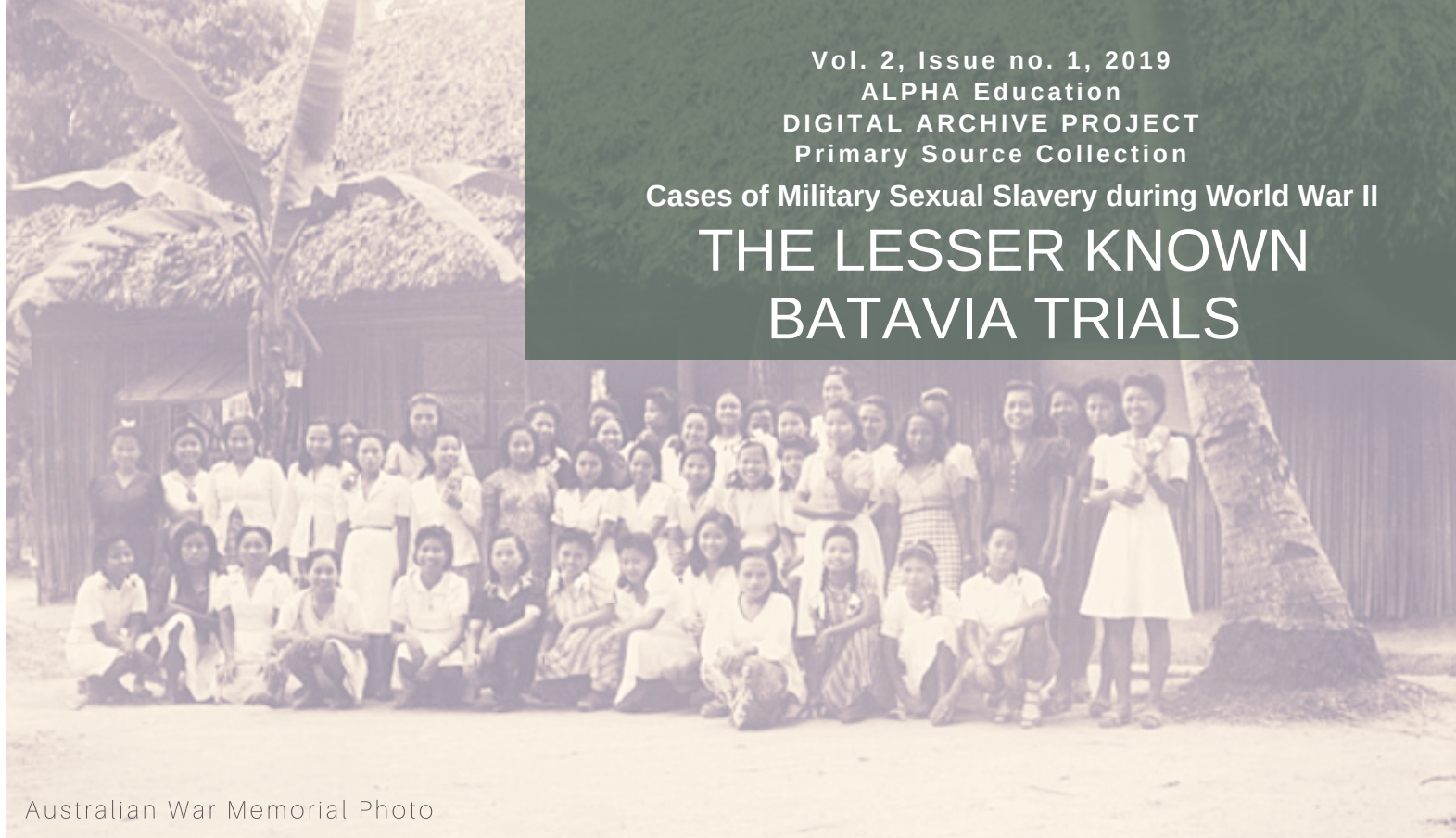


Cases of Military Sexual Slavery during World War II

THE LESSER KNOWN BATAVIA TRIALS



Australian War Memorial Photo

“It has often been maintained that sexual violence was not prosecuted in the World War II war crimes trials. Sometimes the claim is that crimes involving sexual violence were not prosecuted at all; sometimes that rape was occasionally prosecuted, but systematic crimes of sexual violence such as those involved in the Japanese so-called ‘comfort women’ system were ignored. The fact is that such generalisations are in themselves quite dangerous given the diversity of the various national war crimes programs, and given the fact that so much primary research remains to be done in regard to most of them.”

David Cohen
Prosecuting Sexual Violence
from Tokyo to the ICC
FICHL Publication Series No. 12 (2012)

By Carolina S. Ruiz

Research and Resource Development Associate

Kim Hak Sun, a Korean woman, was the first survivor to emerge from the shadows and to publicly testify about her experiences under Japanese Military Sexual Slavery during World War II.

It is not widely known that in 1991, when Kim Hak Sun came forward, the Dutch government had already taken steps to create a commission of International Law specialists to study the prospect of filing claims against the Japanese government for the compensation of individual Dutch “Comfort Women” in the Dutch East Indies (Indonesia).

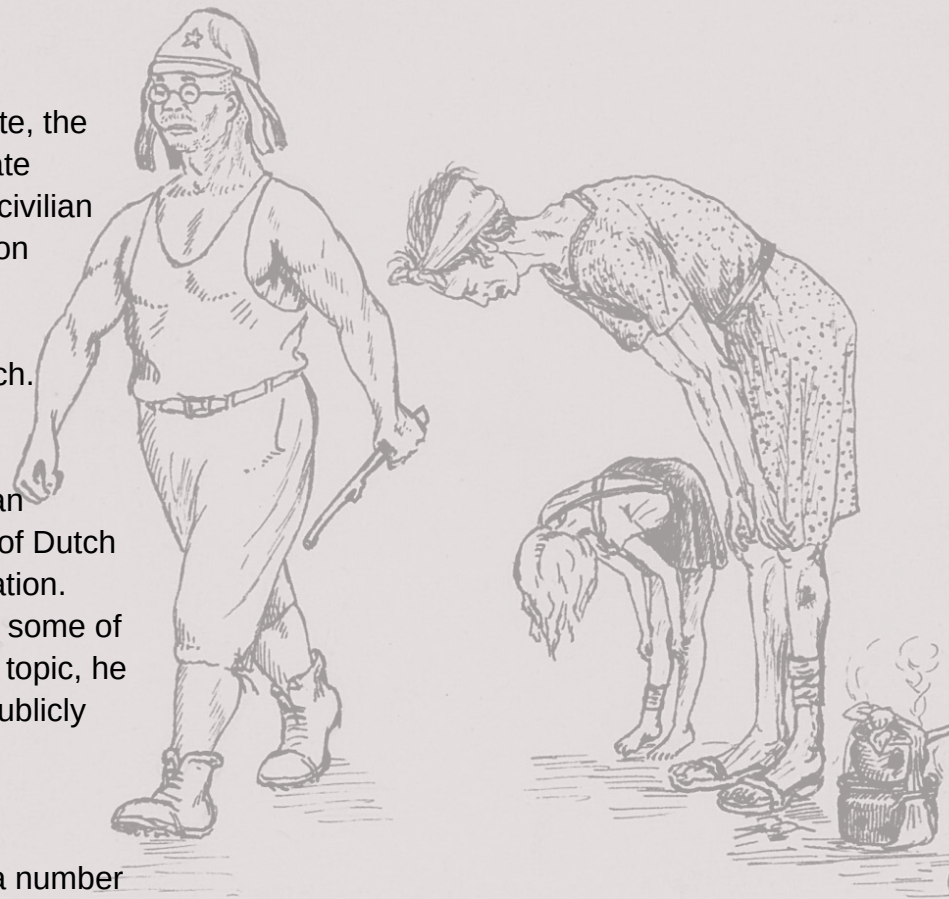
A year before Kim Hak Sun testified the Stichting Japanese Ereschulden (The Foundation of Japanese Honorary Debts) was founded with the mission of looking after the interests of the Dutch from the former colony. Its efforts generated interest in investigating the Dutch archives for evidence to support reparation claims.

According to the Foundation's website, the catalyst for its initiative was a separate development involving World War II civilian internees: the 1988 American decision to pay Japanese Americans who were sent to internment camps compensation of \$20,000 dollars each.

In 1994, the Dutch government commissioned a study led by Bart van Poelgeest on the forced prostitution of Dutch women during the Japanese Occupation. While Poelgeest listed and analyzed some of the archival records available on the topic, he noted the problem of making them publicly accessible:

"Access to and information on such documents had been requested on a number of occasions, but in view of the provisions of the Government Information (Public Access) Act concerning the protection of privacy, public access to them could not always be granted." (*Report of a study of Dutch Government Documents on the Forced Prostitution of Dutch Women in the Dutch East Indies during the Japanese Occupation, Unofficial Translation, 24 January 1994*).

Another Report on Dutch Archival materials came out four years later in 1998. In this report, Mayumi Yamamoto and William Bradley Horton noted the narrow focus of the former study (by Poelgeest) on European citizens. The report added more detailed information about potential primary sources located in at least five more Dutch archives. Unlike the Poelgeest study, theirs drew attention to wartime records pertaining to cases of local Indonesian women brought into "Comfort Stations" by the Japanese.



Pen Drawing by Adolf Johannes Frederik Gogelein (1947) Memory of the Netherlands (Camp drawings from the occupied Dutch East Indies (1942-1945) Collection)

They also questioned the distinction that the former adopted between "forced" and "non-forced" prostitution, which, they noted, "masks the complex nature of events during this period despite the author's attempt to be objective"(Yamamoto and Horton, 1998).

Like Professor Yoshimi Yoshiaki, an eminent Japanese historian on the Comfort Women issue, Yamamoto and Horton questioned the way that Poelgeest classified cases of military prostitution into "forced" and "voluntary." On its face, Poelgeest's report does reflect the author's attempt to grapple with the complexity of the women's circumstances by acknowledging that they experienced extreme poverty, malnourishment, and chronic illness in the camps.

However, Poelgeest made it clear that his report adopted the conventional understanding adopted by the Temporary Courts Martial at Batavia's definition of the term "forced prostitution" which involved the application of physical force.

The Prosecution of Enforced Prostitution at the Batavia Trials

Prior to these developments in the 1990s, there was only one known and officially Reported Case of enforced prostitution from the Batavia Trials: that of Washio Awochi. A copy of the judgment is included in Vol XIII of the Law Reports prepared by the United Nations War Crimes Commission that was published in 1949.

"Legal scholars had information on how the Dutch, unlike the rest of the Allied powers, actually prosecuted cases of "forced prostitution" for acts committed against Dutch women during the Japanese occupation."

Through this reported case, legal scholars had information on how the Dutch, unlike the rest of the Allied powers, actually prosecuted cases of "forced prostitution" of Dutch women during the Japanese occupation. But because Washio, the accused in the reported case, was a civilian who ran a brothel for the Japanese Military, the common assumption had been that the Japanese military (specifically, ranking Military officials) had never been held accountable for authorising and establishing the "Comfort Station" system of military sexual slavery during World War II.

The 1994 Report by Poelgeest acknowledged that, apart from the Washio case, there were other trials at Batavia that involved charges of enforced prostitution and that they all involved Dutch civilian internees. These included the Mitsuhashi et.al. and Ikeda cases, which were based on the same set of facts, although the judgment against Col. Soichi Ikeda was postponed because he was placed under observation for mental health issues. All in all, nine officers of the Japanese Army and three Japanese civilians working for the Japanese Army were charged with the crimes of rape and enforced prostitution. (The crime of "enforced prostitution" was shorthand for what was then the legal term for the crime of "the abduction of girls and women for the purpose of enforced prostitution" under customary international law.)

A total of 11 women and girls testified against the accused and recounted experiences, which were shared by over 35 female civilian internees.

These women and girls had been detained at civilian internment camps in Semarang, Java and Ambarawa before being taken to various brothels functioning as the Japanese Military's "Comfort Stations." According to the records of the case, the women and girls received death threats (against them personally and their families) and endured beatings and rapes. At the Ambarawa camp, the Japanese Military even told the Dutch female camp leader that for every ten women and girls that refused, they would shoot 40 internees in retaliation. It also appeared that some older women in the camps stepped forward in an attempt to shield younger women and girls from being taken, while others, desperate to get out of the severe conditions at the camps, succumbed to the Japanese military's demands.

The judgment found that a General Nozaki was the highest ranking officer who had knowledge of the plan and that along with Major Okubo, one of the accused, he had approved the conscription of female civilian internees into "Comfort Stations."

Double-Standards in Post War Justice? Intersections of Race and Gender

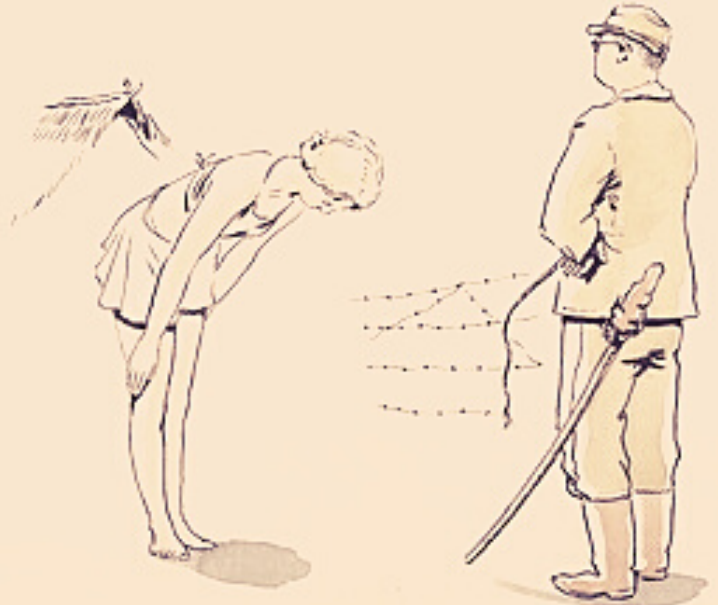
As the author Fred L. Borch points out, only women of European ancestry testified at the forced prostitution trials at Batavia. In 2018, Borch, a Regimental Historian Archivist for the US Army's Judge Advocate General's Corps and a lawyer fluent in Dutch, published the first English language study of the Batavia Trials.

According to Borch, War crimes investigators based their subsequent inquiries mainly on questionnaires completed by Europeans in camps, and which eventually limited the prosecution of cases to the experiences of the Dutch and meant that the prospects for local cooperation in the investigations as well as the military tribunals became all but impossible.

Borch agrees with other historians who believe that prevailing racial attitudes were central to the failure to prosecute forced prostitution in the Tokyo trials, and that it is reasonable to assume that they also factored into the Dutch Trials at Batavia. While Professor Yoshimi Yoshiaki, the Japanese historian responsible for releasing archival wartime records about the Japanese Comfort Stations to the public, makes similar inferences from the exclusion of local and other Asian women from the Batavia Trials, he actually looks closely at the particular circumstances of another trial to further support his argument about racism, not just by the Dutch, but by the Japanese perpetrators as well. This case, which later came to be known as the "Semarang forced prostitution affair" (see a summary of the facts of the case below), consisted of two connected cases of the prostitution of Dutch women and girls, all of whom were taken from civilian internment camps and brought to Japanese Military "Comfort Stations." (Borch: 129-130)

Yoshimi highlights key aspects of the case that suggest that the Japanese themselves (particularly the officers, who were likely aware of enforced prostitution as a War Crime) approached the prostitution of Dutch

KNECHTEN



women quite differently from that of Asian women. While this approach certainly did not stop many officers from victimising Dutch women, the Japanese often appeared uncertain whether they ought to, or could with impunity, actually conscript Dutch women into “Comfort Stations.” This seemed to be the case, for instance, when the Japanese adopted the practice of requiring written “consent forms” from Dutch internees. While such pieces of paper could hardly hold up as evidence of consent under circumstances of duress, or let alone justify rape, there were also internal warnings issued within the Japanese Military command, as well as subsequent shut-downs of “comfort stations” that occurred when they were discovered to be composed of Dutch women. (Yoshimi: 175)

“Knechten” (Servant) The Dutch Institute for War, Holocaust and Genocide Studies (NIOD) Image Bank, No. 180564, December 18, 1946

In fact, the actual treatment of Dutch women was no less severe than that of the Asians, and Prof. Yoshimi points out that even the women who are said to have “volunteered” in order to spare younger women and girls could hardly be viewed as consenting to their own prostitution. Because of this, Yoshimi, like other scholars, has taken issue with the Poelgeest Report over the categories of forced/non-forced prostitution at “Comfort Stations” – a categorisation that is based on the perpetrators’ understanding of the purpose of “Comfort Women” rather than on an accurate representation of the women’s experiences.

The Law on Wartime Sexual Violence: Progress after 50 years?

Fifty years after the war, research into the Japanese Military “Comfort Stations,” prompted by the emerging women’s human rights and justice movements in support of survivors of Japanese Military Sexual Slavery, showed that the Allied forces were well aware of the practice. But because military prostitution was largely accepted as normal, it took this long before a means of framing the survivors’ experiences as war atrocities was finally reflected in international criminal law.

Unlike the war crime of “Sexual Slavery,” which was explicitly included as a war crime only in 1998, “Enforced Prostitution” has been recognized as a war crime for almost a century. The abduction of women and girls for the purpose of prostitution was in fact listed as a war crime after World War I by the 1919 Commission on the Responsibility of the Authors of the War and on Enforcement of Penalties, which was created by the Paris Peace Conference to inquire into the responsibility of defeated countries. However, as scholars have pointed out, neither the Leipzig Trials after WWI nor the Nuremberg and Tokyo Trials after WWII prosecuted enforced prostitution as a war crime, even when evidence of the practice figured in the trials. This is why the Dutch Batavia trials, which actually prosecuted such cases, have generated a good deal of interest. These trials are considered unique in recognising the commission of the crime of enforced prostitution during the Asian Pacific War.

The addition of
“Sexual Slavery” as
well as the categorical
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a war crime in the
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global feminist and
human rights
movement.

Under the International Military Tribunal for the Far East (IMTFE) indictment, crimes involving sexual violence fell under the broad category of “Conventional War Crimes and Crimes Against Humanity”, and the indictment specified cases of rape that were committed against civilian internees and medical staff (nurses) as well as local inhabitants. Interestingly, because the Batavia trials took place concurrently with the IMTFE, there was record sharing between the International Prosecution Service (IPS) in Tokyo and the Dutch authorities in the East Indies (Indonesia). And because they prosecuted enforced prostitution at Batavia, the summary of submissions by the Dutch section of the IPS does spell out this offence alongside rape among the crimes detailed by the evidence they submitted. One such example is the affidavit of Mrs. Beelman Van Ballegooyen.

The addition of “Sexual Slavery” as well as the categorical inclusion of “Rape” as a war crime in the Rome Statute in 1998 was the culmination of a long and arduous process of engagement by a global feminist and human rights movement. Like many legal victories, however, this one raised additional questions. Continuing efforts to expand protection for victims through the provision of health and welfare programs – initiatives that go beyond the usual criminal law strategy – remain an uphill battle.



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Trial of Washio Awochi, Netherlands Temporary Court-Martial at Batavia, 25 October 1946 (Case No. 76), UN WCC Reports, Vol XIII, (London: 1949)

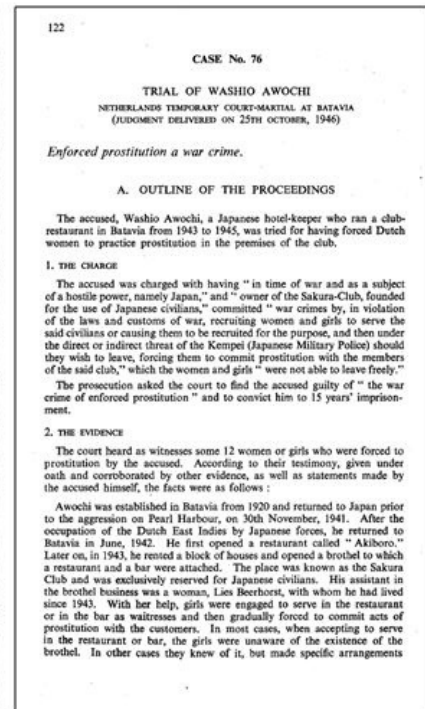
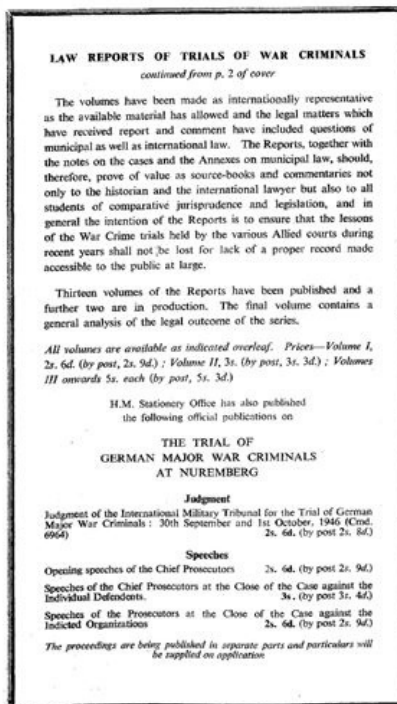
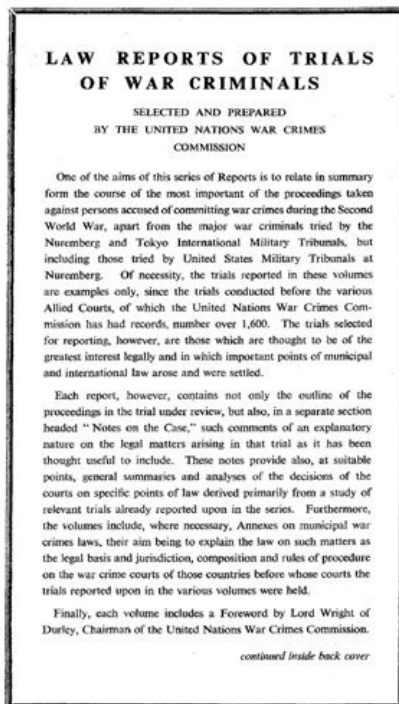
The Queen vs. Soichi Ikeda, Judgement No. 72A, 1947, Original Dutch and English Translation by the Chinese University of Hong Kong

The Queen vs. Washio Awochi, Judgment No. (.40), 1946, Original Dutch and English Translation by the Chinese University of Hong Kong

The Queen vs. Ikeda, Mitsuhashi, Okada, Kawamura, Murakami, Nakashima, Ishida, Sai, Furuya, Shimoda, Morimoto, Tsutaki, Judgment No. 72, 1947, Original Dutch and English Translation by the Chinese University of Hong Kong

NIOD (Institute for War, Holocaust and Genocide Studies), The institute was established on 8 May 1945 to chart the history of the Second World War in the Netherlands and the Dutch East Indies with independent research. Since January 1, 1999, the institute has been part of the Royal Netherlands Academy of Arts and Sciences

Primary Sources



Trial of Washio Awochi Netherlands Temporary Court-Martial at Batavia, 25 October 1946 (Case No. 76) UN WCC Reports, Vol XIII, (London: 1949)

Available online: https://www.loc.gov/rr/frd/Military_Law/pdf/Law-Reports_Vol-13.pdf

This is the only forced prostitution case in the Batavia Trials that was included in the United Nations War Crimes Commission Law Reports after the war. For many years, the trial of Washio Awochi, a civilian employee of the Japanese Military, for the forced prostitution of Dutch women and girls, was thought to be the only case pertaining to Japanese Military Sexual Slavery that was tried at the end of the Second World War. Because Dutch records from the war were classified, it took scholars several years to uncover the details of the other cases involving Japanese military officers. While many more records from the war remain classified today, in 2018 Fred L. Borsch published the first English-language study of the trials, which includes the cases of forced prostitution. (Scholars expect that additional records will be declassified by 2022-2026)



"Knechten" (Servant)

The Dutch Institute for War, Holocaust and Genocide Studies (NIOD) Image Bank, No. 180564, December 18, 1946

Available online : <https://beeldbankwo2.nl/nl/beelden/detail/cae5ae42-025a-11e7-904b-d89d6717b464/media/e136184c-310a-b08c-13d8-fc35db3a37db>

This Anti-Japanese Propaganda material shows a Japanese shopkeeper on the left, bowing to a Dutch woman who has just made a purchase from his store. Her shopping bag has the words "Toko Nanyo," Toko is the Indonesian term for store or shop, while "Nanyo Kohatsu" was a Japanese corporation which led Japanese commercial expansion in Micronesia and Southeast Asia during the interwar and prewar period. On the right, a Dutch woman dressed in rags bows submissively to a Japanese officer at a camp bordered by barbed wire. Before the Japanese arrived in the Dutch East Indies (present day Indonesia), Japanese civilians living in the Dutch East Indies were placed in internment camps by the Dutch. They were freed with the arrival of the Japanese in 1942. This drawing appears to direct outrage at this "reversal of fortune," whereby the former "servant" (to the Dutch) - the Japanese - suddenly had power over them. The drawing reveals stark differences in the cultural perceptions of the act of bowing. Whereas bowing in the two cases above reflects two different contexts for the Japanese, for the Dutch (and many Westerners), it was considered humiliating. The theme of "knechten" is a recurring one in Dutch resistance poems and drawings from this period.



**Pen Drawing by Adolf Johannes Frederik Gogelein (1947)
Memory of the Netherlands (Camp drawings from the occupied Dutch
East Indies (1942-1945) Collection)**

Available online : <https://resolver.kb.nl/resolve?urn=urn:gvn:MUSE01:4159>

This pen and ink drawing was created after the war but depicts a very common theme that is referenced in wartime drawings, as well as in Dutch resistance writing about the experiences of the Dutch during the Japanese occupation: bowing before their Japanese captors. In this drawing, the woman and her child are seen bowing from the waist in deference to a passing Japanese officer. The details show that both the woman and the child are wounded (bandages on their legs). Many internees reported beatings by Japanese soldiers and officers, and at the Batavia Trials, several Japanese soldiers and officers were charged and later found guilty of maltreating prisoners. The stick in the officer's hand appears to suggest that the officer in this drawing is capable of such conduct.

e. The affidavit of Mrs. J. P. HAVERKAMP, Prosecution Document 5769, refers to conditions in Karang Pana's Camp, Samarang, Central Java. In order, as they said, to check an outbreak of infantile paralysis the Japanese housed 125 old men with the women and their grown-up daughters in an overcrowded chapel; beatings occurred regularly; children older than nine years were sent away; all the heavy work to which an insufficient number of workers was allotted had to be done by the women; food was very scanty in amount.

The same affidavit describes conditions in the overcrowded Lamparcarie Camp, Semarang. This was located in a cleared native quarter of the town; outdoor work for women was compulsory; young girls had to carry heavy rice bags for more than five hundred yards; collective punishments occurred; torture was inflicted on one occasion, continuing for seven days.

The Prosecution enters this document 5769 for identification and the excerpts as an exhibit.

f. Cases of rape and forced prostitution of women and girls at Moentilar, Central Java are related by Mrs. BENJAMIN-noe VAN BALLEGOOYEN in her affidavit; Prosecution Document 5770.

The rape and forced prostitution were arranged by Kempei officials, doctors examined the victims before they were raped.

The Prosecution enters this document 5770 for identification and the excerpts as an exhibit.

**Records of the International Prosecution Section (IPS), International Military Tribunal for the Far East (IMTFE), or the Tokyo Trial, 1946-49
Excerpt from Document 5681 mentioning the inclusion of the affidavit of Mrs. Beelman (noe) Van Ballygooyen as an exhibit for the prosecution**

Available online : https://www.legal-tools.org/en/browse/lfolder/0_29706/

This page includes a rare mention of forced prostitution in the Tokyo Trial. While the crime was never prosecuted by the IMTFE, the Dutch members of the IPS corresponded with the Dutch prosecutors at the Batavia Trials regarding the evidence gathered by the latter. Records of the Batavia Prosecution reflect such correspondence and information sharing. The above record shows that the IMTFE Prosecutors were aware of cases of forced prostitution. The above exhibit appears to have been entered as additional evidence of rape, which was the only crime of sexual violence prosecuted by the IMTFE.



AUSTRALIAN WAR MEMORIAL

1 20082

26 Javanese women survivors who were liberated from Japanese Military brothels in Kupang (Timor), Australian War Memorial, Negative No. 120082, K.B. Davis, Photographer

Available online : <https://www.awm.gov.au/collection/120082/>

This photo of former "comfort women" is rare for two reasons. First, the women in the photograph are native to the occupied territory (albeit from another part of the same country). The Japanese Military brought thousands of Korean, Chinese, and Taiwanese women over from their countries to the various occupied territories in Asia. Indonesian, Dutch, Taiwanese, or even mainland Chinese "comfort women" victims of Japanese Military Sexual Slavery tend to be less known than the Korean and Filipino "comfort women" who came forward in the 1990s. Second, many of the women are smiling and appear to be in good spirits. Many famous photographs of rescued "comfort women" show them in distress. Not all of the women are smiling, but considering what many of them went through, the prospect of going back home seems to have been enough to lift their spirits.

Interestingly, these women were reportedly given red cross-arm bands to hide the fact that they were forced into prostitution during the Japanese occupation. This supplied them with a story, which could spare them from the stigma of having been kept in "comfort stations" during the war.



Teaching and Learning History using **Primary Sources**

Primary Sources are records that were created during the historical period and event under study. They are usually found in archives or other institutions that keep official records. Primary source documents provide immediate, first-hand accounts of an event or incident. They can be anything from records of interviews and testimonies to reports and communications.

Other archival media can be graphic representations such as photographs, film and other materials like maps and/or drawings. While personal diaries and memoirs are not “official” or meant for publication, these records can serve as important contemporaneous sources of historical information, especially when they are kept by witnesses, whether they are survivors or perpetrators. Media reports during the period, which quote from actual witnesses and participants during the event under study, are also primary sources.

Secondary sources are one step removed from primary sources, which means they are generally works created from the use of primary sources. A good example of this is a history textbook. The value of primary sources lies in their direct link to the period or event which they reference. In addition, documents which form part of regularly updated official records have an aura of authenticity about them simply because the key motivation or purpose for keeping them is the regular course of business or operations.

While many primary documents (including declassified material) may be found in national archives and libraries and are widely accessible to the public, not all official documents in relation to World War II have been preserved. It is reported for example that the Japanese Military destroyed a lot of records and documents (as well as burning its sites of operation) before the arrival of Allied Forces. Likewise, the classification of key documents as “Top Secret” by countries such as the United States and Russia (the former U.S.S.R.) and others, at the height of the Cold War limited the availability of historical information. (CSR)

Analyzing Primary Sources

- (1) What is in the document/material? (Content)
- (2) What is the document? (Type of document/Purpose of the Record)
- (3) Who produced/created the document? Who took the photo or film?
(Individual/Institution)
- (4) When was it produced/where? How soon after the event? (Context)



ALPHA Education is a registered charitable organisation founded in Toronto, Canada. In its pursuit of justice, peace and reconciliation, the organisation fosters awareness and a critical understanding of the often overlooked history of World War II in Asia. Our goal is to activate historical memory and dialogue to promote reconciliation, healing, closure, and cross-cultural understanding. ALPHA Education engages educators and students, empowers youth, supports research and connects with local and international communities.

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