Gender Discriminative Criminal Justice System as a Keystone for US-Japan Military Alliance

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This issue of *Voices from Japan* was born out of the bitter consequences of the recent series of sexual assaults committed by US military personnel stationed in Japan under the US-Japan Security Treaty. On October 14, 2007, four US Marines stationed in the Iwakuni Air Base gang raped a 19-year-old woman in Hiroshima City. On February 11, 2008, a 14-year-old girl in Okinawa was sexually assaulted by a US Marine, and another US military serviceman was arrested on February 20 for raping a Filipino woman in Okinawa.

Besides the frequency and brutality of these crimes, what struck us most was the fact that none of those perpetrators were prosecuted to face trials in a Japanese court. The Hiroshima District Prosecutors Office dropped charges of gang rape against the four Marines one month after the incident, citing inconsistencies in the victim’s story. The victim later appeared in a US court martial and, in tears, told the court that she had been too ashamed to admit that she had agreed to have sex with one of the Marines. That the Japanese prosecutor failed to understand her fears and feelings of shame and failed to collect enough evidence to refute the perpetrators’ claims that their sexual acts were on mutual agreement—despite the fact that she did not agree to have sex with other men and became the victim of a brutal gang rape and robbery—suggests serious flaws in the Japanese criminal justice system.
The same problem was found in the failed prosecution of the soldier who raped a Filipino woman in Okinawa. The victim, having just arrived from the Philippines, had been brought to a party with other Filipinos and Americans and afterward had been forced to stay in the same hotel room as the perpetrator. Despite the fact that the victim was found in mortal danger from the heavy bleeding that resulted from the brutal rape, the prosecutors dropped the charges against the sergeant, “considering the place, situations surrounding the act, and relationship of the two persons involved.” In a recent case of sexual assault against a 14-year-old Okinawan girl, the Marine was set free after the girl, facing enormous pressure and heavy media reporting—some of which suggested that she was partly responsible for the crime—dropped her accusation against him, reportedly saying that she just wanted to be left alone. Under Japanese criminal law, sexual crimes, including rape, cannot be prosecuted, even when police know about crime, without a complaint filed by the victim.

Anti-base campaigns have often focused on the unconstitutionality of hosting military bases in Japan and the discriminatory conditions provided in the Status of Forces Agreement, such as free movement allowed for American soldiers outside of the bases while Japanese authorities have limited judiciary power in arrest and trial; yet the unacceptable impunity granted to perpetrators by Japanese authorities even when they were able to exercise judiciary power has forced us to reexamine the status of sexual violence and gender-based violence in the Japanese criminal justice system. While we have seen some improvements in police responses to sexual violence in recent years following the feminist campaigns in the 1980s and 1990s, the articles in this issue illustrate that the underlying sexual prejudice and discrimination against women in the old penal system still remains unchanged in today’s laws and criminal procedures and in the attitudes of judges and prosecutors, silencing many victims and tolerating perpetrators, providing little or no punishment. While the government of Japan has recently exploited “sentiments of victims of crimes” and the public’s feelings of insecurity in order to introduce harsher responses to crimes, this response lacks any reference to feminist arguments on appropriate responses to sexual and gender-based violence as a tool of male
domination over women.

Having said that, this does not mean that most of the problems are a result of Japan’s outdated legal system or that we should first challenge the Japanese legal system before blaming American authorities for the rampant sexual assault by US soldiers. Rather, we are convinced that without the systemic degradation of women’s human rights and the enormous costs borne by making women invisible and negligible, the large US military presence in Japan, which plays a key role in US global military domination, could not be maintained. This is clearly shown in an editorial from a major right-wing newspaper, which claimed that the real solution for sexual assault by American soldiers should not be the retreat of US forces from Japan, which may invite insecurity for the nation, but education for women and girls living next to US military bases about how to behave well in order to cope with the unavoidable danger caused by the Allied forces. In fact, while the Japanese government does not openly encourage women and girls to endure sexual violence by American soldiers for the sake of national security, it has nevertheless facilitated impunity rather than protecting people. After many cases of crimes and accidents committed by US soldiers stationed in Japan, the Ministry of Defense has approached victims to persuade them to accept a small amount of compensation provided by the US military authority, rather than assisting them in seeking justice through legal procedures.

Further, it was recently revealed that the Japanese Ministry of Justice issued an order in 1953, based on secret negotiations between the US and Japanese governments, directing prosecutors and other relevant offices not to exercise jurisdiction over crimes and accidents committed by US soldiers stationed in Japan, except for in very serious cases. This is how the justice system—which is supposed to protect the human rights of women and children—has been distorted by Japan’s military alliance with the US, with the help of persisting gender discrimination and sexual prejudice in Japanese society.

Our fight for justice and women’s human rights should therefore be multi-directional, demanding enhancement of the legal framework on sexual violence and advocating for better protection for victims, while simultaneously challenging the unfair Security Treaty and the military alliance itself, as these institutions are interlinked in the failed protection of human rights of women and children. We were recently very inspired and informed by the Filipino women’s movement’s support of “Nicole,” the first-ever victim of rape by American soldiers (the perpetrators were visiting the Philippines from the base in Okinawa, Japan) who sought justice in the court, which led to the judgment of 40 years’ imprisonment for the main perpetrator (even though problems remain with the actual punishment and judgments for the other perpetrators). When we effectively enhance the Japanese legal system and come to a social consensus not to allow impunity for sexual and gender-based violence, then we will be able to reach the next step for true human security.

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